

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 1**

**Senators Gardner, Peterson  
Cosponsors: Senators Hite, LaRose, Eklund**

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**A BILL**

To amend sections 901.22, 903.082, 903.25, 941.14, 1  
953.22, 1511.01, 1511.02, 1511.021, 1511.022, 2  
1511.023, 1511.05, 1511.07, 1511.99, 1515.01, 3  
1515.08, 3734.02, 3734.029, 3745.70, 6109.10, 4  
6111.03, 6111.04, 6111.44, 6112.01, and 6112.03; 5  
to amend, for the purpose of adopting a new 6  
section number as indicated in parentheses, 7  
section 1511.022 (939.04); to enact sections 8  
905.326, 905.327, 939.01, 939.02, 939.03, 9  
939.05, 939.06, 939.07, 939.08, 939.09, 939.10, 10  
939.11, 939.12, 939.13, 1511.024, 1511.09, 11  
3745.50, 6111.32, and 6112.06; and to repeal 12  
section 1511.071 of the Revised Code and to 13  
amend Section 333.30 of Am. Sub. H.B. 59 of the 14  
130th General Assembly to transfer the 15  
administration and enforcement of the 16  
Agricultural Pollution Abatement Program from 17  
the Department of Natural Resources to the 18  
Department of Agriculture, to require 19  
applicators of fertilizer or manure to comply 20  
with specified requirements, to create the 21  
Office of Harmful Algae Management and Response 22  
in the Environmental Protection Agency, to 23  
establish requirements governing dredged 24

material, nutrient loading, phosphorous testing 25  
by publicly owned treatment works, and household 26  
sewage treatment systems, and to declare an 27  
emergency. 28

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

**Section 1.** That sections 901.22, 903.082, 903.25, 941.14, 29  
953.22, 1511.01, 1511.02, 1511.021, 1511.023, 1511.05, 1511.07, 30  
1511.99, 1515.01, 1515.08, 3734.02, 3734.029, 3745.70, 6109.10, 31  
6111.03, 6111.04, 6111.44, 6112.01, and 6112.03 be amended; 32  
section 1511.022 (939.04) be amended for the purpose of adopting 33  
a new section number as shown in parentheses; and sections 34  
905.326, 905.327, 939.01, 939.02, 939.03, 939.05, 939.06, 35  
939.07, 939.08, 939.09, 939.10, 939.11, 939.12, 939.13, 36  
1511.024, 1511.09, 3745.50, 6111.32, and 6112.06 of the Revised 37  
Code be enacted to read as follows: 38

**Sec. 901.22.** (A) The director of agriculture, in 39  
accordance with Chapter 119. of the Revised Code, shall adopt 40  
rules that do all of the following: 41

(1) Establish procedures and eligibility criteria for 42  
making matching grants to municipal corporations, counties, 43  
townships, soil and water conservation districts established 44  
under Chapter 1515. of the Revised Code, and charitable 45  
organizations described in division (B) of section 5301.69 of 46  
the Revised Code for the purchase of agricultural easements. 47  
With respect to agricultural easements that are purchased or 48  
proposed to be purchased with such matching grants that consist 49  
in whole or in part of moneys from the clean Ohio agricultural 50

easement fund created in section 901.21 of the Revised Code, the	51
rules shall establish all of the following:	52
(a) Procedures for all of the following:	53
(i) Soliciting and accepting applications for matching	54
grants;	55
(ii) Participation by local governments and by the public	56
in the process of making matching grants to charitable	57
organizations;	58
(iii) Notifying local governments, charitable	59
organizations, and organizations that represent the interests of	60
farmers of the ranking system established in rules adopted under	61
division (A) (1) (b) of this section.	62
(b) A ranking system for applications for the matching	63
grants that is based on the soil type, proximity of the land or	64
other land that is conducive to agriculture as defined by rules	65
adopted under this section and that is the subject of an	66
application to other agricultural land or other land that is	67
conducive to agriculture as defined by rules adopted under this	68
section and that is already or is in the process of becoming	69
permanently protected from development, farm stewardship,	70
development pressure, and, if applicable, a local comprehensive	71
land use plan involved with a proposed agricultural easement.	72
The rules shall require that preference be given to proposed	73
agricultural easements that involve the greatest proportion of	74
all of the following:	75
(i) Prime soils, unique or locally important soils,	76
microclimates, or similar features;	77
(ii) Land that is adjacent to or that is in close	78
proximity to other agricultural land or other land that is	79

conducive to agriculture as defined by rules adopted under this 80  
section and that is already or is in the process of becoming 81  
permanently protected from development, by agricultural easement 82  
or otherwise, so that a buffer would exist between the land 83  
involving the proposed agricultural easement and areas that have 84  
been developed or likely will be developed for purposes other 85  
than agriculture; 86

(iii) The use of best management practices, including 87  
federally or state approved conservation plans, and a history of 88  
substantial compliance with applicable federal and state laws; 89

(iv) Development pressure that is imminent, but not a 90  
result of current location in the direct path of urban 91  
development; 92

(v) Areas identified for agricultural protection in local 93  
comprehensive land use plans. 94

(c) Any other criteria that the director determines are 95  
necessary for selecting applications for matching grants; 96

(d) Requirements regarding the information that must be 97  
included in the annual monitoring report that must be prepared 98  
for an agricultural easement under division (E)(2) of section 99  
5301.691 of the Revised Code, procedures for submitting a copy 100  
of the report to the office of farmland preservation in the 101  
department of agriculture, and requirements and procedures 102  
governing corrective actions that may be necessary to enforce 103  
the terms of the agricultural easement. 104

(2) Establish provisions that shall be included in the 105  
instrument conveying to a municipal corporation, county, 106  
township, soil and water conservation district, or charitable 107  
organization any agricultural easement purchased with matching 108

grant funds provided by the director under this section, 109  
including, without limitation, all of the following provisions: 110

(a) A provision stating that an easement so purchased may 111  
be extinguished only if an unexpected change in the conditions 112  
of or surrounding the land that is subject to the easement makes 113  
impossible or impractical the continued use of the land for the 114  
purposes described in the easement, or if the requirements of 115  
the easement are extinguished by judicial proceedings; 116

(b) A provision requiring that, upon the sale, exchange, 117  
or involuntary conversion of the land subject to the easement, 118  
the holder of the easement shall be paid an amount of money that 119  
is at least equal to the proportionate value of the easement 120  
compared to the total value of the land at the time the easement 121  
was acquired; 122

(c) A provision requiring that, upon receipt of the 123  
portion of the proceeds of a sale, exchange, or involuntary 124  
conversion described in division (A) (2) (b) of this section, the 125  
municipal corporation, county, township, soil and water 126  
conservation district, or charitable organization remit to the 127  
director an amount of money equal to the percentage of the cost 128  
of purchasing the easement it received as a matching grant under 129  
this section. 130

Moneys received by the director pursuant to rules adopted 131  
under division (A) (2) (c) of this section shall be credited to 132  
the agricultural easement purchase fund created in section 133  
901.21 of the Revised Code. 134

(3) Establish a provision that provides a charitable 135  
organization, municipal corporation, township, county, or soil 136  
and water conservation district with the option of purchasing 137

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

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

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

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

(D) (1) The director may make matching grants from the agricultural easement purchase fund and the clean Ohio agricultural easement fund to municipal corporations, counties,

townships, soil and water conservation districts, and charitable 168  
organizations to assist those political subdivisions and 169  
charitable organizations in purchasing agricultural easements. 170  
Application for a matching grant shall be made on forms 171  
prescribed and provided by the director. The matching grants 172  
shall be made in compliance with the criteria and procedures 173  
established in rules adopted under this section. Instruments 174  
conveying agricultural easements purchased with matching grant 175  
funds provided under this section, at a minimum, shall include 176  
the mandatory provisions set forth in those rules. 177

Matching grants made under this division using moneys from 178  
the clean Ohio agricultural easement fund created in section 179  
901.21 of the Revised Code may provide up to seventy-five per 180  
cent of the value of an agricultural easement as determined by a 181  
general real estate appraiser who is certified under Chapter 182  
4763. of the Revised Code or as determined through a points- 183  
based appraisal system established under division (D) (2) of this 184  
section. Not less than twenty-five per cent of the value of the 185  
agricultural easement shall be provided by the recipient of the 186  
matching grant or donated by the person who is transferring the 187  
easement to the grant recipient. The amount of such a matching 188  
grant used for the purchase of a single agricultural easement 189  
shall not exceed one million dollars. 190

(2) The director shall establish a points-based appraisal 191  
system for the purposes of division (D) (1) of this section. The 192  
director may include any or all of the following factors in the 193  
system: 194

(a) Whether the applicable county auditor has determined 195  
that the land is land that is devoted exclusively to agriculture 196  
for the purposes of sections 5713.30 to 5713.38 of the Revised 197

Code;	198
(b) Changes in land values following the completion of the applicable county auditor's reappraisal or triennial update;	199 200
(c) Soil types and productivity;	201
(d) Proximity of the land to land that is already subject to an agricultural easement, conservation easement created under sections 5301.67 to 5301.70 of the Revised Code, or similar land-use limitation;	202 203 204 205
(e) Proximity of the land to water and sewer lines, road interchanges, and nonagricultural development;	206 207
(f) Parcel size and roadway frontage of the land;	208
(g) Existence of an agreement entered into under division (D) of section 1515.08 of the Revised Code or of an operation and management plan developed under division (A) of section 1511.021 of the Revised Code, <u>as applicable</u> ;	209 210 211 212
(h) <u>Existence of a nutrient utilization plan developed under division (A) of section 939.03 of the Revised Code, as applicable</u> ;	213 214 215
<u>(i)</u> Existence of a comprehensive plan that is adopted under section 303.02 or 519.02 of the Revised Code or that is adopted by the planning commission of a municipal corporation under section 713.06 of the Revised Code;	216 217 218 219
<del>(i)</del> <u>(j)</u> Any other factors that the director determines are necessary for inclusion in the system.	220 221
(E) An agricultural easement acquired as a result of a matching grant awarded under division (D) of this section may include a provision to preserve a unique natural or physical	222 223 224



feature on the land so long as the use of the land remains 225  
predominantly agricultural. 226

(F) For any agricultural easement purchased with a 227  
matching grant that consists in whole or in part of moneys from 228  
the clean Ohio agricultural easement fund, the director shall be 229  
named as a grantee on the instrument conveying the easement, as 230  
shall the municipal corporation, county, township, soil and 231  
water conservation district, or charitable organization that 232  
receives the grant. 233

(G) (1) The director shall monitor and evaluate the 234  
effectiveness and efficiency of the agricultural easement 235  
program as a farmland preservation tool. On or before July 1, 236  
1999, and the first day of July of each year thereafter, the 237  
director shall prepare and submit a report to the chairpersons 238  
of the standing committees of the senate and the house of 239  
representatives that consider legislation regarding agriculture. 240  
The report shall consider and address the following criteria to 241  
determine the program's effectiveness: 242

(a) The number of agricultural easements purchased during 243  
the preceding year; 244

(b) The location of those easements; 245

(c) The number of acres of land preserved for agricultural 246  
use; 247

(d) The amount of money used by a municipal corporation, 248  
township, county, or soil and water conservation district from 249  
any fund to purchase the agricultural easements; 250

(e) The number of state matching grants given to purchase 251  
the agricultural easements; 252

(f) The amount of state matching grant moneys used to purchase the agricultural easements. 253  
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(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency: 255  
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(a) The total number of acres in the county; 258

(b) The total number of acres in current agricultural use; 259

(c) The total number of acres preserved for agricultural use in the preceding year; 260  
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(d) The average cost, per acre, of land preserved for agricultural use in the preceding year. 262  
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**Sec. 903.082.** (A) The director of agriculture may determine that an animal feeding facility that is not a concentrated animal feeding facility nevertheless shall be required to apply for and receive a permit to operate when all of the following apply: 264  
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(1) The director has ~~received from the chief of the division of soil and water resources in the department of natural resources a copy of an order issued specified a corrective action to be taken under section 1511.02939.09 of the Revised Code that specifies that the animal feeding facility has caused agricultural pollution by failure to comply with standards established under that section and that the animal feeding facility therefore should be required to be permitted as a concentrated animal feeding facility.~~ 269  
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(2) The director or the director's authorized representative has inspected the animal feeding facility. 278  
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(3) The director or the director's authorized 280

representative finds that the facility is not being operated in 281  
a manner that protects the waters of the state. 282

(B) In a situation in which best management practices 283  
cannot be implemented without modifying the existing animal 284  
feeding facility, the owner or operator of the facility shall 285  
apply for a permit to install for the facility. 286

(C) In the case of an animal feeding facility for which a 287  
permit to operate is required under this section, a permit to 288  
operate shall not be required after the end of the five-year 289  
term of the permit if the problems that caused the facility to 290  
be required to obtain the permit have been corrected to the 291  
director's satisfaction. 292

**Sec. 903.25.** An owner or operator of an animal feeding 293  
facility who holds a permit to install, a permit to operate, a 294  
review compliance certificate, or a NPDES permit or who is 295  
operating under ~~an operation and management~~ a nutrient 296  
utilization plan, as defined in section ~~1511.01~~939.01 of the 297  
Revised Code, developed or approved by the ~~chief of the division~~ 298  
~~of soil and water resources in the department of natural~~ 299  
~~resources~~ director of agriculture or the director's designee 300  
under section ~~1511.02~~939.02 of the Revised Code or by the 301  
supervisors of the appropriate soil and water conservation 302  
district under section 1515.08 of the Revised Code shall not be 303  
required by any political subdivision of the state or any 304  
officer, employee, agency, board, commission, department, or 305  
other instrumentality of a political subdivision to obtain a 306  
license, permit, or other approval pertaining to manure, insects 307  
or rodents, odor, or siting requirements for installation of an 308  
animal feeding facility. 309

**Sec. 905.326.** (A) Except as provided in division (B) of 310

this section, no person in the western basin shall surface apply 311  
fertilizer under any of the following circumstances: 312

(1) On snow-covered or frozen soil; 313

(2) When the top two inches of soil are saturated from 314  
precipitation; 315

(3) When the local weather forecast for the application 316  
area contains greater than a fifty per cent chance of 317  
precipitation exceeding one-half inch in a twenty-four-hour 318  
period. 319

(B) Division (A) of this section does not apply if a 320  
person in the western basin applies fertilizer under any of the 321  
following circumstances: 322

(1) The fertilizer application is injected into the 323  
ground. 324

(2) The fertilizer application is incorporated within 325  
twenty-four hours of surface application. 326

(3) The fertilizer application is applied onto a growing 327  
crop. 328

(4) The fertilizer application consists of potash or 329  
gypsum. 330

(5) In the event of an emergency, the director of 331  
agriculture or the director's designee provides written consent 332  
and the fertilizer application is made in accordance with 333  
procedures established in the United States department of 334  
agriculture natural resources conservation service practice 335  
standard code 590 prepared for this state. 336

(C) (1) Upon receiving a complaint by any person or upon 337

receiving information that would indicate a violation of this 338  
section, the director or the director's designee may investigate 339  
or make inquiries into any alleged failure to comply with this 340  
section. 341

(2) After receiving a complaint by any person or upon 342  
receiving information that would indicate a violation of this 343  
section, the director or the director's designee may enter at 344  
reasonable times on any private or public property to inspect 345  
and investigate conditions relating to any such alleged failure 346  
to comply with this section. 347

(3) If an individual denies access to the director or the 348  
director's designee, the director may apply to a court of 349  
competent jurisdiction in the county in which the premises is 350  
located for a search warrant authorizing access to the premises 351  
for the purposes of this section. 352

(4) The court shall issue the search warrant for the 353  
purposes requested if there is probable cause to believe that 354  
the person is not in compliance with this section. The finding 355  
of probable cause may be based on hearsay, provided that there 356  
is a reasonable basis for believing that the source of the 357  
hearsay is credible. 358

(D) This section does not affect any restrictions 359  
established in Chapter 903. of the Revised Code or otherwise 360  
apply to those entities or facilities that are permitted as 361  
concentrated animal feeding facilities under that chapter. 362

(E) As used in this section and section 905.327 of the 363  
Revised Code, "western basin" means land in the state that is 364  
located in the following watersheds identified by the specified 365  
United States geological survey hydrologic unit code: 366

<u>(1) St. Marys watershed, hydrologic unit code 04100004;</u>	367
<u>(2) Au Glaize watershed, hydrologic unit code 04100007;</u>	368
<u>(3) Blanchard watershed, hydrologic unit code 04100008;</u>	369
<u>(4) Sandusky watershed, hydrologic unit code 04100011;</u>	370
<u>(5) Cedar-Portage watershed, hydrologic unit code</u> <u>04100010;</u>	371 372
<u>(6) Lower Maumee watershed, hydrologic unit code 04100009;</u>	373
<u>(7) Upper Maumee watershed, hydrologic unit code 04100005;</u>	374
<u>(8) Tiffin watershed, hydrologic unit code 04100006;</u>	375
<u>(9) St. Joseph watershed, hydrologic unit code 04100003;</u>	376
<u>(10) Ottawa watershed, hydrologic unit code 04100001;</u>	377
<u>(11) River Raisin watershed, hydrologic unit code</u> <u>04100002.</u>	378 379
<u><b>Sec. 905.327.</b> (A) The director of agriculture may assess a</u>	380
<u>civil penalty against a person that violates section 905.326 of</u>	381
<u>the Revised Code. The director may impose a civil penalty only</u>	382
<u>if the director affords the person an opportunity for an</u>	383
<u>adjudication hearing under Chapter 119. of the Revised Code to</u>	384
<u>challenge the director's determination that the person violated</u>	385
<u>section 905.326 of the Revised Code. The person may waive the</u>	386
<u>right to an adjudication hearing.</u>	387
<u>(B) If the opportunity for an adjudication hearing is</u>	388
<u>waived or if, after an adjudication hearing, the director</u>	389
<u>determines that a violation has occurred or is occurring, the</u>	390
<u>director may issue an order requiring compliance with section</u>	391
<u>905.326 of the Revised Code and assess the civil penalty. The</u>	392
<u>order and the assessment of the civil penalty may be appealed in</u>	393

accordance with section 119.12 of the Revised Code. 394

(C) A person that has violated section 905.326 of the 395  
Revised Code shall pay a civil penalty in an amount established 396  
in rules. Each thirty-day period during which a violation 397  
continues constitutes a separate violation. 398

(D) The director shall adopt rules in accordance with 399  
Chapter 119. of the Revised Code that establish the amount of 400  
the civil penalty assessed under this section. The civil penalty 401  
shall not be more than ten thousand dollars for each violation. 402

(E) For purposes of this section, "rule" means a rule 403  
adopted under division (D) of this section. 404

**Sec. 939.01. As used in this chapter:** 405

(A) "Conservation" means the wise use and management of 406  
natural resources. 407

(B) "Pollution abatement practice" means any residual farm 408  
products or manure pollution abatement facility, structure, or 409  
procedure and the operation and management associated with it as 410  
contained in nutrient utilization plans. 411

(C) "Agricultural pollution" means failure to use 412  
management or conservation practices in farming operations to 413  
abate the degradation of the waters of the state by residual 414  
farm products or manure, including attached substances. 415

(D) "Waters of the state" means all streams, lakes, ponds, 416  
wetlands, watercourses, waterways, wells, springs, irrigation 417  
systems, drainage systems, and all other bodies or accumulations 418  
of water, surface and underground, natural or artificial, 419  
regardless of the depth of the strata in which underground water 420  
is located, that are situated wholly or partly within, or border 421

on, this state or are within its jurisdiction, except those 422  
private waters that do not combine or effect a junction with 423  
natural surface or underground waters. 424

(E) "Nutrient utilization plan" means a written record, 425  
developed or approved by the director of agriculture, the 426  
director's designee, or the board of supervisors of a soil and 427  
water conservation district, for the owner or operator of 428  
agricultural land or an animal feeding operation that contains 429  
both of the following: 430

(1) Implementation schedules and operational procedures 431  
for a level of management and pollution abatement practices that 432  
will abate the degradation of the waters of the state by 433  
residual farm products and manure, including attached 434  
pollutants; 435

(2) Best management practices that are to be used by the 436  
owner or operator. 437

(F) "Residual farm products" means bedding, wash waters, 438  
waste feed, and silage drainage. "Residual farm products" also 439  
includes the compost products resulting from the composting of 440  
dead animals in operations subject to section 939.04 of the 441  
Revised Code when either of the following applies: 442

(1) The composting is conducted by the person who raises 443  
the animals and the compost product is used in agricultural 444  
operations owned or operated by that person regardless of 445  
whether the person owns the animals. 446

(2) The composting is conducted by the person who owns the 447  
animals, but does not raise them and the compost product is used 448  
in agricultural operations either by a person who raises the 449  
animals or by a person who raises grain that is used to feed 450



them and that is supplied by the owner of the animals. 451

(G) "Composting" means the controlled decomposition of 452  
organic solid material consisting of dead animals that 453  
stabilizes the organic fraction of the material. 454

