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**Sub. H. B. No. 61**

**Representatives Buchy, Hall**

**Cosponsors: Representatives Hill, Patterson, Boose, Cera, Retherford, Ruhl, Anielski, Antonio, Baker, Barnes, Blessing, Boyd, Brenner, Burkley, Conditt, Dever, DeVitis, Dovilla, Duffey, Gerberry, Ginter, Green, Grossman, Hackett, Hambley, Henne, Huffman, Johnson, T., Koehler, Kraus, Kunze, Manning, McClain, O'Brien, M., O'Brien, S., Patmon, Pelanda, Perales, Ramos, Reineke, Rezabek, Rogers, Ryan, Schaffer, Scherer, Sears, Slaby, Thompson, Speaker Rosenberger**

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**A BILL**

To amend section 6111.03, to enact sections 1  
905.326, 905.327, 1511.10, 1511.11, 1511.12, 2  
6111.0310, and 6111.32, and to repeal section 3  
6111.039 of the Revised Code to generally 4  
prohibit the application of fertilizer and 5  
manure in Lake Erie's western basin on frozen 6  
ground or saturated soil and during certain 7  
weather conditions, to generally prohibit the 8  
surface application of sewage sludge, and to 9  
establish requirements governing dredged 10  
material and phosphorous monitoring. 11

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

**Section 1.** That section 6111.03 be amended and sections 12  
905.326, 905.327, 1511.10, 1511.11, 1511.12, 6111.0310, and 13  
6111.32 of the Revised Code be enacted to read as follows: 14

**Sec. 905.326.** (A) Except as provided in division (B) of 15

this section, no person in the western basin shall surface apply 16  
fertilizer under any of the following circumstances: 17

(1) On snow-covered or frozen soil; 18

(2) When the top two inches of soil are saturated from 19  
precipitation; 20

(3) When the local weather forecast for the application 21  
area contains greater than a fifty per cent chance of 22  
precipitation exceeding one inch in a twelve-hour period. 23

(B) Division (A) of this section does not apply if a 24  
person in the western basin applies fertilizer under any of the 25  
following circumstances: 26

(1) The fertilizer is injected into the ground. 27

(2) The fertilizer is incorporated within twenty-four 28  
hours of surface application. 29

(3) The fertilizer is applied onto a growing crop. 30

(C) (1) Upon receiving a complaint by any person or upon 31  
receiving information that would indicate a violation of this 32  
section, the director or the director's designee may investigate 33  
or make inquiries into any alleged failure to comply with this 34  
section. 35

(2) After receiving a complaint by any person or upon 36  
receiving information that would indicate a violation of this 37  
section, the director or the director's designee may enter at 38  
reasonable times on any private or public property to inspect 39  
and investigate conditions relating to any such alleged failure 40  
to comply with this section. 41

(3) If an individual denies access to the director or the 42

director's designee, the director may apply to a court of 43  
competent jurisdiction in the county in which the premises is 44  
located for a search warrant authorizing access to the premises 45  
for the purposes of this section. 46

(4) The court shall issue the search warrant for the 47  
purposes requested if there is probable cause to believe that 48  
the person is not in compliance with this section. The finding 49  
of probable cause may be based on hearsay, provided that there 50  
is a reasonable basis for believing that the source of the 51  
hearsay is credible. 52

(D) This section does not affect any restrictions 53  
established in Chapter 903. of the Revised Code or otherwise 54  
apply to those entities or facilities that are permitted as 55  
concentrated animal feeding facilities under that chapter. 56

(E) As used in this section, "western basin" means land in 57  
the state that is located in the following watersheds identified 58  
by the specified United States geological survey hydrologic unit 59  
code: 60

