

# AN ACT

To amend sections 6109.10 and to enact sections 903.40, 905.326, 905.327, 1511.10, 1511.11, 3745.50, and 6111.32 of the Revised Code and to amend Section 333.30 of Am. Sub. H.B. 59 of the 130th General Assembly to require applicators of fertilizer or manure to comply with specified requirements, to establish requirements governing dredged material and phosphorous testing by publicly owned treatment works.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 6111.03 be amended and sections 903.40, 905.326, 905.327, 1511.10, 1511.11, 3745.50, and 6111.32 of the Revised Code be enacted to read as follows:

**Sec. 903.40.** (A) No person, for the purposes of agricultural production as defined in section 905.31 of the Revised Code, shall apply manure obtained from a concentrated animal feeding facility issued a permit under this chapter unless one of the following applies:

(1) The person has been issued a livestock manager certification under section 903.07 of the Revised Code.

(2) The person has been certified under this section to apply the manure by the director of agriculture.

(B) The director shall issue, renew, and deny certifications for the purposes of division (A)(2) of this section in the manner established in sections 905.321 and 905.322 of the Revised Code and rules adopted under the latter section for the certification of fertilizer applicators. Procedures, requirements, and other provisions that are established in those sections and rules apply to the certification of persons under division (A)(2) of this section. For purposes of that application, references in sections 905.321 and 905.322 of the Revised Code to "fertilizer" are deemed to be replaced with references to "manure."

**Sec. 905.326.** (A)(1) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer under either of the following circumstances:

(a) On snow-covered or frozen soil;

(b) When the top two inches of soil are saturated from precipitation.

(2) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer in a granular form when the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one inch in a twelve-hour period.

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

(1) The fertilizer is injected into the ground.

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

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

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

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

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

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

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

(E) As used in this section, "western basin" means land in the state that is located in the following watersheds identified by the specified United States geological survey hydrologic unit code:

(1) St. Marys watershed, hydrologic unit code 04100004;

(2) Auglaize watershed, hydrologic unit code 04100007;

(3) Blanchard watershed, hydrologic unit code 04100008;

(4) Sandusky watershed, hydrologic unit code 04100011;

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

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

(7) Upper Maumee watershed, hydrologic unit code 04100005;

(8) Tiffin watershed, hydrologic unit code 04100006;

(9) St. Joseph watershed, hydrologic unit code 04100003;

(10) Ottawa watershed, hydrologic unit code 04100001;

(11) River Raisin watershed, hydrologic unit code 04100002.

(F) Notwithstanding section 905.31 of the Revised Code, as used in this section, "fertilizer" means nitrogen or phosphorous.

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

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

hearing, the director determines that a violation has occurred or is occurring, the director may issue an order requiring compliance with section 905.326 of the Revised Code and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(C) A person that has violated section 905.326 of the Revised Code shall pay a civil penalty in an amount established in rules. Each day during which fertilizer is applied in violation of section 905.326 of the Revised Code constitutes a separate violation.

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

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

**Sec. 1511.10.** (A) Except as provided in division (B) of this section, no person in the western basin shall surface apply manure under any of the following circumstances:

- (1) On snow-covered or frozen soil;
- (2) When the top two inches of soil are saturated from precipitation;
- (3) When the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one-half inch in a twenty-four-hour period.

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

- (1) The manure is injected into the ground.
- (2) The manure is incorporated within twenty-four hours of surface application.
- (3) The manure is applied onto a growing crop.
- (4) In the event of an emergency, the chief of the division of soil and water resources or the chief's designee provides written consent and the manure application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state.

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

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

(3) If an individual denies access to the individual's property, the chief may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises for the purposes of this section.

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

(D) This section does not affect any restrictions established in Chapter 903. of the Revised

Code or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that chapter.

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

Sec. 1511.11. (A) Except as provided in division (D) of this section, the chief of the division of soil and water resources may assess a civil penalty against a person that violates section 1511.10 of the Revised Code. The chief may impose a civil penalty only if the chief affords the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the chief's determination that the person violated section 1511.10 of the Revised Code. The person may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the chief determines that a violation has occurred or is occurring, the chief may issue an order requiring compliance with section 1511.10 of the Revised Code and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(C) A person that has violated section 1511.10 of the Revised Code shall pay a civil penalty in an amount established in rules. Each day during which manure is applied in violation of section 1511.10 of the Revised Code constitutes a separate violation.

