

As Reported by the Senate Agriculture Committee

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Sub. S. B. No. 150

Senators Hite, Peterson

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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, and to make 17
an appropriation. 18

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

Section 1. That sections 903.25, 905.31, 905.32, 905.34, 19
905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 905.49, 20
905.50, 905.99, 907.111, 1511.01, 1511.02, 1511.021, 1511.07, 21

1511.071, 1515.01, 1515.02, 1515.08, 3717.53, 6111.03, 6111.04, 22
and 6111.44 be amended, section 905.501 (905.503) be amended for 23
the purpose of adopting a new section number as indicated in 24
parentheses, and new section 905.501 and sections 905.321, 25
905.322, 905.323, 905.324, 905.325, 905.502, and 1511.023 of the 26
Revised Code be enacted to read as follows: 27

Sec. 903.25. An owner or operator of an animal feeding 28
facility who holds a permit to install, a permit to operate, a 29
review compliance certificate, or a NPDES permit or who is 30
operating under an operation and management plan, as defined in 31
section 1511.01 of the Revised Code, developed or approved by the 32
chief of the division of soil and water resources in the 33
department of natural resources under section 1511.02 of the 34
Revised Code or by the supervisors of the appropriate soil and 35
water conservation district under section 1515.08 of the Revised 36
Code shall not be required by any political subdivision of the 37
state or any officer, employee, agency, board, commission, 38
department, or other instrumentality of a political subdivision to 39
obtain a license, permit, or other approval pertaining to manure, 40
insects or rodents, odor, or siting requirements for installation 41
of an animal feeding facility. 42

Sec. 905.31. As used in sections 905.31 to ~~905.501~~ 905.503 of 43
the Revised Code: 44

(A) ~~"Applicant" means the person who applies for the license 45
or requests registration of a fertilizer.~~ 46

~~(B)~~ "Brand name" means a name or expression, design, or 47
trademark used in connection with one or several grades of any 48
type of fertilizer. 49

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

nonpackaged form. 52

~~(D)~~(C) "Distribute" means to offer for sale, sell, barter, or 53
otherwise supply fertilizer for other than manufacturing purposes. 54

~~(E)~~(D) "Fertilizer" means any substance containing nitrogen, 55
phosphorus, or potassium or any recognized plant nutrient element 56
or compound that is used for its plant nutrient content or for 57
compounding mixed fertilizers. Lime "Fertilizer" does not include 58
lime, limestone, marl, unground bone, water, residual farm 59
products, and unmanipulated animal and vegetable manures are 60
excepted unless mixed with fertilizer materials or distributed 61
with a guaranteed analysis. 62

~~(F)~~(E) "Grade" means the percentages of total nitrogen, 63
available phosphorus or available phosphate (P_2O_5), and soluble 64
potassium or soluble potash (K_2O) stated in the same terms, order, 65
and percentage as in guaranteed analysis. 66

~~(G)~~(F) "Guaranteed analysis" means: 67

(1) The minimum percentages of plant nutrients claimed in the 68
following order and form: 69

Total Nitrogen (N)	per cent	70
Available phosphate (P_2O_5)	per cent	71
Soluble Potash (K_2O)	per cent	72

(2) Guaranteed analysis includes, in the following order: 73

(a) For bone and tankage, total phosphorus (P) or phosphate 74
(P_2O_5); 75

(b) For basic slag and unacidulated phosphatic materials, 76
available and total phosphorus (P) or phosphate (P_2O_5) and the 77
degree of fineness; 78

(c) Additional plant nutrients guaranteed expressed as 79
percentage of elements in the order and form as prescribed by 80
rules adopted by the director of agriculture. 81

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

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

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

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

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

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

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

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

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

~~(Q)~~(P) "Official sample" means the sample of fertilizer taken and designated as official by the director.

~~(R)~~(Q) "Specialty fertilizer" means any fertilizer designed, labeled, and distributed for uses other than the production of

commercial crops.	112
(S) (R) "Ton" means a net weight of two thousand pounds.	113
(T) "Unmanipulated manure" means any substance composed	114
primarily of excreta, plant remains, or mixtures of such	115
substances that have not been processed in any manner.	116
(U) (S) "Fertilizer material" includes any of the following:	117
(1) A material containing not more than one of the following	118
primary plant nutrients:	119
(a) Nitrogen (N);	120
(b) Phosphorus (P);	121
(c) Potassium (K).	122
(2) A material that has not less than eighty-five per cent of	123
its plant nutrient content composed of a single chemical	124
compound-;i	125
(3) A material that is derived from a residue or by-product	126
of a plant or animal or a natural material deposit and has been	127
processed in such a way that its plant nutrients content has not	128
been materially changed except by purification and concentration.	129
(V) (T) "Custom mixed fertilizer" means a fertilizer that is	130
not premixed, but that is blended specifically to meet the	131
nutrient needs of one specific customer.	132
(W) (U) "Director" or "director of agriculture" means the	133
director of agriculture or the director's designee.	134
(X) (V) "Lot" means an identifiable quantity of fertilizer	135
that may be used as an official sample.	136
(Y) (W) "Unit" means twenty pounds of fertilizer or one per	137
cent of a ton.	138
(Z) "Metric ton" means a measure of weight equal to one	139
thousand kilograms.	140

~~(AA)~~(X) "Anhydrous ammonia equipment" means, with regard to 141
the handling or storage of anhydrous ammonia, a container or 142
containers with a maximum capacity of not more than four thousand 143
nine hundred ninety-nine gallons or any appurtenances, pumps, 144
compressors, or interconnecting pipes associated with such a 145
container or containers. "Anhydrous ammonia equipment" does not 146
include equipment for the manufacture of anhydrous ammonia or the 147
storage of anhydrous ammonia either underground or in refrigerated 148
structures. 149

~~(BB)~~(Y) "Anhydrous ammonia system" or "system" means, with 150
regard to the handling or storage of anhydrous ammonia, a 151
container or containers with a minimum capacity of not less than 152
five thousand gallons or any appurtenances, pumps, compressors, or 153
interconnecting pipes associated with such a container or 154
containers. "Anhydrous ammonia system" does not include equipment 155
for the manufacture of anhydrous ammonia or the storage of 156
anhydrous ammonia either underground or in refrigerated 157
structures. 158

(Z) "Agricultural production" means the cultivation, 159
primarily for sale, of plants or any parts of plants on more than 160
fifty contiguous acres. "Agricultural production" does not include 161
the use of start-up fertilizer applied through a planter. 162

(AA) "Rule" means a rule adopted under section 905.322, 163
905.40, or 905.44 of the Revised Code, as applicable. 164

(BB) "Certificate holder" means a person who has been 165
certified to apply fertilizer under section 905.321 of the Revised 166
Code and rules adopted under section 905.322 of the Revised Code. 167

(CC) "Residual farm products" has the same meaning as in 168
section 1511.01 of the Revised Code. 169

(DD) "Voluntary nutrient management plan" means any of the 170
following: 171

(1) A nutrient management plan that is in the form of the 172
Ohio nutrient management workbook made available by the Ohio state 173
university; 174

(2) A comprehensive nutrient management plan developed by the 175
United States department of agriculture natural resources 176
conservation service, a technical service provider certified by 177
the conservation service, or a person authorized by the 178
conservation service to develop a plan; 179

(3) A document that is equivalent to a plan specified in 180
division (DD)(1) or (2) of this section, that is in a form 181
approved by the director or the director's designee, and that 182
contains at least all of the following information: 183

(a) Results of soil tests conducted on land subject to the 184
plan that comply with the field office technical guide established 185
by the conservation service and adopted by the chief of the 186
division of soil and water resources in the department of natural 187
resources in rules adopted under division (E) of section 1511.02 188
of the Revised Code and that are not older than three years; 189

(b) Documentation of the method and seasonal time of 190
utilization and application of nutrients; 191

(c) Identification of all nutrients applied, including 192
manure, fertilizer, sewage sludge, and biodigester residue; 193

(d) Field information regarding land subject to the plan, 194
including the location, spreadable acreage, crops grown, and 195
actual and projected yields. 196

Sec. 905.32. (A) No person shall manufacture or distribute in 197
this state any type of fertilizer until a license to manufacture 198
or distribute has been obtained by the manufacturer or distributor 199
from the department of agriculture upon payment of a five-dollar 200
fee: 201

(1) For each fixed (permanent) location at which fertilizer is manufactured in this state;	202 203
(2) For each mobile unit used to manufacture fertilizer in this state;	204 205
(3) For each location out of the state from which fertilizer is distributed in <u>into</u> this state to nonlicensees ;	206 207
<u>(4) For each location in this state from which fertilizer is distributed in this state.</u>	208 209
All licenses shall be valid for one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a license shall be submitted no later than the thirtieth day of November each year. A person who submits a renewal application for a license after the thirtieth day of November shall include with the application a late filing fee of ten dollars.	210 211 212 213 214 215 216
(B) An application for <u>a</u> license shall include:	217
(1) The name and address of the licensee;	218
(2) The name and address of each bulk distribution point in the state, not licensed for fertilizer manufacture and distribution.	219 220 221
The name and address shown on the license shall be shown on all labels, pertinent invoices, and bulk storage for fertilizers distributed by the licensee in this state.	222 223 224
(C) The licensee shall inform the director of agriculture in writing of additional distribution points established during the period of the license.	225 226 227
(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.	228 229 230

Sec. 905.321. (A) Beginning September thirtieth of the third 231
year after the effective date of this section, no person shall 232
apply fertilizer for the purposes of agricultural production 233
unless that person has been certified to do so by the director of 234
agriculture under this section and rules or is acting under the 235
instructions and control of a person who is so certified. 236

(B) A person shall be certified to apply fertilizer for 237
purposes of agricultural production in accordance with rules. A 238
person that has been so certified shall comply with requirements 239
and procedures established in those rules. 240

(C) A person that has been licensed as a commercial 241
applicator under section 921.06 of the Revised Code or as a 242
private applicator under section 921.11 of the Revised Code may 243
apply to be certified under this section, but shall not be 244
required to pay the application fee for certification established 245
in rules adopted under section 905.322 of the Revised Code. 246

Sec. 905.322. (A) The director of agriculture shall adopt 247
rules in accordance with Chapter 119. of the Revised Code that do 248
all of the following: 249

(1) Create a fertilizer applicator certification program 250
pursuant to section 905.321 of the Revised Code that does all of 251
the following: 252

(a) Educates an applicant for certification on the time, 253
place, form, amount, handling, and application of fertilizer; 254

(b) Serves as a component of a comprehensive state nutrient 255
reduction strategy addressing all sources of relevant nutrients; 256

(c) Supports generally practical and economically feasible 257
best management practices. 258

(2) Establish all of the following concerning certifications 259

<u>that are required by section 905.321 of the Revised Code:</u>	260
<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>	261 262 263 264 265 266
<u>(b) Information that must be included with an application for certification;</u>	267 268
<u>(c) Procedures for the issuance, renewal, and denial of certifications;</u>	269 270
<u>(d) Grounds for the denial of certifications;</u>	271
<u>(e) Requirements and procedures governing training that must be successfully completed in order for a person to be certified;</u>	272 273
<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>	274 275 276 277 278 279 280 281 282 283 284
<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 date on which the report must be filed.</u>	285 286 287 288
<u>(B) The director may adopt rules in accordance with Chapter</u>	289