(H) "Manure" means animal excreta. 455

(I) "Animal feeding operation" means the production area, 456  
as defined in section 903.01 of the Revised Code, of an 457  
agricultural operation where agricultural animals are kept and 458  
raised in confined areas. "Animal feeding operation" does not 459  
include a facility that possesses a permit issued under Chapter 460  
903. or division (J) of section 6111.03 of the Revised Code. 461

(J) "Soil and water conservation district" has the same 462  
meaning as in section 1515.01 of the Revised Code. 463

(K) "Ohio soil and water conservation commission" means 464  
the Ohio soil and water conservation commission established in 465  
section 1515.02 of the Revised Code. 466

(L) "Best management practices" means practices or a 467  
combination of practices that are determined to be the most 468  
effective and practicable means of preventing or reducing 469  
agricultural pollution sources to a level compatible with the 470  
attainment of applicable water quality standards. "Best 471  
management practices" includes structural and nonstructural 472  
practices, conservation practices, and operation and maintenance 473  
procedures. 474

**Sec. 939.02.** The director of agriculture shall do all of 475  
the following: 476

(A) Administer this chapter and those provisions of 477  
Chapter 1515. of the Revised Code pertaining to state 478

responsibilities and provide staff assistance to the Ohio soil 479  
and water conservation commission in exercising its statutory 480  
responsibilities pertaining to agricultural pollution; 481

(B) Coordinate the development and implementation of 482  
cooperative programs and working agreements between soil and 483  
water conservation districts and the department of agriculture 484  
or other agencies of local, state, and federal government; 485

(C) Adopt rules in accordance with Chapter 119. of the 486  
Revised Code that do or comply with all of the following: 487

(1) Establish technically feasible and economically 488  
reasonable standards to achieve a level of management and 489  
conservation practices in farming operations that will abate the 490  
degradation of the waters of the state by residual farm products 491  
or manure, including attached substances, and establish criteria 492  
for determination of the acceptability of such management and 493  
conservation practices; 494

(2) Establish procedures for the administration of rules 495  
regarding agricultural pollution abatement and for enforcement 496  
of those rules; 497

(3) Specify the agricultural pollution abatement practices 498  
eligible for state cost sharing and determine the conditions for 499  
eligibility, the construction standards and specifications, the 500  
useful life, the maintenance requirements, and the limits of 501  
cost sharing for those practices. Eligible practices shall be 502  
limited to practices that address agricultural operations and 503  
that require expenditures that are likely to exceed the economic 504  
returns to the owner or operator and that abate degradation of 505  
the waters of the state by residual farm products or manure, 506  
including attached pollutants. 507

(4) Establish procedures for administering grants to owners or operators of agricultural land or animal feeding operations for the implementation of nutrient utilization plans; 508  
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(5) Do both of the following with regard to composting conducted in conjunction with agricultural operations: 511  
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(a) 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 director considers to be necessary or appropriate; 513  
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(b) 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 (T) of section 1515.08 of the Revised Code. 517  
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(6) Establish best management practices for inclusion in nutrient utilization plans; 521  
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(7) Establish the amount of civil penalties assessed by the director under division (B) of section 939.09 of the Revised Code for violation of rules adopted under division (C) of this section; 523  
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(8) Be adopted after the director does all of the following: 527  
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(a) Mails notice to each statewide organization that the director determines represents persons or local governmental agencies that would be affected by a proposed rule at least thirty-five days before any public hearing on the proposed rule; 529  
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(b) Mails a copy of each proposed rule to any person who requests a copy within five days after receipt of the request; 533  
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(c) Consults with appropriate state and local governmental 535

agencies or their representatives, including statewide 536  
organizations of local governmental officials, industrial 537  
representatives, and other interested persons; 538

(d) If the rule is adopted under division (C) (1) of this 539  
section, develops an economic impact statement concerning the 540  
effect of the proposed rule. 541

(9) Not conflict with air or water quality standards 542  
adopted pursuant to section 3704.03 or 6111.041 of the Revised 543  
Code. Compliance with rules adopted under this section does not 544  
affect liability for noncompliance with air or water quality 545  
standards adopted pursuant to section 3704.03 or 6111.041 of the 546  
Revised Code. 547

(D) Cost share with landowners on practices established in 548  
rules adopted under division (C) (3) of this section as moneys 549  
are appropriated and available for that purpose. A practice for 550  
which cost share is provided shall be maintained for its useful 551  
life. Failure to maintain a cost share practice for its useful 552  
life subjects the landowner to full repayment to the department. 553

(E) Employ field assistants and other employees that are 554  
necessary for the performance of the work prescribed by Chapter 555  
1515. of the Revised Code pertaining to agricultural pollution, 556  
for performance of the work of the department under this 557  
chapter, and as agreed to in working agreements or contractual 558  
arrangements with soil and water conservation districts, 559  
prescribe their duties, and fix their compensation in accordance 560  
with schedules that are provided by law for the compensation of 561  
state employees. All such employees of the department, unless 562  
specifically exempted by law, shall be employed subject to the 563  
classified civil service laws in force at the time of 564  
employment. 565

(F) When necessary for the purposes of this chapter or the provisions of Chapter 1515. of the Revised Code pertaining to agricultural pollution, develop or approve nutrient utilization plans. The director may designate an employee of the department to develop or approve nutrient utilization plans in lieu of the director. 566  
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This section does not restrict the manure of domestic or farm animals defecated on land outside an animal feeding operation or runoff from that land into the waters of the state. 572  
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**Sec. 939.03.** (A) A person who owns or operates agricultural land or an animal feeding operation may develop and operate under a nutrient utilization plan approved by the director of agriculture or the director's designee under section 939.02 of the Revised Code or by the supervisors of the applicable soil and water conservation district under section 1515.08 of the Revised Code. A nutrient management plan that is approved by the chief of the division of soil and water resources in the department of natural resources under rules adopted under section 1511.024 of the Revised Code constitutes an approved nutrient utilization plan for purposes of this chapter. 575  
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(B) A person who wishes to make a complaint regarding nuisances involving agricultural pollution may do so orally or by submitting a written, signed, and dated complaint to the director or to the director's designee. After receiving an oral complaint, the director or the director's designee may cause an investigation to be conducted to determine whether agricultural pollution has occurred or is imminent. After receiving a written, signed, and dated complaint, the director or the director's designee shall cause such an investigation to be 587  
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conducted. 596

(C) In a private civil action for nuisances involving 597  
agricultural pollution, it is an affirmative defense if the 598  
person owning, operating, or otherwise responsible for 599  
agricultural land or an animal feeding operation is operating 600  
under and in substantial compliance with an approved nutrient 601  
utilization plan developed under division (A) of this section, 602  
with a nutrient utilization plan developed by the director or 603  
the director's designee under section 939.02 of the Revised Code 604  
or by the supervisors of the applicable soil and water 605  
conservation district under section 1515.08 of the Revised Code, 606  
or with a nutrient utilization plan required under division (A) 607  
(2) of section 939.09 of the Revised Code. Nothing in this 608  
section is in derogation of the authority granted to the 609  
director in division (C) of section 939.02 and in section 939.09 610  
of the Revised Code. 611

**Sec. ~~1511.022~~ 939.04.** (A) Any person who owns or operates 612  
an agricultural operation, or owns the animals raised by the 613  
owner or operator of an agricultural operation, and who wishes 614  
to conduct composting of dead animals resulting from the 615  
agricultural operation shall do both of the following: 616

(1) Participate in an educational course concerning 617  
composting conducted by OSU extension and obtain a certificate 618  
of completion for the course; 619

(2) Use the appropriate method, technique, or practice of 620  
composting established in rules adopted under division ~~(E) (8)~~ 621  
(C) (5) of section ~~1511.02~~939.02 of the Revised Code. 622

(B) Any person who fails to comply with division (A) of 623  
this section shall prepare and operate under a composting plan 624

~~in accordance with an order issued required by the chief of the~~ 625  
~~division of soil and water resources director of agriculture~~ 626  
under division ~~(G)~~(A) (2) of section ~~1511.02~~939.09 of the Revised 627  
Code. If the person's proposed composting plan is disapproved by 628  
the board of supervisors of the appropriate soil and water 629  
conservation district under division ~~(Q)~~(3)~~(T)~~ (3) of section 630  
1515.08 of the Revised Code, the person may appeal the plan 631  
disapproval to the ~~chief~~director, who shall afford the person a 632  
hearing. Following the hearing, the ~~chief~~director shall uphold 633  
the plan disapproval or reverse it. If the ~~chief~~director 634  
reverses the disapproval, the plan shall be deemed approved. 635

**Sec. 939.05.** (A) Except as provided in division (B) of 636  
this section, the director of agriculture, an employee of the 637  
department of agriculture, the supervisors of a soil and water 638  
conservation district, an employee of a district, and a 639  
contractor of the department or a district shall not disclose 640  
either of the following: 641

(1) Information, including data from geographic 642  
information systems and global positioning systems, provided by 643  
a person who owns or operates agricultural land or an animal 644  
feeding operation and operates under a nutrient utilization 645  
plan; 646

(2) Information gathered as a result of an inspection of 647  
agricultural land or an animal feeding operation to determine 648  
whether the person who owns or operates the land or operation is 649  
in compliance with a nutrient utilization plan. 650

(B) The director or the supervisors of a district may 651  
release or disclose information specified in division (A) (1) or 652  
(2) of this section to a person or a federal, state, or local 653  
agency working in cooperation with the director or the 654

supervisors in the development of a nutrient utilization plan or 655  
an inspection to determine compliance with such a plan if the 656  
director or supervisors determine that the person or federal, 657  
state, or local agency will not subsequently disclose the 658  
information to another person. 659

Sec. 939.06. The director of agriculture may enter into 660  
contracts or agreements with an agency of the United States 661  
government, or any other public or private agency or 662  
organization, for the performance of the duties of the 663  
department of agriculture under this chapter or for 664  
accomplishing cooperative projects within the scope of those 665  
duties. 666

Sec. 939.07. The director of agriculture may accept 667  
donations, grants, and contributions in money, service, or 668  
equipment to enhance or expedite the work of the department of 669  
agriculture under this chapter. 670

Sec. 939.08. The director of agriculture, subject to 671  
approval of the terms of the agreement by the Ohio soil and 672  
water conservation commission, shall enter into cooperative 673  
agreements with the board of supervisors of a soil and water 674  
conservation district desiring to enter into those agreements 675  
pursuant to section 1515.08 of the Revised Code. The agreements 676  
shall be entered into to obtain compliance with rules of the 677  
director pertaining to agricultural pollution abatement. 678

The director or a person designated by the director may 679  
enter at reasonable times on private property, with the consent 680  
of the property owner, or public property to inspect and 681  
investigate conditions relating to agricultural pollution of the 682  
waters of the state. If consent has been granted and 683  
subsequently revoked, if applicable, upon refusal of entry, the 684



director or the director's designee may apply for and a judge of 685  
the court of common pleas of the county where the land is 686  
located may issue an appropriate inspection warrant as necessary 687  
to achieve the purposes of this chapter. 688

**Sec. 939.09.** (A) (1) The director of agriculture may 689  
propose to require corrective actions and assess a civil penalty 690  
against an owner or operator of agricultural land or an animal 691  
feeding operation if the director or the director's designee 692  
determines that the owner or operator is doing one of the 693  
following: 694

(a) Not complying with a standard established in rules 695  
adopted under division (C) (1) of section 939.02 of the Revised 696  
Code; 697

(b) Not operating in accordance with an approved nutrient 698  
utilization plan that is developed under division (A) of section 699  
939.03 of the Revised Code, with a nutrient utilization plan 700  
developed by the director or the director's designee under 701  
section 939.02 of the Revised Code or by the supervisors of the 702  
applicable soil and water conservation district under section 703  
1515.08 of the Revised Code, or with a nutrient utilization plan 704  
required by the director under division (A) (2) of this section; 705

(c) Not complying with a standard established in rules 706  
adopted under division (C) (5) (a) of section 939.02 of the 707  
Revised Code; 708

(d) Not operating in accordance with a composting plan 709  
that is approved in accordance with rules adopted under division 710  
(C) (5) (b) of section 939.02 of the Revised Code or required by 711  
the director under division (A) (2) of this section. 712

(2) The director may include in the corrective actions a 713

requirement that an owner or operator do one of the following: 714

(a) Operate under a nutrient utilization plan approved by 715  
the director or the director's designee under section 939.02 of 716  
the Revised Code; 717

(b) If the owner or operator has failed to operate in 718  
accordance with an existing nutrient utilization plan, operate 719  
in accordance with that plan; 720

(c) Prepare a composting plan in accordance with rules 721  
adopted under division (C) (5) (b) of section 939.02 of the 722  
Revised Code and operate in accordance with that plan; 723

(d) If the owner or operator has failed to operate in 724  
accordance with an existing composting plan, operate in 725  
accordance with that plan. 726

(3) The director may impose a civil penalty only if all of 727  
the following occur: 728

(a) The owner or operator is notified in writing of the 729  
deficiencies resulting in noncompliance, the actions that the 730  
owner or operator must take to correct the deficiencies, and the 731  
time period within which the owner or operator must correct the 732  
deficiencies and attain compliance. 733

(b) After the time period specified in the notice has 734  
elapsed, the director or the director's designee has inspected 735  
the agricultural land or animal feeding operation, determined 736  
that the owner or operator is still not in compliance, and 737  
issued a notice of an adjudication hearing. 738

(c) The director affords the owner or operator an 739  
opportunity for an adjudication hearing under Chapter 119. of 740  
the Revised Code to challenge the director's determination that 741

the owner or operator is not in compliance or the imposition of 742  
the civil penalty, or both. However, the owner or operator may 743  
waive the right to an adjudication hearing. 744

(4) If the opportunity for an adjudication hearing is 745  
waived or if, after an adjudication hearing, the director 746  
determines that noncompliance has occurred or is occurring, the 747  
director may issue an order requiring compliance and assess the 748  
civil penalty. The order and the assessment of the civil penalty 749  
may be appealed in accordance with section 119.12 of the Revised 750  
Code. 751

(5) A person who has violated rules adopted under division 752  
(C) of section 939.02 of the Revised Code shall pay a civil 753  
penalty in an amount established in rules adopted under that 754  
section. 755

(B) The attorney general, upon the written request of the 756  
director, shall bring an action for an injunction in any court 757  
of competent jurisdiction against any person violating or 758  
threatening to violate rules adopted under division (C) of 759  
section 939.02 of the Revised Code or an order issued under 760  
division (A) (4) of this section. 761

(C) (1) In lieu of seeking civil penalties under division 762  
(A) of this section, the director may request the attorney 763  
general, in writing, to bring an action for a civil penalty in a 764  
court of competent jurisdiction against any person that has 765  
violated or is violating a rule adopted under division (C) of 766  
section 939.02 of the Revised Code. 767

(2) A person who has committed a violation for which the 768  
attorney general may bring an action for a civil penalty under 769  
division (C) (1) of this section shall pay a civil penalty of not 770

more than ten thousand dollars per violation. Each day that a 771  
violation continues constitutes a separate violation. 772

(D) In addition to any other penalties imposed under this 773  
section, the director may impose an administrative penalty 774  
against an owner or operator of agricultural land or an animal 775  
feeding operation if the director or the director's designee 776  
determines that the owner or operator is not in compliance with 777  
best management practices that are established in rules adopted 778  
under division (C) of section 939.02 of the Revised Code. The 779  
administrative penalty shall not exceed five thousand dollars. 780

The director shall afford the owner or operator an 781  
opportunity for an adjudication hearing under Chapter 119. of 782  
the Revised Code to challenge the director's determination under 783  
this division, the director's imposition of an administrative 784  
penalty under this division, or both. The director's 785  
determination and the imposition of the administrative penalty 786  
may be appealed in accordance with section 119.12 of the Revised 787  
Code. 788

(E) Notwithstanding any other provision in this section, 789  
if the director determines that an emergency exists requiring 790  
immediate action to protect the public health or safety or the 791  
environment, the director may issue an order, without notice or 792  
adjudication hearing, stating the existence of the emergency and 793  
requiring that action be taken that is necessary to meet the 794  
emergency. The order shall take effect immediately. A person to 795  
whom the order is directed shall comply immediately, but on 796  
application to the director shall be afforded an adjudication 797  
hearing in accordance with Chapter 119. of the Revised Code as 798  
soon as possible and not later than thirty days after 799  
application. On the basis of the hearing, the director shall 800

continue the order in effect, revoke it, or modify it. The 801  
director's order is appealable in accordance with section 119.12 802  
of the Revised Code. No emergency order shall remain in effect 803  
for more than one hundred twenty days after its issuance. 804

(F) A person that is responsible for causing or allowing 805  
the unauthorized spill, release, or discharge of manure or 806  
residual farm products that requires emergency action to protect 807  
public health or safety or the environment is liable to the 808  
director for the costs incurred in investigating, mitigating, 809  
minimizing, removing, or abating the spill, release, or 810  
discharge. Upon request of the director, the attorney general 811  
shall bring a civil action against the responsible person or 812  
persons to recover those costs. 813

(G) Money recovered under division (F) of this section and 814  
money collected from civil penalties under this section shall be 815  
paid into the state treasury to the credit of the agricultural 816  
pollution abatement fund created in section 939.11 of the 817  
Revised Code. 818

(H) As used in this section, "noncompliance" means doing 819  
one of the actions specified in division (A)(1) of this section. 820

**Sec. 939.10.** A person claiming to be deprived of a right 821  
or protection afforded the person by law by an action of the 822  
director of agriculture under this chapter, except the adoption 823  
of a rule, may appeal to the court of common pleas of Franklin 824  
county or the court of common pleas of the county in which the 825  
alleged violation exists. 826

If the court finds that the action of the director 827  
appealed from was lawful and reasonable, it shall affirm the 828  
action. If the court finds that the action was unreasonable or 829

unlawful, it shall vacate the action and order the action to be 830  
taken that it finds the director should have taken. The judgment 831  
of the court is final unless reversed, vacated, or modified on 832  
appeal. 833

**Sec. 939.11.** There is hereby created in the state treasury 834  
the agricultural pollution abatement fund, which shall be 835  
administered by the director of agriculture. The fund may be 836  
used to pay costs incurred by the department of agriculture 837  
under division (F) of section 939.09 of the Revised Code in 838  
investigating, mitigating, minimizing, removing, or abating any 839  
pollution of the waters of the state caused by agricultural 840  
pollution or an unauthorized release, spill, or discharge of 841  
manure or residual farm products into or on the environment that 842  
requires emergency action to protect the public health. 843

**Sec. 939.12.** (A) Beginning on the effective date of this 844  
section through December 31, 2016, the chief of the division of 845  
soil and water resources in the department of natural resources 846  
shall administer and enforce this section and section 939.13 of 847  
the Revised Code. On and after January 1, 2017, the director of 848  
agriculture shall administer and enforce those sections. 849

(B) Except as provided in division (C) of this section, no 850  
person in the western basin shall surface apply manure under any 851  
of the following circumstances: 852

(1) On snow-covered or frozen soil; 853

(2) When the top two inches of soil are saturated from 854  
precipitation; 855

(3) When the local weather forecast for the application 856  
area contains greater than a fifty per cent chance of 857  
precipitation exceeding one-half inch in a twenty-four-hour 858

period. 859

(C) Division (B) of this section does not apply if a 860  
person in the western basin applies manure under any of the 861  
following circumstances: 862

(1) The manure application is injected into the ground. 863

(2) The manure application is incorporated within twenty- 864  
four hours of surface application. 865

(3) The manure application is applied onto a growing crop. 866

(4) In the event of an emergency, the chief or the 867  
director, as applicable, provides written consent and the manure 868  
application is made in accordance with procedures established in 869  
the United States department of agriculture natural resources 870  
conservation service practice standard code 590 prepared for 871  
this state. 872

(D) (1) Upon receiving a complaint by any person or upon 873  
receiving information that would indicate a violation of this 874  
section, the chief, the chief's designee, the director, or the 875  
director's designee, as applicable, may investigate or make 876  
inquiries into any alleged failure to comply with this section. 877

(2) After receiving a complaint by any person or upon 878  
receiving information that would indicate a violation of this 879  
section, the chief, the chief's designee, the director, or the 880  
director's designee, as applicable, may enter at reasonable 881  
times on any private or public property to inspect and 882  
investigate conditions relating to any such alleged failure to 883  
comply with this section. 884

(3) If an individual denies access to the individual's 885  
property, the chief, the chief's designee, the director, or the 886

director's designee, as applicable, may apply to a court of 887  
competent jurisdiction in the county in which the premises is 888  
located for a search warrant authorizing access to the premises 889  
for the purposes of this section. 890

(4) The court shall issue the search warrant for the 891  
purposes requested if there is probable cause to believe that 892  
the person is not in compliance with this section. The finding 893  
of probable cause may be based on hearsay, provided that there 894  
is a reasonable basis for believing that the source of the 895  
hearsay is credible. 896

(E) This section does not affect any restrictions 897  
established in Chapter 903. of the Revised Code or otherwise 898  
apply to those entities or facilities that are permitted as 899  
concentrated animal feeding facilities under that chapter. 900

(F) As used in this section, "western basin" has the same 901  
meaning as in section 905.326 of the Revised Code. 902

**Sec. 939.13.** (A) The chief of the division of soil and 903  
water resources in the department of natural resources or the 904  
director of agriculture, as applicable, may assess a civil 905  
penalty against a person that violates section 939.12 of the 906  
Revised Code. The chief or the director, as applicable, may 907  
impose a civil penalty only if the chief or the director affords 908  
the person an opportunity for an adjudication hearing under 909  
Chapter 119. of the Revised Code to challenge the chief's or the 910  
director's determination that the person violated section 939.12 911  
of the Revised Code. The person may waive the right to an 912  
adjudication hearing. 913

(B) If the opportunity for an adjudication hearing is 914  
waived or if, after an adjudication hearing, the chief or the 915



director, as applicable, determines that a violation has 916  
occurred or is occurring, the chief or the director may issue an 917  
order requiring compliance with section 939.12 of the Revised 918  
Code and assess the civil penalty. The order and the assessment 919  
of the civil penalty may be appealed in accordance with section 920  
119.12 of the Revised Code. 921

(C) A person that has violated section 939.12 of the 922  
Revised Code shall pay a civil penalty in an amount established 923  
in rules. Each thirty-day period during which a violation 924  
continues constitutes a separate violation. 925

(D) The chief or the director, as applicable, shall adopt 926  
rules in accordance with Chapter 119. of the Revised Code that 927  
establish the amount of the civil penalty assessed under this 928  
section. The civil penalty shall be not more than ten thousand 929  
dollars for each violation. 930

**Sec. 941.14.** (A) The owner shall burn the body of an 931  
animal that has died of, or been destroyed because of, a 932  
dangerously infectious or contagious disease, bury it not less 933  
than four feet under the surface of the ground, dissolve it by 934  
alkaline hydrolysis, remove it in a watertight tank to a 935  
rendering establishment, or otherwise dispose of it in 936  
accordance with section 939.04 or 953.26 ~~or 1511.022~~ of the 937  
Revised Code within twenty-four hours after knowledge thereof or 938  
after notice in writing from the department of agriculture. 939

(B) The owner of premises that contain a dead animal shall 940  
burn the body of the animal, bury it not less than four feet 941  
beneath the surface of the ground, dissolve it by alkaline 942  
hydrolysis, remove it in a watertight tank to a rendering 943  
establishment, or otherwise dispose of it in accordance with 944  
section 939.04 or 953.26 ~~or 1511.022~~ of the Revised Code within 945

a reasonable time after knowledge thereof or after notice in writing from the department or from the township trustees of the township in which the owner's premises are located.