(D)(1) The owner or operator of a small agricultural operation or a medium agricultural operation may apply to the chief for an exemption from the prohibition established in division (A) of section 1511.10 of the Revised Code. If the chief or the chief's designee determines that it is appropriate, the chief or the chief's designee may issue such an exemption as follows:

(a) For a medium agricultural operation, for a period ending not later than one year after the effective date of this section;

(b) For a small agricultural operation, for a period ending not later than two years after the effective date of this section.

(2) The chief shall establish the form of the application for an exemption in rules adopted under division (E) of this section.

(3) The chief or the chief's designee shall approve or deny an application for an exemption submitted under division (D)(1) of this section not later than thirty days after an application has been submitted.

(4) The chief or the chief's designee may deny an application for an exemption or revoke an exemption approved under division (D)(3) of this section if the chief or the chief's designee determines that the owner or operator is not in substantial compliance with this chapter and rules adopted under it other than violating division (A) of section 1511.10 of the Revised Code.

(5) An owner or operator that has been issued an exemption under this section is not subject to civil penalties assessed for a violation of division (A) of section 1511.10 of the Revised Code during the exemption period.

(6) An owner or operator that has an initial application for an exemption that is pending the chief's review is not subject to civil penalties assessed for a violation of division (A) of section 1511.10 of the Revised Code.

(E) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that

establish both of the following:

(1) The amount of the civil penalty assessed under this section. The civil penalty shall be not more than ten thousand dollars for each violation.

(2) Requirements governing the application form for an exemption submitted under division (D) of this section. The rules shall require the form to include all of the following:

(a) A statement from the applicant affirming that the applicant understands the provisions of sections 1511.10 and 1511.11 of the Revised Code;

(b) A statement from the applicant affirming that the applicant understands that the applicant must be in compliance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state except procedures that are in conflict with this section and section 1511.10 of the Revised Code;

(c) A place for the applicant to explain the reasons for the necessity for the exemption;

(d) A place on the form that provides information on programs that may assist an applicant with methods to comply with division (A) of section 1511.10 of the Revised Code;

(e) A place on the form that provides the applicant an opportunity to request technical assistance or information from the chief or the applicable soil and water conservation district to assist the applicant to comply with division (A) of section 1511.10 of the Revised Code.

(F) As used in this section:

(1) "Small agricultural operation" means an agricultural operation in the western basin that stables or confines fewer than any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(2) "Medium agricultural operation" means an agricultural operation in the western basin that stables or confines any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

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

**Sec. 3745.50.** (A) The director of environmental protection shall serve as coordinator, or designate a coordinator, of harmful algae management and response. The director or the director's designee shall develop plans providing for coordination that may include, but are not limited to, the actions and items specified in divisions (B) and (C) of this section.

(B) The director or the director's designee shall consult with the directors of agriculture, health, and natural resources and representatives of local governments, publicly owned treatment works, and public water systems to implement actions that do both of the following:

(1) Protect against cyanobacteria in the western basin and public water supplies;

(2) Manage wastewater to limit nutrient loading into the western basin.

(C) The director or the director's designee shall develop and implement protocols and actions that may include, but are not limited to, the following:

(1) Analytical protocols for monitoring of cyanobacteria at water intake structures of public water systems, testing for cyanobacteria in Lake Erie, and establishing public health advisory levels and public notification protocols if trigger levels of cyanotoxins are detected;

(2) Provisions on training, testing, and treatment and other support regarding cyanobacteria identification, sampling, treatment techniques, algaecide application, public notification, and source water protection for employees of publicly owned treatment works and public water

systems:

(3) Protocols requiring public water systems to notify the environmental protection agency if any of the following occurs:

(a) Cyanotoxins are detected in finished drinking water.

(b) Cyanobacteria are detected in their source water.

(c) Application of an algaecide is anticipated to the source water.

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

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

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

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

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

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

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

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

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

(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;

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

(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;

(H) Issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as the following:

(1) Prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state;

(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;

(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;

(4) Requiring compliance with any standard or rule adopted under sections 6111.01 to 6111.05 of the Revised Code or term or condition of a permit.

