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Senators Gardner, Peterson

Cosponsors: Senators Hite, LaRose, Eklund, Manning, Beagle, Bacon, Balderson, Brown, Burke, Coley, Faber, Hottinger, Hughes, Lehner, Obhof, Oelslager, Patton, Sawyer, Schiavoni, Seitz, Tavares, Thomas, Widener, Williams, Yuko, Representatives Hill, Burkley, Patterson, Buchy, Cera, Patmon, Sheehy, Ruhl, Anielski, Antonio, Baker, Barnes, Blessing, Brenner, Brown, Celebrezze, Conditt, DeVitis, Dovilla, Driehaus, Fedor, Gerberry, Green, Grossman, Hackett, Hall, Hambley, Hayes, Johnson, T., Koehler, Kraus, Landis, Leland, Lepore-Hagan, Maag, Manning, McClain, O'Brien, M., O'Brien, S., Perales, Phillips, Ramos, Rezabek, Rogers, Ryan, Schaffer, Scherer, Sears, Slaby, Slesnick, Smith, K., Smith, R., Sprague, Stinziano, Strahorn, Sweeney, Young, Speaker Rosenberger

A BILL

To amend sections 6109.10 and to enact sections 1
903.40, 905.326, 905.327, 1511.10, 1511.11, 2
3745.50, and 6111.32 of the Revised Code and to 3
amend Section 333.30 of Am. Sub. H.B. 59 of the 4
130th General Assembly to require applicators of 5
fertilizer or manure to comply with specified 6
requirements, to establish requirements 7
governing dredged material and phosphorous 8
testing by publicly owned treatment works. 9

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

Section 1. That section 6111.03 be amended and sections 10
903.40, 905.326, 905.327, 1511.10, 1511.11, 3745.50, and 6111.32 11
of the Revised Code be enacted to read as follows: 12

Sec. 903.40. (A) No person, for the purposes of 13
agricultural production as defined in section 905.31 of the 14
Revised Code, shall apply manure obtained from a concentrated 15
animal feeding facility issued a permit under this chapter 16
unless one of the following applies: 17

(1) The person has been issued a livestock manager 18
certification under section 903.07 of the Revised Code. 19

(2) The person has been certified under this section to 20
apply the manure by the director of agriculture. 21

(B) The director shall issue, renew, and deny 22
certifications for the purposes of division (A) (2) of this 23
section in the manner established in sections 905.321 and 24
905.322 of the Revised Code and rules adopted under the latter 25
section for the certification of fertilizer applicators. 26
Procedures, requirements, and other provisions that are 27
established in those sections and rules apply to the 28
certification of persons under division (A) (2) of this section. 29
For purposes of that application, references in sections 905.321 30
and 905.322 of the Revised Code to "fertilizer" are deemed to be 31
replaced with references to "manure." 32

Sec. 905.326. (A) (1) Except as provided in division (B) of 33
this section, no person in the western basin shall surface apply 34
fertilizer under either of the following circumstances: 35

(a) On snow-covered or frozen soil; 36

(b) When the top two inches of soil are saturated from 37
precipitation. 38

(2) Except as provided in division (B) of this section, no 39
person in the western basin shall surface apply fertilizer in a 40
granular form when the local weather forecast for the 41

application area contains greater than a fifty per cent chance 42
of precipitation exceeding one inch in a twelve-hour period. 43

(B) Division (A) of this section does not apply if a 44
person in the western basin applies fertilizer under any of the 45
following circumstances: 46

(1) The fertilizer is injected into the ground. 47

(2) The fertilizer is incorporated within twenty-four 48
hours of surface application. 49

(3) The fertilizer is applied onto a growing crop. 50

(C) (1) Upon receiving a complaint by any person or upon 51
receiving information that would indicate a violation of this 52
section, the director or the director's designee may investigate 53
or make inquiries into any alleged failure to comply with this 54
section. 55

(2) After receiving a complaint by any person or upon 56
receiving information that would indicate a violation of this 57
section, the director or the director's designee may enter at 58
reasonable times on any private or public property to inspect 59
and investigate conditions relating to any such alleged failure 60
to comply with this section. 61

(3) If an individual denies access to the director or the 62
director's designee, the director may apply to a court of 63
competent jurisdiction in the county in which the premises is 64
located for a search warrant authorizing access to the premises 65
for the purposes of this section. 66

(4) The court shall issue the search warrant for the 67
purposes requested if there is probable cause to believe that 68
the person is not in compliance with this section. The finding 69

of probable cause may be based on hearsay, provided that there 70
is a reasonable basis for believing that the source of the 71
hearsay is credible. 72

(D) This section does not affect any restrictions 73
established in Chapter 903. of the Revised Code or otherwise 74
apply to those entities or facilities that are permitted as 75
concentrated animal feeding facilities under that chapter. 76

