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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

A BILL

To amend sections 6109.10 and 6111.03 and to enact 1
sections 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, nutrient loading, 8
and phosphorous testing by publicly owned 9
treatment works, and to declare an emergency. 10

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

Section 1. That sections 6109.10 and 6111.03 be amended 11
and sections 905.326, 905.327, 1511.10, 1511.11, 3745.50, and 12
6111.32 of the Revised Code be enacted to read as follows: 13

Sec. 905.326. (A) (1) Except as provided in division (B) of 14
this section, no person in the western basin shall surface apply 15
fertilizer under either of the following circumstances: 16

(a) On snow-covered or frozen soil; 17

(b) When the top two inches of soil are saturated from precipitation. 18
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(2) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer in a granular form when the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one inch in a twelve-hour period. 20
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(B) Division (A) of this section does not apply if a person in the western basin applies fertilizer under any of the following circumstances: 25
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(1) The fertilizer is injected into the ground. 28

(2) The fertilizer is incorporated within forty-eight hours of surface application. 29
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(3) The fertilizer is applied onto a growing crop. 31

(C) (1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may investigate or make inquiries into any alleged failure to comply with this section. 32
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(2) After receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the director or the director's designee may enter at reasonable times on any private or public property to inspect and investigate conditions relating to any such alleged failure to comply with this section. 37
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(3) If an individual denies access to the director or the director's designee, the director may apply to a court of competent jurisdiction in the county in which the premises is 43
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located for a search warrant authorizing access to the premises 46
for the purposes of this section. 47

(4) The court shall issue the search warrant for the 48
purposes requested if there is probable cause to believe that 49
the person is not in compliance with this section. The finding 50
of probable cause may be based on hearsay, provided that there 51
is a reasonable basis for believing that the source of the 52
hearsay is credible. 53

(D) This section does not affect any restrictions 54
established in Chapter 903. of the Revised Code or otherwise 55
apply to those entities or facilities that are permitted as 56
concentrated animal feeding facilities under that chapter. 57

(E) As used in this section, "western basin" means land in 58
the state that is located in the following watersheds identified 59
by the specified United States geological survey hydrologic unit 60
code: 61

(1) St. Marys watershed, hydrologic unit code 04100004; 62

(2) Auglaize watershed, hydrologic unit code 04100007; 63

(3) Blanchard watershed, hydrologic unit code 04100008; 64

(4) Sandusky watershed, hydrologic unit code 04100011; 65

(5) Cedar-Portage watershed, hydrologic unit code 66
04100010; 67

(6) Lower Maumee watershed, hydrologic unit code 04100009; 68

(7) Upper Maumee watershed, hydrologic unit code 04100005; 69

(8) Tiffin watershed, hydrologic unit code 04100006; 70

(9) St. Joseph watershed, hydrologic unit code 04100003; 71

<u>(10) Ottawa watershed, hydrologic unit code 04100001;</u>	72
<u>(11) River Raisin watershed, hydrologic unit code</u> <u>04100002.</u>	73 74
<u>(F) Notwithstanding section 905.31 of the Revised Code, as</u> <u>used in this section, "fertilizer" means nitrogen or</u> <u>phosphorous.</u>	75 76 77
Sec. 905.327. <u>(A) The director of agriculture may assess a</u> <u>civil penalty against a person that violates section 905.326 of</u> <u>the Revised Code. The director may impose a civil penalty only</u> <u>if the director affords the person an opportunity for an</u> <u>adjudication hearing under Chapter 119. of the Revised Code to</u> <u>challenge the director's determination that the person violated</u> <u>section 905.326 of the Revised Code. The person may waive the</u> <u>right to an adjudication hearing.</u>	78 79 80 81 82 83 84 85
<u>(B) If the opportunity for an adjudication hearing is</u> <u>waived or if, after an adjudication hearing, the director</u> <u>determines that a violation has occurred or is occurring, the</u> <u>director may issue an order requiring compliance with section</u> <u>905.326 of the Revised Code and assess the civil penalty. The</u> <u>order and the assessment of the civil penalty may be appealed in</u> <u>accordance with section 119.12 of the Revised Code.</u>	86 87 88 89 90 91 92
<u>(C) A person that has violated section 905.326 of the</u> <u>Revised Code shall pay a civil penalty in an amount established</u> <u>in rules. Each thirty-day period during which a violation</u> <u>continues constitutes a separate violation.</u>	93 94 95 96
<u>(D) The director shall adopt rules in accordance with</u> <u>Chapter 119. of the Revised Code that establish the amount of</u> <u>the civil penalty assessed under this section. The civil penalty</u> <u>shall not be more than ten thousand dollars for each violation.</u>	97 98 99 100

