

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 61**

**Representatives Buchy, Hall**

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**A BILL**

To amend section 6111.03 and to enact sections 1  
905.326, 905.327, 1511.10, 1511.11, and 6111.32 2  
of the Revised Code to generally prohibit the 3  
application of fertilizer or manure in Lake 4  
Erie's western basin on frozen ground or 5  
saturated soil and during certain weather 6  
conditions, to require publicly owned treatment 7  
works either to monitor monthly total and 8  
dissolved phosphorous or to prepare optimization 9  
studies that evaluate their ability to reduce 10  
phosphorous, and to prohibit a person, beginning 11  
July 1, 2020, from depositing dredged material 12  
in Ohio's portion of Lake Erie and its direct 13  
tributaries that resulted from harbor or 14  
navigation maintenance activities unless 15  
authorized to do so by the Director of 16  
Environmental Protection. 17

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

**Section 1.** That section 6111.03 be amended and sections 18  
905.326, 905.327, 1511.10, 1511.11, and 6111.32 of the Revised 19  
Code be enacted to read as follows: 20

Sec. 905.326. (A) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer under any of the following circumstances: 21  
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(1) On snow-covered or frozen soil; 24

(2) When the top two inches of soil are saturated from precipitation; 25  
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(3) When the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one-half inch in a twenty-four-hour period. 27  
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(B) Division (A) of this section does not apply if a person in the western basin applies fertilizer under any of the following circumstances: 31  
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(1) The fertilizer application is injected into the ground. 34  
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(2) The fertilizer application is incorporated within twenty-four hours of surface application. 36  
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(3) The fertilizer application is applied onto a growing crop. 38  
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(4) The fertilizer application consists of potash or gypsum. 40  
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(5) In the event of an emergency, the director of agriculture or the director's designee provides written consent and the fertilizer application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state. 42  
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(C) (1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may investigate or make inquiries into any alleged failure to comply with this section. 48  
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(2) After receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged failure to comply with this section. 53  
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(3) If an individual denies access to the director or the director's designee, the director may apply to a court of competent jurisdiction in the county in which the premises is located for a search warrant authorizing access to the premises for the purposes of this section. 59  
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(4) The court shall issue the search warrant for the purposes requested if there is probable cause to believe that the person is not in compliance with this section. The finding of probable cause may be based on hearsay, provided that there is a reasonable basis for believing that the source of the hearsay is credible. 64  
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(D) This section does not affect any restrictions established in Chapter 903. of the Revised Code or otherwise apply to those entities or facilities that are permitted as concentrated animal feeding facilities under that chapter. 70  
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(E) As used in this section and section 905.327 of the Revised Code, "western basin" means land in the state that is located in the following watersheds identified by the specified 74  
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<u>United States geological survey hydrologic unit code:</u>	77
<u>(1) St. Marys watershed, hydrologic unit code 04100004;</u>	78
<u>(2) Auglaize watershed, hydrologic unit code 04100007;</u>	79
<u>(3) Blanchard watershed, hydrologic unit code 04100008;</u>	80
<u>(4) Sandusky watershed, hydrologic unit code 04100011;</u>	81
<u>(5) Cedar-Portage watershed, hydrologic unit code</u> <u>04100010;</u>	82 83
<u>(6) Lower Maumee watershed, hydrologic unit code 04100009;</u>	84
<u>(7) Upper Maumee watershed, hydrologic unit code 04100005;</u>	85
<u>(8) Tiffin watershed, hydrologic unit code 04100006;</u>	86
<u>(9) St. Joseph watershed, hydrologic unit code 04100003;</u>	87
<u>(10) Ottawa watershed, hydrologic unit code 04100001;</u>	88
<u>(11) River Basin watershed, hydrologic unit code 04100002.</u>	89
<u><b>Sec. 905.327.</b> (A) The director of agriculture may assess a</u>	90
<u>civil penalty against a person that violates section 905.326 of</u>	91
<u>the Revised Code. The director may impose a civil penalty only</u>	92
<u>if the director affords the person an opportunity for an</u>	93
<u>adjudication hearing under Chapter 119. of the Revised Code to</u>	94
<u>challenge the director's determination that the person violated</u>	95
<u>section 905.326 of the Revised Code. The person may waive the</u>	96
<u>right to an adjudication hearing.</u>	97
<u>(B) If the opportunity for an adjudication hearing is</u>	98
<u>waived or if, after an adjudication hearing, the director</u>	99
<u>determines that a violation has occurred or is occurring, the</u>	100
<u>director may issue an order requiring compliance with section</u>	101
<u>905.326 of the Revised Code and assess the civil penalty. The</u>	102

