

AN ACT

To amend sections 1511.02, 1511.021, 1511.022, 1511.07, 1511.071, 1515.08, 3745.04, 6111.03, 6111.035, 6111.04, 6111.44, and 6111.45 and to enact sections 307.204, 505.266, 903.01 to 903.20, and 903.99 of the Revised Code to transfer authority to issue permits for the construction of new or modification of existing concentrated animal feeding facilities from the Director of Environmental Protection to the Director of Agriculture, to provide for the regulation of concentrated animal feeding facilities and concentrated animal feeding operations, to transfer authority to issue national pollutant discharge elimination system permits for concentrated animal feeding operations and certain other entities from the Director of Environmental Protection to the Director of Agriculture, to require certain existing concentrated animal feeding facilities to obtain review compliance certificates, and to make an appropriation.

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

SECTION 1. That sections 1511.02, 1511.021, 1511.022, 1511.07, 1511.071, 1515.08, 3745.04, 6111.03, 6111.035, 6111.04, 6111.44, and 6111.45 be amended and sections 307.204, 505.266, 903.01, 903.02, 903.03, 903.04, 903.05, 903.06, 903.07, 903.08, 903.09, 903.10, 903.11, 903.12, 903.13, 903.14, 903.15, 903.16, 903.17, 903.18, 903.19, 903.20, and 903.99 of the Revised Code be enacted to read as follows:

Sec. 307.204. (A) As used in this section:

(1) "Animal unit," "concentrated animal feeding facility," and "major concentrated animal feeding facility" have the same meanings as in section 903.01 of the Revised Code.

(2) "Facility" means a proposed new or expanded major concentrated

animal feeding facility.

(3) "Improvement" means the construction, modification, or both of county infrastructure.

(B) A person who proposes to do any of the following shall provide written notification as required under division (C) of this section to the board of county commissioners of the county in which a facility is or is to be located:

(1) Establish a new major concentrated animal feeding facility;

(2) Increase the number of animal units of design capacity of an existing major concentrated animal feeding facility by ten per cent or more in excess of the design capacity set forth in the current permit for construction or modification of the facility or for installation or modification of the disposal system for manure at the facility issued under section 903.02 or division (J) of section 6111.03 of the Revised Code, as applicable;

(3) Increase the number of animal units of design capacity of an existing concentrated animal feeding facility by ten per cent or more in excess of the design capacity set forth in the current permit for construction or modification of the facility or for installation or modification of the disposal system for manure at the facility issued under section 903.02 or division (J) of section 6111.03 of the Revised Code, as applicable, and to a design capacity of more than ten thousand animal units.

(C) The person shall notify the board in writing by certified mail of the proposed construction or expansion of the facility and include the following information:

(1) The anticipated travel routes of motor vehicles to and from the facility;

(2) The anticipated number and weights of motor vehicles traveling to and from the facility.

(D) At the request of the board, the county engineer may review the written notification and advise the board on both of the following:

(1) Improvements and maintenance of improvements that are reasonably needed in order to accommodate the impact on county infrastructure that is anticipated as a result of the facility, including increased travel or the types of vehicles on county roads;

(2) The projected costs of the improvements and maintenance.

Not later than ten days after receiving the written notification, the board may request the person to provide additional reasonable and relevant information regarding the impact of the facility on county infrastructure. The person shall provide the information not later than ten days after the request is made.

(E)(1) Not later than thirty days after the initial written notification is received by the board, the board shall submit to the person its recommendations, if any, concerning the improvements that will be needed as a result of the facility and the cost of those improvements.

(2) Not later than fifteen days after receipt of the board's recommendations, the person shall notify the board either that the person agrees with the recommendations and will implement them or that the person is submitting reasonable alternative recommendations or modifications to the board. If the person agrees with the recommendations, they shall be considered to be the board's final recommendations.

(3) If the board receives alternative recommendations or modifications under division (E)(2) of this section, the board shall select final recommendations and submit them to the person not later than thirty days after the receipt of the alternative recommendations or modifications.

(E) The board shall prepare a written, dated statement certifying that the written notification required under this section was submitted and that final recommendations were selected regarding needed improvements and the costs of those improvements. The board shall provide the person with the original of the statement so that the person can include it with the application for a permit to install for the facility as required under division (C)(4) of section 903.02 of the Revised Code. The board shall retain a copy of the statement for its records.

(G) The person shall construct, modify, and maintain or finance the construction, modification, and maintenance of improvements as provided in the board's final recommendations and with the approval and oversight of the county engineer. If the person fails to do so, the board shall notify the person by certified mail that the board intends to initiate mediation with the person if the person remains out of compliance with the final recommendations.

The board shall allow sufficient time for the person to apply for and proceed to obtain, for the purpose of financing the construction, modification, or maintenance of the improvements, exemptions from taxation under sections 5709.63, 5709.632, 5709.73, and 5709.78 of the Revised Code or state or federal grants that may be available.

If the person remains out of compliance with the final recommendations, the board may initiate mediation with the person in order to resolve the differences between them. If mediation fails to resolve the differences, the board and the person first shall attempt to resolve the differences through any legal remedies before seeking redress through a court of common pleas.

(H) If the person subsequently submits an application under section 903.02 of the Revised Code for a permit to modify the facility, or if the routes of travel to or from the facility change for any reason other than road construction conducted by the county, the board or the person may request that additional information be provided in writing and shall proceed as provided in this section for the notification and recommendation proceedings.

Sec. 505.266. (A) As used in this section:

(1) "Animal unit," "concentrated animal feeding facility," and "major concentrated animal feeding facility" have the same meanings as in section 903.01 of the Revised Code.

(2) "Facility" means a proposed new or expanded major concentrated animal feeding facility.

(3) "Improvement" means the construction, modification, or both of township infrastructure.

(B) A person who proposes to do any of the following shall provide written notification as required under division (C) of this section to the board of township trustees of the township in which a facility is or is to be located:

(1) Establish a new major concentrated animal feeding facility;

(2) Increase the number of animal units of design capacity of an existing major concentrated animal feeding facility by ten per cent or more in excess of the design capacity set forth in the current permit for construction or modification of the facility or for installation or modification of the disposal system for manure at the facility issued under section 903.02 or division (J) of section 6111.03 of the Revised Code, as applicable;

(3) Increase the number of animal units of design capacity of an existing concentrated animal feeding facility by ten per cent or more in excess of the design capacity set forth in the current permit for construction or modification of the facility or for installation or modification of the disposal system for manure at the facility issued under section 903.02 or division (J) of section 6111.03 of the Revised Code, as applicable, and to a design capacity of more than ten thousand animal units.

(C) The person shall notify the board in writing by certified mail of the proposed construction or expansion of the facility and include the following information:

(1) The anticipated travel routes of motor vehicles to and from the facility;

(2) The anticipated number and weights of motor vehicles traveling to and from the facility.

(D) At the request of the board, the county engineer may review the written notification and advise the board on both of the following:

(1) Improvements and maintenance of improvements that are reasonably needed in order to accommodate the impact on township infrastructure that is anticipated as a result of the facility, including increased travel or the types of vehicles on township roads;

(2) The projected costs of the improvements and maintenance.

Not later than ten days after receiving the written notification, the board may request the person to provide additional reasonable and relevant information regarding the impact of the facility on township infrastructure. The person shall provide the information not later than ten days after the request is made.

(E)(1) Not later than thirty days after the initial written notification is received by the board, the board shall submit to the person its recommendations, if any, concerning the improvements that will be needed as a result of the facility and the cost of those improvements.

(2) Not later than fifteen days after receipt of the board's recommendations, the person shall notify the board either that the person agrees with the recommendations and will implement them or that the person is submitting reasonable alternative recommendations or modifications to the board. If the person agrees with the recommendations, they shall be considered to be the board's final recommendations.

(3) If the board receives alternative recommendations or modifications under division (E)(2) of this section, the board shall select final recommendations and submit them to the person not later than thirty days after the receipt of the alternative recommendations or modifications.

(E) The board shall prepare a written, dated statement certifying that the written notification required under this section was submitted and that final recommendations were selected regarding needed improvements and the costs of those improvements. The board shall provide the person with the original of the statement so that the person can include it with the application for a permit to install for the facility as required under division (C)(4) of section 903.02 of the Revised Code. The board shall retain a copy of the statement for its records.

(G) The person shall construct, modify, and maintain or finance the construction, modification, and maintenance of improvements as provided in the board's final recommendations and with the approval and oversight of the county engineer. If the person fails to do so, the board shall notify the person by certified mail that the board intends to initiate mediation with the person if the person remains out of compliance with the final

tions.

The board shall allow sufficient time for the person to apply for and proceed to obtain, for the purpose of financing the construction, modification, or maintenance of the improvements, exemptions from taxation under sections 5709.63, 5709.632, 5709.73, and 5709.78 of the Revised Code or state or federal grants that may be available.

If the person remains out of compliance with the final recommendations, the board may initiate mediation with the person in order to resolve the differences between them. If mediation fails to resolve the differences, the board and the person first shall attempt to resolve the differences through any legal remedies before seeking redress through a court of common pleas.

(H) If the person subsequently submits an application under section 903.02 of the Revised Code for a permit to modify the facility, or if the routes of travel to or from the facility change for any reason other than road construction conducted by the township, the board or the person may request that additional information be provided in writing and shall proceed as provided in this section for the notification and recommendation proceedings.

Sec. 903.01. As used in this chapter:

(A) "AGRICULTURAL ANIMAL" MEANS ANY ANIMAL GENERALLY USED FOR FOOD OR IN THE PRODUCTION OF FOOD, INCLUDING CATTLE, SHEEP, GOATS, RABBITS, POULTRY, AND SWINE; HORSES; AND ANY OTHER ANIMAL INCLUDED BY THE DIRECTOR OF agriculture by rule.

(B) "Animal feeding facility" means a lot, or building, or structure where both of the following conditions are met:

(1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained there for a total of forty-five days or more in any twelve-month period.

(2) Crops, vegetative forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot, building, or structure.

"ANIMAL FEEDING FACILITY" ALSO INCLUDES LAND THAT IS OWNED OR LEASED BY THE OWNER OR OPERATOR OF THE LOT, BUILDING, OR STRUCTURE AND ON WHICH MANURE ORIGINATING FROM THE LOT, BUILDING, OR STRUCTURE IS APPLIED. "ANIMAL FEEDING FACILITY" DOES NOT INCLUDE A HATCHERY, FISH FARM, OR OTHER FACILITY THAT RAISES AQUATIC ANIMALS.

Two or more animal feeding facilities under common ownership shall be considered to be a single animal feeding facility for the purposes of this chapter if they adjoin each other or if they use a common area or system for the disposal of wastes.

(C) "Animal unit" means a unit of measurement calculated by adding the following numbers:

(1) The number of slaughter and feeder cattle multiplied by one;

(2) The number of mature dairy cattle whether milked or dry multiplied by one and four-tenths;

(3) The number of swine each weighing over fifty-five pounds multiplied by four-tenths;

(4) The number of horses multiplied by two;

(5) The number of sheep or lambs multiplied by one-tenth;

(6) The number of turkeys multiplied by two-hundredths;

(7) The number of laying hens or broilers multiplied by one-hundredth;

(8) The number of ducks multiplied by two-tenths.

(D) "Best management practices" means best management practices established in rules.

(E) "Concentrated animal feeding facility" means an animal feeding facility with a total design capacity of more than one thousand animal units.

(F) "CONCENTRATED ANIMAL FEEDING OPERATION" HAS THE SAME MEANING AS IN REGULATIONS ADOPTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER THE FEDERAL WATER POLLUTION CONTROL ACT.

(G) "Discharge" means to add from a point source to waters of the state.

(H) "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 816, 33 U.S.C. 1251 et. seq., as amended, and regulations adopted under it.