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

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

(E) As used in this section, "infectious wastes" has the same meaning as in section 3734.01 of the Revised Code, and "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

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

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

(1) A farmer who slaughters the farmer's own animals, raised by the farmer on the farmer's own farm, processes the farmer's own meat therefrom, and disposes of the farmer's raw rendering material only by delivery to a person licensed under section 953.23 of the Revised Code;	975 976 977 978 979
(2) A person whose only connection with raw rendering material is curing hides and skins;	980 981
(3) A person whose only connection with raw rendering material is operating a pet cemetery;	982 983
(4) A person who is conducting composting, as defined in section <del>1511.01-939.01</del> of the Revised Code, in accordance with section <del>1511.022939.04</del> of the Revised Code;	984 985 986
(5) A person whose only connection with raw rendering material is trapping wild animals in accordance with a nuisance wild animal permit issued by the chief of the division of wildlife in the department of natural resources under rules adopted pursuant to section 1531.08 of the Revised Code;	987 988 989 990 991
(6) A county dog warden or animal control officer who transports raw rendering material only for disposal purposes.	992 993
<b>Sec. 1511.01.</b> As used in this chapter:	994
(A) "Conservation" means the wise use and management of natural resources.	995 996
(B) "Critical natural resource area" means an area identified by the director of natural resources in which occurs a natural resource that requires special management because of its importance to the well-being of the surrounding communities, the region, or the state.	997 998 999 1000 1001
(C) " <del>Pollution</del> <u>Erosion and sediment</u> abatement practice"	1002

means any erosion control, ~~residual farm products, or manure~~ 1003  
~~pollution abatement facility, and sediment reduction~~ structure, 1004  
practice, or procedure and the design, operation, and management 1005  
associated with it as contained in operation and management 1006  
plans developed or approved by the chief of the division of soil 1007  
and water resources or by boards of supervisors of soil and 1008  
water conservation districts. 1009

(D) "~~Agricultural Sediment~~ pollution" means failure to use 1010  
management or conservation practices in farming or silvicultural 1011  
operations to abate wind or water erosion of the soil ~~or to~~ 1012  
~~abate that may result in~~ the degradation of the waters of the 1013  
state by ~~residual farm products, manure, or soil sediment,~~ 1014  
including attached substances ~~attached thereto.~~ 1015

(E) "Waters of the state" means all streams, lakes, ponds, 1016  
wetlands, watercourses, waterways, wells, springs, irrigation 1017  
systems, drainage systems, and all other bodies or accumulations 1018  
of water, surface and underground, natural or artificial, 1019  
regardless of the depth of the strata in which underground water 1020  
is located, that are situated wholly or partly within, or border 1021  
upon, this state or are within its jurisdiction, except those 1022  
private waters that do not combine or effect a junction with 1023  
natural surface or underground waters. 1024

(F) "Operation and management plan" means a written 1025  
record, developed or approved by the board of supervisors of a 1026  
soil and water conservation district or the chief, for the owner 1027  
or operator of agricultural land ~~or an animal feeding operation~~ 1028  
that contains implementation schedules and operational 1029  
procedures for a level of management and ~~pollution~~ erosion and 1030  
sediment abatement practices that will abate the degradation of 1031  
the waters of the state by ~~residual farm products, manure, and~~ 1032

soil sediment, including attached pollutants. 1033

~~(G) "Residual farm products" means bedding, wash waters, waste feed, and silage drainage. "Residual farm products" also includes the compost products resulting from the composting of dead animals in operations subject to section 1511.022 of the Revised Code when either of the following applies:~~ 1034  
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~~(1) The composting is conducted by the person who raises the animals and the compost product is used in agricultural operations owned or operated by that person, regardless of whether the person owns the animals.~~ 1039  
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~~(2) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.~~ 1043  
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~~(H) "Composting" means the controlled decomposition of organic solid material consisting of dead animals that stabilizes the organic fraction of the material.~~ 1048  
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~~(I) "Manure" means animal excreta.~~ 1051

~~(J) "Animal feeding operation" means the production area, as defined in section 903.01 of the Revised Code, of an agricultural operation where agricultural animals are kept and raised in confined areas. "Animal feeding operation" does not include a facility that possesses a permit issued under Chapter 903. or division (J) of section 6111.03 of the Revised Code.~~ 1052  
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~~(K) "Soil and water conservation district" has the same meaning as in section 1515.01 of the Revised Code.~~ 1058  
1059

(H) "Soil erosion management plan" means a written record, 1060

developed or approved by the board of supervisors of a soil and 1061  
water conservation district or the chief, that may contain 1062  
implementation schedules and operational procedures for a level 1063  
of land and water management that will abate wind or water 1064  
erosion of the soil or abate the degradation of the waters of 1065  
the state by sediment from agricultural operations. 1066

(I) "Timber harvest plan" means a written record, 1067  
developed or approved by the board of supervisors of a soil and 1068  
water conservation district or the chief, that may contain 1069  
implementation schedules and operational procedures for a level 1070  
of land and water management that will abate wind or water 1071  
erosion of the soil or abate the degradation of the waters of 1072  
the state by sediment from timber operations. 1073

**Sec. 1511.02.** The chief of the division of soil and water 1074  
resources, subject to the approval of the director of natural 1075  
resources, shall do all of the following: 1076

(A) Provide administrative leadership to soil and water 1077  
conservation districts in planning, budgeting, staffing, and 1078  
administering district programs and the training of district 1079  
supervisors and personnel in their duties, responsibilities, and 1080  
authorities as prescribed in this chapter and Chapter 1515. of 1081  
the Revised Code; 1082

(B) Administer this chapter and Chapter 1515. of the 1083  
Revised Code pertaining to state responsibilities and provide 1084  
staff assistance to the Ohio soil and water conservation 1085  
commission in exercising its statutory responsibilities; 1086

(C) Assist in expediting state responsibilities for 1087  
watershed development and other natural resource conservation 1088  
works of improvement; 1089

(D) Coordinate the development and implementation of 1090  
cooperative programs and working agreements between soil and 1091  
water conservation districts and divisions or sections of the 1092  
department of natural resources, or other agencies of local, 1093  
state, and federal government; 1094

(E) Subject to the approval of the Ohio soil and water 1095  
conservation commission, adopt, amend, or rescind rules pursuant 1096  
to Chapter 119. of the Revised Code. Rules adopted pursuant to 1097  
this section: 1098

(1) Shall establish technically feasible and economically 1099  
reasonable standards to achieve a level of management and 1100  
conservation practices in farming or silvicultural operations 1101  
that will abate wind or water erosion of the soil or abate the 1102  
degradation of the waters of the state by ~~residual farm~~ 1103  
~~products, manure, or soil~~ sediment, including attached 1104  
~~substances attached thereto~~, and establish criteria for 1105  
determination of the acceptability of such management and 1106  
conservation practices; 1107

(2) Shall establish technically feasible and economically 1108  
reasonable standards to achieve a level of management and 1109  
conservation practices that will abate wind or water erosion of 1110  
the soil or abate the degradation of the waters of the state by 1111  
soil sediment in conjunction with land grading, excavating, 1112  
filling, or other soil-disturbing activities on land used or 1113  
being developed for nonfarm commercial, industrial, residential, 1114  
or other nonfarm purposes, and establish criteria for 1115  
determination of the acceptability of such management and 1116  
conservation practices. The standards shall be designed to 1117  
implement applicable areawide waste treatment management plans 1118  
prepared under section 208 of the "Federal Water Pollution 1119

Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1288, as amended. 1120  
The standards and criteria shall not apply in any municipal 1121  
corporation or county that adopts ordinances or rules pertaining 1122  
to sediment control, nor to lands being used in a strip mine 1123  
operation as defined in section 1513.01 of the Revised Code, nor 1124  
to lands being used in a surface mining operation as defined in 1125  
section 1514.01 of the Revised Code. 1126

(3) May recommend criteria and procedures for the approval 1127  
of urban sediment pollution abatement plans and issuance of 1128  
permits prior to any grading, excavating, filling, or other 1129  
whole or partial disturbance of five or more contiguous acres of 1130  
land owned by one person or operated as one development unit and 1131  
require implementation of such a plan. Areas of less than five 1132  
contiguous acres are not exempt from compliance with other 1133  
provisions of this chapter and rules adopted under them. 1134

(4) Shall establish procedures for administration of rules 1135  
for ~~agricultural sediment~~ pollution abatement and urban sediment 1136  
pollution abatement ~~and for enforcement of rules for~~ 1137  
~~agricultural pollution abatement;~~ 1138

(5) Shall specify the ~~pollution erosion and sediment~~ 1139  
abatement practices eligible for state cost sharing and 1140  
determine the conditions for eligibility, the construction 1141  
standards and specifications, the useful life, the maintenance 1142  
requirements, and the limits of cost sharing for those 1143  
practices. Eligible practices shall be limited to practices that 1144  
address agricultural or silvicultural operations and that 1145  
require expenditures that are likely to exceed the economic 1146  
returns to the owner or operator and that abate soil erosion or 1147  
degradation of the waters of the state by ~~residual farm~~ 1148  
~~products, manure, or~~ soil sediment, including attached 1149



pollutants <del> attached thereto.</del>	1150
(6) Shall establish procedures for administering grants to owners or operators of agricultural land <del>or animal feeding operations</del> for the implementation of operation and management plans;	1151 1152 1153 1154
(7) Shall establish procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs, specify the types of projects eligible for grants, establish limits on the availability of grants, and establish requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities;	1155 1156 1157 1158 1159 1160 1161
(8) <del>Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:</del>	1162 1163 1164
<del>(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;</del>	1165 1166 1167
<del>(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;</del>	1168 1169 1170 1171
<del>(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.</del>	1172 1173 1174 1175
<del>(9) Shall be adopted, amended, or rescinded after the chief does all of the following:</del>	1176 1177

(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;

(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;

(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;

~~(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.~~

~~(10)~~(9) Shall not conflict with air or water quality standards 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)~~(10) 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 1207  
sediment control that are disbursed by the board of supervisors 1208  
of the applicable soil and water conservation district under 1209  
division ~~(N)~~ (O) of section 1515.08 of the Revised Code. The 1210  
rules shall not exempt any person from compliance with municipal 1211  
ordinances enacted pursuant to Section 3 of Article XVIII, Ohio 1212  
Constitution. 1213

(F) Cost share with landowners on practices established 1214  
pursuant to division (E) (5) of this section as moneys are 1215  
appropriated and available for that purpose. Any practice for 1216  
which cost share is provided shall be maintained for its useful 1217  
life. Failure to maintain a cost share practice for its useful 1218  
life shall subject the landowner to full repayment to the 1219  
division. 1220

(G) Issue orders requiring compliance with any rule 1221  
adopted under division (E) (1) of this section ~~or with section~~ 1222  
~~1511.022 of the Revised Code~~. Before the chief issues an order, 1223  
the chief shall afford each person allegedly liable an 1224  
adjudication hearing under Chapter 119. of the Revised Code. The 1225  
chief may require in an order that a person who has caused 1226  
~~agricultural sediment~~ pollution by failure to comply with the 1227  
standards established under division (E) (1) of this section 1228  
operate under an operation and management plan approved by the 1229  
chief under this section. ~~The chief shall require in an order~~ 1230  
~~that a person who has failed to comply with division (A) of~~ 1231  
~~section 1511.022 of the Revised Code prepare a composting plan~~ 1232  
~~in accordance with rules adopted under division (E) (8) (c) of~~ 1233  
~~this section and operate in accordance with that plan or that a~~ 1234  
~~person who has failed to operate in accordance with such a plan~~ 1235  
~~begin to operate in accordance with it.~~ Each order shall be 1236  
issued in writing and contain a finding by the chief of the 1237

facts upon which the order is based and the standard that is not 1238  
being met. 1239

(H) Employ field assistants and such other employees as 1240  
are necessary for the performance of the work prescribed by 1241  
Chapter 1515. of the Revised Code, for performance of work of 1242  
the division, and as agreed to under working agreements or 1243  
contractual arrangements with soil and water conservation 1244  
districts, prescribe their duties, and fix their compensation in 1245  
accordance with such schedules as are provided by law for the 1246  
compensation of state employees. 1247

All employees of the division, unless specifically 1248  
exempted by law, shall be employed subject to the classified 1249  
civil service laws in force at the time of employment. 1250

(I) In connection with new or relocated projects involving 1251  
highways, underground cables, pipelines, railroads, and other 1252  
improvements affecting soil and water resources, including 1253  
surface and subsurface drainage: 1254

(1) Provide engineering service as is mutually agreeable 1255  
to the Ohio soil and water conservation commission and the 1256  
director to aid in the design and installation of soil and water 1257  
conservation practices as a necessary component of such 1258  
projects; 1259

(2) Maintain close liaison between the owners of lands on 1260  
which the projects are executed, soil and water conservation 1261  
districts, and authorities responsible for such projects; 1262

(3) Review plans for such projects to ensure their 1263  
compliance with standards developed under division (E) of this 1264  
section in cooperation with the department of transportation or 1265  
with any other interested agency that is engaged in soil or 1266

water conservation projects in the state in order to minimize 1267  
adverse impacts on soil and water resources adjacent to or 1268  
otherwise affected by these projects; 1269

(4) Recommend measures to retard erosion and protect soil 1270  
and water resources through the installation of water 1271  
impoundment or other soil and water conservation practices; 1272

(5) Cooperate with other agencies and subdivisions of the 1273  
state to protect the agricultural status of rural lands adjacent 1274  
to such projects and control adverse impacts on soil and water 1275  
resources. 1276

(J) Collect, analyze, inventory, and interpret all 1277  
available information pertaining to the origin, distribution, 1278  
extent, use, and conservation of the soil resources of the 1279  
state; 1280

(K) Prepare and maintain up-to-date reports, maps, and 1281  
other materials pertaining to the soil resources of the state 1282  
and their use and make that information available to 1283  
governmental agencies, public officials, conservation entities, 1284  
and the public; 1285

(L) Provide soil and water conservation districts with 1286  
technical assistance including on-site soil investigations and 1287  
soil interpretation reports on the suitability or limitations of 1288  
soil to support a particular use or to plan soil conservation 1289  
measures. The assistance shall be upon such terms as are 1290  
mutually agreeable to the districts and the department of 1291  
natural resources. 1292

(M) Assist local government officials in utilizing land 1293  
use planning and zoning, current agricultural use value 1294  
assessment, development reviews, and land management activities; 1295

(N) When necessary for the purposes of this chapter or 1296  
Chapter 1515. of the Revised Code, develop or approve operation 1297  
and management plans. 1298

~~This section does not restrict the manure of domestic or 1299  
farm animals defecated on land outside an animal feeding- 1300  
operation or runoff therefrom into the waters of the state. 1301~~

**Sec. 1511.021.** (A) (1) Any person who owns or operates 1302  
agricultural land ~~or an animal feeding operation~~ may develop and 1303  
operate under an operation and management plan approved by the 1304  
chief of the division of soil and water resources under section 1305  
1511.02 of the Revised Code or by the supervisors of the 1306  
applicable soil and water conservation district under section 1307  
1515.08 of the Revised Code. 1308

(2) An operation and management plan developed under 1309  
division (A) (1) of this section, developed by the chief under 1310  
section 1511.02 of the Revised Code or by the supervisors of a 1311  
soil and water conservation district under section 1515.08 of 1312  
the Revised Code, or required by an order issued by the chief 1313  
under division (G) of section 1511.02 of the Revised Code may 1314  
include a soil erosion management plan, a timber harvest plan, 1315  
or both. 1316

(B) Any person who wishes to make a complaint regarding 1317  
nuisances involving ~~agricultural sediment~~ pollution may do so 1318  
orally or by submitting a written, signed, and dated complaint 1319  
to the chief or to the chief's designee. After receiving an oral 1320  
complaint, the chief or the chief's designee may cause an 1321  
investigation to be conducted to determine whether ~~agricultural-~~ 1322  
sediment pollution has occurred or is imminent. After receiving 1323  
a written, signed, and dated complaint, the chief or the chief's 1324  
designee shall cause such an investigation to be conducted. 1325

(C) In a private civil action for nuisances involving 1326  
~~agricultural sediment~~ pollution, it is an affirmative defense if 1327  
the person owning, operating, or otherwise responsible for 1328  
agricultural land ~~or an animal feeding operation~~ is operating 1329  
under and in substantial compliance with an approved operation 1330  
and management plan developed under division (A) of this 1331  
section, with an operation and management plan developed by the 1332  
chief under section 1511.02 of the Revised Code or by the 1333  
supervisors of the applicable soil and water conservation 1334  
district under section 1515.08 of the Revised Code, or with an 1335  
operation and management plan required by an order issued by the 1336  
chief under division (G) of section 1511.02 of the Revised Code. 1337  
Nothing in this section is in derogation of the authority 1338  
granted to the chief in division (E) of section 1511.02 and in 1339  
section 1511.07 of the Revised Code. 1340

**Sec. 1511.023.** (A) Except as provided in division (B) of 1341  
this section, the director of natural resources, an employee of 1342  
the department of natural resources, the supervisors of a soil 1343  
and water conservation district, an employee of a district, and 1344  
a contractor of the department or a district shall not disclose 1345  
either of the following: 1346

(1) Information, including data from geographic 1347  
information systems and global positioning systems, provided by 1348  
a person who owns or operates agricultural land ~~or an animal~~ 1349  
~~feeding operation~~ and operates under an operation and management 1350  
plan; 1351

(2) Information gathered as a result of an inspection of 1352  
agricultural land ~~or an animal feeding operation~~ to determine 1353  
whether the person who owns or operates the land ~~or operation~~ is 1354  
in compliance with an operation and management plan. 1355

(B) The director or the supervisors of a district may 1356  
release or disclose information specified in division (A) (1) or 1357  
(2) of this section to a person or a federal, state, or local 1358  
agency working in cooperation with the chief of the division of 1359  
soil and water resources or the supervisors in the development 1360  
of an operation and management plan or an inspection to 1361  
determine compliance with such a plan if the director or 1362  
supervisors determine that the person or federal, state, or 1363  
local agency will not subsequently disclose the information to 1364  
another person. 1365

Sec. 1511.024. Notwithstanding any provision of the 1366  
Revised Code to the contrary, the chief of the division of soil 1367  
and water resources shall adopt rules in accordance with Chapter 1368  
119. of the Revised Code governing watersheds in distress. The 1369  
rules shall do all of the following: 1370

(A) Define "watersheds in distress" and "nutrient 1371  
management plan"; 1372

(B) Establish technically feasible and economically 1373  
reasonable standards to achieve a level of management and 1374  
conservation practices in farming or silvicultural operations 1375  
that will abate the degradation of the waters of the state by 1376  
animal waste within watersheds in distress; 1377