order and the assessment of the civil penalty may be appealed in 103  
accordance with section 119.12 of the Revised Code. 104

(C) A person that has violated section 905.326 of the 105  
Revised Code shall pay a civil penalty in an amount established 106  
in rules. Each thirty-day period during which a violation 107  
continues constitutes a separate violation. 108

(D) The director shall adopt rules in accordance with 109  
Chapter 119. of the Revised Code that establish the amount of 110  
the civil penalty assessed under this section. The civil penalty 111  
shall not be more than ten thousand dollars for each violation. 112

(E) For purposes of this section, "rule" means a rule 113  
adopted under division (D) of this section. 114

**Sec. 1511.10.** (A) Except as provided in division (B) of 115  
this section, no person in the western basin shall surface apply 116  
manure under any of the following circumstances: 117

(1) On snow-covered or frozen soil; 118

(2) When the top two inches of soil are saturated from 119  
precipitation; 120

(3) When the local weather forecast for the application 121  
area contains greater than a fifty per cent chance of 122  
precipitation exceeding one-half inch in a twenty-four-hour 123  
period. 124

(B) Division (A) of this section does not apply if a 125  
person in the western basin applies manure under any of the 126  
following circumstances: 127

(1) The manure application is injected into the ground. 128

(2) The manure application is incorporated within twenty- 129

four hours of surface application. 130

(3) The manure application is applied onto a growing crop. 131

(4) In the event of an emergency, the chief of the 132  
division of soil and water resources provides written consent 133  
and the manure application is made in accordance with procedures 134  
established in the United States department of agriculture 135  
natural resources conservation service practice standard code 136  
590 prepared for this state. 137

(C) (1) Upon receiving a complaint by any person or upon 138  
receiving information that would indicate a violation of this 139  
section, the chief or the chief's designee may investigate or 140  
make inquiries into any alleged failure to comply with this 141  
section. 142

(2) After receiving a complaint by any person or upon 143  
receiving information that would indicate a violation of this 144  
section, the chief or the chief's designee may enter at 145  
reasonable times on any private or public property to inspect 146  
and investigate conditions relating to any such alleged failure 147  
to comply with this section. 148

(3) If an individual denies access to the chief or the 149  
chief's designee, the chief may apply to a court of competent 150  
jurisdiction in the county in which the premises is located for 151  
a search warrant authorizing access to the premises for the 152  
purposes of this section. 153

(4) The court shall issue the search warrant for the 154  
purposes requested if there is probable cause to believe that 155  
the person is not in compliance with this section. The finding 156  
of probable cause may be based on hearsay, provided that there 157  
is a reasonable basis for believing that the source of the 158

hearsay is credible. 159

(D) This section does not affect any restrictions 160  
established in Chapter 903. of the Revised Code or otherwise 161  
apply to those entities or facilities that are permitted as 162  
concentrated animal feeding facilities under that chapter. 163

(E) As used in this section, "western basin" has the same 164  
meaning as in section 905.326 of the Revised Code. 165

**Sec. 1511.11.** (A) The chief of the division of soil and 166  
water resources may assess a civil penalty against a person that 167  
violates section 1511.10 of the Revised Code. The chief may 168  
impose a civil penalty only if the chief affords the person an 169  
opportunity for an adjudication hearing under Chapter 119. of 170  
the Revised Code to challenge the chief's determination that the 171  
person violated section 1511.10 of the Revised Code. The person 172  
may waive the right to an adjudication hearing. 173