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

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

(J)(1) Issue, revoke, modify, or deny sludge management permits and permits for the discharge of sewage, industrial waste, or other wastes into the waters of the state, and for the installation or modification of disposal systems or any parts thereof in compliance with all requirements of the Federal Water Pollution Control Act and mandatory regulations adopted thereunder, including regulations adopted under section 405 of the Federal Water Pollution Control Act, and set terms and conditions of permits, including schedules of compliance, where necessary. In issuing permits for sludge management, the director shall not allow the placement of sewage sludge on frozen ground in conflict with rules adopted under this chapter. Any person who discharges, transports, or handles storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or pollutants from a concentrated animal feeding operation, as both terms are defined in that section, is not required to obtain a permit under division (J)(1) of this section for the installation or modification of a disposal system involving pollutants or storm water or any parts of such a system on and after the date on which the director of agriculture has finalized the program required under division (A)(1) of section 903.02 of the Revised Code. In addition, any person who discharges, transports, or handles storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or pollutants from a concentrated animal feeding operation, as both terms are defined in that section, is not required to obtain a permit under division (J)(1) of this section for the discharge of storm water from an animal feeding facility or pollutants from a concentrated animal feeding operation on and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code.

Any permit terms and conditions set by the director shall be designed to achieve and maintain full compliance with the national effluent limitations, national standards of performance for new

sources, and national toxic and pretreatment effluent standards set under that act, and any other mandatory requirements of that act that are imposed by regulation of the administrator of the United States environmental protection agency. If an applicant for a sludge management permit also applies for a related permit for the discharge of sewage, industrial waste, or other wastes into the waters of the state, the director may combine the two permits and issue one permit to the applicant.

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

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

(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.

(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.

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.

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

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

(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;

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

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

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

(4) Where a discharge having a thermal component from a source that is constructed or modified on or after October 18, 1972, meets national or state effluent limitations or more stringent permit conditions designed to achieve and maintain compliance with applicable standards of quality for the waters of the state, which limitations or conditions will ensure



protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the body of water into which the discharge is made, taking into account the interaction of the thermal component with sewage, industrial waste, or other wastes, the director shall not impose any more stringent limitation on the thermal component of the discharge, as a condition of a permit or renewal thereof for the discharge, during a ten-year period beginning on the date of completion of the construction or modification of the source, or during the period of depreciation or amortization of the source for the purpose of section 167 or 169 of the Internal Revenue Code of 1954, whichever period ends first.

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

(6) The director may condition permits upon the installation of discharge or water quality monitoring equipment or devices and the filing of periodic reports on the amounts and contents of discharges and the quality of receiving waters that the director prescribes. The director shall condition each permit for a government-owned disposal system or any other "treatment works" as defined in the Federal Water Pollution Control Act upon the reporting of new introductions of industrial waste or other wastes and substantial changes in volume or character thereof being introduced into those systems or works from "industrial users" as defined in section 502 of that act, as necessary to comply with section 402(b)(8) of that act; upon the identification of the character and volume of pollutants subject to pretreatment standards being introduced into the system or works; and upon the existence of a program to ensure compliance with pretreatment standards by "industrial users" of the system or works. In requiring monitoring devices and reports, the director, to the extent consistent with the Federal Water Pollution Control Act, shall give consideration to technical feasibility and economic reasonableness and shall allow reasonable time for compliance.

(7) A permit may be issued for a period not to exceed five years and may be renewed upon application for renewal. In renewing a permit, the director shall consider the compliance history of the permit holder and may deny the renewal if the director determines that the permit holder has not complied with the terms and conditions of the existing permit. A permit may be modified, suspended, or revoked for cause, including, but not limited to, violation of any condition of the permit, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts of the permitted discharge or of the sludge use, storage, treatment, or disposal practice, or changes

in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity. No application shall be denied or permit revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

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

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

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

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

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

(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;

(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:

(1) Apply and enforce pretreatment standards;

(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:

(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;

(b) The director has revoked the publicly owned treatment works pretreatment program;

(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;

(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.

(3) Require that a publicly owned treatment works pretreatment program be incorporated in a

permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards;

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

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

(6) Make determinations on categorization of industrial users;

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

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

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

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

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

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

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

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

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

The director may specify in sludge management permits the net volume, net weight, quality, and pollutant concentration of the sludge or sludge materials that may be used, stored, treated, or disposed of, and the manner and frequency of the use, storage, treatment, or disposal, to protect

public health and the environment from adverse effects relating to those activities. The director shall impose other terms and conditions to protect public health and the environment, minimize the creation of nuisance odors, and achieve compliance with this chapter and rules adopted under it and, in doing so, shall consider whether the terms and conditions are consistent with the goal of encouraging the beneficial reuse of sludge and sludge materials.