(E) As used in this section, "western basin" means land in 77
the state that is located in the following watersheds identified 78
by the specified United States geological survey hydrologic unit 79
code: 80

(1) St. Marys watershed, hydrologic unit code 04100004; 81

(2) Auglaize watershed, hydrologic unit code 04100007; 82

(3) Blanchard watershed, hydrologic unit code 04100008; 83

(4) Sandusky watershed, hydrologic unit code 04100011; 84

(5) Cedar-Portage watershed, hydrologic unit code 85
04100010; 86

(6) Lower Maumee watershed, hydrologic unit code 04100009; 87

(7) Upper Maumee watershed, hydrologic unit code 04100005; 88

(8) Tiffin watershed, hydrologic unit code 04100006; 89

(9) St. Joseph watershed, hydrologic unit code 04100003; 90

(10) Ottawa watershed, hydrologic unit code 04100001; 91

(11) River Raisin watershed, hydrologic unit code 92
04100002. 93

(F) Notwithstanding section 905.31 of the Revised Code, as 94
used in this section, "fertilizer" means nitrogen or 95

phosphorous. 96

Sec. 905.327. (A) The director of agriculture may assess a 97
civil penalty against a person that violates section 905.326 of 98
the Revised Code. The director may impose a civil penalty only 99
if the director affords the person an opportunity for an 100
adjudication hearing under Chapter 119. of the Revised Code to 101
challenge the director's determination that the person violated 102
section 905.326 of the Revised Code. The person may waive the 103
right to an adjudication hearing. 104

(B) If the opportunity for an adjudication hearing is 105
waived or if, after an adjudication hearing, the director 106
determines that a violation has occurred or is occurring, the 107
director may issue an order requiring compliance with section 108
905.326 of the Revised Code and assess the civil penalty. The 109
order and the assessment of the civil penalty may be appealed in 110
accordance with section 119.12 of the Revised Code. 111

(C) A person that has violated section 905.326 of the 112
Revised Code shall pay a civil penalty in an amount established 113
in rules. Each day during which fertilizer is applied in 114
violation of section 905.326 of the Revised Code constitutes a 115
separate violation. 116

(D) The director shall adopt rules in accordance with 117
Chapter 119. of the Revised Code that establish the amount of 118
the civil penalty assessed under this section. The civil penalty 119
shall not be more than ten thousand dollars for each violation. 120

(E) For purposes of this section, "rule" means a rule 121
adopted under division (D) of this section. 122

Sec. 1511.10. (A) Except as provided in division (B) of 123
this section, no person in the western basin shall surface apply 124

<u>manure under any of the following circumstances:</u>	125
<u>(1) On snow-covered or frozen soil;</u>	126
<u>(2) When the top two inches of soil are saturated from precipitation;</u>	127 128
<u>(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.</u>	129 130 131 132
<u>(B) Division (A) of this section does not apply if a person in the western basin applies manure under any of the following circumstances:</u>	133 134 135
<u>(1) The manure is injected into the ground.</u>	136
<u>(2) The manure is incorporated within twenty-four hours of surface application.</u>	137 138
<u>(3) The manure is applied onto a growing crop.</u>	139
<u>(4) In the event of an emergency, the chief of the division of soil and water resources or the chief's designee provides written consent and the manure application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state.</u>	140 141 142 143 144 145
<u>(C) (1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the chief or the chief's designee may investigate or make inquiries into any alleged failure to comply with this section.</u>	146 147 148 149 150
<u>(2) After receiving a complaint by any person or upon</u>	151

receiving information that would indicate a violation of this 152
section, the chief or the chief's designee may enter at 153
reasonable times on any private or public property to inspect 154
and investigate conditions relating to any such alleged failure 155
to comply with this section. 156

(3) If an individual denies access to the individual's 157
property, the chief may apply to a court of competent 158
jurisdiction in the county in which the premises is located for 159
a search warrant authorizing access to the premises for the 160
purposes of this section. 161

(4) The court shall issue the search warrant for the 162
purposes requested if there is probable cause to believe that 163
the person is not in compliance with this section. The finding 164
of probable cause may be based on hearsay, provided that there 165
is a reasonable basis for believing that the source of the 166
hearsay is credible. 167

(D) This section does not affect any restrictions 168
established in Chapter 903. of the Revised Code or otherwise 169
apply to those entities or facilities that are permitted as 170
concentrated animal feeding facilities under that chapter. 171

(E) As used in this section, "western basin" has the same 172
meaning as in section 905.326 of the Revised Code. 173

Sec. 1511.11. (A) Except as provided in division (D) of 174
this section, the chief of the division of soil and water 175
resources may assess a civil penalty against a person that 176
violates section 1511.10 of the Revised Code. The chief may 177
impose a civil penalty only if the chief affords the person an 178
opportunity for an adjudication hearing under Chapter 119. of 179
the Revised Code to challenge the chief's determination that the 180

person violated section 1511.10 of the Revised Code. The person 181
may waive the right to an adjudication hearing. 182