(B) If the opportunity for an adjudication hearing is 174  
waived or if, after an adjudication hearing, the chief 175  
determines that a violation has occurred or is occurring, the 176  
chief may issue an order requiring compliance with section 177  
1511.10 of the Revised Code and assess the civil penalty. The 178  
order and the assessment of the civil penalty may be appealed in 179  
accordance with section 119.12 of the Revised Code. 180

(C) A person that has violated section 1511.10 of the 181  
Revised Code shall pay a civil penalty in an amount established 182  
in rules. Each thirty-day period during which a violation 183  
continues constitutes a separate violation. 184

(D) The chief shall adopt rules in accordance with Chapter 185  
119. of the Revised Code that establish the amount of the civil 186  
penalty assessed under this section. The civil penalty shall be 187

not more than ten thousand dollars for each violation. 188

**Sec. 6111.03.** The director of environmental protection may 189  
do any of the following: 190

(A) Develop plans and programs for the prevention, 191  
control, and abatement of new or existing pollution of the 192  
waters of the state; 193

(B) Advise, consult, and cooperate with other agencies of 194  
the state, the federal government, other states, and interstate 195  
agencies and with affected groups, political subdivisions, and 196  
industries in furtherance of the purposes of this chapter. 197  
Before adopting, amending, or rescinding a standard or rule 198  
pursuant to division (G) of this section or section 6111.041 or 199  
6111.042 of the Revised Code, the director shall do all of the 200  
following: 201

(1) Mail notice to each statewide organization that the 202  
director determines represents persons who would be affected by 203  
the proposed standard or rule, amendment thereto, or rescission 204  
thereof at least thirty-five days before any public hearing 205  
thereon; 206

(2) Mail a copy of each proposed standard or rule, 207  
amendment thereto, or rescission thereof to any person who 208  
requests a copy, within five days after receipt of the request 209  
therefor; 210

(3) Consult with appropriate state and local government 211  
agencies or their representatives, including statewide 212  
organizations of local government officials, industrial 213  
representatives, and other interested persons. 214

Although the director is expected to discharge these 215  
duties diligently, failure to mail any such notice or copy or to 216



so consult with any person shall not invalidate any proceeding	217
or action of the director.	218
(C) Administer grants from the federal government and from	219
other sources, public or private, for carrying out any of its	220
functions, all such moneys to be deposited in the state treasury	221
and kept by the treasurer of state in a separate fund subject to	222
the lawful orders of the director;	223
(D) Administer state grants for the construction of sewage	224
and waste collection and treatment works;	225
(E) Encourage, participate in, or conduct studies,	226
investigations, research, and demonstrations relating to water	227
pollution, and the causes, prevention, control, and abatement	228
thereof, that are advisable and necessary for the discharge of	229
the director's duties under this chapter;	230
(F) Collect and disseminate information relating to water	231
pollution and prevention, control, and abatement thereof;	232
(G) Adopt, amend, and rescind rules in accordance with	233
Chapter 119. of the Revised Code governing the procedure for	234
hearings, the filing of reports, the issuance of permits, the	235
issuance of industrial water pollution control certificates, and	236
all other matters relating to procedure;	237
(H) Issue, modify, or revoke orders to prevent, control,	238
or abate water pollution by such means as the following:	239
(1) Prohibiting or abating discharges of sewage,	240
industrial waste, or other wastes into the waters of the state;	241
(2) Requiring the construction of new disposal systems or	242
any parts thereof, or the modification, extension, or alteration	243
of existing disposal systems or any parts thereof;	244