<u>119. of the Revised Code that do all of the following:</u>	290
<u>(1) Establish criteria in accordance with which a person may</u>	291
<u>be exempt from any training that is required in order to be</u>	292
<u>certified under section 905.321 of the Revised Code;</u>	293
<u>(2) Specify any type of cultivation that is to be excluded</u>	294
<u>from the definition of "agricultural production";</u>	295
<u>(3) Define "under the instructions and control" for the</u>	296
<u>purpose of section 905.321 of the Revised Code.</u>	297
<u>Sec. 905.323. (A)(1) A person who owns or operates</u>	298
<u>agricultural land may do any of the following:</u>	299
<u>(a) Develop a voluntary nutrient management plan;</u>	300
<u>(b) Request any person to develop a voluntary nutrient</u>	301
<u>management plan on behalf of the person who owns or operates the</u>	302
<u>agricultural land;</u>	303
<u>(c) Request the supervisors of the applicable soil and water</u>	304
<u>conservation district organized in accordance with Chapter 1515.</u>	305
<u>of the Revised Code to develop a voluntary nutrient management</u>	306
<u>plan on the person's behalf.</u>	307
<u>(2) A person who owns or operates agricultural land and who</u>	308
<u>has developed or has had developed a voluntary nutrient management</u>	309
<u>plan under division (A)(1)(a) or (b) of this section, as</u>	310
<u>applicable, may request the supervisors of the applicable soil and</u>	311
<u>water conservation district, the director of agriculture, or the</u>	312
<u>director's designee to approve the plan. The supervisors,</u>	313
<u>director, or director's designee shall approve or disapprove the</u>	314
<u>plan.</u>	315
<u>(B) If a voluntary nutrient management plan is disapproved</u>	316
<u>under this section, the person who developed the plan or had it</u>	317
<u>developed may request an adjudication hearing in accordance with</u>	318
<u>Chapter 119. of the Revised Code.</u>	319

(C) A person whose voluntary nutrient management plan is 320
disapproved may appeal to the court of common pleas of Franklin 321
county. 322

(D) After a voluntary nutrient management plan has been 323
approved under this section, the person who developed the plan or 324
had it developed shall submit the plan once every five years to 325
the supervisors of the applicable soil and water conservation 326
district or the director for review. If after the review the 327
supervisors or the director determines that the plan needs to be 328
modified, the supervisors or director shall notify the person who 329
submitted the plan. The person then shall provide for the 330
modification of the plan. The procedures and requirements 331
established in divisions (A) to (C) of this section apply to a 332
modification of the plan. 333

Sec. 905.324. (A) Except as provided in division (B) of this 334
section, the director of agriculture, an employee of the 335
department of agriculture, the supervisors of a soil and water 336
conservation district, an employee of a district, and a contractor 337
of the department or a district shall not disclose information, 338
including data from geographic information systems and global 339
positioning systems, used in the development or approval of or 340
contained in a voluntary nutrient management plan. 341

(B) The director or the supervisors of a district may release 342
or disclose information specified in division (A) of this section 343
to a person or a federal, state, or local agency working in 344
cooperation with the director or the supervisors in the 345
development or approval of a voluntary nutrient management plan if 346
the director or supervisors determine that the person or federal, 347
state, or local agency will not subsequently disclose the 348
information to another person who is not authorized by the person 349
who owns or operates agricultural land to receive the information. 350

The director or the supervisors of a district may release or 351
disclose information specified in division (A) of this section to 352
the extent required by the "Federal Water Pollution Control Act" 353
as defined in section 6111.01 of the Revised Code. 354

Sec. 905.325. In a private civil action for claims involving 355
or resulting from the application of fertilizer, it is an 356
affirmative defense if all of the following apply: 357

(A) The person applying the fertilizer is certified or is 358
applying fertilizer under the instruction and control of a person 359
who is certified under section 905.321 of the Revised Code and 360
rules. 361

(B) Records have been properly maintained for the application 362
of fertilizer as required by rules adopted under division 363
(A)(2)(f) of section 905.322 of the Revised Code. 364

(C) The fertilizer has been applied according to and in 365
substantial compliance with a voluntary nutrient management plan 366
developed under section 905.323 of the Revised Code, provided that 367
the plan has been approved under that section or developed by the 368
supervisors of the applicable soil and water conservation district 369
under that section. 370

Sec. 905.34. No distributor shall be required to obtain a 371
license if the manufacturer is licensed under division (A) of 372
section 905.32 of the Revised Code; ~~or to distribute fertilizer~~ if 373
the ~~manufacturer or distributor~~ fertilizer is registered under 374
division (A) of section 905.33 of the Revised Code. 375

Sec. 905.36. (A) A licensee or registrant, ~~except registrants~~ 376
who package specialty fertilizers only in containers of ten pounds 377
~~or less,~~ shall pay the director of agriculture for all fertilizers 378
distributed in this state an inspection fee at the rate of 379

~~twenty-five cents per ton or twenty-eight cents per metric ton. 380
Licensees and registrants shall specify on an invoice whether the 381
per ton inspection fee has been paid or whether payment of the fee 382
is the responsibility of the purchaser of the fertilizer. The 383
payment of this inspection fee by a licensee or registrant shall 384
exempt all other persons from the payment of this fee for all of 385
the following, as applicable: 386~~

~~(1) All fertilizer that the licensee distributes in this 387
state to a person that has not been issued a license under section 388
905.32 of the Revised Code; 389~~

~~(2) All fertilizer that the licensee applies in this state 390
for purposes of agricultural production and all fertilizer that is 391
applied in this state on behalf of the licensee by an employee or 392
contractor who is certified under section 905.321 of the Revised 393
Code; 394~~

~~(3) All fertilizer that the registrant distributes in this 395
state. 396~~

~~However, the inspection fee does not apply to packaged 397
fertilizers that are in containers of ten pounds or less. 398~~

~~(B) Every licensee or registrant shall file with the director 399
an annual tonnage report ~~that includes the number of net tons or 400
metric tons of fertilizer distributed to nonlicensees or 401
nonregistrants in this state by grade; packaged; bulk, dry or 402
liquid~~ in accordance with rules. The report shall be filed on or 403
before the ~~thirtieth day of November of each calendar year and 404
shall include data from the period beginning on the first day of 405
November of the year preceding the year in which the report is due 406
through the thirty first day of October of the year in which the 407
report is due~~ date specified in rules. The licensee or registrant, 408
except registrants who package specialty fertilizers only in 409
containers of ten pounds or less, shall include with this 410~~

~~statement~~ the report the inspection fee at the rate stated in 411
division (A) of this section. For a tonnage report that is not 412
filed or payment of inspection fees that is not made on or before 413
the ~~thirtieth day of November of the applicable calendar year~~ date 414
specified in rules, a penalty of fifty dollars or ten per cent of 415
the amount due, whichever is greater, shall be assessed against 416
the licensee or registrant. The amount of fees due, plus penalty, 417
shall constitute a debt and become the basis of a judgment against 418
the licensee or registrant. For tonnage reports found to be 419
incorrect, a penalty of fifteen per cent of the amount due shall 420
be assessed against the licensee or registrant and shall 421
constitute a debt and become the basis of a judgment against the 422
licensee or registrant. 423

(C) No information furnished under this section shall be 424
disclosed by any employee of the department of agriculture in such 425
a way as to divulge the operation of any person required to make 426
such a report. The filing by a licensee or registrant of a ~~sales~~ 427
~~volume tonnage statement~~ report required by division (B) of this 428
section thereby grants permission to the director to verify the 429
same with the records of the licensee or registrant. 430

(D) All money collected under this section shall be credited 431
to the pesticide, fertilizer, and lime program fund created in 432
section 921.22 of the Revised Code. 433

Sec. 905.39. (A) The director of agriculture shall inspect 434
and sample any fertilizer within the state to such an extent as 435
the director considers necessary and make an analysis where need 436
is indicated to determine whether the fertilizer is in compliance 437
with sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~ 438
~~rules adopted under those sections~~. The director may enter upon 439
any public or private premises or conveyances during regular 440
business hours in order to have access to fertilizer subject to 441

sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and the 442
rules ~~adopted under those sections.~~ 443

(B) The director shall maintain the services necessary to 444
effectively administer and enforce sections 905.31 to ~~905.50~~ 445
905.503 of the Revised Code and the rules ~~adopted under those~~ 446
~~sections.~~ The methods of sampling and analysis shall be those 447
adopted by the association of official analytical chemists or 448
other sources prescribed by the director. 449

(C) The results of official analysis of any sample of 450
fertilizer found to be in violation of any provisions of sections 451
905.31 to ~~905.50~~ 905.503 of the Revised Code or any rule ~~adopted~~ 452
~~under those sections,~~ shall be forwarded to the licensee or 453
registrant. A licensee or registrant may request a portion of any 454
such sample, provided that the request is made not more than 455
thirty days after the date of the analysis report. 456

(D) Analytical tolerances shall be governed by rules ~~adopted~~ 457
~~by the director.~~ 458

(E) If the director is denied access to any premises where 459
access is sought for the purpose of inspection and sampling, the 460
director may apply to any court of competent jurisdiction for a 461
search warrant authorizing access to the premises for that 462
purpose. The court, upon application, may issue the search warrant 463
for the purpose requested. 464

Sec. 905.41. (A) A storage facility for anhydrous ammonia 465
that is used for agricultural purposes shall be designed and 466
constructed in accordance with rules ~~adopted under section 905.40~~ 467
~~of the Revised Code.~~ On and after ~~the effective date of this~~ 468
~~section~~ September 10, 2012, no person shall construct a storage 469
facility for anhydrous ammonia that is used for agricultural 470
purposes without applying for and receiving approval of the design 471
of the facility and approval to construct the facility from the 472

director of agriculture in accordance with ~~those~~ rules. 473

(B) Upon the submission of an application to the director for 474
the approval of the design and construction of a storage facility 475
for anhydrous ammonia that is used for agricultural purposes in 476
accordance with rules ~~adopted under section 905.40 of the Revised~~ 477
~~Code~~, the applicant shall submit written notification of the 478
application to all of the following: 479

(1) The board of township trustees of the township or the 480
legislative authority of the municipal corporation, as applicable, 481
in which the storage facility is proposed to be located; 482

(2) The county sheriff, or the police chief of the police 483
department of a municipal corporation, township, or township or 484
joint township police district, as applicable, with jurisdiction 485
over the location where the storage facility is proposed to be 486
located; 487

(3) The fire chief of the fire department with jurisdiction 488
over the location where the storage facility is proposed to be 489
located. 490

(C) Prior to approving or disapproving a storage facility for 491
anhydrous ammonia that is used for agricultural purposes, the 492
director may take into consideration any past violations of an 493
applicable state or federal law pertaining to environmental 494
protection or the environmental laws of another country or any 495
conviction of or guilty plea to a violation of section 901.511 of 496
the Revised Code or a felony drug offense as defined in section 497
2925.01 of the Revised Code related to the use and storage of 498
chemicals used for agriculture by the owner of the storage 499
facility. 500

Sec. 905.45. (A) The director of agriculture may ~~revoke the~~ 501
~~registration of any grade and brand name of fertilizer or any~~ 502