(1) St. Marys watershed, hydrologic unit code 04100004; 61

(2) Auglaize watershed, hydrologic unit code 04100007; 62

(3) Blanchard watershed, hydrologic unit code 04100008; 63

(4) Sandusky watershed, hydrologic unit code 04100011; 64

(5) Cedar-Portage watershed, hydrologic unit code 65  
04100010; 66

(6) Lower Maumee watershed, hydrologic unit code 04100009; 67

(7) Upper Maumee watershed, hydrologic unit code 04100005; 68

(8) Tiffin watershed, hydrologic unit code 04100006; 69

<u>(9) St. Joseph watershed, hydrologic unit code 04100003;</u>	70
<u>(10) Ottawa watershed, hydrologic unit code 04100001;</u>	71
<u>(11) River Basin watershed, hydrologic unit code 04100002.</u>	72
<u>(F) Notwithstanding section 905.31 of the Revised Code, as</u>	73
<u>used in this section, "fertilizer" means nitrogen or</u>	74
<u>phosphorous.</u>	75
<b><u>Sec. 905.327. (A) The director of agriculture may assess a</u></b>	76
<b><u>civil penalty against a person that violates section 905.326 of</u></b>	77
<b><u>the Revised Code. The director may impose a civil penalty only</u></b>	78
<b><u>if the director affords the person an opportunity for an</u></b>	79
<b><u>adjudication hearing under Chapter 119. of the Revised Code to</u></b>	80
<b><u>challenge the director's determination that the person violated</u></b>	81
<b><u>section 905.326 of the Revised Code. The person may waive the</u></b>	82
<b><u>right to an adjudication hearing.</u></b>	83
<u>(B) If the opportunity for an adjudication hearing is</u>	84
<u>waived or if, after an adjudication hearing, the director</u>	85
<u>determines that a violation has occurred or is occurring, the</u>	86
<u>director may issue an order requiring compliance with section</u>	87
<u>905.326 of the Revised Code and assess the civil penalty. The</u>	88
<u>order and the assessment of the civil penalty may be appealed in</u>	89
<u>accordance with section 119.12 of the Revised Code.</u>	90
<u>(C) A person that has violated section 905.326 of the</u>	91
<u>Revised Code shall pay a civil penalty in an amount established</u>	92
<u>in rules. Each thirty-day period during which a violation</u>	93
<u>continues constitutes a separate violation.</u>	94
<u>(D) The director shall adopt rules in accordance with</u>	95
<u>Chapter 119. of the Revised Code that establish the amount of</u>	96
<u>the civil penalty assessed under this section. The civil penalty</u>	97
<u>shall not be more than ten thousand dollars for each violation.</u>	98

(E) For purposes of this section, "rule" means a rule 99  
adopted under division (D) of this section. 100

**Sec. 1511.10.** (A) Except as provided in division (B) of 101  
this section, no person in the western basin shall surface apply 102  
manure under any of the following circumstances: 103

(1) On snow-covered or frozen soil; 104

(2) When the top two inches of soil are saturated from 105  
precipitation; 106

(3) When the local weather forecast for the application 107  
area contains greater than a fifty per cent chance of 108  
precipitation exceeding one-half inch in a twenty-four-hour 109  
period. 110

(B) Division (A) of this section does not apply if a 111  
person in the western basin applies manure under any of the 112  
following circumstances: 113

(1) The manure is injected into the ground. 114

(2) The manure is incorporated within twenty-four hours of 115  
surface application. 116

(3) The manure is applied onto a growing crop. 117

(4) In the event of an emergency, the chief of the 118  
division of soil and water resources provides written consent 119  
and the manure application is made in accordance with procedures 120  
established in the United States department of agriculture 121  
natural resources conservation service practice standard code 122  
590 prepared for this state. 123

(C) (1) Upon receiving a complaint by any person or upon 124  
receiving information that would indicate a violation of this 125

section, the chief or the chief's designee may investigate or 126  
make inquiries into any alleged failure to comply with this 127  
section. 128

(2) After receiving a complaint by any person or upon 129  
receiving information that would indicate a violation of this 130  
section, the chief or the chief's designee may enter at 131  
reasonable times on any private or public property to inspect 132  
and investigate conditions relating to any such alleged failure 133  
to comply with this section. 134

(3) If an individual denies access to the chief or the 135  
chief's designee, the chief may apply to a court of competent 136  
jurisdiction in the county in which the premises is located for 137  
a search warrant authorizing access to the premises for the 138  
purposes of this section. 139

(4) The court shall issue the search warrant for the 140  
purposes requested if there is probable cause to believe that 141  
the person is not in compliance with this section. The finding 142  
of probable cause may be based on hearsay, provided that there 143  
is a reasonable basis for believing that the source of the 144  
hearsay is credible. 145

(D) This section does not affect any restrictions 146  
established in Chapter 903. of the Revised Code or otherwise 147  
apply to those entities or facilities that are permitted as 148  
concentrated animal feeding facilities under that chapter. 149