(I) "Finalized," with respect to the programs required under division (A)(1) of section 903.02 and division (a)(1) of section 903.03 of the Revised Code, means that all rules that are necessary for the administration of this chapter have been adopted and all employees of the department of agriculture that are necessary for the administration of this chapter have been employed.

(J) "General permit" has the meaning that is established in rules.

(K) "Individual permit" has the meaning that is established in rules.

(L) "Installation permit" means a permit for the installation or modification of a disposal system or any part of a disposal system issued by the director of environmental protection under division (J)(1) of section 6111.03 of the Revised code.

(M) "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten thousand animal units.

(N) "Manure" means ANY OF THE FOLLOWING WASTES USED IN OR RESULTING FROM THE PRODUCTION OF AGRICULTURAL ANIMALS OR DIRECT AGRICULTURAL PRODUCTS SUCH AS MILK OR EGGS: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta.

(O) "Manure storage or treatment facility" means any excavated, diked, or walled structure or combination of structures designed for the biological stabilization, holding, or storage of manure.

(P) "Mortality composting" means the controlled decomposition of organic solid material consisting of dead animals that stabilizes the organic fraction of the material.

(Q) "NPDES permit" means a permit issued under the national pollutant discharge elimination system established in section 402 of the Federal Water Pollution Control Act and includes the renewal of such a permit. "NPDES permit" includes the federally enforceable provisions of a permit to operate into which NPDES permit provisions have been incorporated.

(R) "Permit" includes an initial, renewed, or modified permit to install, permit to operate, NPDES permit, and installation permit unless expressly stated otherwise.

(S) "Permit to install" means a permit issued under section 903.02 of the Revised code.

(T) "Permit to operate" means a permit issued or renewed under section 903.03 of the Revised code and includes incorporated NPDES permit provisions, if applicable.

(U) "Person" means any legal entity defined as a person under section 1.59 of the Revised Code, the state, any political subdivision of the state, any interstate body created by compact, the United States, or any department, agency, or instrumentality of any of those entities.

(V) "Point source" has the same meaning as in the Federal Water Pollution Control Act.

(W) "PROCESS GENERATED WASTE WATER" MEANS WATER that is DIRECTLY OR INDIRECTLY USED IN THE OPERATION OF AN ANIMAL FEEDING facility FOR ANY OF THE FOLLOWING:

(1) SPILLAGE OR OVERFLOW FROM ANIMAL WATERING SYSTEMS;

(2) WASHING, CLEANING, OR FLUSHING PENS, BARNS, MANURE PITS, OR OTHER areas of an ANIMAL FEEDING facility;

(3) DIRECT CONTACT SWIMMING, WASHING, OR SPRAY COOLING OF ANIMALS;

(4) DUST CONTROL.

(X) "Process waste water" means any process generated waste water and any precipitation, INCLUDING RAIN OR SNOW, that comes into contact with manure, litter, bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or direct products such as milk or eggs.

(Y) "public meeting" means a nonadversarial public hearing at which a person may present written or oral statements for the director OF AGRICULTURE'S consideration and includes public hearings held under section 6111.12 of the Revised code.

(Z) "Review compliance certificate" means a certificate issued under section 903.04 of the Revised code.

(AA) "Rule" means a rule adopted under section 903.10 of the Revised Code.

(BB) "Waters of the state" has the same meaning as in section 6111.01 of the Revised Code.

Sec. 903.02. (A)(1) Not later than one hundred eighty days after the effective date of this section, the director of agriculture shall prepare a program for the issuance of permits to install under this section.

(2) On and after the date on which the director has finalized the program required under division (A)(1) of this section, No person shall modify an existing or construct a new concentrated animal feeding facility without first obtaining a permit to install issued by the Director under this section.

(B) The director or the director's authorized representative may help an applicant for a permit to install during the permitting process by providing guidance and technical assistance.

(C) An applicant for a permit to install shall submit an application to the Director on a form that the Director prescribes and provides together with a fee in an amount established by rule. The applicant shall include with the application all of the following information:

(1) The name and address of the applicant, of all partners if the applicant is a partnership or of all officers and directors if the applicant is a corporation, and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors, or managers of the applicant;

(2) The type of livestock and the number of animal units that the

concentrated animal feeding facility would have the design capacity to raise or maintain;

(3) Designs and plans for the proposed construction of the concentrated animal feeding facility that include the proposed location of the construction, design and construction plans and specifications, anticipated beginning and ending dates for work performed, and any other information that the Director requires by rule;

(4) In the case of an application for a concentrated animal feeding facility that meets the criteria established in sections 307.204 and 505.266 of the Revised Code, written statements from the board of county commissioners of the county and the board of township trustees of the township in which the concentrated animal feeding facility would be located certifying that, in accordance with those sections, the applicant has provided the boards with the required written notification and that final recommendations were selected regarding improvements, if any, to county or township infrastructure that are needed as a result of the new or expanded concentrated animal feeding facility and the costs of those improvements;

(5) A STATEMENT OF THE QUANTITY OF WATER THAT THE concentrated animal feeding facility WILL UTILIZE ON AN AVERAGE DAILY AND ANNUAL BASIS, A DETAILED DESCRIPTION OF THE BASIS FOR THE CALCULATION UTILIZED IN DETERMINING THE QUANTITY OF WATER UTILIZED, AND A STATEMENT IDENTIFYING THE SOURCE FOR THE WATER;

(6) Information concerning the applicant's past compliance with the Federal Water Pollution Control Act required to be provided under section 903.05 of the Revised Code, if applicable;

(7) Any other information required by rule.

Information required to be included in an application for the modification of a permit to install, together with the applicable fee amount, shall be established in rules.

(D) The director shall issue permits to install in accordance with section 903.09 of the Revised Code. The director shall deny a permit to install if either of the following applies:

(1) The permit application contains misleading or false information.

(2) The designs and plans fail to conform to best management practices.

Additional grounds for the denial of a permit to install shall be those established in this chapter and rules.

(E) A permit to install shall expire after a period specified by the director unless the applicant has undertaken a continuing program of construction or has entered into a binding contractual obligation to

ake and complete a continuing program of construction within a reasonable time. The director may extend the expiration date of a permit to install upon request of the applicant.

(E) The director may modify, suspend, or revoke a permit to install in accordance with rules.

(G) Nothing in this chapter affects section 1521.16 of the Revised Code.

Sec. 903.03. (A)(1) Not later than one hundred eighty days after the effective date of this section, the director of agriculture shall prepare a program for the issuance of permits to operate under this section.

(2) Except for a concentrated animal feeding facility that is operating under an installation permit or a review compliance certificate, on and after the date on which the director has finalized the program required under division (A)(1) of this section, no person shall operate a concentrated animal feeding facility without a permit to operate issued by the director under this section.

(B) The director or the director's authorized representative may help an applicant for a permit to operate during the permitting process by providing guidance and technical assistance.

(C) An applicant for a permit to operate shall submit A FEE IN AN AMOUNT ESTABLISHED BY RULE TOGETHER WITH, EXCEPT AS OTHERWISE PROVIDED IN DIVISION (E) OF THIS SECTION, an application to the director on a form that the director prescribes and provides. The applicant shall include with the application all of the following information:

(1) The name and address of the applicant, of all partners if the applicant is a partnership or all officers and directors if the applicant is a corporation, and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors, or managers of the applicant;

(2) Information concerning the applicant's past compliance with the Federal Water Pollution Control Act that is required to be provided under section 903.05 of the Revised Code, if applicable;

(3) A manure management plan for the concentrated animal feeding facility that conforms to best management practices regarding the handling, storage, transportation, and land application of manure generated at the facility and that contains any other information required by rule;

(4) An insect and rodent control plan for the concentrated animal feeding facility that conforms to best management practices and is prepared in accordance with section 903.06 of the Revised Code;

(5) In the case of an application for a major concentrated animal feeding

facility, written proof that the person who would be responsible for the supervision of the management and handling of manure at the facility has been issued a livestock manager certification in accordance with section 903.07 of the Revised Code or will obtain a livestock manager certification prior to applying any manure to land.

(D) The director shall issue permits to operate in accordance with section 903.09 of the Revised Code. The director shall deny a permit to operate if either of the following applies:

(1) The permit application contains misleading or false information;

(2) The manure management plan or insect and rodent control plan fails to conform to best management practices.

Additional grounds for the denial of a permit to operate shall be those established in this chapter and in rules.

(E) The director shall issue general permits to operate for categories of concentrated animal feeding facilities that will apply in lieu of individual permits to operate, PROVIDED THAT EACH CATEGORY OF FACILITIES MEETS ALL OF THE CRITERIA ESTABLISHED IN RULES FOR GENERAL PERMITS TO OPERATE. A person who is required to obtain a permit to operate shall submit to the director a notice of the person's intent to be covered under an existing general permit or, at the person's option, shall submit an application for an individual permit to operate. Upon receipt of a notice of intent to be covered under an existing general permit, the director shall notify the applicant in writing THAT THE PERSON IS COVERED BY THE GENERAL PERMIT IF THE PERSON SATISFIES THE CRITERIA ESTABLISHED IN RULES FOR ELIGIBILITY FOR SUCH COVERAGE. If the person is ineligible for coverage under the general permit, the director shall require the submission of an application for an individual permit to operate.

(F) A permit to operate shall be valid for a period of five years.

(G) A permit to operate may be renewed. an application for renewal of a permit to operate shall be submitted to the director at least one hundred eighty days prior to the expiration date of the permit to operate and shall comply with the requirements governing applications for permits to operate that are established under this section and by rules, including requirements pertaining to public notice and participation.

(H) The director may modify, suspend, or revoke a permit to operate in accordance with rules.

Sec. 903.04. (A) As used in this section, "existing concentrated animal feeding facility" or "existing facility" means a concentrated animal feeding facility that was in existence prior to the date on which the director of

agriculture has finalized the program required under division (A)(1) of section 903.03 of the Revised Code and that has received an installation permit prior to that date.

(B) 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, the authority to enforce terms and conditions of installation permits that previously were issued to animal feeding facilities shall be transferred from the director of environmental protection to the director of agriculture. Thereafter, the director of environmental protection shall have no authority to enforce the terms and conditions of those installation permits. 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, an installation permit concerning which enforcement authority has been transferred shall be deemed to have been issued under this section.

(C) A person to whom an installation permit has been issued by the director of environmental protection prior to the date on which the director of agriculture has finalized the program required under division (A)(1) of section 903.03 of the Revised Code may continue to operate under that permit until either of the following occurs:

(1) The installation permit is terminated through the denial of a review compliance certificate under division (F) of this section.

(2) The person is required under division (H) of this section to obtain a permit to operate.

(D) Except as otherwise provided in this division, on and after the date that is two years after the date on which the director has finalized the program required under division (A)(1) of section 903.03 of the Revised Code, and until the issuance of a permit to operate, no person shall operate an existing concentrated animal feeding facility unless the person holds a review compliance certificate.

This division does not apply to a person who has made a timely submittal of the information required under division (E)(2) of this section and who is waiting for the director to issue or deny a review compliance certificate. Such a person may continue the operation of the existing concentrated animal feeding facility until, if applicable, the director issues an order denying the review compliance certificate.

(E) Not later than two years after the date on which the director has finalized the program required under division (a)(1) of section 903.03 of the Revised Code, both of the following apply:

ssued to an existing concentrated animal feeding facility and shall inspect the facility to determine if it is in compliance with that permit.