(E) For purposes of this section, "rule" means a rule 101
adopted under division (D) of this section. 102

Sec. 1511.10. (A) Except as provided in division (B) of 103
this section, no person in the western basin shall surface apply 104
manure under any of the following circumstances: 105

(1) On snow-covered or frozen soil; 106

(2) When the top two inches of soil are saturated from 107
precipitation; 108

(3) When the local weather forecast for the application 109
area contains greater than a fifty per cent chance of 110
precipitation exceeding one-half inch in a twenty-four-hour 111
period. 112

(B) Division (A) of this section does not apply if a 113
person in the western basin applies manure under any of the 114
following circumstances: 115

(1) The manure is injected into the ground. 116

(2) The manure is incorporated within twenty-four hours of 117
surface application. 118

(3) The manure is applied onto a growing crop. 119

(4) In the event of an emergency, the chief of the 120
division of soil and water resources provides written consent 121
and the manure application is made in accordance with procedures 122
established in the United States department of agriculture 123
natural resources conservation service practice standard code 124
590 prepared for this state. 125

(C) (1) Upon receiving a complaint by any person or upon 126
receiving information that would indicate a violation of this 127

section, the chief or the chief's designee may investigate or 128
make inquiries into any alleged failure to comply with this 129
section. 130

(2) After receiving a complaint by any person or upon 131
receiving information that would indicate a violation of this 132
section, the chief or the chief's designee may enter at 133
reasonable times on any private or public property to inspect 134
and investigate conditions relating to any such alleged failure 135
to comply with this section. 136

(3) If an individual denies access to the individual's 137
property, the chief may apply to a court of competent 138
jurisdiction in the county in which the premises is located for 139
a search warrant authorizing access to the premises for the 140
purposes of this section. 141

(4) The court shall issue the search warrant for the 142
purposes requested if there is probable cause to believe that 143
the person is not in compliance with this section. The finding 144
of probable cause may be based on hearsay, provided that there 145
is a reasonable basis for believing that the source of the 146
hearsay is credible. 147

(D) This section does not affect any restrictions 148
established in Chapter 903. of the Revised Code or otherwise 149
apply to those entities or facilities that are permitted as 150
concentrated animal feeding facilities under that chapter. 151

(E) As used in this section, "western basin" has the same 152
meaning as in section 905.326 of the Revised Code. 153

Sec. 1511.11. (A) The chief of the division of soil and 154
water resources may assess a civil penalty against a person that 155
violates section 1511.10 of the Revised Code. The chief may 156

impose a civil penalty only if the chief affords the person an 157
opportunity for an adjudication hearing under Chapter 119. of 158
the Revised Code to challenge the chief's determination that the 159
person violated section 1511.10 of the Revised Code. The person 160
may waive the right to an adjudication hearing. 161

(B) If the opportunity for an adjudication hearing is 162
waived or if, after an adjudication hearing, the chief 163
determines that a violation has occurred or is occurring, the 164
chief may issue an order requiring compliance with section 165
1511.10 of the Revised Code and assess the civil penalty. The 166
order and the assessment of the civil penalty may be appealed in 167
accordance with section 119.12 of the Revised Code. 168