(B) If the opportunity for an adjudication hearing is 183
waived or if, after an adjudication hearing, the chief 184
determines that a violation has occurred or is occurring, the 185
chief may issue an order requiring compliance with section 186
1511.10 of the Revised Code and assess the civil penalty. The 187
order and the assessment of the civil penalty may be appealed in 188
accordance with section 119.12 of the Revised Code. 189

(C) A person that has violated section 1511.10 of the 190
Revised Code shall pay a civil penalty in an amount established 191
in rules. Each day during which manure is applied in violation 192
of section 1511.10 of the Revised Code constitutes a separate 193
violation. 194

(D) (1) The owner or operator of a small agricultural 195
operation or a medium agricultural operation may apply to the 196
chief for an exemption from the prohibition established in 197
division (A) of section 1511.10 of the Revised Code. If the 198
chief or the chief's designee determines that it is appropriate, 199
the chief or the chief's designee may issue such an exemption as 200
follows: 201

(a) For a medium agricultural operation, for a period 202
ending not later than one year after the effective date of this 203
section; 204

(b) For a small agricultural operation, for a period 205
ending not later than two years after the effective date of this 206
section. 207

(2) The chief shall establish the form of the application 208
for an exemption in rules adopted under division (E) of this 209

section. 210

(3) The chief or the chief's designee shall approve or 211
deny an application for an exemption submitted under division 212
(D)(1) of this section not later than thirty days after an 213
application has been submitted. 214

(4) The chief or the chief's designee may deny an 215
application for an exemption or revoke an exemption approved 216
under division (D)(3) of this section if the chief or the 217
chief's designee determines that the owner or operator is not in 218
substantial compliance with this chapter and rules adopted under 219
it other than violating division (A) of section 1511.10 of the 220
Revised Code. 221

(5) An owner or operator that has been issued an exemption 222
under this section is not subject to civil penalties assessed 223
for a violation of division (A) of section 1511.10 of the 224
Revised Code during the exemption period. 225

(6) An owner or operator that has an initial application 226
for an exemption that is pending the chief's review is not 227
subject to civil penalties assessed for a violation of division 228
(A) of section 1511.10 of the Revised Code. 229

(E) The chief shall adopt rules in accordance with Chapter 230
119. of the Revised Code that establish both of the following: 231

(1) The amount of the civil penalty assessed under this 232
section. The civil penalty shall be not more than ten thousand 233
dollars for each violation. 234

(2) Requirements governing the application form for an 235
exemption submitted under division (D) of this section. The 236
rules shall require the form to include all of the following: 237

(a) A statement from the applicant affirming that the applicant understands the provisions of sections 1511.10 and 1511.11 of the Revised Code; 238
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(b) A statement from the applicant affirming that the applicant understands that the applicant must be in compliance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state except procedures that are in conflict with this section and section 1511.10 of the Revised Code; 241
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(c) A place for the applicant to explain the reasons for the necessity for the exemption; 248
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(d) A place on the form that provides information on programs that may assist an applicant with methods to comply with division (A) of section 1511.10 of the Revised Code; 250
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(e) A place on the form that provides the applicant an opportunity to request technical assistance or information from the chief or the applicable soil and water conservation district to assist the applicant to comply with division (A) of section 1511.10 of the Revised Code. 253
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(F) As used in this section: 258

(1) "Small agricultural operation" means an agricultural operation in the western basin that stables or confines fewer than any of the numbers of animals specified in divisions (Q) (1) (a) to (m) of section 903.01 of the Revised Code. 259
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(2) "Medium agricultural operation" means an agricultural operation in the western basin that stables or confines any of the numbers of animals specified in divisions (Q) (1) (a) to (m) of section 903.01 of the Revised Code. 263
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(3) "Western basin" has the same meaning as in section 905.326 of the Revised Code. 267
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Sec. 3745.50. (A) The director of environmental protection shall serve as coordinator, or designate a coordinator, of harmful algae management and response. The director or the director's designee shall develop plans providing for coordination that may include, but are not limited to, the actions and items specified in divisions (B) and (C) of this section. 269
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(B) The director or the director's designee shall consult with the directors of agriculture, health, and natural resources and representatives of local governments, publicly owned treatment works, and public water systems to implement actions that do both of the following: 276
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(1) Protect against cyanobacteria in the western basin and public water supplies; 281
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(2) Manage wastewater to limit nutrient loading into the western basin. 283
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(C) The director or the director's designee shall develop and implement protocols and actions that may include, but are not limited to, the following: 285
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(1) Analytical protocols for monitoring of cyanobacteria at water intake structures of public water systems, testing for cyanobacteria in Lake Erie, and establishing public health advisory levels and public notification protocols if trigger levels of cyanotoxins are detected; 288
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(2) Provisions on training, testing, and treatment and other support regarding cyanobacteria identification, sampling, treatment techniques, algaecide application, public 293
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notification, and source water protection for employees of 296
publicly owned treatment works and public water systems; 297

