

**As Reported by the House Finance and Appropriations
Committee**

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

Am. Sub. S. B. No. 150

Senators Hite, Peterson

**Cosponsors: Senators Coley, Eklund, Hughes, Kearney, Lehner, Manning,
Sawyer, Turner, Uecker**

**Representatives Cera, Hagan, C., Barborak, Buchy, Damschroder, Landis,
O'Brien, Patterson, Ruhl, Scherer, Rosenberger, Hayes, McClain, Antonio**

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A B I L L

To amend sections 903.25, 905.31, 905.32, 905.34,	1
905.36, 905.39, 905.41, 905.45, 905.46, 905.47,	2
905.48, 905.49, 905.50, 905.99, 907.111, 1511.01,	3
1511.02, 1511.021, 1511.07, 1511.071, 1515.01,	4
1515.02, 1515.08, 3717.53, 6111.03, 6111.04, and	5
6111.44; to amend for the purpose of adopting a	6
new section number as indicated in parentheses	7
section 905.501 (905.503); and to enact new	8
section 905.501 and sections 905.321, 905.322,	9
905.323, 905.324, 905.325, 905.502, and 1511.023	10
of the Revised Code to revise the law governing	11
the abatement of agricultural pollution, to	12
require a person that applies fertilizer for the	13
purposes of agricultural production to be	14
certified to do so by the Director of Agriculture,	15
to make other changes to the Agricultural	16
Additives, Lime, and Fertilizer Law.	17

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

Section 1. That sections 903.25, 905.31, 905.32, 905.34, 18
905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 905.49, 19
905.50, 905.99, 907.111, 1511.01, 1511.02, 1511.021, 1511.07, 20
1511.071, 1515.01, 1515.02, 1515.08, 3717.53, 6111.03, 6111.04, 21
and 6111.44 be amended, section 905.501 (905.503) be amended for 22
the purpose of adopting a new section number as indicated in 23
parentheses, and new section 905.501 and sections 905.321, 24
905.322, 905.323, 905.324, 905.325, 905.502, and 1511.023 of the 25
Revised Code be enacted to read as follows: 26

Sec. 903.25. An owner or operator of an animal feeding 27
facility who holds a permit to install, a permit to operate, a 28
review compliance certificate, or a NPDES permit or who is 29
operating under an operation and management plan, as defined in 30
section 1511.01 of the Revised Code, developed or approved by the 31
chief of the division of soil and water resources in the 32
department of natural resources under section 1511.02 of the 33
Revised Code or by the supervisors of the appropriate soil and 34
water conservation district under section 1515.08 of the Revised 35
Code shall not be required by any political subdivision of the 36
state or any officer, employee, agency, board, commission, 37
department, or other instrumentality of a political subdivision to 38
obtain a license, permit, or other approval pertaining to manure, 39
insects or rodents, odor, or siting requirements for installation 40
of an animal feeding facility. 41

Sec. 905.31. As used in sections 905.31 to ~~905.501~~ 905.503 of 42
the Revised Code: 43

(A) ~~"Applicant" means the person who applies for the license 44
or requests registration of a fertilizer.~~ 45

~~(B)~~ "Brand name" means a name or expression, design, or 46
trademark used in connection with one or several grades of any 47

type of fertilizer. 48

~~(C)~~(B) "Bulk fertilizer" means any type of fertilizer in 49
solid, liquid, or gaseous state, or any combination thereof, in a 50
nonpackaged form. 51

~~(D)~~(C) "Distribute" means to offer for sale, sell, barter, or 52
otherwise supply fertilizer for other than manufacturing purposes. 53

~~(E)~~(D) "Fertilizer" means any substance containing nitrogen, 54
phosphorus, or potassium or any recognized plant nutrient element 55
or compound that is used for its plant nutrient content or for 56
compounding mixed fertilizers. ~~Lime~~ "Fertilizer" does not include 57
lime, limestone, marl, unground bone, water, residual farm 58
products, and unmanipulated animal and vegetable manures are 59
excepted unless mixed with fertilizer materials or distributed 60
with a guaranteed analysis. 61

~~(F)~~(E) "Grade" means the percentages of total nitrogen, 62
available phosphorus or available phosphate (P_2O_5), and soluble 63
potassium or soluble potash (K_2O) stated in the same terms, order, 64
and percentage as in guaranteed analysis. 65

~~(G)~~(F) "Guaranteed analysis" means: 66

(1) The minimum percentages of plant nutrients claimed in the 67
following order and form: 68

Total Nitrogen (N)	per cent	69
Available phosphate (P_2O_5)	per cent	70
Soluble Potash (K_2O)	per cent	71

(2) Guaranteed analysis includes, in the following order: 72

(a) For bone and tankage, total phosphorus (P) or phosphate 73
(P_2O_5); 74

(b) For basic slag and unacidulated phosphatic materials, 75
available and total phosphorus (P) or phosphate (P_2O_5) and the 76
degree of fineness; 77

(c) Additional plant nutrients guaranteed expressed as 78
percentage of elements in the order and form as prescribed by 79
rules adopted by the director of agriculture. 80

~~(H)~~(G) "Label" means any written or printed matter on the 81
package or tag attached to it or on the pertinent delivery and 82
billing invoice. 83

~~(I)~~(H) "Manufacture" means to process, granulate, blend, mix, 84
or alter the composition of fertilizers for distribution. 85

~~(J)~~(I) "Mixed fertilizer" means any combination or mixture of 86
fertilizer designed for use, or claimed to have value, in 87
promoting plant growth, including fertilizer pesticide mixtures. 88

~~(K)~~(J) "Net weight" means the weight of a commodity excluding 89
any packaging in pounds or metric equivalent, as determined by a 90
sealed weighing device or other means prescribed by rules adopted 91
by the director. 92

~~(L)~~(K) "Packaged fertilizer" means any type of fertilizer in 93
closed containers of not over one hundred pounds or metric 94
equivalent. 95

~~(M)~~(L) "Per cent" or "percentage" means the percentage of 96
weight. 97

~~(N)~~(M) "Person" includes any partnership, association, firm, 98
corporation, company, society, individual or combination of 99
individuals, institution, park, or public agency administered by 100
the state or any subdivision of the state. 101

~~(O)~~(N) "Product name" means a coined or specific designation 102
applied to an individual fertilizer material or mixture of a fixed 103
composition and derivation. 104

~~(P)~~(O) "Sale" means exchange of ownership or transfer of 105
custody. 106

~~(Q)~~(P) "Official sample" means the sample of fertilizer taken 107

and designated as official by the director.	108
(R) (O) "Specialty fertilizer" means any fertilizer designed,	109
labeled, and distributed for uses other than the production of	110
commercial crops.	111
(S) (R) "Ton" means a net weight of two thousand pounds.	112
(T) "Unmanipulated manure" means any substance composed	113
primarily of excreta, plant remains, or mixtures of such	114
substances that have not been processed in any manner.	115
(U) (S) "Fertilizer material" includes any of the following:	116
(1) A material containing not more than one of the following	117
primary plant nutrients:	118
(a) Nitrogen (N);	119
(b) Phosphorus (P);	120
(c) Potassium (K).	121
(2) A material that has not less than eighty-five per cent of	122
its plant nutrient content composed of a single chemical	123
compound-;	124
(3) A material that is derived from a residue or by-product	125
of a plant or animal or a natural material deposit and has been	126
processed in such a way that its plant nutrients content has not	127
been materially changed except by purification and concentration.	128
(V) (T) "Custom mixed fertilizer" means a fertilizer that is	129
not premixed, but that is blended specifically to meet the	130
nutrient needs of one specific customer.	131
(W) (U) "Director" or "director of agriculture" means the	132
director of agriculture or the director's designee.	133
(X) (V) "Lot" means an identifiable quantity of fertilizer	134
that may be used as an official sample.	135
(Y) (W) "Unit" means twenty pounds of fertilizer or one per	136

cent of a ton.	137
(Z) "Metric ton" means a measure of weight equal to one thousand kilograms.	138 139
(AA) (X) "Anhydrous ammonia equipment" means, with regard to the handling or storage of anhydrous ammonia, a container or containers with a maximum capacity of not more than four thousand nine hundred ninety-nine gallons or any appurtenances, pumps, compressors, or interconnecting pipes associated with such a container or containers. "Anhydrous ammonia equipment" does not include equipment for the manufacture of anhydrous ammonia or the storage of anhydrous ammonia either underground or in refrigerated structures.	140 141 142 143 144 145 146 147 148
(BB) (Y) "Anhydrous ammonia system" or "system" means, with regard to the handling or storage of anhydrous ammonia, a container or containers with a minimum capacity of not less than five thousand gallons or any appurtenances, pumps, compressors, or interconnecting pipes associated with such a container or containers. "Anhydrous ammonia system" does not include equipment for the manufacture of anhydrous ammonia or the storage of anhydrous ammonia either underground or in refrigerated structures.	149 150 151 152 153 154 155 156 157
<u>(Z) "Agricultural production" means the cultivation, primarily for sale, of plants or any parts of plants on more than fifty acres. "Agricultural production" does not include the use of start-up fertilizer applied through a planter.</u>	158 159 160 161
<u>(AA) "Rule" means a rule adopted under section 905.322, 905.40, or 905.44 of the Revised Code, as applicable.</u>	162 163
<u>(BB) "Certificate holder" means a person who has been certified to apply fertilizer under section 905.321 of the Revised Code and rules adopted under section 905.322 of the Revised Code.</u>	164 165 166
<u>(CC) "Residual farm products" has the same meaning as in</u>	167

section 1511.01 of the Revised Code. 168

(DD) "Voluntary nutrient management plan" means any of the 169
following: 170

(1) A nutrient management plan that is in the form of the 171
Ohio nutrient management workbook made available by the Ohio state 172
university; 173

(2) A comprehensive nutrient management plan developed by the 174
United States department of agriculture natural resources 175
conservation service, a technical service provider certified by 176
the conservation service, or a person authorized by the 177
conservation service to develop a plan; 178

(3) A document that is equivalent to a plan specified in 179
division (DD)(1) or (2) of this section, that is in a form 180
approved by the director or the director's designee, and that 181
contains at least all of the following information: 182

(a) Results of soil tests conducted on land subject to the 183
plan that comply with the field office technical guide established 184
by the conservation service and adopted by the chief of the 185
division of soil and water resources in the department of natural 186
resources in rules adopted under division (E) of section 1511.02 187
of the Revised Code and that are not older than three years; 188

(b) Documentation of the method and seasonal time of 189
utilization and application of nutrients; 190

(c) Identification of all nutrients applied, including 191
manure, fertilizer, sewage sludge, and biodigester residue; 192

(d) Field information regarding land subject to the plan, 193
including the location, spreadable acreage, crops grown, and 194
actual and projected yields. 195

Sec. 905.32. (A) No person shall manufacture or distribute in 196
this state any type of fertilizer until a license to manufacture 197

or distribute has been obtained by the manufacturer or distributor 198
from the department of agriculture upon payment of a five-dollar 199
fee: 200

(1) For each fixed (permanent) location at which fertilizer 201
is manufactured in this state; 202

(2) For each mobile unit used to manufacture fertilizer in 203
this state; 204

(3) For each location out of the state from which fertilizer 205
is distributed ~~in~~ into this state ~~to nonlicensees~~; 206

(4) For each location in this state from which fertilizer is 207
distributed in this state. 208

All licenses shall be valid for one year beginning on the 209
first day of December of a calendar year through the thirtieth day 210
of November of the following calendar year. A renewal application 211
for a license shall be submitted no later than the thirtieth day 212
of November each year. A person who submits a renewal application 213
for a license after the thirtieth day of November shall include 214
with the application a late filing fee of ten dollars. 215

(B) An application for a license shall include: 216

(1) The name and address of the licensee; 217

(2) The name and address of each bulk distribution point in 218
the state, not licensed for fertilizer manufacture and 219
distribution. 220

The name and address shown on the license shall be shown on 221
all labels, pertinent invoices, and bulk storage for fertilizers 222
distributed by the licensee in this state. 223

(C) The licensee shall inform the director of agriculture in 224
writing of additional distribution points established during the 225
period of the license. 226

(D) All money collected under this section shall be credited 227

to the pesticide, fertilizer, and lime program fund created in 228
section 921.22 of the Revised Code. 229

Sec. 905.321. (A) Beginning September thirtieth of the third 230
year after the effective date of this section, no person shall 231
apply fertilizer for the purposes of agricultural production 232
unless that person has been certified to do so by the director of 233
agriculture under this section and rules or is acting under the 234
instructions and control of a person who is so certified. 235

(B) A person shall be certified to apply fertilizer for 236
purposes of agricultural production in accordance with rules. A 237
person that has been so certified shall comply with requirements 238
and procedures established in those rules. 239