(E) As used in this section, "western basin" has the same 150  
meaning as in section 905.326 of the Revised Code. 151

**Sec. 1511.11.** (A) The chief of the division of soil and 152  
water resources may propose to require corrective actions and 153  
assess a civil penalty against a person that is violating or has 154

violated division (A) of section 1511.10 of the Revised Code. 155  
The chief may assess a civil penalty only if all of the 156  
following occur: 157

(1) The person is notified in writing of the deficiencies 158  
resulting in a violation, the actions that the person must take 159  
to correct the deficiencies, and the time period within which 160  
the person must correct the deficiencies and cease violation. 161

(2) After the time period specified in the notice has 162  
ended, the chief or the chief's designee has inspected the 163  
property where the violation occurred, determined that the 164  
person is still in violation, and notified the person of the 165  
opportunity for an adjudication hearing as provided in division 166  
(A) (3) of this section. 167

(3) The chief affords the person an opportunity for an 168  
adjudication hearing under Chapter 119. of the Revised Code to 169  
challenge the chief's determination that the person is in 170  
violation or the proposed imposition of the civil penalty, or 171  
both. However, the person may waive the right to an adjudication 172  
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 a person to cease violating 177  
division (A) of section 1511.10 of the Revised Code and assess 178  
the civil penalty. The order and the assessment of the civil 179  
penalty may be appealed in accordance with section 119.12 of the 180  
Revised Code. 181

(C) A person that has been assessed a civil penalty under 182  
division (B) of this section shall pay the civil penalty in the 183

amount established in rules adopted under this section. Each 184  
thirty-day period during which a violation continues constitutes 185  
a separate violation. 186

(D) The chief shall adopt rules in accordance with Chapter 187  
119. of the Revised Code that establish the amount of the civil 188  
penalty assessed under this section. The civil penalty shall be 189  
not more than ten thousand dollars for each violation. 190

**Sec. 1511.12.** (A) Either of the following may request 191  
assistance from the chief of the division of soil and water 192  
resources, the board of supervisors of the applicable soil and 193  
water conservation district, or another qualified person as 194  
determined by the chief or the chief's designee to develop 195  
technically feasible and economically reasonable measures or a 196  
plan and a schedule to implement the measures or plan in order 197  
to cease or prevent violation of division (A) of section 1511.10 198  
of the Revised Code: 199

(1) A person in the western basin that is in violation of 200  
division (A) of section 1511.10 of the Revised Code, but has not 201  
been notified of the deficiencies resulting in the violation 202  
under section 1511.11 of the Revised Code; 203

(2) A person in the western basin that is not in violation 204  
of division (A) of section 1511.10 of the Revised Code, but 205  
whose future application may violate that division. 206

(B) Upon receiving a request for assistance under division 207  
(A) of this section, the chief, the board, or another qualified 208  
person shall develop or assist in the development of technically 209  
feasible and economically reasonable measures or a plan and a 210  
schedule to implement the measures or plan. 211

(C) The chief shall not make a determination of violation 212



and assess a civil penalty under section 1511.11 of the Revised 213  
Code against a person that is violating or has violated division 214  
(A) of section 1511.10 of the Revised Code if any of the 215  
following applies: 216

(1) The person has made a request for assistance under 217  
division (A) of this section. 218

(2) The person is receiving assistance under division (B) 219  
of this section. 220

(3) The person is implementing the measures or plan in 221  
accordance with the schedule developed under division (B) of 222  
this section. 223

(D) As used in this section, "western basin" has the same 224  
meaning as in section 905.326 of the Revised Code. 225

**Sec. 6111.03.** The director of environmental protection may 226  
do any of the following: 227

(A) Develop plans and programs for the prevention, 228  
control, and abatement of new or existing pollution of the 229  
waters of the state; 230

(B) Advise, consult, and cooperate with other agencies of 231  
the state, the federal government, other states, and interstate 232  
agencies and with affected groups, political subdivisions, and 233  
industries in furtherance of the purposes of this chapter. 234  
Before adopting, amending, or rescinding a standard or rule 235  
pursuant to division (G) of this section or section 6111.041 or 236  
6111.042 of the Revised Code, the director shall do all of the 237  
following: 238