(2) Except as otherwise provided in division (E)(2) of this section, the owner or operator of an existing concentrated animal feeding facility shall furnish all of the following to the director on a form prescribed by the director:

(a) The name and address of the owner, of all partners if the owner is a PARTNERSHIP or of all officers and directors if the owner is a corporation, and of any other person who has a right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility;

(b) The type of livestock and number of animal units that the facility has the design capacity to raise or maintain;

(c) A manure management plan for the facility that conforms to best management practices regarding the handling, storage, transportation, and land application of manure generated at the facility and that contains any other information required by rule;

(d) An insect and rodent control plan for the facility that conforms to best management practices and is prepared in accordance with section 903.06 of the Revised Code;

(e) In the case of a major concentrated animal feeding facility, written PROOF that the person who would be responsible for the supervision of the management and handling of manure at the facility has been issued a livestock manager certification in accordance with section 903.07 of the Revised Code.

The owner or operator need not furnish any information otherwise required under division (E)(2) of this section if that information is included in the installation permit that was issued for the existing facility.

(F) After a review of the existing installation permit, an inspection of the facility, and a review of the information furnished under division (E)(2) of this section, and upon determining that the existing facility is being operated in a manner that protects the waters of the state and minimizes the presence and negative effects of insects and rodents at the facility and in surrounding areas, the director shall issue an order issuing a review compliance certificate to the facility. In issuing the certificate, the director shall consider technical feasibility and economic costs. The director shall not require a significant capital expenditure, as defined by rule, by the facility before issuing a certificate.

The director may issue an order denying a review compliance certificate if the facility's insect and rodent control plan or manure management plan

does not conform to best management practices and the requirements established in section 903.06 of the Revised Code and in rules. THE DENIAL OF A REVIEW COMPLIANCE CERTIFICATE TERMINATES THE EXISTING INSTALLATION PERMIT THAT WAS ISSUED TO THE FACILITY.

The issuance of a review compliance certificate shall not require public notice or a public meeting. However, notice shall be provided to persons who own property that is contiguous to the concentrated animal feeding facility for which the review compliance certificate is to be issued. Such persons may submit written comments to the director within a time established by the director.

The issuance of a review compliance certificate shall not be subject to appeal under Chapter 119. or sections 3745.04 to 3745.06 of the Revised Code. The denial or revocation of a review compliance certificate OR THE AMENDMENT OF AN INSTALLATION PERMIT RESULTING FROM A CERTIFICATE MAY BE CHALLENGED BY THE APPLICANT IN AN ADMINISTRATIVE HEARING IN ACCORDANCE WITH CHAPTER 119. OF THE REVISED CODE, EXCEPT THAT SECTION 119.12 OF THE REVISED CODE DOES NOT APPLY. AN ORDER OF THE DIRECTOR THAT DENIES OR REVOKES A CERTIFICATE OR AMENDS AN INSTALLATION PERMIT AS A RESULT OF A CERTIFICATE MAY BE APPEALED TO THE ENVIRONMENTAL REVIEW APPEALS COMMISSION UNDER SECTIONS 3745.04 TO 3745.06 OF THE REVISED CODE.

(G) Upon the issuance of a review compliance certificate, the certificate automatically shall merge and become a part of the previously issued installation permit. if any of the terms and conditions of the installation permit and the review compliance certificate are in conflict, the terms and conditions of the review compliance certificate are controlling.

(H)(1) A review compliance certificate is valid for a period of five years. Not later than one hundred eighty days prior to the expiration date of the review compliance certificate, the owner or operator shall apply for a permit to operate.

(2) The director may revoke a review compliance certificate issued to an existing facility AFTER THE DIRECTOR HAS ISSUED AN ORDER AS A RESULT OF A HEARING HELD UNDER CHAPTER 119. OF THE REVISED CODE IN WHICH THE FACILITY HAS BEEN FOUND TO BE IN VIOLATION OF THE TERMS AND CONDITIONS OF THE REVIEW COMPLIANCE CERTIFICATE. An existing facility whose review compliance certificate is revoked shall obtain a permit to operate

and, if applicable, a NPDES permit in order to resume operating.

(I) An existing facility that is issued a review compliance certificate shall comply with the previously issued installation permit, as amended by the certificate.

Sec. 903.05. (A) Each application for a permit to install or permit to operate that is submitted by an applicant who has not operated a concentrated animal feeding facility in this state for at least two of the five years immediately preceding the submission of the application shall be accompanied by all of the following:

(1) A listing of all concentrated animal feeding facilities that the owner or operator of the proposed new or modified concentrated animal feeding facility has operated or is operating in this state;

(2) A listing of the concentrated animal feeding facilities that the owner or operator has operated or is operating elsewhere in the United States and that are regulated under the Federal Water Pollution Control Act together with a listing of the concentrated animal feeding facilities that the owner or operator has operated or is operating outside the United States;

(3) A listing of all administrative enforcement orders issued to the owner or operator, all civil actions in which the owner or operator was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which the owner or operator pleaded guilty or was convicted, during the five years immediately preceding the submission of the application, in connection with any violation of the Federal Water Pollution Control Act, THE "Safe Drinking Water Act," as defined IN section 6109.01 of the Revised Code, or any other applicable state laws pertaining to environmental protection that was alleged to have occurred or to be occurring at any concentrated animal feeding facility that the owner or operator has operated or is operating in the United States or with any violation of the environmental laws of another country that was alleged to have occurred or to be occurring at any concentrated animal feeding facility that the owner or operator has operated or is operating outside the United States.

The lists of concentrated animal feeding facilities operated by the owner or operator within or outside this state or outside the United States shall include, respectively, all such facilities operated by the owner or operator during the five-year period immediately preceding the submission of the application.

(B) If the applicant for a permit to install or permit to operate has been involved in any prior activity involving the operation of a concentrated

animal feeding facility, the director of agriculture may deny the application if the director finds from the application, the information submitted under divisions (A)(1) to (3) of this section, pertinent information submitted to the director, and other pertinent information obtained by the director at the director's discretion that the applicant and persons associated with the applicant, in the operation of concentrated animal feeding facilities, have a history of substantial noncompliance with the Federal Water Pollution Control Act, THE "Safe Drinking Water Act," as defined IN section 6109.01 of the Revised Code, any other applicable state laws pertaining to environmental protection, or the environmental laws of another country that indicates that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed new or modified concentrated animal feeding facility in substantial compliance with this chapter and rules adopted under it.

(C) A person who seeks to acquire a concentrated animal feeding facility that has been issued an installation permit that has been transferred from the director of environmental protection to the director of agriculture, a permit to install, or a permit to operate shall submit to the director the information specified in divisions (A)(1) to (3) of this section prior to the transfer of the permit. The permit shall not be transferred as otherwise provided in division (I) of section 903.09 of the Revised Code if the director finds from the information submitted under divisions (A)(1) to (3) of this section, pertinent information submitted to the director, and other pertinent information obtained by the director at the director's discretion that the person, in the operation of concentrated animal feeding facilities, has a history of substantial noncompliance with the Federal Water Pollution Control Act, THE "Safe Drinking Water Act," as defined IN section 6109.01 of the Revised Code, any other applicable state laws pertaining to environmental protection, or the environmental laws of another country that indicates that the person lacks sufficient reliability, expertise, and competence to operate the concentrated animal feeding facility in substantial compliance with this chapter and rules adopted under it.

Sec. 903.06. (A) As used in this section, "plan" means an insect and rodent control plan prepared under this section.

(B) An owner or operator of a concentrated animal feeding facility shall prepare and submit to the Director of Agriculture in accordance with rules an insect and rodent control plan designed to minimize the presence and negative effects of insects and rodents at the concentrated animal feeding facility and in surrounding areas, including land on which manure is stored or applied. The plan shall conform to best management practices established

in rules. The director shall approve or deny the plan within the time period established in rules by the director and may require modification of the plan at that time or a later time in accordance with rules.

(C) On and after the date that is established in rules by the director, no person shall own or operate a concentrated animal feeding facility unless an insect and rodent control plan for the facility has been approved by the director. The owner or operator of a concentrated animal feeding facility shall not violate the facility's insect and rodent control plan.

(D) The Director shall enforce an insect and rodent control plan in accordance with rules and shall assess a civil penalty in accordance with rules and section 903.16 of the Revised Code against an owner or operator of a concentrated animal feeding facility who operates it without a plan approved by the Director or who violates the facility's plan.

Sec. 903.07. (A) On and after the date that is established in rules by the director of agriculture, both of the following apply:

(1) The management and handling of manure at a major concentrated animal feeding facility, including the land application of manure or the removal of manure from a manure storage or treatment facility, shall be conducted only by or under the supervision of a person holding a livestock manager certification issued under this section. A person managing or handling manure who is acting under the instructions and control of a person holding a livestock manager certification is considered to be under the supervision of the certificate holder if the certificate holder is responsible for the actions of the person and is available when needed even though the certificate holder is not physically present at the time of the manure management or handling.

(2) No person shall transport, buy, or sell annually the volume of manure established in rules adopted by the director under division (E)(5) of section 903.10 of the Revised Code unless the person holds a livestock manager certification issued under this section.

(B) The director shall issue a livestock manager certification to a person who has submitted a complete application for certification on a form prescribed and provided by the director, together with the appropriate application fee, and who has completed successfully the required training and has passed the required examination. The director may suspend or revoke a livestock manager certification and may reinstate a suspended or revoked livestock manager certification in accordance with rules.

(C) Information required to be included in an application for a livestock manager certification, the amount of the application fee, and requirements regarding training and the examination shall be established in rules.

Sec. 903.08. (A)(1) the director of agriculture is authorized to participate in the national pollutant discharge elimination system in accordance with the Federal Water Pollution Control Act. Not later than one hundred eighty days after the effective date of this section, the director shall prepare a state program in accordance with 40 C.F.R. 123.21 for point sources that are subject to this section and shall submit the program to the United States environmental protection agency for approval.

(2) on and after the date on which the United States environmental protection agency approves the state program submitted under division (A)(1) of this section, the authority to enforce terms and conditions of NPDES permits previously issued under division (j) of section 6111.03 or under section 6111.035 of the Revised Code for the discharging, transporting, or handling of storm water from an animal feeding facility or of manure is transferred from the director of environmental protection to the director of agriculture. thereafter, the director of environmental protection shall have no authority to enforce the terms and conditions of those NPDES permits. After the transfer of authority under division (A)(2) of this section, the NPDES permits concerning which authority has been transferred shall be considered to have been issued under this section.

(B)(1) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under this section, no person shall discharge manure from a point source into waters of the state without first obtaining a NPDES permit issued by the director of agriculture under this section. Violation of division (B)(1) of this section is hereby declared to be a public nuisance for purposes of state enforcement of this section.

(2) Persons that have been issued a permit by the director of environmental protection under division (J) of section 6111.03 of the Revised Code for the discharge of manure prior to the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit under division (A)(2) of this section.

(C)(1) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under this section, no person shall discharge storm water resulting from an animal feeding facility without first obtaining a NPDES permit issued by the director of agriculture in accordance with rules when

such a permit is required by the Federal Water Pollution Control Act. violation of division (C)(1) of this section is hereby declared to be a public nuisance FOR PURPOSES OF STATE ENFORCEMENT OF THIS SECTION.

(2) Persons that have been issued a NPDES permit by the director of environmental protection under Chapter 6111. of the Revised Code for the discharge of storm water from an animal feeding facility prior to the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. Such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit under division (A)(2) of this section.

(D) In accordance with rules, an applicant for a NPDES permit issued under this section shall submit A FEE IN AN AMOUNT ESTABLISHED BY RULE TOGETHER WITH, EXCEPT AS OTHERWISE PROVIDED IN DIVISION (F) OF THIS SECTION, an application for the permit to the director of agriculture on a form prescribed by the director. The application shall include any information required by rule. the director or the director's authorized representative may help an applicant for a NPDES permit during the application process by providing guidance and technical assistance.

(E) the director of agriculture shall issue NPDES permits in accordance with this section and section 903.09 of the Revised Code. The director shall deny an application for a NPDES permit if any of the following applies:

(1) the application contains misleading or false information.