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

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

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

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

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

Not later than December 1, 2016, a publicly owned treatment works with a design flow of one

million gallons per day or more, or designated as a major discharger by the director, shall be required to begin monthly monitoring of total and dissolved reactive phosphorus pursuant to a new NPDES permit, an NPDES permit renewal, or a director-initiated modification. The director shall include in each applicable new NPDES permit, NPDES permit renewal, or director-initiated modification a requirement that such monitoring be conducted. A director-initiated modification for that purpose shall be considered and processed as a minor modification pursuant to O.A.C. 3745-33-04. In addition, not later than December 1, 2017, a publicly owned treatment works with a design flow of one million gallons per day or more that, on the effective date of this amendment, is not subject to a phosphorus limit shall complete and submit to the director a study that evaluates the technical and financial capability of the existing treatment facility to reduce the final effluent discharge of phosphorus to one milligram per liter using possible source reduction measures, operational procedures, and unit process configurations.

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

(B) On and after July 1, 2020, no person shall deposit dredged material 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 that resulted from harbor or navigation maintenance activities unless the director has determined that the dredged material is suitable for one of the locations, purposes, or activities specified in division (C) of this section and has issued a section 401 water quality certification authorizing the deposit.

(C) The director may authorize the deposit of dredged material 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 that resulted from harbor or navigation maintenance activities for any of the following:

- (1) Confined disposal facilities;
- (2) Beneficial use projects;
- (3) Beach nourishment projects if at least eighty per cent of the dredged material is sand;
- (4) Placement in the littoral drift if at least sixty per cent of the dredged material is sand;
- (5) Habitat restoration projects;
- (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.

(D) In order to coordinate the activities and responsibilities established under this chapter and Chapter 1506. of the Revised Code, the director shall consult with the director of natural resources when approving 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.

(E) The director of environmental protection, 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 of environmental protection, 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.

(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the implementation of this section.

SECTION 2. That existing section 6111.03 of the Revised Code is hereby repealed.

SECTION 3. That Section 333.30 of H.B. 59 of the 130th General Assembly be amended to read as follows:

#### SEC. 333.30. LEASE RENTAL PAYMENTS

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.

#### CANAL LANDS

The foregoing appropriation item 725456, Canal Lands, shall be used to provide operating expenses for the State Canal Lands Program.

#### HEALTHY LAKE ERIE FUND

The foregoing appropriation item 725505, Healthy Lake Erie Fund, shall be used by the Director of Natural Resources, ~~in consultation with the Director of Agriculture and the Director of Environmental Protection, to implement nonstatutory recommendations of the Agriculture Nutrients and Water Quality Working Group. The Director shall give priority to recommendations that encourage farmers to adopt agricultural production guidelines commonly known as 4R nutrient stewardship practices. Funds may also be used for enhanced~~ in support of (1) conservation measures in the Western Lake Erie Basin as determined by the Director; (2) funding assistance for soil testing, in the Western Lake Erie Basin, monitoring the quality of Lake Erie and its tributaries, and conducting research and establishing pilot projects that have the goal of reducing algae blooms in Lake Erie. winter cover crops, edge of field testing, tributary monitoring, animal waste abatement; and (3) any additional efforts to reduce nutrient runoff as the Director may decide. The Director shall give priority to recommendations that encourage farmers to adopt agricultural production guidelines commonly known as 4R nutrient stewardship practices.

#### COAL AND MINE SAFETY PROGRAM

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

#### NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725903, Natural Resources General Obligation Debt

Service, shall be used to pay all debt service and related financing costs during the period July 1, 2013, through June 30, 2015, on obligations issued under sections 151.01 and 151.05 of the Revised Code.

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

SECTION 5. (A) Not later than three years after the effective date of this act, the committees of the House of Representatives and the Senate that are primarily responsible for agriculture and natural resources matters jointly shall assess the results of the implementation of sections 905.326, 905.327, 1511.10, and 1511.11 of the Revised Code as enacted by this act. The committees jointly shall issue a report to the Governor containing their findings and any recommendations. The committees may include in the report recommendations for revisions to or the repeal of those sections.

(B) Not later than January 1, 2023, the committees of the House of Representatives and the Senate that are primarily responsible for environmental protection matters jointly shall assess the results of the implementation of section 6111.32 of the Revised Code as enacted by this act. The committees jointly shall issue a report to the Governor containing their findings and any recommendations. The committees may include in the report recommendations for revisions to or the repeal of that section.

SECTION 6. It is the intent of the General Assembly that legislation transferring the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture shall be enacted not later than July 1, 2015.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*



The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_