~~license, or may suspend any registration or license, or may refuse~~ 503
~~to register any grade and brand name of fertilizer, or to license~~ 504
~~any applicant, upon a finding supported by substantial evidence~~ 505
~~that the registrant, licensee, or applicant has violated any~~ 506
~~provision of sections 905.31 to 905.50 of the Revised Code, or any~~ 507
~~rules adopted under those sections. No registration or license~~ 508
~~shall be refused, suspended, or revoked until the do any of the~~ 509
~~following upon a finding that a registrant, licensee, certificate~~ 510
~~holder, or applicant has violated any provision of sections 905.31~~ 511
~~to 905.503 of the Revised Code or any rules:~~ 512

(1) Revoke the registration of any grade and brand name of 513
fertilizer; 514

(2) Revoke any license or certificate; 515

(3) Suspend any registration, license, or certificate; 516

(4) Refuse to register any grade and brand name of 517
fertilizer; 518

(5) Refuse to license or certify any applicant. 519

~~A~~ registrant, licensee, certificate holder, or applicant ~~has~~ 520
~~been~~ shall be given an opportunity to appear at an adjudication 521
hearing conducted in accordance with Chapter 119. of the Revised 522
Code. 523

(B) The director, prior to a hearing, may deny, suspend, 524
revoke, refuse to renew, or modify any provision of a fertilizer 525
applicator certificate issued under section 905.321 of the Revised 526
Code and rules if the director has substantial reason to believe 527
the certificate holder has recklessly applied fertilizer in such a 528
manner that an emergency exists that presents a clear and present 529
danger to human or animal health. 530

The director shall provide an opportunity for a hearing 531
without delay after such a denial, suspension, revocation, refusal 532

to renew, or modification. 533

Sec. 905.46. The director of agriculture may issue an order 534
to the owner or custodian of any lot of fertilizer requiring it to 535
be held at a designated place when the director has found the 536
fertilizer to have been offered or exposed for sale in violation 537
of sections 905.31 to ~~905.50~~ 905.503 of the Revised Code, or any 538
rule ~~adopted under those sections~~. A fertilizer shall be held 539
until a release in writing is issued by the director. A release 540
shall not be issued until sections 905.31 to ~~905.50~~ 905.503 of the 541
Revised Code, and ~~the rules adopted under those sections,~~ are 542
complied with and until all costs and expenses incurred in 543
connection with the violation have been paid by the manufacturer, 544
distributor, licensee, or registrant. 545

Sec. 905.47. Any lot of fertilizer not in compliance with 546
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code, or any rule 547
~~adopted under those sections,~~ is subject to seizure on complaint 548
of the director of agriculture to a court of competent 549
jurisdiction in the county in which the fertilizer is located. The 550
court upon a finding that the fertilizer is in violation of 551
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code, or any rule 552
~~adopted under those sections,~~ shall order the condemnation of the 553
fertilizer, and it shall be disposed of in a manner consistent 554
with the laws of this state. The court shall not order the 555
condemnation of the fertilizer without first giving the 556
manufacturer or distributor an opportunity to reprocess or relabel 557
the fertilizer to bring it into compliance with sections 905.31 to 558
~~905.50~~ 905.503 of the Revised Code, and ~~the rules adopted under~~ 559
~~those sections.~~ 560

Sec. 905.48. In addition to the remedies provided and 561
irrespective of whether or not there exists any adequate remedy at 562

law, the director of agriculture may apply to the court of common 563
pleas in the county wherein any of the provisions of sections 564
905.31 to ~~905.50~~ 905.503 of the Revised Code~~7~~, are being violated 565
for a temporary or permanent injunction restraining any person 566
from ~~such~~ the violation. 567

Sec. 905.49. Nothing in sections 905.31 to ~~905.50~~ 905.503 of 568
the Revised Code~~7~~, shall be considered either to restrict the 569
distribution of fertilizers to each other by importers or 570
manufacturers, who mix fertilizer materials for distribution, or 571
to prevent the free and unrestricted shipment of fertilizer to 572
manufacturers who are licensed or have registered their specialty 573
fertilizer grades and brand names as required by sections 905.31 574
to ~~905.50~~ 905.503 of the Revised Code. 575

Sec. 905.50. If the director of agriculture has taken an 576
official sample of a fertilizer or mixed fertilizer and determined 577
that it constitutes mislabeled fertilizer pursuant to rules 578
~~adopted under section 905.40 or 905.44 of the Revised Code, as~~ 579
~~applicable~~, the person who labeled the fertilizer or mixed 580
fertilizer shall pay a penalty to the consumer of the mislabeled 581
fertilizer or, if the consumer cannot be determined with 582
reasonable diligence or is not available, to the director to be 583
credited to the pesticide, fertilizer, and lime program fund 584
created under section 921.22 of the Revised Code. The amount of 585
the penalty shall be calculated in accordance with either division 586
(A) or (B) of this section, whichever method of calculation yields 587
the largest amount. 588

(A)(1) A penalty required to be paid under this section may 589
be calculated as follows: 590

(a) Five dollars for each percentage point of total nitrogen 591
or phosphorus in the fertilizer that is below the percentage of 592

nitrogen or phosphorus guaranteed on the label, multiplied by the 593
number of tons of mislabeled fertilizer that have been sold to the 594
consumer; 595

(b) Three dollars for each percentage point of potash in the 596
fertilizer that is below the percentage of potash guaranteed on 597
the label, multiplied by the number of tons of mislabeled 598
fertilizer that have been sold to the consumer. 599

(2) In the case of a fertilizer that contains a quantity of 600
nitrogen, phosphorus, or potash that is more than five percentage 601
points below the percentages guaranteed on the label, the 602
penalties calculated under division (A)(1) of this section shall 603
be tripled. 604

(3) No penalty calculated under division (A) of this section 605
shall be less than twenty-five dollars. 606

(B) A penalty required to be paid under this section may be 607
calculated by multiplying the market value of one unit of the 608
mislabeled fertilizer by the number of units of the mislabeled 609
fertilizer that have been sold to the consumer. 610

(C) Upon making a determination under this section that a 611
person has mislabeled fertilizer or mixed fertilizer, the director 612
shall determine the parties to whom the penalty imposed by this 613
section is required to be paid and, in accordance with division 614
(A) or (B) of this section, as applicable, shall calculate the 615
amount of the penalty required to be paid to each such party. 616
After completing those determinations and calculations, the 617
director shall issue to the person who allegedly mislabeled the 618
fertilizer or mixed fertilizer a notice of violation. The notice 619
shall be accompanied by an order requiring, and specifying the 620
manner of, payment of the penalty imposed by this section to the 621
parties in the amounts set forth in the determinations and 622
calculations required by this division. The order shall be issued 623

in accordance with Chapter 119. of the Revised Code. 624

No person shall violate a term or condition of an order 625
issued under this division. 626

Sec. 905.501. (A) Except as provided in division (B) of this 627
section, whenever the director of agriculture has cause to believe 628
that a person has violated, or is violating, sections 905.31 to 629
905.503 of the Revised Code or rules or an order issued under 630
those sections or rules, the director may conduct a hearing in 631
accordance with Chapter 119. of the Revised Code to determine 632
whether a violation has occurred. If the director determines that 633
a violation has occurred, the director may require the violator to 634
pay a civil penalty in accordance with the schedule of civil 635
penalties established in rules. Each day of violation constitutes 636
a separate violation. 637

(B) A person who fails to comply with rules adopted under 638
division (A)(2)(f) of section 905.322 of the Revised Code is not 639
subject to division (A) of this section. 640

Sec. 905.502. Nothing in sections 905.31 to 905.502 of the 641
Revised Code or rules shall be construed to require the director 642
of agriculture to report any findings to the appropriate 643
prosecuting authority for proceedings in the prosecution of, or 644
issue any order or institute any enforcement procedure for, a 645
violation of sections 905.31 to 905.502 of the Revised Code or 646
rules when the director believes that the public interest will be 647
best served by a suitable written notice of warning. A person who 648
receives a written notice of warning may respond in writing to the 649
notice. 650

Sec. 905.501 905.503. (A) As used in this section: 651

(1) "Political subdivision" means a county, township, or 652

municipal corporation and any other body corporate and politic 653
that is responsible for government activities in a geographic area 654
smaller than that of the state. 655

(2) "Local legislation" includes, but is not limited to, an 656
ordinance, resolution, regulation, rule, motion, or amendment that 657
is enacted or adopted by a political subdivision. 658

(B)(1) No political subdivision shall regulate the 659
registration, packaging, labeling, sale, storage, distribution, 660
use, or application of fertilizer, or require a person licensed or 661
registered under sections 905.31 to 905.99 of the Revised Code to 662
obtain a license or permit to operate in a manner described in 663
those sections, or to satisfy any other condition except as 664
provided by a statute or rule of this state or of the United 665
States. 666

(2) No political subdivision shall enact, adopt, or continue 667
in effect local legislation relating to the registration, 668
packaging, labeling, sale, storage, distribution, use, or 669
application of fertilizers. 670

Sec. 905.99. ~~Whoever~~ (A) Except as provided in division (B) 671
of this section, whoever violates ~~section 905.02, 905.04, 905.08,~~ 672
~~905.11, 905.32, 905.33, 905.331, 905.35, 905.36, 905.40, 905.42,~~ 673
~~905.43, 905.44, 905.45, 905.50, 905.52, 905.54, 905.55, 905.59,~~ 674
~~905.60, or 905.61 of the Revised Code~~ this chapter or rules 675
adopted under it is guilty of a misdemeanor of the ~~second~~ third 676
~~degree for~~ on a first offense. ~~On each subsequent offense the~~ 677
~~offender is guilty of,~~ a misdemeanor of the second degree on a 678
second offense, and a misdemeanor of the first degree on a third 679
or subsequent offense. 680

(B) A person who fails to comply with rules adopted under 681
division (A)(2)(f) of section 905.322 of the Revised Code is not 682
subject to division (A) of this section. 683

Sec. 907.111. (A) The department of agriculture has sole and 684
exclusive authority to regulate the registration, labeling, sale, 685
storage, transportation, distribution, notification of use, use, 686
and planting of seed within the state. The regulation of seed is a 687
matter of general statewide interest that requires uniform 688
statewide regulation, and this chapter and rules adopted under it 689
constitute a comprehensive plan with respect to all aspects of the 690
regulation of seed within this state. 691

(B) No political subdivision shall do any of the following: 692

(1) Regulate the registration, labeling, sale, storage, 693
transportation, distribution, notification of use, use, or 694
planting of seed; 695

(2) Require a person who has been issued a permit or license 696
under this chapter to obtain a permit or license to operate in a 697
manner described in this chapter or to satisfy any other condition 698
except as provided by a statute or rule of this state or of the 699
United States; 700

(3) Require a person who has registered a legume innoculant 701
under this chapter to register that innoculant in a manner 702
described in this chapter or to satisfy any other condition except 703
as provided by a statute or rule of this state or of the United 704
States. 705

(C) No political subdivision shall enact, adopt, or continue 706
in effect local legislation relating to the permitting or 707
licensure of any person who is required to obtain a permit or 708
license under this chapter or to the registration, labeling, sale, 709
storage, transportation, distribution, notification of use, use, 710
or planting of seed. 711

(D) As used in this section, "political subdivision" and 712
"local legislation" have the same meanings as in section ~~905.501~~ 713

905.503 of the Revised Code. 714

Sec. 1511.01. ~~For the purposes of~~ As used in this chapter: 715

(A) "Conservation" means the wise use and management of 716
natural resources. 717