(C) A person that has been licensed as a commercial 240
applicator under section 921.06 of the Revised Code or as a 241
private applicator under section 921.11 of the Revised Code may 242
apply to be certified under this section, but shall not be 243
required to pay the application fee for certification established 244
in rules adopted under section 905.322 of the Revised Code. 245

Sec. 905.322. (A) The director of agriculture shall adopt 246
rules in accordance with Chapter 119. of the Revised Code that do 247
all of the following: 248

(1) Create a fertilizer applicator certification program 249
pursuant to section 905.321 of the Revised Code that does all of 250
the following: 251

(a) Educates an applicant for certification on the time, 252
place, form, amount, handling, and application of fertilizer; 253

(b) Serves as a component of a comprehensive state nutrient 254
reduction strategy addressing all sources of relevant nutrients; 255

(c) Supports generally practical and economically feasible 256

<u>best management practices.</u>	257
<u>(2) Establish all of the following concerning certifications that are required by section 905.321 of the Revised Code:</u>	258
<u>(a) The amount of the fee that must be submitted with an application for certification, if applicable, provided that the fee shall not exceed the fee established in rules adopted under section 921.16 of the Revised Code for a private pesticide applicator license issued under section 921.11 of the Revised Code;</u>	259
<u>(a) The amount of the fee that must be submitted with an application for certification, if applicable, provided that the fee shall not exceed the fee established in rules adopted under section 921.16 of the Revised Code for a private pesticide applicator license issued under section 921.11 of the Revised Code;</u>	260
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<u>Code;</u>	265
<u>(b) Information that must be included with an application for certification;</u>	266
<u>certification;</u>	267
<u>(c) Procedures for the issuance, renewal, and denial of certifications;</u>	268
<u>certifications;</u>	269
<u>(d) Grounds for the denial of certifications;</u>	270
<u>(e) Requirements and procedures governing training that must be successfully completed in order for a person to be certified;</u>	271
<u>be successfully completed in order for a person to be certified;</u>	272
<u>(f) Requirements for the maintenance of records by a person that is certified, including, but not limited to, the date of application of fertilizer, the place of application of fertilizer, the rate of application of fertilizer, an analysis of the fertilizer, and the name of the person applying the fertilizer. The rules shall stipulate that the records shall be maintained for not more than three years from the date of the fertilizer application and shall not be required to be submitted to the director or the director's designee, but shall be made available to the director or the director's designee for review upon request.</u>	273
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<u>(3) Establish requirements and procedures with which a licensee or registrant must comply when filing an annual tonnage report under section 905.36 of the Revised Code, including the</u>	284
<u>licensee or registrant must comply when filing an annual tonnage report under section 905.36 of the Revised Code, including the</u>	285
<u>report under section 905.36 of the Revised Code, including the</u>	286

<u>date on which the report must be filed.</u>	287
<u>(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:</u>	288
<u>(1) Establish criteria in accordance with which a person may be exempt from any training that is required in order to be certified under section 905.321 of the Revised Code;</u>	289
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<u>(1) Establish criteria in accordance with which a person may be exempt from any training that is required in order to be certified under section 905.321 of the Revised Code;</u>	292
<u>(2) Specify any type of cultivation that is to be excluded from the definition of "agricultural production";</u>	293
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<u>(2) Specify any type of cultivation that is to be excluded from the definition of "agricultural production";</u>	296
<u>(3) Define "under the instructions and control" for the purpose of section 905.321 of the Revised Code.</u>	297
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<u>(3) Define "under the instructions and control" for the purpose of section 905.321 of the Revised Code.</u>	300
<u>Sec. 905.323. (A)(1) A person who owns or operates agricultural land may do any of the following:</u>	301
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<u>Sec. 905.323. (A)(1) A person who owns or operates agricultural land may do any of the following:</u>	304
<u>(a) Develop a voluntary nutrient management plan;</u>	305
<u>(a) Develop a voluntary nutrient management plan;</u>	306
<u>(a) Develop a voluntary nutrient management plan;</u>	307
<u>(a) Develop a voluntary nutrient management plan;</u>	308
<u>(b) Request any person to develop a voluntary nutrient management plan on behalf of the person who owns or operates the agricultural land;</u>	309
<u>(b) Request any person to develop a voluntary nutrient management plan on behalf of the person who owns or operates the agricultural land;</u>	310
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<u>(b) Request any person to develop a voluntary nutrient management plan on behalf of the person who owns or operates the agricultural land;</u>	312
<u>(c) Request the supervisors of the applicable soil and water conservation district organized in accordance with Chapter 1515. of the Revised Code to develop a voluntary nutrient management plan on the person's behalf.</u>	313
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<u>(c) Request the supervisors of the applicable soil and water conservation district organized in accordance with Chapter 1515. of the Revised Code to develop a voluntary nutrient management plan on the person's behalf.</u>	316
<u>(2) A person who owns or operates agricultural land and who has developed or has had developed a voluntary nutrient management plan under division (A)(1)(a) or (b) of this section, as applicable, may request the supervisors of the applicable soil and water conservation district, the director of agriculture, or the director's designee to approve the plan. The supervisors, director, or director's designee shall approve or disapprove the plan.</u>	317
<u>(2) A person who owns or operates agricultural land and who has developed or has had developed a voluntary nutrient management plan under division (A)(1)(a) or (b) of this section, as applicable, may request the supervisors of the applicable soil and water conservation district, the director of agriculture, or the director's designee to approve the plan. The supervisors, director, or director's designee shall approve or disapprove the plan.</u>	318
<u>(2) A person who owns or operates agricultural land and who has developed or has had developed a voluntary nutrient management plan under division (A)(1)(a) or (b) of this section, as applicable, may request the supervisors of the applicable soil and water conservation district, the director of agriculture, or the director's designee to approve the plan. The supervisors, director, or director's designee shall approve or disapprove the plan.</u>	319
<u>(2) A person who owns or operates agricultural land and who has developed or has had developed a voluntary nutrient management plan under division (A)(1)(a) or (b) of this section, as applicable, may request the supervisors of the applicable soil and water conservation district, the director of agriculture, or the director's designee to approve the plan. The supervisors, director, or director's designee shall approve or disapprove the plan.</u>	320
<u>(B) If a voluntary nutrient management plan is disapproved</u>	321

under this section, the person who developed the plan or had it developed may request an adjudication hearing in accordance with Chapter 119. of the Revised Code. 316
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(C) A person whose voluntary nutrient management plan is disapproved may appeal to the court of common pleas of Franklin county. 319
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(D) After a voluntary nutrient management plan has been approved under this section, the person who developed the plan or had it developed shall submit the plan once every five years to the supervisors of the applicable soil and water conservation district or the director for review. If after the review the supervisors or the director determines that the plan needs to be modified, the supervisors or director shall notify the person who submitted the plan. The person then shall provide for the modification of the plan. The procedures and requirements established in divisions (A) to (C) of this section apply to a modification of the plan. 322
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Sec. 905.324. (A) Except as provided in division (B) of this section, the director of agriculture, an employee of the department of agriculture, the supervisors of a soil and water conservation district, an employee of a district, and a contractor of the department or a district shall not disclose information, including data from geographic information systems and global positioning systems, used in the development or approval of or contained in a voluntary nutrient management plan. 333
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(B) The director or the supervisors of a district may release or disclose information specified in division (A) of this section to a person or a federal, state, or local agency working in cooperation with the director or the supervisors in the development or approval of a voluntary nutrient management plan if the director or supervisors determine that the person or federal, 341
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state, or local agency will not subsequently disclose the 347
information to another person who is not authorized by the person 348
who owns or operates agricultural land to receive the information. 349
The director or the supervisors of a district may release or 350
disclose information specified in division (A) of this section to 351
the extent required by the "Federal Water Pollution Control Act" 352
as defined in section 6111.01 of the Revised Code. 353

Sec. 905.325. In a private civil action for claims involving 354
or resulting from the application of fertilizer, it is an 355
affirmative defense if all of the following apply: 356

(A) The person applying the fertilizer is certified or is 357
applying fertilizer under the instruction and control of a person 358
who is certified under section 905.321 of the Revised Code and 359
rules. 360

(B) Records have been properly maintained for the application 361
of fertilizer as required by rules adopted under division 362
(A)(2)(f) of section 905.322 of the Revised Code. 363

(C) The fertilizer has been applied according to and in 364
substantial compliance with a voluntary nutrient management plan 365
developed under section 905.323 of the Revised Code, provided that 366
the plan has been approved under that section or developed by the 367
supervisors of the applicable soil and water conservation district 368
under that section. 369

Sec. 905.34. No distributor shall be required to obtain a 370
license if the manufacturer is licensed under division (A) of 371
section 905.32 of the Revised Code; ~~or~~ to distribute fertilizer if 372
the ~~manufacturer or distributor~~ fertilizer is registered under 373
division (A) of section 905.33 of the Revised Code. 374

Sec. 905.36. (A) A licensee or registrant, ~~except registrants~~ 375

~~who package specialty fertilizers only in containers of ten pounds or less, shall pay the director of agriculture for all fertilizers distributed in this state an inspection fee at the rate of twenty-five cents per ton or twenty-eight cents per metric ton. Licensees and registrants shall specify on an invoice whether the per ton inspection fee has been paid or whether payment of the fee is the responsibility of the purchaser of the fertilizer. The payment of this inspection fee by a licensee or registrant shall exempt all other persons from the payment of this fee for all of the following, as applicable:~~

(1) All fertilizer that the licensee distributes in this state to a person that has not been issued a license under section 905.32 of the Revised Code;

(2) All fertilizer that the licensee applies in this state for purposes of agricultural production and all fertilizer that is applied in this state on behalf of the licensee by an employee or contractor who is certified under section 905.321 of the Revised Code;

(3) All fertilizer that the registrant distributes in this state.

However, the inspection fee does not apply to packaged fertilizers that are in containers of ten pounds or less.

(B) Every licensee or registrant shall file with the director an annual tonnage report ~~that includes the number of net tons or metric tons of fertilizer distributed to nonlicensees or nonregistrants in this state by grade; packaged; bulk, dry or liquid~~ in accordance with rules. The report shall be filed on or before the ~~thirtieth day of November of each calendar year and shall include data from the period beginning on the first day of November of the year preceding the year in which the report is due through the thirty first day of October of the year in which the~~

~~report is due date specified in rules.~~ The licensee or registrant,
~~except registrants who package specialty fertilizers only in~~
~~containers of ten pounds or less,~~ shall include with ~~this~~
~~statement~~ the report the inspection fee at the rate stated in
division (A) of this section. For a tonnage report that is not
filed or payment of inspection fees that is not made on or before
the ~~thirtieth day of November of the applicable calendar year date~~
specified in rules, a penalty of fifty dollars or ten per cent of
the amount due, whichever is greater, shall be assessed against
the licensee or registrant. The amount of fees due, plus penalty,
shall constitute a debt and become the basis of a judgment against
the licensee or registrant. For tonnage reports found to be
incorrect, a penalty of fifteen per cent of the amount due shall
be assessed against the licensee or registrant and shall
constitute a debt and become the basis of a judgment against the
licensee or registrant.

(C) No information furnished under this section shall be
disclosed by any employee of the department of agriculture in such
a way as to divulge the operation of any person required to make
such a report. The filing by a licensee or registrant of a ~~sales~~
~~volume tonnage statement~~ report required by division (B) of this
section thereby grants permission to the director to verify the
same with the records of the licensee or registrant.

(D) All money collected under this section shall be credited
to the pesticide, fertilizer, and lime program fund created in
section 921.22 of the Revised Code.