(C) Establish criteria for the development of nutrient 1378  
management plans that address the methods, amount, form, 1379  
placement, cropping system, and timing of all animal waste 1380  
applications within watersheds in distress; 1381

(D) Establish requirements and procedures governing the 1382  
development and the approval or disapproval of such animal waste 1383  
management plans. 1384



**Sec. 1511.05.** The chief of the division of soil and water 1385  
resources, subject to approval of the terms of the agreement by 1386  
the Ohio soil and water conservation commission, shall enter 1387  
into cooperative agreements with the board of supervisors of any 1388  
soil and water conservation district desiring to enter into such 1389  
agreements pursuant to section 1515.08 of the Revised Code. Such 1390  
agreements shall be entered into to obtain compliance with rules 1391  
and orders of the chief pertaining to ~~agricultural sediment~~ 1392  
pollution abatement and urban sediment pollution abatement. 1393

The chief or any person designated by the chief may upon 1394  
obtaining agreement with the owner, tenant, or manager of any 1395  
land, public or private, enter thereon to make inspections to 1396  
determine whether or not there is compliance with the rules 1397  
adopted under division (E) (1) of section 1511.02 of the Revised 1398  
Code. Upon reason to believe there is a violation, the chief or 1399  
the chief's designee may apply for and a judge of the court of 1400  
common pleas for the county where the land is located may issue 1401  
an appropriate inspection warrant as necessary to achieve the 1402  
purposes of this chapter. 1403

**Sec. 1511.07.** (A) (1) No person shall fail to comply with 1404  
an order of the chief of the division of soil and water 1405  
resources issued pursuant to division (G) of section 1511.02 of 1406  
the Revised Code. 1407

(2) In addition to the remedies provided and irrespective 1408  
of whether an adequate remedy at law exists, the chief may apply 1409  
to the court of common pleas in the county where a violation of 1410  
a standard established under division (E) (1) ~~or (8) (b)~~ of 1411  
section 1511.02 of the Revised Code causes pollution of the 1412  
waters of the state for an order to compel the violator to cease 1413  
the violation and to ~~remove the agricultural pollutant or to~~ 1414

comply with the ~~rules adopted standards established under that~~ 1415  
division ~~(E) (8) (b) of that section, as appropriate.~~ 1416

(3) In addition to the remedies provided and irrespective 1417  
of whether an adequate remedy at law exists, whenever the chief 1418  
officially determines that an emergency exists because of 1419  
~~agricultural sediment pollution or an unauthorized release,~~ 1420  
~~spill, or discharge of manure, or a violation of a rule adopted~~ 1421  
~~under division (E) (8) (b) of section 1511.02 of the Revised Code,~~ 1422  
that causes pollution of the waters of the state, the chief may, 1423  
without notice or hearing, issue an order reciting the existence 1424  
of the emergency and requiring that necessary action be taken to 1425  
meet the emergency. The order shall be effective immediately. 1426  
Any person to whom the order is directed shall comply with the 1427  
order immediately, but on application to the chief shall be 1428  
afforded a hearing as soon as possible, but not later than 1429  
twenty days after making the application. On the basis of the 1430  
hearing, the chief shall continue the order in effect, revoke 1431  
it, or modify it. No emergency order shall remain in effect for 1432  
more than sixty days after its issuance. If a person to whom an 1433  
order is issued does not comply with the order within a 1434  
reasonable period, as determined by the chief, the chief or the 1435  
chief's designee may enter upon private or public lands and take 1436  
action to mitigate, minimize, remove, or abate the ~~agricultural~~ 1437  
~~sediment pollution, release, spill, discharge, or conditions~~ 1438  
~~caused by the violation of the rule.~~ 1439

(B) The attorney general, upon the written request of the 1440  
chief, shall bring appropriate legal action in Franklin county 1441  
against any person who fails to comply with an order of the 1442  
chief issued pursuant to division (G) of section 1511.02 of the 1443  
Revised Code. 1444

Sec. 1511.09. The soil and water resources administration 1445  
fund is hereby created in the state treasury. The fund shall 1446  
consist of money credited to it from all fines, penalties, 1447  
costs, and damages, except court costs, that are collected 1448  
either by the chief of the division of soil and water resources 1449  
or the attorney general in consequence of any violation of this 1450  
chapter or rules adopted or orders issued under it. The chief 1451  
shall use money in the fund to administer and enforce this 1452  
chapter and rules adopted under it. 1453

**Sec. 1511.99.** Whoever violates division (A) of section 1454  
1511.07 of the Revised Code is guilty of a misdemeanor of the 1455  
first degree. Each day of violation is a separate offense. In 1456  
addition to the penalty provided in this division, the 1457  
sentencing court may assess damages in an amount equal to the 1458  
costs of reclaiming, restoring, or otherwise repairing any 1459  
damage to public or private property caused by any violation of 1460  
division (A) of section 1511.07 of the Revised Code. All fines 1461  
and moneys assessed as damages under this section shall be paid 1462  
into the ~~agricultural pollution abatement~~ soil and water 1463  
resources administration fund created in section ~~1511.071~~ 1464  
1511.09 of the Revised Code. 1465

**Sec. 1515.01.** As used in this chapter: 1466

(A) "Soil and water conservation district" means a 1467  
district organized in accordance with this chapter. 1468

(B) "Supervisor" means one of the members of the governing 1469  
body of a district. 1470

(C) "Landowner," "owner," or "owner of land" means an 1471  
owner of record as shown by the records in the office of the 1472  
county recorder. With respect to an improvement or a proposed 1473

improvement, "landowner," "owner," or "owner of land" also 1474  
includes any public corporation and the director of any 1475  
department, office, or institution of the state that is affected 1476  
by the improvement or that would be affected by the proposed 1477  
improvement, but that does not own any right, title, estate, or 1478  
interest in or to any real property. 1479

(D) "Land occupier" or "occupier of land" means any 1480  
person, firm, or corporation that controls the use of land 1481  
whether as landowner, lessee, renter, or tenant. 1482

(E) "Due notice" means notice published at least twice, 1483  
stating time and place, with an interval of at least thirteen 1484  
days between the two publication dates, in a newspaper of 1485  
general circulation within a soil and water conservation 1486  
district. 1487

~~(F) "Agricultural pollution" means failure to use 1488  
management or conservation practices in farming or silvicultural 1489  
operations to abate wind or water erosion of the soil or to 1490  
abate the degradation of the waters of the state by residual 1491  
farm products, manure, or soil sediment, including substances 1492  
attached thereto. 1493~~

~~(G) "Urban sediment pollution" means failure to use 1494  
management or conservation practices to abate wind or water 1495  
erosion of the soil or to abate the degradation of the waters of 1496  
the state by soil sediment in conjunction with land grading, 1497  
excavating, filling, or other soil disturbing activities on land 1498  
used or being developed for nonfarm commercial, industrial, 1499  
residential, or other nonfarm purposes, except lands being used 1500  
in a strip mine operation as defined in section 1513.01 of the 1501  
Revised Code and except lands being used in a surface mining 1502  
operation as defined in section 1514.01 of the Revised Code. 1503~~

<del>(H)</del> (G) "Uniform assessment" means an assessment that is	1504
both of the following:	1505
(1) Based upon a complete appraisal of each parcel of	1506
land, together with all improvements thereon, within a project	1507
area and of the benefits or damages brought about as a result of	1508
the project that is determined by criteria applied equally to	1509
all parcels within the project area;	1510
(2) Levied upon the parcels at a uniform rate on the basis	1511
of the appraisal.	1512
<del>(I)</del> (H) "Varied assessment" means any assessment that does	1513
not meet the criteria established in division <del>(H)</del> (G) of this	1514
section.	1515
<del>(J)</del> (I) "Project area" means an area determined and	1516
certified by the supervisors of a soil and water conservation	1517
district under section 1515.19 of the Revised Code.	1518
<del>(K)</del> (J) "Benefit" or "benefits" means advantages to land	1519
and owners, to public corporations, and to the state resulting	1520
from drainage, conservation, control, and management of water	1521
and from environmental, wildlife, and recreational improvements.	1522
"Benefit" or "benefits" includes, but is not limited to, any of	1523
the following factors:	1524
(1) Elimination or reduction of damage from flooding;	1525
(2) Removal of water conditions that jeopardize public	1526
health, safety, or welfare;	1527
(3) Increased value of land resulting from an improvement;	1528
(4) Use of water for irrigation, storage, regulation of	1529
stream flow, soil conservation, water supply, or any other	1530
incidental purpose;	1531

(5) Providing an outlet for the accelerated runoff from 1532  
artificial drainage if a stream, watercourse, channel, or ditch 1533  
that is under improvement is called upon to discharge functions 1534  
for which it was not designed. Uplands that have been removed 1535  
from their natural state by deforestation, cultivation, 1536  
artificial drainage, urban development, or other human methods 1537  
shall be considered to be benefited by an improvement that is 1538  
required to dispose of the accelerated flow of water from the 1539  
uplands. 1540

~~(L)~~ (K) "Improvement" or "conservation works of 1541  
improvement" means an improvement that is made under the 1542  
authority established in division (C) of section 1515.08 of the 1543  
Revised Code. 1544

~~(M)~~ (L) "Land" has the same meaning as in section 6131.01 1545  
of the Revised Code. 1546

~~(N)~~ "Manure," "operation" ~~(M)~~ "Operation and management 1547  
plan," and "residual farm products" sediment pollution have the 1548  
same meanings as in section 1511.01 of the Revised Code. 1549

~~(O)~~ (N) "Voluntary nutrient management plan" has the same 1550  
meaning as in section 905.31 of the Revised Code. 1551

(O) "Agricultural pollution," "animal feeding operation," 1552  
and "nutrient utilization plan" have the same meanings as in 1553  
section 939.01 of the Revised Code. 1554

**Sec. 1515.08.** The supervisors of a soil and water 1555  
conservation district have the following powers in addition to 1556  
their other powers: 1557

(A) To conduct surveys, investigations, and research 1558  
relating to the character of soil erosion, floodwater and 1559  
sediment damages, and the preventive and control measures and 1560

works of improvement for flood prevention and the conservation, 1561  
development, utilization, and disposal of water needed within 1562  
the district, and to publish the results of those surveys, 1563  
investigations, or research, provided that no district shall 1564  
initiate any research program except in cooperation or after 1565  
consultation with the Ohio agricultural research and development 1566  
center; 1567

(B) To develop plans for the conservation of soil 1568  
resources, for the control and prevention of soil erosion, and 1569  
for works of improvement for flood prevention and the 1570  
conservation, development, utilization, and disposal of water 1571  
within the district, and to publish those plans and information; 1572

(C) To implement, construct, repair, maintain, and operate 1573  
preventive and control measures and other works of improvement 1574  
for natural resource conservation and development and flood 1575  
prevention, and the conservation, development, utilization, and 1576  
disposal of water within the district on lands owned or 1577  
controlled by this state or any of its agencies and on any other 1578  
lands within the district, which works may include any 1579  
facilities authorized under state or federal programs, and to 1580  
acquire, by purchase or gift, to hold, encumber, or dispose of, 1581  
and to lease real and personal property or interests in such 1582  
property for those purposes; 1583

(D) To cooperate or enter into agreements with any 1584  
occupier of lands within the district in the carrying on of 1585  
natural resource conservation operations and works of 1586  
improvement for flood prevention and the conservation, 1587  
development, utilization, and management of natural resources 1588  
within the district, subject to such conditions as the 1589  
supervisors consider necessary; 1590

(E) To accept donations, gifts, grants, and contributions 1591  
in money, service, materials, or otherwise, and to use or expend 1592  
them according to their terms; 1593

(F) To adopt, amend, and rescind rules to carry into 1594  
effect the purposes and powers of the district; 1595

(G) To sue and plead in the name of the district, and be 1596  
sued and impleaded in the name of the district, with respect to 1597  
its contracts and, as indicated in section 1515.081 of the 1598  
Revised Code, certain torts of its officers, employees, or 1599  
agents acting within the scope of their employment or official 1600  
responsibilities, or with respect to the enforcement of its 1601  
obligations and covenants made under this chapter; 1602

(H) To make and enter into all contracts, leases, and 1603  
agreements and execute all instruments necessary or incidental 1604  
to the performance of the duties and the execution of the powers 1605  
of the district under this chapter, provided that all of the 1606  
following apply: 1607

(1) Except as provided in section 307.86 of the Revised 1608  
Code regarding expenditures by boards of county commissioners, 1609  
when the cost under any such contract, lease, or agreement, 1610  
other than compensation for personal services or rental of 1611  
office space, involves an expenditure of more than the amount 1612  
established in that section regarding expenditures by boards of 1613  
county commissioners, the supervisors shall make a written 1614  
contract with the lowest and best bidder after advertisement, 1615  
for not less than two nor more than four consecutive weeks 1616  
preceding the day of the opening of bids, in a newspaper of 1617  
general circulation within the district or as provided in 1618  
section 7.16 of the Revised Code and in such other publications 1619  
as the supervisors determine. The notice shall state the general 1620



character of the work and materials to be furnished, the place 1621  
where plans and specifications may be examined, and the time and 1622  
place of receiving bids. 1623

(2) Each bid for a contract shall contain the full name of 1624  
every person interested in it. 1625

(3) Each bid for a contract for the construction, 1626  
demolition, alteration, repair, or reconstruction of an 1627  
improvement shall meet the requirements of section 153.54 of the 1628  
Revised Code. 1629

(4) Each bid for a contract, other than a contract for the 1630  
construction, demolition, alteration, repair, or reconstruction 1631  
of an improvement, at the discretion of the supervisors, may be 1632  
accompanied by a bond or certified check on a solvent bank in an 1633  
amount not to exceed five per cent of the bid, conditioned that, 1634  
if the bid is accepted, a contract shall be entered into. 1635

(5) The supervisors may reject any and all bids. 1636

(I) To make agreements with the department of natural 1637  
resources giving it control over lands of the district for the 1638  
purpose of construction of improvements by the department under 1639  
section 1501.011 of the Revised Code; 1640

(J) To charge, alter, and collect rentals and other 1641  
charges for the use or services of any works of the district; 1642

(K) To enter, either in person or by designated 1643  
representatives, upon lands, private or public, in the necessary 1644  
discharge of their duties; 1645

(L) To enter into agreements or contracts with the 1646  
department for the determination, implementation, inspection, 1647  
and funding of ~~agricultural~~ sediment pollution abatement and 1648

urban sediment pollution abatement measures whereby landowners, 1649  
operators, managers, and developers may meet adopted state 1650  
standards for a quality environment, except that failure of a 1651  
district board of supervisors to negotiate an agreement or 1652  
contract with the department shall authorize the division of 1653  
soil and water resources to implement the required program; 1654

(M) To enter into agreements or contracts with the 1655  
department of agriculture for the determination, implementation, 1656  
inspection, and funding of agricultural pollution abatement 1657  
measures whereby landowners, operators, and managers may meet 1658  
adopted state standards for a quality environment, except that 1659  
failure of a district board of supervisors to negotiate an 1660  
agreement or contract with that department shall authorize the 1661  
department to implement the required program; 1662

(N) To conduct demonstrations and provide information to 1663  
the public regarding practices and methods for natural resource 1664  
conservation, development, and utilization; 1665

~~(N)~~(O) To enter into contracts or agreements with the 1666  
chief of the division of soil and water resources to implement 1667  
and administer a program for urban sediment pollution abatement 1668  
and to receive and expend moneys provided by the chief for that 1669  
purpose; 1670

~~(O)~~(P) To develop operation and management plans as 1671  
necessary; 1672

~~(P)~~(O) To determine whether operation and management plans 1673  
developed under division (A) of section 1511.021 of the Revised 1674  
Code comply with the standards established under division (E) (1) 1675  
of section 1511.02 of the Revised Code and to approve or 1676  
disapprove the plans, based on such compliance. If an operation 1677

and management plan is disapproved, the board shall provide a 1678  
written explanation to the person who submitted the plan. The 1679  
person may appeal the plan disapproval to the chief, who shall 1680  
afford the person a hearing. Following the hearing, the chief 1681  
shall uphold the plan disapproval or reverse it. If the chief 1682  
reverses the plan disapproval, the plan shall be deemed approved 1683  
under this division. In the event that any person operating or 1684  
owning agricultural land ~~or an animal feeding operation~~ in 1685  
accordance with an approved operation and management plan who, 1686  
in good faith, is following that plan, causes ~~agricultural-~~ 1687  
sediment pollution, the plan shall be revised in a fashion 1688  
necessary to mitigate the ~~agricultural-~~sediment pollution, as 1689  
determined and approved by the board of supervisors of the soil 1690  
and water conservation district. 1691

~~(Q)~~(R) To develop nutrient utilization plans as necessary; 1692

(S) To determine whether nutrient utilization plans 1693  
developed under division (A) of section 939.03 of the Revised 1694  
Code comply with the standards established in rules adopted 1695  
under division (C)(1) of section 939.02 of the Revised Code and 1696  
to approve or disapprove the plans based on such compliance. If 1697  
a nutrient utilization plan is disapproved, the board shall 1698  
provide a written explanation to the person who submitted the 1699  
plan. The person may appeal the plan disapproval to the director 1700  
of agriculture who shall afford the person a hearing. Following 1701  
the hearing, the director shall uphold the plan disapproval or 1702  
reverse it. If the director reverses the plan disapproval, the 1703  
plan shall be deemed approved under this division. In the event 1704  
that a person operating or owning agricultural land or an animal 1705  
feeding operation in accordance with an approved nutrient 1706  
utilization plan who, in good faith, is following that plan 1707  
causes agricultural pollution, the plan shall be revised in a 1708

manner necessary to mitigate the agricultural pollution as 1709  
determined and approved by the board of supervisors of the soil 1710  
and water conservation district. 1711

(T) With regard to composting conducted in conjunction 1712  
with agricultural operations, to do all of the following: 1713

(1) Upon request or upon their own initiative, inspect 1714  
composting at any such operation to determine whether the 1715  
composting is being conducted in accordance with section 1716  
1511.022-939.04 of the Revised Code; 1717

(2) If the board determines that composting is not being 1718  
so conducted, request the ~~chief director of agriculture to issue~~ 1719  
~~an order under division (G) of section 1511.02 of the Revised~~ 1720  
~~Code requiring~~ take corrective actions under section 939.09 of 1721  
the Revised Code that require the person who is conducting the 1722  
composting to prepare a composting plan in accordance with rules 1723  
adopted under division ~~(E) (8) (c) (C) (5) (a)~~ of ~~that~~ section 939.02 1724  
of the Revised Code and to operate in accordance with that plan 1725  
or to operate in accordance with a previously prepared plan, as 1726  
applicable; 1727

(3) In accordance with rules adopted under division ~~(E) (8)~~ 1728  
~~(e) (C) (5) (b)~~ of section ~~1511.02~~939.02 of the Revised Code, 1729  
review and approve or disapprove any such composting plan. If a 1730  
plan is disapproved, the board shall provide a written 1731  
explanation to the person who submitted the plan. 1732

As used in division ~~(Q) (T)~~ of this section, "composting" 1733  
has the same meaning as in section ~~1511.01~~939.01 of the Revised 1734  
Code. 1735

~~(R)~~ (U) With regard to conservation activities that are 1736  
conducted in conjunction with agricultural operations, to assist 1737

the county auditor, upon request, in determining whether a 1738  
conservation activity is a conservation practice for purposes of 1739  
Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the 1740  
Revised Code. 1741

As used in this division, "conservation practice" has the 1742  
same meaning as in section 5713.30 of the Revised Code. 1743

~~(S)~~(V) To develop and approve or disapprove voluntary 1744  
nutrient management plans in accordance with section 905.323 of 1745  
the Revised Code; 1746

~~(T)~~(W) To do all acts necessary or proper to carry out the 1747  
powers granted in this chapter. 1748

The director of natural resources shall make 1749  
recommendations to reduce the adverse environmental effects of 1750  
each project that a soil and water conservation district plans 1751  
to undertake under division (A), (B), (C), or (D) of this 1752  
section and that will be funded in whole or in part by moneys 1753  
authorized under section 1515.16 of the Revised Code and shall 1754  
disapprove any such project that the director finds will 1755  
adversely affect the environment without equal or greater 1756  
benefit to the public. The director's disapproval or 1757  
recommendations, upon the request of the district filed in 1758  
accordance with rules adopted by the Ohio soil and water 1759  
conservation commission, shall be reviewed by the commission, 1760  
which may confirm the director's decision, modify it, or add 1761  
recommendations to or approve a project the director has 1762  
disapproved. 1763

Any instrument by which real property is acquired pursuant 1764  
to this section shall identify the agency of the state that has 1765  
the use and benefit of the real property as specified in section 1766