(3) Protocols requiring public water systems to notify the 298
environmental protection agency if any of the following occurs: 299

(a) Cyanotoxins are detected in finished drinking water. 300

(b) Cyanobacteria are detected in their source water. 301

(c) Application of an algaecide is anticipated to the 302
source water. 303

(D) As used in this section, "western basin" has the same 304
meaning as in section 905.326 of the Revised Code. 305

Sec. 6111.03. The director of environmental protection may 306
do any of the following: 307

(A) Develop plans and programs for the prevention, 308
control, and abatement of new or existing pollution of the 309
waters of the state; 310

(B) Advise, consult, and cooperate with other agencies of 311
the state, the federal government, other states, and interstate 312
agencies and with affected groups, political subdivisions, and 313
industries in furtherance of the purposes of this chapter. 314
Before adopting, amending, or rescinding a standard or rule 315
pursuant to division (G) of this section or section 6111.041 or 316
6111.042 of the Revised Code, the director shall do all of the 317
following: 318

(1) Mail notice to each statewide organization that the 319
director determines represents persons who would be affected by 320
the proposed standard or rule, amendment thereto, or rescission 321
thereof at least thirty-five days before any public hearing 322
thereon; 323

(2) Mail a copy of each proposed standard or rule, 324
amendment thereto, or rescission thereof to any person who 325
requests a copy, within five days after receipt of the request 326
therefor; 327

(3) Consult with appropriate state and local government 328
agencies or their representatives, including statewide 329
organizations of local government officials, industrial 330
representatives, and other interested persons. 331

Although the director is expected to discharge these 332
duties diligently, failure to mail any such notice or copy or to 333
so consult with any person shall not invalidate any proceeding 334
or action of the director. 335

(C) Administer grants from the federal government and from 336
other sources, public or private, for carrying out any of its 337
functions, all such moneys to be deposited in the state treasury 338
and kept by the treasurer of state in a separate fund subject to 339
the lawful orders of the director; 340

(D) Administer state grants for the construction of sewage 341
and waste collection and treatment works; 342

(E) Encourage, participate in, or conduct studies, 343
investigations, research, and demonstrations relating to water 344
pollution, and the causes, prevention, control, and abatement 345
thereof, that are advisable and necessary for the discharge of 346
the director's duties under this chapter; 347

(F) Collect and disseminate information relating to water 348
pollution and prevention, control, and abatement thereof; 349

(G) Adopt, amend, and rescind rules in accordance with 350
Chapter 119. of the Revised Code governing the procedure for 351
hearings, the filing of reports, the issuance of permits, the 352

issuance of industrial water pollution control certificates, and 353
all other matters relating to procedure; 354

(H) Issue, modify, or revoke orders to prevent, control, 355
or abate water pollution by such means as the following: 356

(1) Prohibiting or abating discharges of sewage, 357
industrial waste, or other wastes into the waters of the state; 358

(2) Requiring the construction of new disposal systems or 359
any parts thereof, or the modification, extension, or alteration 360
of existing disposal systems or any parts thereof; 361

(3) Prohibiting additional connections to or extensions of 362
a sewerage system when the connections or extensions would 363
result in an increase in the polluting properties of the 364
effluent from the system when discharged into any waters of the 365
state; 366

(4) Requiring compliance with any standard or rule adopted 367
under sections 6111.01 to 6111.05 of the Revised Code or term or 368
condition of a permit. 369

In the making of those orders, wherever compliance with a 370
rule adopted under section 6111.042 of the Revised Code is not 371
involved, consistent with the Federal Water Pollution Control 372
Act, the director shall give consideration to, and base the 373
determination on, evidence relating to the technical feasibility 374
and economic reasonableness of complying with those orders and 375
to evidence relating to conditions calculated to result from 376
compliance with those orders, and their relation to benefits to 377
the people of the state to be derived from such compliance in 378
accomplishing the purposes of this chapter. 379

(I) Review plans, specifications, or other data relative 380
to disposal systems or any part thereof in connection with the 381

issuance of orders, permits, and industrial water pollution 382
control certificates under this chapter; 383

(J) (1) Issue, revoke, modify, or deny sludge management 384
permits and permits for the discharge of sewage, industrial 385
waste, or other wastes into the waters of the state, and for the 386
installation or modification of disposal systems or any parts 387
thereof in compliance with all requirements of the Federal Water 388
Pollution Control Act and mandatory regulations adopted 389
thereunder, including regulations adopted under section 405 of 390
the Federal Water Pollution Control Act, and set terms and 391
conditions of permits, including schedules of compliance, where 392
necessary. In issuing permits for sludge management, the 393
director shall not allow the placement of sewage sludge on 394
frozen ground in conflict with rules adopted under this chapter. 395

