

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

**130th General Assembly
Regular Session
2013-2014**

Sub. H. B. No. 490

Representatives Hall, Thompson

Cosponsors: Representatives Hagan, C., Ruhl

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A B I L L

To amend sections 901.22, 903.01, 903.03, 903.07,	1
903.082, 903.09, 903.10, 903.11, 903.12, 903.13,	2
903.16, 903.17, 903.25, 941.14, 953.22, 956.03,	3
956.04, 1501.011, 1509.01, 1509.06, 1509.07,	4
1509.11, 1509.16, 1509.222, 1509.223, 1509.23,	5
1509.27, 1509.28, 1509.33, 1509.99, 1511.01,	6
1511.02, 1511.021, 1511.022, 1511.023, 1511.05,	7
1511.07, 1511.99, 1514.09, 1514.11, 1515.01,	8
1515.08, 1522.10, 1522.13, 1533.081, 1533.12,	9
1548.07, 1561.24, 1711.13, 3704.05, 3734.02,	10
3734.029, 3745.70, 3750.081, 3750.13, 3769.21,	11
3781.10, 4507.03, 4707.02, 4905.71, 4927.01,	12
4927.02, 4927.07, 4927.11, 4927.15, 5713.051,	13
6109.10, 6111.03, 6111.04, 6111.30, 6111.44,	14
6111.99, 6112.01, and 6112.03; to amend, for the	15
purpose of adopting new section numbers as	16
indicated in parentheses, sections 1511.022	17
(939.04) and 1511.023 (1511.022); to enact new	18
section 1511.023 and sections 901.80, 901.801,	19
905.326, 905.327, 939.01, 939.02, 939.03, 939.05,	20
939.06, 939.07, 939.08, 939.09, 939.10, 939.11,	21
1509.051, 1509.211, 1509.231, 1511.024, 1511.025,	22

1511.09, 1522.25, 4507.021, 4927.10, 4927.101, 23
6111.32, and 6112.06; to repeal sections 903.04, 24
1511.071, 1514.40, 1514.41, 1514.42, 1514.43, 25
1514.44, 1514.45, 1514.46, and 1514.47 of the 26
Revised Code; and to amend sections 1511.024 and 27
1511.025 as they result from Section 1 of this act 28
for the purpose of adopting new section numbers 29
939.11 and 939.12 of the Revised Code on January 30
1, 2017, to revise certain laws governing 31
agriculture, natural resources, environmental 32
protection, telecommunications, video lottery 33
terminals, and driver's licenses. 34

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

Section 1. That sections 901.22, 903.01, 903.03, 903.07, 35
903.082, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, 36
903.25, 941.14, 953.22, 956.03, 956.04, 1501.011, 1509.01, 37
1509.06, 1509.07, 1509.11, 1509.16, 1509.222, 1509.223, 1509.23, 38
1509.27, 1509.28, 1509.33, 1509.99, 1511.01, 1511.02, 1511.021, 39
1511.022, 1511.023, 1511.05, 1511.07, 1511.99, 1514.09, 1514.11, 40
1515.01, 1515.08, 1522.10, 1522.13, 1533.081, 1533.12, 1548.07, 41
1561.24, 1711.13, 3704.05, 3734.02, 3734.029, 3745.70, 3750.081, 42
3750.13, 3769.21, 3781.10, 4507.03, 4707.02, 4905.71, 4927.01, 43
4927.02, 4927.07, 4927.11, 4927.15, 5713.051, 6109.10, 6111.03, 44
6111.04, 6111.30, 6111.44, 6111.99, 6112.01, and 6112.03 be 45
amended; sections 1511.022 (939.04) and 1511.023 (1511.022) be 46
amended for the purpose of adopting new section numbers as 47
indicated in parentheses; and new section 1511.023 and sections 48
901.80, 901.801, 905.326, 905.327, 939.01, 939.02, 939.03, 939.05, 49
939.06, 939.07, 939.08, 939.09, 939.10, 939.11, 1509.051, 50
1509.211, 1509.231, 1511.024, 1511.025, 1511.09, 1522.25, 51
4507.021, 4927.10, 4927.101, 6111.32, and 6112.06 of the Revised 52

Code be enacted to read as follows: 53

Sec. 901.22. (A) The director of agriculture, in accordance 54
with Chapter 119. of the Revised Code, shall adopt rules that do 55
all of the following: 56

(1) Establish procedures and eligibility criteria for making 57
matching grants to municipal corporations, counties, townships, 58
soil and water conservation districts established under Chapter 59
1515. of the Revised Code, and charitable organizations described 60
in division (B) of section 5301.69 of the Revised Code for the 61
purchase of agricultural easements. With respect to agricultural 62
easements that are purchased or proposed to be purchased with such 63
matching grants that consist in whole or in part of moneys from 64
the clean Ohio agricultural easement fund created in section 65
901.21 of the Revised Code, the rules shall establish all of the 66
following: 67

(a) Procedures for all of the following: 68

(i) Soliciting and accepting applications for matching 69
grants; 70

(ii) Participation by local governments and by the public in 71
the process of making matching grants to charitable organizations; 72

(iii) Notifying local governments, charitable organizations, 73
and organizations that represent the interests of farmers of the 74
ranking system established in rules adopted under division 75
(A)(1)(b) of this section. 76

(b) A ranking system for applications for the matching grants 77
that is based on the soil type, proximity of the land or other 78
land that is conducive to agriculture as defined by rules adopted 79
under this section and that is the subject of an application to 80
other agricultural land or other land that is conducive to 81
agriculture as defined by rules adopted under this section and 82

that is already or is in the process of becoming permanently 83
protected from development, farm stewardship, development 84
pressure, and, if applicable, a local comprehensive land use plan 85
involved with a proposed agricultural easement. The rules shall 86
require that preference be given to proposed agricultural 87
easements that involve the greatest proportion of all of the 88
following: 89

(i) Prime soils, unique or locally important soils, 90
microclimates, or similar features; 91

(ii) Land that is adjacent to or that is in close proximity 92
to other agricultural land or other land that is conducive to 93
agriculture as defined by rules adopted under this section and 94
that is already or is in the process of becoming permanently 95
protected from development, by agricultural easement or otherwise, 96
so that a buffer would exist between the land involving the 97
proposed agricultural easement and areas that have been developed 98
or likely will be developed for purposes other than agriculture; 99

(iii) The use of best management practices, including 100
federally or state approved conservation plans, and a history of 101
substantial compliance with applicable federal and state laws; 102

(iv) Development pressure that is imminent, but not a result 103
of current location in the direct path of urban development; 104

(v) Areas identified for agricultural protection in local 105
comprehensive land use plans. 106

(c) Any other criteria that the director determines are 107
necessary for selecting applications for matching grants; 108

(d) Requirements regarding the information that must be 109
included in the annual monitoring report that must be prepared for 110
an agricultural easement under division (E)(2) of section 5301.691 111
of the Revised Code, procedures for submitting a copy of the 112
report to the office of farmland preservation in the department of 113

agriculture, and requirements and procedures governing corrective 114
actions that may be necessary to enforce the terms of the 115
agricultural easement. 116

(2) Establish provisions that shall be included in the 117
instrument conveying to a municipal corporation, county, township, 118
soil and water conservation district, or charitable organization 119
any agricultural easement purchased with matching grant funds 120
provided by the director under this section, including, without 121
limitation, all of the following provisions: 122

(a) A provision stating that an easement so purchased may be 123
extinguished only if an unexpected change in the conditions of or 124
surrounding the land that is subject to the easement makes 125
impossible or impractical the continued use of the land for the 126
purposes described in the easement, or if the requirements of the 127
easement are extinguished by judicial proceedings; 128

(b) A provision requiring that, upon the sale, exchange, or 129
involuntary conversion of the land subject to the easement, the 130
holder of the easement shall be paid an amount of money that is at 131
least equal to the proportionate value of the easement compared to 132
the total value of the land at the time the easement was acquired; 133

(c) A provision requiring that, upon receipt of the portion 134
of the proceeds of a sale, exchange, or involuntary conversion 135
described in division (A)(2)(b) of this section, the municipal 136
corporation, county, township, soil and water conservation 137
district, or charitable organization remit to the director an 138
amount of money equal to the percentage of the cost of purchasing 139
the easement it received as a matching grant under this section. 140

Moneys received by the director pursuant to rules adopted 141
under division (A)(2)(c) of this section shall be credited to the 142
agricultural easement purchase fund created in section 901.21 of 143
the Revised Code. 144

(3) Establish a provision that provides a charitable organization, municipal corporation, township, county, or soil and water conservation district with the option of purchasing agricultural easements either in installments or with a lump sum payment. The rules shall include a requirement that a charitable organization, municipal corporation, township, county, or soil and water conservation district negotiate with the seller of the agricultural easement concerning any installment payment terms, including the dates and amounts of payments and the interest rate on the outstanding balance. The rules also shall require the director to approve any method of payment that is undertaken in accordance with the rules adopted under division (A)(3) of this section.

(4) Establish any other requirements that the director considers to be necessary or appropriate to implement or administer a program to make matching grants under this section and monitor those grants.

(B) The director may develop guidelines regarding the acquisition of agricultural easements by the department of agriculture and the provisions of instruments conveying those easements. The director may make the guidelines available to public and private entities authorized to acquire and hold agricultural easements.

(C) The director may provide technical assistance in developing a program for the acquisition and monitoring of agricultural easements to public and private entities authorized to hold agricultural easements. The technical assistance may include, without limitation, reviewing and providing advisory recommendations regarding draft instruments conveying agricultural easements.

(D)(1) The director may make matching grants from the agricultural easement purchase fund and the clean Ohio

agricultural easement fund to municipal corporations, counties, 177
townships, soil and water conservation districts, and charitable 178
organizations to assist those political subdivisions and 179
charitable organizations in purchasing agricultural easements. 180
Application for a matching grant shall be made on forms prescribed 181
and provided by the director. The matching grants shall be made in 182
compliance with the criteria and procedures established in rules 183
adopted under this section. Instruments conveying agricultural 184
easements purchased with matching grant funds provided under this 185
section, at a minimum, shall include the mandatory provisions set 186
forth in those rules. 187

Matching grants made under this division using moneys from 188
the clean Ohio agricultural easement fund created in section 189
901.21 of the Revised Code may provide up to seventy-five per cent 190
of the value of an agricultural easement as determined by a 191
general real estate appraiser who is certified under Chapter 4763. 192
of the Revised Code or as determined through a points-based 193
appraisal system established under division (D)(2) of this 194
section. Not less than twenty-five per cent of the value of the 195
agricultural easement shall be provided by the recipient of the 196
matching grant or donated by the person who is transferring the 197
easement to the grant recipient. The amount of such a matching 198
grant used for the purchase of a single agricultural easement 199
shall not exceed one million dollars. 200

(2) The director shall establish a points-based appraisal 201
system for the purposes of division (D)(1) of this section. The 202
director may include any or all of the following factors in the 203
system: 204

(a) Whether the applicable county auditor has determined that 205
the land is land that is devoted exclusively to agriculture for 206
the purposes of sections 5713.30 to 5713.38 of the Revised Code; 207

(b) Changes in land values following the completion of the 208

applicable county auditor's reappraisal or triennial update;	209
(c) Soil types and productivity;	210
(d) Proximity of the land to land that is already subject to an agricultural easement, conservation easement created under sections 5301.67 to 5301.70 of the Revised Code, or similar land-use limitation;	211 212 213 214
(e) Proximity of the land to water and sewer lines, road interchanges, and nonagricultural development;	215 216
(f) Parcel size and roadway frontage of the land;	217
(g) Existence of an agreement entered into under division (D) of section 1515.08 of the Revised Code or of an operation and management plan developed under division (A) of section 1511.021 of the Revised Code, <u>as applicable</u> ;	218 219 220 221
(h) <u>Existence of a nutrient utilization plan developed under division (A) of section 939.03 of the Revised Code, as applicable</u> ;	222 223
(i) Existence of a comprehensive plan that is adopted under section 303.02 or 519.02 of the Revised Code or that is adopted by the planning commission of a municipal corporation under section 713.06 of the Revised Code;	224 225 226 227
(i) (j) Any other factors that the director determines are necessary for inclusion in the system.	228 229
(E) An agricultural easement acquired as a result of a matching grant awarded under division (D) of this section may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.	230 231 232 233 234
(F) For any agricultural easement purchased with a matching grant that consists in whole or in part of moneys from the clean Ohio agricultural easement fund, the director shall be named as a grantee on the instrument conveying the easement, as shall the	235 236 237 238

municipal corporation, county, township, soil and water 239
conservation district, or charitable organization that receives 240
the grant. 241

(G)(1) The director shall monitor and evaluate the 242
effectiveness and efficiency of the agricultural easement program 243
as a farmland preservation tool. On or before July 1, 1999, and 244
the first day of July of each year thereafter, the director shall 245
prepare and submit a report to the chairpersons of the standing 246
committees of the senate and the house of representatives that 247
consider legislation regarding agriculture. The report shall 248
consider and address the following criteria to determine the 249
program's effectiveness: 250

(a) The number of agricultural easements purchased during the 251
preceding year; 252

(b) The location of those easements; 253

(c) The number of acres of land preserved for agricultural 254
use; 255

(d) The amount of money used by a municipal corporation, 256
township, county, or soil and water conservation district from any 257
fund to purchase the agricultural easements; 258

(e) The number of state matching grants given to purchase the 259
agricultural easements; 260

(f) The amount of state matching grant moneys used to 261
purchase the agricultural easements. 262

(2) The report also shall consider and include, at a minimum, 263
the following information for each county to determine the 264
program's efficiency: 265

(a) The total number of acres in the county; 266

(b) The total number of acres in current agricultural use; 267

(c) The total number of acres preserved for agricultural use 268

in the preceding year; 269

(d) The average cost, per acre, of land preserved for 270
agricultural use in the preceding year. 271

Sec. 901.80. (A) A person desiring to engage in the raising 272
or rehabilitation of white-tailed deer that are not captive 273
white-tailed deer as defined in section 1531.01 of the Revised 274
Code and are not for sale or personal use may apply in writing to 275
the department of agriculture for a deer sanctuary license. If the 276
director of agriculture determines that the application is made in 277
good faith and is complete, the director shall issue a deer 278
sanctuary license to the applicant upon payment of the fee for the 279
license established in rules adopted under this section. A license 280
expires annually on the thirty-first day of March and may be 281
renewed in accordance with rules adopted under this section. 282

(B) A person that has been issued a license under this 283
section shall not release any deer held under the license into the 284
wild. 285

(C) The director shall inspect all licensed deer sanctuaries 286
in accordance with rules adopted under this section. 287

(D) The director shall adopt rules in accordance with Chapter 288
119. of the Revised Code that do all of the following: 289

(1) Specify information to be included in an application for 290
a deer sanctuary license, including a description of the facility 291
that is the subject of the application demonstrating that the 292
facility will comply with rules adopted under division (D)(2) of 293
this section; 294

(2) Establish facility specifications for a licensed deer 295
sanctuary; 296

(3) Establish a fee for the issuance of a license; 297

(4) Establish procedures governing the inspection of licensed 298

<u>deer sanctuaries;</u>	299
<u>(5) Establish the manner in which a deer must be transported to a licensed deer sanctuary;</u>	300 301
<u>(6) Establish a procedure for and requirements governing the renewal of a deer sanctuary license;</u>	302 303
<u>(7) Establish any other requirements and procedures that the director determines are necessary for the administration of this section.</u>	304 305 306
<u>(E) The director shall deposit all money received as fees for the issuance of deer sanctuary licenses into the state treasury to the credit of the deer sanctuary fund created by section 901.801 of the Revised Code.</u>	307 308 309 310
<u>Sec. 901.801. There is hereby created in the state treasury the deer sanctuary fund, which shall consist of all money credited to it under section 901.80 of the Revised Code. The director of agriculture shall use money in the fund to administer that section and rules adopted under it.</u>	311 312 313 314 315
Sec. 903.01. As used in this chapter:	316
(A) "Agricultural animal" means any animal generally used for food or in the production of food, including cattle, sheep, goats, rabbits, poultry, and swine; horses; alpacas; llamas; and any other animal included by the director of agriculture by rule. "Agricultural animal" does not include fish or other aquatic animals regardless of whether they are raised at fish hatcheries, fish farms, or other facilities that raise aquatic animals.	317 318 319 320 321 322 323
(B) "Animal feeding facility" means a lot, building, or structure where both of the following conditions are met:	324 325
(1) Agricultural animals have been, are, or will be stabled or confined and fed or maintained there for a total of forty-five	326 327

days or more in any twelve-month period.	328
(2) Crops, vegetative forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot, building, or structure.	329 330 331
"Animal feeding facility" also includes land that is owned or leased by or otherwise is under the control of the owner or operator of the lot, building, or structure and on which manure originating from agricultural animals in the lot, building, or structure or a production area is or may be applied.	332 333 334 335 336
Two or more animal feeding facilities under common ownership shall be considered to be a single animal feeding facility for the purposes of this chapter if they adjoin each other or if they use a common area or system for the disposal of manure.	337 338 339 340
(C) "Animal feeding operation" has the same meaning as "animal feeding facility."	341 342
(D) "Cattle" includes, but is not limited to, heifers, steers, bulls, and cow and calf pairs.	343 344
(E) "Concentrated animal feeding facility" means an animal feeding facility with a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section.	345 346 347 348
(F) "Concentrated animal feeding operation" means an animal feeding facility that complies with one of the following:	349 350
(1) Has a total design capacity equal to or more than the number of animals specified in any of the categories in division (M) of this section;	351 352 353
(2) Satisfies the criteria in division (M), (Q), or (FF) of this section;	354 355
(3) Is designated by the director of agriculture as a medium or small concentrated animal feeding operation pursuant to rules.	356 357

(G) "Discharge" means to add from a point source to waters of the state. 358
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(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. 360
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(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. 364
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(J) "General permit" has the meaning that is established in rules. 371
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(K) "Individual permit" has the meaning that is established in rules. 373
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(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. 375
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(M) "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: 379
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(1) Seven hundred mature dairy cattle whether milked or dry; 382

(2) One thousand veal calves; 383

(3) One thousand cattle other than mature dairy cattle or veal calves; 384
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(4) Two thousand five hundred swine that each weigh fifty-five pounds or more; 386
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(5) Ten thousand swine that each weigh less than fifty-five pounds;	388 389
(6) Five hundred horses;	390
(7) Ten thousand sheep or lambs;	391
(8) Fifty-five thousand turkeys;	392
(9) Thirty thousand laying hens or broilers if the animal feeding facility uses a liquid manure handling system;	393 394
(10) One hundred twenty-five thousand chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;	395 396 397
(11) Eighty-two thousand laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;	398 399 400
(12) Thirty thousand ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system;	401 402 403
(13) Five thousand ducks if the animal feeding facility uses a liquid manure handling system.	404 405
(N) "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten times the number of animals specified in any of the categories in division (M) of this section.	406 407 408 409
(O) "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta.	410 411 412 413 414 415 416
(P) "Manure storage or treatment facility" means any	417

excavated, diked, or walled structure or combination of structures 418
designed for the biological stabilization, holding, or storage of 419
manure. 420

(Q) "Medium concentrated animal feeding operation" means an 421
animal feeding facility that satisfies both of the following: 422

(1) The facility stables or confines the number of animals 423
specified in any of the following categories: 424

(a) Two hundred to six hundred ninety-nine mature dairy 425
cattle whether milked or dry; 426

(b) Three hundred to nine hundred ninety-nine veal calves; 427

(c) Three hundred to nine hundred ninety-nine cattle other 428
than mature dairy cattle or veal calves; 429

(d) Seven hundred fifty to two thousand four hundred 430
ninety-nine swine that each weigh fifty-five pounds or more; 431

(e) Three thousand to nine thousand nine hundred ninety-nine 432
swine that each weigh less than fifty-five pounds; 433

(f) One hundred fifty to four hundred ninety-nine horses; 434

(g) Three thousand to nine thousand nine hundred ninety-nine 435
sheep or lambs; 436

(h) Sixteen thousand five hundred to fifty-four thousand nine 437
hundred ninety-nine turkeys; 438

(i) Nine thousand to twenty-nine thousand nine hundred 439
ninety-nine laying hens or broilers if the animal feeding facility 440
uses a liquid manure handling system; 441

(j) Thirty-seven thousand five hundred to one hundred 442
twenty-four thousand nine hundred ninety-nine chickens, other than 443
laying hens, if the animal feeding facility uses a manure handling 444
system that is not a liquid manure handling system; 445

(k) Twenty-five thousand to eighty-one thousand nine hundred 446

ninety-nine laying hens if the animal feeding facility uses a 447
manure handling system that is not a liquid manure handling 448
system; 449

(1) Ten thousand to twenty-nine thousand nine hundred 450
ninety-nine ducks if the animal feeding facility uses a manure 451
handling system that is not a liquid manure handling system; 452

(m) One thousand five hundred to four thousand nine hundred 453
ninety-nine ducks if the animal feeding facility uses a liquid 454
manure handling system. 455

(2) The facility does one of the following: 456

(a) Discharges pollutants into waters of the United States 457
through a ditch constructed by humans, a flushing system 458
constructed by humans, or another similar device constructed by 459
humans; 460

(b) Discharges pollutants directly into waters of the United 461
States that originate outside of and that pass over, across, or 462
through the facility or otherwise come into direct contact with 463
the animals at the facility. 464

"Medium concentrated animal feeding operation" includes an 465
animal feeding facility that is designated by the director as a 466
medium concentrated animal feeding operation pursuant to rules. 467

(R) "Mortality composting" means the controlled decomposition 468
of organic solid material consisting of dead animals that 469
stabilizes the organic fraction of the material. 470

(S) "NPDES permit" means a permit issued under the national 471
pollutant discharge elimination system established in section 402 472
of the Federal Water Pollution Control Act and includes the 473
renewal of such a permit. "NPDES permit" includes the federally 474
enforceable provisions of a permit to operate into which NPDES 475
permit provisions have been incorporated. 476

(T) "Permit" includes an initial, renewed, or modified permit 477
to install, permit to operate, NPDES permit, and installation 478
permit unless expressly stated otherwise. 479

(U) "Permit to install" means a permit issued under section 480
903.02 of the Revised Code. 481

(V) "Permit to operate" means a permit issued or renewed 482
under section 903.03 of the Revised Code and includes incorporated 483
NPDES permit provisions, if applicable. 484

(W) "Person" has the same meaning as in section 1.59 of the 485
Revised Code and also includes the state, any political 486
subdivision of the state, any interstate body created by compact, 487
the United States, or any department, agency, or instrumentality 488
of any of those entities. 489

(X) "Point source" has the same meaning as in the Federal 490
Water Pollution Control Act. 491

(Y) "Pollutant" means dredged spoil, solid waste, incinerator 492
residue, filter backwash, sewage, garbage, sewage sludge, 493
munitions, chemical wastes, biological materials, radioactive 494
materials except those regulated under the "Atomic Energy Act of 495
1954," 68 Stat. 919, 42 U.S.C. 2011, as amended, heat, wrecked or 496
discarded equipment, rock, sand, cellar dirt, and industrial, 497
municipal, and agricultural waste, including manure, discharged 498
into water. "Pollutant" does not include either of the following: 499

(1) Sewage from vessels; 500

(2) Water, gas, or other material that is injected into a 501
well to facilitate production of oil or gas, or water derived in 502
association with oil and gas production and disposed of in a well, 503
if the well that is used either to facilitate production or for 504
disposal purposes is approved by the state and if the state 505
determines that the injection or disposal will not result in the 506
degradation of ground or surface water resources. 507

(Z) "Process generated waste water" means water that is	508
directly or indirectly used in the operation of an animal feeding	509
facility for any of the following:	510
(1) Spillage or overflow from animal watering systems;	511
(2) Washing, cleaning, or flushing pens, barns, manure pits,	512
or other areas of an animal feeding facility;	513
(3) Direct contact swimming, washing, or spray cooling of	514
animals;	515
(4) Dust control.	516
(AA) "Process waste water" means any process generated waste	517
water and any precipitation, including rain or snow, that comes	518
into contact with manure, litter, bedding, or any other raw	519
material or intermediate or final material or product used in or	520
resulting from the production of animals or direct products such	521
as milk or eggs.	522
(BB) "Production area" means any of the following components	523
of an animal feeding facility:	524
(1) Animal confinement areas, including, but not limited to,	525
open lots, housed lots, feedlots, confinement houses, stall barns,	526
free stall barns, milkrooms, milking centers, cowyards, barnyards,	527
medication pens, animal walkways, and stables;	528
(2) Manure storage areas, including, but not limited to,	529
manure storage or treatment facilities;	530
(3) Raw material storage areas, including, but not limited	531
to, feed silos, silage bunkers, commodity buildings, and bedding	532
materials;	533
(4) Waste containment areas, including, but not limited to,	534
any of the following:	535
(a) An egg washing or egg processing facility;	536

(b) An area used in the storage, handling, treatment, or disposal of mortalities; 537
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(c) Settling basins, runoff ponds, liquid impoundments, and areas within berms and diversions that are designed and maintained to separate uncontaminated storm water runoff from contaminated water and to contain and treat contaminated storm water runoff. 539
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(CC) "Public meeting" means a nonadversarial public hearing at which a person may present written or oral statements for the director of agriculture's consideration and includes public hearings held under section 6111.12 of the Revised Code. 543
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~~(DD) "Review compliance certificate" means a certificate issued under section 903.04 of the Revised Code.~~ 547
548

~~(EE)~~ "Rule" means a rule adopted under section 903.10 of the Revised Code. 549
550

~~(FF)~~(EE) "Small concentrated animal feeding operation" means an animal feeding facility that is not a large or medium concentrated animal feeding operation and that is designated by the director as a small concentrated animal feeding operation pursuant to rules. 551
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555

~~(GG)~~(FF) "Waters of the state" has the same meaning as in section 6111.01 of the Revised Code. 556
557

Sec. 903.03. (A)(1) Not later than one hundred eighty days after March 15, 2001, the director of agriculture shall prepare a program for the issuance of permits to operate under this section. 558
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560

(2) Except for a concentrated animal feeding facility that is operating under an installation permit ~~or a review compliance certificate~~, on and after the date on which the director has finalized the program required under division (A)(1) of this section, no person shall own or operate a concentrated animal feeding facility without a permit to operate issued by the 561
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director under this section. 567

(B) The director or the director's authorized representative 568
may help an applicant for a permit to operate during the 569
permitting process by providing guidance and technical assistance. 570

(C) An applicant for a permit to operate shall submit a fee 571
in an amount established by rule together with, except as 572
otherwise provided in division (E) of this section, an application 573
to the director on a form that the director prescribes and 574
provides. The applicant shall include with the application all of 575
the following information: 576

(1) The name and address of the applicant, of all partners if 577
the applicant is a partnership, of all members if the applicant is 578
a limited liability company, or of all officers and directors if 579
the applicant is a corporation, and of any other person who has a 580
right to control or in fact controls management of the applicant 581
or the selection of officers, directors, or managers of the 582
applicant. As used in division (C)(1) of this section, "control" 583
has the same meaning as in division (C)(1) of section 903.02 of 584
the Revised Code. 585

(2) Information concerning the applicant's past compliance 586
with laws pertaining to environmental protection that is required 587
to be provided under section 903.05 of the Revised Code, if 588
applicable; 589

(3) A manure management plan for the concentrated animal 590
feeding facility that conforms to best management practices 591
regarding the handling, storage, transportation, and land 592
application of manure generated at the facility and that contains 593
any other information required by rule; 594

(4) An insect and rodent control plan for the concentrated 595
animal feeding facility that conforms to best management practices 596
and is prepared in accordance with section 903.06 of the Revised 597

Code; 598

(5) In the case of an application for a major concentrated 599
animal feeding facility, written proof that the person who would 600
be responsible for the supervision of the management and handling 601
of manure at the facility has been issued a livestock manager 602
certification in accordance with section 903.07 of the Revised 603
Code or will obtain a livestock manager certification prior to 604
applying any manure to land. 605

(D) The director shall issue permits to operate in accordance 606
with section 903.09 of the Revised Code. The director shall deny a 607
permit to operate if either of the following applies: 608

(1) The permit application contains misleading or false 609
information. 610

(2) The manure management plan or insect and rodent control 611
plan fails to conform to best management practices. 612

Additional grounds for the denial of a permit to operate 613
shall be those established in this chapter and in rules. 614

(E) The director shall issue general permits to operate for 615
categories of concentrated animal feeding facilities that will 616
apply in lieu of individual permits to operate, provided that each 617
category of facilities meets all of the criteria established in 618
rules for general permits to operate. A person who is required to 619
obtain a permit to operate shall submit to the director a notice 620
of the person's intent to be covered under an existing general 621
permit or, at the person's option, shall submit an application for 622
an individual permit to operate. Upon receipt of a notice of 623
intent to be covered under an existing general permit, the 624
director shall notify the applicant in writing that the person is 625
covered by the general permit if the person satisfies the criteria 626
established in rules for eligibility for such coverage. If the 627
person is ineligible for coverage under the general permit, the 628

director shall require the submission of an application for an 629
individual permit to operate. 630

(F) A permit to operate shall be valid for a period of five 631
years. 632

(G) A permit to operate may be renewed. An application for 633
renewal of a permit to operate shall be submitted to the director 634
at least one hundred eighty days prior to the expiration date of 635
the permit to operate and shall comply with the requirements 636
governing applications for permits to operate that are established 637
under this section and by rules, including requirements pertaining 638
to public notice and participation. 639

(H) The director may modify, suspend, or revoke a permit to 640
operate in accordance with rules. 641

(I) The owner or operator of a concentrated animal feeding 642
facility who proposes to make a major operational change at the 643
facility shall submit an application for approval of the change to 644
the director in accordance with rules. 645

Sec. 903.07. (A) On and after the date that is established in 646
rules by the director of agriculture, both of the following apply: 647
648

(1) The management and handling of manure at a major 649
concentrated animal feeding facility, including the land 650
application of manure or the removal of manure from a manure 651
storage or treatment facility, shall be conducted only by or under 652
the supervision of a person holding a livestock manager 653
certification issued under this section. A person managing or 654
handling manure who is acting under the instructions and control 655
of a person holding a livestock manager certification is 656
considered to be under the supervision of the certificate holder 657
if the certificate holder is responsible for the actions of the 658

person and is available when needed even though the certificate 659
holder is not physically present at the time of the manure 660
management or handling. 661

(2) No person shall transport and land apply annually or buy, 662
sell, or land apply annually the volume of manure established in 663
rules adopted by the director under division ~~(E)~~(D)(5) of section 664
903.10 of the Revised Code unless the person holds a livestock 665
manager certification issued under this section. 666

(B) The director shall issue a livestock manager 667
certification to a person who has submitted a complete application 668
for certification on a form prescribed and provided by the 669
director, together with the appropriate application fee, and who 670
has completed successfully the required training and has passed 671
the required examination. The director may suspend or revoke a 672
livestock manager certification and may reinstate a suspended or 673
revoked livestock manager certification in accordance with rules. 674

(C) Information required to be included in an application for 675
a livestock manager certification, the amount of the application 676
fee, requirements regarding training and the examination, 677
requirements governing the management and handling of manure, 678
including the land application of manure, and requirements 679
governing the keeping of records regarding the handling of manure, 680
including the land application of manure, shall be established in 681
rules. 682

Sec. 903.082. (A) The director of agriculture may determine 683
that an animal feeding facility that is not a concentrated animal 684
feeding facility nevertheless shall be required to apply for and 685
receive a permit to operate when all of the following apply: 686

(1) The director has ~~received from the chief of the division~~ 687
~~of soil and water resources in the department of natural resources~~ 688
~~a copy of an order issued~~ specified a corrective action to be 689

~~taken under section 1511.02 939.09 of the Revised Code that~~ 690
~~specifies that the animal feeding facility has caused agricultural~~ 691
~~pollution by failure to comply with standards established under~~ 692
~~that section and that the animal feeding facility therefore should~~ 693
~~be required to be permitted as a concentrated animal feeding~~ 694
~~facility.~~ 695

(2) The director or the director's authorized representative 696
has inspected the animal feeding facility. 697

(3) The director or the director's authorized representative 698
finds that the facility is not being operated in a manner that 699
protects the waters of the state. 700

(B) In a situation in which best management practices cannot 701
be implemented without modifying the existing animal feeding 702
facility, the owner or operator of the facility shall apply for a 703
permit to install for the facility. 704

(C) In the case of an animal feeding facility for which a 705
permit to operate is required under this section, a permit to 706
operate shall not be required after the end of the five-year term 707
of the permit if the problems that caused the facility to be 708
required to obtain the permit have been corrected to the 709
director's satisfaction. 710

Sec. 903.09. (A) Prior to issuing or modifying a permit to 711
install, permit to operate, or NPDES permit, the director of 712
agriculture shall issue a draft permit. The director or the 713
director's representative shall mail notice of the issuance of a 714
draft permit to the applicant and shall publish the notice once in 715
a newspaper of general circulation in the county in which the 716
concentrated animal feeding facility or discharger is located or 717
proposed to be located. The director shall mail notice of the 718
issuance of a draft permit and a copy of the draft permit to the 719
board of county commissioners of the county and the board of 720

township trustees of the township in which the concentrated animal 721
feeding facility or discharger is located or proposed to be 722
located. The director or the director's representative also shall 723
provide notice of the issuance of a draft NPDES permit to any 724
other persons that are entitled to notice under the Federal Water 725
Pollution Control Act. Notice of the issuance of a draft permit to 726
install, permit to operate, or NPDES permit shall include the 727
address where written comments concerning the draft permit may be 728
submitted and the period of time during which comments will be 729
accepted as established by rule. 730

If the director receives written comments in an amount that 731
demonstrates significant public interest, as defined by rule, in 732
the draft permit, the director shall schedule one public meeting 733
to provide information to the public and to hear comments 734
pertinent to the draft permit. The notice of the public meeting 735
shall be provided in the same manner as the notice of the issuance 736
of the draft permit. 737

(B) If a person is required to obtain both a permit to 738
install and a permit to operate, including any permit to operate 739
with NPDES provisions, and public meetings are required for both 740
permits, the public meetings for the permits shall be combined. 741

(C) The director shall apply the antidegradation policy 742
adopted under section 6111.12 of the Revised Code to permits 743
issued under this chapter to the same degree and under the same 744
circumstances as it applies to permits issued under Chapter 6111. 745
of the Revised Code. The director shall hold one public meeting to 746
consider antidegradation issues when such a meeting is required by 747
the antidegradation policy. When allowed by the antidegradation 748
policy, the director shall hold the public meeting on 749
antidegradation issues concurrently with any public meeting held 750
for the draft permit. 751

(D) The director or the director's representative shall 752
publish notice of the issuance of a final permit to install, 753
permit to operate, or NPDES permit once in a newspaper of general 754
circulation in the county in which the concentrated animal feeding 755
facility or discharger is located. 756

(E) Notice or a public meeting is not required for the 757
modification of a permit made with the consent of the permittee 758
for the correction of typographical errors. 759

(F) The denial, modification, suspension, or revocation of a 760
permit to install, permit to operate, or NPDES permit without the 761
consent of the applicant or permittee shall be preceded by a 762
proposed action stating the director's intention to issue an order 763
with respect to the permit and the reasons for it. 764

The director shall mail to the applicant or the permittee 765
notice of the director's proposed action to deny, modify, suspend, 766
or revoke a permit to install, permit to operate, or NPDES permit. 767
The director shall publish the notice once in a newspaper of 768
general circulation in the county in which the concentrated animal 769
feeding facility or concentrated animal feeding operation is 770
located or proposed to be located. The director shall mail a copy 771
of the notice of the proposed action to the board of county 772
commissioners of the county and to the board of township trustees 773
of the township in which the concentrated animal feeding facility 774
or concentrated animal feeding operation is located or proposed to 775
be located. The director also shall provide notice of the 776
director's proposed action to deny, modify, suspend, or revoke a 777
permit to install, permit to operate, or NPDES permit to any other 778
person that is entitled to notice under the Federal Water 779
Pollution Control Act. The notice of the director's proposed 780
action to deny, modify, suspend, or revoke a permit to install, 781
permit to operate, or NPDES permit shall include the address where 782
written comments concerning the director's proposed action may be 783

submitted and the period of time during which comments will be 784
accepted as established by rule. If the director receives written 785
comments in an amount that demonstrates significant public 786
interest, as defined by rule, the director shall schedule one 787
public meeting to provide information to the public and to hear 788
comments pertinent to the proposed action. The notice of the 789
public meeting shall be provided in the same manner as the notice 790
of the director's proposed action. 791

The director shall not issue an order that makes the proposed 792
action final until the applicant or permittee has had an 793
opportunity for an adjudication hearing in accordance with Chapter 794
119. of the Revised Code, except that section 119.12 of the 795
Revised Code does not apply. An order of the director that 796
finalizes the proposed action or an order issuing a permit without 797
a prior proposed action may be appealed to the environmental 798
review appeals commission under sections 3745.04 to 3745.06 of the 799
Revised Code. 800

(G)(1) The director shall issue an order issuing or denying 801
an application for a permit to operate that contains NPDES 802
provisions or for a NPDES permit, as well as any application for a 803
permit to install that is submitted simultaneously, not later than 804
one hundred eighty days after receiving the application. 805

(2) In the case of an application for a permit to install or 806
permit to operate that is not connected with an application for a 807
NPDES permit, the director shall issue or propose to deny the 808
permit not later than ninety days after receiving the application. 809
If the director has proposed to deny the permit to install or 810
permit to operate under division (G)(2) of this section, the 811
director shall issue an order denying the permit or, if the 812
director decides against the proposed denial, issuing the permit 813
not later than one hundred eighty days after receiving the 814
application. If the director denies the permit, the director shall 815

notify the applicant in writing of the reason for the denial. 816

(H) All rulemaking and the issuance of civil penalties under 817
this chapter shall comply with Chapter 119. of the Revised Code. 818

(I) Upon the transfer of ownership of an animal feeding 819
facility for which a permit to install, an installation permit, a 820
~~review compliance certificate,~~ or a permit to operate that 821
contains no NPDES provisions has been issued, the permit ~~or~~ 822
~~certificate~~ shall be transferred to the new owner of the animal 823
feeding facility except as provided in division (C) of section 824
903.05 of the Revised Code. In the case of the transfer of 825
ownership of a point source for which a NPDES permit or a permit 826
to operate that contains NPDES provisions has been issued, the 827
permit shall be transferred in accordance with rules. 828

(J) Applications for installation permits for animal feeding 829
facilities pending before the director of environmental protection 830
on the date on which the director of agriculture has finalized the 831
programs required under division (A)(1) of section 903.02 and 832
division (A)(1) of section 903.03 of the Revised Code shall be 833
transferred to the director of agriculture. In the case of an 834
applicant who is required to obtain a permit to install and a 835
permit to operate under sections 903.02 and 903.03, respectively, 836
of the Revised Code, the director of agriculture shall process the 837
pending application for an installation permit as an application 838
for a permit to install and a permit to operate. 839

(K) Applications for NPDES permits for either of the 840
following that are pending before the director of environmental 841
protection on the date on which the United States environmental 842
protection agency approves the NPDES program submitted by the 843
director of agriculture under section 903.08 of the Revised Code 844
shall be transferred to the director of agriculture: 845

(1) The discharge of pollutants from a concentrated animal 846

feeding operation;	847
(2) The discharge of storm water resulting from an animal feeding facility.	848 849
In the case of an applicant who is required to obtain a NPDES permit under section 903.08 of the Revised Code, the director of agriculture shall process the pending application as an application for a NPDES permit under that section.	850 851 852 853
Sec. 903.10. The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:	854 855 856
(A) Establish all of the following concerning permits to install and permits to operate:	857 858
(1) A description of what constitutes a modification of a concentrated animal feeding facility;	859 860
(2) A description of what constitutes a major operational change at a concentrated animal feeding facility;	861 862
(3) The amount of the fee that must be submitted with each permit application and each application for a permit modification;	863 864
(4) Information that must be included in the designs and plans required to be submitted with an application for a permit to install and criteria for approving, disapproving, or requiring modification of the designs and plans;	865 866 867 868
(5) Information that must be included in a manure management plan required to be submitted with an application for a permit to operate;	869 870 871
(6) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;	872 873 874
(7) Information that must be included in an application for	875

approval of a major operational change at a concentrated animal feeding facility;	876
	877
(8) Any additional information that must be included with a permit application;	878
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(9) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits;	880
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(10) Procedures for the approval or denial of an application for approval of a major operational change at a concentrated animal feeding facility;	883
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	885
(11) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;	886
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(12) Grounds for the denial of an application for approval of a major operational change at a concentrated animal feeding facility;	890
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	892
(13) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;	893
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(14) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate.	896
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(B) Establish all of the following for the purposes of review compliance certificates issued under section 903.04 of the Revised Code:	902
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	904
(1) The form of a certificate;	905

(2) Criteria for what constitutes a significant capital expenditure under division (D) of that section;	906
(3) Deadlines and procedures for submitting information under division (E)(2) of that section.	907
(C) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:	908
(1) Manure management, including the storage, handling, transportation, and land application of manure. Rules adopted under division (C) <u>(B)</u> (1) of this section shall include practices that prevent surface and ground water contamination caused by the storage of manure or the land application of manure and prevent the contamination of water in drainage tiles that may be caused by that application.	909
(2) Disposal of dead livestock;	910
(3) Production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas as those terms are defined in section 5713.30 of the Revised Code;	911
(4) Any other activity that the director considers appropriate.	912
Best management practices established in rules adopted under division (C) <u>(B)</u> of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code. The rules adopted under division (C) <u>(B)</u> of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government	913
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infrastructure needs and the financing of that infrastructure.	937
(D) (C) Establish all of the following concerning insect and	938
rodent control plans required under section 903.06 of the Revised	939
Code:	940
(1) The information to be included in an insect and rodent	941
control plan;	942
(2) Criteria for approving, disapproving, or requiring	943
modification of an insect and rodent control plan;	944
(3) Criteria for determining compliance with or violation of	945
an insect and rodent control plan;	946
(4) Procedures and standards for monitoring insect and rodent	947
control plans;	948
(5) Procedures and standards for enforcing insect and rodent	949
control plans at concentrated animal feeding facilities at which	950
insects or rodents constitute a nuisance or adversely affect	951
public health;	952
(6) The amount of civil penalties for violation of an insect	953
and rodent control plan assessed by the director of agriculture	954
under division (B) of section 903.16 of the Revised Code, provided	955
that the rules adopted under division (D) (C)(6) of this section	956
shall not establish a civil penalty of more than ten thousand	957
dollars for a violation involving a concentrated animal feeding	958
facility that is not a major concentrated animal feeding facility	959
and shall not establish a civil penalty of more than twenty-five	960
thousand dollars for a violation involving a major concentrated	961
animal feeding facility;	962
(7) The time period within which the director must approve or	963
deny an insect and rodent control plan after receiving it;	964
(8) Any other provisions necessary to administer and enforce	965
section 903.12 of the Revised Code.	966

~~(E)~~(D) Establish all of the following concerning livestock 967
manager certifications required under section 903.07 of the 968
Revised Code: 969

(1) The information to be included in an application for a 970
livestock manager certification and the amount of the application 971
fee; 972

(2) The content of the training required to be completed and 973
of the examination required to be passed by an applicant for a 974
livestock manager certification. The training shall include and 975
the examination shall test the applicant's knowledge of 976
information on topics that include calculating nutrient values in 977
manure, devising and implementing a plan for the land application 978
of manure, removing manure held in a manure storage or treatment 979
facility, and following best management practices established in 980
rules for disposal of dead animals and manure management, 981
including practices that control odor and protect the environment. 982
The director may specify other types of recognized training 983
programs that, if completed, are considered to satisfy the 984
training and examination requirement. 985

(3) Criteria and procedures for the issuance, denial, 986
suspension, revocation, or reinstatement of a livestock manager 987
certification; 988

(4) The length of time during which livestock manager 989
certifications will be valid and procedures for their renewal; 990

(5) The volume of manure that must be transported and land 991
applied annually or the volume of manure that must be bought, 992
sold, or land applied annually by a person in order for the person 993
to be required to obtain a livestock manager certification under 994
division (A)(2) of section 903.07 of the Revised Code; 995

(6) Requirements governing the management and handling of 996
manure, including the land application of manure; 997

(7) Requirements governing the keeping of records regarding the handling of manure, including the land application of manure;	998 999
(8) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code.	1000 1001
(F) (E) Establish all of the following concerning NPDES permits:	1002 1003
(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code;	1004 1005 1006
(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;	1007 1008
(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;	1009 1010 1011
(4) Terms and conditions to be included in a permit, including, as applicable, best management practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;	1012 1013 1014 1015 1016 1017 1018 1019
(5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;	1020 1021 1022
(6) The amount of the fee that must be submitted with an application for a permit;	1023 1024
(7) Procedures for processing permit applications, including public notice and participation requirements;	1025 1026
(8) Procedures for notifying the United States environmental	1027

protection agency of the submission of permit applications, the 1028
director's action on those applications, and any other reasonable 1029
and relevant information; 1030

(9) Procedures for notifying and receiving and responding to 1031
recommendations from other states whose waters may be affected by 1032
the issuance of a permit; 1033

(10) Procedures for the transfer of permits to new owners or 1034
operators; 1035

(11) Grounds and procedures for the issuance, denial, 1036
modification, suspension, or revocation of permits, including 1037
general permits; 1038

(12) A definition of "general NPDES permit" that establishes 1039
categories of point sources to be covered under such a permit and 1040
a definition of "individual NPDES permit" together with the 1041
criteria for issuing a general NPDES permit and the criteria for 1042
determining a person's eligibility to discharge under a general 1043
NPDES permit. 1044

The rules adopted under division ~~(F)~~(E) of this section shall 1045
be consistent with the requirements of the Federal Water Pollution 1046
Control Act. 1047

~~(G)~~(F) Establish public notice and participation 1048
requirements, in addition to the procedures established in rules 1049
adopted under division ~~(F)~~(E)(7) of this section, for the 1050
issuance, denial, modification, transfer, suspension, and 1051
revocation of permits to install, permits to operate, and NPDES 1052
permits consistent with section 903.09 of the Revised Code, 1053
including a definition of what constitutes significant public 1054
interest for the purposes of divisions (A) and (F) of section 1055
903.09 of the Revised Code and procedures for public meetings. The 1056
rules shall require that information that is presented at such a 1057
public meeting be limited to the criteria that are applicable to 1058

the permit application that is the subject of the public meeting. 1059

~~(H)~~(G) Establish the amount of civil penalties assessed by 1060
the director of agriculture under division (B) of section 903.16 1061
of the Revised Code for violation of the terms and conditions of a 1062
permit to install, or permit to operate, ~~or review compliance~~ 1063
~~certificate~~, provided that the rules adopted under this division 1064
shall not establish a civil penalty of more than ten thousand 1065
dollars per day for each violation; 1066

~~(I)~~(H) Establish procedures for the protection of trade 1067
secrets from public disclosure. The procedures shall authorize the 1068
release of trade secrets to officers, employees, or authorized 1069
representatives of the state, another state, or the United States 1070
when necessary for an enforcement action brought under this 1071
chapter or when otherwise required by the Federal Water Pollution 1072
Control Act. The rules shall require at least ten days' written 1073
notice to the person to whom a trade secret applies prior to the 1074
release of the trade secret. Rules adopted under this division do 1075
not apply to any information that is contained in applications, 1076
including attachments, for NPDES permits and that is required to 1077
be submitted under section 903.08 of the Revised Code or rules 1078
adopted under division ~~(F)~~(E) of this section. 1079

~~(J)~~(I) Establish any other provisions necessary to administer 1080
and enforce this chapter. 1081

Sec. 903.11. (A) The director of agriculture may enter into 1082
contracts or agreements to carry out the purposes of this chapter 1083
with any public or private person, including OSU extension, the 1084
natural resources conservation service in the United States 1085
department of agriculture, the environmental protection agency, 1086
the division of soil and water resources in the department of 1087
natural resources, and soil and water conservation districts 1088
established under Chapter 1515. of the Revised Code. However, the 1089

director shall not enter into a contract or agreement with a 1090
private person for the review of applications for permits to 1091
install, permits to operate, or NPDES permits, ~~or review~~ 1092
~~compliance certificates~~ that are issued under this chapter or for 1093
the inspection of a facility regulated under this chapter or with 1094
any person for the issuance of any of those permits ~~or~~ 1095
~~certificates~~ or for the enforcement of this chapter and rules 1096
adopted under it. 1097

(B) The director may administer grants and loans using moneys 1098
from the federal government and other sources, public or private, 1099
for carrying out any of the director's functions. Nothing in this 1100
chapter shall be construed to limit the eligibility of owners or 1101
operators of animal feeding facilities or other agricultural 1102
enterprises to receive moneys from the water pollution control 1103
loan fund established under section 6111.036 of the Revised Code 1104
and the nonpoint source pollution management fund established 1105
under section 6111.037 of the Revised Code. 1106