Sec. 905.39. (A) The director of agriculture shall inspect
and sample any fertilizer within the state to such an extent as
the director considers necessary and make an analysis where need
is indicated to determine whether the fertilizer is in compliance
with sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~

rules ~~adopted under those sections~~. The director may enter upon 438
any public or private premises or conveyances during regular 439
business hours in order to have access to fertilizer subject to 440
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~ 441
rules ~~adopted under those sections~~. 442

(B) The director shall maintain the services necessary to 443
effectively administer and enforce sections 905.31 to ~~905.50~~ 444
905.503 of the Revised Code and ~~the rules adopted under those~~ 445
~~sections~~. The methods of sampling and analysis shall be those 446
adopted by the association of official analytical chemists or 447
other sources prescribed by the director. 448

(C) The results of official analysis of any sample of 449
fertilizer found to be in violation of any provisions of sections 450
905.31 to ~~905.50~~ 905.503 of the Revised Code or any rule ~~adopted~~ 451
~~under those sections~~, shall be forwarded to the licensee or 452
registrant. A licensee or registrant may request a portion of any 453
such sample, provided that the request is made not more than 454
thirty days after the date of the analysis report. 455

(D) Analytical tolerances shall be governed by rules ~~adopted~~ 456
~~by the director~~. 457

(E) If the director is denied access to any premises where 458
access is sought for the purpose of inspection and sampling, the 459
director may apply to any court of competent jurisdiction for a 460
search warrant authorizing access to the premises for that 461
purpose. The court, upon application, may issue the search warrant 462
for the purpose requested. 463

Sec. 905.41. (A) A storage facility for anhydrous ammonia 464
that is used for agricultural purposes shall be designed and 465
constructed in accordance with rules ~~adopted under section 905.40~~ 466
~~of the Revised Code~~. On and after ~~the effective date of this~~ 467
~~section~~ September 10, 2012, no person shall construct a storage 468

facility for anhydrous ammonia that is used for agricultural 469
purposes without applying for and receiving approval of the design 470
of the facility and approval to construct the facility from the 471
director of agriculture in accordance with ~~these~~ rules. 472

(B) Upon the submission of an application to the director for 473
the approval of the design and construction of a storage facility 474
for anhydrous ammonia that is used for agricultural purposes in 475
accordance with rules ~~adopted under section 905.40 of the Revised~~ 476
~~Code~~, the applicant shall submit written notification of the 477
application to all of the following: 478

(1) The board of township trustees of the township or the 479
legislative authority of the municipal corporation, as applicable, 480
in which the storage facility is proposed to be located; 481

(2) The county sheriff, or the police chief of the police 482
department of a municipal corporation, township, or township or 483
joint township police district, as applicable, with jurisdiction 484
over the location where the storage facility is proposed to be 485
located; 486

(3) The fire chief of the fire department with jurisdiction 487
over the location where the storage facility is proposed to be 488
located. 489

(C) Prior to approving or disapproving a storage facility for 490
anhydrous ammonia that is used for agricultural purposes, the 491
director may take into consideration any past violations of an 492
applicable state or federal law pertaining to environmental 493
protection or the environmental laws of another country or any 494
conviction of or guilty plea to a violation of section 901.511 of 495
the Revised Code or a felony drug offense as defined in section 496
2925.01 of the Revised Code related to the use and storage of 497
chemicals used for agriculture by the owner of the storage 498
facility. 499

~~Sec. 905.45. (A) The director of agriculture may revoke the registration of any grade and brand name of fertilizer or any license, or may suspend any registration or license, or may refuse to register any grade and brand name of fertilizer, or to license any applicant, upon a finding supported by substantial evidence that the registrant, licensee, or applicant has violated any provision of sections 905.31 to 905.50 of the Revised Code, or any rules adopted under those sections. No registration or license shall be refused, suspended, or revoked until the do any of the following upon a finding that a registrant, licensee, certificate holder, or applicant has violated any provision of sections 905.31 to 905.503 of the Revised Code or any rules:~~

~~(1) Revoke the registration of any grade and brand name of fertilizer;~~

~~(2) Revoke any license or certificate;~~

~~(3) Suspend any registration, license, or certificate;~~

~~(4) Refuse to register any grade and brand name of fertilizer;~~

~~(5) Refuse to license or certify any applicant.~~

~~A registrant, licensee, certificate holder, or applicant ~~has been~~ shall be given an opportunity to appear at an adjudication hearing conducted in accordance with Chapter 119. of the Revised Code.~~

~~(B) The director, prior to a hearing, may deny, suspend, revoke, refuse to renew, or modify any provision of a fertilizer applicator certificate issued under section 905.321 of the Revised Code and rules if the director has substantial reason to believe the certificate holder has recklessly applied fertilizer in such a manner that an emergency exists that presents a clear and present danger to human or animal health.~~

The director shall provide an opportunity for a hearing 530
without delay after such a denial, suspension, revocation, refusal 531
to renew, or modification. 532

Sec. 905.46. The director of agriculture may issue an order 533
to the owner or custodian of any lot of fertilizer requiring it to 534
be held at a designated place when the director has found the 535
fertilizer to have been offered or exposed for sale in violation 536
of sections 905.31 to ~~905.50~~ 905.503 of the Revised Code~~,~~ or any 537
rule ~~adopted under those sections~~. A fertilizer shall be held 538
until a release in writing is issued by the director. A release 539
shall not be issued until sections 905.31 to ~~905.50~~ 905.503 of the 540
Revised Code~~,~~ and ~~the rules adopted under those sections,~~ are 541
complied with and until all costs and expenses incurred in 542
connection with the violation have been paid by the manufacturer, 543
distributor, licensee, or registrant. 544

Sec. 905.47. Any lot of fertilizer not in compliance with 545
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code~~,~~ or any rule 546
~~adopted under those sections,~~ is subject to seizure on complaint 547
of the director of agriculture to a court of competent 548
jurisdiction in the county in which the fertilizer is located. The 549
court upon a finding that the fertilizer is in violation of 550
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code~~,~~ or any rule 551
~~adopted under those sections,~~ shall order the condemnation of the 552
fertilizer, and it shall be disposed of in a manner consistent 553
with the laws of this state. The court shall not order the 554
condemnation of the fertilizer without first giving the 555
manufacturer or distributor an opportunity to reprocess or relabel 556
the fertilizer to bring it into compliance with sections 905.31 to 557
~~905.50~~ 905.503 of the Revised Code~~,~~ and ~~the rules adopted under~~ 558
~~those sections.~~ 559

Sec. 905.48. In addition to the remedies provided and 560
irrespective of whether or not there exists any adequate remedy at 561
law, the director of agriculture may apply to the court of common 562
pleas in the county wherein any of the provisions of sections 563
905.31 to ~~905.50~~ 905.503 of the Revised Code, are being violated 564
for a temporary or permanent injunction restraining any person 565
from ~~such~~ the violation. 566

Sec. 905.49. Nothing in sections 905.31 to ~~905.50~~ 905.503 of 567
the Revised Code, shall be considered either to restrict the 568
distribution of fertilizers to each other by importers or 569
manufacturers, who mix fertilizer materials for distribution, or 570
to prevent the free and unrestricted shipment of fertilizer to 571
manufacturers who are licensed or have registered their specialty 572
fertilizer grades and brand names as required by sections 905.31 573
to ~~905.50~~ 905.503 of the Revised Code. 574

Sec. 905.50. If the director of agriculture has taken an 575
official sample of a fertilizer or mixed fertilizer and determined 576
that it constitutes mislabeled fertilizer pursuant to rules 577
~~adopted under section 905.40 or 905.44 of the Revised Code, as~~ 578
~~applicable,~~ the person who labeled the fertilizer or mixed 579
fertilizer shall pay a penalty to the consumer of the mislabeled 580
fertilizer or, if the consumer cannot be determined with 581
reasonable diligence or is not available, to the director to be 582
credited to the pesticide, fertilizer, and lime program fund 583
created under section 921.22 of the Revised Code. The amount of 584
the penalty shall be calculated in accordance with either division 585
(A) or (B) of this section, whichever method of calculation yields 586
the largest amount. 587

(A)(1) A penalty required to be paid under this section may 588
be calculated as follows: 589

(a) Five dollars for each percentage point of total nitrogen 590
or phosphorus in the fertilizer that is below the percentage of 591
nitrogen or phosphorus guaranteed on the label, multiplied by the 592
number of tons of mislabeled fertilizer that have been sold to the 593
consumer; 594

(b) Three dollars for each percentage point of potash in the 595
fertilizer that is below the percentage of potash guaranteed on 596
the label, multiplied by the number of tons of mislabeled 597
fertilizer that have been sold to the consumer. 598

(2) In the case of a fertilizer that contains a quantity of 599
nitrogen, phosphorus, or potash that is more than five percentage 600
points below the percentages guaranteed on the label, the 601
penalties calculated under division (A)(1) of this section shall 602
be tripled. 603

(3) No penalty calculated under division (A) of this section 604
shall be less than twenty-five dollars. 605

(B) A penalty required to be paid under this section may be 606
calculated by multiplying the market value of one unit of the 607
mislabeled fertilizer by the number of units of the mislabeled 608
fertilizer that have been sold to the consumer. 609

(C) Upon making a determination under this section that a 610
person has mislabeled fertilizer or mixed fertilizer, the director 611
shall determine the parties to whom the penalty imposed by this 612
section is required to be paid and, in accordance with division 613
(A) or (B) of this section, as applicable, shall calculate the 614
amount of the penalty required to be paid to each such party. 615
After completing those determinations and calculations, the 616
director shall issue to the person who allegedly mislabeled the 617
fertilizer or mixed fertilizer a notice of violation. The notice 618
shall be accompanied by an order requiring, and specifying the 619
manner of, payment of the penalty imposed by this section to the 620

parties in the amounts set forth in the determinations and 621
calculations required by this division. The order shall be issued 622
in accordance with Chapter 119. of the Revised Code. 623

No person shall violate a term or condition of an order 624
issued under this division. 625

Sec. 905.501. (A) Except as provided in division (B) of this 626
section, whenever the director of agriculture has cause to believe 627
that a person has violated, or is violating, sections 905.31 to 628
905.503 of the Revised Code or rules or an order issued under 629
those sections or rules, the director may conduct a hearing in 630
accordance with Chapter 119. of the Revised Code to determine 631
whether a violation has occurred. If the director determines that 632
a violation has occurred, the director may require the violator to 633
pay a civil penalty in accordance with the schedule of civil 634
penalties established in rules. Each day of violation constitutes 635
a separate violation. 636

(B) A person who fails to comply with rules adopted under 637
division (A)(2)(f) of section 905.322 of the Revised Code is not 638
subject to division (A) of this section. 639

Sec. 905.502. Nothing in sections 905.31 to 905.502 of the 640
Revised Code or rules shall be construed to require the director 641
of agriculture to report any findings to the appropriate 642
prosecuting authority for proceedings in the prosecution of, or 643
issue any order or institute any enforcement procedure for, a 644
violation of sections 905.31 to 905.502 of the Revised Code or 645
rules when the director believes that the public interest will be 646
best served by a suitable written notice of warning. A person who 647
receives a written notice of warning may respond in writing to the 648
notice. 649

~~Sec. 905.501~~ 905.503. (A) As used in this section: 650

(1) "Political subdivision" means a county, township, or 651
municipal corporation and any other body corporate and politic 652
that is responsible for government activities in a geographic area 653
smaller than that of the state. 654

(2) "Local legislation" includes, but is not limited to, an 655
ordinance, resolution, regulation, rule, motion, or amendment that 656
is enacted or adopted by a political subdivision. 657

(B)(1) No political subdivision shall regulate the 658
registration, packaging, labeling, sale, storage, distribution, 659
use, or application of fertilizer, or require a person licensed or 660
registered under sections 905.31 to 905.99 of the Revised Code to 661
obtain a license or permit to operate in a manner described in 662
those sections, or to satisfy any other condition except as 663
provided by a statute or rule of this state or of the United 664
States. 665

(2) No political subdivision shall enact, adopt, or continue 666
in effect local legislation relating to the registration, 667
packaging, labeling, sale, storage, distribution, use, or 668
application of fertilizers. 669

Sec. 905.99. ~~Whoever~~ (A) Except as provided in division (B) 670
of this section, whoever violates ~~section 905.02, 905.04, 905.08,~~ 671
~~905.11, 905.32, 905.33, 905.331, 905.35, 905.36, 905.40, 905.42,~~ 672
~~905.43, 905.44, 905.45, 905.50, 905.52, 905.54, 905.55, 905.59,~~ 673
~~905.60, or 905.61 of the Revised Code~~ this chapter or rules 674
adopted under it is guilty of a misdemeanor of the ~~second~~ third 675
degree ~~for~~ on a first offense. ~~On each subsequent offense the~~ 676
~~offender is guilty of,~~ a misdemeanor of the second degree on a 677
second offense, and a misdemeanor of the first degree on a third 678
or subsequent offense. 679

(B) A person who fails to comply with rules adopted under 680
division (A)(2)(f) of section 905.322 of the Revised Code is not 681

subject to division (A) of this section. 682

Sec. 907.111. (A) The department of agriculture has sole and 683
exclusive authority to regulate the registration, labeling, sale, 684
storage, transportation, distribution, notification of use, use, 685
and planting of seed within the state. The regulation of seed is a 686
matter of general statewide interest that requires uniform 687
statewide regulation, and this chapter and rules adopted under it 688
constitute a comprehensive plan with respect to all aspects of the 689
regulation of seed within this state. 690

(B) No political subdivision shall do any of the following: 691

(1) Regulate the registration, labeling, sale, storage, 692
transportation, distribution, notification of use, use, or 693
planting of seed; 694

(2) Require a person who has been issued a permit or license 695
under this chapter to obtain a permit or license to operate in a 696
manner described in this chapter or to satisfy any other condition 697
except as provided by a statute or rule of this state or of the 698
United States; 699

(3) Require a person who has registered a legume innoculant 700
under this chapter to register that innoculant in a manner 701
described in this chapter or to satisfy any other condition except 702
as provided by a statute or rule of this state or of the United 703
States. 704