(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 275  
necessary. Any person who discharges, transports, or handles 276  
storm water from an animal feeding facility, as defined in 277  
section 903.01 of the Revised Code, or pollutants from a 278  
concentrated animal feeding operation, as both terms are defined 279  
in that section, is not required to obtain a permit under 280  
division (J) (1) of this section for the installation or 281  
modification of a disposal system involving pollutants or storm 282  
water or any parts of such a system on and after the date on 283  
which the director of agriculture has finalized the program 284  
required under division (A) (1) of section 903.02 of the Revised 285  
Code. In addition, any person who discharges, transports, or 286  
handles storm water from an animal feeding facility, as defined 287  
in section 903.01 of the Revised Code, or pollutants from a 288  
concentrated animal feeding operation, as both terms are defined 289  
in that section, is not required to obtain a permit under 290  
division (J) (1) of this section for the discharge of storm water 291  
from an animal feeding facility or pollutants from a 292  
concentrated animal feeding operation on and after the date on 293  
which the United States environmental protection agency approves 294  
the NPDES program submitted by the director of agriculture under 295  
section 903.08 of the Revised Code. 296

Any permit terms and conditions set by the director shall 297  
be designed to achieve and maintain full compliance with the 298  
national effluent limitations, national standards of performance 299  
for new sources, and national toxic and pretreatment effluent 300  
standards set under that act, and any other mandatory 301  
requirements of that act that are imposed by regulation of the 302  
administrator of the United States environmental protection 303  
agency. If an applicant for a sludge management permit also 304  
applies for a related permit for the discharge of sewage, 305

industrial waste, or other wastes into the waters of the state, 306  
the director may combine the two permits and issue one permit to 307  
the applicant. 308

A sludge management permit is not required for an entity 309  
that treats or transports sewage sludge or for a sanitary 310  
landfill when all of the following apply: 311

(a) The entity or sanitary landfill does not generate the 312  
sewage sludge. 313

(b) Prior to receipt at the sanitary landfill, the entity 314  
has ensured that the sewage sludge meets the requirements 315  
established in rules adopted by the director under section 316  
3734.02 of the Revised Code concerning disposal of municipal 317  
solid waste in a sanitary landfill. 318

(c) Disposal of the sewage sludge occurs at a sanitary 319  
landfill that complies with rules adopted by the director under 320  
section 3734.02 of the Revised Code. 321

As used in division (J)(1) of this section, "sanitary 322  
landfill" means a sanitary landfill facility, as defined in 323  
rules adopted under section 3734.02 of the Revised Code, that is 324  
licensed as a solid waste facility under section 3734.05 of the 325  
Revised Code. 326

(2) An application for a permit or renewal thereof shall 327  
be denied if any of the following applies: 328

(a) The secretary of the army determines in writing that 329  
anchorage or navigation would be substantially impaired thereby; 330

(b) The director determines that the proposed discharge or 331  
source would conflict with an areawide waste treatment 332  
management plan adopted in accordance with section 208 of the 333

Federal Water Pollution Control Act; 334

(c) The administrator of the United States environmental 335  
protection agency objects in writing to the issuance or renewal 336  
of the permit in accordance with section 402 (d) of the Federal 337  
Water Pollution Control Act; 338

(d) The application is for the discharge of any 339  
radiological, chemical, or biological warfare agent or high- 340  
level radioactive waste into the waters of the United States. 341

(3) To achieve and maintain applicable standards of 342  
quality for the waters of the state adopted pursuant to section 343  
6111.041 of the Revised Code, the director shall impose, where 344  
necessary and appropriate, as conditions of each permit, water 345  
quality related effluent limitations in accordance with sections 346  
301, 302, 306, 307, and 405 of the Federal Water Pollution 347  
Control Act and, to the extent consistent with that act, shall 348  
give consideration to, and base the determination on, evidence 349  
relating to the technical feasibility and economic 350  
reasonableness of removing the polluting properties from those 351  
wastes and to evidence relating to conditions calculated to 352  
result from that action and their relation to benefits to the 353  
people of the state and to accomplishment of the purposes of 354  
this chapter. 355