The director of agriculture shall provide the director of 1107
environmental protection with written recommendations for 1108
providing financial assistance from those funds to agricultural 1109
enterprises. The director of environmental protection shall 1110
consider the recommendations in developing priorities for 1111
providing financial assistance from the funds. 1112

Sec. 903.12. (A) The director of agriculture or the 1113
director's authorized representative at reasonable times may enter 1114
on any public or private property, real or personal, to make 1115
investigations and inspections, including the sampling of 1116
discharges and the inspection of discharge monitoring equipment, 1117
or to otherwise execute duties that are necessary for the 1118
administration and enforcement of this chapter. The director or 1119
the director's authorized representative at reasonable times may 1120

examine and copy any records pertaining to discharges that are 1121
subject to this chapter or any records that are required to be 1122
maintained by the terms and conditions of a permit ~~or review~~ 1123
~~compliance certificate~~ issued under this chapter. If refused 1124
entry, the director or the director's authorized representative 1125
may apply for and the court of common pleas having jurisdiction 1126
may issue an appropriate warrant. 1127

(B) No person to whom a permit ~~or review compliance~~ 1128
~~certificate~~ has been issued under this chapter shall refuse entry 1129
to the director or the director's authorized representative or 1130
purposely hinder or thwart the director or the director's 1131
authorized representative in the exercise of any authority granted 1132
under division (A) of this section. 1133

Sec. 903.13. In a private civil action for an alleged 1134
nuisance related to agricultural activities conducted at a 1135
concentrated animal feeding facility, it is an affirmative defense 1136
if the person owning, operating, or otherwise responsible for the 1137
concentrated animal feeding facility is in compliance with best 1138
management practices established in the installation permit, or 1139
permit to operate, ~~or review compliance certificate~~ issued for the 1140
concentrated animal feeding facility and the agricultural 1141
activities do not violate federal, state, and local laws governing 1142
nuisances. 1143

Sec. 903.16. (A) The director of agriculture may propose to 1144
require corrective actions and assess a civil penalty against an 1145
owner or operator of a concentrated animal feeding facility if the 1146
director or the director's authorized representative determines 1147
that the owner or operator is not in compliance with section 1148
903.02, or 903.03, ~~or 903.04~~ or division (A) of section 903.07 of 1149
the Revised Code, the terms and conditions of a permit to install, 1150

~~or~~ permit to operate, ~~or review compliance certificate~~ issued for 1151
the concentrated animal feeding facility, including the 1152
requirements established under division (C) of section 903.06 of 1153
the Revised Code, or rules adopted under division (A), (B), (C), 1154
(D), ~~(E)~~, or ~~(F)~~(I) of section 903.10 of the Revised Code. 1155
However, the director may impose a civil penalty only if all of 1156
the following occur: 1157

(1) The owner or operator is notified in writing of the 1158
deficiencies resulting in noncompliance, the actions that the 1159
owner or operator must take to correct the deficiencies, and the 1160
time period within which the owner or operator must correct the 1161
deficiencies and attain compliance. 1162

(2) After the time period specified in the notice has 1163
elapsed, the director or the director's duly authorized 1164
representative has inspected the concentrated animal feeding 1165
facility, determined that the owner or operator is still not in 1166
compliance, and issued a notice of an adjudication hearing. 1167

(3) The director affords the owner or operator an opportunity 1168
for an adjudication hearing under Chapter 119. of the Revised Code 1169
to challenge the director's determination that the owner or 1170
operator is not in compliance or the imposition of the civil 1171
penalty, or both. However, the owner or operator may waive the 1172
right to an adjudication hearing. 1173

(B) If the opportunity for an adjudication hearing is waived 1174
or if, after an adjudication hearing, the director determines that 1175
a violation has occurred or is occurring, the director may issue 1176
an order requiring compliance and assess the civil penalty. The 1177
order and the assessment of the civil penalty may be appealed in 1178
accordance with section 119.12 of the Revised Code. 1179

Civil penalties shall be assessed under this division as 1180
follows: 1181

(1) A person who has violated section 903.02, or 903.03, ~~or~~ 1182
903.04 of the Revised Code, the terms and conditions of a permit 1183
to install, or permit to operate, ~~or review compliance~~ 1184
~~certificate~~, or rules adopted under division (A), (B), (C), (D), 1185
~~(E)~~, or ~~(J)~~(I) of section 903.10 of the Revised Code shall pay a 1186
civil penalty in an amount established in rules unless the 1187
violation is of the requirements established under division (C) of 1188
section 903.06 or division (A) of section 903.07 of the Revised 1189
Code. 1190

(2) A person who has violated the requirements established 1191
under division (C) of section 903.06 of the Revised Code shall pay 1192
a civil penalty in an amount established in rules for each 1193
violation. Each seven-day period during which a violation 1194
continues constitutes a separate violation. 1195

(3) A person who has violated the requirements established 1196
under division (A) of section 903.07 of the Revised Code shall pay 1197
a civil penalty of not more than ten thousand dollars for each 1198
violation. Each thirty-day period during which a violation 1199
continues constitutes a separate violation. 1200

(C) The attorney general, upon the written request of the 1201
director, shall bring an action for an injunction in any court of 1202
competent jurisdiction against any person violating or threatening 1203
to violate section 903.02, or 903.03, ~~or~~ 903.04 or division (A) of 1204
section 903.07 of the Revised Code; the terms and conditions of a 1205
permit to install, or permit to operate, ~~or review compliance~~ 1206
~~certificate~~, including the requirements established under division 1207
(C) of section 903.06 of the Revised Code; rules adopted under 1208
division (A), (B), (C), (D), ~~(E)~~, or ~~(J)~~(I) of section 903.10 of 1209
the Revised Code; or an order issued under division (B) of this 1210
section or division (B) of section 903.07 of the Revised Code. 1211

(D)(1) In lieu of seeking civil penalties under division (A) 1212
of this section, the director may request the attorney general, in 1213

writing, to bring an action for a civil penalty in a court of 1214
competent jurisdiction against any person that has violated or is 1215
violating division (A) of section 903.07 of the Revised Code or 1216
the terms and conditions of a permit to install, or permit to 1217
operate, ~~or review compliance certificate~~, including the 1218
requirements established under division (C) of section 903.06 of 1219
the Revised Code. 1220

(2) The director may request the attorney general, in 1221
writing, to bring an action for a civil penalty in a court of 1222
competent jurisdiction against any person that has violated or is 1223
violating section 903.02, or 903.03, ~~or 903.04~~ of the Revised 1224
Code, rules adopted under division (A), (B), (C), (D), ~~(E)~~, or 1225
~~(J)~~ (I) of section 903.10 of the Revised Code, or an order issued 1226
under division (B) of this section or division (B) of section 1227
903.07 of the Revised Code. 1228

(3) A person who has committed a violation for which the 1229
attorney general may bring an action for a civil penalty under 1230
division (D)(1) or (2) of this section shall pay a civil penalty 1231
of not more than ten thousand dollars per violation. Each day that 1232
a violation continues constitutes a separate violation. 1233

(E) In addition to any other penalties imposed under this 1234
section, the director may impose an administrative penalty against 1235
an owner or operator of a concentrated animal feeding facility if 1236
the director or the director's authorized representative 1237
determines that the owner or operator is not in compliance with 1238
best management practices that are established in rules adopted 1239
under division (B) or (C) ~~or (D)~~ of section 903.10 of the Revised 1240
Code or in the permit to install, or permit to operate, ~~or review~~ 1241
~~compliance certificate~~ issued for the facility. The administrative 1242
penalty shall not exceed five thousand dollars. 1243

The director shall afford the owner or operator an 1244
opportunity for an adjudication hearing under Chapter 119. of the 1245

Revised Code to challenge the director's determination under this 1246
division, the director's imposition of an administrative penalty 1247
under this division, or both. The director's determination and the 1248
imposition of the administrative penalty may be appealed in 1249
accordance with section 119.12 of the Revised Code. 1250

Sec. 903.17. (A) The director of agriculture may propose to 1251
require corrective actions and assess a civil penalty against an 1252
owner or operator of an animal feeding operation if the director 1253
or the director's authorized representative determines that the 1254
owner or operator is not in compliance with section 903.08 of the 1255
Revised Code, the terms and conditions of a NPDES permit, the 1256
NPDES provisions of a permit to operate, or rules adopted under 1257
division ~~(F)~~(E) of section 903.10 of the Revised Code. However, 1258
the director may impose a civil penalty only if all of the 1259
following occur: 1260

(1) The owner or operator is notified in writing of the 1261
deficiencies resulting in noncompliance, the actions that the 1262
owner or operator must take to correct the deficiencies, and the 1263
time period within which the owner or operator must correct the 1264
deficiencies and attain compliance. 1265

(2) After the time period specified in the notice has 1266
elapsed, the director or the director's duly authorized 1267
representative has inspected the animal feeding operation, 1268
determined that the owner or operator is still not in compliance, 1269
and issued a notice of violation to require corrective actions. 1270

(3) The director affords the owner or operator an opportunity 1271
for an adjudication hearing under Chapter 119. of the Revised Code 1272
to challenge the director's determination that the owner or 1273
operator is not in compliance or the imposition of the civil 1274
penalty, or both. However, the owner or operator may waive the 1275
right to an adjudication hearing. 1276

(B) If the opportunity for an adjudication hearing is waived 1277
or if, after an adjudication hearing, the director determines that 1278
a violation has occurred or is occurring, the director may issue 1279
an order and assess a civil penalty of not more than ten thousand 1280
dollars per violation against the violator. For purposes of 1281
determining the civil penalty, each day that a violation continues 1282
constitutes a separate and distinct violation. The order and the 1283
assessment of the civil penalty may be appealed in accordance with 1284
section 119.12 of the Revised Code. 1285

(C) To the extent consistent with the Federal Water Pollution 1286
Control Act, the director shall consider technical feasibility and 1287
economic costs in issuing orders under this section. 1288

(D)(1) The attorney general, upon the written request of the 1289
director, shall bring an action for an injunction in any court of 1290
competent jurisdiction against any person violating or threatening 1291
to violate section 903.08 of the Revised Code, the terms and 1292
conditions of a NPDES permit, the NPDES provisions of a permit to 1293
operate, rules adopted under division ~~(F)~~(E) of section 903.10 of 1294
the Revised Code, or an order issued under division (B) of this 1295
section. 1296

(2) In lieu of seeking civil penalties under division (A) of 1297
this section, the director may request, in writing, the attorney 1298
general to bring an action for a civil penalty of not more than 1299
ten thousand dollars per violation in a court of competent 1300
jurisdiction against any person that has violated or is violating 1301
section 903.08 of the Revised Code, the terms and conditions of a 1302
NPDES permit, the NPDES provisions of a permit to operate, rules 1303
adopted under division ~~(F)~~(E) of section 903.10 of the Revised 1304
Code, or an order issued under division (B) of this section. For 1305
purposes of determining the civil penalty to be assessed under 1306
division (B) of this section, each day that a violation continues 1307
constitutes a separate and distinct violation. 1308

(E) In addition to any other penalties imposed under this 1309
section, the director may impose an administrative penalty against 1310
an owner or operator of an animal feeding operation if the 1311
director or the director's authorized representative determines 1312
that the owner or operator has discharged pollutants into waters 1313
of the state in violation of section 903.08 of the Revised Code or 1314
the terms and conditions of a NPDES permit or the NPDES provisions 1315
of the permit to operate issued for the operation. The 1316
administrative penalty shall not exceed five thousand dollars. 1317

The director shall afford the owner or operator an 1318
opportunity for an adjudication hearing under Chapter 119. of the 1319
Revised Code to challenge the director's determination under this 1320
division, the director's imposition of an administrative penalty 1321
under this division, or both. The director's determination and the 1322
imposition of the administrative penalty may be appealed in 1323
accordance with section 119.12 of the Revised Code. 1324

Sec. 903.25. An owner or operator of an animal feeding 1325
facility who holds a permit to install, a permit to operate, a 1326
~~review compliance certificate,~~ or a NPDES permit or who is 1327
operating under ~~an operation and management~~ a nutrient utilization 1328
plan, as defined in section ~~1511.01~~ 939.01 of the Revised Code, 1329
developed or approved by the ~~chief of the division of soil and~~ 1330
~~water resources in the department of natural resources~~ director of 1331
agriculture or the director's designee under section ~~1511.02~~ 1332
939.02 of the Revised Code or by the supervisors of the 1333
appropriate soil and water conservation district under section 1334
1515.08 of the Revised Code shall not be required by any political 1335
subdivision of the state or any officer, employee, agency, board, 1336
commission, department, or other instrumentality of a political 1337
subdivision to obtain a license, permit, or other approval 1338
pertaining to manure, insects or rodents, odor, or siting 1339
requirements for installation of an animal feeding facility. 1340

Sec. 905.326. (A) Except as provided in division (B) of this 1341
section, no person in the western basin shall surface apply 1342
fertilizer under any of the following circumstances: 1343

(1) On snow-covered or frozen soil; 1344

(2) When the top two inches of soil are saturated from 1345
precipitation; 1346

(3) When the local weather forecast for the application area 1347
contains greater than a fifty per cent chance of precipitation 1348
exceeding one-half inch in a twenty-four-hour period. 1349

(B) Division (A) of this section does not apply if a person 1350
in the western basin applies fertilizer under any of the following 1351
circumstances: 1352

(1) The fertilizer application is injected into the ground. 1353

(2) The fertilizer application is incorporated within 1354
twenty-four hours of surface application. 1355

(3) The fertilizer application is applied onto a growing 1356
crop. 1357

(4) The fertilizer application consists of potash or gypsum. 1358

(5) In the event of an emergency, the director of agriculture 1359
or the director's designee provides written consent and the 1360
fertilizer application is made in accordance with procedures 1361
established in the United States department of agriculture natural 1362
resources conservation service practice standard code 590 prepared 1363
for this state. 1364

(C)(1) Upon receiving a complaint by any person or upon 1365
receiving information that would indicate a violation of this 1366
section, the director or the director's designee may investigate 1367
or make inquiries into any alleged failure to comply with this 1368
section. 1369

(2) After receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged failure to comply with this section. 1370
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(3) If an individual denies access to the director or the director's designee, the director may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises for the purposes of this section. 1376
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(4) The court shall issue the search warrant for the purposes requested if there is probable cause to believe that the person is not in compliance with this section. The finding of probable cause may be based on hearsay, provided that there is a reasonable basis for believing that the source of the hearsay is credible. 1381
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(D) This section does not affect any restrictions established in Chapter 903. of the Revised Code or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that chapter. 1386
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(E) As used in this section and section 905.327 of the Revised Code, "western basin" means land in the state that is located in the following watersheds identified by the specified United States geological survey hydrologic unit code: 1390
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(1) St. Marys watershed, hydrologic unit code 04100004; 1394

(2) Auglaize watershed, hydrologic unit code 04100007; 1395

(3) Blanchard watershed, hydrologic unit code 041000008; 1396

(4) Sandusky watershed, hydrologic unit code 04100011; 1397

(5) Cedar-Portage watershed, hydrologic unit code 04100010; 1398

(6) Lower Maumee watershed, hydrologic unit code 04100009; 1399

- (7) Upper Maumee watershed, hydrologic unit code 04100005; 1400
- (8) Tiffin watershed, hydrologic unit code 04100006; 1401
- (9) St. Joseph watershed, hydrologic unit code 04100003; 1402
- (10) Ottawa watershed, hydrologic unit code 04100001; 1403
- (11) River Raisin watershed, hydrologic unit code 04100002. 1404

Sec. 905.327. (A) The director of agriculture may assess a 1405
civil penalty against a person that violates section 905.326 of 1406
the Revised Code. The director may impose a civil penalty only if 1407
the director affords the person an opportunity for an adjudication 1408
hearing under Chapter 119. of the Revised Code to challenge the 1409
director's determination that the person violated section 905.326 1410
of the Revised Code. The person may waive the right to an 1411
adjudication hearing. 1412

(B) If the opportunity for an adjudication hearing is waived 1413
or if, after an adjudication hearing, the director determines that 1414
a violation has occurred or is occurring, the director may issue 1415
an order requiring compliance with section 905.326 of the Revised 1416
Code and assess the civil penalty. The order and the assessment of 1417
the civil penalty may be appealed in accordance with section 1418
119.12 of the Revised Code. 1419

(C) A person that has violated section 905.326 of the Revised 1420
Code shall pay a civil penalty in an amount established in rules. 1421
Each thirty-day period during which a violation continues 1422
constitutes a separate violation. 1423

(D) The director shall adopt rules in accordance with Chapter 1424
119. of the Revised Code that establish the amount of the civil 1425
penalty assessed under this section. The civil penalty shall not 1426
be more than ten thousand dollars for each violation. 1427

(E) For purposes of this section, "rule" means a rule adopted 1428
under division (D) of this section. 1429

<u>Sec. 939.01. As used in this chapter:</u>	1430
<u>(A) "Conservation" means the wise use and management of natural resources.</u>	1431 1432
<u>(B) "Pollution abatement practice" means any residual farm products or manure pollution abatement facility, structure, or procedure and the operation and management associated with it as contained in nutrient utilization plans.</u>	1433 1434 1435 1436
<u>(C) "Agricultural pollution" means failure to use management or conservation practices in farming operations to abate the degradation of the waters of the state by residual farm products or manure, including attached substances.</u>	1437 1438 1439 1440
<u>(D) "Waters of the state" means all streams, lakes, ponds, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border on, this state or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.</u>	1441 1442 1443 1444 1445 1446 1447 1448 1449
<u>(E) "Nutrient utilization plan" means a written record, developed or approved by the director of agriculture, the director's designee, or the board of supervisors of a soil and water conservation district, for the owner or operator of agricultural land or an animal feeding operation that contains both of the following:</u>	1450 1451 1452 1453 1454 1455
<u>(1) Implementation schedules and operational procedures for a level of management and pollution abatement practices that will abate the degradation of the waters of the state by residual farm products and manure, including attached pollutants;</u>	1456 1457 1458 1459

(2) Best management practices that are to be used by the 1460
owner or operator. 1461

(F) "Residual farm products" means bedding, wash waters, 1462
waste feed, and silage drainage. "Residual farm products" also 1463
includes the compost products resulting from the composting of 1464
dead animals in operations subject to section 939.04 of the 1465
Revised Code when either of the following applies: 1466

(1) The composting is conducted by the person who raises the 1467
animals and the compost product is used in agricultural operations 1468
owned or operated by that person regardless of whether the person 1469
owns the animals. 1470

(2) The composting is conducted by the person who owns the 1471
animals, but does not raise them and the compost product is used 1472
in agricultural operations either by a person who raises the 1473
animals or by a person who raises grain that is used to feed them 1474
and that is supplied by the owner of the animals. 1475

(G) "Composting" means the controlled decomposition of 1476
organic solid material consisting of dead animals that stabilizes 1477
the organic fraction of the material. 1478

(H) "Manure" means animal excreta. 1479

(I) "Animal feeding operation" means the production area, as 1480
defined in section 903.01 of the Revised Code, of an agricultural 1481
operation where agricultural animals are kept and raised in 1482
confined areas. "Animal feeding operation" does not include a 1483
facility that possesses a permit issued under Chapter 903. or 1484
division (J) of section 6111.03 of the Revised Code. 1485

(J) "Soil and water conservation district" has the same 1486
meaning as in section 1515.01 of the Revised Code. 1487

(K) "Ohio soil and water conservation commission" means the 1488
Ohio soil and water conservation commission established in section 1489

1515.02 of the Revised Code. 1490

(L) "Best management practices" means practices or a 1491
combination of practices that are determined to be the most 1492
effective and practicable means of preventing or reducing 1493
agricultural pollution sources to a level compatible with the 1494
attainment of applicable water quality standards. "Best management 1495
practices" includes structural and nonstructural practices, 1496
conservation practices, and operation and maintenance procedures. 1497

Sec. 939.02. The director of agriculture shall do all of the 1498
following: 1499

(A) Administer this chapter and those provisions of Chapter 1500
1515. of the Revised Code pertaining to state responsibilities and 1501
provide staff assistance to the Ohio soil and water conservation 1502
commission in exercising its statutory responsibilities pertaining 1503
to agricultural pollution; 1504

(B) Coordinate the development and implementation of 1505
cooperative programs and working agreements between soil and water 1506
conservation districts and the department of agriculture or other 1507
agencies of local, state, and federal government; 1508

(C) Adopt rules in accordance with Chapter 119. of the 1509
Revised Code that do or comply with all of the following: 1510

(1) Establish technically feasible and economically 1511
reasonable standards to achieve a level of management and 1512
conservation practices in farming operations that will abate the 1513
degradation of the waters of the state by residual farm products 1514
or manure, including attached substances, and establish criteria 1515
for determination of the acceptability of such management and 1516
conservation practices; 1517

(2) Establish procedures for the administration of rules 1518
regarding agricultural pollution abatement and for enforcement of 1519

<u>those rules;</u>	1520
<u>(3) Specify the agricultural pollution abatement practices</u>	1521
<u>eligible for state cost sharing and determine the conditions for</u>	1522
<u>eligibility, the construction standards and specifications, the</u>	1523
<u>useful life, the maintenance requirements, and the limits of cost</u>	1524
<u>sharing for those practices. Eligible practices shall be limited</u>	1525
<u>to practices that address agricultural operations and that require</u>	1526
<u>expenditures that are likely to exceed the economic returns to the</u>	1527
<u>owner or operator and that abate degradation of the waters of the</u>	1528
<u>state by residual farm products or manure, including attached</u>	1529
<u>pollutants.</u>	1530
<u>(4) Establish procedures for administering grants to owners</u>	1531
<u>or operators of agricultural land or animal feeding operations for</u>	1532
<u>the implementation of nutrient utilization plans;</u>	1533
<u>(5) Do both of the following with regard to composting</u>	1534
<u>conducted in conjunction with agricultural operations:</u>	1535
<u>(a) Establish methods, techniques, or practices for</u>	1536
<u>composting dead animals, or particular types of dead animals, that</u>	1537
<u>are to be used at such operations, as the director considers to be</u>	1538
<u>necessary or appropriate;</u>	1539
<u>(b) Establish requirements and procedures governing the</u>	1540
<u>review and approval or disapproval of composting plans by the</u>	1541
<u>supervisors of soil and water conservation districts under</u>	1542
<u>division (T) of section 1515.08 of the Revised Code.</u>	1543
<u>(6) Establish best management practices for inclusion in</u>	1544
<u>nutrient utilization plans;</u>	1545
<u>(7) Establish the amount of civil penalties assessed by the</u>	1546
<u>director under division (B) of section 939.09 of the Revised Code</u>	1547
<u>for violation of rules adopted under division (C) of this section;</u>	1548
<u>(8) Be adopted after the director does all of the following:</u>	1549

(a) Mails notice to each statewide organization that the 1550
director determines represents persons or local governmental 1551
agencies that would be affected by a proposed rule at least 1552
thirty-five days before any public hearing on the proposed rule; 1553

(b) Mails a copy of each proposed rule to any person who 1554
requests a copy within five days after receipt of the request; 1555

(c) Consults with appropriate state and local governmental 1556
agencies or their representatives, including statewide 1557
organizations of local governmental officials, industrial 1558
representatives, and other interested persons; 1559

(d) If the rule is adopted under division (C)(1) of this 1560
section, develops an economic impact statement concerning the 1561
effect of the proposed rule. 1562

(9) Not conflict with air or water quality standards adopted 1563
pursuant to section 3704.03 or 6111.041 of the Revised Code. 1564
Compliance with rules adopted under this section does not affect 1565
liability for noncompliance with air or water quality standards 1566
adopted pursuant to section 3704.03 or 6111.041 of the Revised 1567
Code. 1568

(D) Cost share with landowners on practices established in 1569
rules adopted under division (C)(3) of this section as moneys are 1570
appropriated and available for that purpose. A practice for which 1571
cost share is provided shall be maintained for its useful life. 1572
Failure to maintain a cost share practice for its useful life 1573
subjects the landowner to full repayment to the department. 1574

(E) Employ field assistants and other employees that are 1575
necessary for the performance of the work prescribed by Chapter 1576
1515. of the Revised Code pertaining to agricultural pollution, 1577
for performance of the work of the department under this chapter, 1578
and as agreed to in working agreements or contractual arrangements 1579
with soil and water conservation districts, prescribe their 1580

duties, and fix their compensation in accordance with schedules 1581
that are provided by law for the compensation of state employees. 1582
All such employees of the department, unless specifically exempted 1583
by law, shall be employed subject to the classified civil service 1584
laws in force at the time of employment. 1585

(F) When necessary for the purposes of this chapter or the 1586
provisions of Chapter 1515. of the Revised Code pertaining to 1587
agricultural pollution, develop or approve nutrient utilization 1588
plans. The director may designate an employee of the department to 1589
develop or approve nutrient utilization plans in lieu of the 1590
director. 1591

This section does not restrict the manure of domestic or farm 1592
animals defecated on land outside an animal feeding operation or 1593
runoff from that land into the waters of the state. 1594

Sec. 939.03. (A) A person who owns or operates agricultural 1595
land or an animal feeding operation may develop and operate under 1596
a nutrient utilization plan approved by the director of 1597
agriculture or the director's designee under section 939.02 of the 1598
Revised Code or by the supervisors of the applicable soil and 1599
water conservation district under section 1515.08 of the Revised 1600
Code. A nutrient management plan that is approved by the chief of 1601
the division of soil and water resources in the department of 1602
natural resources under rules adopted under section 1511.023 of 1603
the Revised Code constitutes an approved nutrient utilization plan 1604
for purposes of this chapter. 1605

(B) A person who wishes to make a complaint regarding 1606
nuisances involving agricultural pollution may do so orally or by 1607
submitting a written, signed, and dated complaint to the director 1608
or to the director's designee. After receiving an oral complaint, 1609
the director or the director's designee may cause an investigation 1610
to be conducted to determine whether agricultural pollution has 1611

occurred or is imminent. After receiving a written, signed, and 1612
dated complaint, the director or the director's designee shall 1613
cause such an investigation to be conducted. 1614

(C) In a private civil action for nuisances involving 1615
agricultural pollution, it is an affirmative defense if the person 1616
owning, operating, or otherwise responsible for agricultural land 1617
or an animal feeding operation is operating under and in 1618
substantial compliance with an approved nutrient utilization plan 1619
developed under division (A) of this section, with a nutrient 1620
utilization plan developed by the director or the director's 1621
designee under section 939.02 of the Revised Code or by the 1622
supervisors of the applicable soil and water conservation district 1623
under section 1515.08 of the Revised Code, or with a nutrient 1624
utilization plan required under division (A)(2) of section 939.09 1625
of the Revised Code. Nothing in this section is in derogation of 1626
the authority granted to the director in division (C) of section 1627
939.02 and in section 939.09 of the Revised Code. 1628

Sec. ~~1511.022~~ 939.04. (A) Any person who owns or operates an 1629
agricultural operation, or owns the animals raised by the owner or 1630
operator of an agricultural operation, and who wishes to conduct 1631
composting of dead animals resulting from the agricultural 1632
operation shall do both of the following: 1633

(1) Participate in an educational course concerning 1634
composting conducted by OSU extension and obtain a certificate of 1635
completion for the course; 1636

(2) Use the appropriate method, technique, or practice of 1637
composting established in rules adopted under division 1638
~~(E)(8)(C)(5)~~ of section ~~1511.02~~ 939.02 of the Revised Code. 1639

(B) Any person who fails to comply with division (A) of this 1640
section shall prepare and operate under a composting plan ~~in~~ 1641
~~accordance with an order issued~~ required by the ~~chief of the~~ 1642

~~division of soil and water resources~~ director of agriculture under 1643
~~division (G)(A)(2)~~ of section ~~1511.02~~ 939.09 of the Revised Code. 1644
If the person's proposed composting plan is disapproved by the 1645
board of supervisors of the appropriate soil and water 1646
conservation district under division ~~(Q)(T)(3)~~ of section 1515.08 1647
of the Revised Code, the person may appeal the plan disapproval to 1648
the ~~chief~~ director, who shall afford the person a hearing. 1649
Following the hearing, the ~~chief~~ director shall uphold the plan 1650
disapproval or reverse it. If the ~~chief~~ director reverses the 1651
disapproval, the plan shall be deemed approved. 1652

Sec. 939.05. (A) Except as provided in division (B) of this 1653
section, the director of agriculture, an employee of the 1654
department of agriculture, the supervisors of a soil and water 1655
conservation district, an employee of a district, and a contractor 1656
of the department or a district shall not disclose either of the 1657
following: 1658

(1) Information, including data from geographic information 1659
systems and global positioning systems, provided by a person who 1660
owns or operates agricultural land or an animal feeding operation 1661
and operates under a nutrient utilization plan; 1662

(2) Information gathered as a result of an inspection of 1663
agricultural land or an animal feeding operation to determine 1664
whether the person who owns or operates the land or operation is 1665
in compliance with a nutrient utilization plan. 1666

(B) The director or the supervisors of a district may release 1667
or disclose information specified in division (A)(1) or (2) of 1668
this section to a person or a federal, state, or local agency 1669
working in cooperation with the director or the supervisors in the 1670
development of a nutrient utilization plan or an inspection to 1671
determine compliance with such a plan if the director or 1672
supervisors determine that the person or federal, state, or local 1673

agency will not subsequently disclose the information to another person. 1674
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Sec. 939.06. The director of agriculture may enter into contracts or agreements with an agency of the United States government, or any other public or private agency or organization, for the performance of the duties of the department of agriculture under this chapter or for accomplishing cooperative projects within the scope of those duties. 1676
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Sec. 939.07. The director of agriculture may accept donations, grants, and contributions in money, service, or equipment to enhance or expedite the work of the department of agriculture under this chapter. 1682
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Sec. 939.08. The director of agriculture, subject to approval of the terms of the agreement by the Ohio soil and water conservation commission, shall enter into cooperative agreements with the board of supervisors of a soil and water conservation district desiring to enter into those agreements pursuant to section 1515.08 of the Revised Code. The agreements shall be entered into to obtain compliance with rules of the director pertaining to agricultural pollution abatement. 1686
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The director or a person designated by the director may enter at reasonable times on private property, with the consent of the property owner, or public property to inspect and investigate conditions relating to agricultural pollution of the waters of the state. If consent has been granted and subsequently revoked, if applicable, upon refusal of entry, the director or the director's designee may apply for and a judge of the court of common pleas of the county where the land is located may issue an appropriate inspection warrant as necessary to achieve the purposes of this chapter. 1694
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Sec. 939.09. (A)(1) The director of agriculture may propose 1704
to require corrective actions and assess a civil penalty against 1705
an owner or operator of agricultural land or an animal feeding 1706
operation if the director or the director's designee determines 1707
that the owner or operator is doing one of the following: 1708

(a) Not complying with a standard established in rules 1709
adopted under division (C)(1) of section 939.02 of the Revised 1710
Code; 1711

(b) Not operating in accordance with an approved nutrient 1712
utilization plan that is developed under division (A) of section 1713
939.03 of the Revised Code, with a nutrient utilization plan 1714
developed by the director or the director's designee under section 1715
939.02 of the Revised Code or by the supervisors of the applicable 1716
soil and water conservation district under section 1515.08 of the 1717
Revised Code, or with a nutrient utilization plan required by the 1718
director under division (A)(2) of this section; 1719

(c) Not complying with a standard established in rules 1720
adopted under division (C)(5)(a) of section 939.02 of the Revised 1721
Code; 1722

(d) Not operating in accordance with a composting plan that 1723
is approved in accordance with rules adopted under division 1724
(C)(5)(b) of section 939.02 of the Revised Code or required by the 1725
director under division (A)(2) of this section. 1726

(2) The director may include in the corrective actions a 1727
requirement that an owner or operator do one of the following: 1728

(a) Operate under a nutrient utilization plan approved by the 1729
director or the director's designee under section 939.02 of the 1730
Revised Code; 1731

(b) If the owner or operator has failed to operate in 1732
accordance with an existing nutrient utilization plan, operate in 1733

<u>accordance with that plan;</u>	1734
<u>(c) Prepare a composting plan in accordance with rules</u>	1735
<u>adopted under division (C)(5)(b) of section 939.02 of the Revised</u>	1736
<u>Code and operate in accordance with that plan;</u>	1737
<u>(d) If the owner or operator has failed to operate in</u>	1738
<u>accordance with an existing composting plan, operate in accordance</u>	1739
<u>with that plan.</u>	1740
<u>(3) The director may impose a civil penalty only if all of</u>	1741
<u>the following occur:</u>	1742
<u>(a) The owner or operator is notified in writing of the</u>	1743
<u>deficiencies resulting in noncompliance, the actions that the</u>	1744
<u>owner or operator must take to correct the deficiencies, and the</u>	1745
<u>time period within which the owner or operator must correct the</u>	1746
<u>deficiencies and attain compliance.</u>	1747
<u>(b) After the time period specified in the notice has</u>	1748
<u>elapsed, the director or the director's designee has inspected the</u>	1749
<u>agricultural land or animal feeding operation, determined that the</u>	1750
<u>owner or operator is still not in compliance, and issued a notice</u>	1751
<u>of an adjudication hearing.</u>	1752
<u>(c) The director affords the owner or operator an opportunity</u>	1753
<u>for an adjudication hearing under Chapter 119. of the Revised Code</u>	1754
<u>to challenge the director's determination that the owner or</u>	1755
<u>operator is not in compliance or the imposition of the civil</u>	1756
<u>penalty, or both. However, the owner or operator may waive the</u>	1757
<u>right to an adjudication hearing.</u>	1758
<u>(4) If the opportunity for an adjudication hearing is waived</u>	1759
<u>or if, after an adjudication hearing, the director determines that</u>	1760
<u>noncompliance has occurred or is occurring, the director may issue</u>	1761
<u>an order requiring compliance and assess the civil penalty. The</u>	1762
<u>order and the assessment of the civil penalty may be appealed in</u>	1763
<u>accordance with section 119.12 of the Revised Code.</u>	1764

(5) A person who has violated rules adopted under division (C) of section 939.02 of the Revised Code shall pay a civil penalty in an amount established in rules adopted under that section. 1765
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(B) The attorney general, upon the written request of the director, shall bring an action for an injunction in any court of competent jurisdiction against any person violating or threatening to violate rules adopted under division (C) of section 939.02 of the Revised Code or an order issued under division (A)(4) of this section. 1769
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(C)(1) In lieu of seeking civil penalties under division (A) of this section, the director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating a rule adopted under division (C) of section 939.02 of the Revised Code. 1775
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(2) A person who has committed a violation for which the attorney general may bring an action for a civil penalty under division (C)(1) of this section shall pay a civil penalty of not more than ten thousand dollars per violation. Each day that a violation continues constitutes a separate violation. 1781
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(D) In addition to any other penalties imposed under this section, the director may impose an administrative penalty against an owner or operator of agricultural land or an animal feeding operation if the director or the director's designee determines that the owner or operator is not in compliance with best management practices that are established in rules adopted under division (C) of section 939.02 of the Revised Code. The administrative penalty shall not exceed five thousand dollars. 1786
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The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the 1794
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Revised Code to challenge the director's determination under this 1796
division, the director's imposition of an administrative penalty 1797
under this division, or both. The director's determination and the 1798
imposition of the administrative penalty may be appealed in 1799
accordance with section 119.12 of the Revised Code. 1800

(E) Notwithstanding any other provision in this section, if 1801
the director determines that an emergency exists requiring 1802
immediate action to protect the public health or safety or the 1803
environment, the director may issue an order, without notice or 1804
adjudication hearing, stating the existence of the emergency and 1805
requiring that action be taken that is necessary to meet the 1806
emergency. The order shall take effect immediately. A person to 1807
whom the order is directed shall comply immediately, but on 1808
application to the director shall be afforded an adjudication 1809
hearing in accordance with Chapter 119. of the Revised Code as 1810
soon as possible and not later than thirty days after application. 1811
On the basis of the hearing, the director shall continue the order 1812
in effect, revoke it, or modify it. The director's order is 1813
appealable in accordance with section 119.12 of the Revised Code. 1814
No emergency order shall remain in effect for more than one 1815
hundred twenty days after its issuance. 1816

(F) A person that is responsible for causing or allowing the 1817
unauthorized spill, release, or discharge of manure or residual 1818
farm products that requires emergency action to protect public 1819
health or safety or the environment is liable to the director for 1820
the costs incurred in investigating, mitigating, minimizing, 1821
removing, or abating the spill, release, or discharge. Upon 1822
request of the director, the attorney general shall bring a civil 1823
action against the responsible person or persons to recover those 1824
costs. 1825

(G) Money recovered under division (F) of this section and 1826
money collected from civil penalties under this section shall be 1827

paid into the state treasury to the credit of the agricultural 1828
pollution abatement fund created in section 939.11 of the Revised 1829
Code. 1830

(H) As used in this section, "noncompliance" means doing one 1831
of the actions specified in division (A)(1) of this section. 1832

Sec. 939.10. A person claiming to be deprived of a right or 1833
protection afforded the person by law by an action of the director 1834
of agriculture under this chapter, except the adoption of a rule, 1835
may appeal to the court of common pleas of Franklin county or the 1836
court of common pleas of the county in which the alleged violation 1837
exists. 1838

If the court finds that the action of the director appealed 1839
from was lawful and reasonable, it shall affirm the action. If the 1840
court finds that the action was unreasonable or unlawful, it shall 1841
vacate the action and order the action to be taken that it finds 1842
the director should have taken. The judgment of the court is final 1843
unless reversed, vacated, or modified on appeal. 1844

Sec. 939.11. There is hereby created in the state treasury 1845
the agricultural pollution abatement fund, which shall be 1846
administered by the director of agriculture. The fund may be used 1847
to pay costs incurred by the department of agriculture under 1848
division (F) of section 939.09 of the Revised Code in 1849
investigating, mitigating, minimizing, removing, or abating any 1850
pollution of the waters of the state caused by agricultural 1851
pollution or an unauthorized release, spill, or discharge of 1852
manure or residual farm products into or on the environment that 1853
requires emergency action to protect the public health. 1854

Sec. 941.14. (A) The owner shall burn the body of an animal 1855
that has died of, or been destroyed because of, a dangerously 1856
infectious or contagious disease, bury it not less than four feet 1857

under the surface of the ground, dissolve it by alkaline 1858
hydrolysis, remove it in a watertight tank to a rendering 1859
establishment, or otherwise dispose of it in accordance with 1860
section 939.04 or 953.26 ~~or 1511.022~~ of the Revised Code within 1861
twenty-four hours after knowledge thereof or after notice in 1862
writing from the department of agriculture. 1863

(B) The owner of premises that contain a dead animal shall 1864
burn the body of the animal, bury it not less than four feet 1865
beneath the surface of the ground, dissolve it by alkaline 1866
hydrolysis, remove it in a watertight tank to a rendering 1867
establishment, or otherwise dispose of it in accordance with 1868
section 939.04 or 953.26 ~~or 1511.022~~ of the Revised Code within a 1869
reasonable time after knowledge thereof or after notice in writing 1870
from the department or from the township trustees of the township 1871
in which the owner's premises are located. 1872

(C) Notwithstanding division (A) or (B) of this section, the 1873
director of agriculture, in written notice sent to the owner of a 1874
dead animal, may require the owner to employ a specific method of 1875
disposition of the body, including burning, burying, rendering, 1876
composting, or alkaline hydrolysis, when that method does not 1877
conflict with any law or rule governing the disposal of infectious 1878
wastes and, in the director's judgment, is necessary for purposes 1879
of animal disease control. No person shall fail to employ the 1880
method of disposition required under this division. 1881

(D) The director, in written notice sent to the owner of a 1882
dead animal, may prohibit the owner from transporting the body of 1883
the dead animal on any street or highway if that prohibition does 1884
not conflict with any law or rule governing the transportation of 1885
infectious wastes and, in the director's judgment, is necessary 1886
for purposes of animal disease control. No person shall fail to 1887
comply with a prohibition issued under this division. 1888

(E) As used in this section, "infectious wastes" has the same 1889

meaning as in section 3734.01 of the Revised Code, and "street" or 1890
"highway" has the same meaning as in section 4511.01 of the 1891
Revised Code. 1892

Sec. 953.22. (A) No person shall engage in the business of 1893
disposing of, picking up, rendering, or collecting raw rendering 1894
material or transporting the material to a composting facility 1895
without a license to do so from the department of agriculture. 1896

(B) This chapter does not apply to any of the following: 1897

(1) A farmer who slaughters the farmer's own animals, raised 1898
by the farmer on the farmer's own farm, processes the farmer's own 1899
meat therefrom, and disposes of the farmer's raw rendering 1900
material only by delivery to a person licensed under section 1901
953.23 of the Revised Code; 1902

(2) A person whose only connection with raw rendering 1903
material is curing hides and skins; 1904

(3) A person whose only connection with raw rendering 1905
material is operating a pet cemetery; 1906

(4) A person who is conducting composting, as defined in 1907
section ~~1511.01~~ 939.01 of the Revised Code, in accordance with 1908
section ~~1511.022~~ 939.04 of the Revised Code; 1909

(5) A person whose only connection with raw rendering 1910
material is trapping wild animals in accordance with a nuisance 1911
wild animal permit issued by the chief of the division of wildlife 1912
in the department of natural resources under rules adopted 1913
pursuant to section 1531.08 of the Revised Code; 1914

(6) A county dog warden or animal control officer who 1915
transports raw rendering material only for disposal purposes. 1916

Sec. 956.03. The director of agriculture shall adopt rules in 1917
accordance with Chapter 119. of the Revised Code establishing all 1918

of the following:	1919
(A) Requirements and procedures governing high volume breeders, including the licensing and inspection of and record keeping by high volume breeders, in addition to the requirements and procedures established in this chapter;	1920 1921 1922 1923
(B) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to any of the violations specified in division (A)(2) of section 956.15 of the Revised Code;	1924 1925 1926 1927 1928 1929
(C) Requirements and procedures governing dog retailers, including the licensing of and record keeping by dog retailers, in addition to the requirements and procedures established in this chapter;	1930 1931 1932 1933
(D) The form of applications for licenses issued under this chapter and the information that is required to be submitted in the applications and the form for registering as an animal rescue for dogs under this chapter and the information that is required to be provided with a registration, including the name and address of each foster home that an animal rescue for dogs utilizes;	1934 1935 1936 1937 1938 1939
(E) A requirement that each high volume breeder submit to the director, with an application for a high volume breeder license, evidence of insurance or, in the alternative, evidence of a surety bond payable to the state, <u>cash in an amount prescribed in this section, or negotiable certificates of deposit or irrevocable letters of credit, issued by any bank organized or transacting business in this state or by any savings and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount prescribed in this section</u> to ensure compliance with this chapter and rules adopted	1940 1941 1942 1943 1944 1945 1946 1947 1948 1949

under it. The Cash or certificates of deposit shall be deposited 1950
on the same terms as those on which surety bonds may be deposited. 1951
If certificates of deposit are deposited with the director instead 1952
of a surety bond, the director shall require the bank or savings 1953
and loan association that issued any such certificate to pledge 1954
securities of a cash value equal to the amount of the certificate 1955
that is in excess of the amount insured by any of the agencies and 1956
instrumentalities created under the "Federal Deposit Insurance 1957
Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and 1958
regulations adopted under it, including at least the federal 1959
deposit insurance corporation, bank insurance fund, and savings 1960
association insurance fund. The securities shall be security for 1961
the repayment of the certificate of deposit. Immediately upon a 1962
deposit of cash, certificates of deposit, or letters of credit 1963
with the director, the director shall deliver them to the 1964
treasurer of state who shall hold them in trust for the purposes 1965
for which they have been deposited. 1966

The face value of the insurance coverage ~~on~~, bond, cash 1967
deposit, negotiable certificates of deposit, or irrevocable 1968
letters of credit shall be in the following amounts: 1969

(1) Five thousand dollars for high volume breeders keeping, 1970
housing, and maintaining not more than twenty-five adult dogs; 1971

(2) Ten thousand dollars for high volume breeders keeping, 1972
housing, and maintaining at least twenty-six adult dogs, but not 1973
more than fifty adult dogs; 1974

(3) Twenty thousand dollars for high volume breeders keeping, 1975
housing, and maintaining at least fifty-one adult dogs, but not 1976
more than eighty adult dogs; 1977

(4) Fifty thousand dollars for high volume breeders keeping, 1978
housing, and maintaining more than ~~fifty~~ eighty adult dogs. 1979

The rules shall require that the insurance be payable to the 1980

state or that the surety bond, certificates of deposit, or letters 1981
of credit be subject to redemption by the state, as applicable, 1982
upon a suspension or revocation of a high volume breeder license 1983
for the purpose of paying for the maintenance and care of dogs 1984
that are seized or otherwise impounded from the high volume 1985
breeder in accordance with this chapter. 1986

(F)(1) For high volume breeders, standards of care governing 1987
all of the following: 1988

(a) Housing; 1989

(b) Nutrition; 1990

(c) Exercise; 1991

(d) Grooming; 1992

(e) Biosecurity and disease control; 1993

(f) Waste management; 1994

(g) Whelping; 1995

(h) Any other general standards of care for dogs. 1996

(2) In adopting rules under division (F)(1) of this section, 1997
the director shall consider the following factors, without 1998
limitation: 1999

(a) Best management practices for the care and well-being of 2000
dogs; 2001

(b) Biosecurity; 2002

(c) The prevention of disease; 2003

(d) Morbidity and mortality data; 2004

(e) Generally accepted veterinary medical standards and 2005
ethical standards established by the American veterinary medical 2006
association; 2007

(f) Standards established by the United States department of 2008

agriculture under the federal animal welfare act as defined in 2009
section 959.131 of the Revised Code. 2010

(G) Procedures for inspections conducted under section 956.10 2011
of the Revised Code in addition to the procedures established in 2012
that section, and procedures for making records of the 2013
inspections; 2014

(H)(1) A requirement that an in-state retailer of a puppy or 2015
adult dog provide to the purchaser the complete name, address, and 2016
telephone number of all high volume breeders, dog retailers, and 2017
private owners that kept, housed, or maintained the puppy or adult 2018
dog prior to its coming into the possession of the retailer or 2019
proof that the puppy or adult dog was acquired through an animal 2020
rescue for dogs, animal shelter for dogs, or humane society, or a 2021
valid health certificate from the state of origin pertaining to 2022
the puppy or adult dog; 2023

(2) A requirement that an out-of-state retailer of a puppy or 2024
adult dog that is conducting business in this state provide to the 2025
purchaser a valid health certificate from the state of origin 2026
pertaining to the puppy or adult dog and the complete name, 2027
address, and telephone number of all breeders, retailers, and 2028
private owners that kept, housed, or maintained the puppy or adult 2029
dog prior to its coming into the possession of the retailer or 2030
proof that the puppy or adult dog was acquired through an animal 2031
rescue for dogs, animal shelter for dogs, or humane society in 2032
this state or another state. 2033

(I) A requirement that a high volume breeder or a dog 2034
retailer who advertises the sale of a puppy or adult dog include 2035
with the advertisement the vendor number assigned by the tax 2036
commissioner to the high volume breeder or to the dog retailer if 2037
the sale of the puppy or dog is subject to the tax levied under 2038
Chapter 5739. of the Revised Code; 2039

(J) A requirement that a licensed high volume breeder and a licensed dog retailer comply with Chapter 5739. of the Revised Code. The rules shall authorize the director to suspend or revoke a license for failure to comply with that chapter. The director shall work in conjunction with the tax commissioner for the purposes of rules adopted under this division.

(K) Any other requirements and procedures that are determined by the director to be necessary for the administration and enforcement of this chapter and rules adopted under it. However, rules adopted under this division shall not establish additional requirements and procedures governing animal rescues for dogs other than those adopted under division (D) of this section.

Sec. 956.04. (A)(1) No person shall operate a high volume breeder in this state without a high volume breeder license issued by the director of agriculture in accordance with this section and rules adopted under section 956.03 of the Revised Code.

(2) The director shall not issue a license under this section unless the director determines that the applicant will operate or will continue to operate the high volume breeder in accordance with this chapter and rules adopted under it.

(B) In determining whether an establishment is a high volume breeder requiring a license under this chapter, the director shall determine if, in any given year, the establishment is a high volume breeder as defined in section 956.01 of the Revised Code. All facilities that are located at an individual postal address shall be licensed as one high volume breeder. Not more than one license shall be issued under this section for any given postal address.