(B) "Critical natural resource area" means an area identified 718
by the director of natural resources in which occurs a natural 719
resource that requires special management because of its 720
importance to the well-being of the surrounding communities, the 721
region, or the state. 722

(C) "Pollution abatement practice" means any erosion control 723
~~or animal waste, residual farm products, or manure~~ pollution 724
abatement facility, structure, or procedure and the operation and 725
management associated with it as contained in operation and 726
management plans developed or approved by the chief of the 727
division of soil and water resources or by boards of supervisors 728
of soil and water conservation districts ~~established under Chapter~~ 729
~~1515. of the Revised Code.~~ 730

(D) "Agricultural pollution" means failure to use management 731
or conservation practices in farming or silvicultural operations 732
to abate wind or water erosion of the soil or to abate the 733
degradation of the waters of the state by ~~animal waste~~ residual 734
farm products, manure, or soil sediment, including substances 735
attached thereto. 736

(E) "Waters of the state" means all streams, lakes, ponds, 737
wetlands, watercourses, waterways, wells, springs, irrigation 738
systems, drainage systems, and all other bodies or accumulations 739
of water, surface and underground, natural or artificial, 740
regardless of the depth of the strata in which underground water 741
is located, that are situated wholly or partly within, or border 742
upon, this state or are within its jurisdiction, except those 743

private waters that do not combine or effect a junction with 744
natural surface or underground waters. 745

(F) "Operation and management plan" means a written record, 746
developed or approved by the ~~district~~ board of supervisors of a 747
soil and water conservation district or the chief, for the owner 748
or operator of agricultural land or ~~a concentrated~~ an animal 749
feeding operation that contains implementation schedules and 750
operational procedures for a level of management and pollution 751
abatement practices that will abate the degradation of the waters 752
of the state by ~~animal waste~~ residual farm products, manure, and 753
~~by~~ soil sediment, including attached pollutants. 754

(G) "~~Animal waste~~ Residual farm products" means ~~animal~~ 755
~~excreta, discarded products,~~ bedding, wash waters, waste feed, and 756
silage drainage. "~~Animal waste~~ Residual farm products" also 757
includes the compost products resulting from the composting of 758
dead animals in operations subject to section 1511.022 of the 759
Revised Code when either of the following applies: 760

(1) The composting is conducted by the person who raises the 761
animals and the compost product is used in agricultural operations 762
owned or operated by that person, regardless of whether the person 763
owns the animals. 764

(2) The composting is conducted by the person who owns the 765
animals, but does not raise them and the compost product is used 766
in agricultural operations either by a person who raises the 767
animals or by a person who raises grain that is used to feed them 768
and that is supplied by the owner of the animals. 769

(H) "Composting" means the controlled decomposition of 770
organic solid material consisting of dead animals that stabilizes 771
the organic fraction of the material. 772

(I) "Manure" means animal excreta. 773

(J) "Animal feeding operation" means the production area, as 774

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

to Chapter 119. of the Revised Code. Rules adopted pursuant to 805
this section: 806

(1) Shall establish technically feasible and economically 807
reasonable standards to achieve a level of management and 808
conservation practices in farming or silvicultural operations that 809
will abate wind or water erosion of the soil or abate the 810
degradation of the waters of the state by ~~animal waste~~ residual
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
814

(2) Shall establish technically feasible and economically 815
reasonable standards to achieve a level of management and 816
conservation practices that will abate wind or water erosion of 817
the soil or abate the degradation of the waters of the state by 818
soil sediment in conjunction with land grading, excavating, 819
filling, or other soil-disturbing activities on land used or being 820
developed for nonfarm commercial, industrial, residential, or 821
other nonfarm purposes, and establish criteria for determination 822
of the acceptability of such management and conservation 823
practices. The standards shall be designed to implement applicable 824
areawide waste treatment management plans prepared under section 825
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 826
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 827
shall not apply in any municipal corporation or county that adopts 828
ordinances or rules pertaining to sediment control, nor to lands 829
being used in a strip mine operation as defined in section 1513.01 830
of the Revised Code, nor to lands being used in a surface mining 831
operation as defined in section 1514.01 of the Revised Code. 832

(3) May recommend criteria and procedures for the approval of 833
urban sediment pollution abatement plans and issuance of permits 834
prior to any grading, excavating, filling, or other whole or 835
partial disturbance of five or more contiguous acres of land owned 836

by one person or operated as one development unit and require 837
implementation of such a plan. Areas of less than five contiguous 838
acres are not exempt from compliance with other provisions of this 839
chapter and rules adopted under them. 840

(4) Shall establish procedures for administration of rules 841
for agricultural pollution abatement and urban sediment pollution 842
abatement and for enforcement of rules for agricultural pollution 843
abatement; 844

(5) Shall specify the pollution abatement practices eligible 845
for state cost sharing and determine the conditions for 846
eligibility, the construction standards and specifications, the 847
useful life, the maintenance requirements, and the limits of cost 848
sharing for those practices. Eligible practices shall be limited 849
to practices that address agricultural or silvicultural operations 850
and that require expenditures that are likely to exceed the 851
economic returns to the owner or operator and that abate soil 852
erosion or degradation of the waters of the state by ~~animal waste~~ 853
residual farm products, manure, or soil sediment, including 854
pollutants attached thereto. 855

(6) Shall establish procedures for administering grants to 856
owners or operators of agricultural land or ~~concentrated~~ animal 857
feeding operations for the implementation of operation and 858
management plans; 859

(7) Shall establish procedures for administering grants to 860
soil and water conservation districts for urban sediment pollution 861
abatement programs, specify the types of projects eligible for 862
grants, establish limits on the availability of grants, and 863
establish requirements governing the execution of projects to 864
encourage the reduction of erosion and sedimentation associated 865
with soil-disturbing activities; 866

(8) Shall do all of the following with regard to composting 867

conducted in conjunction with agricultural operations:	868
(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;	869 870 871
(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;	872 873 874 875
(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.	876 877 878 879
(9) Shall be adopted, amended, or rescinded after the chief does all of the following:	880 881
(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;	882 883 884 885 886
(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;	887 888 889
(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;	890 891 892 893
(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.	894 895 896
(10) Shall not conflict with air or water quality standards	897

adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

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

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

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by

failure to comply with the standards established under division 930
(E)(1) of this section operate under an operation and management 931
plan approved by the chief under this section. The chief shall 932
require in an order that a person who has failed to comply with 933
division (A) of section 1511.022 of the Revised Code prepare a 934
composting plan in accordance with rules adopted under division 935
(E)~~(10)~~(8)(c) of this section and operate in accordance with that 936
plan or that a person who has failed to operate in accordance with 937
such a plan begin to operate in accordance with it. Each order 938
shall be issued in writing and contain a finding by the chief of 939
the facts upon which the order is based and the standard that is 940
not being met. 941

(H) Employ field assistants and such other employees as are 942
necessary for the performance of the work prescribed by Chapter 943
1515. of the Revised Code, for performance of work of the 944
division, and as agreed to under working agreements or contractual 945
arrangements with ~~local~~ soil and water conservation districts, 946
prescribe their duties, and fix their compensation in accordance 947
with such schedules as are provided by law for the compensation of 948
state employees. 949

All employees of the division, unless specifically exempted 950
by law, shall be employed subject to the classified civil service 951
laws in force at the time of employment. 952

(I) In connection with new or relocated projects involving 953
highways, underground cables, pipelines, railroads, and other 954
improvements affecting soil and water resources, including surface 955
and subsurface drainage: 956

(1) Provide engineering service as is mutually agreeable to 957
the Ohio soil and water conservation commission and the director 958
to aid in the design and installation of soil and water 959
conservation practices as a necessary component of such projects; 960

(2) Maintain close liaison between the owners of lands on	961
which the projects are executed, local soil and water conservation	962
districts, and authorities responsible for such projects;	963
(3) Review plans for such projects to ensure their compliance	964
with standards developed under division (E) of this section in	965
cooperation with the department of transportation or with any	966
other interested agency that is engaged in soil or water	967
conservation projects in the state in order to minimize adverse	968
impacts on soil and water resources adjacent to or otherwise	969
affected by these projects;	970
(4) Recommend measures to retard erosion and protect soil and	971
water resources through the installation of water impoundment or	972
other soil and water conservation practices;	973
(5) Cooperate with other agencies and subdivisions of the	974
state to protect the agricultural status of rural lands adjacent	975
to such projects and control adverse impacts on soil and water	976
resources.	977
(J) Collect, analyze, inventory, and interpret all available	978
information pertaining to the origin, distribution, extent, use,	979
and conservation of the soil resources of the state;	980
(K) Prepare and maintain up-to-date reports, maps, and other	981
materials pertaining to the soil resources of the state and their	982
use and make that information available to governmental agencies,	983
public officials, conservation entities, and the public;	984
(L) Provide soil and water conservation districts with	985
technical assistance including on-site soil investigations and	986
soil interpretation reports on the suitability or limitations of	987
soil to support a particular use or to plan soil conservation	988
measures. The assistance shall be upon such terms as are mutually	989
agreeable to the districts and the department of natural	990
resources.	991

(M) Assist local government officials in utilizing land use 992
planning and zoning, current agricultural use value assessment, 993
development reviews, and land management activities; 994

(N) When necessary for the purposes of this chapter or 995
Chapter 1515. of the Revised Code, develop or approve operation 996
and management plans. 997

This section does not restrict the ~~excrement~~ manure of 998
domestic or farm animals defecated on land outside a ~~concentrated~~ 999
an animal feeding operation or runoff therefrom into the waters of 1000
the state. 1001

Sec. 1511.021. (A) Any person who owns or operates 1002
agricultural land or a ~~concentrated~~ an animal feeding operation 1003
may develop and operate under an operation and management plan 1004
approved by the chief of the division of soil and water resources 1005
under section 1511.02 of the Revised Code or by the supervisors of 1006
the ~~local~~ applicable soil and water conservation district under 1007
section 1515.08 of the Revised Code. 1008

(B) Any person who wishes to make a complaint regarding 1009
nuisances involving agricultural pollution may do so orally or by 1010
submitting a written, signed, and dated complaint to the chief or 1011
to the chief's designee. After receiving an oral complaint, the 1012
chief or the chief's designee may cause an investigation to be 1013
conducted to determine whether agricultural pollution has occurred 1014
or is imminent. After receiving a written, signed, and dated 1015
complaint, the chief or the chief's designee shall cause such an 1016
investigation to be conducted. 1017

(C) In a private civil action for nuisances involving 1018
agricultural pollution, it is an affirmative defense if the person 1019
owning, operating, or otherwise responsible for agricultural land 1020
or a ~~concentrated~~ an animal feeding operation is operating under 1021
and in substantial compliance with an approved operation and 1022

management plan developed under division (A) of this section, with 1023
an operation and management plan developed by the chief under 1024
section 1511.02 of the Revised Code or by the supervisors of the 1025
~~local~~ applicable soil and water conservation district under 1026
section 1515.08 of the Revised Code, or with an operation and 1027
management plan required by an order issued by the chief under 1028
division (G) of section 1511.02 of the Revised Code. Nothing in 1029
this section is in derogation of the authority granted to the 1030
chief in division (E) of section 1511.02 and in section 1511.07 of 1031
the Revised Code. 1032

Sec. 1511.023. (A) Except as provided in division (B) of this 1033
section, the director of natural resources, an employee of the 1034
department of natural resources, the supervisors of a soil and 1035
water conservation district, an employee of a district, and a 1036
contractor of the department or a district shall not disclose 1037
either of the following: 1038