(1) Mail notice to each statewide organization that the 239  
director determines represents persons who would be affected by 240

the proposed standard or rule, amendment thereto, or rescission 241  
thereof at least thirty-five days before any public hearing 242  
thereon; 243

(2) Mail a copy of each proposed standard or rule, 244  
amendment thereto, or rescission thereof to any person who 245  
requests a copy, within five days after receipt of the request 246  
therefor; 247

(3) Consult with appropriate state and local government 248  
agencies or their representatives, including statewide 249  
organizations of local government officials, industrial 250  
representatives, and other interested persons. 251

Although the director is expected to discharge these 252  
duties diligently, failure to mail any such notice or copy or to 253  
so consult with any person shall not invalidate any proceeding 254  
or action of the director. 255

(C) Administer grants from the federal government and from 256  
other sources, public or private, for carrying out any of its 257  
functions, all such moneys to be deposited in the state treasury 258  
and kept by the treasurer of state in a separate fund subject to 259  
the lawful orders of the director; 260

(D) Administer state grants for the construction of sewage 261  
and waste collection and treatment works; 262

(E) Encourage, participate in, or conduct studies, 263  
investigations, research, and demonstrations relating to water 264  
pollution, and the causes, prevention, control, and abatement 265  
thereof, that are advisable and necessary for the discharge of 266  
the director's duties under this chapter; 267

(F) Collect and disseminate information relating to water 268  
pollution and prevention, control, and abatement thereof; 269

(G) Adopt, amend, and rescind rules in accordance with 270  
Chapter 119. of the Revised Code governing the procedure for 271  
hearings, the filing of reports, the issuance of permits, the 272  
issuance of industrial water pollution control certificates, and 273  
all other matters relating to procedure; 274

(H) Issue, modify, or revoke orders to prevent, control, 275  
or abate water pollution by such means as the following: 276

(1) Prohibiting or abating discharges of sewage, 277  
industrial waste, or other wastes into the waters of the state; 278

(2) Requiring the construction of new disposal systems or 279  
any parts thereof, or the modification, extension, or alteration 280  
of existing disposal systems or any parts thereof; 281

(3) Prohibiting additional connections to or extensions of 282  
a sewerage system when the connections or extensions would 283  
result in an increase in the polluting properties of the 284  
effluent from the system when discharged into any waters of the 285  
state; 286

(4) Requiring compliance with any standard or rule adopted 287  
under sections 6111.01 to 6111.05 of the Revised Code or term or 288  
condition of a permit. 289

In the making of those orders, wherever compliance with a 290  
rule adopted under section 6111.042 of the Revised Code is not 291  
involved, consistent with the Federal Water Pollution Control 292  
Act, the director shall give consideration to, and base the 293  
determination on, evidence relating to the technical feasibility 294  
and economic reasonableness of complying with those orders and 295  
to evidence relating to conditions calculated to result from 296  
compliance with those orders, and their relation to benefits to 297  
the people of the state to be derived from such compliance in 298

accomplishing the purposes of this chapter.	299
(I) Review plans, specifications, or other data relative	300
to disposal systems or any part thereof in connection with the	301
issuance of orders, permits, and industrial water pollution	302
control certificates under this chapter;	303
(J) (1) Issue, revoke, modify, or deny sludge management	304
permits and permits for the discharge of sewage, industrial	305
waste, or other wastes into the waters of the state, and for the	306
installation or modification of disposal systems or any parts	307
thereof in compliance with all requirements of the Federal Water	308
Pollution Control Act and mandatory regulations adopted	309
thereunder, including regulations adopted under section 405 of	310
the Federal Water Pollution Control Act, and set terms and	311
conditions of permits, including schedules of compliance, where	312
necessary. Any person who discharges, transports, or handles	313
storm water from an animal feeding facility, as defined in	314
section 903.01 of the Revised Code, or pollutants from a	315
concentrated animal feeding operation, as both terms are defined	316
in that section, is not required to obtain a permit under	317
division (J) (1) of this section for the installation or	318
modification of a disposal system involving pollutants or storm	319
water or any parts of such a system on and after the date on	320
which the director of agriculture has finalized the program	321
required under division (A) (1) of section 903.02 of the Revised	322
Code. In addition, any person who discharges, transports, or	323
handles storm water from an animal feeding facility, as defined	324
in section 903.01 of the Revised Code, or pollutants from a	325
concentrated animal feeding operation, as both terms are defined	326
in that section, is not required to obtain a permit under	327
division (J) (1) of this section for the discharge of storm water	328
from an animal feeding facility or pollutants from a	329

concentrated animal feeding operation on and after the date on 330  
which the United States environmental protection agency approves 331  
the NPDES program submitted by the director of agriculture under 332  
section 903.08 of the Revised Code. 333