(C) A person who is proposing to operate a new high volume breeder shall submit an application for a license to the director at least ninety days before commencing operation of the high

volume breeder. The application shall be submitted in the form and 2071
with the information required by rules adopted under section 2072
956.03 of the Revised Code and shall include with it at least all 2073
of the following: 2074

(1) An affidavit signed under oath or solemn affirmation of 2075
the number of adult dogs that are kept, housed, and maintained by 2076
the applicant at the location that is the subject of the 2077
application; 2078

(2) An estimate of the number of puppies to be kept, housed, 2079
and maintained and of the number of litters of puppies or total 2080
number of puppies to be produced during the term of the license; 2081

(3) Photographic evidence documenting the facilities where 2082
dogs will be kept, housed, and maintained by the applicant. The 2083
director may conduct an inspection of the facilities that are the 2084
subject of an application in addition to reviewing photographic 2085
evidence submitted by an applicant for a license. 2086

(4) A signed release permitting the performance of a 2087
background investigation regarding the applicant in accordance 2088
with rules adopted under section 956.03 of the Revised Code; 2089

(5) Proof that the applicant has established a 2090
veterinary-client-patient relationship as described in section 2091
4741.04 of the Revised Code. 2092

(D) During the month of December, but before the first day of 2093
January of the next year, a person who is proposing to continue 2094
the operation of a high volume breeder shall obtain a license for 2095
the high volume breeder from the director for the following year. 2096
The person shall apply for the license in the same manner as for 2097
an initial license, except that an applicant for a license under 2098
this division need not provide the following: 2099

(1) A signed release permitting the performance of a 2100
background investigation regarding the applicant in accordance 2101

with rules adopted under section 956.03 of the Revised Code if 2102
both of the following apply: 2103

(a) The applicant has not had any new convictions of or has 2104
not pleaded guilty to a violation specified in division (A)(2) of 2105
section 956.15 of the Revised Code during the immediately 2106
preceding year and the applicant affirms that the applicant has 2107
not had any such new convictions or guilty pleas on the 2108
application. 2109

(b) The director does not request the applicant to provide a 2110
signed release. 2111

(2) Photographic evidence documenting the facilities where 2112
dogs are kept, housed, and maintained by the applicant. However, 2113
the director may conduct an inspection of the facilities that are 2114
the subject of an application for a license under this division. 2115

(E) The owner or operator of a high volume breeder that is in 2116
operation on ~~the effective date of this section~~ March 13, 2013, 2117
shall submit to the director an application for a high volume 2118
breeder license not later than three months after ~~the effective~~ 2119
~~date of this section~~ March 13, 2013. The director shall issue or 2120
deny the application for a license within ninety days after the 2121
receipt of the completed application. 2122

(F) A person who has received a license under this section, 2123
upon sale or other disposition of the high volume breeder, may 2124
have the license transferred to another person with the consent of 2125
the director, provided that the transferee otherwise qualifies to 2126
be licensed as a high volume breeder under this chapter and rules 2127
adopted under it and does not have a certified unpaid debt to the 2128
state. 2129

(G) An applicant for a license issued under this section 2130
shall demonstrate that the high volume breeder that is the subject 2131
of the application complies with standards established in rules 2132

adopted under section 956.03 of the Revised Code. 2133

Sec. 1501.011. (A) Except as provided in divisions (B), (C), 2134
and (D) of this section, the Ohio facilities construction 2135
commission shall supervise the design and construction of, and 2136
make contracts for the construction, reconstruction, improvement, 2137
enlargement, alteration, repair, or decoration of, any projects or 2138
improvements for the department of natural resources that may be 2139
authorized by legislative appropriations or any other funds 2140
available therefor, the estimated cost of which amounts to two 2141
hundred thousand dollars or more or the amount determined pursuant 2142
to section 153.53 of the Revised Code or more. 2143

(B) The department of natural resources shall administer the 2144
construction of improvements under an agreement with the 2145
supervisors of a soil and water conservation district pursuant to 2146
division (I) of section 1515.08 of the Revised Code. 2147

(C)(1) The department of natural resources shall supervise 2148
the design and construction of, and make contracts for the 2149
construction, reconstruction, improvement, enlargement, 2150
alteration, repair, or decoration of, any of the following 2151
activities, projects, or improvements: 2152

(a) Dam repairs administered by the division of engineering 2153
under Chapter 1507. of the Revised Code; 2154

(b) Projects or improvements administered by the division of 2155
watercraft and funded through the waterways safety fund 2156
established in section 1547.75 of the Revised Code; 2157

(c) Projects or improvements administered by the division of 2158
wildlife under Chapter 1531. or 1533. of the Revised Code; 2159

(d) Activities conducted by the department pursuant to 2160
section 5511.05 of the Revised Code in order to maintain the 2161
department's roadway inventory. 2162

(2) If a contract to be let under division (C)(1) of this section involves an exigency that concerns the public health, safety, or welfare or addresses an emergency situation in which timeliness is crucial in preventing the cost of the contract from increasing significantly, pursuant to the declaration of a public exigency, the department may award the contract without competitive bidding or selection as otherwise required by Chapter 153. of the Revised Code.

A notice published by the department of natural resources regarding an activity, project, or improvement shall be published as contemplated in section 7.16 of the Revised Code.

(D) The executive director of the Ohio facilities construction commission may authorize the department of natural resources to administer any other project or improvement, the estimated cost of which, including design fees, construction, equipment, and contingency amounts, is not more than one million five hundred thousand dollars.

Sec. 1509.01. As used in this chapter:

(A) "Well" means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not oil, including condensate.

(D) "Condensate" means liquid hydrocarbons separated at or

near the well pad or along the gas production or gathering system 2193
prior to gas processing. 2194

(E) "Pool" means an underground reservoir containing a common 2195
accumulation of oil or gas, or both, but does not include a gas 2196
storage reservoir. Each zone of a geological structure that is 2197
completely separated from any other zone in the same structure may 2198
contain a separate pool. 2199

(F) "Field" means the general area underlaid by one or more 2200
pools. 2201

(G) "Drilling unit" means the minimum acreage on which one 2202
well may be drilled, but does not apply to a well for injecting 2203
gas into or removing gas from a gas storage reservoir. 2204

(H) "Waste" includes all of the following: 2205

(1) Physical waste, as that term generally is understood in 2206
the oil and gas industry; 2207

(2) Inefficient, excessive, or improper use, or the 2208
unnecessary dissipation, of reservoir energy; 2209

(3) Inefficient storing of oil or gas; 2210

(4) Locating, drilling, equipping, operating, or producing an 2211
oil or gas well in a manner that reduces or tends to reduce the 2212
quantity of oil or gas ultimately recoverable under prudent and 2213
proper operations from the pool into which it is drilled or that 2214
causes or tends to cause unnecessary or excessive surface loss or 2215
destruction of oil or gas; 2216

(5) Other underground or surface waste in the production or 2217
storage of oil, gas, or condensate, however caused. 2218

(I) "Correlative rights" means the reasonable opportunity to 2219
every person entitled thereto to recover and receive the oil and 2220
gas in and under the person's tract or tracts, or the equivalent 2221
thereof, without having to drill unnecessary wells or incur other 2222

unnecessary expense. 2223

(J) "Tract" means a single, ~~individually taxed~~ individual 2224
parcel of land ~~appearing on the tax list~~ or a portion of a single, 2225
individual parcel of land. 2226

(K) "Owner," unless referring to a mine, means the person who 2227
has the right to drill on a tract or drilling unit, to drill into 2228
and produce from a pool, and to appropriate the oil or gas 2229
produced therefrom either for the person or for others, except 2230
that a person ceases to be an owner with respect to a well when 2231
the well has been plugged in accordance with applicable rules 2232
adopted and orders issued under this chapter. "Owner" does not 2233
include a person who obtains a lease of the mineral rights for oil 2234
and gas on a parcel of land if the person does not attempt to 2235
produce or produce oil or gas from a well or obtain a permit under 2236
this chapter for a well or if the entire interest of a well is 2237
transferred to the person in accordance with division (B) of 2238
section 1509.31 of the Revised Code. 2239

(L) "Royalty interest" means the fee holder's share in the 2240
production from a well. 2241

(M) "Discovery well" means the first well capable of 2242
producing oil or gas in commercial quantities from a pool. 2243

(N) "Prepared clay" means a clay that is plastic and is 2244
thoroughly saturated with fresh water to a weight and consistency 2245
great enough to settle through saltwater in the well in which it 2246
is to be used, except as otherwise approved by the chief of the 2247
division of oil and gas resources management. 2248

(O) "Rock sediment" means the combined cutting and residue 2249
from drilling sedimentary rocks and formation. 2250

(P) "Excavations and workings," "mine," and "pillar" have the 2251
same meanings as in section 1561.01 of the Revised Code. 2252

(Q) "Coal bearing township" means a township designated as 2253
such by the chief of the division of mineral resources management 2254
under section 1561.06 of the Revised Code. 2255

(R) "Gas storage reservoir" means a continuous area of a 2256
subterranean porous sand or rock stratum or strata into which gas 2257
is or may be injected for the purpose of storing it therein and 2258
removing it therefrom and includes a gas storage reservoir as 2259
defined in section 1571.01 of the Revised Code. 2260

(S) "Safe Drinking Water Act" means the "Safe Drinking Water 2261
Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the 2262
"Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 2263
U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 2264
100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water 2265
Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and 2266
regulations adopted under those acts. 2267

(T) "Person" includes any political subdivision, department, 2268
agency, or instrumentality of this state; the United States and 2269
any department, agency, or instrumentality thereof; ~~and~~ any legal 2270
entity defined as a person under section 1.59 of the Revised Code; 2271
and any limited liability company. 2272

(U) "Brine" means all saline geological formation water 2273
resulting from, obtained from, or produced in connection with 2274
exploration, drilling, well stimulation, production of oil or gas, 2275
or plugging of a well. 2276

(V) "Waters of the state" means all streams, lakes, ponds, 2277
marshes, watercourses, waterways, springs, irrigation systems, 2278
drainage systems, and other bodies of water, surface or 2279
underground, natural or artificial, that are situated wholly or 2280
partially within this state or within its jurisdiction, except 2281
those private waters that do not combine or effect a junction with 2282
natural surface or underground waters. 2283

(W) "Exempt Mississippian well" means a well that meets all	2284
of the following criteria:	2285
(1) Was drilled and completed before January 1, 1980;	2286
(2) Is located in an unglaciated part of the state;	2287
(3) Was completed in a reservoir no deeper than the	2288
Mississippian Big Injun sandstone in areas underlain by	2289
Pennsylvanian or Permian stratigraphy, or the Mississippian Berea	2290
sandstone in areas directly underlain by Permian stratigraphy;	2291
(4) Is used primarily to provide oil or gas for domestic use.	2292
(X) "Exempt domestic well" means a well that meets all of the	2293
following criteria:	2294
(1) Is owned by the owner of the surface estate of the tract	2295
on which the well is located;	2296
(2) Is used primarily to provide gas for the owner's domestic	2297
use;	2298
(3) Is located more than two hundred feet horizontal distance	2299
from any inhabited private dwelling house other than an inhabited	2300
private dwelling house located on the tract on which the well is	2301
located;	2302
(4) Is located more than two hundred feet horizontal distance	2303
from any public building that may be used as a place of resort,	2304
assembly, education, entertainment, lodging, trade, manufacture,	2305
repair, storage, traffic, or occupancy by the public.	2306
(Y) "Urbanized area" means an area where a well or production	2307
facilities of a well are located within a municipal corporation or	2308
within a township that has an unincorporated population of more	2309
than five thousand in the most recent federal decennial census	2310
prior to the issuance of the permit for the well or production	2311
facilities.	2312
(Z) "Well stimulation" or "stimulation of a well" means the	2313

process of enhancing well productivity, including hydraulic 2314
fracturing operations. 2315

(AA) "Production operation" means all operations and 2316
activities and all related equipment, facilities, and other 2317
structures that may be used in or associated with the exploration 2318
and production of oil, gas, or other mineral resources that are 2319
regulated under this chapter, including operations and activities 2320
associated with site preparation, site construction, access road 2321
construction, well drilling, well completion, well stimulation, 2322
well site activities, reclamation, and plugging. "Production 2323
operation" also includes all of the following: 2324

(1) The piping, equipment, and facilities used for the 2325
production and preparation of hydrocarbon gas or liquids for 2326
transportation or delivery; 2327

(2) The processes of extraction and recovery, lifting, 2328
stabilization, treatment, separation, production processing, 2329
storage, waste disposal, and measurement of hydrocarbon gas and 2330
liquids, including related equipment and facilities; 2331

(3) The processes and related equipment and facilities 2332
associated with production compression, gas lift, gas injection, 2333
fuel gas supply, well drilling, well stimulation, and well 2334
completion activities, including dikes, pits, and earthen and 2335
other impoundments used for the temporary storage of fluids and 2336
waste substances associated with well drilling, well stimulation, 2337
and well completion activities; 2338

(4) Equipment and facilities at a wellpad or other location 2339
that are used for the transportation, handling, recycling, 2340
temporary storage, management, processing, or treatment of any 2341
equipment, material, and by-products or other substances from an 2342
operation at a wellpad that may be used or reused at the same or 2343
another operation at a wellpad or that will be disposed of in 2344

accordance with applicable laws and rules adopted under them. 2345

(BB) "Annular overpressurization" means the accumulation of 2346
fluids within an annulus with sufficient pressure to allow 2347
migration of annular fluids into underground sources of drinking 2348
water. 2349

(CC) "Idle and orphaned well" means a well for which a bond 2350
has been forfeited or an abandoned well for which no money is 2351
available to plug the well in accordance with this chapter and 2352
rules adopted under it. 2353

(DD) "Temporarily inactive well" means a well that has been 2354
granted temporary inactive status under section 1509.062 of the 2355
Revised Code. 2356

(EE) "Material and substantial violation" means any of the 2357
following: 2358

(1) Failure to obtain a permit to drill, reopen, convert, 2359
plugback, or plug a well under this chapter; 2360

(2) Failure to obtain, maintain, update, or submit proof of 2361
insurance coverage that is required under this chapter; 2362

(3) Failure to obtain, maintain, update, or submit proof of a 2363
surety bond that is required under this chapter; 2364

(4) Failure to plug an abandoned well or idle and orphaned 2365
well unless the well has been granted temporary inactive status 2366
under section 1509.062 of the Revised Code or the chief of the 2367
division of oil and gas resources management has approved another 2368
option concerning the abandoned well or idle and orphaned well; 2369

(5) Failure to restore a disturbed land surface as required 2370
by section 1509.072 of the Revised Code; 2371

(6) Failure to reimburse the oil and gas well fund pursuant 2372
to a final order issued under section 1509.071 of the Revised 2373
Code; 2374

(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;	2375 2376
(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it;	2377 2378
<u>(9) Submission of information under this chapter or rules adopted under it that is knowingly falsified.</u>	2379 2380
(FF) "Severer" has the same meaning as in section 5749.01 of the Revised Code.	2381 2382
(GG) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated.	2383 2384 2385 2386
(HH) "Well pad" means the area that is cleared or prepared for the drilling of one or more horizontal wells.	2387 2388
<u>Sec. 1509.051. (A) A person who intends to engage in an activity regulated under this chapter or rules adopted under it first shall register with the division of oil and gas resources management on a form prescribed by the chief of the division of oil and gas resources management prior to engaging in the activity. The person shall disclose on the form all felony convictions of or felony guilty pleas to any of the following that have occurred within the previous three years from the date of registration:</u>	2389 2390 2391 2392 2393 2394 2395 2396 2397
<u>(1) Knowing violations of the "Federal Water Pollution Control Act";</u>	2398 2399
<u>(2) Purposeful violations of Chapter 6111. Of the Revised Code or rules adopted under it;</u>	2400 2401
<u>(3) Purposeful violations of any other state's laws that are no more stringent than the "Federal Water Pollution Control Act."</u>	2402 2403

If the person has been convicted of or pled guilty to such a felony, the chief may request that the person submit additional information concerning the felony conviction or felony guilty plea. Such a request shall not extend to or require information from any of the person's corporate parent entities. 2404
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After the chief has reviewed the information required to be submitted under this division and any additional information submitted by the person, the chief may deny the person's registration by order. If the chief issues an order denying an application based on the submission of information required under this division, the person may appeal the order to the oil and gas commission or the common pleas court in the county in which the activity that is the subject of the order is located. Notwithstanding any other provision of this chapter and rules adopted under it, the chief shall not issue a permit, registration certificate, or order authorizing an activity under this chapter or rules adopted under it to a person whose registration was denied. 2409
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(B) This section does not apply to any of the following: 2422

(1) A person or direct corporate subsidiary of a person that is registered with the division prior to the effective date of this section; 2423
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(2) A person that, prior to the effective date of this section, was issued a permit, registration certificate, or order authorizing an activity under this chapter or rules adopted under it; 2426
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(3) A person that, prior to the effective date of this section, was operating as provided in section 1509.227 of the Revised Code. 2430
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(C) A person whose registration was denied by an order of the chief under this section may re-apply for a registration. 2433
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(D) As used in this section, "Federal Water Pollution Control Act" has the same meaning as in section 6111.01 of the Revised Code. 2435
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Sec. 1509.06. (A) An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply, including associated production operations, shall be filed with the chief of the division of oil and gas resources management upon such form as the chief prescribes and shall contain each of the following that is applicable: 2438
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(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent; 2446
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(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent. 2448
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(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit; 2451
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(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county; 2454
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(5) Designation of the well by name and number; 2457

(6)(a) The geological formation to be tested or used and the proposed total depth of the well; 2458
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(b) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected. 2460
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(7) The type of drilling equipment to be used; 2463

(8)(a) An identification, to the best of the owner's 2464
knowledge, of each proposed source of ground water and surface 2465
water that will be used in the production operations of the well. 2466
The identification of each proposed source of water shall indicate 2467
if the water will be withdrawn from the Lake Erie watershed or the 2468
Ohio river watershed. In addition, the owner shall provide, to the 2469
best of the owner's knowledge, the proposed estimated rate and 2470
volume of the water withdrawal for the production operations. If 2471
recycled water will be used in the production operations, the 2472
owner shall provide the estimated volume of recycled water to be 2473
used. The owner shall submit to the chief an update of any of the 2474
information that is required by division (A)(8)(a) of this section 2475
if any of that information changes before the chief issues a 2476
permit for the application. 2477

(b) Except as provided in division (A)(8)(c) of this section, 2478
for an application for a permit to drill a new well within an 2479
urbanized area, the results of sampling of water wells within 2480
three hundred feet of the proposed well prior to commencement of 2481
drilling. In addition, the owner shall include a list that 2482
identifies the location of each water well where the owner of the 2483
property on which the water well is located denied the owner 2484
access to sample the water well. The sampling shall be conducted 2485
in accordance with the guidelines established in "Best Management 2486
Practices For Pre-drilling Water Sampling" in effect at the time 2487
that the application is submitted. The division shall furnish 2488
those guidelines upon request and shall make them available on the 2489
division's web site. If the chief determines that conditions at 2490
the proposed well site warrant a revision, the chief may revise 2491
the distance established in this division for purposes of 2492
pre-drilling water sampling. 2493

(c) For an application for a permit to drill a new horizontal 2494
well, the results of sampling of water wells within one thousand 2495

five hundred feet of the proposed horizontal wellhead prior to 2496
commencement of drilling. In addition, the owner shall include a 2497
list that identifies the location of each water well where the 2498
owner of the property on which the water well is located denied 2499
the owner access to sample the water well. The sampling shall be 2500
conducted in accordance with the guidelines established in "Best 2501
Management Practices For Pre-drilling Water Sampling" in effect at 2502
the time that the application is submitted. The division shall 2503
furnish those guidelines upon request and shall make them 2504
available on the division's web site. If the chief determines that 2505
conditions at the proposed well site warrant a revision, the chief 2506
may revise the distance established in this division for purposes 2507
of pre-drilling water sampling. 2508

(9) For an application for a permit to drill a new well 2509
within an urbanized area, a sworn statement that the applicant has 2510
provided notice by regular mail of the application to the owner of 2511
each parcel of real property that is located within five hundred 2512
feet of the surface location of the well and to the executive 2513
authority of the municipal corporation or the board of township 2514
trustees of the township, as applicable, in which the well is to 2515
be located. In addition, the notice shall contain a statement that 2516
informs an owner of real property who is required to receive the 2517
notice under division (A)(9) of this section that within five days 2518
of receipt of the notice, the owner is required to provide notice 2519
under section 1509.60 of the Revised Code to each residence in an 2520
occupied dwelling that is located on the owner's parcel of real 2521
property. The notice shall contain a statement that an application 2522
has been filed with the division of oil and gas resources 2523
management, identify the name of the applicant and the proposed 2524
well location, include the name and address of the division, and 2525
contain a statement that comments regarding the application may be 2526
sent to the division. The notice may be provided by hand delivery 2527
or regular mail. The identity of the owners of parcels of real 2528

property shall be determined using the tax records of the 2529
municipal corporation or county in which a parcel of real property 2530
is located as of the date of the notice. 2531

(10) A plan for restoration of the land surface disturbed by 2532
drilling operations. The plan shall provide for compliance with 2533
the restoration requirements of division (A) of section 1509.072 2534
of the Revised Code and any rules adopted by the chief pertaining 2535
to that restoration. 2536

(11)(a) A description by name or number of the county, 2537
township, and municipal corporation roads, streets, and highways 2538
that the applicant anticipates will be used for access to and 2539
egress from the well site; 2540

(b) For an application for a permit for a horizontal well, a 2541
copy of an agreement concerning maintenance and safe use of the 2542
roads, streets, and highways described in division (A)(11)(a) of 2543
this section entered into on reasonable terms with the public 2544
official that has the legal authority to enter into such 2545
maintenance and use agreements for each county, township, and 2546
municipal corporation, as applicable, in which any such road, 2547
street, or highway is located or an affidavit on a form prescribed 2548
by the chief attesting that the owner attempted in good faith to 2549
enter into an agreement under division (A)(11)(b) of this section 2550
with the applicable public official of each such county, township, 2551
or municipal corporation, but that no agreement was executed. 2552

(12) Such other relevant information as the chief prescribes 2553
by rule. 2554

Each application shall be accompanied by a map, on a scale 2555
not smaller than four hundred feet to the inch, prepared by an 2556
Ohio registered surveyor, showing the location of the well and 2557
containing such other data as may be prescribed by the chief. If 2558
the well is or is to be located within the excavations and 2559

workings of a mine, the map also shall include the location of the 2560
mine, the name of the mine, and the name of the person operating 2561
the mine. 2562

(B) The chief shall cause a copy of the weekly circular 2563
prepared by the division to be provided to the county engineer of 2564
each county that contains active or proposed drilling activity. 2565
The weekly circular shall contain, in the manner prescribed by the 2566
chief, the names of all applicants for permits, the location of 2567
each well or proposed well, the information required by division 2568
(A)(11) of this section, and any additional information the chief 2569
prescribes. In addition, the chief promptly shall transfer an 2570
electronic copy or facsimile, or if those methods are not 2571
available to a municipal corporation or township, a copy via 2572
regular mail, of a drilling permit application to the clerk of the 2573
legislative authority of the municipal corporation or to the clerk 2574
of the township in which the well or proposed well is or is to be 2575
located if the legislative authority of the municipal corporation 2576
or the board of township trustees has asked to receive copies of 2577
such applications and the appropriate clerk has provided the chief 2578
an accurate, current electronic mailing address or facsimile 2579
number, as applicable. 2580

(C)(1) Except as provided in division (C)(2) of this section, 2581
the chief shall not issue a permit for at least ten days after the 2582
date of filing of the application for the permit unless, upon 2583
reasonable cause shown, the chief waives that period or a request 2584
for expedited review is filed under this section. However, the 2585
chief shall issue a permit within twenty-one days of the filing of 2586
the application unless the chief denies the application by order. 2587

(2) If the location of a well or proposed well will be or is 2588
within an urbanized area, the chief shall not issue a permit for 2589
at least eighteen days after the date of filing of the application 2590
for the permit unless, upon reasonable cause shown, the chief 2591

waives that period or the chief at the chief's discretion grants a 2592
request for an expedited review. However, the chief shall issue a 2593
permit for a well or proposed well within an urbanized area within 2594
thirty days of the filing of the application unless the chief 2595
denies the application by order. 2596

(D) An applicant may file a request with the chief for 2597
expedited review of a permit application if the well is not or is 2598
not to be located in a gas storage reservoir or reservoir 2599
protective area, as "reservoir protective area" is defined in 2600
section 1571.01 of the Revised Code. If the well is or is to be 2601
located in a coal bearing township, the application shall be 2602
accompanied by the affidavit of the landowner prescribed in 2603
section 1509.08 of the Revised Code. 2604

In addition to a complete application for a permit that meets 2605
the requirements of this section and the permit fee prescribed by 2606
this section, a request for expedited review shall be accompanied 2607
by a separate nonrefundable filing fee of two hundred fifty 2608
dollars. Upon the filing of a request for expedited review, the 2609
chief shall cause the county engineer of the county in which the 2610
well is or is to be located to be notified of the filing of the 2611
permit application and the request for expedited review by 2612
telephone or other means that in the judgment of the chief will 2613
provide timely notice of the application and request. The chief 2614
shall issue a permit within seven days of the filing of the 2615
request unless the chief denies the application by order. 2616
Notwithstanding the provisions of this section governing expedited 2617
review of permit applications, the chief may refuse to accept 2618
requests for expedited review if, in the chief's judgment, the 2619
acceptance of the requests would prevent the issuance, within 2620
twenty-one days of their filing, of permits for which applications 2621
are pending. 2622

(E) A well shall be drilled and operated in accordance with 2623

the plans, sworn statements, and other information submitted in 2624
the approved application. 2625

(F) The chief shall issue an order denying a permit if the 2626
chief finds that there is a substantial risk that the operation 2627
will result in violations of this chapter or rules adopted under 2628
it that will present an imminent danger to public health or safety 2629
or damage to the environment, provided that where the chief finds 2630
that terms or conditions to the permit can reasonably be expected 2631
to prevent such violations, the chief shall issue the permit 2632
subject to those terms or conditions, including, if applicable, 2633
terms and conditions regarding subjects identified in rules 2634
adopted under section 1509.03 of the Revised Code. The issuance of 2635
a permit shall not be considered an order of the chief. 2636

The chief shall post notice of each permit that has been 2637
approved under this section on the division's web site not later 2638
than two business days after the application for a permit has been 2639
approved. 2640

(G) Each application for a permit required by section 1509.05 2641
of the Revised Code, except an application ~~to plug back an~~ 2642
~~existing well that is required by that section and an application~~ 2643
for a well drilled or reopened for purposes of section 1509.22 of 2644
the Revised Code, also shall be accompanied by a nonrefundable fee 2645
as follows: 2646

(1) Five hundred dollars for a permit to conduct activities 2647
in a township with a population of fewer than ten thousand; 2648

(2) Seven hundred fifty dollars for a permit to conduct 2649
activities in a township with a population of ten thousand or 2650
more, but fewer than fifteen thousand; 2651

(3) One thousand dollars for a permit to conduct activities 2652
in either of the following: 2653

(a) A township with a population of fifteen thousand or more; 2654

(b) A municipal corporation regardless of population. 2655

(4) If the application is for a permit that requires 2656
mandatory pooling, an additional five thousand dollars. 2657

For purposes of calculating fee amounts, populations shall be 2658
determined using the most recent federal decennial census. 2659

Each application for the revision or reissuance of a permit 2660
shall be accompanied by a nonrefundable fee of two hundred fifty 2661
dollars. 2662

(H)(1) Prior to the commencement of well pad construction and 2663
prior to the issuance of a permit to drill a proposed horizontal 2664
well or a proposed well that is to be located in an urbanized 2665
area, the division shall conduct a site review to identify and 2666
evaluate any site-specific terms and conditions that may be 2667
attached to the permit. At the site review, a representative of 2668
the division shall consider fencing, screening, and landscaping 2669
requirements, if any, for similar structures in the community in 2670
which the well is proposed to be located. The terms and conditions 2671
that are attached to the permit shall include the establishment of 2672
fencing, screening, and landscaping requirements for the surface 2673
facilities of the proposed well, including a tank battery of the 2674
well. 2675

(2) Prior to the issuance of a permit to drill a proposed 2676
well, the division shall conduct a review to identify and evaluate 2677
any site-specific terms and conditions that may be attached to the 2678
permit if the proposed well will be located in a one-hundred-year 2679
floodplain or within the five-year time of travel associated with 2680
a public drinking water supply. 2681

(I) A permit shall be issued by the chief in accordance with 2682
this chapter. A permit issued under this section for a well that 2683
is or is to be located in an urbanized area shall be valid for 2684
twelve months, and all other permits issued under this section 2685

shall be valid for twenty-four months. 2686

(J) An applicant or a permittee, as applicable, shall submit 2687
to the chief an update of the information that is required under 2688
division (A)(8)(a) of this section if any of that information 2689
changes prior to commencement of production operations. 2690

(K) A permittee or a permittee's authorized representative 2691
shall notify an inspector from the division at least twenty-four 2692
hours, or another time period agreed to by the chief's authorized 2693
representative, prior to the commencement of well pad construction 2694
and of drilling, reopening, converting, well stimulation, or 2695
plugback operations. 2696

Sec. 1509.07. (A)(1) Except as provided in division (A)(2) of 2697
this section, an owner of any well, except an exempt Mississippian 2698
well or an exempt domestic well, shall obtain liability insurance 2699
coverage from a company authorized to do business in this state in 2700
an amount of not less than one million dollars bodily injury 2701
coverage and property damage coverage to pay damages for injury to 2702
persons or damage to property caused by the drilling, operation, 2703
or plugging of all the owner's wells in this state. However, if 2704
any well is located within an urbanized area, the owner shall 2705
obtain liability insurance coverage in an amount of not less than 2706
three million dollars for bodily injury coverage and property 2707
damage coverage to pay damages for injury to persons or damage to 2708
property caused by the drilling, operation, or plugging of all of 2709
the owner's wells in this state. 2710

(2) An owner of a horizontal well shall obtain liability 2711
insurance coverage from an insurer authorized to write such 2712
insurance in this state or from an insurer approved to write such 2713
insurance in this state under section 3905.33 of the Revised Code 2714
in an amount of not less than five million dollars bodily injury 2715
coverage and property damage coverage to pay damages for injury to 2716

persons or damage to property caused by the production operations 2717
of all the owner's wells in this state. The insurance policy shall 2718
include a reasonable level of coverage available for an 2719
environmental endorsement. 2720

(3) An owner shall maintain the coverage required under 2721
division (A)(1) or (2) of this section until all the owner's wells 2722
are plugged and abandoned or are transferred to an owner who has 2723
obtained insurance as required under this section and who is not 2724
under a notice of material and substantial violation or under a 2725
suspension order. The owner shall provide proof of liability 2726
insurance coverage to the chief of the division of oil and gas 2727
resources management upon request. Upon failure of the owner to 2728
provide that proof when requested, the chief may order the 2729
suspension of any outstanding permits and operations of the owner 2730
until the owner provides proof of the required insurance coverage. 2731

(4) This section does not apply to a person using 2732
self-insurance, but a person acting in the capacity of a 2733
self-insurer shall file with the chief, on a form prescribed and 2734
furnished by the chief, a certification of self-insurance stating 2735
the amount of coverage for which financial responsibility is being 2736
established by self-insurance, the effective dates of coverage, 2737
and the full legal name and contact information of the entity 2738
providing evidence of self-insurance if different from that of the 2739
applicant. A person acting in the capacity of a self-insurer also 2740
shall notify the chief if the person is no longer able to maintain 2741
evidence of financial responsibility in the form of self-insurance 2742
in the amount certified. 2743

(B)(1) Except as otherwise provided in this section, an owner 2744
of any well, before being issued a permit under section 1509.06 of 2745
the Revised Code or before operating or producing from a well, 2746
shall execute and file with the division of oil and gas resources 2747
management a surety bond conditioned on compliance with the 2748

restoration requirements of section 1509.072, the plugging 2749
requirements of section 1509.12, the permit provisions of section 2750
1509.13 of the Revised Code, and all rules and orders of the chief 2751
relating thereto, in an amount set by rule of the chief. 2752

(2) The owner may deposit with the chief, instead of a surety 2753
bond, cash in an amount equal to the surety bond as prescribed 2754
pursuant to this section or negotiable certificates of deposit or 2755
irrevocable letters of credit, issued by any bank organized or 2756
transacting business in this state or by any savings and loan 2757
association as defined in section 1151.01 of the Revised Code, 2758
having a cash value equal to or greater than the amount of the 2759
surety bond as prescribed pursuant to this section. Cash or 2760
certificates of deposit shall be deposited upon the same terms as 2761
those upon which surety bonds may be deposited. If certificates of 2762
deposit are deposited with the chief instead of a surety bond, the 2763
chief shall require the bank or savings and loan association that 2764
issued any such certificate to pledge securities of a cash value 2765
equal to the amount of the certificate that is in excess of the 2766
amount insured by any of the agencies and instrumentalities 2767
created under the "Federal Deposit Insurance Act," 64 Stat. 873 2768
(1950), 12 U.S.C. 1811, as amended, and regulations adopted under 2769
it, including at least the federal deposit insurance corporation, 2770
bank insurance fund, and savings association insurance fund. The 2771
securities shall be security for the repayment of the certificate 2772
of deposit. 2773

Immediately upon a deposit of cash, certificates of deposit, 2774
or letters of credit with the chief, the chief shall deliver them 2775
to the treasurer of state who shall hold them in trust for the 2776
purposes for which they have been deposited. 2777

(3) Instead of a surety bond, the chief may accept proof of 2778
financial responsibility consisting of a sworn financial statement 2779
showing a net financial worth within this state equal to twice the 2780

amount of the bond for which it substitutes and, as may be 2781
required by the chief, a list of producing properties of the owner 2782
within this state or other evidence showing ability and intent to 2783
comply with the law and rules concerning restoration and plugging 2784
that may be required by rule of the chief. The owner of an exempt 2785
Mississippian well is not required to file scheduled updates of 2786
the financial documents, but shall file updates of those documents 2787
if requested to do so by the chief. The owner of a nonexempt 2788
Mississippian well shall file updates of the financial documents 2789
in accordance with a schedule established by rule of the chief. 2790
The chief, upon determining that an owner for whom the chief has 2791
accepted proof of financial responsibility instead of bond cannot 2792
demonstrate financial responsibility, shall order that the owner 2793
execute and file a bond or deposit cash, certificates of deposit, 2794
or irrevocable letters of credit as required by this section for 2795
the wells specified in the order within ten days of receipt of the 2796
order. If the order is not complied with, all wells of the owner 2797
that are specified in the order and for which no bond is filed or 2798
cash, certificates of deposit, or letters of credit are deposited 2799
shall be plugged. No owner shall fail or refuse to plug such a 2800
well. Each day on which such a well remains unplugged thereafter 2801
constitutes a separate offense. 2802

(4) The surety bond provided for in this section shall be 2803
executed by a surety company authorized to do business in this 2804
state. 2805

The chief shall not approve any bond until it is personally 2806
signed and acknowledged by both principal and surety, or as to 2807
either by the principal's or surety's attorney in fact, with a 2808
certified copy of the power of attorney attached thereto. The 2809
chief shall not approve a bond unless there is attached a 2810
certificate of the superintendent of insurance that the company is 2811
authorized to transact a fidelity and surety business in this 2812

state. 2813

All bonds shall be given in a form to be prescribed by the 2814
chief and shall run to the state as obligee. 2815

(5) An owner of an exempt Mississippian well or an exempt 2816
domestic well, in lieu of filing a surety bond, cash in an amount 2817
equal to the surety bond, certificates of deposit, irrevocable 2818
letters of credit, or a sworn financial statement, may file a 2819
one-time fee of fifty dollars, which shall be deposited in the oil 2820
and gas well plugging fund created in section 1509.071 of the 2821
Revised Code. 2822

(C) An owner, operator, producer, or other person shall not 2823
operate a well or produce from a well at any time if the owner, 2824
operator, producer, or other person has not satisfied the 2825
requirements established in this section. 2826

Sec. 1509.11. (A)(1) The owner of any well, except a 2827
horizontal well, that is producing or capable of producing oil or 2828
gas shall file with the chief of the division of oil and gas 2829
resources management, on or before the thirty-first day of March, 2830
a statement of production of oil, gas, and brine for the last 2831
preceding calendar year in such form as the chief may prescribe. 2832
An owner that has more than one hundred such wells in this state 2833
shall submit electronically the statement of production in a 2834
format that is approved by the chief. ~~The chief shall include on 2835
the form, at the minimum, a request for the submittal of the 2836
information that a person who is regulated under this chapter is 2837
required to submit under the "Emergency Planning and Community 2838
Right To Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and 2839
regulations adopted under it, and that the division of oil and gas 2840
resources management does not obtain through other reporting 2841
mechanisms. 2842~~

(2) The owner of any horizontal well that is producing or 2843

capable of producing oil or gas shall file with the chief, on the 2844
forty-fifth day following the close of each calendar quarter, a 2845
statement of production of oil, gas, and brine for the preceding 2846
calendar quarter in a form that the chief prescribes. An owner 2847
that has more than one hundred horizontal wells in this state 2848
shall submit electronically the statement of production in a 2849
format that is approved by the chief. ~~The chief shall include on~~ 2850
~~the form, at a minimum, a request for the submittal of the~~ 2851
~~information that a person who is regulated under this chapter is~~ 2852
~~required to submit under the "Emergency Planning and Community~~ 2853
~~Right To Know Act of 1986," 100 Stat. 1728, 42 U.S.C. 11001, and~~ 2854
~~regulations adopted under it, and that the division does not~~ 2855
~~obtain through other reporting mechanisms.~~ 2856

(B) The chief shall not disclose information received from 2857
the department of taxation under division (C)(12) of section 2858
5703.21 of the Revised Code until the related statement of 2859
production required by division (A) of this section is filed with 2860
the chief. 2861

Sec. 1509.16. (A) As used in this section, "oil country 2862
tubular goods" means circular steel pipes that are seamless or 2863
welded and used in drilling for oil or natural gas, including 2864
casing, tubing, and drill pipe, whether finished or unfinished, 2865
and steel couplings and drill collars used with the pipes. 2866

(B) Beginning March 31, ~~2015~~ 2017, an owner shall file with 2867
the division of oil and gas resources management a disclosure form 2868
that specifies the country in which each oil country tubular good 2869
initially used in a production operation on or after that date was 2870
manufactured unless that country cannot be determined by the 2871
owner. The division shall prescribe the disclosure form and 2872
consult with representatives from the natural gas, oil, and steel 2873
industries when developing the form. The division shall use the 2874

information specified on the form to establish a quality well 2875
infrastructure catalog. 2876

(C) The division shall determine the date on which the 2877
disclosure form shall be filed. 2878

Sec. 1509.211. (A)(1) Except as otherwise provided in this 2879
section, no person shall store, recycle, treat, or process brine 2880
or other waste substances pursuant to a permit or order issued 2881
under division (B)(2)(a) of section 1509.22 of the Revised Code if 2882
the person has not satisfied the financial assurance requirements 2883
established in this section. 2884

(2) This section does not apply to either of the following: 2885

(a) An owner conducting production operations on a well pad 2886
or well site pursuant to a permit issued under section 1509.06 of 2887
the Revised Code for which the owner has satisfied the insurance 2888
and bonding requirements established in section 1509.07 of the 2889
Revised Code; 2890

(b) An owner that is storing, recycling, treating, or 2891
processing brine or other waste substances on a well pad or well 2892
site for which the owner has satisfied the insurance and bonding 2893
requirements established in section 1509.07 of the Revised Code. 2894

(B)(1) An applicant for a permit or order under division 2895
(B)(2)(a) of section 1509.22 of the Revised Code or rules adopted 2896
under it shall execute and file with the chief of the division of 2897
oil and gas resources management, on a form prescribed and 2898
furnished by the chief, a surety bond or other form of financial 2899
assurance that is authorized under division (B)(2) of this 2900
section. The surety bond shall be payable to the state as obligee 2901
and conditioned on the performance of all the requirements 2902
established by this chapter and rules adopted under it. The surety 2903
bond shall be in an amount established in rules adopted by the 2904

chief in accordance with Chapter 119. of the Revised Code. 2905
However, the amount shall not exceed two hundred fifty thousand 2906
dollars. 2907

The surety bond shall be executed by a surety company 2908
authorized to do business in this state. The chief shall not 2909
accept any bond until the bond is personally signed and 2910
acknowledged by both principal and surety, or as to either by the 2911
principal's or surety's attorney in fact, with a certified copy of 2912
the power of attorney attached to it. The chief shall not accept a 2913
bond unless there is attached a certificate of the director of 2914
insurance that the company is authorized to transact a fidelity 2915
and surety business in this state. 2916

(2) In lieu of a surety bond, an applicant may deposit with 2917
the chief cash in an amount equal to the amount of the surety bond 2918
established in rules adopted under this section or negotiable 2919
certificates of deposit or irrevocable letters of credit, issued 2920
by any bank organized or transacting business in this state or by 2921
any savings and loan association as defined in section 1151.01 of 2922
the Revised Code, having a cash value equal to or greater than the 2923
amount of the surety bond established in rules adopted under this 2924
section. Cash or certificates of deposit shall be deposited on the 2925
same terms as those on which surety bonds shall be deposited. If 2926
certificates of deposit are deposited with the chief instead of a 2927
surety bond, the chief shall require the bank or the savings and 2928
loan association that issued the certificates to pledge securities 2929
of a cash value equal to the amount of the certificate that is in 2930
excess of the amount insured by any of the agencies and 2931
instrumentalities created under the "Federal Deposit Insurance 2932
Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and 2933
regulations adopted under it, including at least the federal 2934
deposit insurance corporation, bank insurance fund, and savings 2935
association insurance fund. Immediately upon a deposit of cash, 2936

certificates of deposit, or letters of credit with the chief, the 2937
chief shall deliver them to the treasurer of state who shall hold 2938
them in trust for the purposes for which they have been deposited. 2939

(C) The surety bond or other financial assurance required by 2940
this section shall be maintained until the person complies with 2941
rules adopted under section 1509.22 of the Revised Code for the 2942
closure of a location for which a permit or order was issued under 2943
division (B)(2)(a) of section 1509.22 of the Revised Code. If 2944
rules are not adopted under that section for the closure of a 2945
location for which a permit or order was issued to store, recycle, 2946
treat, or process brine or other waste substances, the person 2947
shall maintain the surety bond or other financial assurance until 2948
the chief inspects the location for which a permit or order was 2949
issued to store, recycle, treat, or process brine or other waste 2950
substances and issues a written approval of closure for the 2951
location. 2952

(D)(1) When the chief finds that a person who has been issued 2953
a permit or order under division (B)(2)(a) of section 1509.22 of 2954
the Revised Code has failed to comply with a final nonappealable 2955
order issued or a compliance agreement entered into under section 2956
1509.04 of the Revised Code, rules adopted under division (C) of 2957
section 1509.22 of the Revised Code, or an order relating thereto, 2958
the chief shall make a finding of that fact and may issue a bond 2959
forfeiture order to the person. The bond forfeiture order shall 2960
include provisions that do all of the following: 2961

(a) Specify the violation giving rise to the order; 2962

(b) Declare that the entire amount of the bond or other form 2963
of financial assurance is forfeited; 2964

(c) If the bond filed with the division is supported by or in 2965
the form of cash or negotiable certificates of deposit, declare 2966
the cash or certificates property of the state. 2967

(2) The chief shall certify the total forfeiture to the attorney general, and the attorney general shall proceed to collect the amount of the forfeiture. 2968
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(E) All money collected because of the forfeiture of a bond or other financial assurance as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code and shall be used to restore the location for which the bond or other financial assurance was provided to the condition that existed prior to the issuance of the permit or order under division (B)(2)(a) of section 1509.22 of the Revised Code. 2971
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(F)(1) A person that submits an application for a permit or order to store, recycle, treat, or process brine or other waste substances under division (B)(2)(a) of section 1509.22 of the Revised Code or rules adopted under it shall obtain liability insurance coverage from a company authorized to do business in this state in an amount established in rules adopted by the chief. The amount of the liability insurance shall not exceed four million dollars. The liability insurance shall provide coverage to pay damages for injury to persons or damage to property caused by the location for which the permit or order was issued. 2979
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(2) Division (F)(1) of this section does not apply to a person using self-insurance, but a person acting in the capacity of a self-insurer shall file with the chief, on a form prescribed and furnished by the chief, a certification of self-insurance stating the amount of coverage for which financial responsibility is being established by self-insurance, the effective dates of coverage, and the full legal name and contact information of the entity providing evidence of self-insurance if different from that of the applicant. A person acting in the capacity of a self-insurer also shall notify the chief if the person is no longer able to maintain evidence of financial responsibility in 2989
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<u>the form of self-insurance in the amount certified.</u>	3000
<u>(G) The chief may adopt rules in accordance with Chapter 119.</u>	3001
<u>of the Revised Code establishing requirements and procedures</u>	3002
<u>concerning the financial assurance and insurance requirements</u>	3003
<u>established in this section.</u>	3004
Sec. 1509.222. (A)(1) Except as provided in section 1509.226	3005
of the Revised Code, no person shall transport brine by vehicle in	3006
this state unless the business entity that employs the person	3007
first registers with and obtains a registration certificate and	3008
identification number from the chief of the division of oil and	3009
gas resources management.	3010
(2) No more than one registration certificate shall be	3011
required of any business entity. Registration certificates issued	3012
under this section are not transferable. An applicant shall file	3013
an application with the chief, containing such information in such	3014
form as the chief prescribes. The application shall include at	3015
least all of the following:	3016
(a) A list that identifies each <u>pipeline</u> , vehicle, vessel,	3017
railcar, and container that will be used in the transportation of	3018
brine;	3019
(b) A plan for disposal that provides for compliance with the	3020
requirements of this chapter and rules of the chief pertaining to	3021
the transportation of brine by vehicle and the disposal of brine	3022
so transported and that lists all disposal sites that the	3023
applicant intends to use;	3024
(c) The bond required by section 1509.225 of the Revised	3025
Code;	3026
(d) A certificate issued by an insurance company authorized	3027
to do business in this state certifying that the applicant has in	3028
force a liability insurance policy in an amount not less than	3029

three hundred thousand dollars bodily injury coverage and three 3030
hundred thousand dollars property damage coverage to pay damages 3031
for injury to persons or property caused by the collecting, 3032
handling, transportation, or disposal of brine. 3033

The insurance policy required by division (A)(2)(d) of this 3034
section shall be maintained in effect during the term of the 3035
registration certificate. The policy or policies providing the 3036
coverage shall require the insurance company to give notice to the 3037
chief if the policy or policies lapse for any reason. Upon such 3038
termination of the policy, the chief may suspend the registration 3039
certificate until proper insurance coverage is obtained. 3040

(3) Each application for a registration certificate shall be 3041
accompanied by a nonrefundable fee of five hundred dollars. 3042

(4) If a business entity that has been issued a registration 3043
certificate under this section changes its name due to a business 3044
reorganization or merger, the business entity shall revise the 3045
bond or certificates of deposit required by section 1509.225 of 3046
the Revised Code and obtain a new certificate from an insurance 3047
company in accordance with division (A)(2)~~(e)~~(d) of this section 3048
to reflect the change in the name of the business entity. 3049

(B) The chief shall issue an order denying an application for 3050
a registration certificate if the chief finds that either of the 3051
following applies: 3052

(1) The applicant, at the time of applying for the 3053
registration certificate, has been found liable by a final 3054
nonappealable order of a court of competent jurisdiction for 3055
damage to streets, roads, highways, bridges, culverts, or 3056
drainways pursuant to section 4513.34 or 5577.12 of the Revised 3057
Code until the applicant provides the chief with evidence of 3058
compliance with the order. 3059

(2) The applicant's plan for disposal does not provide for 3060

compliance with the requirements of this chapter and rules of the 3061
chief pertaining to the transportation of brine ~~by vehicle~~ and the 3062
disposal of brine so transported. 3063

(C) No applicant shall attempt to circumvent division (B) of 3064
this section by applying for a registration certificate under a 3065
different name or business organization name, by transferring 3066
responsibility to another person or entity, or by any similar act. 3067

(D) A registered transporter shall not allow any other person 3068
to use the transporter's registration certificate to transport 3069
brine. 3070

(E) A registered transporter shall apply to revise a disposal 3071
plan under procedures that the chief shall prescribe by rule. 3072
However, at a minimum, an application for a revision shall list 3073
all ~~sources and~~ disposal sites of brine currently transported. The 3074
chief shall deny any application for a revision of a plan under 3075
this division if the chief finds that the proposed revised plan 3076
does not provide for compliance with the requirements of this 3077
chapter and rules of the chief pertaining to the transportation of 3078
brine ~~by vehicle~~ and the disposal of brine so transported. 3079
~~Approvals and denials of revisions shall be by order of the chief.~~ 3080

~~(E)~~(F) The chief may adopt rules, issue orders, and attach 3081
terms and conditions to registration certificates as may be 3082
necessary to administer, implement, and enforce sections 1509.222 3083
to 1509.226 of the Revised Code for protection of public health or 3084
safety or conservation of natural resources. 3085

(G) As used in this section: 3086

(1) "Transport brine" does not include the movement of brine 3087
within a facility approved, permitted, or registered under this 3088
chapter; 3089

(2) "Pipeline" does not include piping or other appurtenances 3090
associated with processing activity at a facility approved, 3091

permitted, or registered under this chapter. 3092

Sec. 1509.223. (A)(1) No permit holder or owner of a well 3093
shall enter into an agreement with or permit any person to 3094
transport brine produced from the well who is not registered 3095
pursuant to section 1509.222 of the Revised Code or exempt from 3096
registration under section 1509.226 of the Revised Code. 3097

(2) No permit holder or owner of a well for which a permit 3098
has been issued under division (D) of section 1509.22 of the 3099
Revised Code shall enter into an agreement with or permit any 3100
person who is not registered pursuant to section 1509.222 of the 3101
Revised Code to dispose of brine at the well. 3102

(B) Each registered transporter shall file with the chief of 3103
the division of oil and gas resources management, on or before the 3104
fifteenth day of April, a statement concerning brine transported, 3105
including quantities transported and source and delivery points, 3106
during the last preceding calendar year, and such other 3107
information in such form as the chief may prescribe. 3108

(C) Each registered transporter shall keep on each vehicle, 3109
vessel, railcar, and container used to transport brine a daily log 3110
and have it available upon the request of the chief ~~or~~, an 3111
authorized representative of the chief, or a peace officer. In 3112
addition, each registered transporter shall keep a daily log for 3113
each pipeline used to transport brine and have it available upon 3114
the request of the chief, an authorized representative of the 3115
chief, or a peace officer. The log shall, at a minimum, include 3116
all of the following information: 3117

(1) The name of the owner or owners of the well or wells 3118
producing the brine to be transported; 3119

(2) The date and time the brine is loaded or transported 3120
through a pipeline, as applicable; 3121

(3) The name of the driver, <u>if applicable</u> ;	3122
(4) The amount of brine loaded at each collection point <u>or</u> <u>the amount of brine transported through a pipeline, as applicable</u> ;	3123 3124
(5) The disposal location;	3125
(6) The date and time the brine is disposed of and the amount of brine disposed of at each location.	3126 3127
The chief, by rule, may establish procedures for the electronic submission to the chief of the information that is required to be included in the <u>a</u> daily log. No registered transporter shall falsify or fail to keep or submit the <u>a</u> log required by this division.	3128 3129 3130 3131 3132
(D) Each registered transporter shall legibly identify with reflective paints all vehicles, <u>vessels, railcars, and containers</u> employed in transporting or disposing of brine. Letters shall be no less than four inches in height and shall indicate the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter.	3133 3134 3135 3136 3137 3138
<u>Each registered transporter shall legibly identify each pipeline employed in transporting or disposing of brine on the surface of the ground in a manner similar to the identification of underground gas lines. The identification shall include the identification number issued by the chief, the word "brine," and the name and telephone number of the transporter.</u>	3139 3140 3141 3142 3143 3144
(E) The chief shall maintain and keep a current list of persons registered to transport brine under section 1509.222 of the Revised Code. The list shall be open to public inspection. It is an affirmative defense to a charge under division (A) of this section that at the time the permit holder or owner of a well entered into an agreement with or permitted a person to transport <u>or dispose of</u> brine, the person was shown on the list as currently registered to transport brine.	3145 3146 3147 3148 3149 3150 3151 3152

Sec. 1509.23. ~~(A)~~ Rules of the chief of the division of oil 3153
and gas resources management may specify practices to be followed 3154
in the drilling and treatment of wells, production of oil and gas, 3155
and plugging of wells for protection of public health or safety or 3156
to prevent damage to natural resources, including specification of 3157
the following: 3158

~~(1)~~(A) Appropriate devices; 3159

~~(2)~~(B) Minimum distances that wells and other excavations, 3160
structures, and equipment shall be located from water wells, 3161
streets, roads, highways, rivers, lakes, streams, ponds, other 3162
bodies of water, railroad tracks, public or private recreational 3163
areas, zoning districts, and buildings or other structures. Rules 3164
adopted under this division ~~(A)(2) of this section~~ shall not 3165
conflict with section 1509.021 of the Revised Code. 3166

~~(3)~~(C) Other methods of operation; 3167

~~(4)~~(D) Procedures, methods, and equipment and other 3168
requirements for equipment to prevent and contain discharges of 3169
oil and brine from oil production facilities and oil drilling and 3170
workover facilities consistent with and equivalent in scope, 3171
content, and coverage to section 311(j)(1)(c) of the "Federal 3172
Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 3173
U.S.C.A. 1251, as amended, and regulations adopted under it. In 3174
addition, the rules may specify procedures, methods, and equipment 3175
and other requirements for equipment to prevent and contain 3176
surface and subsurface discharges of fluids, condensates, and 3177
gases. 3178

~~(5)~~(E) Notifications; 3179

~~(6)~~(F) Requirements governing the location and construction 3180
of fresh water impoundments that are part of a production 3181
operation. 3182

~~(B) The chief, in consultation with the emergency response
commission created in section 3750.02 of the Revised Code, shall
adopt rules in accordance with Chapter 119. of the Revised Code
that specify the information that shall be included in an
electronic database that the chief shall create and host. The
information shall be that which the chief considers to be
appropriate for the purpose of responding to emergency situations
that pose a threat to public health or safety or the environment.
At the minimum, the information shall include that which a person
who is regulated under this chapter is required to submit under
the "Emergency Planning and Community Right To Know Act of 1986,"
100 Stat. 1728, 42 U.S.C.A. 11001, and regulations adopted under
it.~~

~~In addition, the rules shall specify whether and to what
extent the database and the information that it contains will be
made accessible to the public. The rules shall ensure that the
database will be made available via the internet or a system of
computer disks to the emergency response commission and to every
local emergency planning committee and fire department in this
state.~~

Sec. 1509.231. (A) A person that is regulated under this
chapter and rules adopted under it and that is required to submit
information under the "Emergency Planning and Community
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C. 11022, and
regulations adopted under it shall submit the information to the
chief of the division of oil and gas resources management on or
before the first day of March of each calendar year. The person
shall submit the information in accordance with rules adopted
under division (B) of this section.