Any person who discharges, transports, or handles storm water 396
from an animal feeding facility, as defined in section 903.01 of 397
the Revised Code, or pollutants from a concentrated animal 398
feeding operation, as both terms are defined in that section, is 399
not required to obtain a permit under division (J) (1) of this 400
section for the installation or modification of a disposal 401
system involving pollutants or storm water or any parts of such 402
a system on and after the date on which the director of 403
agriculture has finalized the program required under division 404
(A) (1) of section 903.02 of the Revised Code. In addition, any 405
person who discharges, transports, or handles storm water from 406
an animal feeding facility, as defined in section 903.01 of the 407
Revised Code, or pollutants from a concentrated animal feeding 408
operation, as both terms are defined in that section, is not 409
required to obtain a permit under division (J) (1) of this 410
section for the discharge of storm water from an animal feeding 411
facility or pollutants from a concentrated animal feeding 412

operation on and after the date on which the United States 413
environmental protection agency approves the NPDES program 414
submitted by the director of agriculture under section 903.08 of 415
the Revised Code. 416

Any permit terms and conditions set by the director shall 417
be designed to achieve and maintain full compliance with the 418
national effluent limitations, national standards of performance 419
for new sources, and national toxic and pretreatment effluent 420
standards set under that act, and any other mandatory 421
requirements of that act that are imposed by regulation of the 422
administrator of the United States environmental protection 423
agency. If an applicant for a sludge management permit also 424
applies for a related permit for the discharge of sewage, 425
industrial waste, or other wastes into the waters of the state, 426
the director may combine the two permits and issue one permit to 427
the applicant. 428

A sludge management permit is not required for an entity 429
that treats or transports sewage sludge or for a sanitary 430
landfill when all of the following apply: 431

(a) The entity or sanitary landfill does not generate the 432
sewage sludge. 433

(b) Prior to receipt at the sanitary landfill, the entity 434
has ensured that the sewage sludge meets the requirements 435
established in rules adopted by the director under section 436
3734.02 of the Revised Code concerning disposal of municipal 437
solid waste in a sanitary landfill. 438

(c) Disposal of the sewage sludge occurs at a sanitary 439
landfill that complies with rules adopted by the director under 440
section 3734.02 of the Revised Code. 441

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 471
wastes and to evidence relating to conditions calculated to 472
result from that action and their relation to benefits to the 473
people of the state and to accomplishment of the purposes of 474
this chapter. 475

(4) Where a discharge having a thermal component from a 476
source that is constructed or modified on or after October 18, 477
1972, meets national or state effluent limitations or more 478
stringent permit conditions designed to achieve and maintain 479
compliance with applicable standards of quality for the waters 480
of the state, which limitations or conditions will ensure 481
protection and propagation of a balanced, indigenous population 482
of shellfish, fish, and wildlife in or on the body of water into 483
which the discharge is made, taking into account the interaction 484
of the thermal component with sewage, industrial waste, or other 485
wastes, the director shall not impose any more stringent 486
limitation on the thermal component of the discharge, as a 487
condition of a permit or renewal thereof for the discharge, 488
during a ten-year period beginning on the date of completion of 489
the construction or modification of the source, or during the 490
period of depreciation or amortization of the source for the 491
purpose of section 167 or 169 of the Internal Revenue Code of 492
1954, whichever period ends first. 493

(5) The director shall specify in permits for the 494
discharge of sewage, industrial waste, and other wastes, the net 495
volume, net weight, duration, frequency, and, where necessary, 496
concentration of the sewage, industrial waste, and other wastes 497
that may be discharged into the waters of the state. The 498
director shall specify in those permits and in sludge management 499
permits that the permit is conditioned upon payment of 500
applicable fees as required by section 3745.11 of the Revised 501

Code and upon the right of the director's authorized 502
representatives to enter upon the premises of the person to whom 503
the permit has been issued for the purpose of determining 504
compliance with this chapter, rules adopted thereunder, or the 505
terms and conditions of a permit, order, or other determination. 506
The director shall issue or deny an application for a sludge 507
management permit or a permit for a new discharge, for the 508
installation or modification of a disposal system, or for the 509
renewal of a permit, within one hundred eighty days of the date 510
on which a complete application with all plans, specifications, 511
construction schedules, and other pertinent information required 512
by the director is received. 513