(4) Where a discharge having a thermal component from a 356  
source that is constructed or modified on or after October 18, 357  
1972, meets national or state effluent limitations or more 358  
stringent permit conditions designed to achieve and maintain 359  
compliance with applicable standards of quality for the waters 360  
of the state, which limitations or conditions will ensure 361  
protection and propagation of a balanced, indigenous population 362  
of shellfish, fish, and wildlife in or on the body of water into 363

which the discharge is made, taking into account the interaction 364  
of the thermal component with sewage, industrial waste, or other 365  
wastes, the director shall not impose any more stringent 366  
limitation on the thermal component of the discharge, as a 367  
condition of a permit or renewal thereof for the discharge, 368  
during a ten-year period beginning on the date of completion of 369  
the construction or modification of the source, or during the 370  
period of depreciation or amortization of the source for the 371  
purpose of section 167 or 169 of the Internal Revenue Code of 372  
1954, whichever period ends first. 373

(5) The director shall specify in permits for the 374  
discharge of sewage, industrial waste, and other wastes, the net 375  
volume, net weight, duration, frequency, and, where necessary, 376  
concentration of the sewage, industrial waste, and other wastes 377  
that may be discharged into the waters of the state. The 378  
director shall specify in those permits and in sludge management 379  
permits that the permit is conditioned upon payment of 380  
applicable fees as required by section 3745.11 of the Revised 381  
Code and upon the right of the director's authorized 382  
representatives to enter upon the premises of the person to whom 383  
the permit has been issued for the purpose of determining 384  
compliance with this chapter, rules adopted thereunder, or the 385  
terms and conditions of a permit, order, or other determination. 386  
The director shall issue or deny an application for a sludge 387  
management permit or a permit for a new discharge, for the 388  
installation or modification of a disposal system, or for the 389  
renewal of a permit, within one hundred eighty days of the date 390  
on which a complete application with all plans, specifications, 391  
construction schedules, and other pertinent information required 392  
by the director is received. 393

(6) The director may condition permits upon the 394

installation of discharge or water quality monitoring equipment 395  
or devices and the filing of periodic reports on the amounts and 396  
contents of discharges and the quality of receiving waters that 397  
the director prescribes. The director shall condition each 398  
permit for a government-owned disposal system or any other 399  
"treatment works" as defined in the Federal Water Pollution 400  
Control Act upon the reporting of new introductions of 401  
industrial waste or other wastes and substantial changes in 402  
volume or character thereof being introduced into those systems 403  
or works from "industrial users" as defined in section 502 of 404  
that act, as necessary to comply with section 402(b) (8) of that 405  
act; upon the identification of the character and volume of 406  
pollutants subject to pretreatment standards being introduced 407  
into the system or works; and upon the existence of a program to 408  
ensure compliance with pretreatment standards by "industrial 409  
users" of the system or works. In requiring monitoring devices 410  
and reports, the director, to the extent consistent with the 411  
Federal Water Pollution Control Act, shall give consideration to 412  
technical feasibility and economic reasonableness and shall 413  
allow reasonable time for compliance. 414

(7) A permit may be issued for a period not to exceed five 415  
years and may be renewed upon application for renewal. In 416  
renewing a permit, the director shall consider the compliance 417  
history of the permit holder and may deny the renewal if the 418  
director determines that the permit holder has not complied with 419  
the terms and conditions of the existing permit. A permit may be 420  
modified, suspended, or revoked for cause, including, but not 421  
limited to, violation of any condition of the permit, obtaining 422  
a permit by misrepresentation or failure to disclose fully all 423  
relevant facts of the permitted discharge or of the sludge use, 424  
storage, treatment, or disposal practice, or changes in any 425

condition that requires either a temporary or permanent 426  
reduction or elimination of the permitted activity. No 427  
application shall be denied or permit revoked or modified 428  
without a written order stating the findings upon which the 429  
denial, revocation, or modification is based. A copy of the 430  
order shall be sent to the applicant or permit holder by 431  
certified mail. 432