(B) The chief, in consultation with the emergency response
commission created in section 3750.02 of the Revised Code, shall

adopt rules in accordance with Chapter 119. of the Revised Code 3214
that specify the information that shall be included in an 3215
electronic database that the chief shall create and host. The 3216
information shall be information that the chief considers to be 3217
appropriate for the purpose of responding to emergency situations 3218
that pose a threat to public health or safety or the environment. 3219
The rules shall require that the information be consistent with 3220
the information that a person that is regulated under this chapter 3221
is required to submit under the "Emergency Planning and Community 3222
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C. 11022, and 3223
regulations adopted under it. 3224

In addition, the rules shall do all of the following: 3225

(1) Specify whether and to what extent the database and the 3226
information that it contains will be made accessible to the 3227
public; 3228

(2) Ensure that the information submitted for the database 3229
will be made immediately available to the emergency response 3230
commission, the local emergency planning committee of the 3231
emergency planning district in which a facility is located, and 3232
the fire department having jurisdiction over a facility; 3233

(3) Ensure that the information submitted for the database 3234
includes the information required to be reported under section 3235
3750.08 of the Revised Code and rules adopted under section 3236
3750.02 of the Revised Code. 3237

(C) As used in this section, "emergency planning district," 3238
"facility," and "fire department" have the same meanings as in 3239
section 3750.01 of the Revised Code. 3240

Sec. 1509.27. If a tract of land is or tracts are of 3241
insufficient size or shape to meet the requirements for drilling a 3242
proposed well, including a proposed horizontal well, thereon as 3243

provided in section 1509.24 or 1509.25 of the Revised Code, 3244
whichever is applicable, and ~~the an owner of the tract who also is~~ 3245
~~the owner of the mineral interest~~ has been unable to form a 3246
drilling unit under agreement as provided in section 1509.26 of 3247
the Revised Code, on a just and equitable basis, ~~such an~~ the owner 3248
may make application to the division of oil and gas resources 3249
management for a mandatory pooling order. 3250

The application shall include information as shall be 3251
reasonably required by the chief of the division of oil and gas 3252
resources management and shall be accompanied by an application 3253
for a permit as required by section 1509.05 of the Revised Code. 3254
The chief shall notify all mineral rights owners of ~~land within~~ 3255
~~the area tracts~~ proposed to be pooled by an order and included 3256
within the drilling unit of the filing of the application and of 3257
their right to a hearing. ~~After~~ Not later than thirty days after 3258
the hearing or after the expiration of thirty days from the date 3259
notice of application was mailed to such owners, the chief, if 3260
satisfied that the application is proper in form and that 3261
mandatory pooling is necessary to protect correlative rights and 3262
to provide effective development, use, and conservation of oil and 3263
gas, shall issue a drilling permit and a mandatory pooling order 3264
complying with the requirements for drilling a well as provided in 3265
section 1509.24 or 1509.25 of the Revised Code, whichever is 3266
applicable. The mandatory pooling order shall: 3267

(A) Designate the boundaries of the drilling unit within 3268
which the well shall be drilled; 3269

(B) Designate the proposed production site; 3270

(C) Describe each separately owned tract or part thereof 3271
pooled by the order; 3272

(D) Allocate on a surface acreage basis a pro rata portion of 3273
the production to ~~the owner of~~ each tract pooled by the order. The 3274

pro rata portion shall be in the same proportion that the 3275
percentage of the ~~owner's tract's~~ acreage is to the state minimum 3276
acreage requirements established in rules adopted under this 3277
chapter for a drilling unit unless the applicant demonstrates to 3278
the chief using geological evidence that the geologic structure 3279
containing the oil or gas is larger than the minimum acreage 3280
requirement in which case the pro rata portion shall be in the 3281
same proportion that the percentage of the ~~owner's tract's~~ acreage 3282
is to the geologic structure. 3283

(E) Specify the basis upon which each mineral rights owner of 3284
a tract pooled by the order shall share all reasonable costs and 3285
expenses of drilling and producing if the mineral rights owner 3286
elects to participate in the drilling and operation of the well; 3287

(F) Designate the person to whom the permit shall be issued. 3288

A person shall not submit more than ~~five~~ ten applications for 3289
mandatory pooling orders per year under this section unless 3290
otherwise approved by the chief. 3291

No surface operations or disturbances to the surface of the 3292
land shall occur on a tract pooled by an order without the written 3293
consent of ~~or a written agreement with~~ the surface rights owner of 3294
the tract that approves the operations or disturbances. 3295

Notwithstanding divisions (A) to (H) of section 1509.73 of 3296
the Revised Code and rules adopted under it, the chief shall issue 3297
an order for mandatory pooling that encompasses a tract for which 3298
all of the mineral rights for oil or gas are owned by the 3299
department of transportation. 3300

If ~~an~~ a mineral rights owner of a tract pooled by the order 3301
does not elect to participate in the risk and cost of the drilling 3302
and operation of a well, the mineral rights owner shall be 3303
designated as a nonparticipating owner in the drilling and 3304
operation of the well on a limited or carried basis and is subject 3305

to terms and conditions determined by the chief to be just and 3306
reasonable. In addition, if ~~an~~ a mineral rights owner is 3307
designated as a nonparticipating owner, the mineral rights owner 3308
is not liable for actions or conditions associated with the 3309
drilling or operation of the well. If the applicant bears the 3310
costs of drilling, equipping, and operating a well for the benefit 3311
of a nonparticipating owner, as provided for in the pooling order, 3312
then the applicant shall be entitled to the share of production 3313
from the drilling unit accruing to the interest of that 3314
nonparticipating owner, exclusive of the nonparticipating owner's 3315
proportionate share of the royalty interest until there has been 3316
received the share of costs charged to that nonparticipating owner 3317
plus such additional percentage of the share of costs as the chief 3318
shall determine. The total amount receivable hereunder shall in no 3319
event exceed two hundred per cent of the share of costs charged to 3320
that nonparticipating owner. After receipt of that share of costs 3321
by such an applicant, a nonparticipating owner shall receive a 3322
proportionate share of the working interest in the well in 3323
addition to a proportionate share of the royalty interest, if any. 3324

If there is a dispute as to costs of drilling, equipping, or 3325
operating a well, the chief shall determine those costs. 3326

Sec. 1509.28. (A) The chief of the division of oil and gas 3327
resources management, upon the chief's own motion or upon 3328
application by the owners of sixty-five per cent of the land area 3329
overlying the pool, shall hold a hearing not later than forty-five 3330
days after the chief's motion or receipt of an application to 3331
consider the need for the operation as a unit of an entire pool or 3332
part thereof. An application by owners shall be accompanied by a 3333
nonrefundable fee of ten thousand dollars and by such information 3334
as the chief may request. 3335

The chief shall make an order providing for the unit 3336

operation of a pool or part thereof not later than thirty days 3337
after the date of the hearing if the chief finds that such 3338
operation is reasonably necessary to increase substantially the 3339
ultimate recovery of oil and gas, and the value of the estimated 3340
additional recovery of oil or gas exceeds the estimated additional 3341
cost incident to conducting the operation. The order shall be upon 3342
terms and conditions that are just and reasonable and shall 3343
prescribe a plan for unit operations that shall include: 3344

(1) A description of the unitized area, termed the unit area; 3345

(2) A statement of the nature of the operations contemplated; 3346

(3) An allocation to the separately owned tracts in the unit 3347
area of all the oil and gas that is produced from the unit area 3348
and is saved, being the production that is not used in the conduct 3349
of operations on the unit area or not unavoidably lost. The 3350
allocation shall be in accord with the agreement, if any, of the 3351
interested parties. If there is no such agreement, the chief shall 3352
determine the value, from the evidence introduced at the hearing, 3353
of each separately owned tract in the unit area, exclusive of 3354
physical equipment, for development of oil and gas by unit 3355
operations, and the production allocated to each tract shall be 3356
the proportion that the value of each tract so determined bears to 3357
the value of all tracts in the unit area. 3358

(4) A provision for the credits and charges to be made in the 3359
adjustment among the owners in the unit area for their respective 3360
investments in wells, tanks, pumps, machinery, materials, and 3361
equipment contributed to the unit operations; 3362

(5) A provision providing how the expenses of unit 3363
operations, including capital investment, shall be determined and 3364
charged to the separately owned tracts and how the expenses shall 3365
be paid; 3366

(6) A provision, if necessary, for carrying or otherwise 3367

financing any person who is unable to meet the person's financial 3368
obligations in connection with the unit, allowing a reasonable 3369
interest charge for such service that is not less than two hundred 3370
per cent; 3371

(7) A provision for the supervision and conduct of the unit 3372
operations, in respect to which each person shall have a vote with 3373
a value corresponding to the percentage of the expenses of unit 3374
operations chargeable against the interest of that person; 3375

(8) The time when the unit operations shall commence, and the 3376
manner in which, and the circumstances under which, the unit 3377
operations shall terminate; 3378

(9) Such additional provisions as are found to be appropriate 3379
for carrying on the unit operations, and for the protection or 3380
adjustment of correlative rights. 3381

(B) No order of the chief providing for unit operations shall 3382
become effective unless and until the plan for unit operations 3383
prescribed by the chief has been approved in writing by those 3384
owners who, under the chief's order, will be required to pay at 3385
least sixty-five per cent of the costs of the unit operation, and 3386
also by the royalty or, with respect to unleased acreage, fee 3387
owners of sixty-five per cent of the acreage to be included in the 3388
unit. If the plan for unit operations has not been so approved by 3389
owners and royalty owners at the time the order providing for unit 3390
operations is made, the chief shall upon application and notice 3391
hold such supplemental hearings as may be required to determine if 3392
and when the plan for unit operations has been so approved. If the 3393
owners and royalty owners, or either, owning the required 3394
percentage of interest in the unit area do not approve the plan 3395
for unit operations within a period of six months from the date on 3396
which the order providing for unit operations is made, the order 3397
shall cease to be of force and shall be revoked by the chief. 3398

An order providing for unit operations may be amended by an order made by the chief, in the same manner and subject to the same conditions as an original order providing for unit operations, provided that:

(1) If such an amendment affects only the rights and interests of the owners, the approval of the amendment by the royalty owners shall not be required.

(2) No such order of amendment shall change the percentage for allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all persons owning interest in the tract.

The chief, by an order, may provide for the unit operation of a pool or a part thereof that embraces a unit area established by a previous order of the chief. Such an order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in the previously established unit area in the same proportions as those specified in the previous order.

Oil and gas allocated to a separately owned tract shall be deemed, for all purposes, to have been actually produced from the tract, and all operations, including, but not limited to, the commencement, drilling, operation of, or production from a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations and production from any lease or contract for lands any portion of which is included in the unit area. The operations conducted pursuant to the order of the chief shall constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the chief.

Oil and gas allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

No order of the chief or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to the tract until terminated in accordance with the provisions thereof.

Notwithstanding divisions (A) to (H) of section 1509.73 of the Revised Code and rules adopted under it, the chief shall issue an order for the unit operation of a pool or a part of a pool that encompasses a unit area for which all of the mineral rights for oil or gas are owned by the department of transportation.

Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired for the account of the owners within the unit area shall be the property of such owners in the proportion that the expenses of unit operations are charged.

(C) If the chief adopts rules or establishes guidelines for the purposes of this section, the rules or guidelines shall not do either of the following:

(1) Establish a prehearing publication notice requirement of more than three publications in a newspaper of daily general circulation in the county or counties in which a proposed unit is to be located;

(2) Require the last date of publication of such a prehearing notice to occur not more than five days prior to the hearing.

Any publication requirement established in rules adopted or 3462
guidelines established under division (C) of this section shall 3463
allow for publication in the newspaper of daily circulation that 3464
is nearest to the proposed area of unit operation if a newspaper 3465
of daily circulation is not available in the county in which the 3466
proposed area of unit operation is located. 3467

Sec. 1509.33. (A) Whoever violates sections 1509.01 to 3468
1509.31 of the Revised Code, or any rules adopted or orders or 3469
terms or conditions of a permit or registration certificate issued 3470
pursuant to these sections for which no specific penalty is 3471
provided in this section, shall pay a civil penalty of not more 3472
than four thousand dollars for each offense. 3473

(B) Whoever violates section 1509.221 of the Revised Code or 3474
any rules adopted or orders or terms or conditions of a permit 3475
issued thereunder shall pay a civil penalty of not more than two 3476
thousand five hundred dollars for each violation. 3477

(C) Whoever violates division (D) of section 1509.22 or 3478
division (A)(1) of section 1509.222 of the Revised Code shall pay 3479
a civil penalty of not ~~less than two thousand five hundred dollars~~ 3480
~~nor~~ more than twenty thousand dollars for each violation. 3481

(D) Whoever violates division (A) of section 1509.22 of the 3482
Revised Code shall pay a civil penalty of not ~~less than two~~ 3483
~~thousand five hundred dollars nor~~ more than ten thousand dollars 3484
for each violation. 3485

(E) Whoever violates division (A) of section 1509.223 of the 3486
Revised Code shall pay a civil penalty of not more than ten 3487
thousand dollars for each violation. 3488

(F) Whoever violates section 1509.072 of the Revised Code or 3489
any ~~rules adopted or~~ orders issued to administer, implement, or 3490
enforce that section shall pay a civil penalty of not more than 3491

five thousand dollars for each violation. 3492

(G) In addition to any other penalties provided in this 3493
chapter, whoever violates division (B) of section 1509.22 or 3494
division (A)(1) of section 1509.222 or knowingly violates division 3495
(A) of section 1509.223 of the Revised Code is liable for any 3496
damage or injury caused by the violation and for the actual cost 3497
of rectifying the violation and conditions caused by the 3498
violation. If two or more persons knowingly violate one or more of 3499
those divisions in connection with the same event, activity, or 3500
transaction, they are jointly and severally liable under this 3501
division. 3502

(H) The attorney general, upon the request of the chief of 3503
the division of oil and gas resources management, shall commence 3504
an action under this section against any person who violates 3505
sections 1509.01 to 1509.31 of the Revised Code, or any ~~rules~~ 3506
~~adopted or~~ orders or terms or conditions of a permit or 3507
registration certificate issued pursuant to these sections. Any 3508
action under this section is a civil action, governed by the Rules 3509
of Civil Procedure and other rules of practice and procedure 3510
applicable to civil actions. The remedy provided in this division 3511
is cumulative and concurrent with any other remedy provided in 3512
this chapter, and the existence or exercise of one remedy does not 3513
prevent the exercise of any other, except that no person shall be 3514
subject to both a civil penalty under division (A), (B), (C), or 3515
(D) of this section and a criminal penalty under section 1509.99 3516
of the Revised Code for the same offense. 3517

(I) For purposes of this section, each day of a purposeful 3518
violation constitutes a separate offense. 3519

Sec. 1509.99. (A) Whoever violates sections 1509.01 to 3520
1509.31 of the Revised Code or any ~~rules adopted or~~ orders or 3521
terms or conditions of a permit issued pursuant to these sections 3522

for which no specific penalty is provided in this section shall be 3523
fined not less than one hundred nor more than one thousand dollars 3524
for a first offense; for each subsequent offense the person shall 3525
be fined not less than two hundred nor more than two thousand 3526
dollars. 3527

(B) Whoever violates section 1509.221 of the Revised Code or 3528
any ~~rules adopted or~~ orders or terms or conditions of a permit 3529
issued thereunder shall be fined not more than five thousand 3530
dollars for each violation. 3531

(C)(1) Whoever ~~knowingly~~ purposely violates section 1509.072, 3532
division ~~(A)~~, (B), ~~or (D)~~ of section 1509.22, division (A)(1) or 3533
(C) of section 1509.222, or division (A) or ~~(D)~~(C) of section 3534
1509.223 of the Revised Code or any rules adopted or orders issued 3535
under division (C) of section 1509.22 or rules adopted or orders 3536
or terms or conditions of a registration certificate issued under 3537
division ~~(E)~~(F) of section 1509.222 of the Revised Code shall be 3538
fined not more than ten thousand dollars or imprisoned for ~~six~~ not 3539
more than three months, or both for a first offense; for each 3540
subsequent offense the person shall be fined not more than twenty 3541
thousand dollars or imprisoned for not more than two years, or 3542
both. ~~Whoever~~ 3543

(2) Whoever knowingly violates division (A) or (D) of section 3544
1509.22 of the Revised Code is guilty of a felony and shall be 3545
fined not more than fifty thousand dollars or imprisoned for not 3546
more than one year, or both for a first offense; for each 3547
subsequent offense the person shall be fined not more than one 3548
hundred thousand dollars or imprisoned for not more than two 3549
years, or both. 3550

(3) Whoever negligently violates ~~those~~ the divisions, 3551
sections, rules, orders, or terms or conditions of a registration 3552
certificate specified in division (C)(1) or (2) of this section 3553
shall be fined not more than five thousand dollars. 3554

(D) Whoever violates division (C) of section 1509.223 of the Revised Code shall be fined not more than five hundred dollars for a first offense and not more than one thousand dollars for a subsequent offense.

(E) If a person is convicted of or pleads guilty to a purposeful violation of division (A) or (D) of section 1509.22 of the Revised Code, in addition to the financial sanctions authorized by this chapter or section 2929.18 or 2929.28 or any other section of the Revised Code, the court imposing the sentence on the person may order the person to reimburse the state agency or a political subdivision for actual response costs that it incurred in responding to the violation, including the cost of rectifying the violation and conditions caused by the violation.

(F) The prosecuting attorney of the county in which the offense was committed or the attorney general may prosecute an action under this section.

~~(F)~~(G) For purposes of this section, each day of a purposeful violation constitutes a separate offense.

Sec. 1511.01. As used in this chapter:

(A) "Conservation" means the wise use and management of natural resources.

(B) "Critical natural resource area" means an area identified by the director of natural resources in which occurs a natural resource that requires special management because of its importance to the well-being of the surrounding communities, the region, or the state.

(C) "~~Pollution~~ Erosion and sediment abatement practice" means any erosion control, ~~residual farm products, or manure pollution abatement facility,~~ and sediment reduction structure, practice, or procedure and the design, operation, and management associated

with it as contained in operation and management plans developed 3585
or approved by the chief of the division of soil and water 3586
resources or by boards of supervisors of soil and water 3587
conservation districts. 3588

(D) "~~Agricultural~~ Sediment pollution" means failure to use 3589
management or conservation practices in farming or silvicultural 3590
operations to abate wind or water erosion of the soil ~~or to abate~~ 3591
that may result in the degradation of the waters of the state by 3592
~~residual farm products, manure, or~~ soil sediment, including 3593
attached substances ~~attached thereto~~. 3594

(E) "Waters of the state" means all streams, lakes, ponds, 3595
wetlands, watercourses, waterways, wells, springs, irrigation 3596
systems, drainage systems, and all other bodies or accumulations 3597
of water, surface and underground, natural or artificial, 3598
regardless of the depth of the strata in which underground water 3599
is located, that are situated wholly or partly within, or border 3600
upon, this state or are within its jurisdiction, except those 3601
private waters that do not combine or effect a junction with 3602
natural surface or underground waters. 3603

(F) "Operation and management plan" means a written record, 3604
developed or approved by the board of supervisors of a soil and 3605
water conservation district or the chief, for the owner or 3606
operator of agricultural land ~~or an animal feeding operation~~ that 3607
contains implementation schedules and operational procedures for a 3608
level of management and ~~pollution~~ erosion and sediment abatement 3609
practices that will abate the degradation of the waters of the 3610
state by ~~residual farm products, manure, and~~ soil sediment, 3611
including attached pollutants. 3612

(G) "~~Residual farm products~~" means ~~bedding, wash waters,~~ 3613
~~waste feed, and silage drainage.~~ "~~Residual farm products~~" also 3614
~~includes the compost products resulting from the composting of~~ 3615
~~dead animals in operations subject to section 1511.022 of the~~ 3616

~~Revised Code when either of the following applies:~~ 3617

~~(1) The composting is conducted by the person who raises the animals and the compost product is used in agricultural operations owned or operated by that person, regardless of whether the person owns the animals.~~ 3618
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~~(2) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.~~ 3622
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~~(H) "Composting" means the controlled decomposition of organic solid material consisting of dead animals that stabilizes the organic fraction of the material.~~ 3627
3628
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~~(I) "Manure" means animal excreta.~~ 3630

~~(J) "Animal feeding operation" means the production area, as defined in section 903.01 of the Revised Code, of an agricultural operation where agricultural animals are kept and raised in confined areas. "Animal feeding operation" does not include a facility that possesses a permit issued under Chapter 903. or division (J) of section 6111.03 of the Revised Code.~~ 3631
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3636

~~(K) "Soil and water conservation district" has the same meaning as in section 1515.01 of the Revised Code.~~ 3637
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(H) "Soil erosion management plan" means a written record, developed or approved by the board of supervisors of a soil and water conservation district or the chief, that may contain implementation schedules and operational procedures for a level of land and water management that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by sediment from agricultural operations. 3639
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(I) "Timber harvest plan" means a written record, developed 3646

or approved by the board of supervisors of a soil and water 3647
conservation district or the chief, that may contain 3648
implementation schedules and operational procedures for a level of 3649
land and water management that will abate wind or water erosion of 3650
the soil or abate the degradation of the waters of the state by 3651
sediment from timber operations. 3652

(J) "Western basin" has the same meaning as in section 3653
905.326 of the Revised Code. 3654

Sec. 1511.02. The chief of the division of soil and water 3655
resources, subject to the approval of the director of natural 3656
resources, shall do all of the following: 3657

(A) Provide administrative leadership to soil and water 3658
conservation districts in planning, budgeting, staffing, and 3659
administering district programs and the training of district 3660
supervisors and personnel in their duties, responsibilities, and 3661
authorities as prescribed in this chapter and Chapter 1515. of the 3662
Revised Code; 3663

(B) Administer this chapter and Chapter 1515. of the Revised 3664
Code pertaining to state responsibilities and provide staff 3665
assistance to the Ohio soil and water conservation commission in 3666
exercising its statutory responsibilities; 3667

(C) Assist in expediting state responsibilities for watershed 3668
development and other natural resource conservation works of 3669
improvement; 3670

(D) Coordinate the development and implementation of 3671
cooperative programs and working agreements between soil and water 3672
conservation districts and divisions or sections of the department 3673
of natural resources, or other agencies of local, state, and 3674
federal government; 3675

(E) Subject to the approval of the Ohio soil and water 3676

conservation commission, adopt, amend, or rescind rules pursuant 3677
to Chapter 119. of the Revised Code. Rules adopted pursuant to 3678
this section: 3679

(1) Shall establish technically feasible and economically 3680
reasonable standards to achieve a level of management and 3681
conservation practices in farming or silvicultural operations that 3682
will abate wind or water erosion of the soil or abate the 3683
degradation of the waters of the state by ~~residual farm products,~~ 3684
~~manure, or~~ soil sediment, including attached substances ~~attached~~ 3685
~~thereto~~, and establish criteria for determination of the 3686
acceptability of such management and conservation practices; 3687

(2) Shall establish technically feasible and economically 3688
reasonable standards to achieve a level of management and 3689
conservation practices that will abate wind or water erosion of 3690
the soil or abate the degradation of the waters of the state by 3691
soil sediment in conjunction with land grading, excavating, 3692
filling, or other soil-disturbing activities on land used or being 3693
developed for nonfarm commercial, industrial, residential, or 3694
other nonfarm purposes, and establish criteria for determination 3695
of the acceptability of such management and conservation 3696
practices. The standards shall be designed to implement applicable 3697
areawide waste treatment management plans prepared under section 3698
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 3699
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 3700
shall not apply in any municipal corporation or county that adopts 3701
ordinances or rules pertaining to sediment control, nor to lands 3702
being used in a strip mine operation as defined in section 1513.01 3703
of the Revised Code, nor to lands being used in a surface mining 3704
operation as defined in section 1514.01 of the Revised Code. 3705

(3) May recommend criteria and procedures for the approval of 3706
urban sediment pollution abatement plans and issuance of permits 3707
prior to any grading, excavating, filling, or other whole or 3708

partial disturbance of five or more contiguous acres of land owned 3709
by one person or operated as one development unit and require 3710
implementation of such a plan. Areas of less than five contiguous 3711
acres are not exempt from compliance with other provisions of this 3712
chapter and rules adopted under them. 3713

(4) Shall establish procedures for administration of rules 3714
for ~~agricultural~~ sediment pollution abatement and urban sediment 3715
pollution abatement ~~and for enforcement of rules for agricultural~~ 3716
~~pollution abatement;~~ 3717

(5) Shall specify the ~~pollution~~ erosion and sediment 3718
abatement practices eligible for state cost sharing and determine 3719
the conditions for eligibility, the construction standards and 3720
specifications, the useful life, the maintenance requirements, and 3721
the limits of cost sharing for those practices. Eligible practices 3722
shall be limited to practices that address agricultural or 3723
silvicultural operations and that require expenditures that are 3724
likely to exceed the economic returns to the owner or operator and 3725
that abate soil erosion or degradation of the waters of the state 3726
by ~~residual farm products, manure, or~~ soil sediment, including 3727
attached pollutants ~~attached thereto.~~ 3728

(6) Shall establish procedures for administering grants to 3729
owners or operators of agricultural land ~~or animal feeding~~ 3730
~~operations~~ for the implementation of operation and management 3731
plans; 3732

(7) Shall establish procedures for administering grants to 3733
soil and water conservation districts for urban sediment pollution 3734
abatement programs, specify the types of projects eligible for 3735
grants, establish limits on the availability of grants, and 3736
establish requirements governing the execution of projects to 3737
encourage the reduction of erosion and sedimentation associated 3738
with soil-disturbing activities; 3739

(8) Shall do all of the following with regard to composting	3740
conducted in conjunction with agricultural operations;	3741
(a) Provide for the distribution of educational material	3742
concerning composting to the offices of OSU extension for the	3743
purposes of section 1511.022 of the Revised Code;	3744
(b) Establish methods, techniques, or practices for	3745
composting dead animals, or particular types of dead animals, that	3746
are to be used at such operations, as the chief considers to be	3747
necessary or appropriate;	3748
(c) Establish requirements and procedures governing the	3749
review and approval or disapproval of composting plans by the	3750
supervisors of soil and water conservation districts under	3751
division (Q) of section 1515.08 of the Revised Code.	3752
(9) Shall be adopted, amended, or rescinded after the chief	3753
does all of the following:	3754
(a) Mails notice to each statewide organization that the	3755
chief determines represents persons or local governmental agencies	3756
who would be affected by the proposed rule, amendment thereto, or	3757
rescission thereof at least thirty-five days before any public	3758
hearing thereon;	3759
(b) Mails a copy of each proposed rule, amendment thereto, or	3760
rescission thereof to any person who requests a copy, within five	3761
days after receipt of the request;	3762
(c) Consults with appropriate state and local governmental	3763
agencies or their representatives, including statewide	3764
organizations of local governmental officials, industrial	3765
representatives, and other interested persons;	3766
(d) If the rule relates to agricultural pollution abatement,	3767
develops an economic impact statement concerning the effect of the	3768
proposed rule or amendment.	3769

~~(10)~~(9) Shall not conflict with air or water quality 3770
standards adopted pursuant to section 3704.03 or 6111.041 of the 3771
Revised Code. Compliance with rules adopted pursuant to this 3772
section does not affect liability for noncompliance with air or 3773
water quality standards adopted pursuant to section 3704.03 or 3774
6111.041 of the Revised Code. The application of a level of 3775
management and conservation practices recommended under this 3776
section to control windblown soil from farming operations creates 3777
a presumption of compliance with section 3704.03 of the Revised 3778
Code as that section applies to windblown soil. 3779

~~(11)~~(10) Insofar as the rules relate to urban sediment 3780
pollution, shall not be applicable in a municipal corporation or 3781
county that adopts ordinances or rules for urban sediment control, 3782
except that a municipal corporation or county that adopts such 3783
ordinances or rules may receive moneys for urban sediment control 3784
that are disbursed by the board of supervisors of the applicable 3785
soil and water conservation district under division ~~(N)~~(O) of 3786
section 1515.08 of the Revised Code. The rules shall not exempt 3787
any person from compliance with municipal ordinances enacted 3788
pursuant to Section 3 of Article XVIII, Ohio Constitution. 3789

(F) Cost share with landowners on practices established 3790
pursuant to division (E)(5) of this section as moneys are 3791
appropriated and available for that purpose. Any practice for 3792
which cost share is provided shall be maintained for its useful 3793
life. Failure to maintain a cost share practice for its useful 3794
life shall subject the landowner to full repayment to the 3795
division. 3796

(G) Issue orders requiring compliance with any rule adopted 3797
under division (E)(1) of this section ~~or with section 1511.022 of~~ 3798
~~the Revised Code.~~ Before the chief issues an order, the chief 3799
shall afford each person allegedly liable an adjudication hearing 3800
under Chapter 119. of the Revised Code. The chief may require in 3801

an order that a person who has caused ~~agricultural~~ sediment 3802
pollution by failure to comply with the standards established 3803
under division (E)(1) of this section operate under an operation 3804
and management plan approved by the chief under this section. ~~The~~ 3805
~~chief shall require in an order that a person who has failed to~~ 3806
~~comply with division (A) of section 1511.022 of the Revised Code~~ 3807
~~prepare a composting plan in accordance with rules adopted under~~ 3808
~~division (E)(8)(c) of this section and operate in accordance with~~ 3809
~~that plan or that a person who has failed to operate in accordance~~ 3810
~~with such a plan begin to operate in accordance with it. Each~~ 3811
order shall be issued in writing and contain a finding by the 3812
chief of the facts upon which the order is based and the standard 3813
that is not being met. 3814

(H) Employ field assistants and such other employees as are 3815
necessary for the performance of the work prescribed by Chapter 3816
1515. of the Revised Code, for performance of work of the 3817
division, and as agreed to under working agreements or contractual 3818
arrangements with soil and water conservation districts, prescribe 3819
their duties, and fix their compensation in accordance with such 3820
schedules as are provided by law for the compensation of state 3821
employees. 3822

All employees of the division, unless specifically exempted 3823
by law, shall be employed subject to the classified civil service 3824
laws in force at the time of employment. 3825

(I) In connection with new or relocated projects involving 3826
highways, underground cables, pipelines, railroads, and other 3827
improvements affecting soil and water resources, including surface 3828
and subsurface drainage: 3829

(1) Provide engineering service as is mutually agreeable to 3830
the Ohio soil and water conservation commission and the director 3831
to aid in the design and installation of soil and water 3832
conservation practices as a necessary component of such projects; 3833

(2) Maintain close liaison between the owners of lands on	3834
which the projects are executed, soil and water conservation	3835
districts, and authorities responsible for such projects;	3836
(3) Review plans for such projects to ensure their compliance	3837
with standards developed under division (E) of this section in	3838
cooperation with the department of transportation or with any	3839
other interested agency that is engaged in soil or water	3840
conservation projects in the state in order to minimize adverse	3841
impacts on soil and water resources adjacent to or otherwise	3842
affected by these projects;	3843
(4) Recommend measures to retard erosion and protect soil and	3844
water resources through the installation of water impoundment or	3845
other soil and water conservation practices;	3846
(5) Cooperate with other agencies and subdivisions of the	3847
state to protect the agricultural status of rural lands adjacent	3848
to such projects and control adverse impacts on soil and water	3849
resources.	3850
(J) Collect, analyze, inventory, and interpret all available	3851
information pertaining to the origin, distribution, extent, use,	3852
and conservation of the soil resources of the state;	3853
(K) Prepare and maintain up-to-date reports, maps, and other	3854
materials pertaining to the soil resources of the state and their	3855
use and make that information available to governmental agencies,	3856
public officials, conservation entities, and the public;	3857
(L) Provide soil and water conservation districts with	3858
technical assistance including on-site soil investigations and	3859
soil interpretation reports on the suitability or limitations of	3860
soil to support a particular use or to plan soil conservation	3861
measures. The assistance shall be upon such terms as are mutually	3862
agreeable to the districts and the department of natural	3863
resources.	3864

(M) Assist local government officials in utilizing land use 3865
planning and zoning, current agricultural use value assessment, 3866
development reviews, and land management activities; 3867

(N) When necessary for the purposes of this chapter or 3868
Chapter 1515. of the Revised Code, develop or approve operation 3869
and management plans. 3870

~~This section does not restrict the manure of domestic or farm 3871
animals defecated on land outside an animal feeding operation or 3872
runoff therefrom into the waters of the state. 3873~~

Sec. 1511.021. (A)(1) Any person who owns or operates 3874
agricultural land ~~or an animal feeding operation~~ may develop and 3875
operate under an operation and management plan approved by the 3876
chief of the division of soil and water resources under section 3877
1511.02 of the Revised Code or by the supervisors of the 3878
applicable soil and water conservation district under section 3879
1515.08 of the Revised Code. 3880

(2) An operation and management plan developed under division 3881
(A)(1) of this section, developed by the chief under section 3882
1511.02 of the Revised Code or by the supervisors of a soil and 3883
water conservation district under section 1515.08 of the Revised 3884
Code, or required by an order issued by the chief under division 3885
(G) of section 1511.02 of the Revised Code may include a soil 3886
erosion management plan, a timber harvest plan, or both. 3887

(B) Any person who wishes to make a complaint regarding 3888
nuisances involving ~~agricultural~~ sediment pollution may do so 3889
orally or by submitting a written, signed, and dated complaint to 3890
the chief or to the chief's designee. After receiving an oral 3891
complaint, the chief or the chief's designee may cause an 3892
investigation to be conducted to determine whether ~~agricultural~~ 3893
sediment pollution has occurred or is imminent. After receiving a 3894
written, signed, and dated complaint, the chief or the chief's 3895

designee shall cause such an investigation to be conducted. 3896

(C) In a private civil action for nuisances involving 3897
~~agricultural~~ sediment pollution, it is an affirmative defense if 3898
the person owning, operating, or otherwise responsible for 3899
agricultural land ~~or an animal feeding operation~~ is operating 3900
under and in substantial compliance with an approved operation and 3901
management plan developed under division (A) of this section, with 3902
an operation and management plan developed by the chief under 3903
section 1511.02 of the Revised Code or by the supervisors of the 3904
applicable soil and water conservation district under section 3905
1515.08 of the Revised Code, or with an operation and management 3906
plan required by an order issued by the chief under division (G) 3907
of section 1511.02 of the Revised Code. Nothing in this section is 3908
in derogation of the authority granted to the chief in division 3909
(E) of section 1511.02 and in section 1511.07 of the Revised Code. 3910

Sec. ~~1511.023~~ 1511.022. (A) Except as provided in division 3911
(B) of this section, the director of natural resources, an 3912
employee of the department of natural resources, the supervisors 3913
of a soil and water conservation district, an employee of a 3914
district, and a contractor of the department or a district shall 3915
not disclose either of the following: 3916

(1) Information, including data from geographic information 3917
systems and global positioning systems, provided by a person who 3918
owns or operates agricultural land ~~or an animal feeding operation~~ 3919
and operates under an operation and management plan; 3920

(2) Information gathered as a result of an inspection of 3921
agricultural land ~~or an animal feeding operation~~ to determine 3922
whether the person who owns or operates the land ~~or operation~~ is 3923
in compliance with an operation and management plan. 3924

(B) The director or the supervisors of a district may release 3925
or disclose information specified in division (A)(1) or (2) of 3926

this section to a person or a federal, state, or local agency 3927
working in cooperation with the chief of the division of soil and 3928
water resources or the supervisors in the development of an 3929
operation and management plan or an inspection to determine 3930
compliance with such a plan if the director or supervisors 3931
determine that the person or federal, state, or local agency will 3932
not subsequently disclose the information to another person. 3933

Sec. 1511.023. Notwithstanding any provision of the Revised 3934
Code to the contrary, the chief of the division of soil and water 3935
resources shall adopt rules in accordance with Chapter 119. of the 3936
Revised Code governing watersheds in distress. The rules shall do 3937
all of the following: 3938

(A) Define "watersheds in distress" and "nutrient management 3939
plan"; 3940

(B) Establish technically feasible and economically 3941
reasonable standards to achieve a level of management and 3942
conservation practices in farming or silvicultural operations that 3943
will abate the degradation of the waters of the state by animal 3944
waste within watersheds in distress; 3945

(C) Establish criteria for the development of nutrient 3946
management plans that address the methods, amount, form, 3947
placement, cropping system, and timing of all animal waste 3948
applications within watersheds in distress; 3949

(D) Establish requirements and procedures governing the 3950
development and the approval or disapproval of such animal waste 3951
management plans. 3952

Sec. 1511.024. (A) Except as provided in division (B) of this 3953
section, no person in the western basin shall surface apply manure 3954
under any of the following circumstances: 3955

(1) On snow-covered or frozen soil; 3956

<u>(2) When the top two inches of soil are saturated from</u>	3957
<u>precipitation;</u>	3958
<u>(3) When the local weather forecast for the application area</u>	3959
<u>contains greater than a fifty per cent chance of precipitation</u>	3960
<u>exceeding one-half inch in a twenty-four-hour period.</u>	3961
<u>(B) Division (A) of this section does not apply if a person</u>	3962
<u>in the western basin applies manure under any of the following</u>	3963
<u>circumstances:</u>	3964
<u>(1) The manure application is injected into the ground.</u>	3965
<u>(2) The manure application is incorporated within twenty-four</u>	3966
<u>hours of surface application.</u>	3967
<u>(3) The manure application is applied onto a growing crop.</u>	3968
<u>(4) In the event of an emergency, the chief of the division</u>	3969
<u>of soil and water resources provides written consent and the</u>	3970
<u>manure application is made in accordance with procedures</u>	3971
<u>established in the United States department of agriculture natural</u>	3972
<u>resources conservation service practice standard code 590 prepared</u>	3973
<u>for this state.</u>	3974
<u>(C)(1) Upon receiving a complaint by any person or upon</u>	3975
<u>receiving information that would indicate a violation of this</u>	3976
<u>section, the chief or the chief's designee may investigate or make</u>	3977
<u>inquiries into any alleged failure to comply with this section.</u>	3978
<u>(2) After receiving a complaint by any person or upon</u>	3979
<u>receiving information that would indicate a violation of this</u>	3980
<u>section, the chief or the chief's designee may enter at reasonable</u>	3981
<u>times on any private or public property to inspect and investigate</u>	3982
<u>conditions relating to any such alleged failure to comply with</u>	3983
<u>this section.</u>	3984
<u>(3) If an individual denies access to the chief or the</u>	3985
<u>chief's designee, the chief may apply to a court of competent</u>	3986

jurisdiction in the county in which the premises is located for a 3987
search warrant authorizing access to the premises for the purposes 3988
of this section. 3989

(4) The court shall issue the search warrant for the purposes 3990
requested if there is probable cause to believe that the person is 3991
not in compliance with this section. The finding of probable cause 3992
may be based on hearsay, provided that there is a reasonable basis 3993
for believing that the source of the hearsay is credible. 3994

(D) This section does not affect any restrictions established 3995
in Chapter 903. of the Revised Code or otherwise apply to those 3996
entities or facilities that are permitted as concentrated animal 3997
feeding facilities under that chapter. 3998

Sec. 1511.025. (A) The chief of the division of soil and 3999
water resources may assess a civil penalty against a person that 4000
violates section 1511.024 of the Revised Code. The chief may 4001
impose a civil penalty only if the chief affords the person an 4002
opportunity for an adjudication hearing under Chapter 119. of the 4003
Revised Code to challenge the chief's determination that the 4004
person violated section 1511.024 of the Revised Code. The person 4005
may waive the right to an adjudication hearing. 4006

(B) If the opportunity for an adjudication hearing is waived 4007
or if, after an adjudication hearing, the chief determines that a 4008
violation has occurred or is occurring, the chief may issue an 4009
order requiring compliance with section 1511.024 of the Revised 4010
Code and assess the civil penalty. The order and the assessment of 4011
the civil penalty may be appealed in accordance with section 4012
119.12 of the Revised Code. 4013

(C) A person that has violated section 1511.024 of the 4014
Revised Code shall pay a civil penalty in an amount established in 4015
rules. Each thirty-day period during which a violation continues 4016
constitutes a separate violation. 4017

(D) The chief shall adopt rules in accordance with Chapter 4018
119. of the Revised Code that establish the amount of the civil 4019
penalty assessed under this section. The civil penalty shall be 4020
not more than ten thousand dollars for each violation. 4021

Sec. 1511.05. The chief of the division of soil and water 4022
resources, subject to approval of the terms of the agreement by 4023
the Ohio soil and water conservation commission, shall enter into 4024
cooperative agreements with the board of supervisors of any soil 4025
and water conservation district desiring to enter into such 4026
agreements pursuant to section 1515.08 of the Revised Code. Such 4027
agreements shall be entered into to obtain compliance with rules 4028
and orders of the chief pertaining to ~~agricultural~~ sediment 4029
pollution abatement and urban sediment pollution abatement. 4030

The chief or any person designated by the chief may upon 4031
obtaining agreement with the owner, tenant, or manager of any 4032
land, public or private, enter thereon to make inspections to 4033
determine whether or not there is compliance with the rules 4034
adopted under division (E)(1) of section 1511.02 of the Revised 4035
Code. Upon reason to believe there is a violation, the chief or 4036
the chief's designee may apply for and a judge of the court of 4037
common pleas for the county where the land is located may issue an 4038
appropriate inspection warrant as necessary to achieve the 4039
purposes of this chapter. 4040

Sec. 1511.07. (A)(1) No person shall fail to comply with an 4041
order of the chief of the division of soil and water resources 4042
issued pursuant to division (G) of section 1511.02 of the Revised 4043
Code. 4044

(2) In addition to the remedies provided and irrespective of 4045
whether an adequate remedy at law exists, the chief may apply to 4046
the court of common pleas in the county where a violation of a 4047

standard established under division (E)(1) ~~or (8)(b)~~ of section 4048
1511.02 of the Revised Code causes pollution of the waters of the 4049
state for an order to compel the violator to cease the violation 4050
and to ~~remove the agricultural pollutant or to~~ comply with the 4051
~~rules adopted~~ standards established under that division ~~(E)(8)(b)~~ 4052
~~of that section, as appropriate.~~ 4053

(3) In addition to the remedies provided and irrespective of 4054
whether an adequate remedy at law exists, whenever the chief 4055
officially determines that an emergency exists because of 4056
~~agricultural~~ sediment pollution ~~or an unauthorized release, spill,~~ 4057
~~or discharge of manure, or a violation of a rule adopted under~~ 4058
~~division (E)(8)(b) of section 1511.02 of the Revised Code, that~~ 4059
causes pollution of the waters of the state, the chief may, 4060
without notice or hearing, issue an order reciting the existence 4061
of the emergency and requiring that necessary action be taken to 4062
meet the emergency. The order shall be effective immediately. Any 4063
person to whom the order is directed shall comply with the order 4064
immediately, but on application to the chief shall be afforded a 4065
hearing as soon as possible, but not later than twenty days after 4066
making the application. On the basis of the hearing, the chief 4067
shall continue the order in effect, revoke it, or modify it. No 4068
emergency order shall remain in effect for more than sixty days 4069
after its issuance. If a person to whom an order is issued does 4070
not comply with the order within a reasonable period, as 4071
determined by the chief, the chief or the chief's designee may 4072
enter upon private or public lands and take action to mitigate, 4073
minimize, remove, or abate the ~~agricultural~~ sediment pollution, 4074
~~release, spill, discharge, or conditions caused by the violation~~ 4075
~~of the rule.~~ 4076