Any permit terms and conditions set by the director shall 334  
be designed to achieve and maintain full compliance with the 335  
national effluent limitations, national standards of performance 336  
for new sources, and national toxic and pretreatment effluent 337  
standards set under that act, and any other mandatory 338  
requirements of that act that are imposed by regulation of the 339  
administrator of the United States environmental protection 340  
agency. If an applicant for a sludge management permit also 341  
applies for a related permit for the discharge of sewage, 342  
industrial waste, or other wastes into the waters of the state, 343  
the director may combine the two permits and issue one permit to 344  
the applicant. 345

A sludge management permit is not required for an entity 346  
that treats or transports sewage sludge or for a sanitary 347  
landfill when all of the following apply: 348

(a) The entity or sanitary landfill does not generate the 349  
sewage sludge. 350

(b) Prior to receipt at the sanitary landfill, the entity 351  
has ensured that the sewage sludge meets the requirements 352  
established in rules adopted by the director under section 353  
3734.02 of the Revised Code concerning disposal of municipal 354  
solid waste in a sanitary landfill. 355

(c) Disposal of the sewage sludge occurs at a sanitary 356  
landfill that complies with rules adopted by the director under 357  
section 3734.02 of the Revised Code. 358

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

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

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

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

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

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

(3) To achieve and maintain applicable standards of quality for the waters of the state adopted pursuant to section 6111.041 of the Revised Code, the director shall impose, where necessary and appropriate, as conditions of each permit, water quality related effluent limitations in accordance with sections 301, 302, 306, 307, and 405 of the Federal Water Pollution Control Act and, to the extent consistent with that act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic

reasonableness of removing the polluting properties from those 388  
wastes and to evidence relating to conditions calculated to 389  
result from that action and their relation to benefits to the 390  
people of the state and to accomplishment of the purposes of 391  
this chapter. 392

(4) Where a discharge having a thermal component from a 393  
source that is constructed or modified on or after October 18, 394  
1972, meets national or state effluent limitations or more 395  
stringent permit conditions designed to achieve and maintain 396  
compliance with applicable standards of quality for the waters 397  
of the state, which limitations or conditions will ensure 398  
protection and propagation of a balanced, indigenous population 399  
of shellfish, fish, and wildlife in or on the body of water into 400  
which the discharge is made, taking into account the interaction 401  
of the thermal component with sewage, industrial waste, or other 402  
wastes, the director shall not impose any more stringent 403  
limitation on the thermal component of the discharge, as a 404  
condition of a permit or renewal thereof for the discharge, 405  
during a ten-year period beginning on the date of completion of 406  
the construction or modification of the source, or during the 407  
period of depreciation or amortization of the source for the 408  
purpose of section 167 or 169 of the Internal Revenue Code of 409  
1954, whichever period ends first. 410

(5) The director shall specify in permits for the 411  
discharge of sewage, industrial waste, and other wastes, the net 412  
volume, net weight, duration, frequency, and, where necessary, 413  
concentration of the sewage, industrial waste, and other wastes 414  
that may be discharged into the waters of the state. The 415  
director shall specify in those permits and in sludge management 416  
permits that the permit is conditioned upon payment of 417  
applicable fees as required by section 3745.11 of the Revised 418

Code and upon the right of the director's authorized 419  
representatives to enter upon the premises of the person to whom 420  
the permit has been issued for the purpose of determining 421  
compliance with this chapter, rules adopted thereunder, or the 422  
terms and conditions of a permit, order, or other determination. 423  
The director shall issue or deny an application for a sludge 424  
management permit or a permit for a new discharge, for the 425  
installation or modification of a disposal system, or for the 426  
renewal of a permit, within one hundred eighty days of the date 427  
on which a complete application with all plans, specifications, 428  
construction schedules, and other pertinent information required 429  
by the director is received. 430