(2) the administrator of the united states environmental protection agency objects in writing to the issuance of the NPDES permit in accordance with section 402(d) of the federal water pollution control act.

(3) 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.

Additional grounds for the denial of a NPDES permit shall be those established in this chapter and rules.

(F) To the extent consistent with the Federal Water Pollution Control Act, The director of agriculture shall issue general NPDES permits that will apply in lieu of individual NPDES permits for categories of point sources FOR WHICH THE DIRECTOR DETERMINES THAT ALL OF THE FOLLOWING APPLY:

(1) ANY DISCHARGES AUTHORIZED BY A GENERAL PERMIT WILL HAVE ONLY MINIMAL CUMULATIVE ADVERSE EFFECTS

ON THE ENVIRONMENT WHEN THE DISCHARGES ARE CONSIDERED COLLECTIVELY AND INDIVIDUALLY.

(2) THE DISCHARGES ARE MORE APPROPRIATELY AUTHORIZED BY A GENERAL PERMIT THAN BY AN INDIVIDUAL PERMIT.

(3) EACH CATEGORY OF POINT SOURCES SATISFIES THE CRITERIA ESTABLISHED IN RULES.

A person who is required to obtain a NPDES permit shall submit to the director a notice of the person's intent to be covered under an existing general permit or, at the person's option, an application for an individual NPDES permit. Upon receipt of a notice of intent for coverage under an existing general permit, the director shall notify the applicant in writing that the person is covered by the general permit IF THE PERSON SATISFIES THE CRITERIA ESTABLISHED IN RULES FOR ELIGIBILITY FOR SUCH COVERAGE. If the person is ineligible for coverage under the general permit, the director shall require the submission of an application for an individual NPDES permit.

(G) the director of agriculture shall establish terms and conditions of NPDES permits in accordance with rules. terms and conditions shall be designed to achieve and maintain full compliance with national effluent limitations, national standards of performance for new sources, the most current water quality standards adopted under section 6111.041 of the Revised Code, the most current antidegradation policy adopted under section 6111.12 of the Revised Code, and other requirements of the Federal Water Pollution Control Act. In establishing the terms and conditions of a NPDES permit, the director, to the extent consistent with that act, shall consider technical feasibility and economic costs and shall allow a reasonable period of time for coming into compliance with the permit.

(H) An animal feeding facility that is required to obtain both a NPDES permit and a permit to operate shall be issued a single permit to operate incorporating the terms and conditions established by both permits. The permit to operate expressly shall designate the terms and conditions required under the NPDES program as federally enforceable. All other provisions are enforceable under state law only and expressly shall be designated accordingly.

(I) A npdes permit may be issued under this section for a period not to exceed five years.

(J) A npdes permit issued under this section may be renewed. an application for renewal of a NPDES permit shall be submitted to the director of agriculture at least one hundred eighty days prior to the expiration date of

the permit and shall comply with the requirements governing applications for NPDES permits established under this section and by rule.

(K)(1) No person shall make any false statement, representation, or certification in an application for a NPDES permit or in any form, notice, or report required to be submitted to the director pursuant to terms and conditions established in a NPDES permit issued under this section.

(2) No person shall render inaccurate any monitoring method or device that is required under the terms and conditions of a NPDES permit issued under this section.

(L) The director may modify, suspend, or revoke a NPDES permit issued under this section for cause as established by rule. No NPDES permit issued under this section shall be modified, suspended, or revoked without a written order stating the findings that led to the modification, suspension, or revocation. In addition, the PERMITTEE has a right to an administrative hearing in accordance with Chapter 119. of the Revised Code, except that section 119.12 of the Revised Code does not apply. Further, an order of the director modifying, suspending, or revoking a NPDES permit may be appealed to the environmental review appeals COMMISSION UNDER sections 3745.04 TO 3745.06 of the Revised Code.

(M)(1) No person shall violate any effluent limitation established by rule.

(2) no person shall violate any other provision of a npdes permit issued under this section.

(3) compliance with a npdes permit issued under this section constitutes compliance with this section.

(N) This section, including the state program authorized in division (A)(1) of this section, shall be administered in a manner consistent with the Federal Water Pollution Control Act.

Sec. 903.09. (A) Prior to issuing or modifying a permit to install, permit to operate, or NPDES permit, the director of agriculture shall issue a draft permit. The director or the director's representative shall mail notice of the issuance of a draft permit to the applicant and shall publish the notice once in a newspaper of general circulation in the county in which the concentrated animal feeding facility or discharger is located or proposed to be located. The director shall mail notice of the issuance of a draft permit and a copy of the draft permit to the board of county commissioners of the county and the board of township trustees of the township in which the concentrated animal feeding facility or discharger is located or proposed to be located. The director or the director's representative also shall provide notice of the issuance of a draft NPDES to any other persons that are

entitled to notice under the Federal Water Pollution Control Act. NOTICE OF THE ISSUANCE OF A DRAFT PERMIT TO INSTALL, PERMIT TO OPERATE, OR NPDES PERMIT SHALL INCLUDE THE ADDRESS WHERE WRITTEN COMMENTS CONCERNING THE DRAFT PERMIT MAY BE SUBMITTED AND THE PERIOD OF TIME DURING WHICH COMMENTS WILL BE ACCEPTED AS ESTABLISHED BY RULE.

IF THE DIRECTOR RECEIVES WRITTEN COMMENTS IN AN AMOUNT THAT DEMONSTRATES SIGNIFICANT PUBLIC INTEREST, AS DEFINED BY RULE, IN THE DRAFT PERMIT, THE DIRECTOR SHALL SCHEDULE ONE PUBLIC MEETING TO PROVIDE INFORMATION TO THE PUBLIC AND TO HEAR COMMENTS PERTINENT TO THE DRAFT PERMIT. THE NOTICE OF THE PUBLIC MEETING SHALL BE PROVIDED IN THE SAME MANNER AS THE NOTICE OF THE ISSUANCE OF THE DRAFT PERMIT.

(B) IF A PERSON IS REQUIRED TO OBTAIN BOTH A PERMIT TO INSTALL AND A PERMIT TO OPERATE, INCLUDING ANY PERMIT TO OPERATE WITH NPDES PROVISIONS, AND PUBLIC MEETINGS ARE REQUIRED FOR BOTH PERMITS, THE PUBLIC MEETINGS FOR THE PERMITS SHALL BE COMBINED.

(C) The DIRECTOR SHALL APPLY THE ANTIDegradation POLICY ADOPTED UNDER SECTION 6111.12 OF THE REVISED CODE TO PERMITS ISSUED UNDER THIS CHAPTER TO THE SAME DEGREE AND UNDER THE SAME CIRCUMSTANCES AS IT APPLIES TO PERMITS ISSUED UNDER CHAPTER 6111. OF THE REVISED CODE. THE DIRECTOR SHALL HOLD ONE PUBLIC MEETING TO CONSIDER ANTIDegradation ISSUES WHEN SUCH A MEETING IS REQUIRED BY THE ANTIDegradation POLICY. WHEN ALLOWED BY THE ANTIDegradation POLICY, THE DIRECTOR SHALL HOLD THE PUBLIC MEETING ON ANTIDegradation ISSUES CONCURRENTLY WITH ANY PUBLIC MEETING HELD FOR THE DRAFT PERMIT.

(D) THE DIRECTOR OR THE DIRECTOR'S REPRESENTATIVE SHALL PUBLISH NOTICE OF THE ISSUANCE OF A FINAL PERMIT TO INSTALL, PERMIT TO OPERATE, OR NPDES PERMIT ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE CONCENTRATED ANIMAL FEEDING FACILITY OR DISCHARGER IS LOCATED.

(E) FAILURE OF THE DIRECTOR TO PROVIDE NOTICE OR A PUBLIC MEETING SHALL INVALIDATE A PERMIT ONLY IF THE

FAILURE IS RAISED BY, AND WAS RELIED UPON TO THE DETRIMENT OF, A PERSON THAT IS ENTITLED TO APPEAL THE PERMIT. NOTICE OR A PUBLIC MEETING IS NOT REQUIRED FOR THE MODIFICATION OF A PERMIT MADE WITH THE CONSENT OF THE PERMITTEE FOR THE CORRECTION OF TYPOGRAPHICAL ERRORS.

(E) THE DENIAL, MODIFICATION, SUSPENSION, OR REVOCATION OF A PERMIT TO INSTALL, PERMIT TO OPERATE, OR NPDES PERMIT WITHOUT THE CONSENT OF THE APPLICANT OR permittee SHALL BE PRECEDED BY A PROPOSED ACTION STATING THE DIRECTOR'S INTENTION TO ISSUE AN ORDER WITH RESPECT TO THE PERMIT AND THE REASONS FOR IT. The director shall not issue an order that makes THE PROPOSED ACTION FINAL UNTIL THE APPLICANT OR PERMITTEE HAS HAD AN OPPORTUNITY FOR AN ADJUDICATION HEARING IN ACCORDANCE WITH CHAPTER 119. OF THE REVISED CODE, EXCEPT THAT SECTION 119.12 OF THE REVISED CODE does not apply. AN ORDER OF THE DIRECTOR THAT FINALIZES THE PROPOSED ACTION OR AN ORDER ISSUING A PERMIT WITHOUT A PRIOR PROPOSED ACTION MAY BE APPEALED TO THE ENVIRONMENTAL REVIEW APPEALS COMMISSION UNDER SECTIONS 3745.04 TO 3745.06 OF THE REVISED CODE.

(G)(1) THE DIRECTOR SHALL issue an order ISSUING OR DENYING AN APPLICATION FOR A PERMIT TO OPERATE THAT CONTAINS NPDES PROVISIONS OR FOR A NPDES PERMIT, AS WELL AS ANY APPLICATION FOR A PERMIT TO INSTALL THAT IS SUBMITTED SIMULTANEOUSLY, NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER RECEIVING THE APPLICATION.

(2) IN THE CASE OF AN APPLICATION FOR A PERMIT TO INSTALL OR PERMIT TO OPERATE THAT IS NOT CONNECTED WITH AN APPLICATION FOR A NPDES PERMIT, THE DIRECTOR SHALL ISSUE OR PROPOSE TO DENY THE PERMIT NOT LATER THAN NINETY DAYS AFTER RECEIVING THE APPLICATION. IF THE DIRECTOR HAS PROPOSED TO DENY THE PERMIT TO INSTALL OR PERMIT TO OPERATE UNDER DIVISION (G)(2) OF THIS SECTION, THE DIRECTOR SHALL ISSUE an order DENYING THE PERMIT or, if the director decides against the proposed denial, issuing the permit NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER RECEIVING THE APPLICATION. IF THE DIRECTOR DENIES THE PERMIT, THE DIRECTOR SHALL NOTIFY THE APPLICANT IN

WRITING OF THE REASON FOR THE DENIAL.

(H) ALL RULEMAKING AND THE ISSUANCE OF CIVIL PENALTIES under this chapter SHALL COMPLY WITH CHAPTER 119. OF THE REVISED CODE.

(I) UPON THE TRANSFER OF OWNERSHIP OF an animal feeding FACILITY FOR WHICH A PERMIT TO INSTALL, AN INSTALLATION PERMIT, A REVIEW COMPLIANCE CERTIFICATE, or A PERMIT TO OPERATE that contains no NPDES provisions HAS BEEN ISSUED, THE PERMIT or certificate SHALL BE TRANSFERRED TO THE NEW OWNER OF THE animal feeding FACILITY EXCEPT AS PROVIDED IN DIVISION (C) OF SECTION 903.05 OF THE REVISED CODE. IN THE CASE OF THE TRANSFER OF OWNERSHIP OF A POINT SOURCE FOR WHICH A NPDES PERMIT OR A PERMIT TO OPERATE THAT CONTAINS NPDES PROVISIONS HAS BEEN ISSUED, THE PERMIT SHALL BE TRANSFERRED IN ACCORDANCE WITH RULES.