(B) The attorney general, upon the written request of the 4077
chief, shall bring appropriate legal action in Franklin county 4078
against any person who fails to comply with an order of the chief 4079

issued pursuant to division (G) of section 1511.02 of the Revised Code. 4080
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Sec. 1511.09. The soil and water resources administration fund is hereby created in the state treasury. The fund shall consist of money credited to it from all fines, penalties, costs, and damages, except court costs, that are collected either by the chief of the division of soil and water resources or the attorney general in consequence of any violation of this chapter or rules adopted or orders issued under it. The chief shall use money in the fund to administer and enforce this chapter and rules adopted under it. 4082
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Sec. 1511.99. Whoever violates division (A) of section 1511.07 of the Revised Code is guilty of a misdemeanor of the first degree. Each day of violation is a separate offense. In addition to the penalty provided in this division, the sentencing court may assess damages in an amount equal to the costs of reclaiming, restoring, or otherwise repairing any damage to public or private property caused by any violation of division (A) of section 1511.07 of the Revised Code. All fines and moneys assessed as damages under this section shall be paid into the ~~agricultural pollution abatement~~ soil and water resources administration fund created in section ~~1511.071~~ 1511.09 of the Revised Code. 4091
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Sec. 1514.09. The reclamation commission established pursuant to section 1513.05 of the Revised Code shall serve as the reclamation commission pursuant to this chapter. However, whenever the commission is considering any appeal pertaining to surface or in-stream mining, as distinguished from coal strip mining, the member representing the coal strip mine operators shall be replaced by a person who, by reason of the person's previous vocation, employment, or affiliations, can be classed as a 4102
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representative of surface or in-stream mine operators, as 4110
applicable. The appointment of that person shall be made in 4111
accordance with section 1513.05 of the Revised Code, and the 4112
person's term shall be concurrent with that of the representative 4113
of the coal strip mine operators. 4114

No party to an appeal brought under this section shall be 4115
eligible for an award of attorney's fees, costs, or expenses from 4116
the commission or any court. 4117

~~Notwithstanding section 1513.13 of the Revised Code, an 4118
operator may appeal the determination of the chief of the division 4119
of mineral resources management that is made under division (D) of 4120
section 1514.43 of the Revised Code within ten days after the 4121
operator receives a copy of the determination. 4122~~

Notwithstanding section 1513.14 of the Revised Code, appeals 4123
from an order of the commission pertaining to surface or in-stream 4124
mining may be taken to the court of common pleas of the county in 4125
which the operation is located, or to the court of common pleas of 4126
Franklin county. 4127

Sec. 1514.11. In addition to the purposes authorized in 4128
section 1514.06 of the Revised Code, the chief of the division of 4129
mineral resources management may use moneys in the surface mining 4130
fund created under that section for the administration and 4131
enforcement of this chapter, for the reclamation of land affected 4132
by surface or in-stream mining under a permit issued under this 4133
chapter that the operator failed to reclaim and for which the 4134
performance bond filed by the operator is insufficient to complete 4135
the reclamation, and for the reclamation of land affected by 4136
surface or in-stream mining that was abandoned and left 4137
unreclaimed and for which no permit was issued or bond filed under 4138
this chapter. Also, the chief may use the portion of the surface 4139
mining fund that consists of moneys collected from the severance 4140

taxes levied under section 5749.02 of the Revised Code for ~~mine~~ 4141
~~safety and~~ first aid training. For purposes of this section, the 4142
chief shall expend moneys in the fund in accordance with the 4143
procedures and requirements established in section 1514.06 of the 4144
Revised Code and may enter into contracts and perform work in 4145
accordance with that section. 4146

Fees collected under sections 1514.02 and 1514.03 of the 4147
Revised Code, one-half of the moneys collected from the severance 4148
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 4149
the Revised Code, and all of the moneys collected from the 4150
severance tax levied under division (A)(7) of section 5749.02 of 4151
the Revised Code shall be credited to the fund in accordance with 4152
those sections. Notwithstanding any section of the Revised Code 4153
relating to the distribution or crediting of fines for violations 4154
of the Revised Code, all fines imposed under section 1514.99 of 4155
the Revised Code shall be credited to the fund. 4156

Sec. 1515.01. As used in this chapter: 4157

(A) "Soil and water conservation district" means a district 4158
organized in accordance with this chapter. 4159

(B) "Supervisor" means one of the members of the governing 4160
body of a district. 4161

(C) "Landowner," "owner," or "owner of land" means an owner 4162
of record as shown by the records in the office of the county 4163
recorder. With respect to an improvement or a proposed 4164
improvement, "landowner," "owner," or "owner of land" also 4165
includes any public corporation and the director of any 4166
department, office, or institution of the state that is affected 4167
by the improvement or that would be affected by the proposed 4168
improvement, but that does not own any right, title, estate, or 4169
interest in or to any real property. 4170

(D) "Land occupier" or "occupier of land" means any person, 4171
firm, or corporation that controls the use of land whether as 4172
landowner, lessee, renter, or tenant. 4173

(E) "Due notice" means notice published at least twice, 4174
stating time and place, with an interval of at least thirteen days 4175
between the two publication dates, in a newspaper of general 4176
circulation within a soil and water conservation district. 4177

~~(F) "Agricultural pollution" means failure to use management 4178
or conservation practices in farming or silvicultural operations 4179
to abate wind or water erosion of the soil or to abate the 4180
degradation of the waters of the state by residual farm products, 4181
manure, or soil sediment, including substances attached thereto. 4182~~

~~(G)~~ "Urban sediment pollution" means failure to use 4183
management or conservation practices to abate wind or water 4184
erosion of the soil or to abate the degradation of the waters of 4185
the state by soil sediment in conjunction with land grading, 4186
excavating, filling, or other soil disturbing activities on land 4187
used or being developed for nonfarm commercial, industrial, 4188
residential, or other nonfarm purposes, except lands being used in 4189
a strip mine operation as defined in section 1513.01 of the 4190
Revised Code and except lands being used in a surface mining 4191
operation as defined in section 1514.01 of the Revised Code. 4192

~~(H)~~(G) "Uniform assessment" means an assessment that is both 4193
of the following: 4194

(1) Based upon a complete appraisal of each parcel of land, 4195
together with all improvements thereon, within a project area and 4196
of the benefits or damages brought about as a result of the 4197
project that is determined by criteria applied equally to all 4198
parcels within the project area; 4199

(2) Levied upon the parcels at a uniform rate on the basis of 4200
the appraisal. 4201

~~(I)~~(H) "Varied assessment" means any assessment that does not 4202
meet the criteria established in division ~~(H)~~(G) of this section. 4203

~~(J)~~(I) "Project area" means an area determined and certified 4204
by the supervisors of a soil and water conservation district under 4205
section 1515.19 of the Revised Code. 4206

~~(K)~~(J) "Benefit" or "benefits" means advantages to land and 4207
owners, to public corporations, and to the state resulting from 4208
drainage, conservation, control, and management of water and from 4209
environmental, wildlife, and recreational improvements. "Benefit" 4210
or "benefits" includes, but is not limited to, any of the 4211
following factors: 4212

(1) Elimination or reduction of damage from flooding; 4213

(2) Removal of water conditions that jeopardize public 4214
health, safety, or welfare; 4215

(3) Increased value of land resulting from an improvement; 4216

(4) Use of water for irrigation, storage, regulation of 4217
stream flow, soil conservation, water supply, or any other 4218
incidental purpose; 4219

(5) Providing an outlet for the accelerated runoff from 4220
artificial drainage if a stream, watercourse, channel, or ditch 4221
that is under improvement is called upon to discharge functions 4222
for which it was not designed. Uplands that have been removed from 4223
their natural state by deforestation, cultivation, artificial 4224
drainage, urban development, or other human methods shall be 4225
considered to be benefited by an improvement that is required to 4226
dispose of the accelerated flow of water from the uplands. 4227

~~(L)~~(K) "Improvement" or "conservation works of improvement" 4228
means an improvement that is made under the authority established 4229
in division (C) of section 1515.08 of the Revised Code. 4230

~~(M)~~(L) "Land" has the same meaning as in section 6131.01 of 4231

the Revised Code. 4232

~~(N)~~ "Manure," ~~"operation~~ (M) "Operation and management plan," 4233
and "~~residual farm products sediment pollution~~" have the same 4234
meanings as in section 1511.01 of the Revised Code. 4235

~~(O)~~(N) "Voluntary nutrient management plan" has the same 4236
meaning as in section 905.31 of the Revised Code. 4237

(O) "Agricultural pollution," "animal feeding operation," and 4238
"nutrient utilization plan" have the same meanings as in section 4239
939.01 of the Revised Code. 4240

Sec. 1515.08. The supervisors of a soil and water 4241
conservation district have the following powers in addition to 4242
their other powers: 4243

(A) To conduct surveys, investigations, and research relating 4244
to the character of soil erosion, floodwater and sediment damages, 4245
and the preventive and control measures and works of improvement 4246
for flood prevention and the conservation, development, 4247
utilization, and disposal of water needed within the district, and 4248
to publish the results of those surveys, investigations, or 4249
research, provided that no district shall initiate any research 4250
program except in cooperation or after consultation with the Ohio 4251
agricultural research and development center; 4252

(B) To develop plans for the conservation of soil resources, 4253
for the control and prevention of soil erosion, and for works of 4254
improvement for flood prevention and the conservation, 4255
development, utilization, and disposal of water within the 4256
district, and to publish those plans and information; 4257

(C) To implement, construct, repair, maintain, and operate 4258
preventive and control measures and other works of improvement for 4259
natural resource conservation and development and flood 4260
prevention, and the conservation, development, utilization, and 4261

disposal of water within the district on lands owned or controlled 4262
by this state or any of its agencies and on any other lands within 4263
the district, which works may include any facilities authorized 4264
under state or federal programs, and to acquire, by purchase or 4265
gift, to hold, encumber, or dispose of, and to lease real and 4266
personal property or interests in such property for those 4267
purposes; 4268

(D) To cooperate or enter into agreements with any occupier 4269
of lands within the district in the carrying on of natural 4270
resource conservation operations and works of improvement for 4271
flood prevention and the conservation, development, utilization, 4272
and management of natural resources within the district, subject 4273
to such conditions as the supervisors consider necessary; 4274

(E) To accept donations, gifts, grants, and contributions in 4275
money, service, materials, or otherwise, and to use or expend them 4276
according to their terms; 4277

(F) To adopt, amend, and rescind rules to carry into effect 4278
the purposes and powers of the district; 4279

(G) To sue and plead in the name of the district, and be sued 4280
and impleaded in the name of the district, with respect to its 4281
contracts and, as indicated in section 1515.081 of the Revised 4282
Code, certain torts of its officers, employees, or agents acting 4283
within the scope of their employment or official responsibilities, 4284
or with respect to the enforcement of its obligations and 4285
covenants made under this chapter; 4286

(H) To make and enter into all contracts, leases, and 4287
agreements and execute all instruments necessary or incidental to 4288
the performance of the duties and the execution of the powers of 4289
the district under this chapter, provided that all of the 4290
following apply: 4291

(1) Except as provided in section 307.86 of the Revised Code 4292

regarding expenditures by boards of county commissioners, when the 4293
cost under any such contract, lease, or agreement, other than 4294
compensation for personal services or rental of office space, 4295
involves an expenditure of more than the amount established in 4296
that section regarding expenditures by boards of county 4297
commissioners, the supervisors shall make a written contract with 4298
the lowest and best bidder after advertisement, for not less than 4299
two nor more than four consecutive weeks preceding the day of the 4300
opening of bids, in a newspaper of general circulation within the 4301
district or as provided in section 7.16 of the Revised Code and in 4302
such other publications as the supervisors determine. The notice 4303
shall state the general character of the work and materials to be 4304
furnished, the place where plans and specifications may be 4305
examined, and the time and place of receiving bids. 4306

(2) Each bid for a contract shall contain the full name of 4307
every person interested in it. 4308

(3) Each bid for a contract for the construction, demolition, 4309
alteration, repair, or reconstruction of an improvement shall meet 4310
the requirements of section 153.54 of the Revised Code. 4311

(4) Each bid for a contract, other than a contract for the 4312
construction, demolition, alteration, repair, or reconstruction of 4313
an improvement, at the discretion of the supervisors, may be 4314
accompanied by a bond or certified check on a solvent bank in an 4315
amount not to exceed five per cent of the bid, conditioned that, 4316
if the bid is accepted, a contract shall be entered into. 4317

(5) The supervisors may reject any and all bids. 4318

(I) To make agreements with the department of natural 4319
resources giving it control over lands of the district for the 4320
purpose of construction of improvements by the department under 4321
section 1501.011 of the Revised Code; 4322

(J) To charge, alter, and collect rentals and other charges 4323

for the use or services of any works of the district; 4324

(K) To enter, either in person or by designated 4325
representatives, upon lands, private or public, in the necessary 4326
discharge of their duties; 4327

(L) To enter into agreements or contracts with the department 4328
for the determination, implementation, inspection, and funding of 4329
~~agricultural~~ sediment pollution abatement and urban sediment 4330
pollution abatement measures whereby landowners, operators, 4331
managers, and developers may meet adopted state standards for a 4332
quality environment, except that failure of a district board of 4333
supervisors to negotiate an agreement or contract with the 4334
department shall authorize the division of soil and water 4335
resources to implement the required program; 4336

(M) To enter into agreements or contracts with the department 4337
of agriculture for the determination, implementation, inspection, 4338
and funding of agricultural pollution abatement measures whereby 4339
landowners, operators, and managers may meet adopted state 4340
standards for a quality environment, except that failure of a 4341
district board of supervisors to negotiate an agreement or 4342
contract with that department shall authorize the department to 4343
implement the required program; 4344

(N) To conduct demonstrations and provide information to the 4345
public regarding practices and methods for natural resource 4346
conservation, development, and utilization; 4347

~~(N)~~(O) To enter into contracts or agreements with the chief 4348
of the division of soil and water resources to implement and 4349
administer a program for urban sediment pollution abatement and to 4350
receive and expend moneys provided by the chief for that purpose; 4351

~~(O)~~(P) To develop operation and management plans as 4352
necessary; 4353

~~(P)~~(O) To determine whether operation and management plans 4354

developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land ~~or an animal feeding operation~~ in accordance with an approved operation and management plan who, in good faith, is following that plan, causes ~~agricultural~~ sediment pollution, the plan shall be revised in a fashion necessary to mitigate the ~~agricultural~~ sediment pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

~~(Q)~~(R) To develop nutrient utilization plans as necessary;

(S) To determine whether nutrient utilization plans developed under division (A) of section 939.03 of the Revised Code comply with the standards established in rules adopted under division (C)(1) of section 939.02 of the Revised Code and to approve or disapprove the plans based on such compliance. If a nutrient utilization plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the director of agriculture who shall afford the person a hearing. Following the hearing, the director shall uphold the plan disapproval or reverse it. If the director reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that a person operating or owning agricultural land or an animal feeding operation in

accordance with an approved nutrient utilization plan who, in good 4387
faith, is following that plan causes agricultural pollution, the 4388
plan shall be revised in a manner necessary to mitigate the 4389
agricultural pollution as determined and approved by the board of 4390
supervisors of the soil and water conservation district. 4391

(T) With regard to composting conducted in conjunction with 4392
agricultural operations, to do all of the following: 4393

(1) Upon request or upon their own initiative, inspect 4394
composting at any such operation to determine whether the 4395
composting is being conducted in accordance with section ~~1511.022~~ 4396
939.04 of the Revised Code; 4397

(2) If the board determines that composting is not being so 4398
conducted, request the ~~chief director of agriculture to issue an~~ 4399
~~order under division (C) of section 1511.02 of the Revised Code~~ 4400
~~requiring~~ take corrective actions under section 939.09 of the 4401
Revised Code that require the person who is conducting the 4402
composting to prepare a composting plan in accordance with rules 4403
adopted under division ~~(E)(8)(e)(C)(5)(a)~~ of ~~that~~ section 939.02 4404
of the Revised Code and to operate in accordance with that plan or 4405
to operate in accordance with a previously prepared plan, as 4406
applicable; 4407

(3) In accordance with rules adopted under division 4408
~~(E)(8)(e)(C)(5)(b)~~ of section ~~1511.02~~ 939.02 of the Revised Code, 4409
review and approve or disapprove any such composting plan. If a 4410
plan is disapproved, the board shall provide a written explanation 4411
to the person who submitted the plan. 4412

As used in division ~~(Q)(T)~~ of this section, "composting" has 4413
the same meaning as in section ~~1511.01~~ 939.01 of the Revised Code. 4414

~~(R)(U)~~ With regard to conservation activities that are 4415
conducted in conjunction with agricultural operations, to assist 4416
the county auditor, upon request, in determining whether a 4417

conservation activity is a conservation practice for purposes of 4418
Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the 4419
Revised Code. 4420

As used in this division, "conservation practice" has the 4421
same meaning as in section 5713.30 of the Revised Code. 4422

~~(S)~~(V) To develop and approve or disapprove voluntary 4423
nutrient management plans in accordance with section 905.323 of 4424
the Revised Code; 4425

~~(T)~~(W) To do all acts necessary or proper to carry out the 4426
powers granted in this chapter. 4427

The director of natural resources shall make recommendations 4428
to reduce the adverse environmental effects of each project that a 4429
soil and water conservation district plans to undertake under 4430
division (A), (B), (C), or (D) of this section and that will be 4431
funded in whole or in part by moneys authorized under section 4432
1515.16 of the Revised Code and shall disapprove any such project 4433
that the director finds will adversely affect the environment 4434
without equal or greater benefit to the public. The director's 4435
disapproval or recommendations, upon the request of the district 4436
filed in accordance with rules adopted by the Ohio soil and water 4437
conservation commission, shall be reviewed by the commission, 4438
which may confirm the director's decision, modify it, or add 4439
recommendations to or approve a project the director has 4440
disapproved. 4441

Any instrument by which real property is acquired pursuant to 4442
this section shall identify the agency of the state that has the 4443
use and benefit of the real property as specified in section 4444
5301.012 of the Revised Code. 4445

Sec. 1522.10. As used in sections 1522.10 to 1522.21 of the 4446
Revised Code: 4447

(A) "Baseline facility" means a facility identified in the 4448
baseline report or a facility added to the baseline report under 4449
section 1522.16 of the Revised Code. 4450

(B) "Baseline facility abandonment" means the voluntary and 4451
affirmative termination of a baseline facility's withdrawal and 4452
consumptive use capacity as listed in the baseline report. 4453
"Baseline facility abandonment" does not include the nonuse or the 4454
transfer of a baseline facility's withdrawal and consumptive use 4455
capacity unless either of the following applies: 4456

(1) The nonuse continues for fifteen consecutive years for a 4457
facility with a potential withdrawal from Lake Erie or a 4458
recognized navigational channel and the nonuse is not extended in 4459
accordance with division (B) of section 1522.16 of the Revised 4460
Code. 4461

(2) For a facility to which division (B)(1) of this section 4462
does not apply, the nonuse continues for thirty-six consecutive 4463
months and is not extended in accordance with division (B) of 4464
section 1522.16 of the Revised Code. 4465

(C) "Baseline report" means a list of the withdrawal and 4466
consumptive use capacities of facilities that was developed for 4467
purposes of Section 4.12 of the great lakes-st. Lawrence river 4468
basin water resources compact by the department of natural 4469
resources and submitted to the great lakes-st. Lawrence river 4470
basin water resources council on December 8, 2009. 4471

(D) "Capacity" means the ability of a facility's pumps, 4472
pipes, and other appurtenances to withdraw water presented in 4473
terms of withdrawal capacity, treatment capacity, distribution 4474
capacity, or other capacity-limiting factors. 4475

(E) "Compact" means the great lakes-st. Lawrence river basin 4476
water resources compact set forth in section 1522.01 of the 4477
Revised Code. 4478

(F) "Consumptive use" has the same meaning as in section 4479
1522.01 of the Revised Code. For purposes of determining a new or 4480
increased capacity for consumptive use, "consumptive use" is the 4481
use based on a coefficient of consumptive use generally accepted 4482
in the scientific community that most accurately reflects the 4483
process at a facility or the use based on facility specific data, 4484
whichever is more accurate. 4485

(G) "Diversion" has the same meaning as in section 1522.01 of 4486
the Revised Code. 4487

(H) "Facility" means any site, installation, or building at 4488
which water withdrawal and consumptive use activities take place 4489
or are proposed to take place, that is located at a property or on 4490
contiguous properties, and that is under the direction of either a 4491
private or public entity. "Facility" includes any site, 4492
installation, building, or service area of a public water system 4493
at or within which water withdrawal and consumptive use activities 4494
take place. 4495

(I) "Facility abandonment" means the voluntary and 4496
affirmative termination of a facility's withdrawal and consumptive 4497
use capacity as listed in a withdrawal and consumptive use permit 4498
issued under section 1522.12 of the Revised Code. "Facility 4499
abandonment" does not include the nonuse or the transfer of a 4500
facility's withdrawal and consumptive use capacity unless either 4501
of the following applies: 4502

(1) The nonuse continues for fifteen consecutive years for a 4503
facility with a potential withdrawal from Lake Erie or a 4504
recognized navigational channel and the nonuse is not extended in 4505
accordance with division (B) of section 1522.16 of the Revised 4506
Code. 4507

(2) For a facility to which division (I)(1) of this section 4508
does not apply, the nonuse continues for thirty-six consecutive 4509

months and is not extended in accordance with division (B) of 4510
section 1522.16 of the Revised Code. 4511

(J) "High quality water" means a river or stream segment that 4512
has been designated by the environmental protection agency under 4513
Chapter 3745-1 of the Administrative Code as an exceptional warm 4514
water habitat, cold water habitat, outstanding state water, or 4515
superior high-quality water. 4516

(K) "Increased capacity" does not include any capacity that 4517
results from alterations or changes made at a facility that 4518
replace existing capacity without increasing the capacity of the 4519
facility. 4520

(L) "Public water system" has the same meaning as in section 4521
6109.01 of the Revised Code. 4522

(M) "Recognized navigation channel" means that portion of a 4523
river or stream extending from bank to bank that is a direct 4524
tributary of Lake Erie and that, as of ~~the effective date of this~~ 4525
~~section~~ September 4, 2012, is a state or federally maintained 4526
navigation channel. 4527

(N) "River or stream" means a body of water running or 4528
flowing, either continually or intermittently, on the earth's 4529
surface or a channel in which such flow occurs. 4530

(O) "Water" means ground or surface water contained within 4531
the basin of the Lake Erie source watershed. 4532

(P) "Long-term mean annual runoff" means the total volume of 4533
runoff from all streams and direct overland flow from the state's 4534
portion of the Lake Erie basin into Lake Erie for a specified 4535
period of time as calculated by the chief of the division of soil 4536
and water resources under division (D) of section 1522.13 of the 4537
Revised Code. 4538

(Q) "Lake Erie low water datum" means the low water datum 4539

established for Lake Erie by the coordinating committee on Great Lakes basic hydraulic and hydrologic data, which is set at an elevation of 569.2 (IGLD-1985). 4540
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(R) "Average Lake Erie water level" means the average monthly lake level as calculated by the national oceanic and atmospheric administration from four water level gauges located at Toledo, Cleveland, Port Stanley, and Port Colborne. 4543
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(S) "Consumptive use total" means the total consumptive use in the Lake Erie basin by all water withdrawal facilities registered under section 1521.16 of the Revised Code during 2013. 4547
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Sec. 1522.13. (A) The chief of the division of soil and water resources shall issue a withdrawal and consumptive use permit for a facility if the chief determines that the facility meets all of the ~~criteria established in Section 4.11 of the compact.~~ 4550
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~~(B) In applying the provision of the decision making standard established in Section 4.11.2 of the compact, the chief shall require that a following:~~ 4555
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(1) All water withdrawn is returned, either naturally or after use, to the source watershed less an allowance for consumptive use. 4558
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(2) A withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of the great lakes basin considered as a whole or of the Lake Erie source watershed considered as a whole. ~~As part of the evaluation of a permit application under Section 4.11.2 of the compact~~ 4561
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(a)(i) If the individual or cumulative consumptive uses are 4569

at or below the consumptive use total, it is presumed that the 4570
consumptive uses will result in no significant individual or 4571
cumulative adverse impacts to the quantity or quality of the 4572
waters and water dependent natural resources of the great lakes 4573
basin considered as a whole or of the Lake Erie watershed 4574
considered as a whole. 4575

(ii) If the individual or cumulative consumptive uses are 4576
above the consumptive use total and the consumptive uses will 4577
result in not more than one per cent of the long-term mean annual 4578
runoff from the state's portion of the Lake Erie basin and when 4579
the average Lake Erie water level is at least one-half foot above 4580
the Lake Erie low water datum for any month during the preceding 4581
twelve months, it is presumed that the consumptive uses will 4582
result in no significant individual or cumulative adverse impacts 4583
to the quantity or quality of the waters and water dependent 4584
natural resources of the great lakes basin considered as a whole 4585
or of the Lake Erie watershed considered as a whole. Proposed 4586
individual consumptive uses shall be factored into the existing 4587
cumulative consumptive use total prior to permit issuance. 4588

(b) If the chief's evaluation of a proposal refutes the 4589
presumptions described in divisions (A)(2)(a)(i) and (ii) of this 4590
section, the chief shall do all of the following: 4591

(1)(i) Rely on the best generally accepted scientific methods 4592
appropriate for this state derived from professionally accepted 4593
resources and practices; 4594

(2)(ii) Consider the long-term mean annual inflow and outflow 4595
of the Lake Erie source watershed; 4596

(3)(iii) Consider the withdrawal and the portion of the 4597
withdrawal that is not returned to the Lake Erie source watershed. 4598

(C)(3) The withdrawal or consumptive use will be implemented 4599
so as to incorporate environmentally sound and economically 4600

feasible water conservation measures. 4601

(4) The withdrawal or consumptive use will be implemented so 4602
as to ensure that it is in compliance with all applicable 4603
municipal, state, and federal laws as well as regional interstate 4604
and international agreements, including the Boundary Waters Treaty 4605
of 1909. 4606

(5) The proposed use is reasonable, based on a consideration 4607
of the following factors: 4608

(a) Whether the proposed withdrawal or consumptive use is 4609
planned in a fashion that provides for efficient use of the water 4610
and will avoid or minimize the waste of water; 4611

(b) If the proposal is for an increased withdrawal or 4612
consumptive use, whether efficient use is made of existing water 4613
supplies; 4614

(c) The balance between economic development, social 4615
development, and environmental protection of the proposed 4616
withdrawal and use and other existing or planned withdrawals and 4617
water uses sharing the water source; 4618

(d) The supply potential of the water source, considering 4619
quantity, quality, and reliability and safe yield of 4620
hydrologically interconnected water sources; 4621

(e) The probable degree and duration of any adverse impacts 4622
caused or expected to be caused by the proposed withdrawal and use 4623
under foreseeable conditions, to other lawful consumptive or 4624
nonconsumptive uses of water, or to the quantity or quality of the 4625
waters and water dependent natural resources of the basin, and the 4626
proposed plans and arrangements for avoidance or mitigation of 4627
such impacts. 4628

If a proposal includes restoration of hydrologic conditions 4629
and functions of the source watershed, the party may consider 4630

that. 4631

(B) Impacts of a withdrawal or consumptive use on the 4632
quantity or quality of waters and water dependent natural 4633
resources of more localized areas that affect less than the great 4634
lakes basin considered as a whole or the Lake Erie source 4635
watershed considered as a whole shall be considered as a part of 4636
the evaluation of whether a proposed withdrawal or consumptive use 4637
is reasonable ~~as provided in Section 4.11.5 of the compact.~~ 4638

~~(D)~~(C) The chief shall not submit an application for a 4639
withdrawal and consumptive use permit for regional review under 4640
Section 4.5.2(c)(ii) of the compact to the regional body as 4641
defined in Section 1.2 of the compact unless regional review is 4642
agreed to by the applicant. 4643

~~(E)~~(D)(1) The chief shall calculate the long-term mean annual 4644
runoff for the state's portion of the Lake Erie basin utilizing 4645
the best available data, including United States geological survey 4646
stream gauge data, United States army corps of engineers stream 4647
gauge data, and natural resources conservation service stream 4648
gauge data, and any other data the chief determines to be 4649
appropriate. 4650

(2) The period of record shall be fifty years prior to the 4651
effective date of this amendment or the total period of record, 4652
whichever is less. 4653

(3) The chief shall recalculate the long-term mean annual 4654
runoff every ten years utilizing the best available data for the 4655
most recent, previous fifty years, or the total period of record, 4656
whichever is less. 4657

(E) Nothing in sections 1522.10 to 1522.21 of the Revised 4658
Code shall be construed to affect, limit, diminish, or impair any 4659
rights validly established and existing under the laws of this 4660
state as of December 8, 2008, including, but not limited to, 4661

sections 1506.10 and 1521.17 of the Revised Code, or to limit a person's right to the reasonable use of ground water, water in a lake, or any other watercourse in contravention of Section 19b of Article I, Ohio Constitution.

Sec. 1522.25. (A) Nothing in sections 1522.02 to 1522.21 of the Revised Code precludes a municipal corporation the boundaries of which are located in both the Lake Erie drainage basin and the Ohio river drainage basin from drilling wells in the Lake Erie drainage basin to supply its public water system, provided that the aggregate withdrawal capacity of those wells does not exceed more than one million gallons per day and provided that the municipal corporation complies with all applicable requirements governing those wells.

(B) As used in this section, "public water system" has the same meaning as in section 6109.01 of the Revised Code.

Sec. 1533.081. (A) As used in this section:

(1) "Energy facility" has the same meaning as in section 1551.01 of the Revised Code means wind turbines and associated facilities with a single interconnection to the electrical grid that are designated for, or capable of, operation at an aggregate capacity of five or more megawatts.

(2) "Energy facility Incidental taking" means a facility at which energy is produced the killing or injuring of a wild animal occurring by chance or without intention.

(B) A person operating an energy facility whose operation may result in the incidental taking of a wild animal shall obtain a permit ~~to do so~~ for such an incidental taking from the chief of the division of wildlife under this section. The chief shall adopt rules under section 1531.10 of the Revised Code that are necessary to administer this section. The rules may include the

establishment of a fee for such a permit. 4692

Sec. 1533.12. (A)(1) Except as otherwise provided in division 4693
(A)(2) of this section, every person on active duty in the armed 4694
forces of the United States who is stationed in this state and who 4695
wishes to engage in an activity for which a license, permit, or 4696
stamp is required under this chapter first shall obtain the 4697
requisite license, permit, or stamp. Such a person is eligible to 4698
obtain a resident hunting or fishing license regardless of whether 4699
the person qualifies as a resident of this state. To obtain a 4700
resident hunting or fishing license, the person shall present a 4701
card or other evidence identifying the person as being on active 4702
duty in the armed forces of the United States and as being 4703
stationed in this state. 4704

(2) Every person on active duty in the armed forces of the 4705
United States, while on leave or furlough, may take or catch fish 4706
of the kind lawfully permitted to be taken or caught within the 4707
state, may hunt any wild bird or wild quadruped lawfully permitted 4708
to be hunted within the state, and may trap fur-bearing animals 4709
lawfully permitted to be trapped within the state, without 4710
procuring a fishing license, a hunting license, a fur taker 4711
permit, or a wetlands habitat stamp required by this chapter, 4712
provided that the person shall carry on the person when fishing, 4713
hunting, or trapping, a card or other evidence identifying the 4714
person as being on active duty in the armed forces of the United 4715
States, and provided that the person is not otherwise violating 4716
any of the hunting, fishing, and trapping laws of this state. 4717

In order to hunt deer or wild turkey, any such person shall 4718
obtain a deer or wild turkey permit, as applicable, under section 4719
1533.11 of the Revised Code. However, the person need not obtain a 4720
hunting license in order to obtain such a permit. 4721

(B) The chief of the division of wildlife shall provide by 4722

rule adopted under section 1531.10 of the Revised Code all of the 4723
following: 4724

(1) Every resident of this state with a disability that has 4725
been determined by the veterans administration to be permanently 4726
and totally disabling, who receives a pension or compensation from 4727
the veterans administration, and who received an honorable 4728
discharge from the armed forces of the United States, and every 4729
veteran to whom the registrar of motor vehicles has issued a set 4730
of license plates under section 4503.41 of the Revised Code, shall 4731
be issued a fishing license, hunting license, fur taker permit, 4732
deer or wild turkey permit, or wetlands habitat stamp, or any 4733
combination of those licenses, permits, and stamp, free of charge 4734
on an annual, multi-year, or lifetime basis as determined 4735
appropriate by the chief when application is made to the chief in 4736
the manner prescribed by and on forms provided by the chief. 4737

(2) Every resident of the state who was born on or before 4738
December 31, 1937, shall be issued an annual fishing license, 4739
hunting license, fur taker permit, deer or wild turkey permit, or 4740
wetlands habitat stamp, or any combination of those licenses, 4741
permits, and stamp, free of charge when application is made to the 4742
chief in the manner prescribed by and on forms provided by the 4743
chief. 4744

(3) Every resident of state or county institutions, 4745
charitable institutions, and military homes in this state shall be 4746
issued an annual fishing license free of charge when application 4747
is made to the chief in the manner prescribed by and on forms 4748
provided by the chief. 4749

(4) Any mobility impaired or blind person, as defined in 4750
section 955.011 of the Revised Code, who is a resident of this 4751
state and who is unable to engage in fishing without the 4752
assistance of another person shall be issued an annual fishing 4753
license free of charge when application is made to the chief in 4754

the manner prescribed by and on forms provided by the chief. The 4755
person who is assisting the mobility impaired or blind person may 4756
assist in taking or catching fish of the kind permitted to be 4757
taken or caught without procuring the license required under 4758
section 1533.32 of the Revised Code, provided that only one line 4759
is used by both persons. 4760

(5) Any mobility impaired or blind person, as defined in 4761
section 955.011 of the Revised Code, who is under the age of 4762
eighteen years, who is a resident of this state, and who is unable 4763
to engage in hunting without the assistance of another person 4764
shall be issued a youth deer or wild turkey permit, as applicable, 4765
under section 1533.11 of the Revised Code free of charge when 4766
application is made to the chief in the manner prescribed by and 4767
on forms provided by the chief. A person who is assisting the 4768
mobility impaired or blind person and who is a resident of this 4769
state shall be issued a deer or wild turkey permit, as applicable, 4770
under section 1533.11 of the Revised Code free of charge when 4771
application is made to the chief in the manner prescribed by and 4772
on forms provided by the chief. A person who is assisting the 4773
mobility impaired or blind person and who is not a resident of 4774
this state shall be issued a deer or wild turkey permit, as 4775
applicable, under that section when application is made to the 4776
chief in the manner prescribed by and on forms provided by the 4777
chief. However, the mobility impaired or blind person and the 4778
person who is assisting that person shall obtain a special youth 4779
hunting license, an apprentice youth hunting license, or a hunting 4780
license, as applicable, in order to obtain the applicable permit. 4781

(6) As used in division (B)~~(5)~~(6) of this section, "prisoner 4782
of war" means any regularly appointed, enrolled, enlisted, or 4783
inducted member of the military forces of the United States who 4784
was captured, separated, and incarcerated by an enemy of the 4785
United States. 4786

Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state shall be issued a fishing license, hunting license, fur taker permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge on an annual, multi-year, or lifetime basis as determined appropriate by the chief when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08 of the Revised Code designating not more than two days, which need not be consecutive, in each year as "free sport fishing days" on which any resident may exercise the privileges accorded the holder of a fishing license issued under section 1533.32 of the Revised Code without procuring such a license, provided that the person is not otherwise violating any of the fishing laws of this state."

Sec. 1548.07. (A) An application for a certificate of title shall be sworn to before a notary public or other officer empowered to administer oaths by the lawful owner or purchaser of the watercraft or outboard motor and shall contain the following information in the form and together with any other information that the chief of the division of watercraft may require:

(1) Name, address, and social security number or employer's tax identification number of the applicant;

(2) Statement of how the watercraft or outboard motor was acquired;

(3) Name and address of the previous owner;

(4) A statement of all liens, mortgages, or other encumbrances on the watercraft or outboard motor, including a description of the nature and amount of each lien, mortgage, or encumbrance, and the name and address of each holder of the lien,

mortgage, or encumbrance; 4817

(5) If there are no outstanding liens, mortgages, or other 4818
encumbrances, a statement of that fact; 4819

(6) A description of the watercraft, including the make, 4820
year, length, series or model, if any, body type, and hull 4821
identification number or serial number, ~~and make, manufacturer's~~ 4822
~~serial number, and horsepower of any inboard motor or motors;~~ or a 4823
description of the outboard motor, including the make, year, 4824
series or model, if any, manufacturer's serial number, and 4825
horsepower; 4826

(7) The purchase price, trade-in allowed, and amount of sales 4827
or use tax paid under Chapter 5739. or 5741. of the Revised Code. 4828

(B) If the application is made by two persons regarding a 4829
watercraft or outboard motor in which they wish to establish joint 4830
ownership with right of survivorship, they may do so as provided 4831
in section 2131.12 of the Revised Code. 4832

(C) If the applicant wishes to designate a watercraft or 4833
outboard motor in beneficiary form, the applicant may do so as 4834
provided in section 2131.13 of the Revised Code. 4835

(D) If the watercraft or outboard motor contains a permanent 4836
identification number placed on the watercraft or outboard motor 4837
by the manufacturer, this number shall be used as the serial 4838
number or hull identification number. If there is no 4839
manufacturer's identification number, or if the manufacturer's 4840
identification number has been removed or obliterated, the chief, 4841
upon receipt of a prescribed application and proof of ownership, 4842
may assign an identification number for the watercraft or outboard 4843
motor, and this number shall be permanently affixed or imprinted 4844
by the applicant, at the place and in the manner designated by the 4845
chief, upon the watercraft or outboard motor for which it is 4846
assigned. 4847

Sec. 1561.24. For purposes of this chapter, and Chapters 4848
1563., 1565., and 1567., ~~and sections 1514.40 to 1514.50~~ of the 4849
Revised Code, there is hereby created in the state treasury the 4850
mine safety fund. The fund shall consist of money transferred to 4851
it by the administrator of workers' compensation from the 4852
coal-workers pneumoconiosis fund established in section 4131.03 of 4853
the Revised Code. All investment earnings of the mine safety fund 4854
shall be credited to the fund. The chief of the division of 4855
mineral resources management shall use money in the fund for all 4856
of the following purposes, as applicable: 4857

(A) Mine safety and health inspections and audits; 4858

(B) The purchase and maintenance of mine rescue and 4859
inspection equipment; 4860

(C) The purchase or lease of facilities for use as mine 4861
rescue stations and for mine rescue and safety training; 4862

(D) Mine rescue and safety and health training of miners; 4863

(E) Certification and recertification of mine officials. 4864

Sec. 1711.13. County agricultural societies are hereby 4865
declared bodies corporate and politic, and as such they shall be 4866
capable of suing and being sued and of holding in fee simple any 4867
real estate purchased by them as sites for their fairs. In 4868
addition, they may do either or both of the following: 4869

(A) Mortgage their grounds for the purpose of renewing or 4870
extending pre-existing debts, and for the purpose of furnishing 4871
money to purchase additional land, but if the board of county 4872
commissioners has caused money to be paid out of the county 4873
treasury to aid in the purchase of the grounds, no mortgage shall 4874
be given without the consent of the board. 4875

Deeds, conveyances, and agreements in writing, made to and by 4876

such societies, for the purchase of real estate as sites for their 4877
fairs, shall vest a title in fee simple to the real estate 4878
described in those documents, without words of inheritance. 4879

(B) Enter into agreements to obtain loans and credit for 4880
expenses related to the purposes of the county agricultural 4881
society, provided that the agreements are in writing and are first 4882
approved by the board of directors of the society. ~~The total net 4883~~
~~indebtedness incurred by a county agricultural society pursuant to 4884~~
~~this division shall not exceed an amount equal to twenty five per 4885~~
~~cent of its annual revenues. 4886~~

Sec. 3704.05. (A) No person shall cause, permit, or allow 4887
emission of an air contaminant in violation of any rule adopted by 4888
the director of environmental protection under division (E) of 4889
section 3704.03 of the Revised Code unless the person is the 4890
holder of a variance that is issued under division (H) of that 4891
section and consistent with the federal Clean Air Act permitting 4892
the emission of the contaminant in excess of that permitted by the 4893
rule or the person is the holder of an operating permit that 4894
includes a compliance schedule issued pursuant to rules adopted 4895
under division (G) of section 3704.03 of the Revised Code. 4896

(B) No person who is the holder of a variance issued under 4897
division (H) of section 3704.03 of the Revised Code shall cause, 4898
permit, or allow emission of an air contaminant or contaminants 4899
listed therein in violation of the conditions of the variance or 4900
fail to obey an order of the director issued under authority of 4901
that division. 4902

(C) No person who is the holder of a permit issued under 4903
division (F) or (G) of section 3704.03 of the Revised Code shall 4904
violate any of its terms or conditions. 4905

(D) No person shall fail to install and maintain monitoring 4906
devices or to submit reports or other information as may be 4907

required under division (I) of section 3704.03 of the Revised Code. 4908
4909

(E) No person to whom a permit or variance has been issued shall refuse entry to an authorized representative of the director or the environmental protection agency as provided in division ~~(M)~~(L) of section 3704.03 of the Revised Code or hinder or thwart the person in making an investigation. 4910
4911
4912
4913
4914

(F) No person shall fail to submit plans and specifications as required by section 3704.03 of the Revised Code. 4915
4916

(G) No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter. 4917
4918

(H) No person shall do any of the following: 4919

(1) Falsify any plans, specifications, data, reports, records, or other information required to be kept or submitted to the director by this chapter or rules adopted under it; 4920
4921
4922

(2) Make any false material statement, representation, or certification in any form, notice, or report required by the Title V permit program; 4923
4924
4925

(3) Render inaccurate any monitoring device required by a Title V permit. 4926
4927

Violation of division (H)(1), (2), or (3) of this section is not also falsification under section 2921.13 of the Revised Code. 4928
4929

(I) No person shall knowingly falsify an inspection certificate submitted to another under section 3704.14 or Chapter 4503. of Revised Code. Violation of this division is not also falsification under section 2921.13 of the Revised Code. 4930
4931
4932
4933

(J) No person shall do either of the following: 4934

(1) With regard to the Title V permit program, fail to pay any administrative penalty assessed in accordance with rules adopted under division (S) of section 3704.03 of the Revised Code 4935
4936
4937

or any fee assessed under section 3745.11 of the Revised Code; 4938

(2) Violate any applicable requirement of a Title V permit or 4939
any permit condition, except for an emergency as defined in 40 4940
C.F.R. 70.6 (g), or filing requirement of the Title V permit 4941
program, any duty to allow or carry out inspection, entry, or 4942
monitoring activities, or any rule adopted or order issued by the 4943
director pursuant to the Title V permit program. 4944

(K) On and after the three hundred sixty-sixth day following 4945
the administrator's final approval of the Title V permit program, 4946
or on and after the three hundred sixty-sixth day following the 4947
commencement of operation of a new major source required to comply 4948
with section 112(g) or part C or D of Title I of the federal Clean 4949
Air Act, whichever is later, no person shall operate any such 4950
source that is required to obtain a Title V permit under section 4951
3704.036 of the Revised Code or rules adopted under it unless such 4952
a permit has been issued authorizing operation of the source or 4953
unless a complete and timely application for the issuance, 4954
renewal, or modification of a Title V permit for the source has 4955
been submitted to the director under that section. 4956

Sec. 3734.02. (A) The director of environmental protection, 4957
in accordance with Chapter 119. of the Revised Code, shall adopt 4958
and may amend, suspend, or rescind rules having uniform 4959
application throughout the state governing solid waste facilities 4960
and the inspections of and issuance of permits and licenses for 4961
all solid waste facilities in order to ensure that the facilities 4962
will be located, maintained, and operated, and will undergo 4963
closure and post-closure care, in a sanitary manner so as not to 4964
create a nuisance, cause or contribute to water pollution, create 4965
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 4966
257.3-8, as amended. The rules may include, without limitation, 4967
financial assurance requirements for closure and post-closure care 4968

and corrective action and requirements for taking corrective 4969
action in the event of the surface or subsurface discharge or 4970
migration of explosive gases or leachate from a solid waste 4971
facility, or of ground water contamination resulting from the 4972
transfer or disposal of solid wastes at a facility, beyond the 4973
boundaries of any area within a facility that is operating or is 4974
undergoing closure or post-closure care where solid wastes were 4975
disposed of or are being disposed of. The rules shall not concern 4976
or relate to personnel policies, salaries, wages, fringe benefits, 4977
or other conditions of employment of employees of persons owning 4978
or operating solid waste facilities. The director, in accordance 4979
with Chapter 119. of the Revised Code, shall adopt and may amend, 4980
suspend, or rescind rules governing the issuance, modification, 4981
revocation, suspension, or denial of variances from the director's 4982
solid waste rules, including, without limitation, rules adopted 4983
under this chapter governing the management of scrap tires. 4984

Variances shall be issued, modified, revoked, suspended, or 4985
rescinded in accordance with this division, rules adopted under 4986
it, and Chapter 3745. of the Revised Code. The director may order 4987
the person to whom a variance is issued to take such action within 4988
such time as the director may determine to be appropriate and 4989
reasonable to prevent the creation of a nuisance or a hazard to 4990
the public health or safety or the environment. Applications for 4991
variances shall contain such detail plans, specifications, and 4992
information regarding objectives, procedures, controls, and other 4993
pertinent data as the director may require. The director shall 4994
grant a variance only if the applicant demonstrates to the 4995
director's satisfaction that construction and operation of the 4996
solid waste facility in the manner allowed by the variance and any 4997
terms or conditions imposed as part of the variance will not 4998
create a nuisance or a hazard to the public health or safety or 4999
the environment. In granting any variance, the director shall 5000
state the specific provision or provisions whose terms are to be 5001

varied and also shall state specific terms or conditions imposed 5002
upon the applicant in place of the provision or provisions. The 5003
director may hold a public hearing on an application for a 5004
variance or renewal of a variance at a location in the county 5005
where the operations that are the subject of the application for 5006
the variance are conducted. The director shall give not less than 5007
twenty days' notice of the hearing to the applicant by certified 5008
mail or by another type of mail accompanied by a receipt and shall 5009
publish at least one notice of the hearing in a newspaper with 5010
general circulation in the county where the hearing is to be held. 5011
The director shall make available for public inspection at the 5012
principal office of the environmental protection agency a current 5013
list of pending applications for variances and a current schedule 5014
of pending variance hearings. The director shall make a complete 5015
stenographic record of testimony and other evidence submitted at 5016
the hearing. Within ten days after the hearing, the director shall 5017
make a written determination to issue, renew, or deny the variance 5018
and shall enter the determination and the basis for it into the 5019
record of the hearing. The director shall issue, renew, or deny an 5020
application for a variance or renewal of a variance within six 5021
months of the date upon which the director receives a complete 5022
application with all pertinent information and data required. No 5023
variance shall be issued, revoked, modified, or denied until the 5024
director has considered the relative interests of the applicant, 5025
other persons and property affected by the variance, and the 5026
general public. Any variance granted under this division shall be 5027
for a period specified by the director and may be renewed from 5028
time to time on such terms and for such periods as the director 5029
determines to be appropriate. No application shall be denied and 5030
no variance shall be revoked or modified without a written order 5031
stating the findings upon which the denial, revocation, or 5032
modification is based. A copy of the order shall be sent to the 5033
applicant or variance holder by certified mail or by another type 5034

of mail accompanied by a receipt. 5035

(B) The director shall prescribe and furnish the forms 5036
necessary to administer and enforce this chapter. The director may 5037
cooperate with and enter into agreements with other state, local, 5038
or federal agencies to carry out the purposes of this chapter. The 5039
director may exercise all incidental powers necessary to carry out 5040
the purposes of this chapter. 5041

The director may use moneys in the infectious waste 5042
management fund created in section 3734.021 of the Revised Code 5043
exclusively for administering and enforcing the provisions of this 5044
chapter governing the management of infectious wastes. 5045

(C) Except as provided in this division and divisions (N)(2) 5046
and (3) of this section, no person shall establish a new solid 5047
waste facility or infectious waste treatment facility, or modify 5048
an existing solid waste facility or infectious waste treatment 5049
facility, without submitting an application for a permit with 5050
accompanying detail plans, specifications, and information 5051
regarding the facility and method of operation and receiving a 5052
permit issued by the director, except that no permit shall be 5053
required under this division to install or operate a solid waste 5054
facility for sewage sludge treatment or disposal when the 5055
treatment or disposal is authorized by a current permit issued 5056
under Chapter 3704. or 6111. of the Revised Code. 5057