(C) No political subdivision shall enact, adopt, or continue 705
in effect local legislation relating to the permitting or 706
licensure of any person who is required to obtain a permit or 707
license under this chapter or to the registration, labeling, sale, 708
storage, transportation, distribution, notification of use, use, 709
or planting of seed. 710

(D) As used in this section, "political subdivision" and 711

"local legislation" have the same meanings as in section ~~905.501~~ 712
905.503 of the Revised Code. 713

Sec. 1511.01. ~~For the purposes of~~ As used in this chapter: 714

(A) "Conservation" means the wise use and management of 715
natural resources. 716

(B) "Critical natural resource area" means an area identified 717
by the director of natural resources in which occurs a natural 718
resource that requires special management because of its 719
importance to the well-being of the surrounding communities, the 720
region, or the state. 721

(C) "Pollution abatement practice" means any erosion control 722
~~or animal waste, residual farm products, or manure~~ pollution 723
abatement facility, structure, or procedure and the operation and 724
management associated with it as contained in operation and 725
management plans developed or approved by the chief of the 726
division of soil and water resources or by boards of supervisors 727
of soil and water conservation districts ~~established under Chapter~~ 728
~~1515. of the Revised Code.~~ 729

(D) "Agricultural pollution" means failure to use management 730
or conservation practices in farming or silvicultural operations 731
to abate wind or water erosion of the soil or to abate the 732
degradation of the waters of the state by ~~animal waste~~ residual 733
farm products, manure, or soil sediment, including substances 734
attached thereto. 735

(E) "Waters of the state" means all streams, lakes, ponds, 736
wetlands, watercourses, waterways, wells, springs, irrigation 737
systems, drainage systems, and all other bodies or accumulations 738
of water, surface and underground, natural or artificial, 739
regardless of the depth of the strata in which underground water 740
is located, that are situated wholly or partly within, or border 741

upon, this state or are within its jurisdiction, except those 742
private waters that do not combine or effect a junction with 743
natural surface or underground waters. 744

(F) "Operation and management plan" means a written record, 745
developed or approved by the ~~district~~ board of supervisors of a 746
soil and water conservation district or the chief, for the owner 747
or operator of agricultural land or ~~a concentrated~~ an animal 748
feeding operation that contains implementation schedules and 749
operational procedures for a level of management and pollution 750
abatement practices that will abate the degradation of the waters 751
of the state by ~~animal waste~~ residual farm products, manure, and 752
~~by~~ soil sediment, including attached pollutants. 753

(G) "~~Animal waste~~ Residual farm products" means ~~animal~~ 754
~~excreta, discarded products,~~ bedding, wash waters, waste feed, and 755
silage drainage. "~~Animal waste~~ Residual farm products" also 756
includes the compost products resulting from the composting of 757
dead animals in operations subject to section 1511.022 of the 758
Revised Code when either of the following applies: 759

(1) The composting is conducted by the person who raises the 760
animals and the compost product is used in agricultural operations 761
owned or operated by that person, regardless of whether the person 762
owns the animals. 763

(2) The composting is conducted by the person who owns the 764
animals, but does not raise them and the compost product is used 765
in agricultural operations either by a person who raises the 766
animals or by a person who raises grain that is used to feed them 767
and that is supplied by the owner of the animals. 768

(H) "Composting" means the controlled decomposition of 769
organic solid material consisting of dead animals that stabilizes 770
the organic fraction of the material. 771

(I) "Manure" means animal excreta. 772

(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.

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

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

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

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

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

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

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

conservation commission, adopt, amend, or rescind rules pursuant 803
to Chapter 119. of the Revised Code. Rules adopted pursuant to 804
this section: 805

(1) Shall establish technically feasible and economically 806
reasonable standards to achieve a level of management and 807
conservation practices in farming or silvicultural operations that 808
will abate wind or water erosion of the soil or abate the 809
degradation of the waters of the state by ~~animal waste~~ residual 810
farm products, manure, or ~~by~~ soil sediment, including substances 811
attached thereto, and establish criteria for determination of the 812
acceptability of such management and conservation practices; 813

(2) Shall establish technically feasible and economically 814
reasonable standards to achieve a level of management and 815
conservation practices that will abate wind or water erosion of 816
the soil or abate the degradation of the waters of the state by 817
soil sediment in conjunction with land grading, excavating, 818
filling, or other soil-disturbing activities on land used or being 819
developed for nonfarm commercial, industrial, residential, or 820
other nonfarm purposes, and establish criteria for determination 821
of the acceptability of such management and conservation 822
practices. The standards shall be designed to implement applicable 823
areawide waste treatment management plans prepared under section 824
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 825
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 826
shall not apply in any municipal corporation or county that adopts 827
ordinances or rules pertaining to sediment control, nor to lands 828
being used in a strip mine operation as defined in section 1513.01 829
of the Revised Code, nor to lands being used in a surface mining 830
operation as defined in section 1514.01 of the Revised Code. 831

(3) May recommend criteria and procedures for the approval of 832
urban sediment pollution abatement plans and issuance of permits 833
prior to any grading, excavating, filling, or other whole or 834

partial disturbance of five or more contiguous acres of land owned 835
by one person or operated as one development unit and require 836
implementation of such a plan. Areas of less than five contiguous 837
acres are not exempt from compliance with other provisions of this 838
chapter and rules adopted under them. 839

(4) Shall establish procedures for administration of rules 840
for agricultural pollution abatement and urban sediment pollution 841
abatement and for enforcement of rules for agricultural pollution 842
abatement; 843

(5) Shall specify the pollution abatement practices eligible 844
for state cost sharing and determine the conditions for 845
eligibility, the construction standards and specifications, the 846
useful life, the maintenance requirements, and the limits of cost 847
sharing for those practices. Eligible practices shall be limited 848
to practices that address agricultural or silvicultural operations 849
and that require expenditures that are likely to exceed the 850
economic returns to the owner or operator and that abate soil 851
erosion or degradation of the waters of the state by ~~animal waste~~ 852
residual farm products, manure, or soil sediment, including 853
pollutants attached thereto. 854

(6) Shall establish procedures for administering grants to 855
owners or operators of agricultural land or ~~concentrated~~ animal 856
feeding operations for the implementation of operation and 857
management plans; 858

(7) Shall establish procedures for administering grants to 859
soil and water conservation districts for urban sediment pollution 860
abatement programs, specify the types of projects eligible for 861
grants, establish limits on the availability of grants, and 862
establish requirements governing the execution of projects to 863
encourage the reduction of erosion and sedimentation associated 864
with soil-disturbing activities; 865

(8) Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:	866
	867
(a) Provide for the distribution of educational material concerning composting to the offices of OSU extension for the purposes of section 1511.022 of the Revised Code;	868
	869
	870
(b) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the chief considers to be necessary or appropriate;	871
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(c) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division (Q) of section 1515.08 of the Revised Code.	875
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(9) Shall be adopted, amended, or rescinded after the chief does all of the following:	879
	880
(a) Mails notice to each statewide organization that the chief determines represents persons or local governmental agencies who would be affected by the proposed rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;	881
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(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;	886
	887
	888
(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;	889
	890
	891
	892
(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.	893
	894
	895

(10) Shall not conflict with air or water quality standards 896
adopted pursuant to section 3704.03 or 6111.041 of the Revised 897
Code. Compliance with rules adopted pursuant to this section does 898
not affect liability for noncompliance with air or water quality 899
standards adopted pursuant to section 3704.03 or 6111.041 of the 900
Revised Code. The application of a level of management and 901
conservation practices recommended under this section to control 902
windblown soil from farming operations creates a presumption of 903
compliance with section 3704.03 of the Revised Code as that 904
section applies to windblown soil. 905

(11) Insofar as the rules relate to urban sediment pollution, 906
shall not be applicable in a municipal corporation or county that 907
adopts ordinances or rules for urban sediment control, except that 908
a municipal corporation or county that adopts such ordinances or 909
rules may receive moneys for urban sediment control that are 910
disbursed by the board of supervisors of the applicable soil and 911
water conservation district under division (N) of section 1515.08 912
of the Revised Code. The rules shall not exempt any person from 913
compliance with municipal ordinances enacted pursuant to Section 3 914
of Article XVIII, Ohio Constitution. 915

(F) Cost share with landowners on practices established 916
pursuant to division (E)(5) of this section as moneys are 917
appropriated and available for that purpose. Any practice for 918
which cost share is provided shall be maintained for its useful 919
life. Failure to maintain a cost share practice for its useful 920
life shall subject the landowner to full repayment to the 921
division. 922

(G) Issue orders requiring compliance with any rule adopted 923
under division (E)(1) of this section or with section 1511.022 of 924
the Revised Code. Before the chief issues an order, the chief 925
shall afford each person allegedly liable an adjudication hearing 926
under Chapter 119. of the Revised Code. The chief may require in 927

an order that a person who has caused agricultural pollution by 928
failure to comply with the standards established under division 929
(E)(1) of this section operate under an operation and management 930
plan approved by the chief under this section. The chief shall 931
require in an order that a person who has failed to comply with 932
division (A) of section 1511.022 of the Revised Code prepare a 933
composting plan in accordance with rules adopted under division 934
(E)~~(10)~~(8)(c) of this section and operate in accordance with that 935
plan or that a person who has failed to operate in accordance with 936
such a plan begin to operate in accordance with it. Each order 937
shall be issued in writing and contain a finding by the chief of 938
the facts upon which the order is based and the standard that is 939
not being met. 940

(H) Employ field assistants and such other employees as are 941
necessary for the performance of the work prescribed by Chapter 942
1515. of the Revised Code, for performance of work of the 943
division, and as agreed to under working agreements or contractual 944
arrangements with ~~local~~ soil and water conservation districts, 945
prescribe their duties, and fix their compensation in accordance 946
with such schedules as are provided by law for the compensation of 947
state employees. 948

All employees of the division, unless specifically exempted 949
by law, shall be employed subject to the classified civil service 950
laws in force at the time of employment. 951

(I) In connection with new or relocated projects involving 952
highways, underground cables, pipelines, railroads, and other 953
improvements affecting soil and water resources, including surface 954
and subsurface drainage: 955

(1) Provide engineering service as is mutually agreeable to 956
the Ohio soil and water conservation commission and the director 957
to aid in the design and installation of soil and water 958
conservation practices as a necessary component of such projects; 959

(2) Maintain close liaison between the owners of lands on	960
which the projects are executed, local soil and water conservation	961
districts, and authorities responsible for such projects;	962
(3) Review plans for such projects to ensure their compliance	963
with standards developed under division (E) of this section in	964
cooperation with the department of transportation or with any	965
other interested agency that is engaged in soil or water	966
conservation projects in the state in order to minimize adverse	967
impacts on soil and water resources adjacent to or otherwise	968
affected by these projects;	969
(4) Recommend measures to retard erosion and protect soil and	970
water resources through the installation of water impoundment or	971
other soil and water conservation practices;	972
(5) Cooperate with other agencies and subdivisions of the	973
state to protect the agricultural status of rural lands adjacent	974
to such projects and control adverse impacts on soil and water	975
resources.	976
(J) Collect, analyze, inventory, and interpret all available	977
information pertaining to the origin, distribution, extent, use,	978
and conservation of the soil resources of the state;	979
(K) Prepare and maintain up-to-date reports, maps, and other	980
materials pertaining to the soil resources of the state and their	981
use and make that information available to governmental agencies,	982
public officials, conservation entities, and the public;	983
(L) Provide soil and water conservation districts with	984
technical assistance including on-site soil investigations and	985
soil interpretation reports on the suitability or limitations of	986
soil to support a particular use or to plan soil conservation	987
measures. The assistance shall be upon such terms as are mutually	988
agreeable to the districts and the department of natural	989
resources.	990

(M) Assist local government officials in utilizing land use 991
planning and zoning, current agricultural use value assessment, 992
development reviews, and land management activities; 993

(N) When necessary for the purposes of this chapter or 994
Chapter 1515. of the Revised Code, develop or approve operation 995
and management plans. 996

This section does not restrict the ~~excrement~~ manure of 997
domestic or farm animals defecated on land outside a ~~concentrated~~ 998
an animal feeding operation or runoff therefrom into the waters of 999
the state. 1000

Sec. 1511.021. (A) Any person who owns or operates 1001
agricultural land or a ~~concentrated~~ an animal feeding operation 1002
may develop and operate under an operation and management plan 1003
approved by the chief of the division of soil and water resources 1004
under section 1511.02 of the Revised Code or by the supervisors of 1005
the ~~local~~ applicable soil and water conservation district under 1006
section 1515.08 of the Revised Code. 1007

