



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **H.B. 655**

132nd General Assembly  
(As Introduced)

**Reps.** Sheehy, K. Smith, Ashford, Ramos

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### **BILL SUMMARY**

- Adds new requirements governing the land application of fertilizer and manure in the Western Basin of Lake Erie, alters existing requirements, and eliminates existing exemptions to those requirements, including generally requiring fertilizer and manure to be applied onto an actively farmed field at the agronomic rate or, with regard to manure, through the utilization of certain specified best available technologies.
  - Specifies that the agronomic rate is the rate at which fertilizer or manure can be added to soil for optimum crop growth while minimizing the potential for nutrient runoff based on specified factors.
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### **CONTENT AND OPERATION**

#### **Overview**

Ohio law establishes requirements governing the land application of fertilizer and manure in the Western Basin of Lake Erie. The Department of Agriculture has the authority to enforce the requirements. The bill adds new requirements, alters existing requirements, and eliminates existing exemptions to those requirements.<sup>1</sup>

#### **Fertilizer application**

The bill revises the law restricting the land application of nitrogen or phosphorus (fertilizer) in the Western Lake Erie Basin (Basin) — the land that is located in specific

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<sup>1</sup> See R.C. Chapters 905. and 939.

watersheds in Northwest Ohio, including the St. Marys, Upper and Lower Maumee, and Ottawa River watersheds as follows:<sup>2</sup>

Topic	Current law	H.B. 655
<b>Prohibitions against applying fertilizer</b>	<p>Generally prohibits a person in the Basin from surface applying fertilizer under either of the following circumstances:</p> <p>(1) On snow-covered or frozen soil;</p> <p>(2) When the top two inches of soil are saturated from precipitation.<sup>3</sup></p>	<p>Same as current law, but adds that no person can apply fertilizer, for agricultural purposes, unless the person applies the fertilizer onto an actively farmed field at the agronomic rate.<sup>4</sup></p>
<b>Agronomic rate definition</b>	<p>No provision.</p>	<p>Specifies that the agronomic rate is the rate at which fertilizer can be added to soil for optimum crop growth while minimizing the potential for nutrient runoff based on all of the following:</p> <p>(1) Nutrient content of the fertilizer to be applied;</p> <p>(2) Nutrient needs of the current crops or the crops planned to be planted immediately following the current crops;</p> <p>(3) Nutrient content of the soil prior to the application of the fertilizer as determined by a soil test taken within the previous 12 months; and</p> <p>(4) The application rate at which the fertilizer will be applied as determined by an accurate application device calibration.<sup>5</sup></p>

<sup>2</sup> R.C. 905.326.

<sup>3</sup> R.C. 905.326(A)(1)(a) and (b).

<sup>4</sup> R.C. 905.326(A)(1)(c).

<sup>5</sup> R.C. 905.326(C)(2).



Topic	Current law	H.B. 655
<b>Prohibition against surface application in granular form</b>	Prohibits a person from surface applying fertilizer in a granular form when the local weather forecast for the application area contains greater than a 50% chance of precipitation exceeding one inch in a 12-hour period. <sup>6</sup>	Prohibits a person from surface applying fertilizer <i>for agricultural purposes</i> in a granular form when the local weather forecast for the application area contains greater than a 50% chance of precipitation in the <i>24-hour period following the planned application</i> . <sup>7</sup>
<b>Exemptions to the surface application prohibitions</b>	Exempts from the prohibitions fertilizer that is:  (1) Injected into the ground;  (2) Is incorporated within 24 hours of surface application; or  (3) Applied onto a growing crop. <sup>8</sup>	Eliminates the exemptions.
<b>Concentrated animal feeding facilities exemption</b>	States that the prohibitions against surface application of fertilizer do not affect any restrictions or otherwise apply to concentrated animal feeding facilities under the law governing those facilities. <sup>9</sup>	Eliminates this exemption.

## Manure application

Similar to law governing the application of fertilizer, the bill revises the law restricting the land application of manure in the Basin. However, it delays the implementation of the new manure application prohibitions for existing agricultural facilities until two years after the bill's effective date.<sup>10</sup> The bill's revisions are as follows:

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<sup>6</sup> R.C. 905.326(A)(2).

<sup>7</sup> R.C. 905.326(A)(2).

<sup>8</sup> R.C. 905.326(B).

<sup>9</sup> R.C. 905.326(D).

<sup>10</sup> R.C. 939.08(B).



Topic	Current law	H.B. 655
<b>Prohibitions against applying manure</b>	<p>Prohibits a person from surface applying manure in the Basin under any of the following circumstances:</p> <p>(1) On snow-covered or frozen soil;</p> <p>(2) When the top two inches of soil are saturated from precipitation;</p> <p>(3) When the local weather forecast for the application area contains greater than a 50% chance of precipitation over ½ inch in a 24-hour period.<sup>11</sup></p>	<p>Same as current law, except alters (3) so that no person can surface apply manure in the Basin when the local weather forecast for the application area contains greater than a 50% chance of precipitation of <i>any amount</i> in the <i>48-hour period following the planned application</i>.<sup>12</sup></p>
<b>Additional prohibition against applying manure</b>	<p>No provision.</p>	<p>Adds that no person can apply manure onto an actively farmed field, for agricultural purposes, unless either of the following apply:</p> <p>(1) The person applies the manure at the agronomic rate (same definition that applies to agronomic rate for fertilizer, see above); or</p> <p>(2) The person maintains and uses an operational system utilizing a best available technology for the treatment, stabilization, separation, or nutrient removal of the person's whole herd manure output.<sup>13</sup></p>
<b>Best available technologies</b>	<p>No provision.</p>	<p>Specifies that the best available technologies that may be used include any of the following:</p> <p>--Composting in accordance with rules adopted by the Director of Environmental Protection in consultation with the Director of Agriculture;</p>

<sup>11</sup> R.C. 939.08(A).

<sup>12</sup> R.C. 939.08(A)(3).

<sup>13</sup> R.C. 939.08(A)(4).



Topic	Current law	H.B. 655
		--Anaerobic digestion; --Mechanical solid-liquid separation; --Hydrothermal carbonization; --Wet chemical treatment; --Thermochemical stabilization and conversion; or --Any other technology approved by the Ohio EPA. <sup>14</sup>
<b>Exemptions to the surface application prohibitions</b>	Exempts from the prohibitions manure that is: (1) Injected into the ground; (2) Is incorporated within 24 hours of surface application; (3) Applied onto a growing crop; or (4) Applied with consent of the Director of Agriculture or the Director's designee in the event of an emergency, provided the manure application is made in accordance with specified federal procedures. <sup>15</sup>	Eliminates the exemptions.
<b>Concentrated animal feeding facilities exemption</b>	States that the prohibitions against surface application of manure do not affect any restrictions or otherwise apply to concentrated animal feeding facilities under the law governing those facilities. <sup>16</sup>	Eliminates this exemption.

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<sup>14</sup> R.C. 939.08(A)(4).

<sup>15</sup> R.C. 939.08(B).

<sup>16</sup> R.C. 939.08(D).

Topic	Current law	H.B. 655
Penalty	No provision.	Specifies that whoever recklessly applies manure in violation of the bill's provisions is guilty of a 3rd degree misdemeanor on a first offense; a 2nd degree misdemeanor on a second offense; and a 1st degree misdemeanor on a third or subsequent offense. <sup>17</sup>

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## HISTORY

ACTION	DATE
Introduced	05-15-18

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<sup>17</sup> R.C. 939.99.