No person shall continue to operate a solid waste facility 5058
for which the director has denied a permit for which an 5059
application was required under division (A)(3) of section 3734.05 5060
of the Revised Code, or for which the director has disapproved 5061
plans and specifications required to be filed by an order issued 5062
under division (A)(5) of that section, after the date prescribed 5063
for commencement of closure of the facility in the order issued 5064
under division (A)(6) of section 3734.05 of the Revised Code 5065
denying the permit application or approval. 5066

On and after the effective date of the rules adopted under 5067
division (A) of this section and division (D) of section 3734.12 5068
of the Revised Code governing solid waste transfer facilities, no 5069
person shall establish a new, or modify an existing, solid waste 5070
transfer facility without first submitting an application for a 5071
permit with accompanying engineering detail plans, specifications, 5072
and information regarding the facility and its method of operation 5073
to the director and receiving a permit issued by the director. 5074

No person shall establish a new compost facility or continue 5075
to operate an existing compost facility that accepts exclusively 5076
source separated yard wastes without submitting a completed 5077
registration for the facility to the director in accordance with 5078
rules adopted under divisions (A) and (N)(3) of this section. 5079

This division does not apply to a generator of infectious 5080
wastes that does any of the following: 5081

(1) Treats, by methods, techniques, and practices established 5082
by rules adopted under division (B)(2)(a) of section 3734.021 of 5083
the Revised Code, any of the following: 5084

(a) Infectious wastes that are generated on any premises that 5085
are owned or operated by the generator; 5086

(b) Infectious wastes that are generated by a generator who 5087
has staff privileges at a hospital as defined in section 3727.01 5088
of the Revised Code; 5089

(c) Infectious wastes that are generated in providing care to 5090
a patient by an emergency medical services organization as defined 5091
in section 4765.01 of the Revised Code. 5092

(2) Holds a license or renewal of a license to operate a 5093
crematory facility issued under Chapter 4717. and a permit issued 5094
under Chapter 3704. of the Revised Code; 5095

(3) Treats or disposes of dead animals or parts thereof, or 5096

the blood of animals, and is subject to any of the following:	5097
(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	5098 5099
(b) Chapter 918. of the Revised Code;	5100
(c) Chapter 953. of the Revised Code.	5101
(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 <u>939.01</u> of the Revised Code, conducted in accordance with section 1511.022 <u>939.04</u> of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.	5102 5103 5104 5105 5106 5107 5108 5109 5110 5111 5112 5113 5114 5115 5116 5117 5118
(E)(1) As used in this division:	5119
(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.	5120 5121 5122
(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.	5123 5124 5125 5126

(c) "Satellite facility" means any of the following: 5127

(i) An on-site facility that also receives hazardous waste 5128
from other premises owned by the same person who generates the 5129
waste on the facility premises; 5130

(ii) An off-site facility operated so that all of the 5131
hazardous waste it receives is generated on one or more premises 5132
owned by the person who owns the facility; 5133

(iii) An on-site facility that also receives hazardous waste 5134
that is transported uninterruptedly and directly to the facility 5135
through a pipeline from a generator who is not the owner of the 5136
facility. 5137

(2) Except as provided in division (E)(3) of this section, no 5138
person shall establish or operate a hazardous waste facility, or 5139
use a solid waste facility for the storage, treatment, or disposal 5140
of any hazardous waste, without a hazardous waste facility 5141
installation and operation permit issued in accordance with 5142
section 3734.05 of the Revised Code and subject to the payment of 5143
an application fee not to exceed one thousand five hundred 5144
dollars, payable upon application for a hazardous waste facility 5145
installation and operation permit and upon application for a 5146
renewal permit issued under division (H) of section 3734.05 of the 5147
Revised Code, to be credited to the hazardous waste facility 5148
management fund created in section 3734.18 of the Revised Code. 5149
The term of a hazardous waste facility installation and operation 5150
permit shall not exceed ten years. 5151

In addition to the application fee, there is hereby levied an 5152
annual permit fee to be paid by the permit holder upon the 5153
anniversaries of the date of issuance of the hazardous waste 5154
facility installation and operation permit and of any subsequent 5155
renewal permits and to be credited to the hazardous waste facility 5156
management fund. Annual permit fees totaling forty thousand 5157

dollars or more for any one facility may be paid on a quarterly			5158
basis with the first quarterly payment each year being due on the			5159
anniversary of the date of issuance of the hazardous waste			5160
facility installation and operation permit and of any subsequent			5161
renewal permits. The annual permit fee shall be determined for			5162
each permit holder by the director in accordance with the			5163
following schedule:			5164
TYPE OF BASIC			5165
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	5166
Storage facility using:			5167
Containers	On-site, off-site, and		5168
	satellite	\$ 500	5169
Tanks	On-site, off-site, and		5170
	satellite	500	5171
Waste pile	On-site, off-site, and		5172
	satellite	3,000	5173
Surface impoundment	On-site and satellite	8,000	5174
	Off-site	10,000	5175
Disposal facility using:			5176
Deep well injection	On-site and satellite	15,000	5177
	Off-site	25,000	5178
Landfill	On-site and satellite	25,000	5179
	Off-site	40,000	5180
Land application	On-site and satellite	2,500	5181
	Off-site	5,000	5182
Surface impoundment	On-site and satellite	10,000	5183
	Off-site	20,000	5184
Treatment facility using:			5185
Tanks	On-site, off-site, and		5186
	satellite	700	5187
Surface impoundment	On-site and satellite	8,000	5188
	Off-site	10,000	5189
Incinerator	On-site and satellite	5,000	5190

	Off-site	10,000	5191
Other forms			5192
of treatment	On-site, off-site, and		5193
	satellite	1,000	5194

A hazardous waste disposal facility that disposes of 5195
hazardous waste by deep well injection and that pays the annual 5196
permit fee established in section 6111.046 of the Revised Code is 5197
not subject to the permit fee established in this division for 5198
disposal facilities using deep well injection unless the director 5199
determines that the facility is not in compliance with applicable 5200
requirements established under this chapter and rules adopted 5201
under it. 5202

In determining the annual permit fee required by this 5203
section, the director shall not require additional payments for 5204
multiple units of the same method of storage, treatment, or 5205
disposal or for individual units that are used for both storage 5206
and treatment. A facility using more than one method of storage, 5207
treatment, or disposal shall pay the permit fee indicated by the 5208
schedule for each such method. 5209

The director shall not require the payment of that portion of 5210
an annual permit fee of any permit holder that would apply to a 5211
hazardous waste management unit for which a permit has been 5212
issued, but for which construction has not yet commenced. Once 5213
construction has commenced, the director shall require the payment 5214
of a part of the appropriate fee indicated by the schedule that 5215
bears the same relationship to the total fee that the number of 5216
days remaining until the next anniversary date at which payment of 5217
the annual permit fee is due bears to three hundred sixty-five. 5218

The director, by rules adopted in accordance with Chapters 5219
119. and 3745. of the Revised Code, shall prescribe procedures for 5220
collecting the annual permit fee established by this division and 5221
may prescribe other requirements necessary to carry out this 5222

division. 5223

(3) The prohibition against establishing or operating a 5224
hazardous waste facility without a hazardous waste facility 5225
installation and operation permit does not apply to either of the 5226
following: 5227

(a) A facility that is operating in accordance with a permit 5228
renewal issued under division (H) of section 3734.05 of the 5229
Revised Code, a revision issued under division (I) of that section 5230
as it existed prior to August 20, 1996, or a modification issued 5231
by the director under division (I) of that section on and after 5232
August 20, 1996; 5233

(b) Except as provided in division (J) of section 3734.05 of 5234
the Revised Code, a facility that will operate or is operating in 5235
accordance with a permit by rule, or that is not subject to permit 5236
requirements, under rules adopted by the director. In accordance 5237
with Chapter 119. of the Revised Code, the director shall adopt, 5238
and subsequently may amend, suspend, or rescind, rules for the 5239
purposes of division (E)(3)(b) of this section. Any rules so 5240
adopted shall be consistent with and equivalent to regulations 5241
pertaining to interim status adopted under the "Resource 5242
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 5243
6921, as amended, except as otherwise provided in this chapter. 5244

If a modification is requested or proposed for a facility 5245
described in division (E)(3)(a) or (b) of this section, division 5246
(I)(7) of section 3734.05 of the Revised Code applies. 5247

(F) No person shall store, treat, or dispose of hazardous 5248
waste identified or listed under this chapter and rules adopted 5249
under it, regardless of whether generated on or off the premises 5250
where the waste is stored, treated, or disposed of, or transport 5251
or cause to be transported any hazardous waste identified or 5252
listed under this chapter and rules adopted under it to any other 5253

premises, except at or to any of the following: 5254

(1) A hazardous waste facility operating under a permit 5255
issued in accordance with this chapter; 5256

(2) A facility in another state operating under a license or 5257
permit issued in accordance with the "Resource Conservation and 5258
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 5259
amended; 5260

(3) A facility in another nation operating in accordance with 5261
the laws of that nation; 5262

(4) A facility holding a permit issued pursuant to Title I of 5263
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 5264
Stat. 1052, 33 U.S.C.A. 1401, as amended; 5265

(5) A hazardous waste facility as described in division 5266
(E)(3)(a) or (b) of this section. 5267

(G) The director, by order, may exempt any person generating, 5268
collecting, storing, treating, disposing of, or transporting solid 5269
wastes, infectious wastes, or hazardous waste, or processing solid 5270
wastes that consist of scrap tires, in such quantities or under 5271
such circumstances that, in the determination of the director, are 5272
unlikely to adversely affect the public health or safety or the 5273
environment from any requirement to obtain a registration 5274
certificate, permit, or license or comply with the manifest system 5275
or other requirements of this chapter. Such an exemption shall be 5276
consistent with and equivalent to any regulations adopted by the 5277
administrator of the United States environmental protection agency 5278
under the "Resource Conservation and Recovery Act of 1976," 90 5279
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 5280
provided in this chapter. 5281

(H) No person shall engage in filling, grading, excavating, 5282
building, drilling, or mining on land where a hazardous waste 5283
facility, or a solid waste facility, was operated without prior 5284

authorization from the director, who shall establish the procedure 5285
for granting such authorization by rules adopted in accordance 5286
with Chapter 119. of the Revised Code. 5287

A public utility that has main or distribution lines above or 5288
below the land surface located on an easement or right-of-way 5289
across land where a solid waste facility was operated may engage 5290
in any such activity within the easement or right-of-way without 5291
prior authorization from the director for purposes of performing 5292
emergency repair or emergency replacement of its lines; of the 5293
poles, towers, foundations, or other structures supporting or 5294
sustaining any such lines; or of the appurtenances to those 5295
structures, necessary to restore or maintain existing public 5296
utility service. A public utility may enter upon any such easement 5297
or right-of-way without prior authorization from the director for 5298
purposes of performing necessary or routine maintenance of those 5299
portions of its existing lines; of the existing poles, towers, 5300
foundations, or other structures sustaining or supporting its 5301
lines; or of the appurtenances to any such supporting or 5302
sustaining structure, located on or above the land surface on any 5303
such easement or right-of-way. Within twenty-four hours after 5304
commencing any such emergency repair, replacement, or maintenance 5305
work, the public utility shall notify the director or the 5306
director's authorized representative of those activities and shall 5307
provide such information regarding those activities as the 5308
director or the director's representative may request. Upon 5309
completion of the emergency repair, replacement, or maintenance 5310
activities, the public utility shall restore any land of the solid 5311
waste facility disturbed by those activities to the condition 5312
existing prior to the commencement of those activities. 5313

(I) No owner or operator of a hazardous waste facility, in 5314
the operation of the facility, shall cause, permit, or allow the 5315
emission therefrom of any particulate matter, dust, fumes, gas, 5316

mist, smoke, vapor, or odorous substance that, in the opinion of 5317
the director, unreasonably interferes with the comfortable 5318
enjoyment of life or property by persons living or working in the 5319
vicinity of the facility, or that is injurious to public health. 5320
Any such action is hereby declared to be a public nuisance. 5321

(J) Notwithstanding any other provision of this chapter, in 5322
the event the director finds an imminent and substantial danger to 5323
public health or safety or the environment that creates an 5324
emergency situation requiring the immediate treatment, storage, or 5325
disposal of hazardous waste, the director may issue a temporary 5326
emergency permit to allow the treatment, storage, or disposal of 5327
the hazardous waste at a facility that is not otherwise authorized 5328
by a hazardous waste facility installation and operation permit to 5329
treat, store, or dispose of the waste. The emergency permit shall 5330
not exceed ninety days in duration and shall not be renewed. The 5331
director shall adopt, and may amend, suspend, or rescind, rules in 5332
accordance with Chapter 119. of the Revised Code governing the 5333
issuance, modification, revocation, and denial of emergency 5334
permits. 5335

(K) Except for infectious wastes generated by a person who 5336
produces fewer than fifty pounds of infectious wastes at a 5337
premises during any one month, no owner or operator of a sanitary 5338
landfill shall knowingly accept for disposal, or dispose of, any 5339
infectious wastes that have not been treated to render them 5340
noninfectious. 5341

(L) The director, in accordance with Chapter 119. of the 5342
Revised Code, shall adopt, and may amend, suspend, or rescind, 5343
rules having uniform application throughout the state establishing 5344
a training and certification program that shall be required for 5345
employees of boards of health who are responsible for enforcing 5346
the solid waste and infectious waste provisions of this chapter 5347
and rules adopted under them and for persons who are responsible 5348

for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required 5380
under this division. 5381

(M) The director shall not issue a permit under section 5382
3734.05 of the Revised Code to establish a solid waste facility, 5383
or to modify a solid waste facility operating on December 21, 5384
1988, in a manner that expands the disposal capacity or geographic 5385
area covered by the facility, that is or is to be located within 5386
the boundaries of a state park established or dedicated under 5387
Chapter 1541. of the Revised Code, a state park purchase area 5388
established under section 1541.02 of the Revised Code, any unit of 5389
the national park system, or any property that lies within the 5390
boundaries of a national park or recreation area, but that has not 5391
been acquired or is not administered by the secretary of the 5392
United States department of the interior, located in this state, 5393
or any candidate area located in this state and identified for 5394
potential inclusion in the national park system in the edition of 5395
the "national park system plan" submitted under paragraph (b) of 5396
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 5397
U.S.C.A. 1a-5, as amended, current at the time of filing of the 5398
application for the permit, unless the facility or proposed 5399
facility is or is to be used exclusively for the disposal of solid 5400
wastes generated within the park or recreation area and the 5401
director determines that the facility or proposed facility will 5402
not degrade any of the natural or cultural resources of the park 5403
or recreation area. The director shall not issue a variance under 5404
division (A) of this section and rules adopted under it, or issue 5405
an exemption order under division (G) of this section, that would 5406
authorize any such establishment or expansion of a solid waste 5407
facility within the boundaries of any such park or recreation 5408
area, state park purchase area, or candidate area, other than a 5409
solid waste facility exclusively for the disposal of solid wastes 5410
generated within the park or recreation area when the director 5411
determines that the facility will not degrade any of the natural 5412

or cultural resources of the park or recreation area. 5413

(N)(1) The rules adopted under division (A) of this section, 5414
other than those governing variances, do not apply to scrap tire 5415
collection, storage, monocell, monofill, and recovery facilities. 5416
Those facilities are subject to and governed by rules adopted 5417
under sections 3734.70 to 3734.73 of the Revised Code, as 5418
applicable. 5419

(2) Division (C) of this section does not apply to scrap tire 5420
collection, storage, monocell, monofill, and recovery facilities. 5421
The establishment and modification of those facilities are subject 5422
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 5423
Code, as applicable. 5424

(3) The director may adopt, amend, suspend, or rescind rules 5425
under division (A) of this section creating an alternative system 5426
for authorizing the establishment, operation, or modification of a 5427
solid waste compost facility in lieu of the requirement that a 5428
person seeking to establish, operate, or modify a solid waste 5429
compost facility apply for and receive a permit under division (C) 5430
of this section and section 3734.05 of the Revised Code and a 5431
license under division (A)(1) of that section. The rules may 5432
include requirements governing, without limitation, the 5433
classification of solid waste compost facilities, the submittal of 5434
operating records for solid waste compost facilities, and the 5435
creation of a registration or notification system in lieu of the 5436
issuance of permits and licenses for solid waste compost 5437
facilities. The rules shall specify the applicability of divisions 5438
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 5439
Code to a solid waste compost facility. 5440

(O)(1) As used in this division, "secondary aluminum waste" 5441
means waste material or byproducts, when disposed of, containing 5442
aluminum generated from secondary aluminum smelting operations and 5443
consisting of dross, salt cake, baghouse dust associated with 5444

aluminum recycling furnace operations, or dry-milled wastes. 5445

(2) The owner or operator of a sanitary landfill shall not 5446
dispose of municipal solid waste that has been commingled with 5447
secondary aluminum waste. 5448

(3) The owner or operator of a sanitary landfill may dispose 5449
of secondary aluminum waste, but only in a monocell or monofill 5450
that has been permitted for that purpose in accordance with this 5451
chapter and rules adopted under it. 5452

(P)(1) As used in divisions (P) and (Q) of this section: 5453

(a) "Natural background" means two picocuries per gram or the 5454
actual number of picocuries per gram as measured at an individual 5455
solid waste facility, subject to verification by the director of 5456
health. 5457

(b) "Drilling operation" includes a production operation as 5458
defined in section 1509.01 of the Revised Code. 5459

(2) The owner or operator of a solid waste facility shall not 5460
accept for transfer or disposal technologically enhanced naturally 5461
occurring radioactive material if that material contains or is 5462
contaminated with radium-226, radium-228, or any combination of 5463
radium-226 and radium-228 at concentrations equal to or greater 5464
than five picocuries per gram above natural background. 5465

(3) The owner or operator of a solid waste facility may 5466
receive and process for purposes other than transfer or disposal 5467
technologically enhanced naturally occurring radioactive material 5468
that contains or is contaminated with radium-226, radium-228, or 5469
any combination of radium-226 and radium-228 at concentrations 5470
equal to or greater than five picocuries per gram above natural 5471
background, provided that the owner or operator has obtained and 5472
maintains all other necessary authorizations, including any 5473
authorization required by rules adopted by the director of health 5474
under section 3748.04 of the Revised Code. 5475

(4) The director of environmental protection may adopt rules 5476
in accordance with Chapter 119. of the Revised Code governing the 5477
receipt, acceptance, processing, handling, management, and 5478
disposal by solid waste facilities of material that contains or is 5479
contaminated with radioactive material, including, without 5480
limitation, technologically enhanced naturally occurring 5481
radioactive material that contains or is contaminated with 5482
radium-226, radium-228, or any combination of radium-226 and 5483
radium-228 at concentrations less than five picocuries per gram 5484
above natural background. Rules adopted by the director may 5485
include at a minimum both of the following: 5486

(a) Requirements in accordance with which the owner or 5487
operator of a solid waste facility must monitor leachate and 5488
ground water for radium-226, radium-228, and other radionuclides; 5489

(b) Requirements in accordance with which the owner or 5490
operator of a solid waste facility must develop procedures to 5491
ensure that technologically enhanced naturally occurring 5492
radioactive material accepted at the facility neither contains nor 5493
is contaminated with radium-226, radium-228, or any combination of 5494
radium-226 and radium-228 at concentrations equal to or greater 5495
than five picocuries per gram above natural background. 5496

(Q) Notwithstanding any other provision of this section, the 5497
owner or operator of a solid waste facility shall not receive, 5498
accept, process, handle, manage, or dispose of technologically 5499
enhanced naturally occurring radioactive material associated with 5500
drilling operations without first obtaining representative 5501
analytical results to determine compliance with divisions (P)(2) 5502
and (3) of this section and rules adopted under it. 5503

Sec. 3734.029. (A)(1) Except as otherwise provided in 5504
division (A)(2) of this section, the standards of quality for 5505
compost products established in rules adopted under division (A) 5506

of section 3734.028 of the Revised Code apply to compost products 5507
produced by a facility composting dead animals that is subject to 5508
section ~~1511.022~~ 939.04 of the Revised Code in addition to compost 5509
products produced by facilities subject to this chapter. 5510

(2) The standards of quality established in rules adopted 5511
under division (A) of section 3734.028 of the Revised Code do not 5512
apply to the use, distribution for use, or giving away of the 5513
compost products produced by a composting facility subject to 5514
section ~~1511.022~~ 939.04 of the Revised Code when either of the 5515
following applies: 5516

(a) The composting is conducted by the person who raises the 5517
animals and the compost product is used in agricultural operations 5518
owned or operated by that person, regardless of whether the person 5519
owns the animals. 5520

(b) The composting is conducted by the person who owns the 5521
animals, but does not raise them and the compost product is used 5522
in agricultural operations either by a person who raises the 5523
animals or by a person who raises grain that is used to feed them 5524
and that is supplied by the owner of the animals. 5525

(B) No owner or operator of a composting facility that is 5526
subject to regulation under section ~~1511.022~~ 939.04 of the Revised 5527
Code shall sell or offer for sale at retail or wholesale, 5528
distribute for use, or give away any compost product that does not 5529
comply with the standard of quality applicable under division (A) 5530
of this section for the use for which the product is being sold, 5531
offered for sale, distributed, or given away. 5532

No person shall violate this division. 5533

Sec. 3745.70. As used in sections 3745.70 to 3745.73 of the 5534
Revised Code: 5535

(A) "Environmental audit" means a voluntary, thorough, and 5536

discrete self-evaluation of one or more activities at one or more 5537
facilities or properties that is documented; is designed to 5538
improve compliance, or identify, correct, or prevent 5539
noncompliance, with environmental laws; and is conducted by the 5540
owner or operator of a facility or property or the owner's or 5541
operator's employee or independent contractor. An environmental 5542
audit may be conducted by the owner or operator of a facility or 5543
property, the owner's or operator's employees, or independent 5544
contractors. Once initiated, an audit shall be completed within a 5545
reasonable time, not to exceed six months, unless a written 5546
request for an extension is approved by the head officer of the 5547
governmental agency, or division or office thereof, with 5548
jurisdiction over the activities being audited based on a showing 5549
of reasonable grounds. An audit shall not be considered to be 5550
initiated until the owner or operator or the owner's or operator's 5551
employee or independent contractor actively has begun the 5552
self-evaluation of environmental compliance. 5553

(B) "Activity" means any process, procedure, or function that 5554
is subject to environmental laws. 5555

(C) "Voluntary" means, with respect to an environmental audit 5556
of a particular activity, that both of the following apply when 5557
the audit of that activity commences: 5558

(1) The audit is not required by law, prior litigation, or an 5559
order by a court or a government agency; 5560

(2) The owner or operator who conducts the audit does not 5561
know or have reason to know that a government agency has commenced 5562
an investigation or enforcement action that concerns a violation 5563
of environmental laws involving the activity or that such an 5564
investigation or enforcement action is imminent. 5565

(D) "Environmental audit report" means interim or final data, 5566
documents, records, or plans that are necessary to an 5567

environmental audit and are collected, developed, made, and 5568
maintained in good faith as part of the audit, and may include, 5569
without limitation: 5570

(1) Analytical data, laboratory reports, field notes and 5571
records of observations, findings, opinions, suggestions, 5572
conclusions, drafts, memoranda, drawings, photographs, 5573
computer-generated or electronically recorded information, maps, 5574
charts, graphs, and surveys; 5575

(2) Reports that describe the scope, objectives, and methods 5576
of the environmental audit, audit management policies, the 5577
information gained by the environmental audit, and conclusions and 5578
recommendations together with exhibits and appendices; 5579

(3) Memoranda, documents, records, and plans analyzing the 5580
environmental audit report or discussing implementation, 5581
prevention, compliance, and remediation issues associated with the 5582
environmental audit. 5583

"Environmental audit report" does not mean corrective or 5584
remedial action taken pursuant to an environmental audit. 5585

(E) "Environmental laws" means sections 939.02, 1511.02, and 5586
1531.29, Chapters 3704., 3734., 3745., 3746., 3750., 3751., 3752., 5587
6109., and 6111. of the Revised Code, and any other sections or 5588
chapters of the Revised Code the principal purpose of which is 5589
environmental protection; any federal or local counterparts or 5590
extensions of those sections or chapters; rules adopted under any 5591
such sections, chapters, counterparts, or extensions; and terms 5592
and conditions of orders, permits, licenses, license renewals, 5593
variances, exemptions, or plan approvals issued under such 5594
sections, chapters, counterparts, or extensions. 5595

Sec. 3750.081. (A) Notwithstanding any provision in this 5596
chapter to the contrary, an owner or operator of a facility that 5597

is regulated under Chapter 1509. of the Revised Code ~~who has filed~~ 5598
~~a log in accordance with section 1509.10 of the Revised Code and a~~ 5599
~~production statement in accordance with section 1509.11 of the~~ 5600
Revised Code shall be deemed to have satisfied all of the 5601
~~inventory, notification, listing, and other submission and filing~~ 5602
requirements established under this chapter, except for the 5603
release reporting requirements established under section 3750.06 5604
of the Revised Code, by complying with the requirements 5605
established in section 1509.231 of the Revised Code. 5606

(B) The emergency response commission and every local 5607
emergency planning committee and fire department in this state 5608
shall establish a means by which to access, view, and retrieve 5609
~~information, through the use of the internet or a computer disk,~~ 5610
from the electronic database maintained by the division of oil and 5611
gas resources management in the department of natural resources in 5612
accordance with section ~~1509.23~~ 1509.231 of the Revised Code. With 5613
respect to facilities regulated under Chapter 1509. of the Revised 5614
Code, the database shall be the means of providing and receiving 5615
the information described in division (A) of this section. 5616

Sec. 3750.13. (A)(1) Except as provided in division (A)(3) or 5617
(4) of this section, the owner or operator of a facility required 5618
to annually file an emergency and hazardous chemical inventory 5619
form under section 3750.08 of the Revised Code shall submit with 5620
the inventory form a filing fee of one hundred fifty dollars. In 5621
addition to the filing fee, the owner or operator shall submit 5622
with the inventory form the following additional fees for 5623
reporting inventories of the individual hazardous chemicals and 5624
extremely hazardous substances produced, used, or stored at the 5625
facility: 5626

(a) Except as provided in division (A)(1)(b) of this section, 5627
an additional fee of twenty dollars per hazardous chemical 5628

enumerated on the inventory form; 5629

(b) An additional fee of one hundred fifty dollars per 5630
extremely hazardous substance enumerated on the inventory form. 5631
The fee established in division (A)(1)(a) of this section does not 5632
apply to the reporting of the inventory of a hazardous chemical 5633
that is also an extremely hazardous substance to which the 5634
inventory reporting fee established in division (A)(1)(b) of this 5635
section applies. 5636

The total fees required to accompany any inventory form shall 5637
not exceed twenty-five hundred dollars. 5638

(2) An owner or operator of a facility who fails to submit 5639
such an inventory form within thirty days after the applicable 5640
filing date prescribed in section 3750.08 of the Revised Code 5641
shall submit with the inventory form a late filing fee in the 5642
amount of ten per cent per year of the total fees due under 5643
division (A)(1) or (4) of this section, in addition to the fees 5644
due under division (A)(1) or (4) of this section. 5645

(3) The owner or operator of a facility who, during the 5646
preceding year, was required to pay a fee to a municipal 5647
corporation pursuant to an ordinance, rule, or requirement that 5648
was in effect on the effective date of this section for the 5649
reporting or providing of the names or amounts of extremely 5650
hazardous substances or hazardous chemicals produced, used, or 5651
stored at the facility may claim a credit against the fees due 5652
under division (A)(1) or (4) of this section for the fees paid to 5653
the municipal corporation pursuant to its reporting requirement. 5654
The amount of the credit claimed in any reporting year shall not 5655
exceed the amount of the fees due under division (A)(1) or (4) of 5656
this section during that reporting year, and no unused portion of 5657
the credit shall be carried over to subsequent years. In order to 5658
claim a credit under this division, the owner or operator shall 5659
submit with the emergency and hazardous chemical inventory form a 5660

receipt issued by the municipal corporation or other documentation 5661
acceptable to the commission indicating the amount of the fee paid 5662
to the municipal corporation and the date on which the fee was 5663
paid. 5664

(4) An owner or operator who is regulated under Chapter 1509. 5665
of the Revised Code and who submits information under section 5666
~~1509.11~~ 1509.231 of the Revised Code for not more than twenty-five 5667
facilities shall submit to the emergency response commission on or 5668
before the first day of March a flat fee of fifty dollars if the 5669
facilities meet all of the following conditions: 5670

(a) The facility exclusively stores crude oil or liquid 5671
hydrocarbons or other fluids resulting, obtained, or produced in 5672
connection with the production or storage of crude oil or natural 5673
gas. 5674

(b) The crude oil, liquid hydrocarbons, or other fluids 5675
stored at the facility are conveyed directly to it through piping 5676
or tubing. 5677

(c) The facility is located on the same site as, or on a site 5678
adjacent to, the well from which the crude oil, liquid 5679
hydrocarbons, or other fluids are produced or obtained. 5680

(d) The facility is used for the storage of the crude oil, 5681
liquid hydrocarbons, or other fluids prior to their transportation 5682
off the premises of the facility for sale, use, or disposal. 5683

An owner or operator who submits information for more than 5684
twenty-five facilities that meet all of the conditions prescribed 5685
in divisions (A)(4)(a) to (d) of this section shall submit to the 5686
commission a base fee of fifty dollars and an additional filing 5687
fee of ten dollars for each facility reported in excess of 5688
twenty-five, but not exceeding a total fee of nine hundred 5689
dollars. 5690

As used in division (A)(4) of this section, "owner or 5691

operator" means the person who actually owns or operates any such 5692
facility and any other person who controls, is controlled by, or 5693
is under common control with the person who actually owns or 5694
operates the facility. 5695

(B) The emergency response commission and the local emergency 5696
planning committee of an emergency planning district may establish 5697
fees to be paid by persons, other than public officers or 5698
employees, obtaining copies of documents or information submitted 5699
to the commission or a committee under this chapter. The fees 5700
shall be established at a level calculated to defray the costs to 5701
the commission or committee for copying the documents or 5702
information, but shall not exceed the maximum fees established in 5703
rules adopted under division (B)(8) of section 3750.02 of the 5704
Revised Code. 5705

(C) Except as provided in this division and division (B) of 5706
this section, and except for fees authorized by section 3737.22 of 5707
the Revised Code or rules adopted under sections 3737.82 to 5708
3737.882 of the Revised Code and collected exclusively for either 5709
of those purposes, no committee or political subdivision shall 5710
levy any fee, tax, excise, or other charge to carry out the 5711
purposes of this chapter. A committee may charge the actual costs 5712
involved in accessing any computerized data base established by 5713
the commission under this chapter or by the United States 5714
environmental protection agency under the "Emergency Planning and 5715
Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 5716
11001. 5717

(D) Moneys collected by the commission under this section 5718
shall be credited to the emergency planning and community 5719
right-to-know fund created in section 3750.14 of the Revised Code. 5720

Sec. 3769.21. (A) A corporation may be formed pursuant to 5721
Chapter 1702. of the Revised Code to establish a thoroughbred 5722

horsemen's health and retirement fund and a corporation may be 5723
formed pursuant to Chapter 1702. of the Revised Code to establish 5724
a harness horsemen's health and retirement fund to be administered 5725
for the benefit of horsemen. As used in this section, "horsemen" 5726
includes any person involved in the owning, breeding, training, 5727
grooming, or racing of horses which race in Ohio, except for the 5728
owners or managers of race tracks. For purposes of the 5729
thoroughbred horsemen's health and retirement fund, "horsemen" 5730
also does not include trainers and grooms who are not members of 5731
the thoroughbred horsemen's organization in this state. No more 5732
than one corporation to establish a thoroughbred horsemen's health 5733
and retirement fund and no more than one corporation to establish 5734
a harness horsemen's health and retirement fund may be established 5735
in Ohio pursuant to this section. The trustees of the corporation 5736
formed to establish a thoroughbred horsemen's health and 5737
retirement fund shall have the discretion to determine which 5738
horsemen shall benefit from such fund. 5739

(B) The articles of incorporation of both of the corporations 5740
described in division (A) of this section shall provide for at 5741
least the following: 5742

(1) The corporation shall be governed by, and the health and 5743
retirement fund shall be administered by, a board of three 5744
trustees appointed pursuant to division (C) of this section for 5745
staggered three-year terms. 5746

(2) The board of trustees shall adopt and administer a plan 5747
to provide health benefits, retirement benefits, or both to either 5748
thoroughbred or harness horsemen. 5749

(3) The sum paid to the corporation pursuant to division (G) 5750
or (H) of section 3769.08 of the Revised Code and the video 5751
lottery terminal revenue paid to the corporation pursuant to 5752
section 3769.087 of the Revised Code shall be used exclusively to 5753
establish and administer the health and retirement fund, and to 5754

finance benefits paid to horsemen pursuant to the plan adopted 5755
under division (B)(2) of this section. 5756

(4) The articles of incorporation and code of regulations of 5757
the corporation may be amended at any time by the board of 5758
trustees pursuant to the method set forth in the articles of 5759
incorporation and code of regulations, except that no amendment 5760
shall be adopted which is inconsistent with this section. 5761

(C) Within sixty days after the formation of each of the 5762
corporations described in division (A) of this section, the state 5763
racing commission shall appoint the members of the board of 5764
trustees of that corporation. Vacancies shall be filled by the 5765
state racing commission in the same manner as initial 5766
appointments. Each trustee of the thoroughbred horsemen's health 5767
and retirement fund appointed by the commission shall be active as 5768
a thoroughbred horseman while serving a term as a trustee and 5769
shall have been active as a thoroughbred horseman for at least 5770
five years immediately prior to the commencement of any such term. 5771
Each trustee of the harness horsemen's health and retirement fund 5772
appointed by the commission shall be active as a harness horseman 5773
while serving a term as a trustee and shall have been active as a 5774
harness horseman for at least five years immediately prior to the 5775
commencement of any such term. The incorporators of either such 5776
corporation may serve as initial trustees until the state racing 5777
commission acts pursuant to this section to make these 5778
appointments. 5779

(D) The intent of the general assembly in enacting this 5780
section pursuant to Amended House Bill No. 639 of the 115th 5781
general assembly was to fulfill a legitimate government 5782
responsibility in a manner that would be more cost efficient and 5783
effective than direct state agency administration by permitting 5784
nonprofit corporations to be formed to establish health and 5785
retirement funds for the benefit of harness and thoroughbred 5786

horsemen, as it was determined that such persons were in need of 5787
such benefits. 5788

Sec. 3781.10. (A)(1) The board of building standards shall 5789
formulate and adopt rules governing the erection, construction, 5790
repair, alteration, and maintenance of all buildings or classes of 5791
buildings specified in section 3781.06 of the Revised Code, 5792
including land area incidental to those buildings, the 5793
construction of industrialized units, the installation of 5794
equipment, and the standards or requirements for materials used in 5795
connection with those buildings. The board shall incorporate those 5796
rules into separate residential and nonresidential building codes. 5797
The standards shall relate to the conservation of energy and the 5798
safety and sanitation of those buildings. 5799

(2) The rules governing nonresidential buildings are the 5800
lawful minimum requirements specified for those buildings and 5801
industrialized units, except that no rule other than as provided 5802
in division (C) of section 3781.108 of the Revised Code that 5803
specifies a higher requirement than is imposed by any section of 5804
the Revised Code is enforceable. The rules governing residential 5805
buildings are uniform requirements for residential buildings in 5806
any area with a building department certified to enforce the state 5807
residential building code. In no case shall any local code or 5808
regulation differ from the state residential building code unless 5809
that code or regulation addresses subject matter not addressed by 5810
the state residential building code or is adopted pursuant to 5811
section 3781.01 of the Revised Code. 5812

(3) The rules adopted pursuant to this section are complete, 5813
lawful alternatives to any requirements specified for buildings or 5814
industrialized units in any section of the Revised Code. Except as 5815
otherwise provided in division (I) of this section, the board 5816
shall, on its own motion or on application made under sections 5817

3781.12 and 3781.13 of the Revised Code, formulate, propose, 5818
adopt, modify, amend, or repeal the rules to the extent necessary 5819
or desirable to effectuate the purposes of sections 3781.06 to 5820
3781.18 of the Revised Code. 5821

(B) The board shall report to the general assembly proposals 5822
for amendments to existing statutes relating to the purposes 5823
declared in section 3781.06 of the Revised Code that public health 5824
and safety and the development of the arts require and shall 5825
recommend any additional legislation to assist in carrying out 5826
fully, in statutory form, the purposes declared in that section. 5827
The board shall prepare and submit to the general assembly a 5828
summary report of the number, nature, and disposition of the 5829
petitions filed under sections 3781.13 and 3781.14 of the Revised 5830
Code. 5831

(C) On its own motion or on application made under sections 5832
3781.12 and 3781.13 of the Revised Code, and after thorough 5833
testing and evaluation, the board shall determine by rule that any 5834
particular fixture, device, material, process of manufacture, 5835
manufactured unit or component, method of manufacture, system, or 5836
method of construction complies with performance standards adopted 5837
pursuant to section 3781.11 of the Revised Code. The board shall 5838
make its determination with regard to adaptability for safe and 5839
sanitary erection, use, or construction, to that described in any 5840
section of the Revised Code, wherever the use of a fixture, 5841
device, material, method of manufacture, system, or method of 5842
construction described in that section of the Revised Code is 5843
permitted by law. The board shall amend or annul any rule or issue 5844
an authorization for the use of a new material or manufactured 5845
unit on any like application. No department, officer, board, or 5846
commission of the state other than the board of building standards 5847
or the board of building appeals shall permit the use of any 5848
fixture, device, material, method of manufacture, newly designed 5849

product, system, or method of construction at variance with what 5850
is described in any rule the board of building standards adopts or 5851
issues or that is authorized by any section of the Revised Code. 5852
Nothing in this section shall be construed as requiring approval, 5853
by rule, of plans for an industrialized unit that conforms with 5854
the rules the board of building standards adopts pursuant to 5855
section 3781.11 of the Revised Code. 5856

(D) The board shall recommend rules, codes, and standards to 5857
help carry out the purposes of section 3781.06 of the Revised Code 5858
and to help secure uniformity of state administrative rulings and 5859
local legislation and administrative action to the bureau of 5860
workers' compensation, the director of commerce, any other 5861
department, officer, board, or commission of the state, and to 5862
legislative authorities and building departments of counties, 5863
townships, and municipal corporations, and shall recommend that 5864
they audit those recommended rules, codes, and standards by any 5865
appropriate action that they are allowed pursuant to law or the 5866
constitution. 5867

(E)(1) The board shall certify municipal, township, and 5868
county building departments and the personnel of those building 5869
departments, and persons and employees of individuals, firms, or 5870
corporations as described in division (E)(7) of this section to 5871
exercise enforcement authority, to accept and approve plans and 5872
specifications, and to make inspections, pursuant to sections 5873
3781.03, 3791.04, and 4104.43 of the Revised Code. 5874

(2) The board shall certify departments, personnel, and 5875
persons to enforce the state residential building code, to enforce 5876
the nonresidential building code, or to enforce both the 5877
residential and the nonresidential building codes. Any department, 5878
personnel, or person may enforce only the type of building code 5879
for which certified. 5880

(3) The board shall not require a building department, its 5881

personnel, or any persons that it employs to be certified for 5882
residential building code enforcement if that building department 5883
does not enforce the state residential building code. The board 5884
shall specify, in rules adopted pursuant to Chapter 119. of the 5885
Revised Code, the requirements for certification for residential 5886
and nonresidential building code enforcement, which shall be 5887
consistent with this division. The requirements for residential 5888
and nonresidential certification may differ. Except as otherwise 5889
provided in this division, the requirements shall include, but are 5890
not limited to, the satisfactory completion of an initial 5891
examination and, to remain certified, the completion of a 5892
specified number of hours of continuing building code education 5893
within each three-year period following the date of certification 5894
which shall be not less than thirty hours. The rules shall provide 5895
that continuing education credits and certification issued by the 5896
council of American building officials, national model code 5897
organizations, and agencies or entities the board recognizes are 5898
acceptable for purposes of this division. The rules shall specify 5899
requirements that are consistent with the provisions of section 5900
5903.12 of the Revised Code relating to active duty military 5901
service and are compatible, to the extent possible, with 5902
requirements the council of American building officials and 5903
national model code organizations establish. 5904

(4) The board shall establish and collect a certification and 5905
renewal fee for building department personnel, and persons and 5906
employees of persons, firms, or corporations as described in this 5907
section, who are certified pursuant to this division. 5908

(5) Any individual certified pursuant to this division shall 5909
complete the number of hours of continuing building code education 5910
that the board requires or, for failure to do so, forfeit 5911
certification. 5912

(6) This division does not require or authorize the board to 5913

certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) A certified municipal, township, or county building department may exercise enforcement authority, accept and approve plans and specifications, and make inspections pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code for a park district created pursuant to Chapter 1545. of the Revised

Code upon the approval, by resolution, of the board of park 5945
commissioners of the park district requesting the department to 5946
exercise that authority and conduct those activities, as 5947
applicable. 5948

(10) Certification shall be granted upon application by the 5949
municipal corporation, the board of township trustees, or the 5950
board of county commissioners and approval of that application by 5951
the board of building standards. The application shall set forth: 5952

(a) Whether the certification is requested for residential or 5953
nonresidential buildings, or both; 5954

(b) The number and qualifications of the staff composing the 5955
building department; 5956

(c) The names, addresses, and qualifications of persons, 5957
firms, or corporations contracting to furnish work or services 5958
pursuant to division (E)(7)(b) of this section; 5959

(d) The names of any other municipal corporation, township, 5960
county, health district, or political subdivision under contract 5961
to furnish work or services pursuant to division (E)(7) of this 5962
section; 5963

(e) The proposed budget for the operation of the building 5964
department. 5965

~~(10)~~(11) The board of building standards shall adopt rules 5966
governing all of the following: 5967

(a) The certification of building department personnel and 5968
persons and employees of persons, firms, or corporations 5969
exercising authority pursuant to division (E)(7) of this section. 5970
The rules shall disqualify any employee of the department or 5971
person who contracts for services with the department from 5972
performing services for the department when that employee or 5973
person would have to pass upon, inspect, or otherwise exercise 5974

authority over any labor, material, or equipment the employee or 5975
person furnishes for the construction, alteration, or maintenance 5976
of a building or the preparation of working drawings or 5977
specifications for work within the jurisdictional area of the 5978
department. The department shall provide other similarly qualified 5979
personnel to enforce the residential and nonresidential building 5980
codes as they pertain to that work. 5981

(b) The minimum services to be provided by a certified 5982
building department. 5983

~~(11)~~(12) The board of building standards may revoke or 5984
suspend certification to enforce the residential and 5985
nonresidential building codes, on petition to the board by any 5986
person affected by that enforcement or approval of plans, or by 5987
the board on its own motion. Hearings shall be held and appeals 5988
permitted on any proceedings for certification or revocation or 5989
suspension of certification in the same manner as provided in 5990
section 3781.101 of the Revised Code for other proceedings of the 5991
board of building standards. 5992

~~(12)~~(13) Upon certification, and until that authority is 5993
revoked, any county or township building department shall enforce 5994
the residential and nonresidential building codes for which it is 5995
certified without regard to limitation upon the authority of 5996
boards of county commissioners under Chapter 307. of the Revised 5997
Code or boards of township trustees under Chapter 505. of the 5998
Revised Code. 5999

(F) In addition to hearings sections 3781.06 to 3781.18 and 6000
3791.04 of the Revised Code require, the board of building 6001
standards shall make investigations and tests, and require from 6002
other state departments, officers, boards, and commissions 6003
information the board considers necessary or desirable to assist 6004
it in the discharge of any duty or the exercise of any power 6005
mentioned in this section or in sections 3781.06 to 3781.18, 6006

3791.04, and 4104.43 of the Revised Code. 6007

(G) The board shall adopt rules and establish reasonable fees 6008
for the review of all applications submitted where the applicant 6009
applies for authority to use a new material, assembly, or product 6010
of a manufacturing process. The fee shall bear some reasonable 6011
relationship to the cost of the review or testing of the 6012
materials, assembly, or products and for the notification of 6013
approval or disapproval as provided in section 3781.12 of the 6014
Revised Code. 6015

(H) The residential construction advisory committee shall 6016
provide the board with a proposal for a state residential building 6017
code that the committee recommends pursuant to division (D)(1) of 6018
section 4740.14 of the Revised Code. Upon receiving a 6019
recommendation from the committee that is acceptable to the board, 6020
the board shall adopt rules establishing that code as the state 6021
residential building code. 6022

(I)(1) The committee may provide the board with proposed 6023
rules to update or amend the state residential building code that 6024
the committee recommends pursuant to division (E) of section 6025
4740.14 of the Revised Code. 6026

(2) If the board receives a proposed rule to update or amend 6027
the state residential building code as provided in division (I)(1) 6028
of this section, the board either may accept or reject the 6029
proposed rule for incorporation into the residential building 6030
code. If the board does not act to either accept or reject the 6031
proposed rule within ninety days after receiving the proposed rule 6032
from the committee as described in division (I)(1) of this 6033
section, the proposed rule shall become part of the residential 6034
building code. 6035

(J) The board shall cooperate with the director of job and 6036
family services when the director promulgates rules pursuant to 6037

section 5104.05 of the Revised Code regarding safety and 6038
sanitation in type A family day-care homes. 6039

(K) The board shall adopt rules to implement the requirements 6040
of section 3781.108 of the Revised Code. 6041

Sec. 4507.021. (A) No person shall drive, operate, draw, 6042
move, or propel an agricultural tractor or implement of husbandry 6043
upon a street or highway in either of the following circumstances 6044
unless the person has a current, valid driver's or commercial 6045
driver's license: 6046

(1) At a speed greater than twenty-five miles per hour; or 6047

(2) While transporting persons in or on a trailer or unit of 6048
farm machinery. 6049

(B) Division (A) of this section does not apply to a person 6050
operating an agricultural tractor or implement of husbandry on a 6051
street or highway in order to conduct an agricultural activity. 6052
For purposes of this division, "agricultural activity" is any 6053
activity related to agriculture as defined in section 1.61 of the 6054
Revised Code. 6055

(C) Whoever violates division (A) of this section is guilty 6056
of a misdemeanor of the first degree. 6057

Sec. 4507.03. (A)(1) No person shall be required to obtain a 6058
driver's or commercial driver's license for the purpose of 6059
temporarily driving, operating, drawing, moving, or propelling a 6060
road roller or road machinery upon a street or highway. 6061

(2) ~~No~~ Except as provided in section 4507.021 of the Revised 6062
Code, no person shall be required to obtain a driver's or 6063
commercial driver's license for the purpose of temporarily 6064
driving, operating, drawing, moving, or propelling any 6065
agricultural tractor or implement of husbandry upon a street or 6066

highway at a speed of twenty-five miles per hour or less. 6067

~~(3) No person shall drive, operate, draw, move, or propel any 6068
agricultural tractor or implement of husbandry upon a street or 6069
highway at a speed greater than twenty five miles per hour unless 6070
the person has a current, valid driver's or commercial driver's 6071
license. 6072~~

~~(4) No person having a valid driver's or commercial driver's 6073
license shall be required to have a motorcycle operator's 6074
endorsement to operate a motorcycle having three wheels with a 6075
motor of not more than fifty cubic centimeters piston 6076
displacement. 6077~~

(B) Every person on active duty in the armed forces of the 6078
United States, when furnished with a driver's permit and when 6079
operating an official motor vehicle in connection with such duty, 6080
is exempt from the license requirements of Chapters 4506. and 6081
4507. of the Revised Code. 6082

Every person on active duty in the armed forces of the United 6083
States or in service with the peace corps, volunteers in service 6084
to America, or the foreign service of the United States is exempt 6085
from the license requirements of those chapters for the period of 6086
the person's active duty or service and for six months thereafter, 6087
provided the person was a licensee under those chapters at the 6088
time the person commenced the person's active duty or service. The 6089
spouse or a dependent of any such person on active duty or in 6090
service also is exempt from the license requirements of those 6091
chapters for the period of the person's active duty or service and 6092
for six months thereafter, provided the spouse or dependent was a 6093
licensee under those chapters at the time the person commenced the 6094
active duty or service, and provided further that the person's 6095
active duty or service causes the spouse or dependent to relocate 6096
outside of this state during the period of the active duty or 6097
service. 6098

This section does not prevent such a person or the person's spouse or dependent from making an application, as provided in division (C) of section 4507.10 of the Revised Code, for the renewal of a driver's license or motorcycle operator's endorsement or as provided in section 4506.14 of the Revised Code for the renewal of a commercial driver's license during the period of the person's active duty or service.

~~(C) Whoever violates division (A)(3) of this section is guilty of a misdemeanor of the first degree.~~

Sec. 4707.02. (A) No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.