(6) The director may condition permits upon the 514
installation of discharge or water quality monitoring equipment 515
or devices and the filing of periodic reports on the amounts and 516
contents of discharges and the quality of receiving waters that 517
the director prescribes. The director shall condition each 518
permit for a government-owned disposal system or any other 519
"treatment works" as defined in the Federal Water Pollution 520
Control Act upon the reporting of new introductions of 521
industrial waste or other wastes and substantial changes in 522
volume or character thereof being introduced into those systems 523
or works from "industrial users" as defined in section 502 of 524
that act, as necessary to comply with section 402(b) (8) of that 525
act; upon the identification of the character and volume of 526
pollutants subject to pretreatment standards being introduced 527
into the system or works; and upon the existence of a program to 528
ensure compliance with pretreatment standards by "industrial 529
users" of the system or works. In requiring monitoring devices 530
and reports, the director, to the extent consistent with the 531
Federal Water Pollution Control Act, shall give consideration to 532

technical feasibility and economic reasonableness and shall 533
allow reasonable time for compliance. 534

(7) A permit may be issued for a period not to exceed five 535
years and may be renewed upon application for renewal. In 536
renewing a permit, the director shall consider the compliance 537
history of the permit holder and may deny the renewal if the 538
director determines that the permit holder has not complied with 539
the terms and conditions of the existing permit. A permit may be 540
modified, suspended, or revoked for cause, including, but not 541
limited to, violation of any condition of the permit, obtaining 542
a permit by misrepresentation or failure to disclose fully all 543
relevant facts of the permitted discharge or of the sludge use, 544
storage, treatment, or disposal practice, or changes in any 545
condition that requires either a temporary or permanent 546
reduction or elimination of the permitted activity. No 547
application shall be denied or permit revoked or modified 548
without a written order stating the findings upon which the 549
denial, revocation, or modification is based. A copy of the 550
order shall be sent to the applicant or permit holder by 551
certified mail. 552

(K) Institute or cause to be instituted in any court of 553
competent jurisdiction proceedings to compel compliance with 554
this chapter or with the orders of the director issued under 555
this chapter, or to ensure compliance with sections 204(b), 307, 556
308, and 405 of the Federal Water Pollution Control Act; 557

(L) Issue, deny, revoke, or modify industrial water 558
pollution control certificates; 559

(M) Certify to the government of the United States or any 560
agency thereof that an industrial water pollution control 561
facility is in conformity with the state program or requirements 562

for the control of water pollution whenever the certification 563
may be required for a taxpayer under the Internal Revenue Code 564
of the United States, as amended; 565

(N) Issue, modify, and revoke orders requiring any 566
"industrial user" of any publicly owned "treatment works" as 567
defined in sections 212(2) and 502(18) of the Federal Water 568
Pollution Control Act to comply with pretreatment standards; 569
establish and maintain records; make reports; install, use, and 570
maintain monitoring equipment or methods, including, where 571
appropriate, biological monitoring methods; sample discharges in 572
accordance with methods, at locations, at intervals, and in a 573
manner that the director determines; and provide other 574
information that is necessary to ascertain whether or not there 575
is compliance with toxic and pretreatment effluent standards. In 576
issuing, modifying, and revoking those orders, the director, to 577
the extent consistent with the Federal Water Pollution Control 578
Act, shall give consideration to technical feasibility and 579
economic reasonableness and shall allow reasonable time for 580
compliance. 581

(O) Exercise all incidental powers necessary to carry out 582
the purposes of this chapter; 583

(P) Certify or deny certification to any applicant for a 584
federal license or permit to conduct any activity that may 585
result in any discharge into the waters of the state that the 586
discharge will comply with the Federal Water Pollution Control 587
Act; 588

(Q) Administer and enforce the publicly owned treatment 589
works pretreatment program in accordance with the Federal Water 590
Pollution Control Act. In the administration of that program, 591
the director may do any of the following: 592

- (1) Apply and enforce pretreatment standards; 593
- (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: 594
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- (a) The director has denied a request for approval of the publicly owned treatment works pretreatment program; 598
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- (b) The director has revoked the publicly owned treatment works pretreatment program; 600
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- (c) There is no pretreatment program currently being implemented by the publicly owned treatment works; 602
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- (d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program. 604
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- (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; 607
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- (4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works; 613
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- (5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users; 616
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- (6) Make determinations on categorization of industrial users; 619
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(7) Adopt, amend, or rescind rules and issue, modify, or 621
revoke orders necessary for the administration and enforcement 622
of the publicly owned treatment works pretreatment program. 623

Any approval of a publicly owned treatment works 624
pretreatment program may contain any terms and conditions, 625
including schedules of compliance, that are necessary to achieve 626
compliance with this chapter. 627

(R) Except as otherwise provided in this division, adopt 628
rules in accordance with Chapter 119. of the Revised Code 629
establishing procedures, methods, and equipment and other 630
requirements for equipment to prevent and contain discharges of 631
oil and hazardous substances into the waters of the state. The 632
rules shall be consistent with and equivalent in scope, content, 633
and coverage to section 311(j) (1) (c) of the Federal Water 634
Pollution Control Act and regulations adopted under it. The 635
director shall not adopt rules under this division relating to 636
discharges of oil from oil production facilities and oil 637
drilling and workover facilities as those terms are defined in 638
that act and regulations adopted under it. 639