(C) A person that has violated section 1511.10 of the 169
Revised Code shall pay a civil penalty in an amount established 170
in rules. Each thirty-day period during which a violation 171
continues constitutes a separate violation. 172

(D) The chief shall adopt rules in accordance with Chapter 173
119. of the Revised Code that establish the amount of the civil 174
penalty assessed under this section. The civil penalty shall be 175
not more than ten thousand dollars for each violation. 176

Sec. 3745.50. (A) The director of environmental protection 177
shall serve as coordinator, or designate a coordinator, of 178
harmful algae management and response. The director or the 179
director's designee shall develop plans providing for 180
coordination that may include, but are not limited to, the 181
actions and items specified in divisions (B) and (C) of this 182
section. 183

(B) The director or the director's designee shall consult 184
with the directors of agriculture, health, and natural resources 185

and representatives of local governments, publicly owned 186
treatment works, and public water systems to implement actions 187
that do both of the following: 188

(1) Protect against cyanobacteria in the western basin and 189
public water supplies; 190

(2) Manage wastewater to limit nutrient loading into the 191
western basin. 192

(C) The director or the director's designee shall develop 193
and implement protocols and actions that may include, but are 194
not limited to, the following: 195

(1) Analytical protocols for monitoring of cyanobacteria 196
at water intake structures of public water systems, testing for 197
cyanobacteria in Lake Erie, and establishing public health 198
advisory levels and public notification protocols if trigger 199
levels of cyanobacteria are detected; 200

(2) Provisions on training, testing, and treatment and 201
other support regarding cyanobacteria identification, sampling, 202
treatment techniques, algaecide application, public 203
notification, and source water protection for employees of 204
publicly owned treatment works and public water systems; 205

(3) Protocols for monitoring the tributaries of the 206
western basin for phosphorous, nitrogen, and sediment runoff and 207
other chemical and biological agents, as determined by the 208
director or the director's designee, that may result in harmful 209
algae, cyanotoxins, and other adverse impacts on the waters of 210
the state; 211

(4) Protocols requiring public water systems to notify the 212
environmental protection agency if any of the following occurs: 213

<u>(a) Cyanotoxins are detected in finished drinking water.</u>	214
<u>(b) Cyanobacteria are detected in their source water.</u>	215
<u>(c) Application of an algaecide is anticipated to the source water.</u>	216 217
<u>(D) As used in this section, "western basin" has the same meaning as in section 905.326 of the Revised Code.</u>	218 219
Sec. 6109.10. (A) <u>(1) As used in this section, "lead free" means:</u>	220 221
(1) When used with respect to solders or flux, solders or flux containing <u>(a) Containing not more than two-tenths of one per cent lead when used with respect to solders or flux;</u>	222 223 224
(2) When used with respect to pipes or pipe fittings, pipes or pipe fittings containing <u>(b) Containing not more than eight a weighted average of twenty-five-hundredths per cent lead when used with respect to wetted surfaces of pipes, pipe fittings, or plumbing fittings or fixtures.</u>	225 226 227 228 229
(B) Any pipe, pipe fitting, solder, or flux that is used in the installation or repair of a public water system or of any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system shall be lead free. This division does not apply to leaded joints necessary for the repair of cast iron pipes. <u>(2) For purposes of this section, the weighted average lead content of a pipe, pipe fitting, or plumbing fitting or fixture shall be calculated by using the following formula: for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to determine the weighted percentage of lead of the component.</u>	230 231 232 233 234 235 236 237 238 239 240 241 242

The weighted percentage of lead of each wetted component shall 243
be added together, and the sum of the weighted percentages shall 244
constitute the weighted average lead content of the product. The 245
lead content of the material used to produce wetted components 246
shall be used to determine whether the wetted surfaces are lead 247
free pursuant to division (A) (1) (b) of this section. For 248
purposes of the lead contents of materials that are provided as 249
a range, the maximum content of the range shall be used. 250