(K) Institute or cause to be instituted in any court of 433  
competent jurisdiction proceedings to compel compliance with 434  
this chapter or with the orders of the director issued under 435  
this chapter, or to ensure compliance with sections 204(b), 307, 436  
308, and 405 of the Federal Water Pollution Control Act; 437

(L) Issue, deny, revoke, or modify industrial water 438  
pollution control certificates; 439

(M) Certify to the government of the United States or any 440  
agency thereof that an industrial water pollution control 441  
facility is in conformity with the state program or requirements 442  
for the control of water pollution whenever the certification 443  
may be required for a taxpayer under the Internal Revenue Code 444  
of the United States, as amended; 445

(N) Issue, modify, and revoke orders requiring any 446  
"industrial user" of any publicly owned "treatment works" as 447  
defined in sections 212(2) and 502(18) of the Federal Water 448  
Pollution Control Act to comply with pretreatment standards; 449  
establish and maintain records; make reports; install, use, and 450  
maintain monitoring equipment or methods, including, where 451  
appropriate, biological monitoring methods; sample discharges in 452  
accordance with methods, at locations, at intervals, and in a 453  
manner that the director determines; and provide other 454  
information that is necessary to ascertain whether or not there 455



is compliance with toxic and pretreatment effluent standards. In 456  
issuing, modifying, and revoking those orders, the director, to 457  
the extent consistent with the Federal Water Pollution Control 458  
Act, shall give consideration to technical feasibility and 459  
economic reasonableness and shall allow reasonable time for 460  
compliance. 461

(O) Exercise all incidental powers necessary to carry out 462  
the purposes of this chapter; 463

(P) Certify or deny certification to any applicant for a 464  
federal license or permit to conduct any activity that may 465  
result in any discharge into the waters of the state that the 466  
discharge will comply with the Federal Water Pollution Control 467  
Act; 468

(Q) Administer and enforce the publicly owned treatment 469  
works pretreatment program in accordance with the Federal Water 470  
Pollution Control Act. In the administration of that program, 471  
the director may do any of the following: 472

(1) Apply and enforce pretreatment standards; 473

(2) Approve and deny requests for approval of publicly 474  
owned treatment works pretreatment programs, oversee those 475  
programs, and implement, in whole or in part, those programs 476  
under any of the following conditions: 477

(a) The director has denied a request for approval of the 478  
publicly owned treatment works pretreatment program; 479

(b) The director has revoked the publicly owned treatment 480  
works pretreatment program; 481

(c) There is no pretreatment program currently being 482  
implemented by the publicly owned treatment works; 483

(d) The publicly owned treatment works has requested the 484  
director to implement, in whole or in part, the pretreatment 485  
program. 486

(3) Require that a publicly owned treatment works 487  
pretreatment program be incorporated in a permit issued to a 488  
publicly owned treatment works as required by the Federal Water 489  
Pollution Control Act, require compliance by publicly owned 490  
treatment works with those programs, and require compliance by 491  
industrial users with pretreatment standards; 492

(4) Approve and deny requests for authority to modify 493  
categorical pretreatment standards to reflect removal of 494  
pollutants achieved by publicly owned treatment works; 495

(5) Deny and recommend approval of requests for 496  
fundamentally different factors variances submitted by 497  
industrial users; 498

(6) Make determinations on categorization of industrial 499  
users; 500

(7) Adopt, amend, or rescind rules and issue, modify, or 501  
revoke orders necessary for the administration and enforcement 502  
of the publicly owned treatment works pretreatment program. 503

Any approval of a publicly owned treatment works 504  
pretreatment program may contain any terms and conditions, 505  
including schedules of compliance, that are necessary to achieve 506  
compliance with this chapter. 507