5301.012 of the Revised Code. 1767

**Sec. 3734.02.** (A) The director of environmental 1768  
protection, in accordance with Chapter 119. of the Revised Code, 1769  
shall adopt and may amend, suspend, or rescind rules having 1770  
uniform application throughout the state governing solid waste 1771  
facilities and the inspections of and issuance of permits and 1772  
licenses for all solid waste facilities in order to ensure that 1773  
the facilities will be located, maintained, and operated, and 1774  
will undergo closure and post-closure care, in a sanitary manner 1775  
so as not to create a nuisance, cause or contribute to water 1776  
pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 1777  
or 40 C.F.R. 257.3-8, as amended. The rules may include, without 1778  
limitation, financial assurance requirements for closure and 1779  
post-closure care and corrective action and requirements for 1780  
taking corrective action in the event of the surface or 1781  
subsurface discharge or migration of explosive gases or leachate 1782  
from a solid waste facility, or of ground water contamination 1783  
resulting from the transfer or disposal of solid wastes at a 1784  
facility, beyond the boundaries of any area within a facility 1785  
that is operating or is undergoing closure or post-closure care 1786  
where solid wastes were disposed of or are being disposed of. 1787  
The rules shall not concern or relate to personnel policies, 1788  
salaries, wages, fringe benefits, or other conditions of 1789  
employment of employees of persons owning or operating solid 1790  
waste facilities. The director, in accordance with Chapter 119. 1791  
of the Revised Code, shall adopt and may amend, suspend, or 1792  
rescind rules governing the issuance, modification, revocation, 1793  
suspension, or denial of variances from the director's solid 1794  
waste rules, including, without limitation, rules adopted under 1795  
this chapter governing the management of scrap tires. 1796

Variances shall be issued, modified, revoked, suspended, 1797

or rescinded in accordance with this division, rules adopted 1798  
under it, and Chapter 3745. of the Revised Code. The director 1799  
may order the person to whom a variance is issued to take such 1800  
action within such time as the director may determine to be 1801  
appropriate and reasonable to prevent the creation of a nuisance 1802  
or a hazard to the public health or safety or the environment. 1803  
Applications for variances shall contain such detail plans, 1804  
specifications, and information regarding objectives, 1805  
procedures, controls, and other pertinent data as the director 1806  
may require. The director shall grant a variance only if the 1807  
applicant demonstrates to the director's satisfaction that 1808  
construction and operation of the solid waste facility in the 1809  
manner allowed by the variance and any terms or conditions 1810  
imposed as part of the variance will not create a nuisance or a 1811  
hazard to the public health or safety or the environment. In 1812  
granting any variance, the director shall state the specific 1813  
provision or provisions whose terms are to be varied and also 1814  
shall state specific terms or conditions imposed upon the 1815  
applicant in place of the provision or provisions. The director 1816  
may hold a public hearing on an application for a variance or 1817  
renewal of a variance at a location in the county where the 1818  
operations that are the subject of the application for the 1819  
variance are conducted. The director shall give not less than 1820  
twenty days' notice of the hearing to the applicant by certified 1821  
mail or by another type of mail accompanied by a receipt and 1822  
shall publish at least one notice of the hearing in a newspaper 1823  
with general circulation in the county where the hearing is to 1824  
be held. The director shall make available for public inspection 1825  
at the principal office of the environmental protection agency a 1826  
current list of pending applications for variances and a current 1827  
schedule of pending variance hearings. The director shall make a 1828  
complete stenographic record of testimony and other evidence 1829

submitted at the hearing. Within ten days after the hearing, the 1830  
director shall make a written determination to issue, renew, or 1831  
deny the variance and shall enter the determination and the 1832  
basis for it into the record of the hearing. The director shall 1833  
issue, renew, or deny an application for a variance or renewal 1834  
of a variance within six months of the date upon which the 1835  
director receives a complete application with all pertinent 1836  
information and data required. No variance shall be issued, 1837  
revoked, modified, or denied until the director has considered 1838  
the relative interests of the applicant, other persons and 1839  
property affected by the variance, and the general public. Any 1840  
variance granted under this division shall be for a period 1841  
specified by the director and may be renewed from time to time 1842  
on such terms and for such periods as the director determines to 1843  
be appropriate. No application shall be denied and no variance 1844  
shall be revoked or modified without a written order stating the 1845  
findings upon which the denial, revocation, or modification is 1846  
based. A copy of the order shall be sent to the applicant or 1847  
variance holder by certified mail or by another type of mail 1848  
accompanied by a receipt. 1849

(B) The director shall prescribe and furnish the forms 1850  
necessary to administer and enforce this chapter. The director 1851  
may cooperate with and enter into agreements with other state, 1852  
local, or federal agencies to carry out the purposes of this 1853  
chapter. The director may exercise all incidental powers 1854  
necessary to carry out the purposes of this chapter. 1855

The director may use moneys in the infectious waste 1856  
management fund created in section 3734.021 of the Revised Code 1857  
exclusively for administering and enforcing the provisions of 1858  
this chapter governing the management of infectious wastes. 1859



(C) Except as provided in this division and divisions (N) 1860  
(2) and (3) of this section, no person shall establish a new 1861  
solid waste facility or infectious waste treatment facility, or 1862  
modify an existing solid waste facility or infectious waste 1863  
treatment facility, without submitting an application for a 1864  
permit with accompanying detail plans, specifications, and 1865  
information regarding the facility and method of operation and 1866  
receiving a permit issued by the director, except that no permit 1867  
shall be required under this division to install or operate a 1868  
solid waste facility for sewage sludge treatment or disposal 1869  
when the treatment or disposal is authorized by a current permit 1870  
issued under Chapter 3704. or 6111. of the Revised Code. 1871

No person shall continue to operate a solid waste facility 1872  
for which the director has denied a permit for which an 1873  
application was required under division (A) (3) of section 1874  
3734.05 of the Revised Code, or for which the director has 1875  
disapproved plans and specifications required to be filed by an 1876  
order issued under division (A) (5) of that section, after the 1877  
date prescribed for commencement of closure of the facility in 1878  
the order issued under division (A) (6) of section 3734.05 of the 1879  
Revised Code denying the permit application or approval. 1880

On and after the effective date of the rules adopted under 1881  
division (A) of this section and division (D) of section 3734.12 1882  
of the Revised Code governing solid waste transfer facilities, 1883  
no person shall establish a new, or modify an existing, solid 1884  
waste transfer facility without first submitting an application 1885  
for a permit with accompanying engineering detail plans, 1886  
specifications, and information regarding the facility and its 1887  
method of operation to the director and receiving a permit 1888  
issued by the director. 1889

No person shall establish a new compost facility or 1890  
continue to operate an existing compost facility that accepts 1891  
exclusively source separated yard wastes without submitting a 1892  
completed registration for the facility to the director in 1893  
accordance with rules adopted under divisions (A) and (N) (3) of 1894  
this section. 1895

This division does not apply to a generator of infectious 1896  
wastes that does any of the following: 1897

(1) Treats, by methods, techniques, and practices 1898  
established by rules adopted under division (B) (2) (a) of section 1899  
3734.021 of the Revised Code, any of the following: 1900

(a) Infectious wastes that are generated on any premises 1901  
that are owned or operated by the generator; 1902

(b) Infectious wastes that are generated by a generator 1903  
who has staff privileges at a hospital as defined in section 1904  
3727.01 of the Revised Code; 1905

(c) Infectious wastes that are generated in providing care 1906  
to a patient by an emergency medical services organization as 1907  
defined in section 4765.01 of the Revised Code. 1908

(2) Holds a license or renewal of a license to operate a 1909  
crematory facility issued under Chapter 4717. and a permit 1910  
issued under Chapter 3704. of the Revised Code; 1911

(3) Treats or disposes of dead animals or parts thereof, 1912  
or the blood of animals, and is subject to any of the following: 1913

(a) Inspection under the "Federal Meat Inspection Act," 81 1914  
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 1915

(b) Chapter 918. of the Revised Code; 1916

(c) Chapter 953. of the Revised Code.	1917
(D) Neither this chapter nor any rules adopted under it	1918
apply to single-family residential premises; to infectious	1919
wastes generated by individuals for purposes of their own care	1920
or treatment; to the temporary storage of solid wastes, other	1921
than scrap tires, prior to their collection for disposal; to the	1922
storage of one hundred or fewer scrap tires unless they are	1923
stored in such a manner that, in the judgment of the director or	1924
the board of health of the health district in which the scrap	1925
tires are stored, the storage causes a nuisance, a hazard to	1926
public health or safety, or a fire hazard; or to the collection	1927
of solid wastes, other than scrap tires, by a political	1928
subdivision or a person holding a franchise or license from a	1929
political subdivision of the state; to composting, as defined in	1930
section <del>1511.01-939.01</del> of the Revised Code, conducted in	1931
accordance with section <del>1511.022</del> <u>939.04</u> of the Revised Code; or	1932
to any person who is licensed to transport raw rendering	1933
material to a compost facility pursuant to section 953.23 of the	1934
Revised Code.	1935
(E) (1) As used in this division:	1936
(a) "On-site facility" means a facility that stores,	1937
treats, or disposes of hazardous waste that is generated on the	1938
premises of the facility.	1939
(b) "Off-site facility" means a facility that stores,	1940
treats, or disposes of hazardous waste that is generated off the	1941
premises of the facility and includes such a facility that is	1942
also an on-site facility.	1943
(c) "Satellite facility" means any of the following:	1944
(i) An on-site facility that also receives hazardous waste	1945

from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a

quarterly basis with the first quarterly payment each year being 1976  
 due on the anniversary of the date of issuance of the hazardous 1977  
 waste facility installation and operation permit and of any 1978  
 subsequent renewal permits. The annual permit fee shall be 1979  
 determined for each permit holder by the director in accordance 1980  
 with the following schedule: 1981

TYPE OF BASIC 1982

MANAGEMENT UNIT	TYPE OF FACILITY	FEE	1983
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Storage facility using:			1984
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Containers	On-site, off-site, and		1985
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satellite	\$500	1986
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Tanks	On-site, off-site, and		1987
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satellite	500	1988
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Waste pile	On-site, off-site, and		1989
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satellite	3,000	1990
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Surface impoundment	On-site and satellite	8,000	1991
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Off-site	10,000	1992
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Disposal facility using:			1993
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Deep well injection	On-site and satellite	15,000	1994
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Off-site	25,000	1995
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Landfill	On-site and satellite	25,000	1996
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Off-site	40,000	1997
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Land application	On-site and satellite	2,500	1998
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Off-site	5,000	1999
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Surface impoundment	On-site and satellite	10,000	2000
	Off-site	20,000	2001
Treatment facility using:			2002
Tanks	On-site, off-site, and		2003
	satellite	700	2004
Surface impoundment	On-site and satellite	8,000	2005
	Off-site	10,000	2006
Incinerator	On-site and satellite	5,000	2007
	Off-site	10,000	2008
Other forms			2009
of treatment	On-site, off-site, and		2010
	satellite	1,000	2011

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the

schedule for each such method. 2026

The director shall not require the payment of that portion 2027  
of an annual permit fee of any permit holder that would apply to 2028  
a hazardous waste management unit for which a permit has been 2029  
issued, but for which construction has not yet commenced. Once 2030  
construction has commenced, the director shall require the 2031  
payment of a part of the appropriate fee indicated by the 2032  
schedule that bears the same relationship to the total fee that 2033  
the number of days remaining until the next anniversary date at 2034  
which payment of the annual permit fee is due bears to three 2035  
hundred sixty-five. 2036

The director, by rules adopted in accordance with Chapters 2037  
119. and 3745. of the Revised Code, shall prescribe procedures 2038  
for collecting the annual permit fee established by this 2039  
division and may prescribe other requirements necessary to carry 2040  
out this division. 2041

(3) The prohibition against establishing or operating a 2042  
hazardous waste facility without a hazardous waste facility 2043  
installation and operation permit does not apply to either of 2044  
the following: 2045

(a) A facility that is operating in accordance with a 2046  
permit renewal issued under division (H) of section 3734.05 of 2047  
the Revised Code, a revision issued under division (I) of that 2048  
section as it existed prior to August 20, 1996, or a 2049  
modification issued by the director under division (I) of that 2050  
section on and after August 20, 1996; 2051

(b) Except as provided in division (J) of section 3734.05 2052  
of the Revised Code, a facility that will operate or is 2053  
operating in accordance with a permit by rule, or that is not 2054

subject to permit requirements, under rules adopted by the 2055  
director. In accordance with Chapter 119. of the Revised Code, 2056  
the director shall adopt, and subsequently may amend, suspend, 2057  
or rescind, rules for the purposes of division (E) (3) (b) of this 2058  
section. Any rules so adopted shall be consistent with and 2059  
equivalent to regulations pertaining to interim status adopted 2060  
under the "Resource Conservation and Recovery Act of 1976," 90 2061  
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 2062  
provided in this chapter. 2063

If a modification is requested or proposed for a facility 2064  
described in division (E) (3) (a) or (b) of this section, division 2065  
(I) (7) of section 3734.05 of the Revised Code applies. 2066

(F) No person shall store, treat, or dispose of hazardous 2067  
waste identified or listed under this chapter and rules adopted 2068  
under it, regardless of whether generated on or off the premises 2069  
where the waste is stored, treated, or disposed of, or transport 2070  
or cause to be transported any hazardous waste identified or 2071  
listed under this chapter and rules adopted under it to any 2072  
other premises, except at or to any of the following: 2073

(1) A hazardous waste facility operating under a permit 2074  
issued in accordance with this chapter; 2075

(2) A facility in another state operating under a license 2076  
or permit issued in accordance with the "Resource Conservation 2077  
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2078  
amended; 2079

(3) A facility in another nation operating in accordance 2080  
with the laws of that nation; 2081

(4) A facility holding a permit issued pursuant to Title I 2082  
of the "Marine Protection, Research, and Sanctuaries Act of 2083



1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended; 2084

(5) A hazardous waste facility as described in division 2085  
(E) (3) (a) or (b) of this section. 2086

(G) The director, by order, may exempt any person 2087  
generating, collecting, storing, treating, disposing of, or 2088  
transporting solid wastes, infectious wastes, or hazardous 2089  
waste, or processing solid wastes that consist of scrap tires, 2090  
in such quantities or under such circumstances that, in the 2091  
determination of the director, are unlikely to adversely affect 2092  
the public health or safety or the environment from any 2093  
requirement to obtain a registration certificate, permit, or 2094  
license or comply with the manifest system or other requirements 2095  
of this chapter. Such an exemption shall be consistent with and 2096  
equivalent to any regulations adopted by the administrator of 2097  
the United States environmental protection agency under the 2098  
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 2099  
42 U.S.C.A. 6921, as amended, except as otherwise provided in 2100  
this chapter. 2101

(H) No person shall engage in filling, grading, 2102  
excavating, building, drilling, or mining on land where a 2103  
hazardous waste facility, or a solid waste facility, was 2104  
operated without prior authorization from the director, who 2105  
shall establish the procedure for granting such authorization by 2106  
rules adopted in accordance with Chapter 119. of the Revised 2107  
Code. 2108

A public utility that has main or distribution lines above 2109  
or below the land surface located on an easement or right-of-way 2110  
across land where a solid waste facility was operated may engage 2111  
in any such activity within the easement or right-of-way without 2112  
prior authorization from the director for purposes of performing 2113

emergency repair or emergency replacement of its lines; of the 2114  
poles, towers, foundations, or other structures supporting or 2115  
sustaining any such lines; or of the appurtenances to those 2116  
structures, necessary to restore or maintain existing public 2117  
utility service. A public utility may enter upon any such 2118  
easement or right-of-way without prior authorization from the 2119  
director for purposes of performing necessary or routine 2120  
maintenance of those portions of its existing lines; of the 2121  
existing poles, towers, foundations, or other structures 2122  
sustaining or supporting its lines; or of the appurtenances to 2123  
any such supporting or sustaining structure, located on or above 2124  
the land surface on any such easement or right-of-way. Within 2125  
twenty-four hours after commencing any such emergency repair, 2126  
replacement, or maintenance work, the public utility shall 2127  
notify the director or the director's authorized representative 2128  
of those activities and shall provide such information regarding 2129  
those activities as the director or the director's 2130  
representative may request. Upon completion of the emergency 2131  
repair, replacement, or maintenance activities, the public 2132  
utility shall restore any land of the solid waste facility 2133  
disturbed by those activities to the condition existing prior to 2134  
the commencement of those activities. 2135

(I) No owner or operator of a hazardous waste facility, in 2136  
the operation of the facility, shall cause, permit, or allow the 2137  
emission therefrom of any particulate matter, dust, fumes, gas, 2138  
mist, smoke, vapor, or odorous substance that, in the opinion of 2139  
the director, unreasonably interferes with the comfortable 2140  
enjoyment of life or property by persons living or working in 2141  
the vicinity of the facility, or that is injurious to public 2142  
health. Any such action is hereby declared to be a public 2143  
nuisance. 2144

(J) Notwithstanding any other provision of this chapter, 2145  
in the event the director finds an imminent and substantial 2146  
danger to public health or safety or the environment that 2147  
creates an emergency situation requiring the immediate 2148  
treatment, storage, or disposal of hazardous waste, the director 2149  
may issue a temporary emergency permit to allow the treatment, 2150  
storage, or disposal of the hazardous waste at a facility that 2151  
is not otherwise authorized by a hazardous waste facility 2152  
installation and operation permit to treat, store, or dispose of 2153  
the waste. The emergency permit shall not exceed ninety days in 2154  
duration and shall not be renewed. The director shall adopt, and 2155  
may amend, suspend, or rescind, rules in accordance with Chapter 2156  
119. of the Revised Code governing the issuance, modification, 2157  
revocation, and denial of emergency permits. 2158

(K) Except for infectious wastes generated by a person who 2159  
produces fewer than fifty pounds of infectious wastes at a 2160  
premises during any one month, no owner or operator of a 2161  
sanitary landfill shall knowingly accept for disposal, or 2162  
dispose of, any infectious wastes that have not been treated to 2163  
render them noninfectious. 2164

(L) The director, in accordance with Chapter 119. of the 2165  
Revised Code, shall adopt, and may amend, suspend, or rescind, 2166  
rules having uniform application throughout the state 2167  
establishing a training and certification program that shall be 2168  
required for employees of boards of health who are responsible 2169  
for enforcing the solid waste and infectious waste provisions of 2170  
this chapter and rules adopted under them and for persons who 2171  
are responsible for the operation of solid waste facilities or 2172  
infectious waste treatment facilities. The rules shall provide 2173  
all of the following, without limitation: 2174

- (1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;
- (2) The course shall be offered on an annual basis;
- (3) Those persons who are required to take the course under division (L) of this section shall do so triennially;
- (4) Persons who successfully complete the course shall be certified by the director;
- (5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;
- (6) (a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;
- (b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.
- No person shall fail to obtain the certification required

under this division. 2204

(M) The director shall not issue a permit under section 2205  
3734.05 of the Revised Code to establish a solid waste facility, 2206  
or to modify a solid waste facility operating on December 21, 2207  
1988, in a manner that expands the disposal capacity or 2208  
geographic area covered by the facility, that is or is to be 2209  
located within the boundaries of a state park established or 2210  
dedicated under Chapter 1541. of the Revised Code, a state park 2211  
purchase area established under section 1541.02 of the Revised 2212  
Code, any unit of the national park system, or any property that 2213  
lies within the boundaries of a national park or recreation 2214  
area, but that has not been acquired or is not administered by 2215  
the secretary of the United States department of the interior, 2216  
located in this state, or any candidate area located in this 2217  
state and identified for potential inclusion in the national 2218  
park system in the edition of the "national park system plan" 2219  
submitted under paragraph (b) of section 8 of "The Act of August 2220  
18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current 2221  
at the time of filing of the application for the permit, unless 2222  
the facility or proposed facility is or is to be used 2223  
exclusively for the disposal of solid wastes generated within 2224  
the park or recreation area and the director determines that the 2225  
facility or proposed facility will not degrade any of the 2226  
natural or cultural resources of the park or recreation area. 2227  
The director shall not issue a variance under division (A) of 2228  
this section and rules adopted under it, or issue an exemption 2229  
order under division (G) of this section, that would authorize 2230  
any such establishment or expansion of a solid waste facility 2231  
within the boundaries of any such park or recreation area, state 2232  
park purchase area, or candidate area, other than a solid waste 2233  
facility exclusively for the disposal of solid wastes generated 2234

within the park or recreation area when the director determines 2235  
that the facility will not degrade any of the natural or 2236  
cultural resources of the park or recreation area. 2237

(N) (1) The rules adopted under division (A) of this 2238  
section, other than those governing variances, do not apply to 2239  
scrap tire collection, storage, monocell, monofill, and recovery 2240  
facilities. Those facilities are subject to and governed by 2241  
rules adopted under sections 3734.70 to 3734.73 of the Revised 2242  
Code, as applicable. 2243

(2) Division (C) of this section does not apply to scrap 2244  
tire collection, storage, monocell, monofill, and recovery 2245  
facilities. The establishment and modification of those 2246  
facilities are subject to sections 3734.75 to 3734.78 and 2247  
section 3734.81 of the Revised Code, as applicable. 2248