(B) Except as provided in division (D) of this section, no 251
person shall do any of the following: 252

(1) Use any pipe, pipe fitting, plumbing fitting or 253
fixture, solder, or flux that is not lead free in the 254
installation or repair of a public water system or of any 255
plumbing in a residential or nonresidential facility providing 256
water for human consumption; 257

(2) Introduce into commerce any pipe, pipe fitting, or 258
plumbing fitting or fixture that is not lead free; 259

(3) Sell solder or flux that is not lead free while 260
engaged in the business of selling plumbing supplies; 261

(4) Introduce into commerce any solder or flux that is not 262
lead free unless the solder or flux has a prominent label 263
stating that it is illegal to use the solder or flux in the 264
installation or repair of any plumbing providing water for human 265
consumption. 266

(C) ~~Each~~The owner or operator of a public water system 267
shall identify and provide notice to persons that may be 268
affected by lead contamination of their drinking water ~~if the~~ 269
contamination results from the lead content in the construction 270
materials of the public water distribution system, the 271

corrosivity of the water supply is sufficient to cause the 272
leaching of lead, or both. The notice shall be in such form and 273
manner as may be reasonably required by the director of 274
environmental protection, but shall provide a clear and readily 275
understandable explanation of all of the following: 276

(1) Potential sources of lead in the drinking water; 277

(2) Potential adverse health effects; 278

(3) Reasonably available methods of mitigating known or 279
potential lead content in drinking water; 280

(4) Any steps the public water system is taking to 281
mitigate lead content in drinking water; 282

(5) The necessity, if any, of seeking alternative water 283
supplies. 284

The notice shall be provided notwithstanding the absence of a 285
violation of any drinking water standard. 286

(D) (1) Division (B) (1) of this section does not apply to 287
the use of leaded joints that are necessary for the repair of 288
cast iron pipes. 289

(2) Division (B) (2) of this section does not apply to a 290
pipe that is used in manufacturing or industrial processing. 291

(3) Division (B) (3) of this section does not apply to the 292
selling of plumbing supplies by manufacturers of those supplies. 293

(4) Division (B) of this section does not apply to either 294
of the following: 295

(a) Pipes, pipe fittings, or plumbing fittings or 296
fixtures, including backflow preventers, that are used 297
exclusively for nonpotable services such as manufacturing, 298

industrial processing, irrigation, outdoor watering, or any 299
other uses where the water is not anticipated to be used for 300
human consumption; 301

(b) Toilets, bidets, urinals, fill valves, flushometer 302
valves, tub fillers, shower valves, service saddles, or water 303
distribution main gate valves that are two inches in diameter or 304
larger. 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 agencies or their representatives, including statewide organizations of local government officials, industrial representatives, and other interested persons.

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

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

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

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

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

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

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

(1) Prohibiting or abating discharges of sewage, 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. Any person who discharges, transports, or handles 393
storm water from an animal feeding facility, as defined in 394
section 903.01 of the Revised Code, or pollutants from a 395
concentrated animal feeding operation, as both terms are defined 396
in that section, is not required to obtain a permit under 397
division (J) (1) of this section for the installation or 398
modification of a disposal system involving pollutants or storm 399
water or any parts of such a system on and after the date on 400
which the director of agriculture has finalized the program 401
required under division (A) (1) of section 903.02 of the Revised 402
Code. In addition, any person who discharges, transports, or 403
handles storm water from an animal feeding facility, as defined 404
in section 903.01 of the Revised Code, or pollutants from a 405
concentrated animal feeding operation, as both terms are defined 406
in that section, is not required to obtain a permit under 407
division (J) (1) of this section for the discharge of storm water 408
from an animal feeding facility or pollutants from a 409
concentrated animal feeding operation on and after the date on 410
which the United States environmental protection agency approves 411
the NPDES program submitted by the director of agriculture under 412
section 903.08 of the Revised Code. 413