~~The~~ Except as provided in this division, the department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal. However, the department may issue or renew a license if the applicant or licensee has not been convicted of more than one felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal if the conviction does not directly relate to conducting an auction or acting as an auctioneer.

(B) Division (A) of this section does not apply to any of the following:

(1) Sales at auction that either are required by law to be at auction, other than sales pursuant to a judicial order or decree, or are conducted by or under the direction of a public authority;

(2) The owner of any real or personal property desiring to 6129
sell the property at auction, provided that the property was not 6130
acquired for the purpose of resale; 6131

(3) An auction mediation company; 6132

(4) An auction that is conducted in a course of study for 6133
auctioneers that is approved by the state auctioneers commission 6134
created under section 4707.03 of the Revised Code for purposes of 6135
student training and is supervised by a licensed auctioneer; 6136

(5)(a) An auction that is sponsored by a nonprofit or 6137
charitable organization that is registered in this state under 6138
Chapter 1702. or Chapter 1716. of the Revised Code, respectively, 6139
if the auction only involves the property of the members of the 6140
organization and the auction is part of a fair that is organized 6141
by an agricultural society under Chapter 1711. of the Revised Code 6142
or by the Ohio expositions commission under Chapter 991. of the 6143
Revised Code at which an auctioneer who is licensed under this 6144
chapter physically conducts the auction; or 6145

(b) Sales at an auction sponsored by a charitable, religious, 6146
or civic organization that is tax exempt under subsection 6147
501(c)(3) of the Internal Revenue Code, or by a public school, 6148
chartered nonpublic school, or community school, if no person in 6149
the business of organizing, arranging, or conducting an auction 6150
for compensation and no consignor of consigned items sold at the 6151
auction, except such organization or school, receives compensation 6152
from the proceeds of the auction. As used in division (B)(5)(b) of 6153
this section, "compensation" means money, a thing of value other 6154
than participation in a charitable event, or a financial benefit. 6155

(6) A person licensed as a livestock dealer under Chapter 6156
943. of the Revised Code who exclusively sells livestock and uses 6157
an auctioneer who is licensed under this chapter to conduct the 6158
auction; 6159

(7) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles to a person licensed under Chapter 4517. of the Revised Code and who uses an auctioneer who is licensed under this chapter to conduct the auction;

(8) A person who sells real or personal property by means of the internet;

(9) A bid calling contest that is approved by the commission and that is conducted for the purposes of the advancement or promotion of the auction profession in this state, provided that no compensation is paid to the sponsor of or participants in the contest other than a prize or award for winning the contest;

(10) An auction at which the champion of a national or international bid calling contest appears, provided that both of the following apply:

(a) The champion is not paid a commission.

(b) The auction is conducted under the direct supervision of an auctioneer licensed under this chapter in order to ensure that the champion complies with this chapter and rules adopted under it.

(C)(1) No person shall advertise or hold oneself out as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of agriculture.

(2) Division (C)(1) of this section does not apply to an individual who is the subject of an advertisement regarding an auction conducted under division (B)(5)(b) of this section.

Sec. 4905.71. (A) Every telephone or electric light company that is a public utility as defined by section 4905.02 of the Revised Code and, subject to section 4927.15 of the Revised Code,

every incumbent local exchange carrier as defined by section 6190
4927.01 of the Revised Code shall permit, upon reasonable terms 6191
and conditions and the payment of reasonable charges, the 6192
attachment of any wire, cable, facility, or apparatus to its 6193
poles, pedestals, or placement of same in conduit duct space, by 6194
any person or entity other than a public utility that is 6195
authorized and has obtained, under law, any necessary public or 6196
private authorization and permission to construct and maintain the 6197
attachment, so long as the attachment does not interfere, 6198
obstruct, or delay the service and operation of the ~~telephone or~~ 6199
~~electric light~~ company or carrier, or create a hazard to safety. 6200
Every such ~~telephone or electric light~~ company or carrier shall 6201
file tariffs with the public utilities commission containing the 6202
charges, terms, and conditions established for such use. 6203

(B) The commission shall regulate the justness and 6204
reasonableness of the charges, terms, and conditions contained in 6205
any such tariff, and may, upon complaint of any persons in which 6206
it appears that reasonable grounds for complaint are stated, or 6207
upon its own initiative, investigate such charges, terms, and 6208
conditions and conduct a hearing to establish just and reasonable 6209
charges, terms, and conditions, and to resolve any controversy 6210
that may arise among the parties as to such attachment. 6211

Sec. 4927.01. (A) As used in this chapter: 6212

(1) "Basic local exchange service" means residential-end-user 6213
access to and usage of telephone-company-provided services over a 6214
single line or small-business-end-user access to and usage of 6215
telephone-company-provided services over the primary access line 6216
of service, which in the case of residential and small-business 6217
access and usage is not part of a bundle or package of services, 6218
that does both of the following: 6219

(a) Enables a customer to originate or receive voice 6220

communications within a local service area as that area exists on 6221
September 13, 2010, ~~the effective date of the amendment of this~~ 6222
~~section by S.B. 162 of the 128th general assembly or as that area~~ 6223
is changed with the approval of the public utilities commission; 6224

(b) Consists of all of the following services: 6225

(i) Local dial tone service; 6226

(ii) For residential end users, flat-rate telephone exchange 6227
service; 6228

(iii) Touch tone dialing service; 6229

(iv) Access to and usage of 9-1-1 services, where such 6230
services are available; 6231

(v) Access to operator services and directory assistance; 6232

(vi) Provision of a telephone directory in any reasonable 6233
format for no additional charge and a listing in that directory, 6234
with reasonable accommodations made for private listings; 6235

(vii) Per call, caller identification blocking services; 6236

(viii) Access to telecommunications relay service; and 6237

(ix) Access to toll presubscription, interexchange or toll 6238
providers or both, and networks of other telephone companies. 6239

"Basic local exchange service" excludes any voice service to 6240
which customers are transitioned following a withdrawal of basic 6241
local exchange service under section 4927.10 of the Revised Code. 6242

(2) "Bundle or package of services" means one or more 6243
telecommunications services or other services offered together as 6244
one service option at a single price. 6245

(3) "Carrier access" means access to and usage of telephone 6246
company-provided facilities that enable end user customers 6247
originating or receiving voice grade, data, or image 6248
communications, over a local exchange telephone company network 6249

operated within a local service area, to access interexchange or 6250
other networks and includes special access. 6251

(4) "Federal poverty level" means the income level 6252
represented by the poverty guidelines as revised annually by the 6253
United States department of health and human services in 6254
accordance with section 673(2) of the "Omnibus Reconciliation Act 6255
of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family 6256
size equal to the size of the family of the person whose income is 6257
being determined. 6258

(5) "Incumbent local exchange carrier" means, with respect to 6259
an area, the local exchange carrier that: 6260

(a) On February 8, 1996, provided telephone exchange service 6261
in such area; and 6262

(b)(i) On February 8, 1996, was deemed to be a member of the 6263
exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 6264

(ii) Is a person or entity that, on or after February 8, 6265
1996, became a successor or assign of a member described in 6266
division (A)(5)(b)(i) of this section. 6267

(6) "Internet protocol-enabled services" means any services, 6268
capabilities, functionalities, or applications that are provided 6269
using internet protocol or a successor protocol to enable an end 6270
user to send or receive communications in internet protocol format 6271
or a successor format, regardless of how any particular such 6272
service is classified by the federal communications commission, 6273
and includes voice over internet protocol service. 6274

(7) "Interstate-access component" means the portion of 6275
carrier access that is within the jurisdiction of the federal 6276
communications commission. 6277

(8) "Local exchange carrier" means any person engaged in the 6278
provision of telephone exchange service, or the offering of access 6279

to telephone exchange service or facilities for the purpose of 6280
originating or terminating telephone toll service. 6281

~~(8)~~(9) "Local service area" means the geographic area that 6282
may encompass more than one exchange area and within which a 6283
telephone customer, by paying the rate for basic local exchange 6284
service, may complete calls to other telephone customers without 6285
being assessed long distance toll charges. 6286

~~(9)~~(10) "Small business" means a nonresidential service 6287
customer with three or fewer service access lines. 6288

~~(10)~~(11) "Telecommunications" means the transmission, between 6289
or among points specified by the user, of information of the 6290
user's choosing, without change in the form or content of the 6291
information as sent and received. 6292

~~(11)~~(12) "Telecommunications carrier" has the same meaning as 6293
in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 6294
153. 6295

~~(12)~~(13) "Telecommunications service" means the offering of 6296
telecommunications for a fee directly to the public, or to such 6297
classes of users as to be effectively available directly to the 6298
public, regardless of the facilities used. 6299

~~(13)~~(14) "Telephone company" means a company described in 6300
division (A) of section 4905.03 of the Revised Code that is a 6301
public utility under section 4905.02 of the Revised Code. 6302

~~(14)~~(15) "Telephone exchange service" means 6303
telecommunications service that is within a telephone exchange, or 6304
within a connected system of telephone exchanges within the same 6305
exchange area operated to furnish to subscribers 6306
intercommunicating service of the character ordinarily furnished 6307
by a single exchange, and that is covered by the exchange service 6308
charge; or comparable service provided through a system of 6309
switches, transmission equipment, or other facilities, or 6310

combination thereof, by which a customer can originate and 6311
terminate a telecommunications service. 6312

~~(15)~~(16) "Telephone toll service" means telephone service 6313
between stations in different exchange areas for which there is 6314
made a separate charge not included in contracts with customers 6315
for exchange service. 6316

~~(16)~~(17) "Voice over internet protocol service" means a 6317
service that ~~uses a broadband connection from an end user's~~ 6318
~~location and~~ enables real-time, two-way, voice communications that 6319
originate or terminate from the user's location using internet 6320
protocol or a successor protocol, including, but not limited to, 6321
any such service that permits an end user to receive calls from 6322
and terminate calls to the public switched network. 6323

~~(17)~~(18) "Voice service" includes all of the applicable 6324
functionalities described in 47 C.F.R. 54.101(a). "Voice service" 6325
is not the same as basic local exchange service. 6326

(19) "Wireless service" means federally licensed commercial 6327
mobile service as defined in the "Telecommunications Act of 1996," 6328
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 6329
commercial mobile radio service in 47 C.F.R. 20.3. Under division 6330
(A)~~(17)~~(19) of this section, commercial mobile radio service is 6331
specifically limited to mobile telephone, mobile cellular 6332
telephone, paging, personal communications services, and 6333
specialized mobile radio service provided by a common carrier in 6334
this state and excludes fixed wireless service. 6335

~~(18)~~(20) "Wireless service provider" means a facilities-based 6336
provider of wireless service to one or more end users in this 6337
state. 6338

(B) The definitions of this section shall be applied 6339
consistent with the definitions in the "Telecommunications Act of 6340
1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with 6341

federal decisions interpreting those definitions. 6342

Sec. 4927.02. (A) It is the policy of this state to: 6343

(1) Ensure the availability of adequate basic local exchange 6344
service or voice service to citizens throughout the state; 6345

(2) Provide incentives for competing providers of 6346
telecommunications service to provide advanced, high-quality 6347
telecommunications service to citizens throughout the state; 6348

(3) Rely primarily on market forces, where they exist, to 6349
maintain reasonable service levels for telecommunications services 6350
at reasonable rates; 6351

(4) Encourage innovation in the telecommunications industry 6352
and the deployment of advanced telecommunications services; 6353

(5) Create a regulatory climate that provides incentives to 6354
create and maintain high technology jobs for Ohioans; 6355

(6) Promote diversity and options in the supply of 6356
telecommunications services and equipment throughout the state; 6357

(7) Recognize the continuing emergence of a competitive 6358
telecommunications environment through flexible regulatory 6359
treatment of telecommunications services where appropriate; 6360

(8) Consider the regulatory treatment of competing and 6361
functionally equivalent services and, to the extent practicable, 6362
provide for equivalent regulation of all telephone companies and 6363
services; 6364

(9) Not unduly favor or advantage any provider and not unduly 6365
disadvantage providers of competing and functionally equivalent 6366
services; and 6367

(10) Protect the affordability of telephone service for 6368
low-income subscribers through the continuation of federal 6369
lifeline assistance programs. 6370

(B) The public utilities commission shall consider the policy 6371
set forth in this section in carrying out this chapter. 6372

Sec. 4927.07. (A) A Except as provided under the notice 6373
requirements of section 4927.10 of the Revised Code, a 6374
telephone company may withdraw any telecommunications service if it gives at 6375
least thirty days' prior notice to the public utilities commission 6376
and to its affected customers. 6377

(B) A Except as provided under the notice requirements of 6378
section 4927.10 of the Revised Code, a telephone company may 6379
abandon entirely telecommunications service in this state if it 6380
gives at least thirty days' prior notice to the commission, to its 6381
wholesale and retail customers, and to any telephone company 6382
wholesale provider of its services. 6383

(C) Divisions (A) and (B) of this section do not apply to any 6384
of the following: 6385

(1) ~~Basic local exchange service provided by an incumbent~~ 6386
~~local exchange carrier;~~ 6387

~~(2)~~ Pole attachments under section 4905.71 of the Revised 6388
Code; 6389

~~(3)~~(2) Conduit occupancy under section 4905.71 of the Revised 6390
Code; 6391

~~(4)~~(3) Interconnection and resale agreements approved under 6392
the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151 6393
et seq., as amended. 6394

(D) ~~An~~ Except as provided in section 4927.10 of the Revised 6395
Code, an incumbent local exchange carrier may not withdraw or 6396
abandon basic local exchange service. 6397

(E) ~~A~~ Neither a telephone company nor an incumbent local 6398
exchange carrier may ~~not~~, without first filing a request with the 6399
commission and obtaining commission approval, withdraw any tariff 6400

filed with the commission for pole attachments or conduit 6401
occupancy under section 4905.71 of the Revised Code or abandon 6402
service provided under that section. 6403

Sec. 4927.10. (A) Subject to division (B) of this section, if 6404
the federal communications commission adopts an order that allows 6405
an incumbent local exchange carrier to withdraw the 6406
interstate-access component of its basic local exchange service 6407
under 47 U.S.C. 214, neither of the following shall apply, 6408
beginning when the order is adopted, with regard to any exchange 6409
area in which an incumbent local exchange carrier withdraws that 6410
component: 6411

(1) The prohibition contained in division (D) of section 6412
4927.07 of the Revised Code against the withdrawal or abandonment 6413
of basic local exchange service by an incumbent local exchange 6414
carrier, provided that the carrier gives at least ninety days' 6415
prior notice to the public utilities commission and to its 6416
affected customers of the withdrawal or abandonment; 6417

(2) The requirements contained in division (A) of section 6418
4927.11 of the Revised Code. 6419

(B) If a residential customer to whom notice has been given 6420
under this section will be unable to obtain voice service upon the 6421
carrier's withdrawal or abandonment of basic local exchange 6422
service, the customer may file a petition with the public 6423
utilities commission not later than sixty days prior to the 6424
effective date of the withdrawal or abandonment. If a residential 6425
customer is identified by the collaborative process established 6426
under Section 8 of H.B. 490 of the Revised Code as a customer who 6427
will be unable to obtain voice service upon the withdrawal or 6428
abandonment of basic local exchange service, that customer shall 6429
be treated as though the customer filed a timely petition under 6430
this division. 6431

(1) The public utilities commission shall issue an order 6432
disposing of the petition not later than sixty days after the 6433
filing of the petition. 6434

(a) If the public utilities commission determines after an 6435
investigation that no voice service will be available to the 6436
customer at the customer's residence, the public utilities 6437
commission shall attempt to identify a willing provider of voice 6438
service to serve the customer. 6439

(b) If no willing provider is identified, the public 6440
utilities commission may order the withdrawing or abandoning 6441
carrier to provide voice service to the customer at the customer's 6442
residence. 6443

(c) The willing provider or the carrier, as applicable, may 6444
utilize any technology or service arrangement to provide the voice 6445
service. 6446

(2) Except as provided in division (B)(2) of this section, an 6447
order adopted under division (B)(1)(b) of this section shall not 6448
be in effect for more than twelve months after the date that it is 6449
issued. If an order is issued under division (B)(1)(b) of this 6450
section, the public utilities commission shall evaluate, during 6451
the twelve-month period in which the order is effective, whether 6452
an alternative voice service is found to exist for the affected 6453
customer. If no alternative voice service is available, the public 6454
utilities commission may extend the order for one additional 6455
twelve-month period. 6456

Sec. 4927.101. (A) Section 4927.10 of the Revised Code and 6457
the amendments to sections 4927.01, 4927.02, 4927.07, and 4927.11 6458
of the Revised Code made by H.B. 490 of the 130th general assembly 6459
shall not affect any of the following: 6460

(1) Any contractual obligation, including agreements under 6461

the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 251 6462
and 252, as amended; 6463

(2) Any right or obligation under federal law or rules; 6464

(3) The carrier-access requirements under section 4927.15 of 6465
the Revised Code; 6466

(4) Any right or obligation under section 4905.71 of the 6467
Revised Code. 6468

(B) The amendments to section 4927.15 of the Revised Code 6469
made by H.B. 490 of the 130th general assembly shall not affect 6470
the obligations and rights described in divisions (A)(1), (2), and 6471
(4) of this section. 6472

Sec. 4927.11. (A) Except as otherwise provided in this 6473
section and section 4927.10 of the Revised Code, an incumbent 6474
local exchange carrier shall provide basic local exchange service 6475
to all persons or entities in its service area requesting that 6476
service, and that service shall be provided on a reasonable and 6477
nondiscriminatory basis. 6478

(B)(1) An incumbent local exchange carrier is not obligated 6479
to construct facilities and provide basic local exchange service, 6480
or any other telecommunications service, to the occupants of 6481
multitenant real estate, including, but not limited to, 6482
apartments, condominiums, subdivisions, office buildings, or 6483
office parks, if the owner, operator, or developer of the 6484
multitenant real estate does any of the following to the benefit 6485
of any other telecommunications service provider: 6486

(a) Permits only one provider of telecommunications service 6487
to install the company's facilities or equipment during the 6488
construction or development phase of the multitenant real estate; 6489

(b) Accepts or agrees to accept incentives or rewards that 6490
are offered by a telecommunications service provider to the owner, 6491

operator, developer, or occupants of the multitenant real estate 6492
and are contingent on the provision of telecommunications service 6493
by that provider to the occupants, to the exclusion of services 6494
provided by other telecommunications service providers; 6495

(c) Collects from the occupants of the multitenant real 6496
estate any charges for the provision of telecommunications service 6497
to the occupants, including charges collected through rents, fees, 6498
or dues. 6499

(2) A carrier not obligated to construct facilities and 6500
provide basic local exchange service pursuant to division (B)(1) 6501
of this section shall notify the public utilities commission of 6502
that fact within one hundred twenty days of receiving knowledge 6503
thereof. 6504

(3) The commission by rule may establish a process for 6505
determining a necessary successor telephone company to provide 6506
service to real estate described in division (B)(1) of this 6507
section when the circumstances described in that division cease to 6508
exist. 6509

(4) An incumbent local exchange carrier that receives a 6510
request from any person or entity to provide service under the 6511
circumstances described in division (B)(1) of this section shall, 6512
within fifteen days of such receipt, provide notice to the person 6513
or entity specifying whether the carrier will provide the 6514
requested service. If the carrier provides notice that it will not 6515
serve the person or entity, the notice shall describe the person's 6516
or entity's right to file a complaint with the commission under 6517
section 4927.21 of the Revised Code within thirty days after 6518
receipt of the notice. In resolving any such complaint, the 6519
commission's determination shall be limited to whether any 6520
circumstance described in divisions (B)(1)(a) to (c) of this 6521
section exists. Upon a finding by the commission that such a 6522
circumstance exists, the complaint shall be dismissed. Upon a 6523

finding that such circumstances do not exist, the person's or 6524
entity's sole remedy shall be provision by the carrier of the 6525
requested service within a reasonable time. 6526

(C) An incumbent local exchange carrier may apply to the 6527
commission for a waiver from compliance with division (A) of this 6528
section. The application shall include, at a minimum, the reason 6529
for the requested waiver, the number of persons or entities who 6530
would be impacted by the waiver, and the alternatives that would 6531
be available to those persons or entities if the waiver were 6532
granted. The incumbent local exchange carrier applying for the 6533
waiver shall publish notice of the waiver application one time in 6534
a newspaper of general circulation throughout the service area 6535
identified in the application and shall provide additional notice 6536
to affected persons or entities as required by the commission in 6537
rules adopted under this division. The commission's rules shall 6538
define "affected" for purposes of this division. The commission 6539
shall afford such persons or entities a reasonable opportunity to 6540
comment to the commission on the application. This opportunity 6541
shall include a public hearing conducted in accordance with rules 6542
adopted under this division and conducted in the service area 6543
identified in the application. After a reasonable opportunity to 6544
comment has been provided, but not later than one hundred twenty 6545
days after the application is filed, the commission either shall 6546
issue an order granting the waiver if, upon investigation, it 6547
finds the waiver to be just, reasonable, and not contrary to the 6548
public interest, and that the applicant demonstrates a financial 6549
hardship or an unusual technical limitation, or shall issue an 6550
order denying the waiver based on a failure to meet those 6551
standards and specifying the reasons for the denial. The 6552
commission shall adopt rules to implement division (C) of this 6553
section. 6554

Sec. 4927.15. (A)(1) The rates, terms, and conditions for 6555

9-1-1 service provided in this state by a telephone company or a 6556
telecommunications carrier and each of the following provided in 6557
this state by a telephone company shall be approved and tariffed 6558
in the manner prescribed by rule adopted by the public utilities 6559
commission and shall be subject to the applicable laws, including 6560
rules or regulations adopted and orders issued by the commission 6561
or the federal communications commission: 6562

~~(1) Carrier access;~~ 6563

~~(2)(a) N-1-1 services, other than 9-1-1 service;~~ 6564

~~(3) Pole attachments and conduit occupancy under section 6565
4905.71 of the Revised Code;~~ 6566

~~(4)(b) Pay telephone access lines;~~ 6567

~~(5)(c) Toll presubscription;~~ 6568

~~(6)(d) Telecommunications relay service.~~ 6569

(2) The rates, terms, and conditions for both of the 6570
following provided in this state by a telephone company or an 6571
incumbent local exchange carrier shall be approved and tariffed in 6572
the manner prescribed by rule adopted by the public utilities 6573
commission and shall be subject to the applicable laws, including 6574
rules or regulations adopted and orders issued by the commission 6575
or the federal communications commission: 6576

(a) Carrier access; 6577

(b) Pole attachments and conduit occupancy under section 6578
4905.71 of the Revised Code. 6579

(B) The public utilities commission may order changes in a 6580
telephone company's rates for carrier access in this state subject 6581
to this division. In the event that the public utilities 6582
commission reduces a telephone company's rates for carrier access 6583
that are in effect on September 13, 2010, that reduction shall be 6584

on a revenue-neutral basis under terms and conditions established 6585
by the public utilities commission, and any resulting rate changes 6586
necessary to comply with division (B) or (C) of this section shall 6587
be in addition to any upward rate alteration made under section 6588
4927.12 of the Revised Code. 6589

(C) The public utilities commission has authority to address 6590
carrier access policy and to create and administer mechanisms for 6591
carrier access reform, including, but not limited to, high cost 6592
support. 6593

Sec. 5713.051. (A) As used in this section: 6594

(1) "Oil" means all grades of crude oil. 6595

(2) "Gas" means all forms of natural gas. 6596

(3) "Well" means an oil or gas well or an oil and gas well. 6597

(4) "M.C.F." means one thousand cubic feet. 6598

(5) "Commonly metered wells" means two or more wells that 6599
share the same meter. 6600

(6) "Total production" means the total amount of oil, 6601
measured in barrels, and the total amount of gas, measured in 6602
M.C.F., of all oil and gas actually produced and sold from a 6603
single well that is developed and producing on the tax lien date. 6604
For commonly metered wells, "total production" means the total 6605
amount of oil, measured in barrels, and the total amount of gas, 6606
measured in M.C.F., of all oil and gas actually produced and sold 6607
from the commonly metered wells divided by the number of the 6608
commonly metered wells. 6609

(7) "Flush production" means total production from a single 6610
well during the first twelve calendar months during not more than 6611
two consecutive calendar years after a well first begins to 6612
produce. For commonly metered wells, "flush production" means 6613
total production during the first twelve calendar months during 6614

not more than two consecutive calendar years after a well first 6615
begins to produce from all wells with flush production divided by 6616
the number of those wells. 6617

(8) "Production through secondary recovery methods" means 6618
total production from a single well where mechanically induced 6619
pressure, such as air, nitrogen, carbon dioxide, or water 6620
pressure, is used to stimulate and maintain production in the oil 6621
and gas reservoir, exclusive of any flush production. For commonly 6622
metered wells, "production through secondary recovery methods" 6623
means total production from all wells with production through 6624
secondary recovery methods divided by the number of ~~the~~ those 6625
wells. 6626

(9) "Stabilized production" means total production reduced, 6627
if applicable, by the greater of forty-two and one-half per cent 6628
of flush production or fifty per cent of production through 6629
secondary recovery methods. 6630

(10) "Average daily production" means stabilized production 6631
divided by three hundred sixty-five, provided the well was in 6632
production at the beginning of the calendar year. If the well was 6633
not in production at the beginning of the calendar year, "average 6634
daily production" means stabilized production divided by the 6635
number of days beginning with the day the well went into 6636
production in the calendar year and ending with the thirty-first 6637
day of December. 6638

(11) "Gross price" means the unweighted average price per 6639
barrel of oil or the average price per M.C.F. of gas produced from 6640
Ohio wells and first sold during the five-year period ending with 6641
the calendar year immediately preceding the tax lien date, as 6642
reported by the department of natural resources. 6643

(12) "Average annual decline rate" means the amount of yearly 6644
decline in oil and gas production of a well after flush production 6645

has ended. For the purposes of this section, the average annual
decline rate is thirteen per cent.

(13) "Gross revenue" means the gross revenue from a well
during a ten-year discount period with production assumed to be
one barrel of oil or one M.C.F. of gas during the first year of
production and declining at the annual average annual decline rate
during the remaining nine years of the ten-year discount period,
as follows:

(a) First year: one barrel or one M.C.F. multiplied by gross
price;

(b) Second year: 0.870 barrel or 0.870 M.C.F. multiplied by
gross price;

(c) Third year: 0.757 barrel or 0.757 M.C.F. multiplied by
gross price;

(d) Fourth year: 0.659 barrel or 0.659 M.C.F. multiplied by
gross price;

(e) Fifth year: 0.573 barrel or 0.573 M.C.F. multiplied by
gross price;

(f) Sixth year: 0.498 barrel or 0.498 M.C.F. multiplied by
gross price;

(g) Seventh year: 0.434 barrel or 0.434 M.C.F. multiplied by
gross price;

(h) Eighth year: 0.377 barrel or 0.377 M.C.F. multiplied by
gross price;

(i) Ninth year: 0.328 barrel or 0.328 M.C.F. multiplied by
gross price;

(j) Tenth year: 0.286 barrel or 0.286 M.C.F. multiplied by
gross price.

(14) "Average royalty expense" means the annual cost of

royalties paid by all working interest owners in a well. For the 6675
purposes of this section, the average royalty expense is fifteen 6676
per cent of annual gross revenue. 6677

(15) "Average operating expense" means the annual cost of 6678
operating and maintaining a producing well after it first begins 6679
production. For the purposes of this section, the average 6680
operating expense is forty per cent of annual gross revenue. 6681

(16) "Average capital recovery expense" means the annual 6682
capitalized investment cost of a developed and producing well. For 6683
the purposes of this section, average capital recovery expense is 6684
thirty per cent of annual gross revenue. 6685

(17) "Discount rate" means the rate used to determine the 6686
present net worth of one dollar during each year of the ten-year 6687
discount period assuming the net income stream projected for each 6688
year of the ten-year discount period is received at the half-year 6689
point. For the purposes of this section, the discount rate equals 6690
thirteen per cent plus the rate per annum prescribed by division 6691
(B) of section 5703.47 of the Revised Code and determined by the 6692
tax commissioner in October of the calendar year immediately 6693
preceding the tax lien date. 6694

(B) The true value in money of oil reserves constituting real 6695
property on tax lien dates January 1, 2007, and thereafter with 6696
respect to a developed and producing well that has not been the 6697
subject of a recent arm's length sale, exclusive of personal 6698
property necessary to recover the oil, shall be determined under 6699
division (B)(1) or (2) of this section. 6700

(1) For ~~wells~~ oil reserves for which average daily production 6701
of oil from a well is one barrel or more in the calendar year 6702
preceding the tax lien date, the true value in money equals the 6703
average daily production of oil from the well multiplied by the 6704
net present value of one barrel of oil, where: 6705

(a) Net present value of one barrel of oil = 365 x the sum of [net income for each year of the discount period x discount rate factor for that year] for all years in the discount period; and

(b) Net income for a year of the discount period = gross revenue for that year minus the sum of the following for that year: average royalty expense, average operating expense, and average capital recovery expense.

(2) For ~~wells~~ oil reserves for which average daily production of oil from a well is less than one barrel in the calendar year preceding the tax lien date, the true value in money equals the average daily production of the well, if any, in the calendar year preceding the tax lien date multiplied by sixty per cent of the net present value of one barrel of oil as computed under division (B)(1) of this section.

(C) The true value in money of gas reserves constituting real property on tax lien dates January 1, 2007, and thereafter with respect to a developed and producing well that has not been the subject of a recent arm's length sale, exclusive of personal property necessary to recover the gas, shall be determined under division (C)(1) or (2) of this section.

(1) For ~~wells~~ gas reserves for which average daily production of gas from a well is eight M.C.F. or more in the calendar year preceding the tax lien date, the true value in money equals the average daily production of gas from the well multiplied by the net present value of one M.C.F. of gas, where:

(a) Net present value of one M.C.F. of gas = 365 x the sum of [net income for each year of the discount period x discount rate factor for that year] for all years in the discount period; and

(b) Net income for a year of the discount period = gross revenue for that year minus the sum of the following for that year: average royalty expense, average operating expense, and

average capital recovery expense. 6737

(2) For wells gas reserves for which average daily production 6738
of gas from a well is less than eight M.C.F. in the calendar year 6739
preceding the tax lien date, the true value in money equals the 6740
average daily production of the well, if any, in the calendar year 6741
preceding the tax lien date multiplied by fifty per cent of the 6742
net present value of one M.C.F. as computed under division (C)(1) 6743
of this section. 6744

(D) No method other than the method described in this section 6745
shall be used to determine the true value in money of oil or gas 6746
reserves for property tax purposes. 6747

Sec. 6109.10. (A)(1) As used in this section, "lead free" 6748
means: 6749

~~(1) When used with respect to solders or flux, solders or~~ 6750
~~flux containing~~ (a) Containing not more than two-tenths of one per 6751
cent lead when used with respect to solders or flux; 6752

~~(2) When used with respect to pipes or pipe fittings, pipes~~ 6753
~~or pipe fittings containing~~ (b) Containing not more than ~~eight a~~ 6754
weighted average of twenty-five-hundredths per cent lead when used 6755
with respect to wetted surfaces of pipes, pipe fittings, or 6756
plumbing fittings or fixtures. 6757

~~(B) Any pipe, pipe fitting, solder, or flux that is used in~~ 6758
~~the installation or repair of a public water system or of any~~ 6759
~~plumbing in a residential or nonresidential facility providing~~ 6760
~~water for human consumption which is connected to a public water~~ 6761
~~system shall be lead free. This division does not apply to leaded~~ 6762
~~joints necessary for the repair of cast iron pipes. (2) For~~ 6763
purposes of this section, the weighted average lead content of a 6764
pipe, pipe fitting, or plumbing fitting or fixture shall be 6765
calculated by using the following formula: for each wetted 6766

component, the percentage of lead in the component shall be 6767
multiplied by the ratio of the wetted surface area of that 6768
component to the total wetted surface area of the entire product 6769
to determine the weighted percentage of lead of the component. The 6770
weighted percentage of lead of each wetted component shall be 6771
added together, and the sum of the weighted percentages shall 6772
constitute the weighted average lead content of the product. The 6773
lead content of the material used to produce wetted components 6774
shall be used to determine whether the wetted surfaces are lead 6775
free pursuant to division (A)(1)(b) of this section. For purposes 6776
of the lead contents of materials that are provided as a range, 6777
the maximum content of the range shall be used. 6778

(B) Except as provided in division (D) of this section, no 6779
person shall do any of the following: 6780

(1) Use any pipe, pipe fitting, plumbing fitting or fixture, 6781
solder, or flux that is not lead free in the installation or 6782
repair of a public water system or of any plumbing in a 6783
residential or nonresidential facility providing water for human 6784
consumption; 6785

(2) Introduce into commerce any pipe, pipe fitting, or 6786
plumbing fitting or fixture that is not lead free; 6787

(3) Sell solder or flux that is not lead free while engaged 6788
in the business of selling plumbing supplies; 6789

(4) Introduce into commerce any solder or flux that is not 6790
lead free unless the solder or flux has a prominent label stating 6791
that it is illegal to use the solder or flux in the installation 6792
or repair of any plumbing providing water for human consumption. 6793

(C) ~~Each~~ The owner or operator of a public water system shall 6794
identify and provide notice to persons that may be affected by 6795
lead contamination of their drinking water if the contamination 6796
results from the lead content in the construction materials of the 6797

public water distribution system, the corrosivity of the water 6798
supply is sufficient to cause the leaching of lead, or both. The 6799
notice shall be in such form and manner as may be reasonably 6800
required by the director of environmental protection, but shall 6801
provide a clear and readily understandable explanation of all of 6802
the following: 6803

(1) Potential sources of lead in the drinking water; 6804

(2) Potential adverse health effects; 6805

(3) Reasonably available methods of mitigating known or 6806
potential lead content in drinking water; 6807

(4) Any steps the public water system is taking to mitigate 6808
lead content in drinking water; 6809

(5) The necessity, if any, of seeking alternative water 6810
supplies. 6811

The notice shall be provided notwithstanding the absence of a 6812
violation of any drinking water standard. 6813

(D)(1) Division (B)(1) of this section does not apply to the 6814
use of leaded joints that are necessary for the repair of cast 6815
iron pipes. 6816

(2) Division (B)(2) of this section does not apply to a pipe 6817
that is used in manufacturing or industrial processing. 6818

(3) Division (B)(3) of this section does not apply to the 6819
selling of plumbing supplies by manufacturers of those supplies. 6820

(4) Division (B) of this section does not apply to either of 6821
the following: 6822

(a) Pipes, pipe fittings, or plumbing fittings or fixtures, 6823
including backflow preventers, that are used exclusively for 6824
nonpotable services such as manufacturing, industrial processing, 6825
irrigation, outdoor watering, or any other uses where the water is 6826
not anticipated to be used for human consumption; 6827

(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two inches in diameter or larger.

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

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

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

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

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

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

Although the director is expected to discharge these duties diligently, failure to mail any such notice or copy or to so

consult with any person shall not invalidate any proceeding or 6858
action of the director. 6859

(C) Administer grants from the federal government and from 6860
other sources, public or private, for carrying out any of its 6861
functions, all such moneys to be deposited in the state treasury 6862
and kept by the treasurer of state in a separate fund subject to 6863
the lawful orders of the director; 6864

(D) Administer state grants for the construction of sewage 6865
and waste collection and treatment works; 6866

(E) Encourage, participate in, or conduct studies, 6867
investigations, research, and demonstrations relating to water 6868
pollution, and the causes, prevention, control, and abatement 6869
thereof, that are advisable and necessary for the discharge of the 6870
director's duties under this chapter; 6871

(F) Collect and disseminate information relating to water 6872
pollution and prevention, control, and abatement thereof; 6873

(G) Adopt, amend, and rescind rules in accordance with 6874
Chapter 119. of the Revised Code governing the procedure for 6875
hearings, the filing of reports, the issuance of permits, the 6876
issuance of industrial water pollution control certificates, and 6877
all other matters relating to procedure; 6878

(H) Issue, modify, or revoke orders to prevent, control, or 6879
abate water pollution by such means as the following: 6880

(1) Prohibiting or abating discharges of sewage, industrial 6881
waste, or other wastes into the waters of the state; 6882

(2) Requiring the construction of new disposal systems or any 6883
parts thereof, or the modification, extension, or alteration of 6884
existing disposal systems or any parts thereof; 6885

(3) Prohibiting additional connections to or extensions of a 6886
sewerage system when the connections or extensions would result in 6887

an increase in the polluting properties of the effluent from the 6888
system when discharged into any waters of the state; 6889

(4) Requiring compliance with any standard or rule adopted 6890
under sections 6111.01 to 6111.05 of the Revised Code or term or 6891
condition of a permit. 6892

In the making of those orders, wherever compliance with a 6893
rule adopted under section 6111.042 of the Revised Code is not 6894
involved, consistent with the Federal Water Pollution Control Act, 6895
the director shall give consideration to, and base the 6896
determination on, evidence relating to the technical feasibility 6897
and economic reasonableness of complying with those orders and to 6898
evidence relating to conditions calculated to result from 6899
compliance with those orders, and their relation to benefits to 6900
the people of the state to be derived from such compliance in 6901
accomplishing the purposes of this chapter. 6902

(I) Review plans, specifications, or other data relative to 6903
disposal systems or any part thereof in connection with the 6904
issuance of orders, permits, and industrial water pollution 6905
control certificates under this chapter; 6906

(J)(1) Issue, revoke, modify, or deny sludge management 6907
permits and permits for the discharge of sewage, industrial waste, 6908
or other wastes into the waters of the state, and for the 6909
installation or modification of disposal systems or any parts 6910
thereof in compliance with all requirements of the Federal Water 6911
Pollution Control Act and mandatory regulations adopted 6912
thereunder, including regulations adopted under section 405 of the 6913
Federal Water Pollution Control Act, and set terms and conditions 6914
of permits, including schedules of compliance, where necessary. 6915
Any person who discharges, transports, or handles storm water from 6916
an animal feeding facility, as defined in section 903.01 of the 6917
Revised Code, or pollutants from a concentrated animal feeding 6918
operation, as both terms are defined in that section, is not 6919

required to obtain a permit under division (J)(1) of this section 6920
for the installation or modification of a disposal system 6921
involving pollutants or storm water or any parts of such a system 6922
on and after the date on which the director of agriculture has 6923
finalized the program required under division (A)(1) of section 6924
903.02 of the Revised Code. In addition, any person who 6925
discharges, transports, or handles storm water from an animal 6926
feeding facility, as defined in section 903.01 of the Revised 6927
Code, or pollutants from a concentrated animal feeding operation, 6928
as both terms are defined in that section, is not required to 6929
obtain a permit under division (J)(1) of this section for the 6930
discharge of storm water from an animal feeding facility or 6931
pollutants from a concentrated animal feeding operation on and 6932
after the date on which the United States environmental protection 6933
agency approves the NPDES program submitted by the director of 6934
agriculture under section 903.08 of the Revised Code. 6935

Any permit terms and conditions set by the director shall be 6936
designed to achieve and maintain full compliance with the national 6937
effluent limitations, national standards of performance for new 6938
sources, and national toxic and pretreatment effluent standards 6939
set under that act, and any other mandatory requirements of that 6940
act that are imposed by regulation of the administrator of the 6941
United States environmental protection agency. If an applicant for 6942
a sludge management permit also applies for a related permit for 6943
the discharge of sewage, industrial waste, or other wastes into 6944
the waters of the state, the director may combine the two permits 6945
and issue one permit to the applicant. 6946

A sludge management permit is not required for an entity that 6947
treats or transports sewage sludge or for a sanitary landfill when 6948
all of the following apply: 6949

(a) The entity or sanitary landfill does not generate the 6950
sewage sludge. 6951

(b) Prior to receipt at the sanitary landfill, the entity has 6952
ensured that the sewage sludge meets the requirements established 6953
in rules adopted by the director under section 3734.02 of the 6954
Revised Code concerning disposal of municipal solid waste in a 6955
sanitary landfill. 6956

(c) Disposal of the sewage sludge occurs at a sanitary 6957
landfill that complies with rules adopted by the director under 6958
section 3734.02 of the Revised Code. 6959

As used in division (J)(1) of this section, "sanitary 6960
landfill" means a sanitary landfill facility, as defined in rules 6961
adopted under section 3734.02 of the Revised Code, that is 6962
licensed as a solid waste facility under section 3734.05 of the 6963
Revised Code. 6964

(2) An application for a permit or renewal thereof shall be 6965
denied if any of the following applies: 6966

(a) The secretary of the army determines in writing that 6967
anchorage or navigation would be substantially impaired thereby; 6968

(b) The director determines that the proposed discharge or 6969
source would conflict with an areawide waste treatment management 6970
plan adopted in accordance with section 208 of the Federal Water 6971
Pollution Control Act; 6972

(c) The administrator of the United States environmental 6973
protection agency objects in writing to the issuance or renewal of 6974
the permit in accordance with section 402 (d) of the Federal Water 6975
Pollution Control Act; 6976

(d) The application is for the discharge of any radiological, 6977
chemical, or biological warfare agent or high-level radioactive 6978
waste into the waters of the United States. 6979

(3) To achieve and maintain applicable standards of quality 6980
for the waters of the state adopted pursuant to section 6111.041 6981

of the Revised Code, the director shall impose, where necessary 6982
and appropriate, as conditions of each permit, water quality 6983
related effluent limitations in accordance with sections 301, 302, 6984
306, 307, and 405 of the Federal Water Pollution Control Act and, 6985
to the extent consistent with that act, shall give consideration 6986
to, and base the determination on, evidence relating to the 6987
technical feasibility and economic reasonableness of removing the 6988
polluting properties from those wastes and to evidence relating to 6989
conditions calculated to result from that action and their 6990
relation to benefits to the people of the state and to 6991
accomplishment of the purposes of this chapter. 6992

(4) Where a discharge having a thermal component from a 6993
source that is constructed or modified on or after October 18, 6994
1972, meets national or state effluent limitations or more 6995
stringent permit conditions designed to achieve and maintain 6996
compliance with applicable standards of quality for the waters of 6997
the state, which limitations or conditions will ensure protection 6998
and propagation of a balanced, indigenous population of shellfish, 6999
fish, and wildlife in or on the body of water into which the 7000
discharge is made, taking into account the interaction of the 7001
thermal component with sewage, industrial waste, or other wastes, 7002
the director shall not impose any more stringent limitation on the 7003
thermal component of the discharge, as a condition of a permit or 7004
renewal thereof for the discharge, during a ten-year period 7005
beginning on the date of completion of the construction or 7006
modification of the source, or during the period of depreciation 7007
or amortization of the source for the purpose of section 167 or 7008
169 of the Internal Revenue Code of 1954, whichever period ends 7009
first. 7010

(5) The director shall specify in permits for the discharge 7011
of sewage, industrial waste, and other wastes, the net volume, net 7012
weight, duration, frequency, and, where necessary, concentration 7013

of the sewage, industrial waste, and other wastes that may be 7014
discharged into the waters of the state. The director shall 7015
specify in those permits and in sludge management permits that the 7016
permit is conditioned upon payment of applicable fees as required 7017
by section 3745.11 of the Revised Code and upon the right of the 7018
director's authorized representatives to enter upon the premises 7019
of the person to whom the permit has been issued for the purpose 7020
of determining compliance with this chapter, rules adopted 7021
thereunder, or the terms and conditions of a permit, order, or 7022
other determination. The director shall issue or deny an 7023
application for a sludge management permit or a permit for a new 7024
discharge, for the installation or modification of a disposal 7025
system, or for the renewal of a permit, within one hundred eighty 7026
days of the date on which a complete application with all plans, 7027
specifications, construction schedules, and other pertinent 7028
information required by the director is received. 7029

(6) The director may condition permits upon the installation 7030
of discharge or water quality monitoring equipment or devices and 7031
the filing of periodic reports on the amounts and contents of 7032
discharges and the quality of receiving waters that the director 7033
prescribes. The director shall condition each permit for a 7034
government-owned disposal system or any other "treatment works" as 7035
defined in the Federal Water Pollution Control Act upon the 7036
reporting of new introductions of industrial waste or other wastes 7037
and substantial changes in volume or character thereof being 7038
introduced into those systems or works from "industrial users" as 7039
defined in section 502 of that act, as necessary to comply with 7040
section 402(b)(8) of that act; upon the identification of the 7041
character and volume of pollutants subject to pretreatment 7042
standards being introduced into the system or works; and upon the 7043
existence of a program to ensure compliance with pretreatment 7044
standards by "industrial users" of the system or works. In 7045
requiring monitoring devices and reports, the director, to the 7046

extent consistent with the Federal Water Pollution Control Act, 7047
shall give consideration to technical feasibility and economic 7048
reasonableness and shall allow reasonable time for compliance. 7049

(7) A permit may be issued for a period not to exceed five 7050
years and may be renewed upon application for renewal. In renewing 7051
a permit, the director shall consider the compliance history of 7052
the permit holder and may deny the renewal if the director 7053
determines that the permit holder has not complied with the terms 7054
and conditions of the existing permit. A permit may be modified, 7055
suspended, or revoked for cause, including, but not limited to, 7056
violation of any condition of the permit, obtaining a permit by 7057
misrepresentation or failure to disclose fully all relevant facts 7058
of the permitted discharge or of the sludge use, storage, 7059
treatment, or disposal practice, or changes in any condition that 7060
requires either a temporary or permanent reduction or elimination 7061
of the permitted activity. No application shall be denied or 7062
permit revoked or modified without a written order stating the 7063
findings upon which the denial, revocation, or modification is 7064
based. A copy of the order shall be sent to the applicant or 7065
permit holder by certified mail. 7066

(K) Institute or cause to be instituted in any court of 7067
competent jurisdiction proceedings to compel compliance with this 7068
chapter or with the orders of the director issued under this 7069
chapter, or to ensure compliance with sections 204(b), 307, 308, 7070
and 405 of the Federal Water Pollution Control Act; 7071

(L) Issue, deny, revoke, or modify industrial water pollution 7072
control certificates; 7073

(M) Certify to the government of the United States or any 7074
agency thereof that an industrial water pollution control facility 7075
is in conformity with the state program or requirements for the 7076
control of water pollution whenever the certification may be 7077
required for a taxpayer under the Internal Revenue Code of the 7078

United States, as amended; 7079

(N) Issue, modify, and revoke orders requiring any 7080
"industrial user" of any publicly owned "treatment works" as 7081
defined in sections 212(2) and 502(18) of the Federal Water 7082
Pollution Control Act to comply with pretreatment standards; 7083
establish and maintain records; make reports; install, use, and 7084
maintain monitoring equipment or methods, including, where 7085
appropriate, biological monitoring methods; sample discharges in 7086
accordance with methods, at locations, at intervals, and in a 7087
manner that the director determines; and provide other information 7088
that is necessary to ascertain whether or not there is compliance 7089
with toxic and pretreatment effluent standards. In issuing, 7090
modifying, and revoking those orders, the director, to the extent 7091
consistent with the Federal Water Pollution Control Act, shall 7092
give consideration to technical feasibility and economic 7093
reasonableness and shall allow reasonable time for compliance. 7094

(O) Exercise all incidental powers necessary to carry out the 7095
purposes of this chapter; 7096

(P) Certify or deny certification to any applicant for a 7097
federal license or permit to conduct any activity that may result 7098
in any discharge into the waters of the state that the discharge 7099
will comply with the Federal Water Pollution Control Act; 7100

(Q) Administer and enforce the publicly owned treatment works 7101
pretreatment program in accordance with the Federal Water 7102
Pollution Control Act. In the administration of that program, the 7103
director may do any of the following: 7104

(1) Apply and enforce pretreatment standards; 7105

(2) Approve and deny requests for approval of publicly owned 7106
treatment works pretreatment programs, oversee those programs, and 7107
implement, in whole or in part, those programs under any of the 7108
following conditions: 7109

- (a) The director has denied a request for approval of the publicly owned treatment works pretreatment program; 7110
7111
- (b) The director has revoked the publicly owned treatment works pretreatment program; 7112
7113
- (c) There is no pretreatment program currently being implemented by the publicly owned treatment works; 7114
7115
- (d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program. 7116
7117
7118
- (3) Require that a publicly owned treatment works pretreatment program be incorporated in a permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards; 7119
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- (4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works; 7125
7126
7127
- (5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users; 7128
7129
- (6) Make determinations on categorization of industrial users; 7130
7131
- (7) Adopt, amend, or rescind rules and issue, modify, or revoke orders necessary for the administration and enforcement of the publicly owned treatment works pretreatment program. 7132
7133
7134
- Any approval of a publicly owned treatment works pretreatment program may contain any terms and conditions, including schedules of compliance, that are necessary to achieve compliance with this chapter. 7135
7136
7137
7138
- (R) Except as otherwise provided in this division, adopt 7139

rules in accordance with Chapter 119. of the Revised Code 7140
establishing procedures, methods, and equipment and other 7141
requirements for equipment to prevent and contain discharges of 7142
oil and hazardous substances into the waters of the state. The 7143
rules shall be consistent with and equivalent in scope, content, 7144
and coverage to section 311(j)(1)(c) of the Federal Water 7145
Pollution Control Act and regulations adopted under it. The 7146
director shall not adopt rules under this division relating to 7147
discharges of oil from oil production facilities and oil drilling 7148
and workover facilities as those terms are defined in that act and 7149
regulations adopted under it. 7150