(S) (1) Administer and enforce a program for the regulation 640
of sludge management in this state. In administering the 641
program, the director, in addition to exercising the authority 642
provided in any other applicable sections of this chapter, may 643
do any of the following: 644

(a) Develop plans and programs for the disposal and 645
utilization of sludge and sludge materials; 646

(b) Encourage, participate in, or conduct studies, 647
investigations, research, and demonstrations relating to the 648
disposal and use of sludge and sludge materials and the impact 649

of sludge and sludge materials on land located in the state and 650
on the air and waters of the state; 651

(c) Collect and disseminate information relating to the 652
disposal and use of sludge and sludge materials and the impact 653
of sludge and sludge materials on land located in the state and 654
on the air and waters of the state; 655

(d) Issue, modify, or revoke orders to prevent, control, 656
or abate the use and disposal of sludge and sludge materials or 657
the effects of the use of sludge and sludge materials on land 658
located in the state and on the air and waters of the state; 659

(e) Adopt and enforce, modify, or rescind rules necessary 660
for the implementation of division (S) of this section. The 661
rules reasonably shall protect public health and the 662
environment, encourage the beneficial reuse of sludge and sludge 663
materials, and minimize the creation of nuisance odors. 664

The director may specify in sludge management permits the 665
net volume, net weight, quality, and pollutant concentration of 666
the sludge or sludge materials that may be used, stored, 667
treated, or disposed of, and the manner and frequency of the 668
use, storage, treatment, or disposal, to protect public health 669
and the environment from adverse effects relating to those 670
activities. The director shall impose other terms and conditions 671
to protect public health and the environment, minimize the 672
creation of nuisance odors, and achieve compliance with this 673
chapter and rules adopted under it and, in doing so, shall 674
consider whether the terms and conditions are consistent with 675
the goal of encouraging the beneficial reuse of sludge and 676
sludge materials. 677

The director may condition permits on the implementation 678

of treatment, storage, disposal, distribution, or application 679
management methods and the filing of periodic reports on the 680
amounts, composition, and quality of sludge and sludge materials 681
that are disposed of, used, treated, or stored. 682

An approval of a treatment works sludge disposal program 683
may contain any terms and conditions, including schedules of 684
compliance, necessary to achieve compliance with this chapter 685
and rules adopted under it. 686

(2) As a part of the program established under division 687
(S) (1) of this section, the director has exclusive authority to 688
regulate sewage sludge management in this state. For purposes of 689
division (S) (2) of this section, that program shall be 690
consistent with section 405 of the Federal Water Pollution 691
Control Act and regulations adopted under it and with this 692
section, except that the director may adopt rules under division 693
(S) of this section that establish requirements that are more 694
stringent than section 405 of the Federal Water Pollution 695
Control Act and regulations adopted under it with regard to 696
monitoring sewage sludge and sewage sludge materials and 697
establishing acceptable sewage sludge management practices and 698
pollutant levels in sewage sludge and sewage sludge materials. 699

This chapter authorizes the state to participate in any 700
national sludge management program and the national pollutant 701
discharge elimination system, to administer and enforce the 702
publicly owned treatment works pretreatment program, and to 703
issue permits for the discharge of dredged or fill materials, in 704
accordance with the Federal Water Pollution Control Act. This 705
chapter shall be administered, consistent with the laws of this 706
state and federal law, in the same manner that the Federal Water 707
Pollution Control Act is required to be administered. 708

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

Not later than December 1, 2016, a publicly owned treatment works with a design flow of one million gallons per day or more, or designated as a major discharger by the director, shall be required to begin monthly monitoring of total and dissolved reactive phosphorus pursuant to a new NPDES permit, an NPDES permit renewal, or a director-initiated modification. The director shall include in each applicable new NPDES permit, NPDES permit renewal, or director-initiated modification a requirement that such monitoring be conducted. A director-initiated modification for that purpose shall be

considered and processed as a minor modification pursuant to 740
O.A.C. 3745-33-04. In addition, not later than December 1, 2017, 741
a publicly owned treatment works with a design flow of one 742
million gallons per day or more that, on the effective date of 743
this amendment, is not subject to a phosphorus limit shall 744
complete and submit to the director a study that evaluates the 745
technical and financial capability of the existing treatment 746
facility to reduce the final effluent discharge of phosphorus to 747
one milligram per liter using possible source reduction 748
measures, operational procedures, and unit process 749
configurations. 750