(R) Except as otherwise provided in this division, adopt 508  
rules in accordance with Chapter 119. of the Revised Code 509  
establishing procedures, methods, and equipment and other 510  
requirements for equipment to prevent and contain discharges of 511  
oil and hazardous substances into the waters of the state. The 512

rules shall be consistent with and equivalent in scope, content, 513  
and coverage to section 311(j) (1) (c) of the Federal Water 514  
Pollution Control Act and regulations adopted under it. The 515  
director shall not adopt rules under this division relating to 516  
discharges of oil from oil production facilities and oil 517  
drilling and workover facilities as those terms are defined in 518  
that act and regulations adopted under it. 519

(S) (1) Administer and enforce a program for the regulation 520  
of sludge management in this state. In administering the 521  
program, the director, in addition to exercising the authority 522  
provided in any other applicable sections of this chapter, may 523  
do any of the following: 524

(a) Develop plans and programs for the disposal and 525  
utilization of sludge and sludge materials; 526

(b) Encourage, participate in, or conduct studies, 527  
investigations, research, and demonstrations relating to the 528  
disposal and use of sludge and sludge materials and the impact 529  
of sludge and sludge materials on land located in the state and 530  
on the air and waters of the state; 531

(c) Collect and disseminate information relating to the 532  
disposal and use of sludge and sludge materials and the impact 533  
of sludge and sludge materials on land located in the state and 534  
on the air and waters of the state; 535

(d) Issue, modify, or revoke orders to prevent, control, 536  
or abate the use and disposal of sludge and sludge materials or 537  
the effects of the use of sludge and sludge materials on land 538  
located in the state and on the air and waters of the state; 539

(e) Adopt and enforce, modify, or rescind rules necessary 540  
for the implementation of division (S) of this section. The 541

rules reasonably shall protect public health and the 542  
environment, encourage the beneficial reuse of sludge and sludge 543  
materials, and minimize the creation of nuisance odors. 544

The director may specify in sludge management permits the 545  
net volume, net weight, quality, and pollutant concentration of 546  
the sludge or sludge materials that may be used, stored, 547  
treated, or disposed of, and the manner and frequency of the 548  
use, storage, treatment, or disposal, to protect public health 549  
and the environment from adverse effects relating to those 550  
activities. The director shall impose other terms and conditions 551  
to protect public health and the environment, minimize the 552  
creation of nuisance odors, and achieve compliance with this 553  
chapter and rules adopted under it and, in doing so, shall 554  
consider whether the terms and conditions are consistent with 555  
the goal of encouraging the beneficial reuse of sludge and 556  
sludge materials. 557

The director may condition permits on the implementation 558  
of treatment, storage, disposal, distribution, or application 559  
management methods and the filing of periodic reports on the 560  
amounts, composition, and quality of sludge and sludge materials 561  
that are disposed of, used, treated, or stored. 562

An approval of a treatment works sludge disposal program 563  
may contain any terms and conditions, including schedules of 564  
compliance, necessary to achieve compliance with this chapter 565  
and rules adopted under it. 566

(2) As a part of the program established under division 567  
(S) (1) of this section, the director has exclusive authority to 568  
regulate sewage sludge management in this state. For purposes of 569  
division (S) (2) of this section, that program shall be 570  
consistent with section 405 of the Federal Water Pollution 571

Control Act and regulations adopted under it and with this 572  
section, except that the director may adopt rules under division 573  
(S) of this section that establish requirements that are more 574  
stringent than section 405 of the Federal Water Pollution 575  
Control Act and regulations adopted under it with regard to 576  
monitoring sewage sludge and sewage sludge materials and 577  
establishing acceptable sewage sludge management practices and 578  
pollutant levels in sewage sludge and sewage sludge materials. 579

This chapter authorizes the state to participate in any 580  
national sludge management program and the national pollutant 581  
discharge elimination system, to administer and enforce the 582  
publicly owned treatment works pretreatment program, and to 583  
issue permits for the discharge of dredged or fill materials, in 584  
accordance with the Federal Water Pollution Control Act. This 585  
chapter shall be administered, consistent with the laws of this 586  
state and federal law, in the same manner that the Federal Water 587  
Pollution Control Act is required to be administered. 588