(J) APPLICATIONS FOR INSTALLATION PERMITS for animal feeding facilities PENDING BEFORE THE DIRECTOR OF ENVIRONMENTAL PROTECTION ON THE DATE ON WHICH THE DIRECTOR OF AGRICULTURE HAS FINALIZED THE PROGRAMS REQUIRED UNDER DIVISION (A)(1) OF SECTION 903.02 AND DIVISION (A)(1) OF SECTION 903.03 OF THE REVISED CODE SHALL BE TRANSFERRED TO THE DIRECTOR OF AGRICULTURE. IN THE CASE OF AN APPLICANT WHO IS REQUIRED TO OBTAIN A PERMIT TO INSTALL AND A PERMIT TO OPERATE UNDER SECTIONS 903.02 AND 903.03, RESPECTIVELY, OF THE REVISED CODE, THE DIRECTOR OF AGRICULTURE SHALL PROCESS THE PENDING APPLICATION FOR AN INSTALLATION PERMIT AS AN APPLICATION FOR A PERMIT TO INSTALL AND a PERMIT TO OPERATE.

(K) APPLICATIONS FOR NPDES PERMITS for either of the following that are PENDING BEFORE THE DIRECTOR OF ENVIRONMENTAL PROTECTION ON 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 SHALL BE TRANSFERRED TO THE DIRECTOR OF AGRICULTURE:

(1) The discharge of manure;

(2) The discharge of storm water resulting from an animal feeding facility. IN THE CASE OF AN APPLICANT WHO IS REQUIRED TO OBTAIN A NPDES PERMIT UNDER SECTION 903.08 OF THE

REVISED CODE, THE DIRECTOR OF AGRICULTURE SHALL PROCESS THE PENDING APPLICATION AS AN APPLICATION FOR A NPDES PERMIT UNDER that SECTION.

Sec. 903.10. The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(A) Establish all of the following concerning permits to install and permits to operate:

(1) A description of what constitutes a modification of a concentrated animal feeding facility;

(2) The amount of the fee that must be submitted with each permit application and each application for a permit modification;

(3) Information that must be included in the designs and plans required to be submitted with an application for a permit to install and criteria for approving, disapproving, or requiring modification of the designs and plans;

(4) Information that must be included in a manure management plan required to be submitted with an application for a permit to operate;

(5) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;

(6) Any additional information that must be included with a permit application;

(7) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits;

(8) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;

(9) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;

(10) A DEFINITION OF "GENERAL PERMIT TO OPERATE" THAT ESTABLISHES CATEGORIES OF CONCENTRATED ANIMAL FEEDING FACILITIES TO BE COVERED UNDER SUCH A PERMIT AND A DEFINITION OF "INDIVIDUAL PERMIT TO OPERATE" TOGETHER WITH THE CRITERIA FOR ISSUING A GENERAL PERMIT TO OPERATE AND THE CRITERIA FOR DETERMINING A PERSON'S ELIGIBILITY TO OPERATE UNDER A GENERAL PERMIT TO OPERATE.

(B) Establish all of the following for the purposes of review compliance

certificates issued under section 903.04 of the Revised Code:

(1) The form of a certificate;
(2) criteria for what constitutes a significant capital expenditure under division (D) of that section;

(3) Deadlines and procedures for submitting information under division (E)(2) of that section.

(C) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:

(1) Manure management, including the storage, handling, transportation, and land application of manure. Rules adopted under division (C)(1) of this section shall INCLUDE practices THAT PREVENT surface and GROUND WATER CONTAMINATION CAUSED BY the storage of manure or THE LAND APPLICATION OF MANURE and prevent THE CONTAMINATION OF WATER IN DRAINAGE TILES THAT MAY BE CAUSED by that application.

(2) Disposal of dead livestock;

(3) Any other activity that the Director considers appropriate.

Best management practices established in rules adopted under division (C) of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code and that are in effect on the effective date of this section. The rules adopted under division (C) of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government infrastructure needs and the financing of that infrastructure.

(D) Establish all of the following concerning insect and rodent control plans required under section 903.06 of the Revised Code:

(1) The information to be included in an insect and rodent control plan;

(2) Criteria for approving, disapproving, or requiring modification of an insect and rodent control plan;

(3) Criteria for determining compliance with or violation of an insect and rodent control plan;

(4) Procedures and standards for monitoring insect and rodent control plans;

(5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents

constitute a nuisance or adversely affect public health;

(6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (D)(6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility with a total design capacity of ten thousand or fewer animal units and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding FACILITY;

(7) THE TIME period WITHIN WHICH THE DIRECTOR MUST APPROVE OR DENY AN INSECT AND RODENT CONTROL PLAN AFTER RECEIVING IT;

(8) any other provisions necessary to administer and enforce SECTION 903.12 OF THE REVISED CODE.

(E) Establish all of the following concerning livestock manager certification required under section 903.07 of the Revised Code:

(1) The information to be included in an application for a livestock manager certification and the amount of the application fee;

(2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility, and following best management practices established in rules for disposal of dead animals and manure management, including practices that control odor and protect the environment. The director may specify other types of recognized training programs that, if completed, are considered to satisfy the training and examination requirement.

(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification;

(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal;

(5) The volume of manure that must be transported, bought, or sold annually by a person in order for the person to be required to obtain a livestock manager certification under division (A)(2) of section 903.07 of the Revised Code;

(6) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code.

(F) establish all of the following concerning NPDES permits:

(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code. This designation shall include only those point sources for which the issuance of NPDES permits is required under the Federal Water Pollution Control Act.

(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;

(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;

(4) Terms and conditions to be included in a permit, including, as applicable, best management practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;

(5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;

(6) the amount of the fee that must be submitted with an application for a permit;

(7) procedures for processing permit applications, including public notice and participation requirements;

(8) Procedures for notifying the united states environmental protection agency of the submission of permit applications, the director's action on those applications, and any other reasonable and relevant information;

(9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a permit;

(10) Procedures for the transfer of permits to new owners or operators;

(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;

(12) A DEFINITION OF "GENERAL NPDES PERMIT" THAT ESTABLISHES CATEGORIES OF POINT SOURCES TO BE COVERED UNDER SUCH A PERMIT AND A DEFINITION OF "INDIVIDUAL NPDES PERMIT" TOGETHER WITH THE CRITERIA FOR ISSUING A GENERAL NPDES PERMIT AND THE CRITERIA FOR DETERMINING A PERSON'S ELIGIBILITY TO DISCHARGE UNDER

A GENERAL NPDES PERMIT.

The rules adopted under division (F) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.

(G) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (F)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of permits to install, permits to operate, AND NPDES PERMITS consistent with section 903.09 of the Revised Code, including A definition of what constitutes significant public interest for the purposes of division (A) of section 903.09 of the Revised Code and procedures for public meetings. the rules shall require that information that is presented at such a public meeting be limited to the criteria THAT ARE APPLICABLE TO THE PERMIT APPLICATION that is the subject of the public meeting.

(H) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install, permit to operate, or review compliance certificate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand dollars per day for each violation;

(I) Establish procedures for the protection of trade secrets from public disclosure. the procedures shall authorize the release of trade secrets to officers, employees, or authorized representatives of the state, another state, or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act. The rules shall require at least ten days' written notice to the person to whom a trade secret applies prior to the release of the trade secret. Rules adopted under this division do not apply to any information that is contained in applications, including attachments, for NPDES permits and that is required to be submitted under section 903.08 of the Revised Code or rules adopted under division (F) of this section.

(J) Establish any other provisions necessary to administer and enforce this chapter.

Sec. 903.11. (A) The Director of Agriculture may enter into contracts or agreements to carry out the purposes of this chapter with any public or private person, including the Ohio State University Extension service, the Natural Resources Conservation Service in the United States Department of Agriculture, the environmental protection agency, the Division of Soil and Water conservation in the Department of Natural Resources, and soil and water conservation districts established under Chapter 1515. of the Revised Code. However, the director shall not enter into a contract or agreement

with a private person FOR THE REVIEW of applications for PERMITS TO INSTALL, PERMITS TO OPERATE, NPDES PERMITS, OR REVIEW COMPLIANCE CERTIFICATES THAT ARE ISSUED UNDER THIS CHAPTER OR FOR THE INSPECTION OF A FACILITY REGULATED UNDER THIS CHAPTER OR WITH ANY PERSON FOR THE ISSUANCE OF ANY OF THOSE PERMITS OR CERTIFICATES OR FOR THE ENFORCEMENT OF THIS CHAPTER AND RULES ADOPTED UNDER IT.

(B) The director may administer grants and loans using moneys from the federal government and other sources, public or private, for carrying out any of the director's functions. Nothing in this chapter shall be construed to limit the eligibility of owners or operators of animal feeding facilities or other agricultural enterprises to receive moneys from the water pollution control loan fund established under section 6111.036 of the Revised Code and the nonpoint source pollution management fund established under section 6111.037 of the Revised Code.

The director of agriculture shall provide the director of environmental protection with written recommendations for providing financial assistance from those funds to agricultural enterprises. the director of environmental protection shall consider the recommendations in developing priorities for providing financial assistance from the funds.

Sec. 903.12. (A) The director of agriculture or the director's authorized representative at reasonable times may enter on any public or private property, real or personal, to make investigations and inspections, including the sampling of discharges and the inspection of discharge monitoring equipment, or to otherwise execute duties that are necessary for the administration and enforcement of this chapter. The director or the director's authorized representative at reasonable times may examine and copy any records pertaining to discharges that are subject to this chapter or any records that are required to be maintained by the terms and conditions of a permit or review compliance certificate issued under this chapter. If refused entry, the director or the director's authorized representative may apply for and the court of common pleas having jurisdiction may issue an appropriate warrant.

(B) No person to whom a permit or review compliance certificate has been issued under this chapter shall refuse entry to the director or the director's authorized representative or purposely hinder or thwart the director or the director's authorized representative in the exercise of any authority granted under division (A) of this section.

Sec. 903.13. In a private civil action for an alleged nuisance related to

agricultural activities conducted at a concentrated animal feeding facility, it is an affirmative defense if the person owning, operating, or otherwise responsible for the concentrated animal feeding facility is in compliance with best management practices established in the installation permit, permit to operate, or review compliance certificate issued for the concentrated animal feeding facility and the agricultural activities do not violate federal, state, and local laws governing nuisances.

Sec. 903.14. Prior to filing a private civil action for an alleged nuisance related to agricultural activities conducted at a concentrated animal feeding facility, the parties to the dispute shall submit the dispute to an arbitrator for nonbinding arbitration. The parties shall pay the arbitrator a reasonable compensation based on the extent and duration of actual service rendered. the cost of the arbitrator's services shall be divided proportionately among the parties.

If the decision reached by the arbitrator is not accepted by all parties to the dispute, the complaining parties may file a civil action and the claim shall proceed as if it had not been submitted to nonbinding arbitration. No oral or written statement prepared for or made in the nonbinding arbitration by the arbitrator or any of the parties, including any mental impression, recommendation, or decision by the arbitrator, is subject to discovery or admissible into evidence in any litigation or proceeding for any purpose, including impeachment. The arbitrator shall be disqualified as a witness, consultant, or expert on any subject that is related to the arbitration.

Sec. 903.15. (A) A person who is aggrieved or adversely affected by an alleged nuisance related to a concentrated animal feeding facility may submit a complaint to the director of agriculture alleging that the nuisance exists. The complaint may be made orally or in writing. If the complaint is made in writing, it shall be signed by the person making it and dated.

(B) After receiving a written, signed, and dated complaint, the director shall, or after receiving an oral complaint the director may, cause an investigation to be conducted to determine if the owner or operator of the concentrated animal feeding facility is complying with a permit or review compliance certificate.