(3) The director may adopt, amend, suspend, or rescind 2249  
rules under division (A) of this section creating an alternative 2250  
system for authorizing the establishment, operation, or 2251  
modification of a solid waste compost facility in lieu of the 2252  
requirement that a person seeking to establish, operate, or 2253  
modify a solid waste compost facility apply for and receive a 2254  
permit under division (C) of this section and section 3734.05 of 2255  
the Revised Code and a license under division (A) (1) of that 2256  
section. The rules may include requirements governing, without 2257  
limitation, the classification of solid waste compost 2258  
facilities, the submittal of operating records for solid waste 2259  
compost facilities, and the creation of a registration or 2260  
notification system in lieu of the issuance of permits and 2261  
licenses for solid waste compost facilities. The rules shall 2262  
specify the applicability of divisions (A) (1), (2) (a), (3), and 2263  
(4) of section 3734.05 of the Revised Code to a solid waste 2264

compost facility. 2265

(O) (1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes. 2266  
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(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste. 2272  
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(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it. 2275  
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(P) (1) As used in divisions (P) and (Q) of this section: 2279

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health. 2280  
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(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code. 2284  
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(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background. 2286  
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(3) The owner or operator of a solid waste facility may 2293  
receive and process for purposes other than transfer or disposal 2294  
technologically enhanced naturally occurring radioactive 2295  
material that contains or is contaminated with radium-226, 2296  
radium-228, or any combination of radium-226 and radium-228 at 2297  
concentrations equal to or greater than five picocuries per gram 2298  
above natural background, provided that the owner or operator 2299  
has obtained and maintains all other necessary authorizations, 2300  
including any authorization required by rules adopted by the 2301  
director of health under section 3748.04 of the Revised Code. 2302

(4) The director of environmental protection may adopt 2303  
rules in accordance with Chapter 119. of the Revised Code 2304  
governing the receipt, acceptance, processing, handling, 2305  
management, and disposal by solid waste facilities of material 2306  
that contains or is contaminated with radioactive material, 2307  
including, without limitation, technologically enhanced 2308  
naturally occurring radioactive material that contains or is 2309  
contaminated with radium-226, radium-228, or any combination of 2310  
radium-226 and radium-228 at concentrations less than five 2311  
picocuries per gram above natural background. Rules adopted by 2312  
the director may include at a minimum both of the following: 2313

(a) Requirements in accordance with which the owner or 2314  
operator of a solid waste facility must monitor leachate and 2315  
ground water for radium-226, radium-228, and other 2316  
radionuclides; 2317

(b) Requirements in accordance with which the owner or 2318  
operator of a solid waste facility must develop procedures to 2319  
ensure that technologically enhanced naturally occurring 2320  
radioactive material accepted at the facility neither contains 2321  
nor is contaminated with radium-226, radium-228, or any 2322



combination of radium-226 and radium-228 at concentrations equal 2323  
to or greater than five picocuries per gram above natural 2324  
background. 2325

(Q) Notwithstanding any other provision of this section, 2326  
the owner or operator of a solid waste facility shall not 2327  
receive, accept, process, handle, manage, or dispose of 2328  
technologically enhanced naturally occurring radioactive 2329  
material associated with drilling operations without first 2330  
obtaining representative analytical results to determine 2331  
compliance with divisions (P) (2) and (3) of this section and 2332  
rules adopted under it. 2333

**Sec. 3734.029.** (A) (1) Except as otherwise provided in 2334  
division (A) (2) of this section, the standards of quality for 2335  
compost products established in rules adopted under division (A) 2336  
of section 3734.028 of the Revised Code apply to compost 2337  
products produced by a facility composting dead animals that is 2338  
subject to section ~~1511.022-939.04~~ of the Revised Code in 2339  
addition to compost products produced by facilities subject to 2340  
this chapter. 2341

(2) The standards of quality established in rules adopted 2342  
under division (A) of section 3734.028 of the Revised Code do 2343  
not apply to the use, distribution for use, or giving away of 2344  
the compost products produced by a composting facility subject 2345  
to section ~~1511.022-939.04~~ of the Revised Code when either of 2346  
the following applies: 2347

(a) The composting is conducted by the person who raises 2348  
the animals and the compost product is used in agricultural 2349  
operations owned or operated by that person, regardless of 2350  
whether the person owns the animals; 2351

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

(B) No owner or operator of a composting facility that is subject to regulation under section ~~1511.022~~39.04 of the Revised Code shall sell or offer for sale at retail or wholesale, distribute for use, or give away any compost product that does not comply with the standard of quality applicable under division (A) of this section for the use for which the product is being sold, offered for sale, distributed, or given away.

No person shall violate this division.

**Sec. 3745.50.** (A) For purposes of the implementation of this section, there is hereby established the office of harmful algae management and response in the environmental protection agency.

(B) The director of environmental protection, in consultation with the directors of agriculture, health, and natural resources and representatives of local governments, publicly owned treatment works, and public water systems, shall prepare a strategic plan that establishes coordinated preventive and response protocols regarding the maintenance of safe drinking water and the management of wastewater in this state.

(C) The director of environmental protection shall include all of the following in the strategic plan:

(1) Protocols for monitoring water intake structures of public water systems and testing for harmful algae in Lake Erie;

(2) Provision of training, testing, and treatment support 2381  
by employees of the environmental protection agency and the 2382  
departments of agriculture, health, and natural resources to 2383  
employees of publicly owned treatment works and public water 2384  
systems. The plan may include provision of such support for 2385  
other activities. 2386

(3) Promotion of source water protection, emergency 2387  
planning, water asset management planning, and related 2388  
communication protocols. 2389

(D) The director of environmental protection may include 2390  
in the strategic plan protocols for monitoring the tributaries 2391  
of the western basin for phosphorous, nitrogen, and sediment 2392  
runoff and other chemical and biological agents, as determined 2393  
by the director, that may result in harmful algae, cyanotoxins, 2394  
and other adverse impacts on the waters of the state. 2395

(E) As used in this section, "western basin" has the same 2396  
meaning as in section 905.326 of the Revised Code. 2397

**Sec. 3745.70.** As used in sections 3745.70 to 3745.73 of 2398  
the Revised Code: 2399

(A) "Environmental audit" means a voluntary, thorough, and 2400  
discrete self-evaluation of one or more activities at one or 2401  
more facilities or properties that is documented; is designed to 2402  
improve compliance, or identify, correct, or prevent 2403  
noncompliance, with environmental laws; and is conducted by the 2404  
owner or operator of a facility or property or the owner's or 2405  
operator's employee or independent contractor. An environmental 2406  
audit may be conducted by the owner or operator of a facility or 2407  
property, the owner's or operator's employees, or independent 2408  
contractors. Once initiated, an audit shall be completed within 2409

a reasonable time, not to exceed six months, unless a written request for an extension is approved by the head officer of the governmental agency, or division or office thereof, with jurisdiction over the activities being audited based on a showing of reasonable grounds. An audit shall not be considered to be initiated until the owner or operator or the owner's or operator's employee or independent contractor actively has begun the self-evaluation of environmental compliance.

(B) "Activity" means any process, procedure, or function that is subject to environmental laws.

(C) "Voluntary" means, with respect to an environmental audit of a particular activity, that both of the following apply when the audit of that activity commences:

(1) The audit is not required by law, prior litigation, or an order by a court or a government agency;

(2) The owner or operator who conducts the audit does not know or have reason to know that a government agency has commenced an investigation or enforcement action that concerns a violation of environmental laws involving the activity or that such an investigation or enforcement action is imminent.

(D) "Environmental audit report" means interim or final data, documents, records, or plans that are necessary to an environmental audit and are collected, developed, made, and maintained in good faith as part of the audit, and may include, without limitation:

(1) Analytical data, laboratory reports, field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts,

graphs, and surveys;	2439
(2) Reports that describe the scope, objectives, and methods of the environmental audit, audit management policies, the information gained by the environmental audit, and conclusions and recommendations together with exhibits and appendices;	2440 2441 2442 2443 2444
(3) Memoranda, documents, records, and plans analyzing the environmental audit report or discussing implementation, prevention, compliance, and remediation issues associated with the environmental audit.	2445 2446 2447 2448
"Environmental audit report" does not mean corrective or remedial action taken pursuant to an environmental audit.	2449 2450
(E) "Environmental laws" means sections <u>939.02, 1511.02,</u> and 1531.29, Chapters 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., and 6111. of the Revised Code, and any other sections or chapters of the Revised Code the principal purpose of which is environmental protection; any federal or local counterparts or extensions of those sections or chapters; rules adopted under any such sections, chapters, counterparts, or extensions; and terms and conditions of orders, permits, licenses, license renewals, variances, exemptions, or plan approvals issued under such sections, chapters, counterparts, or extensions.	2451 2452 2453 2454 2455 2456 2457 2458 2459 2460 2461
<b>Sec. 6109.10.</b> (A) <u>(1)</u> As used in this section, "lead free" means:	2462 2463
<del>(1) When used with respect to solders or flux, solders or flux containing</del> <u>(a) Containing</u> not more than two-tenths of one per cent lead <u>when used with respect to solders or flux;</u>	2464 2465 2466
<del>(2) When used with respect to pipes or pipe fittings,</del>	2467

~~pipes or pipe fittings containing (b) Containing not more than 2468~~  
~~eight a weighted average of twenty-five-hundredths per cent lead 2469~~  
~~when used with respect to wetted surfaces of pipes, pipe 2470~~  
~~fittings, or plumbing fittings or fixtures. 2471~~

~~(B) Any pipe, pipe fitting, solder, or flux that is used 2472~~  
~~in the installation or repair of a public water system or of any 2473~~  
~~plumbing in a residential or nonresidential facility providing 2474~~  
~~water for human consumption which is connected to a public water 2475~~  
~~system shall be lead free. This division does not apply to 2476~~  
~~lead joints necessary for the repair of cast iron pipes. (2) 2477~~  
~~For purposes of this section, the weighted average lead content 2478~~  
~~of a pipe, pipe fitting, or plumbing fitting or fixture shall be 2479~~  
~~calculated by using the following formula: for each wetted 2480~~  
~~component, the percentage of lead in the component shall be 2481~~  
~~multiplied by the ratio of the wetted surface area of that 2482~~  
~~component to the total wetted surface area of the entire product 2483~~  
~~to determine the weighted percentage of lead of the component. 2484~~  
~~The weighted percentage of lead of each wetted component shall 2485~~  
~~be added together, and the sum of the weighted percentages shall 2486~~  
~~constitute the weighted average lead content of the product. The 2487~~  
~~lead content of the material used to produce wetted components 2488~~  
~~shall be used to determine whether the wetted surfaces are lead 2489~~  
~~free pursuant to division (A) (1) (b) of this section. For 2490~~  
~~purposes of the lead contents of materials that are provided as 2491~~  
~~a range, the maximum content of the range shall be used. 2492~~

~~(B) Except as provided in division (D) of this section, no 2493~~  
~~person shall do any of the following: 2494~~

~~(1) Use any pipe, pipe fitting, plumbing fitting or 2495~~  
~~fixture, solder, or flux that is not lead free in the 2496~~  
~~installation or repair of a public water system or of any 2497~~

<u>plumbing in a residential or nonresidential facility providing</u>	2498
<u>water for human consumption;</u>	2499
<u>(2) Introduce into commerce any pipe, pipe fitting, or</u>	2500
<u>plumbing fitting or fixture that is not lead free;</u>	2501
<u>(3) Sell solder or flux that is not lead free while</u>	2502
<u>engaged in the business of selling plumbing supplies;</u>	2503
<u>(4) Introduce into commerce any solder or flux that is not</u>	2504
<u>lead free unless the solder or flux has a prominent label</u>	2505
<u>stating that it is illegal to use the solder or flux in the</u>	2506
<u>installation or repair of any plumbing providing water for human</u>	2507
<u>consumption.</u>	2508
(C) <del>Each</del> <u>The owner or operator of a public water system</u>	2509
shall identify and provide notice to persons that may be	2510
affected by lead contamination of their drinking water <u>if the</u>	2511
<u>contamination results from the lead content in the construction</u>	2512
<u>materials of the public water distribution system, the</u>	2513
<u>corrosivity of the water supply is sufficient to cause the</u>	2514
<u>leaching of lead, or both.</u> The notice shall be in such form and	2515
manner as may be reasonably required by the director of	2516
environmental protection, but shall provide a clear and readily	2517
understandable explanation of all of the following:	2518
(1) Potential sources of lead in the drinking water;	2519
(2) Potential adverse health effects;	2520
(3) Reasonably available methods of mitigating known or	2521
potential lead content in drinking water;	2522
(4) Any steps the public water system is taking to	2523
mitigate lead content in drinking water;	2524
(5) The necessity, if any, of seeking alternative water	2525

supplies.	2526
The notice shall be provided notwithstanding the absence of a violation of any drinking water standard.	2527 2528
<u>(D) (1) Division (B) (1) of this section does not apply to the use of leaded joints that are necessary for the repair of cast iron pipes.</u>	2529 2530 2531
<u>(2) Division (B) (2) of this section does not apply to a pipe that is used in manufacturing or industrial processing.</u>	2532 2533
<u>(3) Division (B) (3) of this section does not apply to the selling of plumbing supplies by manufacturers of those supplies.</u>	2534 2535
<u>(4) Division (B) of this section does not apply to either of the following:</u>	2536 2537
<u>(a) Pipes, pipe fittings, or plumbing fittings or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption;</u>	2538 2539 2540 2541 2542 2543
<u>(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two inches in diameter or larger.</u>	2544 2545 2546 2547
<b>Sec. 6111.03.</b> The director of environmental protection may do any of the following:	2548 2549
(A) Develop plans and programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;	2550 2551 2552



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

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

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

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

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

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

the lawful orders of the director;	2582
(D) Administer state grants for the construction of sewage and waste collection and treatment works;	2583 2584
(E) Encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to water pollution, and the causes, prevention, control, and abatement thereof, that are advisable and necessary for the discharge of the director's duties under this chapter;	2585 2586 2587 2588 2589
(F) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;	2590 2591
(G) Adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code governing the procedure for hearings, the filing of reports, the issuance of permits, the issuance of industrial water pollution control certificates, and all other matters relating to procedure;	2592 2593 2594 2595 2596
(H) Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:	2597 2598
(1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;	2599 2600
(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;	2601 2602 2603
(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;	2604 2605 2606 2607 2608
(4) Requiring compliance with any standard or rule adopted	2609

under sections 6111.01 to 6111.05 of the Revised Code or term or 2610  
condition of a permit. 2611

In the making of those orders, wherever compliance with a 2612  
rule adopted under section 6111.042 of the Revised Code is not 2613  
involved, consistent with the Federal Water Pollution Control 2614  
Act, the director shall give consideration to, and base the 2615  
determination on, evidence relating to the technical feasibility 2616  
and economic reasonableness of complying with those orders and 2617  
to evidence relating to conditions calculated to result from 2618  
compliance with those orders, and their relation to benefits to 2619  
the people of the state to be derived from such compliance in 2620  
accomplishing the purposes of this chapter. 2621

(I) Review plans, specifications, or other data relative 2622  
to disposal systems or any part thereof in connection with the 2623  
issuance of orders, permits, and industrial water pollution 2624  
control certificates under this chapter; 2625

(J) (1) Issue, revoke, modify, or deny sludge management 2626  
permits and permits for the discharge of sewage, industrial 2627  
waste, or other wastes into the waters of the state, and for the 2628  
installation or modification of disposal systems or any parts 2629  
thereof in compliance with all requirements of the Federal Water 2630  
Pollution Control Act and mandatory regulations adopted 2631  
thereunder, including regulations adopted under section 405 of 2632  
the Federal Water Pollution Control Act, and set terms and 2633  
conditions of permits, including schedules of compliance, where 2634  
necessary. Any person who discharges, transports, or handles 2635  
storm water from an animal feeding facility, as defined in 2636  
section 903.01 of the Revised Code, or pollutants from a 2637  
concentrated animal feeding operation, as both terms are defined 2638  
in that section, is not required to obtain a permit under 2639

division (J) (1) of this section for the installation or 2640  
modification of a disposal system involving pollutants or storm 2641  
water or any parts of such a system on and after the date on 2642  
which the director of agriculture has finalized the program 2643  
required under division (A) (1) of section 903.02 of the Revised 2644  
Code. In addition, any person who discharges, transports, or 2645  
handles storm water from an animal feeding facility, as defined 2646  
in section 903.01 of the Revised Code, or pollutants from a 2647  
concentrated animal feeding operation, as both terms are defined 2648  
in that section, is not required to obtain a permit under 2649  
division (J) (1) of this section for the discharge of storm water 2650  
from an animal feeding facility or pollutants from a 2651  
concentrated animal feeding operation on and after the date on 2652  
which the United States environmental protection agency approves 2653  
the NPDES program submitted by the director of agriculture under 2654  
section 903.08 of the Revised Code. 2655

Any permit terms and conditions set by the director shall 2656  
be designed to achieve and maintain full compliance with the 2657  
national effluent limitations, national standards of performance 2658  
for new sources, and national toxic and pretreatment effluent 2659  
standards set under that act, and any other mandatory 2660  
requirements of that act that are imposed by regulation of the 2661  
administrator of the United States environmental protection 2662  
agency. If an applicant for a sludge management permit also 2663  
applies for a related permit for the discharge of sewage, 2664  
industrial waste, or other wastes into the waters of the state, 2665  
the director may combine the two permits and issue one permit to 2666  
the applicant. 2667

A sludge management permit is not required for an entity 2668  
that treats or transports sewage sludge or for a sanitary 2669  
landfill when all of the following apply: 2670

(a) The entity or sanitary landfill does not generate the sewage sludge. 2671  
2672

(b) Prior to receipt at the sanitary landfill, the entity has ensured that the sewage sludge meets the requirements established in rules adopted by the director under section 3734.02 of the Revised Code concerning disposal of municipal solid waste in a sanitary landfill. 2673  
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(c) Disposal of the sewage sludge occurs at a sanitary landfill that complies with rules adopted by the director under section 3734.02 of the Revised Code. 2678  
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As used in division (J) (1) of this section, "sanitary landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed as a solid waste facility under section 3734.05 of the Revised Code. 2681  
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(2) An application for a permit or renewal thereof shall be denied if any of the following applies: 2686  
2687

(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby; 2688  
2689

(b) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act; 2690  
2691  
2692  
2693

(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; 2694  
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(d) The application is for the discharge of any 2698

radiological, chemical, or biological warfare agent or high- 2699  
level radioactive waste into the waters of the United States. 2700

(3) To achieve and maintain applicable standards of 2701  
quality for the waters of the state adopted pursuant to section 2702  
6111.041 of the Revised Code, the director shall impose, where 2703  
necessary and appropriate, as conditions of each permit, water 2704  
quality related effluent limitations in accordance with sections 2705  
301, 302, 306, 307, and 405 of the Federal Water Pollution 2706  
Control Act and, to the extent consistent with that act, shall 2707  
give consideration to, and base the determination on, evidence 2708  
relating to the technical feasibility and economic 2709  
reasonableness of removing the polluting properties from those 2710  
wastes and to evidence relating to conditions calculated to 2711  
result from that action and their relation to benefits to the 2712  
people of the state and to accomplishment of the purposes of 2713  
this chapter. 2714

(4) Where a discharge having a thermal component from a 2715  
source that is constructed or modified on or after October 18, 2716  
1972, meets national or state effluent limitations or more 2717  
stringent permit conditions designed to achieve and maintain 2718  
compliance with applicable standards of quality for the waters 2719  
of the state, which limitations or conditions will ensure 2720  
protection and propagation of a balanced, indigenous population 2721  
of shellfish, fish, and wildlife in or on the body of water into 2722  
which the discharge is made, taking into account the interaction 2723  
of the thermal component with sewage, industrial waste, or other 2724  
wastes, the director shall not impose any more stringent 2725  
limitation on the thermal component of the discharge, as a 2726  
condition of a permit or renewal thereof for the discharge, 2727  
during a ten-year period beginning on the date of completion of 2728  
the construction or modification of the source, or during the 2729

period of depreciation or amortization of the source for the 2730  
purpose of section 167 or 169 of the Internal Revenue Code of 2731  
1954, whichever period ends first. 2732

(5) The director shall specify in permits for the 2733  
discharge of sewage, industrial waste, and other wastes, the net 2734  
volume, net weight, duration, frequency, and, where necessary, 2735  
concentration of the sewage, industrial waste, and other wastes 2736  
that may be discharged into the waters of the state. The 2737  
director shall specify in those permits and in sludge management 2738  
permits that the permit is conditioned upon payment of 2739  
applicable fees as required by section 3745.11 of the Revised 2740  
Code and upon the right of the director's authorized 2741  
representatives to enter upon the premises of the person to whom 2742  
the permit has been issued for the purpose of determining 2743  
compliance with this chapter, rules adopted thereunder, or the 2744  
terms and conditions of a permit, order, or other determination. 2745  
The director shall issue or deny an application for a sludge 2746  
management permit or a permit for a new discharge, for the 2747  
installation or modification of a disposal system, or for the 2748  
renewal of a permit, within one hundred eighty days of the date 2749  
on which a complete application with all plans, specifications, 2750  
construction schedules, and other pertinent information required 2751  
by the director is received. 2752