(6) The director may condition permits upon the 431  
installation of discharge or water quality monitoring equipment 432  
or devices and the filing of periodic reports on the amounts and 433  
contents of discharges and the quality of receiving waters that 434  
the director prescribes. The director shall condition each 435  
permit for a government-owned disposal system or any other 436  
"treatment works" as defined in the Federal Water Pollution 437  
Control Act upon the reporting of new introductions of 438  
industrial waste or other wastes and substantial changes in 439  
volume or character thereof being introduced into those systems 440  
or works from "industrial users" as defined in section 502 of 441  
that act, as necessary to comply with section 402(b) (8) of that 442  
act; upon the identification of the character and volume of 443  
pollutants subject to pretreatment standards being introduced 444  
into the system or works; and upon the existence of a program to 445  
ensure compliance with pretreatment standards by "industrial 446  
users" of the system or works. In requiring monitoring devices 447  
and reports, the director, to the extent consistent with the 448  
Federal Water Pollution Control Act, shall give consideration to 449



technical feasibility and economic reasonableness and shall 450  
allow reasonable time for compliance. 451

(7) A permit may be issued for a period not to exceed five 452  
years and may be renewed upon application for renewal. In 453  
renewing a permit, the director shall consider the compliance 454  
history of the permit holder and may deny the renewal if the 455  
director determines that the permit holder has not complied with 456  
the terms and conditions of the existing permit. A permit may be 457  
modified, suspended, or revoked for cause, including, but not 458  
limited to, violation of any condition of the permit, obtaining 459  
a permit by misrepresentation or failure to disclose fully all 460  
relevant facts of the permitted discharge or of the sludge use, 461  
storage, treatment, or disposal practice, or changes in any 462  
condition that requires either a temporary or permanent 463  
reduction or elimination of the permitted activity. No 464  
application shall be denied or permit revoked or modified 465  
without a written order stating the findings upon which the 466  
denial, revocation, or modification is based. A copy of the 467  
order shall be sent to the applicant or permit holder by 468  
certified mail. 469

(K) Institute or cause to be instituted in any court of 470  
competent jurisdiction proceedings to compel compliance with 471  
this chapter or with the orders of the director issued under 472  
this chapter, or to ensure compliance with sections 204(b), 307, 473  
308, and 405 of the Federal Water Pollution Control Act; 474

(L) Issue, deny, revoke, or modify industrial water 475  
pollution control certificates; 476

(M) Certify to the government of the United States or any 477  
agency thereof that an industrial water pollution control 478  
facility is in conformity with the state program or requirements 479

for the control of water pollution whenever the certification 480  
may be required for a taxpayer under the Internal Revenue Code 481  
of the United States, as amended; 482

(N) Issue, modify, and revoke orders requiring any 483  
"industrial user" of any publicly owned "treatment works" as 484  
defined in sections 212(2) and 502(18) of the Federal Water 485  
Pollution Control Act to comply with pretreatment standards; 486  
establish and maintain records; make reports; install, use, and 487  
maintain monitoring equipment or methods, including, where 488  
appropriate, biological monitoring methods; sample discharges in 489  
accordance with methods, at locations, at intervals, and in a 490  
manner that the director determines; and provide other 491  
information that is necessary to ascertain whether or not there 492  
is compliance with toxic and pretreatment effluent standards. In 493  
issuing, modifying, and revoking those orders, the director, to 494  
the extent consistent with the Federal Water Pollution Control 495  
Act, shall give consideration to technical feasibility and 496  
economic reasonableness and shall allow reasonable time for 497  
compliance. 498

(O) Exercise all incidental powers necessary to carry out 499  
the purposes of this chapter; 500

(P) Certify or deny certification to any applicant for a 501  
federal license or permit to conduct any activity that may 502  
result in any discharge into the waters of the state that the 503  
discharge will comply with the Federal Water Pollution Control 504  
Act; 505

(Q) Administer and enforce the publicly owned treatment 506  
works pretreatment program in accordance with the Federal Water 507  
Pollution Control Act. In the administration of that program, 508  
the director may do any of the following: 509

(1) Apply and enforce pretreatment standards;	510
(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:	511 512 513 514
(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;	515 516
(b) The director has revoked the publicly owned treatment works pretreatment program;	517 518
(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;	519 520
(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.	521 522 523
(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;	524 525 526 527 528 529
(4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works;	530 531 532
(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;	533 534 535
(6) Make determinations on categorization of industrial users;	536 537