(1) Information, including data from geographic information 1039
systems and global positioning systems, provided by a person who 1040
owns or operates agricultural land or an animal feeding operation 1041
and operates under an operation and management plan; 1042

(2) Information gathered as a result of an inspection of 1043
agricultural land or an animal feeding operation to determine 1044
whether the person who owns or operates the land or operation is 1045
in compliance with an operation and management plan. 1046

(B) The director or the supervisors of a district may release 1047
or disclose information specified in division (A)(1) or (2) of 1048
this section to a person or a federal, state, or local agency 1049
working in cooperation with the chief of the division of soil and 1050
water resources or the supervisors in the development of an 1051
operation and management plan or an inspection to determine 1052
compliance with such a plan if the director or supervisors 1053

determine that the person or federal, state, or local agency will 1054
not subsequently disclose the information to another person. 1055

Sec. 1511.07. (A)(1) No person shall fail to comply with an 1056
order of the chief of the division of soil and water resources 1057
issued pursuant to division (G) of section 1511.02 of the Revised 1058
Code. 1059

(2) In addition to the remedies provided and irrespective of 1060
whether an adequate remedy at law exists, the chief may apply to 1061
the court of common pleas in the county where a violation of a 1062
standard established under division (E)(1) or (8)(b) of section 1063
1511.02 of the Revised Code causes pollution of the waters of the 1064
state for an order to compel the violator to cease the violation 1065
and to remove the agricultural pollutant or to comply with the 1066
rules adopted under division (E)(8)(b) of that section, as 1067
appropriate. 1068

(3) In addition to the remedies provided and irrespective of 1069
whether an adequate remedy at law exists, whenever the chief 1070
officially determines that an emergency exists because of 1071
agricultural pollution or an unauthorized release, spill, or 1072
discharge of ~~animal waste~~ manure, or a violation of a rule adopted 1073
under division (E)(8)(b) of section 1511.02 of the Revised Code, 1074
that causes pollution of the waters of the state, the chief may, 1075
without notice or hearing, issue an order reciting the existence 1076
of the emergency and requiring that necessary action be taken to 1077
meet the emergency. The order shall be effective immediately. Any 1078
person to whom the order is directed shall comply with the order 1079
immediately, but on application to the chief shall be afforded a 1080
hearing as soon as possible, but not later than twenty days after 1081
making the application. On the basis of the hearing, the chief 1082
shall continue the order in effect, revoke it, or modify it. No 1083
emergency order shall remain in effect for more than sixty days 1084

after its issuance. If a person to whom an order is issued does 1085
not comply with the order within a reasonable period, as 1086
determined by the chief, the chief or the chief's designee may 1087
enter upon private or public lands and take action to mitigate, 1088
minimize, remove, or abate the agricultural pollution, release, 1089
spill, discharge, or conditions caused by the violation of the 1090
rule. 1091

(B) The attorney general, upon the written request of the 1092
chief, shall bring appropriate legal action in Franklin county 1093
against any person who fails to comply with an order of the chief 1094
issued pursuant to division (G) of section 1511.02 of the Revised 1095
Code. 1096

Sec. 1511.071. There is hereby created in the state treasury 1097
the agricultural pollution abatement fund, which shall be 1098
administered by the chief of the division of soil and water 1099
resources. The fund may be used to pay costs incurred by the 1100
division under division (A)(3) of section 1511.07 of the Revised 1101
Code in investigating, mitigating, minimizing, removing, or 1102
abating any pollution of the waters of the state caused by 1103
agricultural pollution or an unauthorized release, spill, or 1104
discharge of ~~animal waste~~ manure into or upon the environment that 1105
requires emergency action to protect the public health. 1106

Any person responsible for causing or allowing agricultural 1107
pollution or an unauthorized release, spill, or discharge is 1108
liable to the chief for any costs incurred by the division and 1109
soil and water conservation districts in investigating, 1110
mitigating, minimizing, removing, or abating the agricultural 1111
pollution or release, spill, or discharge, regardless of whether 1112
those costs were paid out of the agricultural pollution abatement 1113
fund or any other fund of the division or a district. Upon the 1114
request of the chief, the attorney general shall bring a civil 1115

action against the responsible person to recover those costs. 1116
Moneys recovered under this section shall be paid into the 1117
agricultural pollution abatement fund. 1118

Sec. 1515.01. As used in this chapter: 1119

(A) "Soil and water conservation district" means a district 1120
organized in accordance with this chapter. 1121

(B) "Supervisor" means one of the members of the governing 1122
body of a district. 1123

(C) "Landowner," "owner," or "owner of land" means an owner 1124
of record as shown by the records in the office of the county 1125
recorder. With respect to an improvement or a proposed 1126
improvement, "landowner," "owner," or "owner of land" also 1127
includes any public corporation and the director of any 1128
department, office, or institution of the state that is affected 1129
by the improvement or that would be affected by the proposed 1130
improvement, but that does not own any right, title, estate, or 1131
interest in or to any real property. 1132

(D) "Land occupier" or "occupier of land" means any person, 1133
firm, or corporation that controls the use of land whether as 1134
landowner, lessee, renter, or tenant. 1135

(E) "Due notice" means notice published at least twice, 1136
stating time and place, with an interval of at least thirteen days 1137
between the two publication dates, in a newspaper of general 1138
circulation within a soil and water conservation district. 1139

(F) "Agricultural pollution" means failure to use management 1140
or conservation practices in farming or silvicultural operations 1141
to abate wind or water erosion of the soil or to abate the 1142
degradation of the waters of the state by ~~animal waste~~ residual 1143
farm products, manure, or soil sediment, including substances 1144
attached thereto. 1145

(G) "Urban sediment pollution" means failure to use 1146
management or conservation practices to abate wind or water 1147
erosion of the soil or to abate the degradation of the waters of 1148
the state by soil sediment in conjunction with land grading, 1149
excavating, filling, or other soil disturbing activities on land 1150
used or being developed for nonfarm commercial, industrial, 1151
residential, or other nonfarm purposes, except lands being used in 1152
a strip mine operation as defined in section 1513.01 of the 1153
Revised Code and except lands being used in a surface mining 1154
operation as defined in section 1514.01 of the Revised Code. 1155

(H) "Uniform assessment" means an assessment that is both of 1156
the following: 1157

(1) Based upon a complete appraisal of each parcel of land, 1158
together with all improvements thereon, within a project area and 1159
of the benefits or damages brought about as a result of the 1160
project that is determined by criteria applied equally to all 1161
parcels within the project area; 1162

(2) Levied upon the parcels at a uniform rate on the basis of 1163
the appraisal. 1164

(I) "Varied assessment" means any assessment that does not 1165
meet the criteria established in division (H) of this section. 1166

(J) "Project area" means an area determined and certified by 1167
the supervisors of a soil and water conservation district under 1168
section 1515.19 of the Revised Code. 1169

(K) "Benefit" or "benefits" means advantages to land and 1170
owners, to public corporations, and to the state resulting from 1171
drainage, conservation, control, and management of water and from 1172
environmental, wildlife, and recreational improvements. "Benefit" 1173
or "benefits" includes, but is not limited to, any of the 1174
following factors: 1175

(1) Elimination or reduction of damage from flooding; 1176

(2) Removal of water conditions that jeopardize public health, safety, or welfare;	1177 1178
(3) Increased value of land resulting from an improvement;	1179
(4) Use of water for irrigation, storage, regulation of stream flow, soil conservation, water supply, or any other incidental purpose;	1180 1181 1182
(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.	1183 1184 1185 1186 1187 1188 1189 1190
(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.	1191 1192 1193
(M) "Land" has the same meaning as in section 6131.01 of the Revised Code.	1194 1195
<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>	1196 1197 1198
<u>(O) "Voluntary nutrient management plan" has the same meaning as in section 905.31 of the Revised Code.</u>	1199 1200
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	1201 1202 1203 1204 1205 1206

of the Ohio federation of soil and water conservation districts. 1207
The ~~other two members shall be the director~~ directors of 1208
agriculture ~~and, environmental protection, and natural resources,~~ 1209
the vice-president for agricultural administration of the Ohio 1210
state university. ~~The director of natural resources may~~ 1211
~~participate in the deliberations, and an officer of the Ohio~~ 1212
federation of soil and water conservation districts, or their 1213
designees, may serve as ex officio members of the commission, but 1214
without the power to vote. A vacancy in the office of an appointed 1215
member shall be filled by the governor, with the advice and 1216
consent of the senate. Any member appointed to fill a vacancy 1217
occurring prior to the expiration of the term for which the 1218
member's predecessor was appointed shall hold office for the 1219
remainder of that term. Of the appointed members, ~~two shall be~~ 1220
~~farmers and all~~ four shall be persons who have a knowledge of or 1221
interest in agricultural production and the natural resources of 1222
the state. One member shall represent rural interests and one 1223
member shall represent urban interests. Not more than ~~two~~ three of 1224
the appointed members shall be members of the same political 1225
party. 1226

Terms of office of the member designated by the board of 1227
directors of the federation and the members appointed by the 1228
governor shall be for four years, commencing on the first day of 1229
July and ending on the thirtieth day of June. 1230

Each appointed member shall hold office from the date of 1231
appointment until the end of the term for which the member was 1232
appointed. Any appointed member shall continue in office 1233
subsequent to the expiration date of the member's term until the 1234
member's successor takes office, or until a period of sixty days 1235
has elapsed, whichever occurs first. 1236

The commission shall organize by selecting from its members a 1237
chairperson and a vice-chairperson. The commission shall hold at 1238

least one regular meeting in each quarter of each calendar year 1239
and shall keep a record of its proceedings, which shall be open to 1240
the public for inspection. Special meetings may be called by the 1241
chairperson and shall be called by the chairperson upon receipt of 1242
a written request signed by two or more members of the commission. 1243
Written notice of the time and place of each meeting shall be sent 1244
to each member of the commission. A majority of the commission 1245
shall constitute a quorum. 1246

The commission may adopt rules as necessary to carry out the 1247
purposes of this chapter, subject to Chapter 119. of the Revised 1248
Code. 1249

The governor may remove any appointed member of the 1250
commission at any time for inefficiency, neglect of duty, or 1251
malfeasance in office, after giving to the member a copy of the 1252
charges against the member and an opportunity to be heard publicly 1253
in person or by counsel in the member's defense. Any such act of 1254
removal by the governor is final. A statement of the findings of 1255
the governor, the reason for the governor's action, and the 1256
answer, if any, of the member shall be filed by the governor with 1257
the secretary of state and shall be open to public inspection. 1258

All members of the commission shall be reimbursed for the 1259
necessary expenses incurred by them in the performance of their 1260
duties as members. 1261

Upon recommendation by the commission, the director of 1262
natural resources shall designate an executive secretary and 1263
provide staff necessary to carry out the powers and duties of the 1264
commission. ~~The commission may utilize the services of such staff 1265~~
~~members in the college of agriculture of the Ohio state university 1266~~
~~as may be agreed upon by the commission and the college. 1267~~

The commission shall do all of the following: 1268

(A) Determine distribution of funds under section 1515.14 of 1269

the Revised Code, recommend to the director of natural resources 1270
and other agencies the levels of appropriations to special funds 1271
established to assist soil and water conservation districts, and 1272
recommend the amount of federal funds to be requested and policies 1273
for the use of such funds in support of soil and water 1274
conservation district programs; 1275