(6) The director may condition permits upon the 2753  
installation of discharge or water quality monitoring equipment 2754  
or devices and the filing of periodic reports on the amounts and 2755  
contents of discharges and the quality of receiving waters that 2756  
the director prescribes. The director shall condition each 2757  
permit for a government-owned disposal system or any other 2758  
"treatment works" as defined in the Federal Water Pollution 2759  
Control Act upon the reporting of new introductions of 2760

industrial waste or other wastes and substantial changes in 2761  
volume or character thereof being introduced into those systems 2762  
or works from "industrial users" as defined in section 502 of 2763  
that act, as necessary to comply with section 402(b) (8) of that 2764  
act; upon the identification of the character and volume of 2765  
pollutants subject to pretreatment standards being introduced 2766  
into the system or works; and upon the existence of a program to 2767  
ensure compliance with pretreatment standards by "industrial 2768  
users" of the system or works. In requiring monitoring devices 2769  
and reports, the director, to the extent consistent with the 2770  
Federal Water Pollution Control Act, shall give consideration to 2771  
technical feasibility and economic reasonableness and shall 2772  
allow reasonable time for compliance. 2773

(7) A permit may be issued for a period not to exceed five 2774  
years and may be renewed upon application for renewal. In 2775  
renewing a permit, the director shall consider the compliance 2776  
history of the permit holder and may deny the renewal if the 2777  
director determines that the permit holder has not complied with 2778  
the terms and conditions of the existing permit. A permit may be 2779  
modified, suspended, or revoked for cause, including, but not 2780  
limited to, violation of any condition of the permit, obtaining 2781  
a permit by misrepresentation or failure to disclose fully all 2782  
relevant facts of the permitted discharge or of the sludge use, 2783  
storage, treatment, or disposal practice, or changes in any 2784  
condition that requires either a temporary or permanent 2785  
reduction or elimination of the permitted activity. No 2786  
application shall be denied or permit revoked or modified 2787  
without a written order stating the findings upon which the 2788  
denial, revocation, or modification is based. A copy of the 2789  
order shall be sent to the applicant or permit holder by 2790  
certified mail. 2791



(K) Institute or cause to be instituted in any court of 2792  
competent jurisdiction proceedings to compel compliance with 2793  
this chapter or with the orders of the director issued under 2794  
this chapter, or to ensure compliance with sections 204(b), 307, 2795  
308, and 405 of the Federal Water Pollution Control Act; 2796

(L) Issue, deny, revoke, or modify industrial water 2797  
pollution control certificates; 2798

(M) Certify to the government of the United States or any 2799  
agency thereof that an industrial water pollution control 2800  
facility is in conformity with the state program or requirements 2801  
for the control of water pollution whenever the certification 2802  
may be required for a taxpayer under the Internal Revenue Code 2803  
of the United States, as amended; 2804

(N) Issue, modify, and revoke orders requiring any 2805  
"industrial user" of any publicly owned "treatment works" as 2806  
defined in sections 212(2) and 502(18) of the Federal Water 2807  
Pollution Control Act to comply with pretreatment standards; 2808  
establish and maintain records; make reports; install, use, and 2809  
maintain monitoring equipment or methods, including, where 2810  
appropriate, biological monitoring methods; sample discharges in 2811  
accordance with methods, at locations, at intervals, and in a 2812  
manner that the director determines; and provide other 2813  
information that is necessary to ascertain whether or not there 2814  
is compliance with toxic and pretreatment effluent standards. In 2815  
issuing, modifying, and revoking those orders, the director, to 2816  
the extent consistent with the Federal Water Pollution Control 2817  
Act, shall give consideration to technical feasibility and 2818  
economic reasonableness and shall allow reasonable time for 2819  
compliance. 2820

(O) Exercise all incidental powers necessary to carry out 2821

the purposes of this chapter;	2822
(P) Certify or deny certification to any applicant for a federal license or permit to conduct any activity that may result in any discharge into the waters of the state that the discharge will comply with the Federal Water Pollution Control Act;	2823 2824 2825 2826 2827
(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:	2828 2829 2830 2831
(1) Apply and enforce pretreatment standards;	2832
(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:	2833 2834 2835 2836
(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;	2837 2838
(b) The director has revoked the publicly owned treatment works pretreatment program;	2839 2840
(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;	2841 2842
(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.	2843 2844 2845
(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	2846 2847 2848 2849

treatment works with those programs, and require compliance by 2850  
industrial users with pretreatment standards; 2851

(4) Approve and deny requests for authority to modify 2852  
categorical pretreatment standards to reflect removal of 2853  
pollutants achieved by publicly owned treatment works; 2854

(5) Deny and recommend approval of requests for 2855  
fundamentally different factors variances submitted by 2856  
industrial users; 2857

(6) Make determinations on categorization of industrial 2858  
users; 2859

(7) Adopt, amend, or rescind rules and issue, modify, or 2860  
revoke orders necessary for the administration and enforcement 2861  
of the publicly owned treatment works pretreatment program. 2862

Any approval of a publicly owned treatment works 2863  
pretreatment program may contain any terms and conditions, 2864  
including schedules of compliance, that are necessary to achieve 2865  
compliance with this chapter. 2866

(R) Except as otherwise provided in this division, adopt 2867  
rules in accordance with Chapter 119. of the Revised Code 2868  
establishing procedures, methods, and equipment and other 2869  
requirements for equipment to prevent and contain discharges of 2870  
oil and hazardous substances into the waters of the state. The 2871  
rules shall be consistent with and equivalent in scope, content, 2872  
and coverage to section 311(j) (1) (c) of the Federal Water 2873  
Pollution Control Act and regulations adopted under it. The 2874  
director shall not adopt rules under this division relating to 2875  
discharges of oil from oil production facilities and oil 2876  
drilling and workover facilities as those terms are defined in 2877  
that act and regulations adopted under it. 2878

(S) (1) Administer and enforce a program for the regulation 2879  
of sludge management in this state. In administering the 2880  
program, the director, in addition to exercising the authority 2881  
provided in any other applicable sections of this chapter, may 2882  
do any of the following: 2883

(a) Develop plans and programs for the disposal and 2884  
utilization of sludge and sludge materials; 2885

(b) Encourage, participate in, or conduct studies, 2886  
investigations, research, and demonstrations relating to the 2887  
disposal and use of sludge and sludge materials and the impact 2888  
of sludge and sludge materials on land located in the state and 2889  
on the air and waters of the state; 2890

(c) Collect and disseminate information relating to the 2891  
disposal and use of sludge and sludge materials and the impact 2892  
of sludge and sludge materials on land located in the state and 2893  
on the air and waters of the state; 2894

(d) Issue, modify, or revoke orders to prevent, control, 2895  
or abate the use and disposal of sludge and sludge materials or 2896  
the effects of the use of sludge and sludge materials on land 2897  
located in the state and on the air and waters of the state; 2898

(e) Adopt and enforce, modify, or rescind rules necessary 2899  
for the implementation of division (S) of this section. The 2900  
rules reasonably shall protect public health and the 2901  
environment, encourage the beneficial reuse of sludge and sludge 2902  
materials, and minimize the creation of nuisance odors. 2903

The director may specify in sludge management permits the 2904  
net volume, net weight, quality, and pollutant concentration of 2905  
the sludge or sludge materials that may be used, stored, 2906  
treated, or disposed of, and the manner and frequency of the 2907

use, storage, treatment, or disposal, to protect public health 2908  
and the environment from adverse effects relating to those 2909  
activities. The director shall impose other terms and conditions 2910  
to protect public health and the environment, minimize the 2911  
creation of nuisance odors, and achieve compliance with this 2912  
chapter and rules adopted under it and, in doing so, shall 2913  
consider whether the terms and conditions are consistent with 2914  
the goal of encouraging the beneficial reuse of sludge and 2915  
sludge materials. 2916

The director may condition permits on the implementation 2917  
of treatment, storage, disposal, distribution, or application 2918  
management methods and the filing of periodic reports on the 2919  
amounts, composition, and quality of sludge and sludge materials 2920  
that are disposed of, used, treated, or stored. 2921

An approval of a treatment works sludge disposal program 2922  
may contain any terms and conditions, including schedules of 2923  
compliance, necessary to achieve compliance with this chapter 2924  
and rules adopted under it. 2925

(2) As a part of the program established under division 2926  
(S) (1) of this section, the director has exclusive authority to 2927  
regulate sewage sludge management in this state. For purposes of 2928  
division (S) (2) of this section, that program shall be 2929  
consistent with section 405 of the Federal Water Pollution 2930  
Control Act and regulations adopted under it and with this 2931  
section, except that the director may adopt rules under division 2932  
(S) of this section that establish requirements that are more 2933  
stringent than section 405 of the Federal Water Pollution 2934  
Control Act and regulations adopted under it with regard to 2935  
monitoring sewage sludge and sewage sludge materials and 2936  
establishing acceptable sewage sludge management practices and 2937

pollutant levels in sewage sludge and sewage sludge materials. 2938

(T) Study, examine, and calculate nutrient loading from 2939  
point and nonpoint sources in order to determine comparative 2940  
contributions by those sources and to utilize the information 2941  
derived from those calculations to determine the most 2942  
environmentally beneficial and cost-effective mechanisms to 2943  
reduce nutrient loading to watersheds in the state. In order to 2944  
evaluate nutrient loading contributions, the director or the 2945  
director's designee shall conduct a study of the statewide 2946  
nutrient mass balance for both point and nonpoint sources in 2947  
watersheds in the state using available data, including both of 2948  
the following: 2949

(1) Data on water quality; 2950

(2) Data on point source discharges into watersheds in the 2951  
state. 2952

The director or the director's designee shall report and 2953  
update the results of the study to coincide with the release of 2954  
the Ohio integrated water quality monitoring and assessment 2955  
report prepared by the director. 2956

This chapter authorizes the state to participate in any 2957  
national sludge management program and the national pollutant 2958  
discharge elimination system, to administer and enforce the 2959  
publicly owned treatment works pretreatment program, and to 2960  
issue permits for the discharge of dredged or fill materials, in 2961  
accordance with the Federal Water Pollution Control Act. This 2962  
chapter shall be administered, consistent with the laws of this 2963  
state and federal law, in the same manner that the Federal Water 2964  
Pollution Control Act is required to be administered. 2965

This section does not apply to residual farm products and 2966

manure disposal systems and related management and conservation 2967  
practices subject to rules adopted pursuant to division ~~(E)(1)~~ 2968  
(C)(1) of section ~~1511.02~~939.02 of the Revised Code. For 2969  
purposes of this exclusion, "residual farm products" and 2970  
"manure" have the same meanings as in section ~~1511.01~~939.01 of 2971  
the Revised Code. However, until the date on which the United 2972  
States environmental protection agency approves the NPDES 2973  
program submitted by the director of agriculture under section 2974  
903.08 of the Revised Code, this exclusion does not apply to 2975  
animal waste treatment works having a controlled direct 2976  
discharge to the waters of the state or any concentrated animal 2977  
feeding operation, as defined in 40 C.F.R. 122.23(b)(2). On and 2978  
after the date on which the United States environmental 2979  
protection agency approves the NPDES program submitted by the 2980  
director of agriculture under section 903.08 of the Revised 2981  
Code, this section does not apply to storm water from an animal 2982  
feeding facility, as defined in section 903.01 of the Revised 2983  
Code, or to pollutants discharged from a concentrated animal 2984  
feeding operation, as both terms are defined in that section. 2985  
Neither of these exclusions applies to the discharge of animal 2986  
waste into a publicly owned treatment works. 2987

A publicly owned treatment works with a design flow of one 2988  
million gallons per day or more, or designated as a major 2989  
discharger by the director, shall begin monthly monitoring of 2990  
total and dissolved phosphorous not later than December 1, 2016. 2991  
In addition, a publicly owned treatment works that, on the 2992  
effective date of this amendment, is not subject to a 2993  
phosphorous effluent limit of one milligram per liter as a 2994  
thirty-day average shall complete and submit an optimization 2995  
study that evaluates the publicly owned treatment works' ability 2996  
to reduce phosphorous to one milligram per liter as a thirty-day 2997

average. The director shall modify NPDES permits to include 2998  
those requirements. 2999

**Sec. 6111.04.** (A) Both of the following apply except as 3000  
otherwise provided in division (A) or (F) of this section: 3001

(1) No person shall cause pollution or place or cause to 3002  
be placed any sewage, sludge, sludge materials, industrial 3003  
waste, or other wastes in a location where they cause pollution 3004  
of any waters of the state. 3005

(2) Such an action prohibited under division (A) (1) of 3006  
this section is hereby declared to be a public nuisance. 3007

Divisions (A) (1) and (2) of this section do not apply if 3008  
the person causing pollution or placing or causing to be placed 3009  
wastes in a location in which they cause pollution of any waters 3010  
of the state holds a valid, unexpired permit, or renewal of a 3011  
permit, governing the causing or placement as provided in 3012  
sections 6111.01 to 6111.08 of the Revised Code or if the 3013  
person's application for renewal of such a permit is pending. 3014

(B) If the director of environmental protection 3015  
administers a sludge management program pursuant to division (S) 3016  
of section 6111.03 of the Revised Code, both of the following 3017  
apply except as otherwise provided in division (B) or (F) of 3018  
this section: 3019

(1) No person, in the course of sludge management, shall 3020  
place on land located in the state or release into the air of 3021  
the state any sludge or sludge materials. 3022

(2) An action prohibited under division (B) (1) of this 3023  
section is hereby declared to be a public nuisance. 3024

Divisions (B) (1) and (2) of this section do not apply if 3025



the person placing or releasing the sludge or sludge materials 3026  
holds a valid, unexpired permit, or renewal of a permit, 3027  
governing the placement or release as provided in sections 3028  
6111.01 to 6111.08 of the Revised Code or if the person's 3029  
application for renewal of such a permit is pending. 3030

(C) No person to whom a permit has been issued shall place 3031  
or discharge, or cause to be placed or discharged, in any waters 3032  
of the state any sewage, sludge, sludge materials, industrial 3033  
waste, or other wastes in excess of the permissive discharges 3034  
specified under an existing permit without first receiving a 3035  
permit from the director to do so. 3036

(D) No person to whom a sludge management permit has been 3037  
issued shall place on the land or release into the air of the 3038  
state any sludge or sludge materials in excess of the permissive 3039  
amounts specified under the existing sludge management permit 3040  
without first receiving a modification of the existing sludge 3041  
management permit or a new sludge management permit to do so 3042  
from the director. 3043

(E) The director may require the submission of plans, 3044  
specifications, and other information that the director 3045  
considers relevant in connection with the issuance of permits. 3046

(F) This section does not apply to any of the following: 3047

(1) Waters used in washing sand, gravel, other aggregates, 3048  
or mineral products when the washing and the ultimate disposal 3049  
of the water used in the washing, including any sewage, 3050  
industrial waste, or other wastes contained in the waters, are 3051  
entirely confined to the land under the control of the person 3052  
engaged in the recovery and processing of the sand, gravel, 3053  
other aggregates, or mineral products and do not result in the 3054

pollution of waters of the state; 3055

(2) Water, gas, or other material injected into a well to 3056  
facilitate, or that is incidental to, the production of oil, 3057  
gas, artificial brine, or water derived in association with oil 3058  
or gas production and disposed of in a well, in compliance with 3059  
a permit issued under Chapter 1509. of the Revised Code, or 3060  
sewage, industrial waste, or other wastes injected into a well 3061  
in compliance with an injection well operating permit. Division 3062  
(F) (2) of this section does not authorize, without a permit, any 3063  
discharge that is prohibited by, or for which a permit is 3064  
required by, regulation of the United States environmental 3065  
protection agency. 3066

(3) Application of any materials to land for agricultural 3067  
purposes or runoff of the materials from that application or 3068  
pollution by residual farm products, manure, or soil sediment, 3069  
including attached substances, resulting from farming, 3070  
silvicultural, or earthmoving activities regulated by Chapter 3071  
307., 939., or 1511. of the Revised Code. Division (F) (3) of 3072  
this section does not authorize, without a permit, any discharge 3073  
that is prohibited by, or for which a permit is required by, the 3074  
Federal Water Pollution Control Act or regulations adopted under 3075  
it. As used in division (F) (3) of this section, "residual farm 3076  
products" and "manure" have the same meanings as in section 3077  
~~1511.01-939.01~~ 939.01 of the Revised Code. 3078

(4) The excrement of domestic and farm animals defecated 3079  
on land or runoff therefrom into any waters of the state. 3080  
Division (F) (4) of this section does not authorize, without a 3081  
permit, any discharge that is prohibited by, or for which a 3082  
permit is required by, the Federal Water Pollution Control Act 3083  
or regulations adopted under it. 3084

(5) On and after the date on which the United States 3085  
environmental protection agency approves the NPDES program 3086  
submitted by the director of agriculture under section 903.08 of 3087  
the Revised Code, any discharge that is within the scope of the 3088  
approved NPDES program submitted by the director of agriculture; 3089

(6) The discharge of sewage, industrial waste, or other 3090  
wastes into a sewerage system tributary to a treatment works. 3091  
Division (F) (6) of this section does not authorize any discharge 3092  
into a publicly owned treatment works in violation of a 3093  
pretreatment program applicable to the publicly owned treatment 3094  
works. 3095

(7) A household sewage treatment system or a small flow 3096  
on-site sewage treatment system, as applicable, as defined in 3097  
section 3718.01 of the Revised Code that is installed in 3098  
compliance with Chapter 3718. of the Revised Code and rules 3099  
adopted under it. Division (F) (7) of this section does not 3100  
authorize, without a permit, any discharge that is prohibited 3101  
by, or for which a permit is required by, regulation of the 3102  
United States environmental protection agency. 3103

(8) Exceptional quality sludge generated outside of this 3104  
state and contained in bags or other containers not greater than 3105  
one hundred pounds in capacity. As used in division (F) (8) of 3106  
this section, "exceptional quality sludge" has the same meaning 3107  
as in division (Y) of section 3745.11 of the Revised Code. 3108

(G) The holder of a permit issued under section 402 (a) of 3109  
the Federal Water Pollution Control Act need not obtain a permit 3110  
for a discharge authorized by the permit until its expiration 3111  
date. Except as otherwise provided in this division, the 3112  
director of environmental protection shall administer and 3113  
enforce those permits within this state and may modify their 3114

terms and conditions in accordance with division (J) of section 3115  
6111.03 of the Revised Code. On and after the date on which the 3116  
United States environmental protection agency approves the NPDES 3117  
program submitted by the director of agriculture under section 3118  
903.08 of the Revised Code, the director of agriculture shall 3119  
administer and enforce those permits within this state that are 3120  
issued for any discharge that is within the scope of the 3121  
approved NPDES program submitted by the director of agriculture. 3122

Sec. 6111.32. (A) In order to ensure the regular and 3123  
orderly maintenance of federal navigation channels and ports in 3124  
this state, the director of environmental protection shall 3125  
endeavor to work with the United States army corps of engineers 3126  
on a dredging plan that focuses on long-term planning for the 3127  
disposition of dredged material consistent with the requirements 3128  
established in this section. 3129

(B) On and after July 1, 2020, no person shall deposit 3130  
dredged material in the portion of Lake Erie that is within the 3131  
jurisdictional boundaries of this state or in the direct 3132  
tributaries of Lake Erie within this state that resulted from 3133  
harbor or navigation maintenance activities unless the director 3134  
has determined that the dredged material is suitable for one of 3135  
the locations, purposes, or activities specified in division (C) 3136  
of this section and has issued a section 401 water quality 3137  
certification authorizing the deposit. 3138

(C) The director may authorize the deposit of dredged 3139  
material in the portion of Lake Erie that is within the 3140  
jurisdictional boundaries of this state or in the direct 3141  
tributaries of Lake Erie within this state that resulted from 3142  
harbor or navigation maintenance activities for any of the 3143  
following: 3144

<u>(1) Confined disposal facilities;</u>	3145
<u>(2) Beneficial use projects;</u>	3146
<u>(3) Beach nourishment projects if at least eighty per cent of the dredged material is sand;</u>	3147 3148
<u>(4) Placement in the littoral drift if at least sixty per cent of the dredged material is sand;</u>	3149 3150
<u>(5) Habitat restoration projects;</u>	3151
<u>(6) Projects involving amounts of dredged material that do not exceed ten thousand cubic yards, including material associated with dewatering operations related to dredging operations.</u>	3152 3153 3154 3155
<u>(D) The director may consult with the director of natural resources for the purposes of this section. The director of environmental protection has exclusive authority to approve the location in which dredged material is proposed to be deposited in the portion of Lake Erie that is within the jurisdictional boundaries of this state or in the direct tributaries of Lake Erie within this state.</u>	3156 3157 3158 3159 3160 3161 3162
<u>(E) The director, in consultation with the director of natural resources, may determine that financial, environmental, regulatory, or other factors exist that result in the inability to comply with this section. After making that determination, the director, through the issuance of a section 401 water quality certification, may allow for open lake placement of dredged material from the Maumee river, Maumee bay federal navigation channel, and Toledo harbor.</u>	3163 3164 3165 3166 3167 3168 3169 3170
<u>(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the</u>	3171 3172

implementation of this section. 3173

**Sec. 6111.44.** (A) Except as otherwise provided in division 3174  
(B) of this section, in section 6111.14 of the Revised Code, or 3175  
in rules adopted under division (G) of section 6111.03 of the 3176  
Revised Code, no municipal corporation, county, public 3177  
institution, corporation, or officer or employee thereof or 3178  
other person shall provide or install sewerage or treatment 3179  
works for sewage, sludge, or sludge materials disposal or 3180  
treatment or make a change in any sewerage or treatment works 3181  
until the plans therefor have been submitted to and approved by 3182  
the director of environmental protection. Sections 6111.44 to 3183  
6111.46 of the Revised Code apply to sewerage and treatment 3184  
works of a municipal corporation or part thereof, an 3185  
unincorporated community, a county sewer district, or other land 3186  
outside of a municipal corporation or any publicly or privately 3187  
owned building or group of buildings or place, used for the 3188  
assemblage, entertainment, recreation, education, correction, 3189  
hospitalization, housing, or employment of persons. 3190