(7) Adopt, amend, or rescind rules and issue, modify, or 538  
revoke orders necessary for the administration and enforcement 539  
of the publicly owned treatment works pretreatment program. 540

Any approval of a publicly owned treatment works 541  
pretreatment program may contain any terms and conditions, 542  
including schedules of compliance, that are necessary to achieve 543  
compliance with this chapter. 544

(R) Except as otherwise provided in this division, adopt 545  
rules in accordance with Chapter 119. of the Revised Code 546  
establishing procedures, methods, and equipment and other 547  
requirements for equipment to prevent and contain discharges of 548  
oil and hazardous substances into the waters of the state. The 549  
rules shall be consistent with and equivalent in scope, content, 550  
and coverage to section 311(j) (1) (c) of the Federal Water 551  
Pollution Control Act and regulations adopted under it. The 552  
director shall not adopt rules under this division relating to 553  
discharges of oil from oil production facilities and oil 554  
drilling and workover facilities as those terms are defined in 555  
that act and regulations adopted under it. 556

(S) (1) Administer and enforce a program for the regulation 557  
of sludge management in this state. In administering the 558  
program, the director, in addition to exercising the authority 559  
provided in any other applicable sections of this chapter, may 560  
do any of the following: 561

(a) Develop plans and programs for the disposal and 562  
utilization of sludge and sludge materials; 563

(b) Encourage, participate in, or conduct studies, 564  
investigations, research, and demonstrations relating to the 565  
disposal and use of sludge and sludge materials and the impact 566

of sludge and sludge materials on land located in the state and 567  
on the air and waters of the state; 568

(c) Collect and disseminate information relating to the 569  
disposal and use of sludge and sludge materials and the impact 570  
of sludge and sludge materials on land located in the state and 571  
on the air and waters of the state; 572

(d) Issue, modify, or revoke orders to prevent, control, 573  
or abate the use and disposal of sludge and sludge materials or 574  
the effects of the use of sludge and sludge materials on land 575  
located in the state and on the air and waters of the state; 576

(e) Adopt and enforce, modify, or rescind rules necessary 577  
for the implementation of division (S) of this section. The 578  
rules reasonably shall protect public health and the 579  
environment, encourage the beneficial reuse of sludge and sludge 580  
materials, and minimize the creation of nuisance odors. 581

The director may specify in sludge management permits the 582  
net volume, net weight, quality, and pollutant concentration of 583  
the sludge or sludge materials that may be used, stored, 584  
treated, or disposed of, and the manner and frequency of the 585  
use, storage, treatment, or disposal, to protect public health 586  
and the environment from adverse effects relating to those 587  
activities. The director shall impose other terms and conditions 588  
to protect public health and the environment, minimize the 589  
creation of nuisance odors, and achieve compliance with this 590  
chapter and rules adopted under it and, in doing so, shall 591  
consider whether the terms and conditions are consistent with 592  
the goal of encouraging the beneficial reuse of sludge and 593  
sludge materials. 594

The director may condition permits on the implementation 595

of treatment, storage, disposal, distribution, or application 596  
management methods and the filing of periodic reports on the 597  
amounts, composition, and quality of sludge and sludge materials 598  
that are disposed of, used, treated, or stored. 599

An approval of a treatment works sludge disposal program 600  
may contain any terms and conditions, including schedules of 601  
compliance, necessary to achieve compliance with this chapter 602  
and rules adopted under it. 603

(2) As a part of the program established under division 604  
(S)(1) of this section, the director has exclusive authority to 605  
regulate sewage sludge management in this state. For purposes of 606  
division (S)(2) of this section, that program shall be 607  
consistent with section 405 of the Federal Water Pollution 608  
Control Act and regulations adopted under it and with this 609  
section, except that the director may adopt rules under division 610  
(S) of this section that establish requirements that are more 611  
stringent than section 405 of the Federal Water Pollution 612  
Control Act and regulations adopted under it with regard to 613  
monitoring sewage sludge and sewage sludge materials and 614  
establishing acceptable sewage sludge management practices and 615  
pollutant levels in sewage sludge and sewage sludge materials. 616