(B) Assist in keeping the supervisors of soil and water 1276
conservation districts informed of their powers and duties, 1277
program opportunities, and the activities and experience of all 1278
other districts, and facilitate the interchange of advice, 1279
experience, and cooperation between the districts; 1280

(C) Seek the cooperation and assistance of the federal 1281
government or any of its agencies, and of agencies of this state, 1282
in the work of the districts; 1283

(D) Adopt appropriate rules governing the conduct of 1284
elections provided for in this chapter, subject to Chapter 119. of 1285
the Revised Code, provided that only owners and occupiers of lands 1286
situated within the boundaries of the districts or proposed 1287
districts to which the elections apply shall be eligible to vote 1288
in the elections; 1289

(E) Recommend to the director priorities for planning and 1290
construction of small watershed projects, and make recommendations 1291
to the director concerning coordination of programs as proposed 1292
and implemented in agreements with soil and water conservation 1293
districts; 1294

(F) Recommend to the director, the governor, and the general 1295
assembly programs and legislation with respect to the operations 1296
of soil and water conservation districts that will encourage 1297
proper soil, water, and other natural resource management and 1298
promote the economic and social development of the state. 1299

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

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

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

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

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

flood prevention and the conservation, development, utilization, 1331
and management of natural resources within the district, subject 1332
to such conditions as the supervisors consider necessary; 1333

(E) To accept donations, gifts, grants, and contributions in 1334
money, service, materials, or otherwise, and to use or expend them 1335
according to their terms; 1336

(F) To adopt, amend, and rescind rules to carry into effect 1337
the purposes and powers of the district; 1338

(G) To sue and plead in the name of the district, and be sued 1339
and impleaded in the name of the district, with respect to its 1340
contracts and, as indicated in section 1515.081 of the Revised 1341
Code, certain torts of its officers, employees, or agents acting 1342
within the scope of their employment or official responsibilities, 1343
or with respect to the enforcement of its obligations and 1344
covenants made under this chapter; 1345

(H) To make and enter into all contracts, leases, and 1346
agreements and execute all instruments necessary or incidental to 1347
the performance of the duties and the execution of the powers of 1348
the district under this chapter, provided that all of the 1349
following apply: 1350

(1) Except as provided in section 307.86 of the Revised Code 1351
regarding expenditures by boards of county commissioners, when the 1352
cost under any such contract, lease, or agreement, other than 1353
compensation for personal services or rental of office space, 1354
involves an expenditure of more than the amount established in 1355
that section regarding expenditures by boards of county 1356
commissioners, the supervisors shall make a written contract with 1357
the lowest and best bidder after advertisement, for not less than 1358
two nor more than four consecutive weeks preceding the day of the 1359
opening of bids, in a newspaper of general circulation within the 1360
district or as provided in section 7.16 of the Revised Code and in 1361

such other publications as the supervisors determine. The notice 1362
shall state the general character of the work and materials to be 1363
furnished, the place where plans and specifications may be 1364
examined, and the time and place of receiving bids. 1365

(2) Each bid for a contract shall contain the full name of 1366
every person interested in it. 1367

(3) Each bid for a contract for the construction, demolition, 1368
alteration, repair, or reconstruction of an improvement shall meet 1369
the requirements of section 153.54 of the Revised Code. 1370

(4) Each bid for a contract, other than a contract for the 1371
construction, demolition, alteration, repair, or reconstruction of 1372
an improvement, at the discretion of the supervisors, may be 1373
accompanied by a bond or certified check on a solvent bank in an 1374
amount not to exceed five per cent of the bid, conditioned that, 1375
if the bid is accepted, a contract shall be entered into. 1376

(5) The supervisors may reject any and all bids. 1377

(I) To make agreements with the department of natural 1378
resources giving it control over lands of the district for the 1379
purpose of construction of improvements by the department under 1380
section 1501.011 of the Revised Code; 1381

(J) To charge, alter, and collect rentals and other charges 1382
for the use or services of any works of the district; 1383

(K) To enter, either in person or by designated 1384
representatives, upon lands, private or public, in the necessary 1385
discharge of their duties; 1386

(L) To enter into agreements or contracts with the department 1387
for the determination, implementation, inspection, and funding of 1388
agricultural pollution abatement and urban sediment pollution 1389
abatement measures whereby landowners, operators, managers, and 1390
developers may meet adopted state standards for a quality 1391

environment, except that failure of a district board of 1392
supervisors to negotiate an agreement or contract with the 1393
department shall authorize the division of soil and water 1394
resources to implement the required program; 1395

(M) To conduct demonstrations and provide information to the 1396
public regarding practices and methods for natural resource 1397
conservation, development, and utilization; 1398

(N) To enter into contracts or agreements with the chief of 1399
the division of soil and water resources to implement and 1400
administer a program for urban sediment pollution abatement and to 1401
receive and expend moneys provided by the chief for that purpose; 1402

(O) To develop operation and management plans, ~~as defined in~~ 1403
~~section 1511.01 of the Revised Code,~~ as necessary; 1404

(P) To determine whether operation and management plans 1405
developed under division (A) of section 1511.021 of the Revised 1406
Code comply with the standards established under division (E)(1) 1407
of section 1511.02 of the Revised Code and to approve or 1408
disapprove the plans, based on such compliance. If an operation 1409
and management plan is disapproved, the board shall provide a 1410
written explanation to the person who submitted the plan. The 1411
person may appeal the plan disapproval to the chief, who shall 1412
afford the person a hearing. Following the hearing, the chief 1413
shall uphold the plan disapproval or reverse it. If the chief 1414
reverses the plan disapproval, the plan shall be deemed approved 1415
under this division. In the event that any person operating or 1416
owning agricultural land or a ~~concentrated~~ an animal feeding 1417
operation in accordance with an approved operation and management 1418
plan who, in good faith, is following that plan, causes 1419
agricultural pollution, the plan shall be revised in a fashion 1420
necessary to mitigate the agricultural pollution, as determined 1421
and approved by the board of supervisors of the soil and water 1422
conservation district. 1423

(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 1454
powers granted in this chapter. 1455

The director of natural resources shall make recommendations 1456
to reduce the adverse environmental effects of each project that a 1457
soil and water conservation district plans to undertake under 1458
division (A), (B), (C), or (D) of this section and that will be 1459
funded in whole or in part by moneys authorized under section 1460
1515.16 of the Revised Code and shall disapprove any such project 1461
that the director finds will adversely affect the environment 1462
without equal or greater benefit to the public. The director's 1463
disapproval or recommendations, upon the request of the district 1464
filed in accordance with rules adopted by the Ohio soil and water 1465
conservation commission, shall be reviewed by the commission, 1466
which may confirm the director's decision, modify it, or add 1467
recommendations to or approve a project the director has 1468
disapproved. 1469

Any instrument by which real property is acquired pursuant to 1470
this section shall identify the agency of the state that has the 1471
use and benefit of the real property as specified in section 1472
5301.012 of the Revised Code. 1473

Sec. 3717.53. (A) As used in this section: 1474

(1) "Food nutrition information" includes, but is not limited 1475
to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, 1476
potassium, protein, vitamin, mineral, allergen, and sodium content 1477
of food. "Food nutrition information" also includes the 1478
designation of food as healthy or unhealthy. 1479

(2) "Political subdivision" and "local legislation" have the 1480
same meanings as in section ~~905.501~~ 905.503 of the Revised Code. 1481

(3) "Consumer incentive item" means any licensed media 1482
character, toy, game, trading card, contest, point accumulation, 1483

club membership, admission ticket, token, code or password for 1484
digital access, coupon, voucher, incentive, crayons, coloring 1485
placemat, or other premium, prize, or consumer product that is 1486
associated with a meal served by or acquired from a food service 1487
operation. 1488

(B) The director of agriculture has sole and exclusive 1489
authority in this state to regulate the provision of food 1490
nutrition information and consumer incentive items at food service 1491
operations. The director may adopt rules for that purpose in 1492
accordance with Chapter 119. of the Revised Code, including rules 1493
that establish a schedule of civil penalties for violations of 1494
this section and rules adopted under it. Subject to the approval 1495
of the joint committee on agency rule review, portions of the 1496
rules may be adopted by referencing all or any part of any federal 1497
regulations pertaining to the provision of food nutrition 1498
information and consumer incentive items. 1499

The regulation of the provision of food nutrition information 1500
and consumer incentive items at food service operations and how 1501
food service operations are characterized are matters of general 1502
statewide interest that require statewide regulation, and rules 1503
adopted under this section constitute a comprehensive plan with 1504
respect to all aspects of the regulation of the provision of food 1505
nutrition information and consumer incentive items at food service 1506
operations in this state. Rules adopted under this section shall 1507
be applied uniformly throughout this state. 1508

(C) No political subdivision shall do any of the following: 1509

(1) Enact, adopt, or continue in effect local legislation 1510
relating to the provision or nonprovision of food nutrition 1511
information or consumer incentive items at food service 1512
operations; 1513

(2) Condition a license, a permit, or regulatory approval on 1514

the provision or nonprovision of food nutrition information or 1515
consumer incentive items at food service operations; 1516

(3) Ban, prohibit, or otherwise restrict food at food service 1517
operations based on the food nutrition information or on the 1518
provision or nonprovision of consumer incentive items; 1519

(4) Condition a license, a permit, or regulatory approval for 1520
a food service operation on the existence or nonexistence of 1521
food-based health disparities; 1522

(5) Where food service operations are permitted to operate, 1523
ban, prohibit, or otherwise restrict a food service operation 1524
based on the existence or nonexistence of food-based health 1525
disparities as recognized by the department of health, the 1526
national institute of health, or the centers for disease control. 1527

Sec. 6111.03. The director of environmental protection may do 1528
any of the following: 1529

(A) Develop plans and programs for the prevention, control, 1530
and abatement of new or existing pollution of the waters of the 1531
state; 1532

(B) Advise, consult, and cooperate with other agencies of the 1533
state, the federal government, other states, and interstate 1534
agencies and with affected groups, political subdivisions, and 1535
industries in furtherance of the purposes of this chapter. Before 1536
adopting, amending, or rescinding a standard or rule pursuant to 1537
division (G) of this section or section 6111.041 or 6111.042 of 1538
the Revised Code, the director shall do all of the following: 1539

(1) Mail notice to each statewide organization that the 1540
director determines represents persons who would be affected by 1541
the proposed standard or rule, amendment thereto, or rescission 1542
thereof at least thirty-five days before any public hearing 1543
thereon; 1544

(2) Mail a copy of each proposed standard or rule, amendment 1545
thereto, or rescission thereof to any person who requests a copy, 1546
within five days after receipt of the request therefor; 1547

(3) Consult with appropriate state and local government 1548
agencies or their representatives, including statewide 1549
organizations of local government officials, industrial 1550
representatives, and other interested persons. 1551

Although the director is expected to discharge these duties 1552
diligently, failure to mail any such notice or copy or to so 1553
consult with any person shall not invalidate any proceeding or 1554
action of the director. 1555

(C) Administer grants from the federal government and from 1556
other sources, public or private, for carrying out any of its 1557
functions, all such moneys to be deposited in the state treasury 1558
and kept by the treasurer of state in a separate fund subject to 1559
the lawful orders of the director; 1560