(B) Any person who wishes to make a complaint regarding 1008
nuisances involving agricultural pollution may do so orally or by 1009
submitting a written, signed, and dated complaint to the chief or 1010
to the chief's designee. After receiving an oral complaint, the 1011
chief or the chief's designee may cause an investigation to be 1012
conducted to determine whether agricultural pollution has occurred 1013
or is imminent. After receiving a written, signed, and dated 1014
complaint, the chief or the chief's designee shall cause such an 1015
investigation to be conducted. 1016

(C) In a private civil action for nuisances involving 1017
agricultural pollution, it is an affirmative defense if the person 1018
owning, operating, or otherwise responsible for agricultural land 1019
or a ~~concentrated~~ an animal feeding operation is operating under 1020
and in substantial compliance with an approved operation and 1021

management plan developed under division (A) of this section, with 1022
an operation and management plan developed by the chief under 1023
section 1511.02 of the Revised Code or by the supervisors of the 1024
~~local~~ applicable soil and water conservation district under 1025
section 1515.08 of the Revised Code, or with an operation and 1026
management plan required by an order issued by the chief under 1027
division (G) of section 1511.02 of the Revised Code. Nothing in 1028
this section is in derogation of the authority granted to the 1029
chief in division (E) of section 1511.02 and in section 1511.07 of 1030
the Revised Code. 1031

Sec. 1511.023. (A) Except as provided in division (B) of this 1032
section, the director of natural resources, an employee of the 1033
department of natural resources, the supervisors of a soil and 1034
water conservation district, an employee of a district, and a 1035
contractor of the department or a district shall not disclose 1036
either of the following: 1037

(1) Information, including data from geographic information 1038
systems and global positioning systems, provided by a person who 1039
owns or operates agricultural land or an animal feeding operation 1040
and operates under an operation and management plan; 1041

(2) Information gathered as a result of an inspection of 1042
agricultural land or an animal feeding operation to determine 1043
whether the person who owns or operates the land or operation is 1044
in compliance with an operation and management plan. 1045

(B) The director or the supervisors of a district may release 1046
or disclose information specified in division (A)(1) or (2) of 1047
this section to a person or a federal, state, or local agency 1048
working in cooperation with the chief of the division of soil and 1049
water resources or the supervisors in the development of an 1050
operation and management plan or an inspection to determine 1051
compliance with such a plan if the director or supervisors 1052

determine that the person or federal, state, or local agency will 1053
not subsequently disclose the information to another person. 1054

Sec. 1511.07. (A)(1) No person shall fail to comply with an 1055
order of the chief of the division of soil and water resources 1056
issued pursuant to division (G) of section 1511.02 of the Revised 1057
Code. 1058

(2) In addition to the remedies provided and irrespective of 1059
whether an adequate remedy at law exists, the chief may apply to 1060
the court of common pleas in the county where a violation of a 1061
standard established under division (E)(1) or (8)(b) of section 1062
1511.02 of the Revised Code causes pollution of the waters of the 1063
state for an order to compel the violator to cease the violation 1064
and to remove the agricultural pollutant or to comply with the 1065
rules adopted under division (E)(8)(b) of that section, as 1066
appropriate. 1067

(3) In addition to the remedies provided and irrespective of 1068
whether an adequate remedy at law exists, whenever the chief 1069
officially determines that an emergency exists because of 1070
agricultural pollution or an unauthorized release, spill, or 1071
discharge of ~~animal waste~~ manure, or a violation of a rule adopted 1072
under division (E)(8)(b) of section 1511.02 of the Revised Code, 1073
that causes pollution of the waters of the state, the chief may, 1074
without notice or hearing, issue an order reciting the existence 1075
of the emergency and requiring that necessary action be taken to 1076
meet the emergency. The order shall be effective immediately. Any 1077
person to whom the order is directed shall comply with the order 1078
immediately, but on application to the chief shall be afforded a 1079
hearing as soon as possible, but not later than twenty days after 1080
making the application. On the basis of the hearing, the chief 1081
shall continue the order in effect, revoke it, or modify it. No 1082
emergency order shall remain in effect for more than sixty days 1083

after its issuance. If a person to whom an order is issued does 1084
not comply with the order within a reasonable period, as 1085
determined by the chief, the chief or the chief's designee may 1086
enter upon private or public lands and take action to mitigate, 1087
minimize, remove, or abate the agricultural pollution, release, 1088
spill, discharge, or conditions caused by the violation of the 1089
rule. 1090

(B) The attorney general, upon the written request of the 1091
chief, shall bring appropriate legal action in Franklin county 1092
against any person who fails to comply with an order of the chief 1093
issued pursuant to division (G) of section 1511.02 of the Revised 1094
Code. 1095

Sec. 1511.071. There is hereby created in the state treasury 1096
the agricultural pollution abatement fund, which shall be 1097
administered by the chief of the division of soil and water 1098
resources. The fund may be used to pay costs incurred by the 1099
division under division (A)(3) of section 1511.07 of the Revised 1100
Code in investigating, mitigating, minimizing, removing, or 1101
abating any pollution of the waters of the state caused by 1102
agricultural pollution or an unauthorized release, spill, or 1103
discharge of ~~animal waste~~ manure into or upon the environment that 1104
requires emergency action to protect the public health. 1105

Any person responsible for causing or allowing agricultural 1106
pollution or an unauthorized release, spill, or discharge is 1107
liable to the chief for any costs incurred by the division and 1108
soil and water conservation districts in investigating, 1109
mitigating, minimizing, removing, or abating the agricultural 1110
pollution or release, spill, or discharge, regardless of whether 1111
those costs were paid out of the agricultural pollution abatement 1112
fund or any other fund of the division or a district. Upon the 1113
request of the chief, the attorney general shall bring a civil 1114

action against the responsible person to recover those costs. 1115
Moneys recovered under this section shall be paid into the 1116
agricultural pollution abatement fund. 1117

Sec. 1515.01. As used in this chapter: 1118

(A) "Soil and water conservation district" means a district 1119
organized in accordance with this chapter. 1120

(B) "Supervisor" means one of the members of the governing 1121
body of a district. 1122

(C) "Landowner," "owner," or "owner of land" means an owner 1123
of record as shown by the records in the office of the county 1124
recorder. With respect to an improvement or a proposed 1125
improvement, "landowner," "owner," or "owner of land" also 1126
includes any public corporation and the director of any 1127
department, office, or institution of the state that is affected 1128
by the improvement or that would be affected by the proposed 1129
improvement, but that does not own any right, title, estate, or 1130
interest in or to any real property. 1131

(D) "Land occupier" or "occupier of land" means any person, 1132
firm, or corporation that controls the use of land whether as 1133
landowner, lessee, renter, or tenant. 1134

(E) "Due notice" means notice published at least twice, 1135
stating time and place, with an interval of at least thirteen days 1136
between the two publication dates, in a newspaper of general 1137
circulation within a soil and water conservation district. 1138

(F) "Agricultural pollution" means failure to use management 1139
or conservation practices in farming or silvicultural operations 1140
to abate wind or water erosion of the soil or to abate the 1141
degradation of the waters of the state by ~~animal waste~~ residual 1142
farm products, manure, or soil sediment, including substances 1143
attached thereto. 1144

(G) "Urban sediment pollution" means failure to use 1145
management or conservation practices to abate wind or water 1146
erosion of the soil or to abate the degradation of the waters of 1147
the state by soil sediment in conjunction with land grading, 1148
excavating, filling, or other soil disturbing activities on land 1149
used or being developed for nonfarm commercial, industrial, 1150
residential, or other nonfarm purposes, except lands being used in 1151
a strip mine operation as defined in section 1513.01 of the 1152
Revised Code and except lands being used in a surface mining 1153
operation as defined in section 1514.01 of the Revised Code. 1154

(H) "Uniform assessment" means an assessment that is both of 1155
the following: 1156

(1) Based upon a complete appraisal of each parcel of land, 1157
together with all improvements thereon, within a project area and 1158
of the benefits or damages brought about as a result of the 1159
project that is determined by criteria applied equally to all 1160
parcels within the project area; 1161

(2) Levied upon the parcels at a uniform rate on the basis of 1162
the appraisal. 1163

(I) "Varied assessment" means any assessment that does not 1164
meet the criteria established in division (H) of this section. 1165

(J) "Project area" means an area determined and certified by 1166
the supervisors of a soil and water conservation district under 1167
section 1515.19 of the Revised Code. 1168

(K) "Benefit" or "benefits" means advantages to land and 1169
owners, to public corporations, and to the state resulting from 1170
drainage, conservation, control, and management of water and from 1171
environmental, wildlife, and recreational improvements. "Benefit" 1172
or "benefits" includes, but is not limited to, any of the 1173
following factors: 1174

(1) Elimination or reduction of damage from flooding; 1175

(2) Removal of water conditions that jeopardize public health, safety, or welfare;	1176 1177
(3) Increased value of land resulting from an improvement;	1178
(4) Use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other incidental purpose;	1179 1180 1181
(5) Providing an outlet for the accelerated runoff from artificial drainage if a stream, watercourse, channel, or ditch that is under improvement is called upon to discharge functions for which it was not designed. Uplands that have been removed from their natural state by deforestation, cultivation, artificial drainage, urban development, or other human methods shall be considered to be benefited by an improvement that is required to dispose of the accelerated flow of water from the uplands.	1182 1183 1184 1185 1186 1187 1188 1189
(L) "Improvement" or "conservation works of improvement" means an improvement that is made under the authority established in division (C) of section 1515.08 of the Revised Code.	1190 1191 1192
(M) "Land" has the same meaning as in section 6131.01 of the Revised Code.	1193 1194
<u>(N) "Manure," "operation and management plan," and "residual farm products" have the same meanings as in section 1511.01 of the Revised Code.</u>	1195 1196 1197
<u>(O) "Voluntary nutrient management plan" has the same meaning as in section 905.31 of the Revised Code.</u>	1198 1199
Sec. 1515.02. There is hereby established in the department of natural resources the Ohio soil and water conservation commission. The commission shall consist of seven members of equal status and authority, four <u>six</u> of whom shall be appointed by the governor with the advice and consent of the senate, and one of whom shall be designated by resolution of the board of directors	1200 1201 1202 1203 1204 1205

of the Ohio federation of soil and water conservation districts. 1206
The ~~other two members shall be the director~~ directors of 1207
agriculture ~~and, environmental protection, and natural resources,~~ 1208
the vice-president for agricultural administration of the Ohio 1209
state university. ~~The director of natural resources may~~ 1210
~~participate in the deliberations, and an officer of the Ohio~~ 1211
federation of soil and water conservation districts, or their 1212
designees, may serve as ex officio members of the commission, but 1213
without the power to vote. A vacancy in the office of an appointed 1214
member shall be filled by the governor, with the advice and 1215
consent of the senate. Any member appointed to fill a vacancy 1216
occurring prior to the expiration of the term for which the 1217
member's predecessor was appointed shall hold office for the 1218
remainder of that term. Of the appointed members, ~~two shall be~~ 1219
~~farmers and all~~ four shall be persons who have a knowledge of or 1220
interest in agricultural production and the natural resources of 1221
the state. One member shall represent rural interests and one 1222
member shall represent urban interests. Not more than ~~two~~ three of 1223
the appointed members shall be members of the same political 1224
party. 1225

Terms of office of the member designated by the board of 1226
directors of the federation and the members appointed by the 1227
governor shall be for four years, commencing on the first day of 1228
July and ending on the thirtieth day of June. 1229

Each appointed member shall hold office from the date of 1230
appointment until the end of the term for which the member was 1231
appointed. Any appointed member shall continue in office 1232
subsequent to the expiration date of the member's term until the 1233
member's successor takes office, or until a period of sixty days 1234
has elapsed, whichever occurs first. 1235

The commission shall organize by selecting from its members a 1236
chairperson and a vice-chairperson. The commission shall hold at 1237

least one regular meeting in each quarter of each calendar year 1238
and shall keep a record of its proceedings, which shall be open to 1239
the public for inspection. Special meetings may be called by the 1240
chairperson and shall be called by the chairperson upon receipt of 1241
a written request signed by two or more members of the commission. 1242
Written notice of the time and place of each meeting shall be sent 1243
to each member of the commission. A majority of the commission 1244
shall constitute a quorum. 1245

The commission may adopt rules as necessary to carry out the 1246
purposes of this chapter, subject to Chapter 119. of the Revised 1247
Code. 1248

The governor may remove any appointed member of the 1249
commission at any time for inefficiency, neglect of duty, or 1250
malfeasance in office, after giving to the member a copy of the 1251
charges against the member and an opportunity to be heard publicly 1252
in person or by counsel in the member's defense. Any such act of 1253
removal by the governor is final. A statement of the findings of 1254
the governor, the reason for the governor's action, and the 1255
answer, if any, of the member shall be filed by the governor with 1256
the secretary of state and shall be open to public inspection. 1257