Any permit terms and conditions set by the director shall 414
be designed to achieve and maintain full compliance with the 415
national effluent limitations, national standards of performance 416

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

A sludge management permit is not required for an entity 426
that treats or transports sewage sludge or for a sanitary 427
landfill when all of the following apply: 428

(a) The entity or sanitary landfill does not generate the 429
sewage sludge. 430

(b) Prior to receipt at the sanitary landfill, the entity 431
has ensured that the sewage sludge meets the requirements 432
established in rules adopted by the director under section 433
3734.02 of the Revised Code concerning disposal of municipal 434
solid waste in a sanitary landfill. 435

(c) Disposal of the sewage sludge occurs at a sanitary 436
landfill that complies with rules adopted by the director under 437
section 3734.02 of the Revised Code. 438

As used in division (J)(1) of this section, "sanitary 439
landfill" means a sanitary landfill facility, as defined in 440
rules adopted under section 3734.02 of the Revised Code, that is 441
licensed as a solid waste facility under section 3734.05 of the 442
Revised Code. 443

(2) An application for a permit or renewal thereof shall 444
be denied if any of the following applies: 445

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

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

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

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

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

(4) Where a discharge having a thermal component from a source that is constructed or modified on or after October 18,

1972, meets national or state effluent limitations or more 475
stringent permit conditions designed to achieve and maintain 476
compliance with applicable standards of quality for the waters 477
of the state, which limitations or conditions will ensure 478
protection and propagation of a balanced, indigenous population 479
of shellfish, fish, and wildlife in or on the body of water into 480
which the discharge is made, taking into account the interaction 481
of the thermal component with sewage, industrial waste, or other 482
wastes, the director shall not impose any more stringent 483
limitation on the thermal component of the discharge, as a 484
condition of a permit or renewal thereof for the discharge, 485
during a ten-year period beginning on the date of completion of 486
the construction or modification of the source, or during the 487
period of depreciation or amortization of the source for the 488
purpose of section 167 or 169 of the Internal Revenue Code of 489
1954, whichever period ends first. 490

(5) The director shall specify in permits for the 491
discharge of sewage, industrial waste, and other wastes, the net 492
volume, net weight, duration, frequency, and, where necessary, 493
concentration of the sewage, industrial waste, and other wastes 494
that may be discharged into the waters of the state. The 495
director shall specify in those permits and in sludge management 496
permits that the permit is conditioned upon payment of 497
applicable fees as required by section 3745.11 of the Revised 498
Code and upon the right of the director's authorized 499
representatives to enter upon the premises of the person to whom 500
the permit has been issued for the purpose of determining 501
compliance with this chapter, rules adopted thereunder, or the 502
terms and conditions of a permit, order, or other determination. 503
The director shall issue or deny an application for a sludge 504
management permit or a permit for a new discharge, for the 505

installation or modification of a disposal system, or for the 506
renewal of a permit, within one hundred eighty days of the date 507
on which a complete application with all plans, specifications, 508
construction schedules, and other pertinent information required 509
by the director is received. 510

(6) The director may condition permits upon the 511
installation of discharge or water quality monitoring equipment 512
or devices and the filing of periodic reports on the amounts and 513
contents of discharges and the quality of receiving waters that 514
the director prescribes. The director shall condition each 515
permit for a government-owned disposal system or any other 516
"treatment works" as defined in the Federal Water Pollution 517
Control Act upon the reporting of new introductions of 518
industrial waste or other wastes and substantial changes in 519
volume or character thereof being introduced into those systems 520
or works from "industrial users" as defined in section 502 of 521
that act, as necessary to comply with section 402(b) (8) of that 522
act; upon the identification of the character and volume of 523
pollutants subject to pretreatment standards being introduced 524
into the system or works; and upon the existence of a program to 525
ensure compliance with pretreatment standards by "industrial 526
users" of the system or works. In requiring monitoring devices 527
and reports, the director, to the extent consistent with the 528
Federal Water Pollution Control Act, shall give consideration to 529
technical feasibility and economic reasonableness and shall 530
allow reasonable time for compliance. 531