(D) Administer state grants for the construction of sewage 1561
and waste collection and treatment works; 1562

(E) Encourage, participate in, or conduct studies, 1563
investigations, research, and demonstrations relating to water 1564
pollution, and the causes, prevention, control, and abatement 1565
thereof, that are advisable and necessary for the discharge of the 1566
director's duties under this chapter; 1567

(F) Collect and disseminate information relating to water 1568
pollution and prevention, control, and abatement thereof; 1569

(G) Adopt, amend, and rescind rules in accordance with 1570
Chapter 119. of the Revised Code governing the procedure for 1571
hearings, the filing of reports, the issuance of permits, the 1572
issuance of industrial water pollution control certificates, and 1573
all other matters relating to procedure; 1574

(H) Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:	1575 1576
(1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;	1577 1578
(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;	1579 1580 1581
(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;	1582 1583 1584 1585
(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.	1586 1587 1588
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.	1589 1590 1591 1592 1593 1594 1595 1596 1597 1598
(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;	1599 1600 1601 1602
(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	1603 1604 1605

installation or modification of disposal systems or any parts 1606
thereof in compliance with all requirements of the Federal Water 1607
Pollution Control Act and mandatory regulations adopted 1608
thereunder, including regulations adopted under section 405 of the 1609
Federal Water Pollution Control Act, and set terms and conditions 1610
of permits, including schedules of compliance, where necessary. 1611
Any person who discharges, transports, or handles storm water from 1612
an animal feeding facility, as defined in section 903.01 of the 1613
Revised Code, or pollutants from a concentrated animal feeding 1614
operation, as both terms are defined in that section, is not 1615
required to obtain a permit under division (J)(1) of this section 1616
for the installation or modification of a disposal system 1617
involving pollutants or storm water or any parts of such a system 1618
on and after the date on which the director of agriculture has 1619
finalized the program required under division (A)(1) of section 1620
903.02 of the Revised Code. In addition, any person who 1621
discharges, transports, or handles storm water from an animal 1622
feeding facility, as defined in section 903.01 of the Revised 1623
Code, or pollutants from a concentrated animal feeding operation, 1624
as both terms are defined in that section, is not required to 1625
obtain a permit under division (J)(1) of this section for the 1626
discharge of storm water from an animal feeding facility or 1627
pollutants from a concentrated animal feeding operation on and 1628
after the date on which the United States environmental protection 1629
agency approves the NPDES program submitted by the director of 1630
agriculture under section 903.08 of the Revised Code. 1631

Any permit terms and conditions set by the director shall be 1632
designed to achieve and maintain full compliance with the national 1633
effluent limitations, national standards of performance for new 1634
sources, and national toxic and pretreatment effluent standards 1635
set under that act, and any other mandatory requirements of that 1636
act that are imposed by regulation of the administrator of the 1637
United States environmental protection agency. If an applicant for 1638

a sludge management permit also applies for a related permit for 1639
the discharge of sewage, industrial waste, or other wastes into 1640
the waters of the state, the director may combine the two permits 1641
and issue one permit to the applicant. 1642

A sludge management permit is not required for an entity that 1643
treats or transports sewage sludge or for a sanitary landfill when 1644
all of the following apply: 1645

(a) The entity or sanitary landfill does not generate the 1646
sewage sludge. 1647

(b) Prior to receipt at the sanitary landfill, the entity has 1648
ensured that the sewage sludge meets the requirements established 1649
in rules adopted by the director under section 3734.02 of the 1650
Revised Code concerning disposal of municipal solid waste in a 1651
sanitary landfill. 1652

(c) Disposal of the sewage sludge occurs at a sanitary 1653
landfill that complies with rules adopted by the director under 1654
section 3734.02 of the Revised Code. 1655

As used in division (J)(1) of this section, "sanitary 1656
landfill" means a sanitary landfill facility, as defined in rules 1657
adopted under section 3734.02 of the Revised Code, that is 1658
licensed as a solid waste facility under section 3734.05 of the 1659
Revised Code. 1660

(2) An application for a permit or renewal thereof shall be 1661
denied if any of the following applies: 1662

(a) The secretary of the army determines in writing that 1663
anchorage or navigation would be substantially impaired thereby; 1664

(b) The director determines that the proposed discharge or 1665
source would conflict with an areawide waste treatment management 1666
plan adopted in accordance with section 208 of the Federal Water 1667
Pollution Control Act; 1668

(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 1701
beginning on the date of completion of the construction or 1702
modification of the source, or during the period of depreciation 1703
or amortization of the source for the purpose of section 167 or 1704
169 of the Internal Revenue Code of 1954, whichever period ends 1705
first. 1706

(5) The director shall specify in permits for the discharge 1707
of sewage, industrial waste, and other wastes, the net volume, net 1708
weight, duration, frequency, and, where necessary, concentration 1709
of the sewage, industrial waste, and other wastes that may be 1710
discharged into the waters of the state. The director shall 1711
specify in those permits and in sludge management permits that the 1712
permit is conditioned upon payment of applicable fees as required 1713
by section 3745.11 of the Revised Code and upon the right of the 1714
director's authorized representatives to enter upon the premises 1715
of the person to whom the permit has been issued for the purpose 1716
of determining compliance with this chapter, rules adopted 1717
thereunder, or the terms and conditions of a permit, order, or 1718
other determination. The director shall issue or deny an 1719
application for a sludge management permit or a permit for a new 1720
discharge, for the installation or modification of a disposal 1721
system, or for the renewal of a permit, within one hundred eighty 1722
days of the date on which a complete application with all plans, 1723
specifications, construction schedules, and other pertinent 1724
information required by the director is received. 1725

(6) The director may condition permits upon the installation 1726
of discharge or water quality monitoring equipment or devices and 1727
the filing of periodic reports on the amounts and contents of 1728
discharges and the quality of receiving waters that the director 1729
prescribes. The director shall condition each permit for a 1730
government-owned disposal system or any other "treatment works" as 1731
defined in the Federal Water Pollution Control Act upon the 1732

reporting of new introductions of industrial waste or other wastes 1733
and substantial changes in volume or character thereof being 1734
introduced into those systems or works from "industrial users" as 1735
defined in section 502 of that act, as necessary to comply with 1736
section 402(b)(8) of that act; upon the identification of the 1737
character and volume of pollutants subject to pretreatment 1738
standards being introduced into the system or works; and upon the 1739
existence of a program to ensure compliance with pretreatment 1740
standards by "industrial users" of the system or works. In 1741
requiring monitoring devices and reports, the director, to the 1742
extent consistent with the Federal Water Pollution Control Act, 1743
shall give consideration to technical feasibility and economic 1744
reasonableness and shall allow reasonable time for compliance. 1745

(7) A permit may be issued for a period not to exceed five 1746
years and may be renewed upon application for renewal. In renewing 1747
a permit, the director shall consider the compliance history of 1748
the permit holder and may deny the renewal if the director 1749
determines that the permit holder has not complied with the terms 1750
and conditions of the existing permit. A permit may be modified, 1751
suspended, or revoked for cause, including, but not limited to, 1752
violation of any condition of the permit, obtaining a permit by 1753
misrepresentation or failure to disclose fully all relevant facts 1754
of the permitted discharge or of the sludge use, storage, 1755
treatment, or disposal practice, or changes in any condition that 1756
requires either a temporary or permanent reduction or elimination 1757
of the permitted activity. No application shall be denied or 1758
permit revoked or modified without a written order stating the 1759
findings upon which the denial, revocation, or modification is 1760
based. A copy of the order shall be sent to the applicant or 1761
permit holder by certified mail. 1762

(K) Institute or cause to be instituted in any court of 1763
competent jurisdiction proceedings to compel compliance with this 1764

chapter or with the orders of the director issued under this 1765
chapter, or to ensure compliance with sections 204(b), 307, 308, 1766
and 405 of the Federal Water Pollution Control Act; 1767

(L) Issue, deny, revoke, or modify industrial water pollution 1768
control certificates; 1769

(M) Certify to the government of the United States or any 1770
agency thereof that an industrial water pollution control facility 1771
is in conformity with the state program or requirements for the 1772
control of water pollution whenever the certification may be 1773
required for a taxpayer under the Internal Revenue Code of the 1774
United States, as amended; 1775

(N) Issue, modify, and revoke orders requiring any 1776
"industrial user" of any publicly owned "treatment works" as 1777
defined in sections 212(2) and 502(18) of the Federal Water 1778
Pollution Control Act to comply with pretreatment standards; 1779
establish and maintain records; make reports; install, use, and 1780
maintain monitoring equipment or methods, including, where 1781
appropriate, biological monitoring methods; sample discharges in 1782
accordance with methods, at locations, at intervals, and in a 1783
manner that the director determines; and provide other information 1784
that is necessary to ascertain whether or not there is compliance 1785
with toxic and pretreatment effluent standards. In issuing, 1786
modifying, and revoking those orders, the director, to the extent 1787
consistent with the Federal Water Pollution Control Act, shall 1788
give consideration to technical feasibility and economic 1789
reasonableness and shall allow reasonable time for compliance. 1790

(O) Exercise all incidental powers necessary to carry out the 1791
purposes of this chapter; 1792

(P) Certify or deny certification to any applicant for a 1793
federal license or permit to conduct any activity that may result 1794
in any discharge into the waters of the state that the discharge 1795

will comply with the Federal Water Pollution Control Act;	1796
(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:	1797
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	1800
(1) Apply and enforce pretreatment standards;	1801
(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:	1802
	1803
	1804
	1805
(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;	1806
	1807
(b) The director has revoked the publicly owned treatment works pretreatment program;	1808
	1809
(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;	1810
	1811
(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.	1812
	1813
	1814
(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;	1815
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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;	1821
	1822
	1823
(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;	1824
	1825

(6) Make determinations on categorization of industrial users;	1826 1827
(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.	1828 1829 1830
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.	1831 1832 1833 1834
(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.	1835 1836 1837 1838 1839 1840 1841 1842 1843 1844 1845 1846
(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:	1847 1848 1849 1850 1851
(a) Develop plans and programs for the disposal and utilization of sludge and sludge materials;	1852 1853
(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	1854 1855 1856

sludge and sludge materials on land located in the state and on 1857
the air and waters of the state; 1858

(c) Collect and disseminate information relating to the 1859
disposal and use of sludge and sludge materials and the impact of 1860
sludge and sludge materials on land located in the state and on 1861
the air and waters of the state; 1862

(d) Issue, modify, or revoke orders to prevent, control, or 1863
abate the use and disposal of sludge and sludge materials or the 1864
effects of the use of sludge and sludge materials on land located 1865
in the state and on the air and waters of the state; 1866

(e) Adopt and enforce, modify, or rescind rules necessary for 1867
the implementation of division (S) of this section. The rules 1868
reasonably shall protect public health and the environment, 1869
encourage the beneficial reuse of sludge and sludge materials, and 1870
minimize the creation of nuisance odors. 1871

The director may specify in sludge management permits the net 1872
volume, net weight, quality, and pollutant concentration of the 1873
sludge or sludge materials that may be used, stored, treated, or 1874
disposed of, and the manner and frequency of the use, storage, 1875
treatment, or disposal, to protect public health and the 1876
environment from adverse effects relating to those activities. The 1877
director shall impose other terms and conditions to protect public 1878
health and the environment, minimize the creation of nuisance 1879
odors, and achieve compliance with this chapter and rules adopted 1880
under it and, in doing so, shall consider whether the terms and 1881
conditions are consistent with the goal of encouraging the 1882
beneficial reuse of sludge and sludge materials. 1883