All members of the commission shall be reimbursed for the 1258
necessary expenses incurred by them in the performance of their 1259
duties as members. 1260

Upon recommendation by the commission, the director of 1261
natural resources shall designate an executive secretary and 1262
provide staff necessary to carry out the powers and duties of the 1263
commission. ~~The commission may utilize the services of such staff 1264~~
~~members in the college of agriculture of the Ohio state university 1265~~
~~as may be agreed upon by the commission and the college. 1266~~

The commission shall do all of the following: 1267

(A) Determine distribution of funds under section 1515.14 of 1268

the Revised Code, recommend to the director of natural resources 1269
and other agencies the levels of appropriations to special funds 1270
established to assist soil and water conservation districts, and 1271
recommend the amount of federal funds to be requested and policies 1272
for the use of such funds in support of soil and water 1273
conservation district programs; 1274

(B) Assist in keeping the supervisors of soil and water 1275
conservation districts informed of their powers and duties, 1276
program opportunities, and the activities and experience of all 1277
other districts, and facilitate the interchange of advice, 1278
experience, and cooperation between the districts; 1279

(C) Seek the cooperation and assistance of the federal 1280
government or any of its agencies, and of agencies of this state, 1281
in the work of the districts; 1282

(D) Adopt appropriate rules governing the conduct of 1283
elections provided for in this chapter, subject to Chapter 119. of 1284
the Revised Code, provided that only owners and occupiers of lands 1285
situated within the boundaries of the districts or proposed 1286
districts to which the elections apply shall be eligible to vote 1287
in the elections; 1288

(E) Recommend to the director priorities for planning and 1289
construction of small watershed projects, and make recommendations 1290
to the director concerning coordination of programs as proposed 1291
and implemented in agreements with soil and water conservation 1292
districts; 1293

(F) Recommend to the director, the governor, and the general 1294
assembly programs and legislation with respect to the operations 1295
of soil and water conservation districts that will encourage 1296
proper soil, water, and other natural resource management and 1297
promote the economic and social development of the state. 1298

Sec. 1515.08. The supervisors of a soil and water 1299
conservation district have the following powers in addition to 1300
their other powers: 1301

(A) To conduct surveys, investigations, and research relating 1302
to the character of soil erosion, floodwater and sediment damages, 1303
and the preventive and control measures and works of improvement 1304
for flood prevention and the conservation, development, 1305
utilization, and disposal of water needed within the district, and 1306
to publish the results of those surveys, investigations, or 1307
research, provided that no district shall initiate any research 1308
program except in cooperation or after consultation with the Ohio 1309
agricultural research and development center; 1310

(B) To develop plans for the conservation of soil resources, 1311
for the control and prevention of soil erosion, and for works of 1312
improvement for flood prevention and the conservation, 1313
development, utilization, and disposal of water within the 1314
district, and to publish those plans and information; 1315

(C) To implement, construct, repair, maintain, and operate 1316
preventive and control measures and other works of improvement for 1317
natural resource conservation and development and flood 1318
prevention, and the conservation, development, utilization, and 1319
disposal of water within the district on lands owned or controlled 1320
by this state or any of its agencies and on any other lands within 1321
the district, which works may include any facilities authorized 1322
under state or federal programs, and to acquire, by purchase or 1323
gift, to hold, encumber, or dispose of, and to lease real and 1324
personal property or interests in such property for those 1325
purposes; 1326

(D) To cooperate or enter into agreements with any occupier 1327
of lands within the district in the carrying on of natural 1328
resource conservation operations and works of improvement for 1329

flood prevention and the conservation, development, utilization, 1330
and management of natural resources within the district, subject 1331
to such conditions as the supervisors consider necessary; 1332

(E) To accept donations, gifts, grants, and contributions in 1333
money, service, materials, or otherwise, and to use or expend them 1334
according to their terms; 1335

(F) To adopt, amend, and rescind rules to carry into effect 1336
the purposes and powers of the district; 1337

(G) To sue and plead in the name of the district, and be sued 1338
and impleaded in the name of the district, with respect to its 1339
contracts and, as indicated in section 1515.081 of the Revised 1340
Code, certain torts of its officers, employees, or agents acting 1341
within the scope of their employment or official responsibilities, 1342
or with respect to the enforcement of its obligations and 1343
covenants made under this chapter; 1344

(H) To make and enter into all contracts, leases, and 1345
agreements and execute all instruments necessary or incidental to 1346
the performance of the duties and the execution of the powers of 1347
the district under this chapter, provided that all of the 1348
following apply: 1349

(1) Except as provided in section 307.86 of the Revised Code 1350
regarding expenditures by boards of county commissioners, when the 1351
cost under any such contract, lease, or agreement, other than 1352
compensation for personal services or rental of office space, 1353
involves an expenditure of more than the amount established in 1354
that section regarding expenditures by boards of county 1355
commissioners, the supervisors shall make a written contract with 1356
the lowest and best bidder after advertisement, for not less than 1357
two nor more than four consecutive weeks preceding the day of the 1358
opening of bids, in a newspaper of general circulation within the 1359
district or as provided in section 7.16 of the Revised Code and in 1360

such other publications as the supervisors determine. The notice 1361
shall state the general character of the work and materials to be 1362
furnished, the place where plans and specifications may be 1363
examined, and the time and place of receiving bids. 1364

(2) Each bid for a contract shall contain the full name of 1365
every person interested in it. 1366

(3) Each bid for a contract for the construction, demolition, 1367
alteration, repair, or reconstruction of an improvement shall meet 1368
the requirements of section 153.54 of the Revised Code. 1369

(4) Each bid for a contract, other than a contract for the 1370
construction, demolition, alteration, repair, or reconstruction of 1371
an improvement, at the discretion of the supervisors, may be 1372
accompanied by a bond or certified check on a solvent bank in an 1373
amount not to exceed five per cent of the bid, conditioned that, 1374
if the bid is accepted, a contract shall be entered into. 1375

(5) The supervisors may reject any and all bids. 1376

(I) To make agreements with the department of natural 1377
resources giving it control over lands of the district for the 1378
purpose of construction of improvements by the department under 1379
section 1501.011 of the Revised Code; 1380

(J) To charge, alter, and collect rentals and other charges 1381
for the use or services of any works of the district; 1382

(K) To enter, either in person or by designated 1383
representatives, upon lands, private or public, in the necessary 1384
discharge of their duties; 1385

(L) To enter into agreements or contracts with the department 1386
for the determination, implementation, inspection, and funding of 1387
agricultural pollution abatement and urban sediment pollution 1388
abatement measures whereby landowners, operators, managers, and 1389
developers may meet adopted state standards for a quality 1390

environment, except that failure of a district board of 1391
supervisors to negotiate an agreement or contract with the 1392
department shall authorize the division of soil and water 1393
resources to implement the required program; 1394

(M) To conduct demonstrations and provide information to the 1395
public regarding practices and methods for natural resource 1396
conservation, development, and utilization; 1397

(N) To enter into contracts or agreements with the chief of 1398
the division of soil and water resources to implement and 1399
administer a program for urban sediment pollution abatement and to 1400
receive and expend moneys provided by the chief for that purpose; 1401

(O) To develop operation and management plans, ~~as defined in~~ 1402
~~section 1511.01 of the Revised Code,~~ as necessary; 1403

(P) To determine whether operation and management plans 1404
developed under division (A) of section 1511.021 of the Revised 1405
Code comply with the standards established under division (E)(1) 1406
of section 1511.02 of the Revised Code and to approve or 1407
disapprove the plans, based on such compliance. If an operation 1408
and management plan is disapproved, the board shall provide a 1409
written explanation to the person who submitted the plan. The 1410
person may appeal the plan disapproval to the chief, who shall 1411
afford the person a hearing. Following the hearing, the chief 1412
shall uphold the plan disapproval or reverse it. If the chief 1413
reverses the plan disapproval, the plan shall be deemed approved 1414
under this division. In the event that any person operating or 1415
owning agricultural land or a ~~concentrated~~ an animal feeding 1416
operation in accordance with an approved operation and management 1417
plan who, in good faith, is following that plan, causes 1418
agricultural pollution, the plan shall be revised in a fashion 1419
necessary to mitigate the agricultural pollution, as determined 1420
and approved by the board of supervisors of the soil and water 1421
conservation district. 1422

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

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

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(8)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(8)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

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

(R) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

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

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

(T) To do all acts necessary or proper to carry out the 1453
powers granted in this chapter. 1454

The director of natural resources shall make recommendations 1455
to reduce the adverse environmental effects of each project that a 1456
soil and water conservation district plans to undertake under 1457
division (A), (B), (C), or (D) of this section and that will be 1458
funded in whole or in part by moneys authorized under section 1459
1515.16 of the Revised Code and shall disapprove any such project 1460
that the director finds will adversely affect the environment 1461
without equal or greater benefit to the public. The director's 1462
disapproval or recommendations, upon the request of the district 1463
filed in accordance with rules adopted by the Ohio soil and water 1464
conservation commission, shall be reviewed by the commission, 1465
which may confirm the director's decision, modify it, or add 1466
recommendations to or approve a project the director has 1467
disapproved. 1468

Any instrument by which real property is acquired pursuant to 1469
this section shall identify the agency of the state that has the 1470
use and benefit of the real property as specified in section 1471
5301.012 of the Revised Code. 1472

Sec. 3717.53. (A) As used in this section: 1473

(1) "Food nutrition information" includes, but is not limited 1474
to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, 1475
potassium, protein, vitamin, mineral, allergen, and sodium content 1476
of food. "Food nutrition information" also includes the 1477
designation of food as healthy or unhealthy. 1478

(2) "Political subdivision" and "local legislation" have the 1479
same meanings as in section ~~905.501~~ 905.503 of the Revised Code. 1480

(3) "Consumer incentive item" means any licensed media 1481
character, toy, game, trading card, contest, point accumulation, 1482

club membership, admission ticket, token, code or password for 1483
digital access, coupon, voucher, incentive, crayons, coloring 1484
placemat, or other premium, prize, or consumer product that is 1485
associated with a meal served by or acquired from a food service 1486
operation. 1487

(B) The director of agriculture has sole and exclusive 1488
authority in this state to regulate the provision of food 1489
nutrition information and consumer incentive items at food service 1490
operations. The director may adopt rules for that purpose in 1491
accordance with Chapter 119. of the Revised Code, including rules 1492
that establish a schedule of civil penalties for violations of 1493
this section and rules adopted under it. Subject to the approval 1494
of the joint committee on agency rule review, portions of the 1495
rules may be adopted by referencing all or any part of any federal 1496
regulations pertaining to the provision of food nutrition 1497
information and consumer incentive items. 1498

The regulation of the provision of food nutrition information 1499
and consumer incentive items at food service operations and how 1500
food service operations are characterized are matters of general 1501
statewide interest that require statewide regulation, and rules 1502
adopted under this section constitute a comprehensive plan with 1503
respect to all aspects of the regulation of the provision of food 1504
nutrition information and consumer incentive items at food service 1505
operations in this state. Rules adopted under this section shall 1506
be applied uniformly throughout this state. 1507

(C) No political subdivision shall do any of the following: 1508

(1) Enact, adopt, or continue in effect local legislation 1509
relating to the provision or nonprovision of food nutrition 1510
information or consumer incentive items at food service 1511
operations; 1512

(2) Condition a license, a permit, or regulatory approval on 1513

the provision or nonprovision of food nutrition information or	1514
consumer incentive items at food service operations;	1515
(3) Ban, prohibit, or otherwise restrict food at food service	1516
operations based on the food nutrition information or on the	1517
provision or nonprovision of consumer incentive items;	1518
(4) Condition a license, a permit, or regulatory approval for	1519
a food service operation on the existence or nonexistence of	1520
food-based health disparities;	1521
(5) Where food service operations are permitted to operate,	1522
ban, prohibit, or otherwise restrict a food service operation	1523
based on the existence or nonexistence of food-based health	1524
disparities as recognized by the department of health, the	1525
national institute of health, or the centers for disease control.	1526
Sec. 6111.03. The director of environmental protection may do	1527
any of the following:	1528
(A) Develop plans and programs for the prevention, control,	1529
and abatement of new or existing pollution of the waters of the	1530
state;	1531
(B) Advise, consult, and cooperate with other agencies of the	1532
state, the federal government, other states, and interstate	1533
agencies and with affected groups, political subdivisions, and	1534
industries in furtherance of the purposes of this chapter. Before	1535
adopting, amending, or rescinding a standard or rule pursuant to	1536
division (G) of this section or section 6111.041 or 6111.042 of	1537
the Revised Code, the director shall do all of the following:	1538
(1) Mail notice to each statewide organization that the	1539
director determines represents persons who would be affected by	1540
the proposed standard or rule, amendment thereto, or rescission	1541
thereof at least thirty-five days before any public hearing	1542
thereon;	1543