(7) A permit may be issued for a period not to exceed five 532
years and may be renewed upon application for renewal. In 533
renewing a permit, the director shall consider the compliance 534
history of the permit holder and may deny the renewal if the 535
director determines that the permit holder has not complied with 536

the terms and conditions of the existing permit. A permit may be 537
modified, suspended, or revoked for cause, including, but not 538
limited to, violation of any condition of the permit, obtaining 539
a permit by misrepresentation or failure to disclose fully all 540
relevant facts of the permitted discharge or of the sludge use, 541
storage, treatment, or disposal practice, or changes in any 542
condition that requires either a temporary or permanent 543
reduction or elimination of the permitted activity. No 544
application shall be denied or permit revoked or modified 545
without a written order stating the findings upon which the 546
denial, revocation, or modification is based. A copy of the 547
order shall be sent to the applicant or permit holder by 548
certified mail. 549

(K) Institute or cause to be instituted in any court of 550
competent jurisdiction proceedings to compel compliance with 551
this chapter or with the orders of the director issued under 552
this chapter, or to ensure compliance with sections 204(b), 307, 553
308, and 405 of the Federal Water Pollution Control Act; 554

(L) Issue, deny, revoke, or modify industrial water 555
pollution control certificates; 556

(M) Certify to the government of the United States or any 557
agency thereof that an industrial water pollution control 558
facility is in conformity with the state program or requirements 559
for the control of water pollution whenever the certification 560
may be required for a taxpayer under the Internal Revenue Code 561
of the United States, as amended; 562

(N) Issue, modify, and revoke orders requiring any 563
"industrial user" of any publicly owned "treatment works" as 564
defined in sections 212(2) and 502(18) of the Federal Water 565
Pollution Control Act to comply with pretreatment standards; 566

establish and maintain records; make reports; install, use, and 567
maintain monitoring equipment or methods, including, where 568
appropriate, biological monitoring methods; sample discharges in 569
accordance with methods, at locations, at intervals, and in a 570
manner that the director determines; and provide other 571
information that is necessary to ascertain whether or not there 572
is compliance with toxic and pretreatment effluent standards. In 573
issuing, modifying, and revoking those orders, the director, to 574
the extent consistent with the Federal Water Pollution Control 575
Act, shall give consideration to technical feasibility and 576
economic reasonableness and shall allow reasonable time for 577
compliance. 578

(O) Exercise all incidental powers necessary to carry out 579
the purposes of this chapter; 580

(P) Certify or deny certification to any applicant for a 581
federal license or permit to conduct any activity that may 582
result in any discharge into the waters of the state that the 583
discharge will comply with the Federal Water Pollution Control 584
Act; 585

(Q) Administer and enforce the publicly owned treatment 586
works pretreatment program in accordance with the Federal Water 587
Pollution Control Act. In the administration of that program, 588
the director may do any of the following: 589

(1) Apply and enforce pretreatment standards; 590

(2) Approve and deny requests for approval of publicly 591
owned treatment works pretreatment programs, oversee those 592
programs, and implement, in whole or in part, those programs 593
under any of the following conditions: 594

(a) The director has denied a request for approval of the 595

publicly owned treatment works pretreatment program; 596

(b) The director has revoked the publicly owned treatment 597
works pretreatment program; 598

(c) There is no pretreatment program currently being 599
implemented by the publicly owned treatment works; 600

(d) The publicly owned treatment works has requested the 601
director to implement, in whole or in part, the pretreatment 602
program. 603

(3) Require that a publicly owned treatment works 604
pretreatment program be incorporated in a permit issued to a 605
publicly owned treatment works as required by the Federal Water 606
Pollution Control Act, require compliance by publicly owned 607
treatment works with those programs, and require compliance by 608
industrial users with pretreatment standards; 609