(C)(1) If, upon completion of the investigation, the director determines that the owner or operator is in compliance with a permit or review compliance certificate, the director shall dismiss the complaint and notify the complainant and the owner or operator of the dismissal.

(2) If the director determines that the owner or operator is not in compliance with a permit or review compliance certificate, the director shall proceed in accordance with section 903.16 or 903.17 of the Revised Code.

or both, as applicable.

Sec. 903.16. (A) The director of agriculture may propose to require corrective actions and assess a civil penalty against an owner or operator of a concentrated animal feeding facility if the director or the director's authorized representative determines that the owner or operator is not in compliance with the terms and conditions of a permit to install, permit to operate, or review compliance certificate issued for the concentrated animal feeding facility, including the requirements established under division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code. However, the director may impose a civil penalty only if all of the following occur:

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

(2) After the time period specified in the notice has elapsed, the director or the director's duly authorized representative has inspected the concentrated animal feeding facility, determined that the owner or operator is still not in compliance, and issued a notice of an adjudication hearing.

(3) The director affords the owner or operator an opportunity for an adjudication hearing under chapter 119. of the Revised Code to challenge the director's determination that the owner or operator is not in compliance or the imposition of the civil penalty, or both. However, the owner or operator 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 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.

Civil penalties shall be assessed under this division as follows:

(1) A person who has violated the terms and conditions of a permit to install, permit to operate, or review compliance certificate shall pay a civil penalty in an amount established in rules unless the violation is of the requirements established under division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code.

(2) A person who has violated the requirements established under division (C) of section 903.06 of the revised Code shall pay a civil penalty in an amount established in rules for each violation. Each seven-day period during which a violation continues constitutes a separate violation.

(3) A person who has violated the requirements established under division (A) of section 903.07 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each violation. Each thirty-day period during which a violation continues constitutes a separate violation.

(C) The attorney general, upon the written request of the director, shall bring an action for an injunction in any court of competent jurisdiction against any person violating or threatening to violate section 903.02, 903.03, or 903.04 of the Revised Code; the terms and conditions of a permit to install, permit to operate, or review compliance certificate, including the requirements established division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code; rules adopted under division (A) of section 903.10 of the Revised Code; or an order issued under division (B) of this section.

(D)(1) In lieu of seeking civil penalties under division (A) of this section, the director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating the terms and conditions of a permit to install, permit to operate, or review compliance certificate, including the requirements established under division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code.

(2) The director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating section 903.02, 903.03, or 903.04 of the Revised Code, rules adopted under division (A) of section 903.10 of the Revised Code, or an order issued under division (B) of this section.

(3) A person who has committed a violation for which the attorney general may bring an action for a civil penalty under division (D)(1) or (2) of this section shall pay a civil penalty of not more than ten thousand dollars per violation. Each day that a violation continues constitutes a separate violation.

Sec. 903.17. (A) THE DIRECTOR of agriculture MAY PROPOSE TO require corrective actions and ASSESS A CIVIL PENALTY AGAINST AN OWNER OR OPERATOR of a point source IF THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED REPRESENTATIVE DETERMINES THAT THE OWNER OR OPERATOR IS NOT IN COMPLIANCE WITH section 903.08 of the Revised Code, the terms and conditions of a NPDES permit, the NPDES provisions of a permit to operate, or rules adopted under division (F) of section 903.10 of the Revised Code. HOWEVER, THE director may impose a CIVIL PENALTY only if all of the following occur:

(1) THE OWNER or OPERATOR IS NOTIFIED IN WRITING OF

THE DEFICIENCIES RESULTING IN NONCOMPLIANCE, THE ACTIONS THAT THE OWNER OR OPERATOR MUST TAKE TO CORRECT THE DEFICIENCIES, AND THE TIME PERIOD WITHIN WHICH THE OWNER OR OPERATOR MUST CORRECT THE DEFICIENCIES AND ATTAIN COMPLIANCE.

(2) After the time period specified in the notice has elapsed, the director or the director's duly authorized representative has inspected the point source, determined that the owner or operator is still not in compliance, and issued a notice of violation to require corrective actions.

(3) The director affords the owner or operator an opportunity for an adjudication hearing under chapter 119. of the Revised Code to challenge the director's determination that the owner or operator is not in compliance or the imposition of the civil penalty, or both. However, the owner or operator 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 AND ASSESS A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND DOLLARS PER VIOLATION AGAINST THE VIOLATOR. For purposes of determining the civil penalty, each day that a violation continues constitutes a separate and distinct violation. THE ORDER AND THE ASSESSMENT OF THE CIVIL PENALTY MAY BE APPEALED IN ACCORDANCE WITH SECTION 119.12 OF THE REVISED CODE.

(C) TO THE EXTENT CONSISTENT WITH THE FEDERAL WATER POLLUTION CONTROL ACT, THE DIRECTOR SHALL CONSIDER TECHNICAL FEASIBILITY AND ECONOMIC COSTS IN ISSUING ORDERS UNDER THIS section.

(D)(1) The attorney general, upon the written request of the director, shall bring an action for an injunction in any court of competent jurisdiction against any person violating or threatening to violate section 903.08 of the Revised Code, the terms and conditions of a NPDES permit, the NPDES provisions of a permit to operate, rules adopted under division (F) of section 903.10 of the Revised Code, or an order issued under division (B) of this section.

NPDES permit, the NPDES provisions of a permit to operate, rules adopted under division (F) of section 903.10 of the Revised Code, or an order issued under division (B) of this section. For purposes of determining the civil penalty to be assessed under division (B) of this section, each day that a violation continues constitutes a separate and distinct violation.

Sec. 903.18. (A) Notwithstanding sections 903.16 and 903.17 of the Revised Code, if the director of agriculture determines that an emergency exists requiring immediate action to protect the public health or safety or the environment, the director may issue an order, without notice or adjudication hearing, stating the existence of the emergency and requiring that action be taken that is necessary to meet the emergency. The order shall take effect immediately. A person to whom the order is directed shall comply immediately, but on application to the director shall be afforded an adjudication hearing in accordance with Chapter 119. of the Revised Code as soon as possible and not later than thirty days after application. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it. THE DIRECTOR'S ORDER IS APPEALABLE IN ACCORDANCE WITH SECTION 119.12 OF THE REVISED CODE. No emergency order shall remain in effect for more than one hundred twenty days after its issuance.

(B) A person that is responsible for causing or allowing the unauthorized spill, release, or discharge of manure that requires emergency action to protect public health or safety or the environment is liable to the director for the costs incurred in investigating, mitigating, minimizing, removing, or abating the spill, release, or discharge. Upon request of the director, the attorney general shall bring a civil action against the responsible person or persons to recover those costs. Moneys recovered under this division shall be paid into the state treasury to the credit of the livestock management fund.

Sec. 903.19. All money collected by the Director of Agriculture from application fees under sections 903.02, 903.03, 903.07, and 903.08 of the Revised Code, all money collected from civil penalties under sections 903.16 and 903.17 of the Revised Code, and all money collected under division (B) of section 903.18 of the Revised Code shall be deposited in the Livestock Management Fund, which is hereby created in the state treasury. Money credited to the fund shall be used solely in the administration of this chapter.

Sec. 903.20. (A) There is hereby created the concentrated animal feeding facility advisory committee consisting of the directors of agriculture, development, environmental protection, and natural resources

and the dean of the college of food, agricultural, and environmental sciences of the Ohio state university, or their designees, as members ex officio, and sixteen members to be appointed by the director of agriculture. Of the appointed members, ONE SHALL BE AN ELECTED LOCAL GOVERNMENT OFFICIAL WHOSE JURISDICTION HAS A CONCENTRATED ANIMAL FEEDING FACILITY LOCATED IN IT AT THE TIME THAT THE OFFICIAL IS APPOINTED TO THE COMMITTEE, ONE SHALL BE A PERSON WHO IS LICENSED TO PRACTICE VETERINARY MEDICINE UNDER CHAPTER 4741. OF THE REVISED CODE, one shall represent the interests of poultry producers, one shall represent the interests of swine producers, one shall represent the interests of dairy farmers, one shall represent the interests of beef cattle producers, one shall represent the interests of sheep producers, one shall represent the interests of DRINKING WATER UTILITIES, ONE SHALL REPRESENT THE INTERESTS OF WASTEWATER UTILITIES, ONE SHALL REPRESENT THE OHIO ENVIRONMENTAL HEALTH ASSOCIATION, TWO SHALL REPRESENT THE INTERESTS OF STATEWIDE ENVIRONMENTAL ADVOCACY ORGANIZATIONS, and four shall represent the interests of the public. PRIOR TO MAKING THE APPOINTMENT OF THE MEMBER WHO IS AN ELECTED LOCAL GOVERNMENT OFFICIAL, THE DIRECTOR SHALL SOLICIT A LIST OF SUGGESTED CANDIDATES FROM THE APPROPRIATE STATEWIDE ASSOCIATIONS THAT REPRESENT THE INTERESTS OF LOCAL GOVERNMENTS. Prior to making an appointment of a member representing the interests of poultry, swine, beef cattle, or sheep producers or dairy farmers, the director shall solicit from the appropriate statewide trade associations a list of suggested candidates to represent the interests of the species category on the committee. THE MEMBERS REPRESENTING THE PUBLIC SHALL NOT BE OWNERS OR OPERATORS OF CONCENTRATED ANIMAL FEEDING facilities OR ASSOCIATED WITH SUCH facilities BY CONTRACT.

Not later than thirty days after the effective date of this section, the director shall make appointments to the committee. Of the initial appointments, six shall be for terms ending one year after the effective date of this section, five shall be for terms ending two years after the effective date of this section, and five shall be for terms ending three years after the effective date of this section. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed.

Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The committee shall meet at times that the chairperson or a majority of the committee members considers appropriate, provided that no meeting shall be held on the call of the chairperson unless at least seven days' written notice first is provided to all members of the committee. At the first meeting of the committee in each calendar year, the director of agriculture shall designate one member of the committee to serve as its chairperson and one member to serve as its vice-chairperson. A majority vote of the members of the committee is necessary to take action on any matter. A vacancy on the Committee does not impair the right of the other members to exercise all of the committee's powers.

Serving as an appointed member of the committee does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. The director of agriculture, after notice and a public meeting, may remove any appointed member of the committee for misfeasance, nonfeasance, or malfeasance in office.

Appointed members of the committee shall serve without compensation for attending committee meetings. Members of the committee shall be reimbursed for their actual and necessary expenses incurred in the performance of official duties as members of the committee.

(B) The committee may do either or both of the following:

(1) Adopt rules or procedures governing the conduct of its internal affairs;

(2) Request from the director of agriculture, and the director shall provide, meeting space, staff support, services, and data to enable it to carry out its functions.

(C) The committee shall do all of the following:

(1) Advise the director of agriculture in the administration of this chapter;

(2) Keep abreast of advances in manure management practices and annually advise the directors of agriculture, environmental protection, and natural resources of the recent advances in those areas and regarding the

need for amending what constitutes best management practices:

(3) In consultation with the director of agriculture, prepare and, upon request, distribute written materials designed to assist persons who propose to establish a new or modify an existing concentrated animal feeding facility in applying for a permit to install or permit to operate. The materials also shall include information stating that, in addition to obtaining a permit to operate, it may be necessary to obtain a NPDES permit for the discharge of manure or storm water. In addition, the written materials shall include information on the meaning of a "complete application" for all of the permits, information on the public meeting process in connection with the relevant permits issued under this chapter, and a summary of the antidegradation policy established under section 6111.12 of the Revised Code together with an indication of the possibility that the owner's or operator's proposed new or modified disposal system for manure or discharges may be subject to that policy.