In granting an approval, the director may stipulate 3191  
modifications, conditions, and rules that the public health and 3192  
prevention of pollution may require. Any action taken by the 3193  
director shall be a matter of public record and shall be entered 3194  
in the director's journal. Each period of thirty days that a 3195  
violation of this section continues, after a conviction for the 3196  
violation, constitutes a separate offense. 3197

(B) Sections 6111.45 and 6111.46 of the Revised Code and 3198  
division (A) of this section do not apply to any of the 3199  
following: 3200

(1) Sewerage or treatment works for sewage installed or to 3201  
be installed for the use of a private residence or dwelling; 3202

(2) Sewerage systems, treatment works, or disposal systems 3203  
for storm water from an animal feeding facility or manure, as 3204  
"animal feeding facility" and "manure" are defined in section 3205  
903.01 of the Revised Code; 3206

(3) Residual farm products and manure treatment or 3207  
disposal works and related management and conservation practices 3208  
that are subject to rules adopted under division ~~(E) (1)~~ (C) (1) of 3209  
section ~~1511.02-939.02~~ of the Revised Code. As used in division 3210  
(B) (3) of this section, "residual farm products" and "manure" 3211  
have the same meanings as in section ~~1511.01-939.01~~ of the 3212  
Revised Code. 3213

(4) Sewerage or treatment works for the on-lot disposal or 3214  
treatment of sewage from a small flow on-site sewage treatment 3215  
system, as defined in section 3718.01 of the Revised Code, if 3216  
the board of health of a city or general health district has 3217  
notified the director of health and the director of 3218  
environmental protection under section 3718.021 of the Revised 3219  
Code that the board has chosen to regulate the system, provided 3220  
that the board remains in compliance with the rules adopted 3221  
under division (A) (13) of section 3718.02 of the Revised Code. 3222

The exclusions established in divisions (B) (2) and (3) of 3223  
this section do not apply to the construction or installation of 3224  
disposal systems, as defined in section 6111.01 of the Revised 3225  
Code, that are located at an animal feeding facility and that 3226  
store, treat, or discharge wastewaters that do not include storm 3227  
water or manure or that discharge to a publicly owned treatment 3228  
works. 3229

**Sec. 6112.01.** As used in ~~sections 6112.01 to 6112.05,~~ 3230  
~~inclusive, of the Revised Code~~ this chapter: 3231

(A) "Sewage" means any substance that contains any of the 3232  
waste products or excrementitious or other discharge from the 3233  
bodies of human beings or animals, which pollutes the waters of 3234  
the state. 3235

(B) "Industrial waste" means any liquid, gaseous, or solid 3236  
waste substance resulting from any process of industry, 3237  
manufacture, trade, or business, or from the development, 3238  
processing, or recovery of any natural resource, together with 3239  
such sewage as is present, which pollutes the waters of the 3240  
state. 3241

(C) "Other wastes" means garbage, refuse, decayed wood, 3242  
sawdust shavings, bark, and other wood debris, lime (except 3243  
hydrated or dehydrated lime), sand, ashes, offal, night soil, 3244  
oil, tar, coal dust, or silt, and other substances ~~which that~~ 3245  
are not ~~included within the definitions of sewage and or~~ 3246  
~~industrial waste set forth in this section,~~ which pollute the 3247  
waters of the state. 3248

(D) "Sewerage system" means ~~pipe lines~~ pipelines or 3249  
conduits, pumping stations, and force mains, and all other 3250  
constructions, devices, appurtenances, and facilities that are 3251  
used for collecting or conducting water-borne sewage, industrial 3252  
waste, or other wastes to a point of disposal or treatment and 3253  
that are privately constructed. 3254

(E) "Treatment works" means any plant, disposal field, 3255  
lagoon, dam, pumping station, incinerator, or other works used 3256  
for the purpose of treating, stabilizing, or holding sewage, 3257  
industrial waste, or other wastes. 3258

(F) "Disposal system" means a system for disposing of 3259  
sewage, industrial waste, or other wastes, and includes sewerage 3260



systems and treatment works. 3261

(G) "Waters of the state" mean all streams, lakes, ponds, 3262  
marshes, watercourses, waterways, wells, springs, irrigation 3263  
systems, drainage systems, and all other bodies or accumulations 3264  
of water, surface and underground, natural or artificial, ~~which~~ 3265  
that are situated wholly or partly within, or border upon, this 3266  
state, or are within its jurisdiction, except those private 3267  
waters ~~which~~ that do not combine or effect a junction with 3268  
natural surface or underground waters. 3269

~~(H) "Person" means a person, firm, partnership, 3270  
association, or corporation, other than a county, township, 3271  
municipal corporation, or other political subdivision. 3272~~

**Sec. 6112.03.** Applications for approval of plans for the 3273  
construction and installation of facilities under this chapter 3274  
shall be made in the manner and form prescribed by the director 3275  
of environmental protection and shall be accompanied by plans, 3276  
specifications, and other data that the director may require 3277  
relative to the facilities for which approval of plans is 3278  
requested. Thereafter, the director shall review and act upon 3279  
the application in accordance with law and the rules adopted 3280  
pursuant thereto under section 6111.03 of the Revised Code. 3281

**Sec. 6112.06.** (A) As used in this section: 3282

(1) "Health district" means a city or general health 3283  
district as created by or under authority of Chapter 3709. of 3284  
the Revised Code. 3285

(2) "Household sewage treatment system" has the same 3286  
meaning as in section 3718.01 of the Revised Code and includes a 3287  
household sewage disposal system as defined in rule 3701-29-01 3288  
of the Administrative Code. 3289

(B) (1) A person that submits plans to install a sewerage system under section 6112.03 of the Revised Code simultaneously shall notify the owner of each parcel of property that is served by a household sewage treatment system and the board of health of the health district in which the affected parcel of property is located of the installation of the sewerage system if the owner or operator of the sewerage system has determined that the parcel of property is reasonably accessible to the sewerage system and may be required to connect to it. The notice shall include a statement indicating that if the person receiving the notice chooses to elect out of connecting to the sewerage system after receiving the notice, the cost of connecting to the sewerage system in the future may be higher. The notice shall be in writing and shall be sent by certified mail. 3290  
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(2) For purposes of this section, a parcel of property is reasonably accessible if all of the following apply: 3304  
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(a) The office of the sanitary engineer of the applicable jurisdiction and the environmental protection agency have certified that the new sewerage system and its receiving treatment works have the capacity to accept the additional waste from the parcel of property. 3306  
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(b) The foundation wall of the structure from which sewage or other waste originates is four hundred feet or less from the nearest boundary of the right-of-way within which the new sewerage system is located. 3311  
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(c) There are no physical barriers between the parcel of property and the new sewerage system that would prevent the parcel of property from connecting to the new sewerage system. 3315  
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(C) A person who receives a notice under division (B) of 3318

this section shall not be required to connect to the sewerage system specified in the notice if both of the following apply: 3319  
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(1) The person notifies the owner or operator of the sewerage system and the board of health of the health district in which the affected parcel of property is located that the person elects not to connect to the specified sewerage system. The notice shall be in writing and shall be sent by certified mail not later than sixty days after the person has received a notice under division (B) of this section. Not later than one hundred twenty days after the board of health receives the notice, the board shall evaluate the household sewage treatment system serving the affected parcel of property to determine if the system operates and is maintained in accordance with Chapter 3718. of the Revised Code and with rules adopted under that chapter by the director of health and by the board, if any. The owner of the affected parcel of property is responsible for the costs of the evaluation. 3321  
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If the owner of the affected parcel of property is aware that the property will be vacant at any time during the one-hundred-twenty-day period, the owner shall notify the board of health of the dates during which the property will be vacant. In order for the required inspection to occur, the owner shall ensure that the property is occupied for at least ninety consecutive days within the one-hundred-twenty-day period and shall notify the board of health of the dates of occupancy. Failure to so notify the board or so occupy the property constitutes termination of the authorization under this section for the property owner to elect out of connecting to the sewerage system. 3336  
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(2) The applicable board of health determines under 3348

division (C) (1) of this section that the household sewage 3349  
treatment system operates and is maintained in accordance with 3350  
Chapter 3718. of the Revised Code and with rules adopted under 3351  
that chapter by the director and by the board, if any. The board 3352  
shall so notify the person and the owner or operator of the 3353  
sewerage system. However, if the board determines that a 3354  
nuisance exists under section 3718.011 of the Revised Code, the 3355  
board shall so notify the person. The person may repair the 3356  
system within sixty days to eliminate the nuisance. The board 3357  
may assist the person in developing a plan for the incremental 3358  
repair or replacement of the system. The incremental repair or 3359  
replacement plan shall establish a phased approach to repair, 3360  
alter, or replace the system over a period of time specified in 3361  
the plan and approved by the board. The incremental repair or 3362  
replacement plan shall require sufficient alterations to the 3363  
system to correct the nuisance in a timely manner in order for 3364  
the person not to be required to connect to the sewerage system. 3365  
Failure to repair, alter, or replace the system to eliminate the 3366  
nuisance constitutes termination of the authorization under this 3367  
section for the property owner to elect out of connecting to the 3368  
sewerage system. 3369

(D) (1) Division (C) of this section does not apply to a 3370  
household sewage treatment system that is a discharging system. 3371  
The notification required by division (B) of this section shall 3372  
be issued to an applicable property owner regardless of whether 3373  
the property owner's system is a discharging system. 3374

(2) For purposes of this section, a discharging system is 3375  
one of the following: 3376

(a) A system for which an NPDES permit has been issued 3377  
under Chapter 6111. of the Revised Code and rules adopted under 3378

<u>it;</u>	3379
<u>(b) A system for which an NPDES permit would be required,</u>	3380
<u>but that has not been issued such a permit.</u>	3381
<b>Section 2.</b> That existing sections 901.22, 903.082, 903.25, 941.14, 953.22, 1511.01, 1511.02, 1511.021, 1511.022, 1511.023, 1511.05, 1511.07, 1511.99, 1515.01, 1515.08, 3734.02, 3734.029, 3745.70, 6109.10, 6111.03, 6111.04, 6111.44, 6112.01, and 6112.03 and section 1511.071 of the Revised Code are hereby repealed.	3382 3383 3384 3385 3386 3387
<b>Section 3.</b> That Section 333.30 of H.B. 59 of the 130th General Assembly be amended to read as follows:	3388 3389
<b>Sec. 333.30.</b> LEASE RENTAL PAYMENTS	3390
The foregoing appropriation item 725413, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapter 154. of the Revised Code.	3391 3392 3393 3394 3395 3396 3397 3398
CANAL LANDS	3399
The foregoing appropriation item 725456, Canal Lands, shall be used to provide operating expenses for the State Canal Lands Program.	3400 3401 3402
HEALTHY LAKE ERIE FUND	3403
The foregoing appropriation item 725505, Healthy Lake Erie Fund, shall be used by the Director of Natural Resources, <del>in-</del> <del>consultation with the Director of Agriculture and the Director-</del>	3404 3405 3406

~~of Environmental Protection, to implement nonstatutory~~ 3407  
~~recommendations of the Agriculture Nutrients and Water Quality~~ 3408  
~~Working Group. The Director shall give priority to~~ 3409  
~~recommendations that encourage farmers to adopt agricultural~~ 3410  
~~production guidelines commonly known as 4R nutrient stewardship~~ 3411  
~~practices. Funds may also be used for enhanced~~ in support of 3412  
(1) conservation measures in the Western Lake Erie Basin as 3413  
determined by the Director; (2) funding assistance for soil 3414  
testing, in the Western Lake Erie Basin, monitoring the quality 3415  
of Lake Erie and its tributaries, and conducting research and 3416  
establishing pilot projects that have the goal of reducing algae 3417  
blooms in Lake Erie. winter cover crops, edge of field testing, 3418  
tributary monitoring, animal waste abatement; and (3) any 3419  
additional efforts to reduce nutrient runoff as the Director may 3420  
decide. The Director shall give priority to recommendations that 3421  
encourage farmers to adopt agricultural production guidelines 3422  
commonly known as 4R nutrient stewardship practices. 3423

COAL AND MINE SAFETY PROGRAM 3424

The foregoing appropriation item 725507, Coal and Mine 3425  
Safety Program, shall be used for the administration of the Mine 3426  
Safety Program and the Coal Regulation Program. 3427

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 3428

The foregoing appropriation item 725903, Natural Resources 3429  
General Obligation Debt Service, shall be used to pay all debt 3430  
service and related financing costs during the period July 1, 3431  
2013, through June 30, 2015, on obligations issued under 3432  
sections 151.01 and 151.05 of the Revised Code. 3433

**Section 4.** That existing Section 333.30 of Am. Sub. H.B. 3434  
59 of the 130th General Assembly is hereby repealed. 3435

**Section 5.** For purposes of the transfer by this act of the 3436  
Agricultural Pollution Abatement Program established prior to 3437  
the effective date of the amendment of the statutes governing 3438  
the Program by this act under Chapter 1511. of the Revised Code 3439  
from the Department of Natural Resources to the Department of 3440  
Agriculture, all of the following apply: 3441

(A) The Director of Natural Resources shall enter into a 3442  
memorandum of understanding with the Director of Agriculture 3443  
regarding the transfer of the Program. 3444

(B) On the date on which the two Directors sign a 3445  
memorandum of understanding under division (A) of this section, 3446  
the Director of Natural Resources shall provide the Director of 3447  
Agriculture with both of the following: 3448

(1) Copies of all operation and management plans, or 3449  
applicable portions of such plans, developed or approved by the 3450  
Chief of the Division of Soil and Water Resources under Chapter 3451  
1511. of the Revised Code or the supervisors of a soil and water 3452  
conservation district under Chapter 1515. of the Revised Code 3453  
for the abatement of the degradation of the waters of the state 3454  
by manure, including attached substances, that were developed or 3455  
approved prior to the effective date of the amendment of the 3456  
statutes governing the Program by this act; 3457

(2) Copies of all operation and management plans, or 3458  
applicable portions of such plans, and accompanying information 3459  
that were submitted for approval by the Chief or the supervisors 3460  
of a soil and water conservation district under Chapter 1511. or 3461  
1515. of the Revised Code, as applicable, prior to the effective 3462  
date of the amendment of the statutes governing the Program by 3463  
this act for the abatement of the degradation of the waters of 3464  
the state by manure, including attached substances. 3465

(C) Any business commenced but not completed by the Chief 3466  
of the Division of Soil and Water Resources relating to the 3467  
Program on the effective date of the amendment of the statutes 3468  
governing the Program by this act shall be completed by the 3469  
Director of Agriculture. Any validation, cure, right, privilege, 3470  
remedy, obligation, or liability is not lost or impaired solely 3471  
by reason of the transfer required by this act and shall be 3472  
administered by the Director of Agriculture in accordance with 3473  
this act. 3474

(D) All of the orders and determinations of the Chief of 3475  
the Division of Soil and Water Resources relating to the 3476  
Agricultural Pollution Abatement Program continue in effect as 3477  
orders and determinations of the Director of Agriculture until 3478  
modified or rescinded by the Director. 3479

(E) Whenever the Division of Soil and Water Resources or 3480  
the Chief of the Division of Soil and Water Resources, in 3481  
relation to the Program, is referred to in any law, contract, or 3482  
other document, the reference shall be deemed to refer to the 3483  
Department of Agriculture or to the Director of Agriculture, 3484  
whichever is appropriate in context. 3485

(F) Any action or proceeding pending on the effective date 3486  
of the amendment of the statutes governing the Program by this 3487  
act is not affected by the transfer of the functions of that 3488  
Program by this act and shall be prosecuted or defended in the 3489  
name of the Department of Agriculture. In all such actions and 3490  
proceedings, the Department of Agriculture, upon application to 3491  
the court, shall be substituted as a party. 3492

(G) As used in this section: 3493

(1) "Soil and water conservation district" has the same 3494



meaning as in section 1515.01 of the Revised Code. 3495

(2) "Waters of the state" and "operation and management  
plan" have the same meanings as in section 1511.01 of the  
Revised Code. 3496  
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(3) "Manure" has the same meaning as in section 939.01 of  
the Revised Code. 3499  
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**Section 6.** The Director of Agriculture shall adopt rules 3501  
in accordance with Chapter 119. of the Revised Code that are 3502  
identical to all of the following rules as those rules exist on 3503  
the effective date of this section, except that references to 3504  
the Division of Soil and Water Resources in the Department of 3505  
Natural Resources shall be replaced with references to the 3506  
Department of Agriculture, and references to the Chief of the 3507  
Division of Soil and Water Resources shall be replaced with 3508  
references to the Director of Agriculture: 3509

(A) Rule 1501:15-5-01 of the Ohio Administrative Code; 3510

(B) Rule 1501:15-5-02 of the Ohio Administrative Code; 3511

(C) Rule 1501:15-5-03 of the Ohio Administrative Code; 3512

(D) Rule 1501:15-5-05 of the Ohio Administrative Code; 3513

(E) Rule 1501:15-5-06 of the Ohio Administrative Code; 3514

(F) Rule 1501:15-5-07 of the Ohio Administrative Code; 3515

(G) Rule 1501:15-5-14 of the Ohio Administrative Code; 3516

(H) Rule 1501:15-5-15 of the Ohio Administrative Code; 3517

(I) Rule 1501:15-5-18 of the Ohio Administrative Code. 3518

**Section 7.** Operation and management plans that were 3519  
developed or approved under Chapter 1511. or 1515. of the 3520

Revised Code prior to the amendment of those chapters by this 3521  
act continue in effect as nutrient utilization plans under 3522  
Chapter 939. or 1515. of the Revised Code as enacted or amended 3523  
by this act, as applicable. 3524

**Section 8.** The Agricultural Pollution Abatement Fund that 3525  
is created in section 939.11 of the Revised Code, as enacted by 3526  
this act, is a continuation of the Agricultural Pollution 3527  
Abatement Fund that was created in section 1511.071 of the 3528  
Revised Code prior to its repeal by this act. Money credited to 3529  
the Fund under section 1511.071 of the Revised Code, as repealed 3530  
by this act, shall be used for the purposes specified in section 3531  
939.11 of the Revised Code, as enacted by this act. 3532

**Section 9.** (A) Except as provided in division (B) of this 3533  
section, sections 905.326, 905.327, 939.12, and 939.13 of the 3534  
Revised Code, as enacted by this act, cease to operate five 3535  
years after the effective date of this section. 3536

(B) Not later than four years after the effective date of 3537  
this section, the committees of the House of Representatives and 3538  
the Senate that are primarily responsible for agriculture and 3539  
natural resources matters jointly shall review the effectiveness 3540  
of the sections of the Revised Code specified in division (A) of 3541  
this section in order to determine whether to recommend 3542  
legislation terminating the cessation of operation established 3543  
in that division. The committees jointly shall issue a report to 3544  
the Governor containing their findings and recommendation. If 3545  
the committees recommend termination of the cessation, the 3546  
committees may include in the report additional recommendations 3547  
for revisions to those sections. 3548

**Section 10.** The amendment, enactment, or repeal of 3549  
sections 901.22, 903.082, 903.25, 939.01, 939.02, 939.03, 3550

1511.022 (939.04), 939.05, 939.06, 939.07, 939.08, 939.09, 3551  
939.10, 939.11, 941.14, 953.22, 1511.01, 1511.02, 1511.021, 3552  
1511.023, 1511.024, 1511.05, 1511.07, 1511.071, 1511.09, 3553  
1511.99, 1515.01, 1515.08, 3734.02, 3734.029, 3745.70, 6111.04, 3554  
and 6111.44 and the second to the last paragraph of section 3555  
6111.03 of the Revised Code and Sections 5, 6, 7, and 8 of this 3556  
act become operative on January 1, 2017. 3557

**Section 11.** This act is hereby declared to be an emergency 3558  
measure necessary for the immediate preservation of the public 3559  
peace, health, and safety. The reason for such necessity is that 3560  
it is imperative to address public health issues in the western 3561  
Lake Erie basin related to algae and algal blooms prior to this 3562  
year's growing and recreation seasons. Therefore, this act shall 3563  
go into immediate effect. 3564