This chapter authorizes the state to participate in any 617  
national sludge management program and the national pollutant 618  
discharge elimination system, to administer and enforce the 619  
publicly owned treatment works pretreatment program, and to 620  
issue permits for the discharge of dredged or fill materials, in 621  
accordance with the Federal Water Pollution Control Act. This 622  
chapter shall be administered, consistent with the laws of this 623  
state and federal law, in the same manner that the Federal Water 624  
Pollution Control Act is required to be administered. 625

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

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

average. The director shall modify NPDES permits to include 657  
those requirements. 658

Sec. 6111.0310. A person shall surface apply sewage sludge 659  
only in accordance with rules adopted under this chapter. 660

No person shall recklessly violate this section. 661

Sec. 6111.32. (A) In order to ensure the regular and 662  
orderly maintenance of federal navigation channels and ports in 663  
the Maumee basin, the director of environmental protection shall 664  
endeavor to work with the United States army corps of engineers 665  
on a dredging plan that focuses on long-term planning for the 666  
disposition of dredged material consistent with the requirements 667  
established in this section. 668

(B) On and after July 1, 2020, no person shall deposit 669  
dredged material in the Maumee basin that resulted from harbor 670  
or navigation maintenance activities unless the director has 671  
determined that the dredged material is suitable for one of the 672  
locations, purposes, or activities specified in division (C) of 673  
this section and has issued a section 401 water quality 674  
certification authorizing the deposit. 675

(C) The director may authorize the deposit of dredged 676  
material in the Maumee basin that resulted from harbor or 677  
navigation maintenance activities for any of the following: 678

(1) Confined disposal facilities; 679

(2) Beneficial use projects; 680

(3) Beach nourishment projects if at least eighty per cent 681  
of the dredged material is sand; 682

(4) Placement in the littoral drift if at least sixty per 683  
cent of the dredged material is sand; 684



(5) Habitat restoration projects; 685

(6) Projects involving amounts of dredged material that do 686  
not exceed ten thousand cubic yards, including material 687  
associated with dewatering operations related to dredging 688  
operations. 689

(D) The director may consult with the director of natural 690  
resources for the purposes of this section. The director of 691  
environmental protection has exclusive authority to approve the 692  
location in which dredged material is proposed to be deposited 693  
in the Maumee basin. 694

(E) The director, in consultation with the director of 695  
natural resources, may determine that financial, environmental, 696  
regulatory, or other factors exist that result in the inability 697  
to comply with this section. After making that determination, 698  
the director, through the issuance of a section 401 water 699  
quality certification, may allow for open lake placement of 700  
dredged material in the Maumee basin. 701

(F) The director may adopt rules in accordance with 702  
Chapter 119. of the Revised Code that are necessary for the 703  
implementation of this section. 704

(G) As used in this section, "Maumee basin" means the 705  
Maumee river, Maumee bay federal navigation channel, and Toledo 706  
harbor. 707

**Section 2.** That existing section 6111.03 and section 708  
6111.039 of the Revised Code are hereby repealed. 709

**Section 3.** (A) Not later than three years after the 710  
effective date of this act, the committees of the House of 711  
Representatives and the Senate that are primarily responsible 712  
for agriculture and natural resources matters jointly shall 713

assess the results of the implementation of sections 905.326, 714  
905.327, 1511.10, 1511.11, and 1511.12 of the Revised Code as 715  
enacted by this act. The committees jointly shall issue a report 716  
to the Governor containing their findings and any 717  
recommendations. The committees may include in the report 718  
recommendations for revisions to or the repeal of those 719  
sections. 720

(B) Not later than January 1, 2023, the committees of the 721  
House of Representatives and the Senate that are primarily 722  
responsible for environmental protection matters jointly shall 723  
assess the results of the implementation of section 6111.32 of 724  
the Revised Code as enacted by this act. The committees jointly 725  
shall issue a report to the Governor containing their findings 726  
and any recommendations. The committees may include in the 727  
report recommendations for revisions to or the repeal of that 728  
section. 729

**Section 4.** It is the intent of the General Assembly that 730  
legislation transferring the administration and enforcement of 731  
the Agricultural Pollution Abatement Program from the Department 732  
of Natural Resources to the Department of Agriculture shall be 733  
enacted not later than July 1, 2015. 734