(4) Not later than twelve months after the effective date of this section, conduct an examination of the scientific appropriateness of the definition of "animal unit" in section 903.01 of the Revised Code and prepare and submit to the general assembly, the governor, and the directors of agriculture, environmental protection, and natural resources the committee's findings and any recommendations for legislative changes in that definition that are necessary or appropriate to reflect on a more scientific basis manure generation rates among livestock species and types of concentrated animal feeding facilities.

(D) Section 101.84 of the Revised Code does not apply to the committee.

Sec. 903.99. (A) Whoever violates division (A)(2) of section 903.02 or division (A)(2) of section 903.03 of the Revised Code is guilty of a misdemeanor of the third degree on a first offense, a misdemeanor of the second degree on a second offense, and a misdemeanor of the first degree on a third or subsequent offense. Each ten-day period that the offense continues constitutes a separate offense.

(B) Whoever violates THE TERMS AND CONDITIONS OF A PERMIT TO INSTALL ISSUED UNDER SECTION 903.02 OF THE REVISED CODE OR OF A PERMIT TO OPERATE ISSUED UNDER SECTION 903.03 OF THE REVISED CODE, division (B)(1), (C)(1), or (M)(1) or (2) of section 903.08 of the Revised Code, or the NPDES provisions of a permit to operate shall be fined not more than twenty-five thousand dollars. Each day of violation constitutes a separate offense.

(C) Whoever knowingly violates division (K) of section 903.08 of the

Revised Code shall be fined not more than twenty-five thousand dollars. Each day of violation constitutes a separate offense.

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

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

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

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

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

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

(1) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by animal waste or by soil sediment including substances attached thereto, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The standards shall be designed to implement applicable areawide waste treatment management plans prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816

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

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

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

(5) Shall specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural or silvicultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by animal waste or soil sediment including pollutants attached thereto.

(6) Until June 1, 1996, shall specify the multiflora rose control practices eligible for state cost sharing, the conditions of eligibility for state cost sharing, the limits of cost sharing for those practices, specifications for carrying out those practices to ensure effective control of the multiflora rose and to safeguard the health and safety of human beings and domestic animals and the environment, and the contract provisions to be included in cost-sharing agreements with landowners;

(7) Until June 1, 1996, shall establish procedures for administering grants to soil and water conservation districts for control of multiflora rose;

(8) Shall establish procedures for administering grants to owners or operators of agricultural land or concentrated animal feeding operations for the implementation of operation and management plans;

(9) 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;

(10) Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Provide for the distribution of educational material concerning composting to the offices of the Ohio cooperative extension service for the purposes of section 1511.022 of the Revised Code;

(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;

(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 (U) of section 1515.08 of the Revised Code.

(11) Shall be adopted, amended, or rescinded after the chief does all of the following:

(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.

(12) 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.

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

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

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by failure to comply with the standards established under division (E)(1) of this section operate under an operation and management plan approved by the chief under this section. The chief shall require in an order that a person who has failed to comply with division (A) of section 1511.022 of the Revised Code prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of this section and operate in accordance with that plan or that a person who has failed to operate in accordance with such a plan begin to operate in accordance with it. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the standard that is not being met.

~~(H) Refrain from issuing any order requiring a pollution abatement practice that is eligible for cost sharing under division (E)(5) of this section unless public funds are available for cost sharing on those practices at not less than seventy five per cent of the cost, but not more than fifteen thousand dollars per person per year for practices for abating agricultural pollution. The fifteen thousand dollar per person per year limit may be waived by majority vote of the Ohio soil and water conservation commission.~~

~~(I)~~ Employ field assistants and such other employees as are necessary for the performance of the work prescribed by Chapter 1515. of the Revised Code, for performance of work of the division, and as agreed to under

working agreements or contractual arrangements with local soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.

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

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

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

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

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

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

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

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

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

~~(M)~~(L) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are

mutually agreeable to the districts and the department of natural resources.

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

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

This section does not restrict the excrement of domestic or farm animals defecated on land outside a concentrated animal feeding operation or runoff therefrom into the waters of the state.

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

(B) Any person who wishes to make a complaint regarding nuisances involving agricultural pollution may do so only by submitting a written, signed, and dated complaint to the chief or to ~~his~~ the chief's designee.

(C) In a private civil action for nuisances involving agricultural pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for agricultural land or a concentrated animal feeding operation is operating under and in substantial compliance with an approved operation and management plan developed under division (A) of this section, with an operation and management plan developed by the chief under section 1511.02 of the Revised Code or by the supervisors of the local soil and water conservation district under section 1515.08 of the Revised Code, or with an operation and management plan required by an order issued by the chief under division (G) of section 1511.02 of the Revised Code. Nothing in this section is in derogation of the authority granted to the chief in division (E) of section 1511.02 and in section 1511.07 of the Revised Code ~~or to the director of environmental protection in Chapter 6111. of the Revised Code.~~

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

(1) Participate in an educational course concerning composting conducted by the Ohio cooperative extension service and obtain a certificate

of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(10) of section 1511.02 of the Revised Code.

(B) Any person who fails to comply with division (A) of this section shall prepare and operate under a composting plan in accordance with an order issued by the chief of the division of soil and water conservation under division ~~(H)~~(G) of section 1511.02 of the Revised Code. If the person's proposed composting plan is disapproved by the board of supervisors of the appropriate soil and water conservation district under division (U)(3) of section 1515.08 of the Revised Code, the person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the disapproval, the plan shall be deemed approved.

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

(2) In addition to the remedies provided and irrespective of whether an adequate remedy at law exists, the chief may apply to the court of common pleas in the county where a violation of a standard established under division (E)(1) or (10)(b) of section 1511.02 of the Revised Code causes pollution of the waters of the state ~~and constitutes a danger to public health~~ for an order to compel the violator to cease the violation and to remove the agricultural pollutant or to comply with the rules adopted under division (E)(10)(b) of that section, as appropriate.

(3) In addition to the remedies provided and irrespective of whether an adequate remedy at law exists, whenever the chief officially determines that an emergency exists because of an unauthorized release, spill, or discharge of animal waste, or a violation of a rule adopted under division (E)(10)(b) of section 1511.02 of the Revised Code, that causes pollution of the waters of the state ~~and requires immediate action to protect the public health~~, he the chief may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that necessary action be taken to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but on application to the chief shall be afforded a hearing as soon as possible, but not later than twenty days after making the application. On the basis of the hearing, the chief shall continue the order in effect, revoke it, or modify it. No emergency order shall remain in effect for more than sixty days after its issuance. If a person to whom an order is issued does not comply with the

order within a reasonable period, as determined by the chief, the chief or ~~his~~ the chief's designee may enter upon private or public lands and take action to mitigate, minimize, remove, or abate the release, spill, discharge, or conditions caused by the violation of the rule.

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

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

Any person responsible for causing or allowing an unauthorized release, spill, or discharge is liable to the chief for any costs incurred by the division and soil and water conservation districts in investigating, mitigating, minimizing, removing, or abating the release, spill, or discharge, regardless of whether those costs were paid out of the agricultural pollution abatement fund or any other fund of the division or a district. Upon the request of the chief, the attorney general shall bring a civil action against the responsible person to recover those costs. Moneys recovered under this section shall be paid into the agricultural pollution abatement fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water conservation to implement the required program;

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

(N) Until June 1, 1996, to conduct surveys and investigations relating to the incidence of the multiflora rose within the district and of the nature and extent of the adverse effects of the multiflora rose on agriculture, forestry, recreation, and other beneficial land uses;

(O) Until June 1, 1996, to develop plans for the control of the multiflora rose within the district and to publish those plans and information related to control of the multiflora rose;

(P) Until June 1, 1996, to enter into contracts or agreements with the chief of the division of soil and water conservation to implement and administer a program for control of the multiflora rose and to receive and expend funds provided by the chief for that purpose;

(Q) Until June 1, 1996, to enter into cost-sharing agreements with landowners for control of the multiflora rose. Before entering into any such agreement, the board of supervisors shall determine that the landowner's application meets the eligibility criteria established under division (E)(6) of section 1511.02 of the Revised Code. The cost-sharing agreements shall contain the contract provisions required by the rules adopted under that division and such other provisions as the board of supervisors considers appropriate to ensure effective control of the multiflora rose.

(R) To enter into contracts or agreements with the chief to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

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

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

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

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

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division ~~(H)~~(G) of section 1511.02

of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(10)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

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

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

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

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

Sec. 3745.04. As used in this section, "any person" means any individual, any partnership, corporation, association, or other legal entity, or any political subdivision, instrumentality, or agency of a state, whether or not the individual or legal entity is an applicant for or holder of a license, permit, or variance from the environmental protection agency, and includes any department, agency, or instrumentality of the federal government that is an applicant for or holder of a license, permit, or variance from the environmental protection agency.

As used in this section, "action" or "act" includes the adoption, modification, or repeal of a rule or standard, the issuance, modification, or revocation of any lawful order other than an emergency order, and the issuance, denial, modification, or revocation of a license, permit, lease,

variance, or certificate, or the approval or disapproval of plans and specifications pursuant to law or rules adopted thereunder.

Any person who was a party to a proceeding before the director may participate in an appeal to the environmental review appeals commission for an order vacating or modifying the action of the director of environmental protection or local board of health, or ordering the director or board of health to perform an act. The environmental review appeals commission has exclusive original jurisdiction over any matter ~~which~~ that may, under this section, be brought before it.

The person so appealing to the commission shall be known as appellant, and the director and any party to a proceeding substantially supporting the finding from which the appeal is taken shall be known as appellee, except that when an appeal involves a license to operate a disposal site or facility, the local board of health or the director of environmental protection, and any party to a proceeding substantially supporting the finding from which the appeal is taken, shall, as appropriate, be known as the appellee. Appellant and appellee shall be deemed to be parties to the appeal.

The appeal shall be in writing and shall set forth the action complained of and the grounds upon which the appeal is based.

The appeal shall be filed with the ~~board~~ commission within thirty days after notice of the action. Notice of the filing of the appeal shall be filed with the appellee within three days after the appeal is filed with the commission.

The appeal shall be accompanied by a filing fee of forty dollars, which the commission, in its discretion, may waive in cases of extreme hardship.

Within seven days after receipt of the notice of appeal, the director or local board of health shall prepare and certify to the commission a record of the proceedings out of which the appeal arises, including all documents and correspondence, and a transcript of all testimony.

Upon the filing of the appeal, the commission shall fix the time and place at which the hearing on the appeal will be held. The commission shall give appellant and the appellee at least ten days' written notice thereof by certified mail. The commission shall hold the hearing within thirty days after the notice of appeal is filed. The commission may postpone or continue any hearing upon its own motion or upon application of appellant or of the appellee.

The filing of an appeal does not automatically suspend or stay execution of the action appealed from. Upon application by the appellant, the commission may suspend or stay such execution pending immediate determination of the appeal without interruption by continuances, other than

for unavoidable circumstances.

As used in this section and sections 3745.05 and 3745.06 of the Revised Code, "director of environmental protection" and "director" are deemed to include the director of agriculture and "environmental protection agency" is deemed to include the department of agriculture with respect to actions that are appealable to the commission under Chapter 903. 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. ~~The~~ 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 MANURE, AS 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 MANURE 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 MANURE, AS DEFINED IN THAT SECTION, IS NOT REQUIRED TO OBTAIN A PERMIT UNDER DIVISION (J)(1) OF THIS SECTION FOR THE DISCHARGE OF STORM WATER OR MANURE 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 ~~extend 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 and upon a finding by the director that the permit holder is making satisfactory progress toward the achievement of all applicable standards and has 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 ~~508~~ 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 animal waste ~~treatment or disposal works systems~~ and related management and conservation practices subject to rules adopted pursuant to division (E)(4) of section 1511.02 of the Revised Code and involving less than one thousand animal units, as "animal units" is defined in the United States environmental protection agency regulations: ~~This exclusion does not apply to animal waste treatment works having a controlled direct discharge to the waters of the state or.~~ 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. 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

SED CODE, OR TO MANURE, AS DEFINED IN THAT SECTION. NEITHER OF THESE EXCLUSIONS APPLIES to the discharge of animal waste into a publicly owned treatment works.