This section does not apply to residual farm products and 589  
manure disposal systems and related management and conservation 590  
practices subject to rules adopted pursuant to division (E) (1) 591  
of section 1511.02 of the Revised Code. For purposes of this 592  
exclusion, "residual farm products" and "manure" have the same 593  
meanings as in section 1511.01 of the Revised Code. However, 594  
until the date on which the United States environmental 595  
protection agency approves the NPDES program submitted by the 596  
director of agriculture under section 903.08 of the Revised 597  
Code, this exclusion does not apply to animal waste treatment 598  
works having a controlled direct discharge to the waters of the 599  
state or any concentrated animal feeding operation, as defined 600  
in 40 C.F.R. 122.23(b) (2). On and after the date on which the 601  
United States environmental protection agency approves the NPDES 602

program submitted by the director of agriculture under section 603  
903.08 of the Revised Code, this section does not apply to storm 604  
water from an animal feeding facility, as defined in section 605  
903.01 of the Revised Code, or to pollutants discharged from a 606  
concentrated animal feeding operation, as both terms are defined 607  
in that section. Neither of these exclusions applies to the 608  
discharge of animal waste into a publicly owned treatment works. 609

A publicly owned treatment works with a design flow of one 610  
million gallons per day or more, or designated as a major 611  
discharger by the director, shall begin monthly monitoring of 612  
total and dissolved phosphorous not later than December 1, 2015. 613  
In addition, a publicly owned treatment works that, on the 614  
effective date of this amendment, is not subject to a 615  
phosphorous effluent limit of one milligram per liter as a 616  
thirty-day average shall complete and submit an optimization 617  
study that evaluates the publicly owned treatment works' ability 618  
to reduce phosphorous to one milligram per liter as a thirty-day 619  
average. The director shall modify NPDES permits to include 620  
those requirements. 621

**Sec. 6111.32.** (A) In order to ensure the regular and 622  
orderly maintenance of federal navigation channels and ports in 623  
this state, the director of environmental protection shall 624  
endeavor to work with the United States army corps of engineers 625  
on a dredging plan that focuses on long-term planning for the 626  
disposition of dredged material consistent with the requirements 627  
established in this section. 628

(B) On and after July 1, 2020, no person shall deposit 629  
dredged material in the portion of Lake Erie that is within the 630  
jurisdictional boundaries of this state or in the direct 631  
tributaries of Lake Erie within this state that resulted from 632

harbor or navigation maintenance activities unless the director 633  
has determined that the dredged material is suitable for one of 634  
the locations, purposes, or activities specified in division (C) 635  
of this section and has issued a section 401 water quality 636  
certification authorizing the deposit. 637

(C) The director may authorize the deposit of dredged 638  
material in the portion of Lake Erie that is within the 639  
jurisdictional boundaries of this state or in the direct 640  
tributaries of Lake Erie within this state that resulted from 641  
harbor or navigation maintenance activities for any of the 642  
following: 643

(1) Confined disposal facilities; 644

(2) Beneficial use projects; 645

(3) Beach nourishment projects if at least eighty per cent 646  
of the dredged material is sand; 647

(4) Placement in the littoral drift if at least sixty per 648  
cent of the dredged material is sand; 649

(5) Habitat restoration projects; 650

(6) Projects involving amounts of dredged material that do 651  
not exceed ten thousand cubic yards, including material 652  
associated with dewatering operations related to dredging 653  
operations. 654

(D) The director may consult with the director of natural 655  
resources for the purposes of this section. The director of 656  
environmental protection has exclusive authority to approve the 657  
location in which dredged material is proposed to be deposited 658  
in the portion of Lake Erie that is within the jurisdictional 659  
boundaries of this state or in the direct tributaries of Lake 660

Erie within this state. 661

(E) The director may adopt rules in accordance with 662  
Chapter 119. of the Revised Code that are necessary for the 663  
implementation of this section. 664

**Section 2.** That existing section 6111.03 of the Revised 665  
Code is hereby repealed. 666