(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;	1544 1545 1546
(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.	1547 1548 1549 1550
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 action of the director.	1551 1552 1553 1554
(C) Administer grants from the federal government and from other sources, public or private, for carrying out any of its functions, all such moneys to be deposited in the state treasury and kept by the treasurer of state in a separate fund subject to the lawful orders of the director;	1555 1556 1557 1558 1559
(D) Administer state grants for the construction of sewage and waste collection and treatment works;	1560 1561
(E) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution, and the causes, prevention, control, and abatement thereof, that are advisable and necessary for the discharge of the director's duties under this chapter;	1562 1563 1564 1565 1566
(F) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;	1567 1568
(G) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code governing the procedure for hearings, the filing of reports, the issuance of permits, the issuance of industrial water pollution control certificates, and all other matters relating to procedure;	1569 1570 1571 1572 1573

(H) Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:	1574 1575
(1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;	1576 1577
(2) Requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof;	1578 1579 1580
(3) Prohibiting additional connections to or extensions of a sewerage system when the connections or extensions would result in an increase in the polluting properties of the effluent from the system when discharged into any waters of the state;	1581 1582 1583 1584
(4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.	1585 1586 1587
In the making of those orders, wherever compliance with a rule adopted under section 6111.042 of the Revised Code is not involved, consistent with the Federal Water Pollution Control Act, the director shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of complying with those orders and to evidence relating to conditions calculated to result from compliance with those orders, and their relation to benefits to the people of the state to be derived from such compliance in accomplishing the purposes of this chapter.	1588 1589 1590 1591 1592 1593 1594 1595 1596 1597
(I) Review plans, specifications, or other data relative to disposal systems or any part thereof in connection with the issuance of orders, permits, and industrial water pollution control certificates under this chapter;	1598 1599 1600 1601
(J)(1) Issue, revoke, modify, or deny sludge management permits and permits for the discharge of sewage, industrial waste, or other wastes into the waters of the state, and for the	1602 1603 1604

installation or modification of disposal systems or any parts 1605
thereof in compliance with all requirements of the Federal Water 1606
Pollution Control Act and mandatory regulations adopted 1607
thereunder, including regulations adopted under section 405 of the 1608
Federal Water Pollution Control Act, and set terms and conditions 1609
of permits, including schedules of compliance, where necessary. 1610
Any person who discharges, transports, or handles storm water from 1611
an animal feeding facility, as defined in section 903.01 of the 1612
Revised Code, or pollutants from a concentrated animal feeding 1613
operation, as both terms are defined in that section, is not 1614
required to obtain a permit under division (J)(1) of this section 1615
for the installation or modification of a disposal system 1616
involving pollutants or storm water or any parts of such a system 1617
on and after the date on which the director of agriculture has 1618
finalized the program required under division (A)(1) of section 1619
903.02 of the Revised Code. In addition, any person who 1620
discharges, transports, or handles storm water from an animal 1621
feeding facility, as defined in section 903.01 of the Revised 1622
Code, or pollutants from a concentrated animal feeding operation, 1623
as both terms are defined in that section, is not required to 1624
obtain a permit under division (J)(1) of this section for the 1625
discharge of storm water from an animal feeding facility or 1626
pollutants from a concentrated animal feeding operation on and 1627
after the date on which the United States environmental protection 1628
agency approves the NPDES program submitted by the director of 1629
agriculture under section 903.08 of the Revised Code. 1630

Any permit terms and conditions set by the director shall be 1631
designed to achieve and maintain full compliance with the national 1632
effluent limitations, national standards of performance for new 1633
sources, and national toxic and pretreatment effluent standards 1634
set under that act, and any other mandatory requirements of that 1635
act that are imposed by regulation of the administrator of the 1636
United States environmental protection agency. If an applicant for 1637

a sludge management permit also applies for a related permit for 1638
the discharge of sewage, industrial waste, or other wastes into 1639
the waters of the state, the director may combine the two permits 1640
and issue one permit to the applicant. 1641

A sludge management permit is not required for an entity that 1642
treats or transports sewage sludge or for a sanitary landfill when 1643
all of the following apply: 1644

(a) The entity or sanitary landfill does not generate the 1645
sewage sludge. 1646

(b) Prior to receipt at the sanitary landfill, the entity has 1647
ensured that the sewage sludge meets the requirements established 1648
in rules adopted by the director under section 3734.02 of the 1649
Revised Code concerning disposal of municipal solid waste in a 1650
sanitary landfill. 1651

(c) Disposal of the sewage sludge occurs at a sanitary 1652
landfill that complies with rules adopted by the director under 1653
section 3734.02 of the Revised Code. 1654

As used in division (J)(1) of this section, "sanitary 1655
landfill" means a sanitary landfill facility, as defined in rules 1656
adopted under section 3734.02 of the Revised Code, that is 1657
licensed as a solid waste facility under section 3734.05 of the 1658
Revised Code. 1659

(2) An application for a permit or renewal thereof shall be 1660
denied if any of the following applies: 1661

(a) The secretary of the army determines in writing that 1662
anchorage or navigation would be substantially impaired thereby; 1663

(b) The director determines that the proposed discharge or 1664
source would conflict with an areawide waste treatment management 1665
plan adopted in accordance with section 208 of the Federal Water 1666
Pollution Control Act; 1667

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

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

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

(4) Where a discharge having a thermal component from a source that is constructed or modified on or after October 18, 1972, meets national or state effluent limitations or more stringent permit conditions designed to achieve and maintain compliance with applicable standards of quality for the waters of the state, which limitations or conditions will ensure protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the body of water into which the discharge is made, taking into account the interaction of the thermal component with sewage, industrial waste, or other wastes, the director shall not impose any more stringent limitation on the thermal component of the discharge, as a condition of a permit or

renewal thereof for the discharge, during a ten-year period 1700
beginning on the date of completion of the construction or 1701
modification of the source, or during the period of depreciation 1702
or amortization of the source for the purpose of section 167 or 1703
169 of the Internal Revenue Code of 1954, whichever period ends 1704
first. 1705

(5) The director shall specify in permits for the discharge 1706
of sewage, industrial waste, and other wastes, the net volume, net 1707
weight, duration, frequency, and, where necessary, concentration 1708
of the sewage, industrial waste, and other wastes that may be 1709
discharged into the waters of the state. The director shall 1710
specify in those permits and in sludge management permits that the 1711
permit is conditioned upon payment of applicable fees as required 1712
by section 3745.11 of the Revised Code and upon the right of the 1713
director's authorized representatives to enter upon the premises 1714
of the person to whom the permit has been issued for the purpose 1715
of determining compliance with this chapter, rules adopted 1716
thereunder, or the terms and conditions of a permit, order, or 1717
other determination. The director shall issue or deny an 1718
application for a sludge management permit or a permit for a new 1719
discharge, for the installation or modification of a disposal 1720
system, or for the renewal of a permit, within one hundred eighty 1721
days of the date on which a complete application with all plans, 1722
specifications, construction schedules, and other pertinent 1723
information required by the director is received. 1724

(6) The director may condition permits upon the installation 1725
of discharge or water quality monitoring equipment or devices and 1726
the filing of periodic reports on the amounts and contents of 1727
discharges and the quality of receiving waters that the director 1728
prescribes. The director shall condition each permit for a 1729
government-owned disposal system or any other "treatment works" as 1730
defined in the Federal Water Pollution Control Act upon the 1731

reporting of new introductions of industrial waste or other wastes 1732
and substantial changes in volume or character thereof being 1733
introduced into those systems or works from "industrial users" as 1734
defined in section 502 of that act, as necessary to comply with 1735
section 402(b)(8) of that act; upon the identification of the 1736
character and volume of pollutants subject to pretreatment 1737
standards being introduced into the system or works; and upon the 1738
existence of a program to ensure compliance with pretreatment 1739
standards by "industrial users" of the system or works. In 1740
requiring monitoring devices and reports, the director, to the 1741
extent consistent with the Federal Water Pollution Control Act, 1742
shall give consideration to technical feasibility and economic 1743
reasonableness and shall allow reasonable time for compliance. 1744

(7) A permit may be issued for a period not to exceed five 1745
years and may be renewed upon application for renewal. In renewing 1746
a permit, the director shall consider the compliance history of 1747
the permit holder and may deny the renewal if the director 1748
determines that the permit holder has not complied with the terms 1749
and conditions of the existing permit. A permit may be modified, 1750
suspended, or revoked for cause, including, but not limited to, 1751
violation of any condition of the permit, obtaining a permit by 1752
misrepresentation or failure to disclose fully all relevant facts 1753
of the permitted discharge or of the sludge use, storage, 1754
treatment, or disposal practice, or changes in any condition that 1755
requires either a temporary or permanent reduction or elimination 1756
of the permitted activity. No application shall be denied or 1757
permit revoked or modified without a written order stating the 1758
findings upon which the denial, revocation, or modification is 1759
based. A copy of the order shall be sent to the applicant or 1760
permit holder by certified mail. 1761

(K) Institute or cause to be instituted in any court of 1762
competent jurisdiction proceedings to compel compliance with this 1763

chapter or with the orders of the director issued under this 1764
chapter, or to ensure compliance with sections 204(b), 307, 308, 1765
and 405 of the Federal Water Pollution Control Act; 1766

(L) Issue, deny, revoke, or modify industrial water pollution 1767
control certificates; 1768

(M) Certify to the government of the United States or any 1769
agency thereof that an industrial water pollution control facility 1770
is in conformity with the state program or requirements for the 1771
control of water pollution whenever the certification may be 1772
required for a taxpayer under the Internal Revenue Code of the 1773
United States, as amended; 1774

(N) Issue, modify, and revoke orders requiring any 1775
"industrial user" of any publicly owned "treatment works" as 1776
defined in sections 212(2) and 502(18) of the Federal Water 1777
Pollution Control Act to comply with pretreatment standards; 1778
establish and maintain records; make reports; install, use, and 1779
maintain monitoring equipment or methods, including, where 1780
appropriate, biological monitoring methods; sample discharges in 1781
accordance with methods, at locations, at intervals, and in a 1782
manner that the director determines; and provide other information 1783
that is necessary to ascertain whether or not there is compliance 1784
with toxic and pretreatment effluent standards. In issuing, 1785
modifying, and revoking those orders, the director, to the extent 1786
consistent with the Federal Water Pollution Control Act, shall 1787
give consideration to technical feasibility and economic 1788
reasonableness and shall allow reasonable time for compliance. 1789

(O) Exercise all incidental powers necessary to carry out the 1790
purposes of this chapter; 1791

(P) Certify or deny certification to any applicant for a 1792
federal license or permit to conduct any activity that may result 1793
in any discharge into the waters of the state that the discharge 1794

will comply with the Federal Water Pollution Control Act;	1795
(Q) Administer and enforce the publicly owned treatment works pretreatment program in accordance with the Federal Water Pollution Control Act. In the administration of that program, the director may do any of the following:	1796
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(1) Apply and enforce pretreatment standards;	1800
(2) Approve and deny requests for approval of publicly owned treatment works pretreatment programs, oversee those programs, and implement, in whole or in part, those programs under any of the following conditions:	1801
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(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;	1805
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(b) The director has revoked the publicly owned treatment works pretreatment program;	1807
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(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;	1809
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(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.	1811
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(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;	1814
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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;	1820
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	1822
(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;	1823
	1824

(6) Make determinations on categorization of industrial users; 1825
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(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. 1827
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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. 1830
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(R) Except as otherwise provided in this division, adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of oil and hazardous substances into the waters of the state. The rules shall be consistent with and equivalent in scope, content, and coverage to section 311(j)(1)(c) of the Federal Water Pollution Control Act and regulations adopted under it. The director shall not adopt rules under this division relating to discharges of oil from oil production facilities and oil drilling and workover facilities as those terms are defined in that act and regulations adopted under it. 1834
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(S)(1) Administer and enforce a program for the regulation of sludge management in this state. In administering the program, the director, in addition to exercising the authority provided in any other applicable sections of this chapter, may do any of the following: 1846
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(a) Develop plans and programs for the disposal and utilization of sludge and sludge materials; 1851
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(b) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to the disposal and use of sludge and sludge materials and the impact of 1853
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sludge and sludge materials on land located in the state and on 1856
the air and waters of the state; 1857

(c) Collect and disseminate information relating to the 1858
disposal and use of sludge and sludge materials and the impact of 1859
sludge and sludge materials on land located in the state and on 1860
the air and waters of the state; 1861

(d) Issue, modify, or revoke orders to prevent, control, or 1862
abate the use and disposal of sludge and sludge materials or the 1863
effects of the use of sludge and sludge materials on land located 1864
in the state and on the air and waters of the state; 1865