The director may condition permits on the implementation of 1884
treatment, storage, disposal, distribution, or application 1885
management methods and the filing of periodic reports on the 1886
amounts, composition, and quality of sludge and sludge materials 1887

that are disposed of, used, treated, or stored. 1888

An approval of a treatment works sludge disposal program may 1889
contain any terms and conditions, including schedules of 1890
compliance, necessary to achieve compliance with this chapter and 1891
rules adopted under it. 1892

(2) As a part of the program established under division 1893
(S)(1) of this section, the director has exclusive authority to 1894
regulate sewage sludge management in this state. For purposes of 1895
division (S)(2) of this section, that program shall be consistent 1896
with section 405 of the Federal Water Pollution Control Act and 1897
regulations adopted under it and with this section, except that 1898
the director may adopt rules under division (S) of this section 1899
that establish requirements that are more stringent than section 1900
405 of the Federal Water Pollution Control Act and regulations 1901
adopted under it with regard to monitoring sewage sludge and 1902
sewage sludge materials and establishing acceptable sewage sludge 1903
management practices and pollutant levels in sewage sludge and 1904
sewage sludge materials. 1905

This chapter authorizes the state to participate in any 1906
national sludge management program and the national pollutant 1907
discharge elimination system, to administer and enforce the 1908
publicly owned treatment works pretreatment program, and to issue 1909
permits for the discharge of dredged or fill materials, in 1910
accordance with the Federal Water Pollution Control Act. This 1911
chapter shall be administered, consistent with the laws of this 1912
state and federal law, in the same manner that the Federal Water 1913
Pollution Control Act is required to be administered. 1914

This section does not apply to ~~animal waste~~ residual farm 1915
products and manure disposal systems and related management and 1916
conservation practices subject to rules adopted pursuant to 1917
division (E)~~(4)~~(1) of section 1511.02 of the Revised Code. For 1918
purposes of this exclusion, "residual farm products" and "manure" 1919

have the same meanings as in section 1511.01 of the Revised Code. 1920
However, until the date on which the United States environmental 1921
protection agency approves the NPDES program submitted by the 1922
director of agriculture under section 903.08 of the Revised Code, 1923
this exclusion does not apply to animal waste treatment works 1924
having a controlled direct discharge to the waters of the state or 1925
any concentrated animal feeding operation, as defined in 40 C.F.R. 1926
122.23(b)(2). On and after the date on which the United States 1927
environmental protection agency approves the NPDES program 1928
submitted by the director of agriculture under section 903.08 of 1929
the Revised Code, this section does not apply to storm water from 1930
an animal feeding facility, as defined in section 903.01 of the 1931
Revised Code, or to pollutants discharged from a concentrated 1932
animal feeding operation, as both terms are defined in that 1933
section. Neither of these exclusions applies to the discharge of 1934
animal waste into a publicly owned treatment works. 1935

Sec. 6111.04. (A) Both of the following apply except as 1936
otherwise provided in division (A) or (F) of this section: 1937

(1) No person shall cause pollution or place or cause to be 1938
placed any sewage, sludge, sludge materials, industrial waste, or 1939
other wastes in a location where they cause pollution of any 1940
waters of the state. 1941

(2) Such an action prohibited under division (A)(1) of this 1942
section is hereby declared to be a public nuisance. 1943

Divisions (A)(1) and (2) of this section do not apply if the 1944
person causing pollution or placing or causing to be placed wastes 1945
in a location in which they cause pollution of any waters of the 1946
state holds a valid, unexpired permit, or renewal of a permit, 1947
governing the causing or placement as provided in sections 6111.01 1948
to 6111.08 of the Revised Code or if the person's application for 1949
renewal of such a permit is pending. 1950

(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: 1982

(1) Waters used in washing sand, gravel, other aggregates, or 1983
mineral products when the washing and the ultimate disposal of the 1984
water used in the washing, including any sewage, industrial waste, 1985
or other wastes contained in the waters, are entirely confined to 1986
the land under the control of the person engaged in the recovery 1987
and processing of the sand, gravel, other aggregates, or mineral 1988
products and do not result in the pollution of waters of the 1989
state; 1990

(2) Water, gas, or other material injected into a well to 1991
facilitate, or that is incidental to, the production of oil, gas, 1992
artificial brine, or water derived in association with oil or gas 1993
production and disposed of in a well, in compliance with a permit 1994
issued under Chapter 1509. of the Revised Code, or sewage, 1995
industrial waste, or other wastes injected into a well in 1996
compliance with an injection well operating permit. Division 1997
(F)(2) of this section does not authorize, without a permit, any 1998
discharge that is prohibited by, or for which a permit is required 1999
by, regulation of the United States environmental protection 2000
agency. 2001

(3) Application of any materials to land for agricultural 2002
purposes or runoff of the materials from that application or 2003
pollution by ~~animal waste~~ residual farm products, manure, or soil 2004
sediment, including attached substances, resulting from farming, 2005
silvicultural, or earthmoving activities regulated by Chapter 307. 2006
or 1511. of the Revised Code. Division (F)(3) of this section does 2007
not authorize, without a permit, any discharge that is prohibited 2008
by, or for which a permit is required by, the Federal Water 2009
Pollution Control Act or regulations adopted under it. As used in 2010
division (F)(3) of this section, "residual farm products" and 2011
"manure" have the same meanings as in section 1511.01 of the 2012
Revised Code. 2013

(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 2045
for a discharge authorized by the permit until its expiration 2046
date. Except as otherwise provided in this division, the director 2047
of environmental protection shall administer and enforce those 2048
permits within this state and may modify their terms and 2049
conditions in accordance with division (J) of section 6111.03 of 2050
the Revised Code. On and after the date on which the United States 2051
environmental protection agency approves the NPDES program 2052
submitted by the director of agriculture under section 903.08 of 2053
the Revised Code, the director of agriculture shall administer and 2054
enforce those permits within this state that are issued for any 2055
discharge that is within the scope of the approved NPDES program 2056
submitted by the director of agriculture. 2057

Sec. 6111.44. (A) Except as otherwise provided in division 2058
(B) of this section, in section 6111.14 of the Revised Code, or in 2059
rules adopted under division (G) of section 6111.03 of the Revised 2060
Code, no municipal corporation, county, public institution, 2061
corporation, or officer or employee thereof or other person shall 2062
provide or install sewerage or treatment works for sewage, sludge, 2063
or sludge materials disposal or treatment or make a change in any 2064
sewerage or treatment works until the plans therefor have been 2065
submitted to and approved by the director of environmental 2066
protection. Sections 6111.44 to 6111.46 of the Revised Code apply 2067
to sewerage and treatment works of a municipal corporation or part 2068
thereof, an unincorporated community, a county sewer district, or 2069
other land outside of a municipal corporation or any publicly or 2070
privately owned building or group of buildings or place, used for 2071
the assemblage, entertainment, recreation, education, correction, 2072
hospitalization, housing, or employment of persons. 2073

In granting an approval, the director may stipulate 2074
modifications, conditions, and rules that the public health and 2075
prevention of pollution may require. Any action taken by the 2076

director shall be a matter of public record and shall be entered 2077
in the director's journal. Each period of thirty days that a 2078
violation of this section continues, after a conviction for the 2079
violation, constitutes a separate offense. 2080

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

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

(2) Sewerage systems, treatment works, or disposal systems 2085
for storm water from an animal feeding facility or manure, as 2086
"animal feeding facility" and "manure" are defined in section 2087
903.01 of the Revised Code; 2088

(3) ~~Animal waste~~ Residual farm products and manure treatment 2089
or disposal works and related management and conservation 2090
practices that are subject to rules adopted under division 2091
(E)~~(2)~~(1) of section 1511.02 of the Revised Code~~.~~ As used in 2092
division (B)(3) of this section, "residual farm products" and 2093
"manure" have the same meanings as in section 1511.01 of the 2094
Revised Code. 2095

(4) Sewerage or treatment works for the on-lot disposal or 2096
treatment of sewage from a small flow on-site sewage treatment 2097
system, as defined in section 3718.01 of the Revised Code, if the 2098
board of health of a city or general health district has notified 2099
the director of health and the director of environmental 2100
protection under section 3718.021 of the Revised Code that the 2101
board has chosen to regulate the system, provided that the board 2102
remains in compliance with the rules adopted under division 2103
(A)(13) of section 3718.02 of the Revised Code. 2104

The exclusions established in divisions (B)(2) and (3) of 2105
this section do not apply to the construction or installation of 2106
disposal systems, as defined in section 6111.01 of the Revised 2107

Code, that are located at an animal feeding facility and that 2108
store, treat, or discharge wastewaters that do not include storm 2109
water or manure or that discharge to a publicly owned treatment 2110
works. 2111

Section 2. That existing sections 903.25, 905.31, 905.32, 2112
905.34, 905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 2113
905.49, 905.50, 905.501, 905.99, 907.111, 1511.01, 1511.02, 2114
1511.021, 1511.07, 1511.071, 1515.01, 1515.02, 1515.08, 3717.53, 2115
6111.03, 6111.04, and 6111.44 of the Revised Code are hereby 2116
repealed. 2117

Section 3. (A) In accordance with the amendment of section 2118
1515.02 of the Revised Code by this act, the Governor shall 2119
appoint two additional members to the Ohio Soil and Water 2120
Conservation Commission established in that section, as amended by 2121
this act, not later than thirty days after the effective date of 2122
this section as follows: 2123

(1) One member shall be appointed for a term ending June 30, 2124
2015. 2125

(2) One member shall be appointed for a term ending June 30, 2126
2016. 2127

Thereafter, terms of office for the additional members shall 2128
be for four years, each term ending on the same day of the same 2129
month of the year as did the term that it succeeds. Those 2130
additional members may be reappointed in accordance with section 2131
1515.02 of the Revised Code, as amended by this act. 2132

(B) The Soil and Water Conservation Commission established in 2133
section 1515.02 of the Revised Code, as amended by this act, is a 2134
continuation of the Soil and Water Conservation Commission 2135
established in that section prior to its amendment by this act. 2136

Section 4. Until such time as rules adopted under section 2137
905.322 of the Revised Code as enacted by this act are final, the 2138
Director of Agriculture shall authorize applicants for commercial 2139
and private pesticide applicator licenses to obtain additional 2140
training and temporary certification in fertilizer application 2141
simultaneously with pesticide application training at no 2142
additional cost. 2143

Section 5. The Director of Natural Resources shall identify 2144
any unexpended funds previously appropriated to soil and water 2145
conservation districts that are related to the Conservation 2146
Reserve Enhancement Program. The Director shall determine the 2147
amount of such funds necessary for programs, practices, and other 2148
activities, other than permitting, related to nutrient reduction 2149
in Lake Erie, including nutrients associated with open lake 2150
disposal of dredge material. The amounts so identified by the 2151
Director shall be retained by the districts for the purposes 2152
stated above. Any amounts of the unexpended funds that are not 2153
retained by the districts under this section shall be transferred 2154
to the General Revenue Fund and are hereby appropriated in 2155
appropriation item 725505, Healthy Lake Erie Fund, and shall be 2156
used for the purposes of that appropriation item related to open 2157
lake disposal of dredge material in Lake Erie. 2158