(S)(1) Administer and enforce a program for the regulation of 7151
sludge management in this state. In administering the program, the 7152
director, in addition to exercising the authority provided in any 7153
other applicable sections of this chapter, may do any of the 7154
following: 7155

(a) Develop plans and programs for the disposal and 7156
utilization of sludge and sludge materials; 7157

(b) Encourage, participate in, or conduct studies, 7158
investigations, research, and demonstrations relating to the 7159
disposal and use of sludge and sludge materials and the impact of 7160
sludge and sludge materials on land located in the state and on 7161
the air and waters of the state; 7162

(c) Collect and disseminate information relating to the 7163
disposal and use of sludge and sludge materials and the impact of 7164
sludge and sludge materials on land located in the state and on 7165
the air and waters of the state; 7166

(d) Issue, modify, or revoke orders to prevent, control, or 7167
abate the use and disposal of sludge and sludge materials or the 7168
effects of the use of sludge and sludge materials on land located 7169
in the state and on the air and waters of the state; 7170

(e) Adopt and enforce, modify, or rescind rules necessary for 7171
the implementation of division (S) of this section. The rules 7172
reasonably shall protect public health and the environment, 7173
encourage the beneficial reuse of sludge and sludge materials, and 7174
minimize the creation of nuisance odors. 7175

The director may specify in sludge management permits the net 7176
volume, net weight, quality, and pollutant concentration of the 7177
sludge or sludge materials that may be used, stored, treated, or 7178
disposed of, and the manner and frequency of the use, storage, 7179
treatment, or disposal, to protect public health and the 7180
environment from adverse effects relating to those activities. The 7181
director shall impose other terms and conditions to protect public 7182
health and the environment, minimize the creation of nuisance 7183
odors, and achieve compliance with this chapter and rules adopted 7184
under it and, in doing so, shall consider whether the terms and 7185
conditions are consistent with the goal of encouraging the 7186
beneficial reuse of sludge and sludge materials. 7187

The director may condition permits on the implementation of 7188
treatment, storage, disposal, distribution, or application 7189
management methods and the filing of periodic reports on the 7190
amounts, composition, and quality of sludge and sludge materials 7191
that are disposed of, used, treated, or stored. 7192

An approval of a treatment works sludge disposal program may 7193
contain any terms and conditions, including schedules of 7194
compliance, necessary to achieve compliance with this chapter and 7195
rules adopted under it. 7196

(2) As a part of the program established under division 7197
(S)(1) of this section, the director has exclusive authority to 7198
regulate sewage sludge management in this state. For purposes of 7199
division (S)(2) of this section, that program shall be consistent 7200
with section 405 of the Federal Water Pollution Control Act and 7201
regulations adopted under it and with this section, except that 7202

the director may adopt rules under division (S) of this section 7203
that establish requirements that are more stringent than section 7204
405 of the Federal Water Pollution Control Act and regulations 7205
adopted under it with regard to monitoring sewage sludge and 7206
sewage sludge materials and establishing acceptable sewage sludge 7207
management practices and pollutant levels in sewage sludge and 7208
sewage sludge materials. 7209

(T) Study, examine, and calculate nutrient loading from point 7210
and nonpoint sources in order to determine comparative 7211
contributions by those sources and to utilize the information 7212
derived from those calculations to determine the most 7213
environmentally beneficial and cost-effective mechanisms to reduce 7214
nutrient loading to watersheds in the state. In order to evaluate 7215
nutrient loading contributions, the director or the director's 7216
designee shall conduct a study of the statewide nutrient mass 7217
balance for both point and nonpoint sources in watersheds in the 7218
state using available data, including both of the following: 7219

(1) Data on water quality; 7220

(2) Data on point source discharges into watersheds in the 7221
state. 7222

The director or the director's designee shall report and 7223
update the results of the study to coincide with the release of 7224
the Ohio integrated water quality monitoring and assessment report 7225
prepared by the director. 7226

This chapter authorizes the state to participate in any 7227
national sludge management program and the national pollutant 7228
discharge elimination system, to administer and enforce the 7229
publicly owned treatment works pretreatment program, and to issue 7230
permits for the discharge of dredged or fill materials, in 7231
accordance with the Federal Water Pollution Control Act. This 7232
chapter shall be administered, consistent with the laws of this 7233

state and federal law, in the same manner that the Federal Water 7234
Pollution Control Act is required to be administered. 7235

This section does not apply to residual farm products and 7236
manure disposal systems and related management and conservation 7237
practices subject to rules adopted pursuant to division ~~(E)~~(C)(1) 7238
of section ~~1511.02~~ 939.02 of the Revised Code. For purposes of 7239
this exclusion, "residual farm products" and "manure" have the 7240
same meanings as in section ~~1511.01~~ 939.01 of the Revised Code. 7241
However, until the date on which the United States environmental 7242
protection agency approves the NPDES program submitted by the 7243
director of agriculture under section 903.08 of the Revised Code, 7244
this exclusion does not apply to animal waste treatment works 7245
having a controlled direct discharge to the waters of the state or 7246
any concentrated animal feeding operation, as defined in 40 C.F.R. 7247
122.23(b)(2). On and after the date on which the United States 7248
environmental protection agency approves the NPDES program 7249
submitted by the director of agriculture under section 903.08 of 7250
the Revised Code, this section does not apply to storm water from 7251
an animal feeding facility, as defined in section 903.01 of the 7252
Revised Code, or to pollutants discharged from a concentrated 7253
animal feeding operation, as both terms are defined in that 7254
section. Neither of these exclusions applies to the discharge of 7255
animal waste into a publicly owned treatment works. 7256

A publicly owned treatment works with a design flow of one 7257
million gallons per day or more, or designated as a major 7258
discharger by the director, shall begin monthly monitoring of 7259
total and dissolved phosphorous not later than December 1, 2015. 7260
In addition, a publicly owned treatment works that, on the 7261
effective date of this amendment, is not subject to a phosphorous 7262
effluent limit of one milligram per liter as a thirty-day average 7263
shall complete and submit an optimization study that evaluates the 7264
publicly owned treatment works' ability to reduce phosphorous to 7265

one milligram per liter as a thirty-day average. The director 7266
shall modify NPDES permits to include those requirements. 7267

Sec. 6111.04. (A) Both of the following apply except as 7268
otherwise provided in division (A) or (F) of this section: 7269

(1) No person shall cause pollution or place or cause to be 7270
placed any sewage, sludge, sludge materials, industrial waste, or 7271
other wastes in a location where they cause pollution of any 7272
waters of the state. 7273

(2) Such an action prohibited under division (A)(1) of this 7274
section is hereby declared to be a public nuisance. 7275

Divisions (A)(1) and (2) of this section do not apply if the 7276
person causing pollution or placing or causing to be placed wastes 7277
in a location in which they cause pollution of any waters of the 7278
state holds a valid, unexpired permit, or renewal of a permit, 7279
governing the causing or placement as provided in sections 6111.01 7280
to 6111.08 of the Revised Code or if the person's application for 7281
renewal of such a permit is pending. 7282

(B) If the director of environmental protection administers a 7283
sludge management program pursuant to division (S) of section 7284
6111.03 of the Revised Code, both of the following apply except as 7285
otherwise provided in division (B) or (F) of this section: 7286

(1) No person, in the course of sludge management, shall 7287
place on land located in the state or release into the air of the 7288
state any sludge or sludge materials. 7289

(2) An action prohibited under division (B)(1) of this 7290
section is hereby declared to be a public nuisance. 7291

Divisions (B)(1) and (2) of this section do not apply if the 7292
person placing or releasing the sludge or sludge materials holds a 7293
valid, unexpired permit, or renewal of a permit, governing the 7294
placement or release as provided in sections 6111.01 to 6111.08 of 7295

the Revised Code or if the person's application for renewal of 7296
such a permit is pending. 7297

(C) No person to whom a permit has been issued shall place or 7298
discharge, or cause to be placed or discharged, in any waters of 7299
the state any sewage, sludge, sludge materials, industrial waste, 7300
or other wastes in excess of the permissive discharges specified 7301
under an existing permit without first receiving a permit from the 7302
director to do so. 7303

(D) No person to whom a sludge management permit has been 7304
issued shall place on the land or release into the air of the 7305
state any sludge or sludge materials in excess of the permissive 7306
amounts specified under the existing sludge management permit 7307
without first receiving a modification of the existing sludge 7308
management permit or a new sludge management permit to do so from 7309
the director. 7310

(E) The director may require the submission of plans, 7311
specifications, and other information that the director considers 7312
relevant in connection with the issuance of permits. 7313

(F) This section does not apply to any of the following: 7314

(1) Waters used in washing sand, gravel, other aggregates, or 7315
mineral products when the washing and the ultimate disposal of the 7316
water used in the washing, including any sewage, industrial waste, 7317
or other wastes contained in the waters, are entirely confined to 7318
the land under the control of the person engaged in the recovery 7319
and processing of the sand, gravel, other aggregates, or mineral 7320
products and do not result in the pollution of waters of the 7321
state; 7322

(2) Water, gas, or other material injected into a well to 7323
facilitate, or that is incidental to, the production of oil, gas, 7324
artificial brine, or water derived in association with oil or gas 7325
production and disposed of in a well, in compliance with a permit 7326

issued under Chapter 1509. of the Revised Code, or sewage, 7327
industrial waste, or other wastes injected into a well in 7328
compliance with an injection well operating permit. Division 7329
(F)(2) of this section does not authorize, without a permit, any 7330
discharge that is prohibited by, or for which a permit is required 7331
by, regulation of the United States environmental protection 7332
agency. 7333

(3) Application of any materials to land for agricultural 7334
purposes or runoff of the materials from that application or 7335
pollution by residual farm products, manure, or soil sediment, 7336
including attached substances, resulting from farming, 7337
silvicultural, or earthmoving activities regulated by Chapter 7338
307., 939., or 1511. of the Revised Code. Division (F)(3) of this 7339
section does not authorize, without a permit, any discharge that 7340
is prohibited by, or for which a permit is required by, the 7341
Federal Water Pollution Control Act or regulations adopted under 7342
it. As used in division (F)(3) of this section, "residual farm 7343
products" and "manure" have the same meanings as in section 7344
~~1511.01~~ 939.01 of the Revised Code. 7345

(4) The excrement of domestic and farm animals defecated on 7346
land or runoff therefrom into any waters of the state. Division 7347
(F)(4) of this section does not authorize, without a permit, any 7348
discharge that is prohibited by, or for which a permit is required 7349
by, the Federal Water Pollution Control Act or regulations adopted 7350
under it. 7351

(5) On and after the date on which the United States 7352
environmental protection agency approves the NPDES program 7353
submitted by the director of agriculture under section 903.08 of 7354
the Revised Code, any discharge that is within the scope of the 7355
approved NPDES program submitted by the director of agriculture; 7356

(6) The discharge of sewage, industrial waste, or other 7357
wastes into a sewerage system tributary to a treatment works. 7358

Division (F)(6) of this section does not authorize any discharge 7359
into a publicly owned treatment works in violation of a 7360
pretreatment program applicable to the publicly owned treatment 7361
works. 7362

(7) A household sewage treatment system or a small flow 7363
on-site sewage treatment system, as applicable, as defined in 7364
section 3718.01 of the Revised Code that is installed in 7365
compliance with Chapter 3718. of the Revised Code and rules 7366
adopted under it. Division (F)(7) of this section does not 7367
authorize, without a permit, any discharge that is prohibited by, 7368
or for which a permit is required by, regulation of the United 7369
States environmental protection agency. 7370

(8) Exceptional quality sludge generated outside of this 7371
state and contained in bags or other containers not greater than 7372
one hundred pounds in capacity. As used in division (F)(8) of this 7373
section, "exceptional quality sludge" has the same meaning as in 7374
division (Y) of section 3745.11 of the Revised Code. 7375

(G) The holder of a permit issued under section 402 (a) of 7376
the Federal Water Pollution Control Act need not obtain a permit 7377
for a discharge authorized by the permit until its expiration 7378
date. Except as otherwise provided in this division, the director 7379
of environmental protection shall administer and enforce those 7380
permits within this state and may modify their terms and 7381
conditions in accordance with division (J) of section 6111.03 of 7382
the Revised Code. On and after the date on which the United States 7383
environmental protection agency approves the NPDES program 7384
submitted by the director of agriculture under section 903.08 of 7385
the Revised Code, the director of agriculture shall administer and 7386
enforce those permits within this state that are issued for any 7387
discharge that is within the scope of the approved NPDES program 7388
submitted by the director of agriculture. 7389

Sec. 6111.30. (A) Applications for a section 401 water 7390
quality certification required under division (P) of section 7391
6111.03 of the Revised Code shall be submitted on forms provided 7392
by the director of environmental protection and shall include all 7393
information required on those forms as well as all of the 7394
following: 7395

(1) A copy of a letter from the United States army corps of 7396
engineers documenting its jurisdiction over the wetlands, streams, 7397
or other waters of the state that are the subject of the section 7398
401 water quality certification application; 7399

(2) If the project involves impacts to a wetland, a wetland 7400
characterization analysis consistent with the Ohio rapid 7401
assessment method; 7402

(3) If the project involves a stream for which a specific 7403
aquatic life use designation has not been made, a use 7404
attainability analysis; 7405

(4) A specific and detailed long-term mitigation proposal, 7406
including the location and proposed legal mechanism for protecting 7407
the property ~~in perpetuity~~; that may include a deed restriction, 7408
an environmental covenant, a conservation easement, another real 7409
estate instrument, or a demonstration that the mitigation proposal 7410
will attain applicable water quality standards for the waters of 7411
the state that are the subject of the application. Attainment of 7412
those standards constitutes protection of the property. 7413

(5) Applicable fees; 7414

(6) Site photographs; 7415

(7) Adequate documentation confirming that the applicant has 7416
requested comments from the department of natural resources and 7417
the United States fish and wildlife service regarding threatened 7418
and endangered species, including the presence or absence of 7419

critical habitat; 7420

(8) Descriptions, schematics, and appropriate economic 7421
information concerning the applicant's preferred alternative, 7422
nondegradation alternatives, and minimum degradation alternatives 7423
for the design and operation of the project; 7424

(9) The applicant's investigation report of the waters of the 7425
United States in support of a section 404 permit application 7426
concerning the project; 7427

(10) A copy of the United States army corps of engineers' 7428
public notice regarding the section 404 permit application 7429
concerning the project. 7430

(B) Not later than fifteen business days after the receipt of 7431
an application for a section 401 water quality certification, the 7432
director shall review the application to determine if it is 7433
complete and shall notify the applicant in writing as to whether 7434
the application is complete. If the director fails to notify the 7435
applicant within fifteen business days regarding the completeness 7436
of the application, the application is considered complete. If the 7437
director determines that the application is not complete, the 7438
director shall include with the written notification an itemized 7439
list of the information or materials that are necessary to 7440
complete the application. If the applicant fails to provide the 7441
information or materials within sixty days after the director's 7442
receipt of the application, the director may return the incomplete 7443
application to the applicant and take no further action on the 7444
application. If the application is returned to the applicant 7445
because it is incomplete, the director shall return the review fee 7446
levied under division (A)(1), (2), or (3) of section 3745.114 of 7447
the Revised Code to the applicant, but shall retain the 7448
application fee levied under that section. 7449

(C) Not later than twenty-one days after a determination that 7450

an application is complete under division (B) of this section, the 7451
applicant shall publish public notice of the director's receipt of 7452
the complete application in a newspaper of general circulation in 7453
the county in which the project that is the subject of the 7454
application is located. The public notice shall be in a form 7455
acceptable to the director. The applicant shall promptly provide 7456
the director with proof of publication. The applicant may choose, 7457
subject to review by and approval of the director, to include in 7458
the public notice an advertisement for an antidegradation public 7459
hearing on the application pursuant to section 6111.12 of the 7460
Revised Code. There shall be a public comment period of thirty 7461
days following the publication of the public notice. 7462

(D) If the director determines that there is significant 7463
public interest in a public hearing as evidenced by the public 7464
comments received concerning the application and by other requests 7465
for a public hearing on the application, the director or the 7466
director's representative shall conduct a public hearing 7467
concerning the application. Notice of the public hearing shall be 7468
published by the applicant, subject to review and approval by the 7469
director, at least thirty days prior to the date of the hearing in 7470
a newspaper of general circulation in the county in which the 7471
project that is the subject of the application is to take place. 7472
If a public hearing is requested concerning an application, the 7473
director shall accept comments concerning the application until 7474
five business days after the public hearing. A public hearing 7475
conducted under this division shall take place not later than one 7476
hundred days after the application is determined to be complete. 7477

(E) The director shall forward all public comments concerning 7478
an application submitted under this section that are received 7479
through the public involvement process required by rules adopted 7480
under this chapter to the applicant not later than five business 7481
days after receipt of the comments by the director. 7482

(F) The applicant shall respond in writing to written 7483
comments or to deficiencies identified by the director during the 7484
course of reviewing the application not later than fifteen days 7485
after receiving or being notified of them. 7486

(G) The director shall issue or deny a section 401 water 7487
quality certification not later than one hundred eighty days after 7488
the complete application for the certification is received. The 7489
director shall provide an applicant for a section 401 water 7490
quality certification with an opportunity to review the 7491
certification prior to its issuance. 7492

(H) The director shall maintain an accessible database that 7493
includes environmentally beneficial water restoration and 7494
protection projects that may serve as potential mitigation 7495
projects for projects in the state for which a section 401 water 7496
quality certification is required. A project's inclusion in the 7497
database does not constitute an approval of the project. 7498

(I) Mitigation required by a section 401 water quality 7499
certification may be accomplished by any of the following: 7500

(1) Purchasing credits at a mitigation bank approved in 7501
accordance with 33 C.F.R. 332.8; 7502

(2) Participating in an in-lieu fee mitigation program 7503
approved in accordance with 33 C.F.R. 332.8; 7504

(3) Constructing individual mitigation projects. 7505

Notwithstanding the mitigation hierarchy specified in section 7506
3745-1-54 of the Administrative Code, mitigation projects shall be 7507
approved in accordance with the hierarchy specified in 33 C.F.R. 7508
332.3 unless the director determines that the size or quality of 7509
the impacted resource necessitates reasonably identifiable, 7510
available, and practicable mitigation conducted by the applicant. 7511
The director shall adopt rules in accordance with Chapter 119. of 7512
the Revised Code consistent with the mitigation hierarchy 7513

specified in 33 C.F.R. 332.3. 7514

(J) As used in this section and section 6111.31 of the 7515
Revised Code, "section 401 water quality certification" means 7516
certification pursuant to section 401 of the Federal Water 7517
Pollution Control Act and this chapter and rules adopted under it 7518
that any discharge, as set forth in section 401, will comply with 7519
sections 301, 302, 303, 306, and 307 of the Federal Water 7520
Pollution Control Act. 7521

Sec. 6111.32. (A) In order to ensure the regular and orderly 7522
maintenance of federal navigation channels and ports in this 7523
state, the director of environmental protection shall endeavor to 7524
work with the United States army corps of engineers on a dredging 7525
plan that focuses on long-term planning for the disposition of 7526
dredged material consistent with the requirements established in 7527
this section. 7528

(B) On and after July 1, 2020, no person shall deposit 7529
dredged material in the portion of Lake Erie that is within the 7530
jurisdictional boundaries of this state or in the direct 7531
tributaries of Lake Erie within this state that resulted from 7532
harbor or navigation maintenance activities unless the director 7533
has determined that the dredged material is suitable for one of 7534
the locations, purposes, or activities specified in division (C) 7535
of this section and has issued a section 401 water quality 7536
certification authorizing the deposit. 7537

(C) The director may authorize the deposit of dredged 7538
material in the portion of Lake Erie that is within the 7539
jurisdictional boundaries of this state or in the direct 7540
tributaries of Lake Erie within this state that resulted from 7541
harbor or navigation maintenance activities for any of the 7542
following: 7543

(1) Confined disposal facilities; 7544

<u>(2) Beneficial use projects;</u>	7545
<u>(3) Beach nourishment projects if at least eighty per cent of the dredged material is sand;</u>	7546 7547
<u>(4) Placement in the littoral drift if at least sixty per cent of the dredged material is sand;</u>	7548 7549
<u>(5) Habitat restoration projects;</u>	7550
<u>(6) Projects involving amounts of dredged material that do not exceed ten thousand cubic yards, including material associated with dewatering operations related to dredging operations.</u>	7551 7552 7553
<u>(D) The director may consult with the director of natural resources for the purposes of this section. The director of environmental protection has exclusive authority to approve the location in which dredged material is proposed to be deposited in the portion of Lake Erie that is within the jurisdictional boundaries of this state or in the direct tributaries of Lake Erie within this state.</u>	7554 7555 7556 7557 7558 7559 7560
<u>(E) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the implementation of this section.</u>	7561 7562 7563
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	7564 7565 7566 7567 7568 7569 7570 7571 7572 7573 7574

thereof, an unincorporated community, a county sewer district, or 7575
other land outside of a municipal corporation or any publicly or 7576
privately owned building or group of buildings or place, used for 7577
the assemblage, entertainment, recreation, education, correction, 7578
hospitalization, housing, or employment of persons. 7579

In granting an approval, the director may stipulate 7580
modifications, conditions, and rules that the public health and 7581
prevention of pollution may require. Any action taken by the 7582
director shall be a matter of public record and shall be entered 7583
in the director's journal. Each period of thirty days that a 7584
violation of this section continues, after a conviction for the 7585
violation, constitutes a separate offense. 7586

(B) Sections 6111.45 and 6111.46 of the Revised Code and 7587
division (A) of this section do not apply to any of the following: 7588

(1) Sewerage or treatment works for sewage installed or to be 7589
installed for the use of a private residence or dwelling; 7590

(2) Sewerage systems, treatment works, or disposal systems 7591
for storm water from an animal feeding facility or manure, as 7592
"animal feeding facility" and "manure" are defined in section 7593
903.01 of the Revised Code; 7594

(3) Residual farm products and manure treatment or disposal 7595
works and related management and conservation practices that are 7596
subject to rules adopted under division ~~(E)~~(C)(1) of section 7597
~~1511.02~~ 939.02 of the Revised Code. As used in division (B)(3) of 7598
this section, "residual farm products" and "manure" have the same 7599
meanings as in section ~~1511.01~~ 939.01 of the Revised Code. 7600

(4) Sewerage or treatment works for the on-lot disposal or 7601
treatment of sewage from a small flow on-site sewage treatment 7602
system, as defined in section 3718.01 of the Revised Code, if the 7603
board of health of a city or general health district has notified 7604
the director of health and the director of environmental 7605

protection under section 3718.021 of the Revised Code that the 7606
board has chosen to regulate the system, provided that the board 7607
remains in compliance with the rules adopted under division 7608
(A)(13) of section 3718.02 of the Revised Code. 7609

The exclusions established in divisions (B)(2) and (3) of 7610
this section do not apply to the construction or installation of 7611
disposal systems, as defined in section 6111.01 of the Revised 7612
Code, that are located at an animal feeding facility and that 7613
store, treat, or discharge wastewaters that do not include storm 7614
water or manure or that discharge to a publicly owned treatment 7615
works. 7616

Sec. 6111.99. (A) Whoever purposely violates section 6111.04, 7617
6111.042, 6111.05, or division (A) or (C) of section 6111.07 of 7618
the Revised Code is guilty of a felony and shall be fined not more 7619
than twenty-five thousand dollars or imprisoned not more than ~~one~~ 7620
~~year~~ four years, or both. Each day of violation is a separate 7621
offense. 7622

(B) Whoever knowingly violates section 6111.04, 6111.042, 7623
6111.045 or, 6111.047, 6111.05, 6111.45, or division (A) or (C) of 7624
section 6111.07 of the Revised Code is guilty of a misdemeanor and 7625
shall be fined not more than ten thousand dollars or imprisoned 7626
not more than one year, or both. Each day of violation is a 7627
separate offense. 7628

(C) Whoever violates section ~~6111.45 or~~ 6111.46 of the 7629
Revised Code shall be fined not more than five hundred dollars. 7630

~~(D) Whoever violates division (C) of section 6111.07 of the~~ 7631
~~Revised Code shall be fined not more than twenty-five thousand~~ 7632
~~dollars.~~ 7633

~~(E)~~ Whoever violates section 6111.42 of the Revised Code 7634
shall be fined not more than one hundred dollars for a first 7635

offense; for each subsequent offense, the person shall be fined 7636
not more than one hundred fifty dollars. 7637

~~(F)~~(E) Whoever violates section 6111.44 of the Revised Code 7638
shall be fined not more than ~~one hundred~~ ten thousand dollars. 7639
Each day of violation is a separate offense. 7640

(F) If a person is convicted of or pleads guilty to a 7641
violation of any section of this chapter, in addition to the 7642
financial sanctions authorized by this chapter or section 2929.18 7643
or 2929.28 or any other section of the Revised Code, the court 7644
imposing the sentence on the person may order the person to 7645
reimburse the state agency or a political subdivision for any 7646
actual costs that it incurred in responding to the violation, 7647
including the cost of restoring affected aquatic resources or 7648
otherwise compensating for adverse impact to aquatic resources 7649
directly caused by the violation, but not including the costs of 7650
prosecution. 7651

Sec. 6112.01. As used in ~~sections 6112.01 to 6112.05,~~ 7652
~~inclusive, of the Revised Code~~ this chapter: 7653

(A) "Sewage" means any substance that contains any of the 7654
waste products or excrementitious or other discharge from the 7655
bodies of human beings or animals, which pollutes the waters of 7656
the state. 7657

(B) "Industrial waste" means any liquid, gaseous, or solid 7658
waste substance resulting from any process of industry, 7659
manufacture, trade, or business, or from the development, 7660
processing, or recovery of any natural resource, together with 7661
such sewage as is present, which pollutes the waters of the state. 7662

(C) "Other wastes" means garbage, refuse, decayed wood, 7663
sawdust shavings, bark, and other wood debris, lime (except 7664
hydrated or dehydrated lime), sand, ashes, offal, night soil, oil, 7665

tar, coal dust, or silt, and other substances ~~which~~ that are not 7666
~~included within the definitions of sewage and or~~ industrial waste 7667
~~set forth in this section,~~ which pollute the waters of the state. 7668

(D) "Sewerage system" means ~~pipe lines~~ pipelines or conduits, 7669
pumping stations, and force mains, and all other constructions, 7670
devices, appurtenances, and facilities that are used for 7671
collecting or conducting water-borne sewage, industrial waste, or 7672
other wastes to a point of disposal or treatment and that are 7673
privately constructed. 7674

(E) "Treatment works" means any plant, disposal field, 7675
lagoon, dam, pumping station, incinerator, or other works used for 7676
the purpose of treating, stabilizing, or holding sewage, 7677
industrial waste, or other wastes. 7678

(F) "Disposal system" means a system for disposing of sewage, 7679
industrial waste, or other wastes, and includes sewerage systems 7680
and treatment works. 7681

(G) "Waters of the state" mean all streams, lakes, ponds, 7682
marshes, watercourses, waterways, wells, springs, irrigation 7683
systems, drainage systems, and all other bodies or accumulations 7684
of water, surface and underground, natural or artificial, ~~which~~ 7685
that are situated wholly or partly within, or border upon, this 7686
state, or are within its jurisdiction, except those private waters 7687
~~which~~ that do not combine or effect a junction with natural 7688
surface or underground waters. 7689

~~(H) "Person" means a person, firm, partnership, association,~~ 7690
~~or corporation, other than a county, township, municipal~~ 7691
~~corporation, or other political subdivision.~~ 7692

Sec. 6112.03. Applications for approval of plans for the 7693
construction and installation of facilities under this chapter 7694
shall be made in the manner and form prescribed by the director of 7695

environmental protection and shall be accompanied by plans, 7696
specifications, and other data that the director may require 7697
relative to the facilities for which approval of plans is 7698
requested. Thereafter, the director shall review and act upon the 7699
application in accordance with law and the rules adopted ~~pursuant~~ 7700
~~thereto~~ under section 6111.03 of the Revised Code. 7701

Sec. 6112.06. (A) As used in this section: 7702

(1) "Health district" means a city or general health district 7703
as created by or under authority of Chapter 3709. of the Revised 7704
Code. 7705

(2) "Household sewage treatment system" has the same meaning 7706
as in section 3718.01 of the Revised Code and includes a household 7707
sewage disposal system as defined in rule 3701-29-01 of the 7708
Administrative Code. 7709

(B)(1) A person that submits plans to install a sewerage 7710
system under section 6112.03 of the Revised Code simultaneously 7711
shall notify the owner of each parcel of property that is served 7712
by a household sewage treatment system and the board of health of 7713
the health district in which the affected parcel of property is 7714
located of the installation of the sewerage system if the owner or 7715
operator of the sewerage system has determined that the parcel of 7716
property is reasonably accessible to the sewerage system and may 7717
be required to connect to it. The notice shall include a statement 7718
indicating that if the person receiving the notice chooses to 7719
elect out of connecting to the sewerage system after receiving the 7720
notice, the cost of connecting to the sewerage system in the 7721
future may be higher. The notice shall be in writing and shall be 7722
sent by certified mail. 7723

(2) For purposes of this section, a parcel of property is 7724
reasonably accessible if all of the following apply: 7725

(a) The office of the sanitary engineer of the applicable jurisdiction and the environmental protection agency have certified that the new sewerage system and its receiving treatment works have the capacity to accept the additional waste from the parcel of property. 7726
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(b) The foundation wall of the structure from which sewage or other waste originates is four hundred feet or less from the nearest boundary of the right-of-way within which the new sewerage system is located. 7731
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(c) There are no physical barriers between the parcel of property and the new sewerage system that would prevent the parcel of property from connecting to the new sewerage system. 7735
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(C) A person who receives a notice under division (B) of this section shall not be required to connect to the sewerage system specified in the notice if both of the following apply: 7738
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(1) The person notifies the owner or operator of the sewerage system and the board of health of the health district in which the affected parcel of property is located that the person elects not to connect to the specified sewerage system. The notice shall be in writing and shall be sent by certified mail not later than sixty days after the person has received a notice under division (B) of this section. Not later than one hundred twenty days after the board of health receives the notice, the board shall evaluate the household sewage treatment system serving the affected parcel of property to determine if the system operates and is maintained in accordance with Chapter 3718. of the Revised Code and with rules adopted under that chapter by the director of health and by the board, if any. The owner of the affected parcel of property is responsible for the costs of the evaluation. 7741
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If the owner of the affected parcel of property is aware that the property will be vacant at any time during the 7755
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one-hundred-twenty-day period, the owner shall notify the board of 7757
health of the dates during which the property will be vacant. In 7758
order for the required inspection to occur, the owner shall ensure 7759
that the property is occupied for at least ninety consecutive days 7760
within the one-hundred-twenty-day period and shall notify the 7761
board of health of the dates of occupancy. Failure to so notify 7762
the board or so occupy the property constitutes termination of the 7763
authorization under this section for the property owner to elect 7764
out of connecting to the sewerage system. 7765

(2) The applicable board of health determines under division 7766
(C)(1) of this section that the household sewage treatment system 7767
operates and is maintained in accordance with Chapter 3718. of the 7768
Revised Code and with rules adopted under that chapter by the 7769
director and by the board, if any. The board shall so notify the 7770
person and the owner or operator of the sewerage system. However, 7771
if the board determines that a nuisance exists under section 7772
3718.011 of the Revised Code, the board shall so notify the 7773
person. The person may repair the system within sixty days to 7774
eliminate the nuisance. However, the board may assist the person 7775
in developing a plan for the incremental repair or replacement of 7776
the system. The incremental repair or replacement plan shall 7777
establish a phased approach to repair, alter, or replace the 7778
system over a period of time specified in the plan and approved by 7779
the board. The incremental repair or replacement plan shall 7780
require sufficient alterations to the system to correct the 7781
nuisance in a timely manner in order for the person not to be 7782
required to connect to the sewerage system. Failure to repair, 7783
alter, or replace the system to eliminate the nuisance constitutes 7784
termination of the authorization under this section for the 7785
property owner to elect out of connecting to the sewerage system. 7786

(D)(1) Division (C) of this section does not apply to a 7787
household sewage treatment system that is a discharging system. 7788

The notification required by division (B) of this section shall be issued to an applicable property owner regardless of whether the property owner's system is a discharging system. 7789
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(2) For purposes of this section, a discharging system is one of the following: 7792
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(a) A system for which an NPDES permit has been issued under Chapter 6111. of the Revised Code and rules adopted under it; 7794
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(b) A system for which an NPDES permit would be required, but that has not been issued such a permit. 7796
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Section 2. That existing sections 901.22, 903.01, 903.03, 7798
903.07, 903.082, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 7799
903.17, 903.25, 941.14, 953.22, 956.03, 956.04, 1501.011, 1509.01, 7800
1509.06, 1509.07, 1509.11, 1509.16, 1509.222, 1509.223, 1509.23, 7801
1509.27, 1509.28, 1509.33, 1509.99, 1511.01, 1511.02, 1511.021, 7802
1511.022, 1511.023, 1511.05, 1511.07, 1511.99, 1514.09, 1514.11, 7803
1515.01, 1515.08, 1522.10, 1522.13, 1533.081, 1533.12, 1548.07, 7804
1561.24, 1711.13, 3704.05, 3734.02, 3734.029, 3745.70, 3750.081, 7805
3750.13, 3769.21, 3781.10, 4507.03, 4707.02, 4905.71, 4927.01, 7806
4927.02, 4927.07, 4927.11, 4927.15, 5713.051, 6109.10, 6111.03, 7807
6111.04, 6111.30, 6111.44, 6111.99, 6112.01, and 6112.03 and 7808
sections 903.04, 1511.071, 1514.40, 1514.41, 1514.42, 1514.43, 7809
1514.44, 1514.45, 1514.46, and 1514.47 of the Revised Code are 7810
hereby repealed. 7811

Section 3. For purposes of the transfer by this act of the 7812
Agricultural Pollution Abatement Program established prior to the 7813
effective date of the amendment of the statutes governing the 7814
Program by this act under Chapter 1511. of the Revised Code from 7815
the Department of Natural Resources to the Department of 7816
Agriculture, all of the following apply: 7817

(A) The Director of Natural Resources shall enter into a 7818

memorandum of understanding with the Director of Agriculture 7819
regarding the transfer of the Program. 7820

(B) On the date on which the two Directors sign a memorandum 7821
of understanding under division (A) of this section, the Director 7822
of Natural Resources shall provide the Director of Agriculture 7823
with both of the following: 7824

(1) Copies of all operation and management plans, or 7825
applicable portions of such plans, developed or approved by the 7826
Chief of the Division of Soil and Water Resources under Chapter 7827
1511. of the Revised Code or the supervisors of a soil and water 7828
conservation district under Chapter 1515. of the Revised Code for 7829
the abatement of the degradation of the waters of the state by 7830
manure, including attached substances, that were developed or 7831
approved prior to the effective date of the amendment of the 7832
statutes governing the Program by this act; 7833

(2) Copies of all operation and management plans, or 7834
applicable portions of such plans, and accompanying information 7835
that were submitted for approval by the Chief or the supervisors 7836
of a soil and water conservation district under Chapter 1511. or 7837
1515. of the Revised Code, as applicable, prior to the effective 7838
date of the amendment of the statutes governing the Program by 7839
this act for the abatement of the degradation of the waters of the 7840
state by manure, including attached substances. 7841

(C) Any business commenced but not completed by the Chief of 7842
the Division of Soil and Water Resources relating to the Program 7843
on the effective date of the amendment of the statutes governing 7844
the Program by this act shall be completed by the Director of 7845
Agriculture. Any validation, cure, right, privilege, remedy, 7846
obligation, or liability is not lost or impaired solely by reason 7847
of the transfer required by this act and shall be administered by 7848
the Director of Agriculture in accordance with this act. 7849

(D) All of the orders and determinations of the Chief of the Division of Soil and Water Resources relating to the Agricultural Pollution Abatement Program continue in effect as orders and determinations of the Director of Agriculture until modified or rescinded by the Director.

(E) Whenever the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources, in relation to the Program, is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Department of Agriculture or to the Director of Agriculture, whichever is appropriate in context.

(F) Any action or proceeding pending on the effective date of the amendment of the statutes governing the Program by this act is not affected by the transfer of the functions of that Program by this act and shall be prosecuted or defended in the name of the Department of Agriculture. In all such actions and proceedings, the Department of Agriculture, upon application to the court, shall be substituted as a party.

(G) As used in this section:

(1) "Soil and water conservation district" has the same meaning as in section 1515.01 of the Revised Code.

(2) "Waters of the state" and "operation and management plan" have the same meanings as in section 1511.01 of the Revised Code.

(3) "Manure" has the same meaning as in section 939.01 of the Revised Code.

Section 4. The Director of Agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that are identical to all of the following rules as those rules exist on the effective date of this section, except that references to the Division of Soil and Water Resources in the Department of Natural

Resources shall be replaced with references to the Department of 7880
Agriculture, and references to the Chief of the Division of Soil 7881
and Water Resources shall be replaced with references to the 7882
Director of Agriculture: 7883

(A) Rule 1501:15-5-01 of the Ohio Administrative Code; 7884

(B) Rule 1501:15-5-02 of the Ohio Administrative Code; 7885

(C) Rule 1501:15-5-03 of the Ohio Administrative Code; 7886

(D) Rule 1501:15-5-05 of the Ohio Administrative Code; 7887

(E) Rule 1501:15-5-06 of the Ohio Administrative Code; 7888

(F) Rule 1501:15-5-07 of the Ohio Administrative Code; 7889

(G) Rule 1501:15-5-14 of the Ohio Administrative Code; 7890

(H) Rule 1501:15-5-15 of the Ohio Administrative Code; 7891

(I) Rule 1501:15-5-18 of the Ohio Administrative Code. 7892

Section 5. Operation and management plans that were developed 7893
or approved under Chapter 1511. or 1515. of the Revised Code prior 7894
to the amendment of those chapters by this act continue in effect 7895
as nutrient utilization plans under Chapter 939. or 1515. of the 7896
Revised Code as enacted or amended by this act, as applicable. 7897

Section 6. The Agricultural Pollution Abatement Fund that is 7898
created in section 939.11 of the Revised Code, as enacted by this 7899
act, is a continuation of the Agricultural Pollution Abatement 7900
Fund that was created in section 1511.071 of the Revised Code 7901
prior to its repeal by this act. Money credited to the Fund under 7902
section 1511.071 of the Revised Code, as repealed by this act, 7903
shall be used for the purposes specified in section 939.11 of the 7904
Revised Code, as enacted by this act. 7905

Section 7. The Public Utilities Commission shall plan for the 7906

transition, consistent with the directives and policies of the 7907
Federal Communications Commission, from the current public 7908
switched telephone network to an internet-protocol network that 7909
will stimulate investment in the internet-protocol network in Ohio 7910
and that will expand the availability of advanced 7911
telecommunications services to all Ohioans. The transition plan 7912
shall include a review of statutes or rules that may prevent or 7913
delay an appropriate transition. The Public Utilities Commission 7914
shall report to the General Assembly on any further action 7915
required to be taken by the General Assembly to ensure a 7916
successful and timely transition. 7917

Section 8. (A) Not later than ninety days after the effective 7918
date of this section, the Public Utilities Commission shall 7919
establish a collaborative process with all of the following, to 7920
address the internet-protocol-network transition: 7921

(1) Incumbent local exchange carriers; 7922

(2) Any competitive local exchange carriers affected by the 7923
transition; 7924

(3) The Office of the Ohio Consumers' Counsel; 7925

(4) At the invitation of the Commission, other interested 7926
consumer representatives and members of the General Assembly. 7927

(B) The collaborative process shall focus on the 7928
internet-protocol-network transition processes underway at the 7929
Federal Communications Commission and the issues of universal 7930
connectivity, consumer protection, public safety, reliability, 7931
expanded availability of advanced services, and competition. The 7932
industry participants shall strive to address unserved or 7933
underserved areas with wireline or wireless alternatives. The 7934
collaborative process shall ensure that public education 7935
concerning the transition is thorough. The process shall also 7936

address the availability of wireless and wireline voice services 7937
to consumers of basic local exchange service, upon the eventual 7938
withdrawal of basic local exchange service, and how best to make 7939
those consumers aware of the available options. 7940

(C) The collaborative process shall include a review of the 7941
number and characteristics of basic-local-exchange-service 7942
customers in Ohio, an evaluation of what alternatives are 7943
available to them, and shall embark on an education campaign plan 7944
for those customers' eventual transition to advanced services. If 7945
the collaborative process identifies residential 7946
basic-local-exchange-service customers who will be unable to 7947
obtain voice service upon the withdrawal or abandonment of basic 7948
local exchange service, the Public Utilities Commission may find 7949
those customers to be eligible for the process under division (B) 7950
of section 4927.10 of the Revised Code, regardless of whether they 7951
have filed petitions under that division. 7952

(D) The collaborative process shall, pursuant to the rules of 7953
the Public Utilities Commission, respect the confidentiality of 7954
any data shared with those involved in the process. 7955

Section 9. (A) The Public Utilities Commission shall do both 7956
of the following: 7957

(1) Adopt rules to implement section 4927.10 of the Revised 7958
Code and the amendments to sections 4927.01, 4927.02, 4927.07, and 7959
4927.11 of the Revised Code made by H.B. 490 of the 130th General 7960
Assembly; 7961

(2) Bring its rules into conformity with this act. 7962

(B) Rules adopted or amended under this section shall include 7963
provisions for reasonable customer notice of the steps to be taken 7964
during, and the actions resulting from, the transition plan 7965
described in Section 7 of H.B. 490 of the 130th General Assembly. 7966

(C) Any rule adopted or amended under this section shall be 7967
consistent with the rules of the Federal Communications 7968
Commission. 7969

(D) If the Public Utilities Commission fails to comply with 7970
division (A) of this section before the Federal Communications 7971
Commission adopts the order described in section 4927.10 of the 7972
Revised Code, any rule of the Public Utilities Commission that is 7973
inconsistent with that order shall not be enforced. 7974

Section 10. (A) The amendment by this act of section 5713.051 7975
of the Revised Code clarifies the intent of the General Assembly 7976
that the method described in section 5713.051 of the Revised Code 7977
for determining the true value in money of oil and gas reserves 7978
for property tax purposes continues to represent the only method 7979
for valuing oil and gas reserves for property tax purposes. 7980

(B) The amendment by this act of section 5713.051 of the 7981
Revised Code applies to any addition of oil and gas reserves to 7982
the tax list and duplicate on or after the effective date of that 7983
amendment, including oil and gas reserves added to the tax list 7984
pursuant to section 319.35, 319.36, or 5713.20 of the Revised 7985
Code. The amendment by this act of section 5713.051 of the Revised 7986
Code applies to any taxes for oil and gas reserves charged by a 7987
county auditor or county treasurer, including taxes for oil and 7988
gas reserves charged under section 319.40 or 5713.20 of the 7989
Revised Code on or after the effective date of that amendment. 7990

(C) Division (B) of this section applies without regard to 7991
the tax year or tax years to which the addition or charged taxes 7992
relate. 7993

Section 11. (A) Except as provided in division (B) of this 7994
section, sections 905.326, 905.327, 1511.024, and 1511.025 of the 7995
Revised Code, as enacted by this act, cease to operate five years 7996

after the effective date of this section. 7997

(B) Not later than four years after the effective date of 7998
this section, the committees of the House of Representatives and 7999
the Senate that are primarily responsible for agriculture and 8000
natural resources matters jointly shall review the effectiveness 8001
of the sections of the Revised Code specified in division (A) of 8002
this section in order to determine whether to recommend 8003
legislation terminating the cessation of operation established in 8004
that division. The committees jointly shall issue a report to the 8005
Governor containing their findings and recommendation. If the 8006
committees recommend termination of the cessation, the committees 8007
may include in the report additional recommendations for revisions 8008
to those sections. 8009

Section 12. That sections 1511.024 and 1511.025 of the 8010
Revised Code as they result from Section 1 of this act be 8011
recodified as sections 939.11 and 939.12, respectively, of the 8012
Revised Code and amended to read as follows: 8013

Sec. ~~1511.024~~ 939.11. (A) Except as provided in division (B) 8014
of this section, no person in the western basin shall surface 8015
apply manure under any of the following circumstances: 8016

(1) On snow-covered or frozen soil; 8017

(2) When the top two inches of soil are saturated from 8018
precipitation; 8019

(3) When the local weather forecast for the application area 8020
contains greater than a fifty per cent chance of precipitation 8021
exceeding one-half inch in a twenty-four-hour period. 8022

(B) Division (A) of this section does not apply if a person 8023
in the western basin applies manure under any of the following 8024
circumstances: 8025

- (1) The manure application is injected into the ground. 8026
- (2) The manure application is incorporated within twenty-four hours of surface application. 8027
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- (3) The manure application is applied onto a growing crop. 8029
- (4) The manure application consists of potash or gypsum. 8030
- (5) In the event of an emergency, the ~~chief director~~ of ~~the division of soil and water resources~~ agriculture provides written consent and the manure application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590. 8031
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- (C)(1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the ~~chief director~~ or the ~~chief's director's~~ designee may investigate or make inquiries into any alleged failure to comply with this section. 8037
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- (2) After receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the ~~chief director~~ or the ~~chief's director's~~ designee may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged failure to comply with this section. 8042
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- (3) If any individual denies access to the ~~chief director~~ or the ~~chief's director's~~ designee, the ~~chief director~~ may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises for the purposes of this section. 8048
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- (4) The court shall issue the search warrant for the purposes requested if there is probable cause to believe that the person is not in compliance with this section. The finding of probable cause 8053
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may be based on hearsay, provided that there is a reasonable basis 8056
for believing that the source of the hearsay is credible. 8057

(D) This section does not affect any restrictions established 8058
in Chapter 903. of the Revised Code or otherwise apply to those 8059
entities or facilities that are permitted as concentrated animal 8060
feeding facilities under that chapter. 8061

(E) As used in this section, "western basin" has the same 8062
meaning as in section 905.326 of the Revised Code. 8063

Sec. ~~1511.025~~ 939.12. (A) The director of agriculture may 8064
assess a civil penalty against a person that violates section 8065
~~1511.024~~ 939.11 of the Revised Code. The ~~chief~~ director may impose 8066
a civil penalty only if the ~~chief~~ director affords the person an 8067
opportunity for an adjudication hearing under Chapter 119. of the 8068
Revised Code to challenge the ~~chief's~~ director's determination 8069
that the person violated section ~~1511.024~~ 939.11 of the Revised 8070
Code. The person may waive the right to an adjudication hearing. 8071

(B) If the opportunity for an adjudication hearing is waived 8072
or if, after an adjudication hearing, the ~~chief~~ director 8073
determines that a violation has occurred or is occurring, the 8074
~~chief~~ director may issue an order requiring compliance with 8075
section ~~1511.024~~ 939.11 of the Revised Code and assess the civil 8076
penalty. The order and the assessment of the civil penalty may be 8077
appealed in accordance with section 119.12 of the Revised Code. 8078

(C) A person that has violated section ~~1511.024~~ 939.11 of the 8079
Revised Code shall pay a civil penalty in an amount established in 8080
rules. Each thirty-day period during which a violation continues 8081
constitutes a separate violation. 8082

(D) The ~~chief~~ director shall adopt rules in accordance with 8083
Chapter 119. of the Revised Code that establish the amount of the 8084
civil penalty assessed under this section. The civil penalty shall 8085

not be more than ten thousand dollars for each violation. 8086

Section 13. That existing sections 1511.024 and 1511.025 of 8087
the Revised Code are hereby repealed. 8088

Section 14. Sections 12 and 13 of this act take effect 8089
January 1, 2017. 8090

Section 15. The amendment, enactment, or repeal of sections 8091
901.22, 903.01, 903.03, 903.04, 903.07, 903.082, 903.09, 903.10, 8092
903.11, 903.12, 903.13, 903.16, 903.17, 903.25, 939.01, 939.02, 8093
939.03, 1511.022 (939.04), 939.05, 939.06, 939.07, 939.08, 939.09, 8094
939.10, 939.11, 941.14, 953.22, 1511.01, 1511.02, 1511.021, 8095
1511.023 (1511.022), 1511.023, 1511.05, 1511.07, 1511.071, 8096
1511.09, 1511.99, 1515.01, 1515.08, 3734.02, 3734.029, 3745.70, 8097
6111.03, 6111.04, and 6111.44 of the Revised Code and Sections 3, 8098
4, 5, and 6 of this act takes effect on January 1, 2017. 8099