Sec. 6111.32. (A) In order to ensure the regular and 751
orderly maintenance of federal navigation channels and ports in 752
this state, the director of environmental protection shall 753
endeavor to work with the United States army corps of engineers 754
on a dredging plan that focuses on long-term planning for the 755
disposition of dredged material consistent with the requirements 756
established in this section. 757

(B) On and after July 1, 2020, no person shall deposit 758
dredged material in the portion of Lake Erie that is within the 759
jurisdictional boundaries of this state or in the direct 760
tributaries of Lake Erie within this state that resulted from 761
harbor or navigation maintenance activities unless the director 762
has determined that the dredged material is suitable for one of 763
the locations, purposes, or activities specified in division (C) 764
of this section and has issued a section 401 water quality 765
certification authorizing the deposit. 766

(C) The director may authorize the deposit of dredged 767
material in the portion of Lake Erie that is within the 768
jurisdictional boundaries of this state or in the direct 769

tributaries of Lake Erie within this state that resulted from 770
harbor or navigation maintenance activities for any of the 771
following: 772

(1) Confined disposal facilities; 773

(2) Beneficial use projects; 774

(3) Beach nourishment projects if at least eighty per cent 775
of the dredged material is sand; 776

(4) Placement in the littoral drift if at least sixty per 777
cent of the dredged material is sand; 778

(5) Habitat restoration projects; 779

(6) Projects involving amounts of dredged material that do 780
not exceed ten thousand cubic yards, including material 781
associated with dewatering operations related to dredging 782
operations. 783

(D) In order to coordinate the activities and 784
responsibilities established under this chapter and Chapter 785
1506. of the Revised Code, the director shall consult with the 786
director of natural resources when approving the location in 787
which dredged material is proposed to be deposited in the 788
portion of Lake Erie that is within the jurisdictional 789
boundaries of this state or in the direct tributaries of Lake 790
Erie within this state. 791

(E) The director of environmental protection, in 792
consultation with the director of natural resources, may 793
determine that financial, environmental, regulatory, or other 794
factors exist that result in the inability to comply with this 795
section. After making that determination, the director of 796
environmental protection, through the issuance of a section 401 797

water quality certification, may allow for open lake placement 798
of dredged material from the Maumee river, Maumee bay federal 799
navigation channel, and Toledo harbor. 800

(F) The director may adopt rules in accordance with 801
Chapter 119. of the Revised Code that are necessary for the 802
implementation of this section. 803

Section 2. That existing section 6111.03 of the Revised 804
Code is hereby repealed. 805

Section 3. That Section 333.30 of H.B. 59 of the 130th 806
General Assembly be amended to read as follows: 807

Sec. 333.30. LEASE RENTAL PAYMENTS 808

The foregoing appropriation item 725413, Lease Rental 809
Payments, shall be used to meet all payments at the times they 810
are required to be made during the period from July 1, 2013, 811
through June 30, 2015, by the Department of Natural Resources 812
pursuant to leases and agreements made under section 154.22 of 813
the Revised Code. These appropriations are the source of funds 814
pledged for bond service charges on related obligations issued 815
under Chapter 154. of the Revised Code. 816

CANAL LANDS 817

The foregoing appropriation item 725456, Canal Lands, 818
shall be used to provide operating expenses for the State Canal 819
Lands Program. 820

HEALTHY LAKE ERIE FUND 821

The foregoing appropriation item 725505, Healthy Lake Erie 822
Fund, shall be used by the Director of Natural Resources, ~~in~~ 823
~~consultation with the Director of Agriculture and the Director~~ 824
~~of Environmental Protection, to implement nonstatutory~~ 825

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

COAL AND MINE SAFETY PROGRAM

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

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2013, through June 30, 2015, on obligations issued under sections 151.01 and 151.05 of the Revised Code.

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

Section 5. (A) Not later than three years after the

effective date of this act, the committees of the House of 855
Representatives and the Senate that are primarily responsible 856
for agriculture and natural resources matters jointly shall 857
assess the results of the implementation of sections 905.326, 858
905.327, 1511.10, and 1511.11 of the Revised Code as enacted by 859
this act. The committees jointly shall issue a report to the 860
Governor containing their findings and any recommendations. The 861
committees may include in the report recommendations for 862
revisions to or the repeal of those sections. 863

(B) Not later than January 1, 2023, the committees of the 864
House of Representatives and the Senate that are primarily 865
responsible for environmental protection matters jointly shall 866
assess the results of the implementation of section 6111.32 of 867
the Revised Code as enacted by this act. The committees jointly 868
shall issue a report to the Governor containing their findings 869
and any recommendations. The committees may include in the 870
report recommendations for revisions to or the repeal of that 871
section. 872

Section 6. It is the intent of the General Assembly that 873
legislation transferring the administration and enforcement of 874
the Agricultural Pollution Abatement Program from the Department 875
of Natural Resources to the Department of Agriculture shall be 876
enacted not later than July 1, 2015. 877