Sec. 6111.035. (A) The director of environmental protection, consistent with the "Federal Water Pollution Control Act" and the regulations adopted thereunder, without application therefor, may issue, modify, revoke, or terminate a general permit under this chapter for both of the following:

(1) Discharge of stormwater; the discharge of liquids, sediments, solids, or water-borne mining related waste, such as, but not limited to, acids, metallic cations, or their salts, from coal mining and reclamation operations as defined in section 1513.01 of the Revised Code; or treatment works whose discharge would have de minimis impact on the waters of the state receiving the discharge;

(2) Installation or modification of disposal systems or any parts thereof, including disposal systems for stormwater or for coal mining and reclamation operations as defined in section 1513.01 of the Revised Code.

A general permit shall apply to a class or category of discharges or disposal systems or to persons conducting similar activities, within any area of the state, including the entire state.

A general permit shall not be issued unless the director determines that the discharges authorized by the permit will have only minimal cumulative adverse effects on the environment when the discharges are considered collectively and individually and if, in the opinion of the director, the discharges, installations, or modifications authorized by the permit are more appropriately authorized by a general permit than by an individual permit.

A general permit shall be issued subject to applicable mandatory provisions and may be issued subject to any applicable permissive provision of the Federal Water Pollution Control Act and the regulations adopted thereunder.

The director, at ~~his~~ the director's discretion, may require any person authorized to discharge or to install or modify a disposal system under a general permit to apply for and obtain an individual permit for the discharge, installation, or modification. When a particular discharge, installation, or modification is subject to an individual permit, a general permit shall not apply to that discharge, installation, or modification until the individual permit is revoked, terminated, or modified to exclude the discharge, installation, or modification.

(B) Notwithstanding any requirement under Chapter 119. of the Revised Code concerning the manner in which notice of a permit action is provided, the director shall not be required to provide certified mail notice to persons

subject to the issuance, modification, revocation, or termination of a general permit under division (A) of this section.

Notwithstanding section 3745.07 of the Revised Code concerning the location of newspapers in which ~~notice~~ notices of permit actions are published, the director shall cause notice of the issuance, modification, revocation, or termination of a general permit to be published in the newspapers of general circulation determined by the director to provide reasonable notice to persons affected by the permit action in the geographic area covered by the general permit within the time periods prescribed by section 3745.07 of the Revised Code. Any notice under this section or section 3745.07 of the Revised Code concerning the issuance, modification, revocation, or termination of a general permit shall include the full text of the permit action. The director may take other appropriate measures, such as press releases and notice to trade journals, associations, and other persons known to the director to desire notification, in order to provide notice of ~~his~~ the director's actions concerning the issuance, modification, revocation, or termination of a general permit; however, the failure to provide such notice shall not invalidate any general permit.

(C) Notwithstanding any other provision of the Revised Code, a person subject to the proposed issuance, modification, revocation, or termination of a general permit under division (A) of this section may request an adjudication hearing pursuant to section 119.07 of the Revised Code concerning the proposed action within thirty days after publication of the notice of the proposed action in newspapers of general circulation pursuant to division (B) of this section. This division shall not be interpreted to affect the authority of the director to take actions on general permits in forms other than proposed general permits.

(D) The director may exercise all incidental powers required to carry out this section, including, without limitation, the adoption, amendment, and rescission of rules to implement a general permit program for classes or categories of dischargers or disposal systems.

(E) 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 manure, as defined in that section.

(F) As used in this section, "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of October 21, 1980," 94 Stat.

2360, 33 U.S.C.A. 1254, the "Municipal Wastewater Treatment Construction Grant Amendments of 1981," 95 Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 101 Stat. 7, 33 U.S.C.A. 1251.

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

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

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

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

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

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

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

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

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

~~the therefor~~

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

to do so from the director.

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

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

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

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

(3) Application of any materials to land for agricultural purposes or runoff of ~~those~~ the materials from that application or pollution by animal waste or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by Chapter 307. or 1515. of the Revised Code. ~~Division (F)(3) of this section does not authorize, without a permit, any discharge from a treatment works for treating animal wastes having a controlled direct discharge into the waters of the state or any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.;~~

(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state. ~~Division (F)(4) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.;~~

(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code,

or manure, as defined in that section:

(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F)(5) of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works.

(6)(7) Septic tanks or any other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings in compliance with the sanitary code and section 3707.01 of the Revised Code. Division (F)(6) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(7)(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)(7) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. The director shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code.

Sec. 6111.44. (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons, ~~but do not apply to sewerage or treatment works installed or to be installed for the use of a private residence or dwelling, or to animal waste treatment or disposal works and related management and conservation~~

~~practices that are subject to rules adopted pursuant to division (E)(4) of section 1511.02 of the Revised Code and involving less than one thousand animal units as animal units are defined in the United States environmental protection agency regulations. This exclusion does not apply to animal waste treatment works having a controlled direct discharge to waters of the state.~~

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

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

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

(2) 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, SEWERAGE SYSTEMS, TREATMENT WORKS, OR DISPOSAL SYSTEMS FOR STORM WATER FROM AN ANIMAL FEEDING FACILITY OR MANURE, AS "ANIMAL FEEDING FACILITY" AND "MANURE" ARE DEFINED IN SECTION 903.01 OF THE REVISED CODE;

(3) ANIMAL WASTE TREATMENT OR DISPOSAL WORKS AND RELATED MANAGEMENT AND CONSERVATION PRACTICES THAT ARE SUBJECT TO RULES ADOPTED UNDER DIVISION (E)(2) OF SECTION 1511.02 OF THE REVISED CODE AND INVOLVING LESS THAN ONE THOUSAND ANIMAL UNITS, AS "ANIMAL UNIT" IS DEFINED IN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGULATIONS.

THE EXCLUSIONS ESTABLISHED IN DIVISIONS (B)(2) AND (3) OF THIS SECTION DO NOT APPLY TO ANIMAL WASTE TREATMENT OR DISPOSAL WORKS HAVING A CONTROLLED DIRECT DISCHARGE TO THE WATERS OF THE STATE UNTIL THE DATE ON WHICH THE DIRECTOR OF AGRICULTURE FINALIZES THE PROGRAM REQUIRED UNDER SECTION 903.02 OF THE REVISED CODE. THE EXCLUSIONS ESTABLISHED IN DIVISIONS (B)(2) AND (3) OF THIS SECTION ALSO DO NOT APPLY TO THE CONSTRUCTION OR INSTALLATION OF DISPOSAL SYSTEMS, AS

DEFINED IN SECTION 6111.01 OF THE REVISED CODE, THAT ARE LOCATED AT AN ANIMAL FEEDING FACILITY AND THAT STORE, TREAT, OR DISCHARGE WASTEWATERS THAT DO NOT INCLUDE STORM WATER OR MANURE OR THAT DISCHARGE TO A PUBLICLY OWNED TREATMENT WORKS.

Sec. 6111.45. No municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall establish as proprietor, agent, employee, lessee, or tenant, any garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business in the operation of which an industrial waste is produced, or make a change in or enlargement of a garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business whereby an industrial waste is produced or materially increased or changed in character, or install works for the treatment or disposal of any such waste until the plans for the disposal of the waste have been submitted to and approved by the director of environmental protection. As used in sections 6111.44 to 6111.46 of the Revised Code, "industrial waste" means sludge or sludge materials or a water-carried or liquid waste resulting from any process of industry, manufacture, trade, or business or development of any natural resource, but does not include storm water from any animal feeding facility, as defined in section 903.01 of the Revised Code, or manure, as defined in that section. In granting an approval, the agency may stipulate modifications, conditions, and rules that the public health and welfare may require. Any action taken by the director shall be a matter of public record and shall be entered in the director's journal. Each period of thirty days that a violation of this section continues, after a conviction of the violation, constitutes a separate offense.

SECTION 2. That existing sections 1511.02, 1511.021, 1511.022, 1511.07, 1511.071, 1515.08, 3745.04, 6111.03, 6111.035, 6111.04, 6111.44 and 6111.45 of the Revised Code are hereby repealed.

SECTION 3. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the General Revenue Fund and the State Special Revenue Fund Group. For all appropriations made in this act, those in the first column are for fiscal year 2000 and those in the second column are for fiscal year 2001. The appropriations made in this act are in addition to any other appropriations made for the 1999-2001 biennium.

AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700-414	Concentrated Animal Feeding Facility Advisory Committee	\$	0	\$	25,000
GRF 700-418	Livestock Regulation Program	\$	0	\$	1,700,000
TOTAL GRF General Revenue Fund		\$	0	\$	1,725,000
State Special Revenue Fund Group					
5L8 700-604	Livestock Management Fund	\$	0	\$	250,000
TOTAL SSR State Special Revenue Fund Group		\$	0	\$	250,000
TOTAL ALL BUDGET FUND GROUPS		\$	0	\$	1,975,000

Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating the source and amount of funds for each appropriation made in this act and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H.B. 283 of the 123rd General Assembly.

The appropriations made in this act are subject to all provisions of Am. Sub. H.B. 283 of the 123rd General Assembly that are generally applicable to such appropriations.

SECTION 4. (A) As used in this section, "concentrated animal feeding operations," "animal feeding facilities," and "manure" have the same meanings as in section 903.01 of the Revised Code, as enacted by this act.

(B) On 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, as enacted by this act, the Director of Environmental Protection shall provide the Director of Agriculture with both of the following:

(1) Copies of all permits issued under division (J)(1) of section 6111.03 of the Revised Code for the installation of disposal systems for concentrated animal feeding operations, animal feeding facilities, or manure that were issued on or before that date together with any related information that the Director of Agriculture requests;

(2) All permit applications and accompanying information that were submitted under division (J)(1) of section 6111.03 of the Revised Code prior to the date specified in division (B) of this section for the installation of disposal systems identified in that division.

(C) On 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, as enacted by this act, the Director of Environmental Protection shall provide the Director of Agriculture with both of the following:

(1) Copies of all permits issued under division (J)(1) of section 6111.03

of the Revised Code for the discharge of manure and the discharge of storm water from concentrated animal feeding operations or animal feeding facilities that were issued on or before that date together with any related information that the Director of Agriculture requests;

(2) All permit applications and accompanying information that were submitted under division (J)(1) of section 6111.03 of the Revised Code prior to the date specified in division (C) of this section for the activities identified in that division.

SECTION 5. The codified and uncoded sections of law contained in this act are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified and uncoded sections of law contained in this act take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the sections, the sections, unless rejected at the referendum, take effect at the earliest time permitted by law.

SECTION 6. The amendments of this act to divisions (F)(3) and (4) of section 6111.04 of the Revised Code are not operative 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 as enacted by this act. Until that time, the Director of Environmental Protection shall continue to administer that section as it existed immediately prior to the effective date of this act. The exclusions established in divisions (B)(2) and (3) of section 6111.44 of the Revised Code, as amended by this act, shall not apply to animal waste treatment or disposal works having a controlled direct discharge to the waters of the state until the date on which the Director of Agriculture finalizes the program required under section 903.02 of the Revised Code as enacted by this act. The exclusions established in divisions (B)(2) and (3) of section 6111.44 of the Revised Code, as amended by this act, also do not apply to the construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works.

As used in this section, "animal feeding facility" and "manure" have the meanings established in section 903.01 of the Revised Code, as enacted by this act.

SECTION 7. Section 1511.021 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 182 and Am. Sub. S.B. 226 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. Section 1511.07 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 73 and Am. Sub. S.B. 226 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. Section 6111.04 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 197 and S.B. 198 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Sub. S. B. No. 141

72

Governor.

Sub. S. B. No. 141

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____