(e) Adopt and enforce, modify, or rescind rules necessary for 1866
the implementation of division (S) of this section. The rules 1867
reasonably shall protect public health and the environment, 1868
encourage the beneficial reuse of sludge and sludge materials, and 1869
minimize the creation of nuisance odors. 1870

The director may specify in sludge management permits the net 1871
volume, net weight, quality, and pollutant concentration of the 1872
sludge or sludge materials that may be used, stored, treated, or 1873
disposed of, and the manner and frequency of the use, storage, 1874
treatment, or disposal, to protect public health and the 1875
environment from adverse effects relating to those activities. The 1876
director shall impose other terms and conditions to protect public 1877
health and the environment, minimize the creation of nuisance 1878
odors, and achieve compliance with this chapter and rules adopted 1879
under it and, in doing so, shall consider whether the terms and 1880
conditions are consistent with the goal of encouraging the 1881
beneficial reuse of sludge and sludge materials. 1882

The director may condition permits on the implementation of 1883
treatment, storage, disposal, distribution, or application 1884
management methods and the filing of periodic reports on the 1885
amounts, composition, and quality of sludge and sludge materials 1886

that are disposed of, used, treated, or stored. 1887

An approval of a treatment works sludge disposal program may 1888
contain any terms and conditions, including schedules of 1889
compliance, necessary to achieve compliance with this chapter and 1890
rules adopted under it. 1891

(2) As a part of the program established under division 1892
(S)(1) of this section, the director has exclusive authority to 1893
regulate sewage sludge management in this state. For purposes of 1894
division (S)(2) of this section, that program shall be consistent 1895
with section 405 of the Federal Water Pollution Control Act and 1896
regulations adopted under it and with this section, except that 1897
the director may adopt rules under division (S) of this section 1898
that establish requirements that are more stringent than section 1899
405 of the Federal Water Pollution Control Act and regulations 1900
adopted under it with regard to monitoring sewage sludge and 1901
sewage sludge materials and establishing acceptable sewage sludge 1902
management practices and pollutant levels in sewage sludge and 1903
sewage sludge materials. 1904

This chapter authorizes the state to participate in any 1905
national sludge management program and the national pollutant 1906
discharge elimination system, to administer and enforce the 1907
publicly owned treatment works pretreatment program, and to issue 1908
permits for the discharge of dredged or fill materials, in 1909
accordance with the Federal Water Pollution Control Act. This 1910
chapter shall be administered, consistent with the laws of this 1911
state and federal law, in the same manner that the Federal Water 1912
Pollution Control Act is required to be administered. 1913

This section does not apply to ~~animal waste~~ residual farm 1914
products and manure disposal systems and related management and 1915
conservation practices subject to rules adopted pursuant to 1916
division (E)~~(4)~~(1) of section 1511.02 of the Revised Code. For 1917
purposes of this exclusion, "residual farm products" and "manure" 1918

have the same meanings as in section 1511.01 of the Revised Code. 1919
However, until the date on which the United States environmental 1920
protection agency approves the NPDES program submitted by the 1921
director of agriculture under section 903.08 of the Revised Code, 1922
this exclusion does not apply to animal waste treatment works 1923
having a controlled direct discharge to the waters of the state or 1924
any concentrated animal feeding operation, as defined in 40 C.F.R. 1925
122.23(b)(2). On and after the date on which the United States 1926
environmental protection agency approves the NPDES program 1927
submitted by the director of agriculture under section 903.08 of 1928
the Revised Code, this section does not apply to storm water from 1929
an animal feeding facility, as defined in section 903.01 of the 1930
Revised Code, or to pollutants discharged from a concentrated 1931
animal feeding operation, as both terms are defined in that 1932
section. Neither of these exclusions applies to the discharge of 1933
animal waste into a publicly owned treatment works. 1934

Sec. 6111.04. (A) Both of the following apply except as 1935
otherwise provided in division (A) or (F) of this section: 1936

(1) No person shall cause pollution or place or cause to be 1937
placed any sewage, sludge, sludge materials, industrial waste, or 1938
other wastes in a location where they cause pollution of any 1939
waters of the state. 1940

(2) Such an action prohibited under division (A)(1) of this 1941
section is hereby declared to be a public nuisance. 1942

Divisions (A)(1) and (2) of this section do not apply if the 1943
person causing pollution or placing or causing to be placed wastes 1944
in a location in which they cause pollution of any waters of the 1945
state holds a valid, unexpired permit, or renewal of a permit, 1946
governing the causing or placement as provided in sections 6111.01 1947
to 6111.08 of the Revised Code or if the person's application for 1948
renewal of such a permit is pending. 1949

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

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

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

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

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

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

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

(F) This section does not apply to any of the following: 1981

(1) Waters used in washing sand, gravel, other aggregates, or 1982
mineral products when the washing and the ultimate disposal of the 1983
water used in the washing, including any sewage, industrial waste, 1984
or other wastes contained in the waters, are entirely confined to 1985
the land under the control of the person engaged in the recovery 1986
and processing of the sand, gravel, other aggregates, or mineral 1987
products and do not result in the pollution of waters of the 1988
state; 1989

(2) Water, gas, or other material injected into a well to 1990
facilitate, or that is incidental to, the production of oil, gas, 1991
artificial brine, or water derived in association with oil or gas 1992
production and disposed of in a well, in compliance with a permit 1993
issued under Chapter 1509. of the Revised Code, or sewage, 1994
industrial waste, or other wastes injected into a well in 1995
compliance with an injection well operating permit. Division 1996
(F)(2) of this section does not authorize, without a permit, any 1997
discharge that is prohibited by, or for which a permit is required 1998
by, regulation of the United States environmental protection 1999
agency. 2000

(3) Application of any materials to land for agricultural 2001
purposes or runoff of the materials from that application or 2002
pollution by ~~animal waste~~ residual farm products, manure, or soil 2003
sediment, including attached substances, resulting from farming, 2004
silvicultural, or earthmoving activities regulated by Chapter 307. 2005
or 1511. of the Revised Code. Division (F)(3) of this section does 2006
not authorize, without a permit, any discharge that is prohibited 2007
by, or for which a permit is required by, the Federal Water 2008
Pollution Control Act or regulations adopted under it. As used in 2009
division (F)(3) of this section, "residual farm products" and 2010
"manure" have the same meanings as in section 1511.01 of the 2011
Revised Code. 2012

(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state. Division (F)(4) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it.

(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture;

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

(7) A household sewage treatment system or a small flow on-site sewage treatment system, as applicable, as defined in section 3718.01 of the Revised Code that is installed in compliance with Chapter 3718. of the Revised Code and rules adopted under it. Division (F)(7) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

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

(G) The holder of a permit issued under section 402 (a) of

the Federal Water Pollution Control Act need not obtain a permit 2044
for a discharge authorized by the permit until its expiration 2045
date. Except as otherwise provided in this division, the director 2046
of environmental protection shall administer and enforce those 2047
permits within this state and may modify their terms and 2048
conditions in accordance with division (J) of section 6111.03 of 2049
the Revised Code. On and after the date on which the United States 2050
environmental protection agency approves the NPDES program 2051
submitted by the director of agriculture under section 903.08 of 2052
the Revised Code, the director of agriculture shall administer and 2053
enforce those permits within this state that are issued for any 2054
discharge that is within the scope of the approved NPDES program 2055
submitted by the director of agriculture. 2056

Sec. 6111.44. (A) Except as otherwise provided in division 2057
(B) of this section, in section 6111.14 of the Revised Code, or in 2058
rules adopted under division (G) of section 6111.03 of the Revised 2059
Code, no municipal corporation, county, public institution, 2060
corporation, or officer or employee thereof or other person shall 2061
provide or install sewerage or treatment works for sewage, sludge, 2062
or sludge materials disposal or treatment or make a change in any 2063
sewerage or treatment works until the plans therefor have been 2064
submitted to and approved by the director of environmental 2065
protection. Sections 6111.44 to 6111.46 of the Revised Code apply 2066
to sewerage and treatment works of a municipal corporation or part 2067
thereof, an unincorporated community, a county sewer district, or 2068
other land outside of a municipal corporation or any publicly or 2069
privately owned building or group of buildings or place, used for 2070
the assemblage, entertainment, recreation, education, correction, 2071
hospitalization, housing, or employment of persons. 2072

In granting an approval, the director may stipulate 2073
modifications, conditions, and rules that the public health and 2074
prevention of pollution may require. Any action taken by the 2075

director shall be a matter of public record and shall be entered 2076
in the director's journal. Each period of thirty days that a 2077
violation of this section continues, after a conviction for the 2078
violation, constitutes a separate offense. 2079

(B) Sections 6111.45 and 6111.46 of the Revised Code and 2080
division (A) of this section do not apply to any of the following: 2081

(1) Sewerage or treatment works for sewage installed or to be 2082
installed for the use of a private residence or dwelling; 2083

(2) Sewerage systems, treatment works, or disposal systems 2084
for storm water from an animal feeding facility or manure, as 2085
"animal feeding facility" and "manure" are defined in section 2086
903.01 of the Revised Code; 2087

(3) ~~Animal waste~~ Residual farm products and manure treatment 2088
or disposal works and related management and conservation 2089
practices that are subject to rules adopted under division 2090
(E)~~(2)~~(1) of section 1511.02 of the Revised Code~~.~~ As used in 2091
division (B)(3) of this section, "residual farm products" and 2092
"manure" have the same meanings as in section 1511.01 of the 2093
Revised Code. 2094

(4) Sewerage or treatment works for the on-lot disposal or 2095
treatment of sewage from a small flow on-site sewage treatment 2096
system, as defined in section 3718.01 of the Revised Code, if the 2097
board of health of a city or general health district has notified 2098
the director of health and the director of environmental 2099
protection under section 3718.021 of the Revised Code that the 2100
board has chosen to regulate the system, provided that the board 2101
remains in compliance with the rules adopted under division 2102
(A)(13) of section 3718.02 of the Revised Code. 2103

The exclusions established in divisions (B)(2) and (3) of 2104
this section do not apply to the construction or installation of 2105
disposal systems, as defined in section 6111.01 of the Revised 2106

Code, that are located at an animal feeding facility and that 2107
store, treat, or discharge wastewaters that do not include storm 2108
water or manure or that discharge to a publicly owned treatment 2109
works. 2110

Section 2. That existing sections 903.25, 905.31, 905.32, 2111
905.34, 905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 2112
905.49, 905.50, 905.501, 905.99, 907.111, 1511.01, 1511.02, 2113
1511.021, 1511.07, 1511.071, 1515.01, 1515.02, 1515.08, 3717.53, 2114
6111.03, 6111.04, and 6111.44 of the Revised Code are hereby 2115
repealed. 2116

Section 3. (A) In accordance with the amendment of section 2117
1515.02 of the Revised Code by this act, the Governor shall 2118
appoint two additional members to the Ohio Soil and Water 2119
Conservation Commission established in that section, as amended by 2120
this act, not later than thirty days after the effective date of 2121
this section as follows: 2122

(1) One member shall be appointed for a term ending June 30, 2123
2015. 2124

(2) One member shall be appointed for a term ending June 30, 2125
2016. 2126

Thereafter, terms of office for the additional members shall 2127
be for four years, each term ending on the same day of the same 2128
month of the year as did the term that it succeeds. Those 2129
additional members may be reappointed in accordance with section 2130
1515.02 of the Revised Code, as amended by this act. 2131

(B) The Soil and Water Conservation Commission established in 2132
section 1515.02 of the Revised Code, as amended by this act, is a 2133
continuation of the Soil and Water Conservation Commission 2134
established in that section prior to its amendment by this act. 2135

Section 4. Until such time as rules adopted under section 2136
905.322 of the Revised Code as enacted by this act are final, the 2137
Director of Agriculture shall authorize applicants for commercial 2138
and private pesticide applicator licenses to obtain additional 2139
training and temporary certification in fertilizer application 2140
simultaneously with pesticide application training at no 2141
additional cost. 2142

Section 5. The Director of Natural Resources shall identify 2143
any unexpended funds previously appropriated to soil and water 2144
conservation districts that are related to the Conservation 2145
Reserve Enhancement Program. The Director shall determine the 2146
amount of such funds necessary for programs, practices, and other 2147
activities, other than permitting, related to nutrient reduction 2148
in Lake Erie, including nutrients associated with open lake 2149
disposal of dredge material. The amounts so identified by the 2150
Director shall be retained by the districts for the purposes 2151
stated above. Upon the effective date of this section, soil and 2152
water conservation districts shall remit to the Director any 2153
amounts of the unexpended funds that are not retained by the 2154
districts under this section. Upon receipt, the Director shall 2155
deposit these funds into the Healthy Lake Erie Fund, which is 2156
hereby created in the state treasury. These funds shall be used by 2157
the Director for the purposes of that fund related to open lake 2158
disposal of dredge material in Lake Erie. 2159