(4) Approve and deny requests for authority to modify 610
categorical pretreatment standards to reflect removal of 611
pollutants achieved by publicly owned treatment works; 612

(5) Deny and recommend approval of requests for 613
fundamentally different factors variances submitted by 614
industrial users; 615

(6) Make determinations on categorization of industrial 616
users; 617

(7) Adopt, amend, or rescind rules and issue, modify, or 618
revoke orders necessary for the administration and enforcement 619
of the publicly owned treatment works pretreatment program. 620

Any approval of a publicly owned treatment works 621
pretreatment program may contain any terms and conditions, 622
including schedules of compliance, that are necessary to achieve 623

compliance with this chapter. 624

(R) Except as otherwise provided in this division, adopt 625
rules in accordance with Chapter 119. of the Revised Code 626
establishing procedures, methods, and equipment and other 627
requirements for equipment to prevent and contain discharges of 628
oil and hazardous substances into the waters of the state. The 629
rules shall be consistent with and equivalent in scope, content, 630
and coverage to section 311(j) (1) (c) of the Federal Water 631
Pollution Control Act and regulations adopted under it. The 632
director shall not adopt rules under this division relating to 633
discharges of oil from oil production facilities and oil 634
drilling and workover facilities as those terms are defined in 635
that act and regulations adopted under it. 636

(S) (1) Administer and enforce a program for the regulation 637
of sludge management in this state. In administering the 638
program, the director, in addition to exercising the authority 639
provided in any other applicable sections of this chapter, may 640
do any of the following: 641

(a) Develop plans and programs for the disposal and 642
utilization of sludge and sludge materials; 643

(b) Encourage, participate in, or conduct studies, 644
investigations, research, and demonstrations relating to the 645
disposal and use of sludge and sludge materials and the impact 646
of sludge and sludge materials on land located in the state and 647
on the air and waters of the state; 648

(c) Collect and disseminate information relating to the 649
disposal and use of sludge and sludge materials and the impact 650
of sludge and sludge materials on land located in the state and 651
on the air and waters of the state; 652

(d) Issue, modify, or revoke orders to prevent, control, 653
or abate the use and disposal of sludge and sludge materials or 654
the effects of the use of sludge and sludge materials on land 655
located in the state and on the air and waters of the state; 656

(e) Adopt and enforce, modify, or rescind rules necessary 657
for the implementation of division (S) of this section. The 658
rules reasonably shall protect public health and the 659
environment, encourage the beneficial reuse of sludge and sludge 660
materials, and minimize the creation of nuisance odors. 661

The director may specify in sludge management permits the 662
net volume, net weight, quality, and pollutant concentration of 663
the sludge or sludge materials that may be used, stored, 664
treated, or disposed of, and the manner and frequency of the 665
use, storage, treatment, or disposal, to protect public health 666
and the environment from adverse effects relating to those 667
activities. The director shall impose other terms and conditions 668
to protect public health and the environment, minimize the 669
creation of nuisance odors, and achieve compliance with this 670
chapter and rules adopted under it and, in doing so, shall 671
consider whether the terms and conditions are consistent with 672
the goal of encouraging the beneficial reuse of sludge and 673
sludge materials. 674

The director may condition permits on the implementation 675
of treatment, storage, disposal, distribution, or application 676
management methods and the filing of periodic reports on the 677
amounts, composition, and quality of sludge and sludge materials 678
that are disposed of, used, treated, or stored. 679

An approval of a treatment works sludge disposal program 680
may contain any terms and conditions, including schedules of 681
compliance, necessary to achieve compliance with this chapter 682

and rules adopted under it. 683

(2) As a part of the program established under division 684
(S) (1) of this section, the director has exclusive authority to 685
regulate sewage sludge management in this state. For purposes of 686
division (S) (2) of this section, that program shall be 687
consistent with section 405 of the Federal Water Pollution 688
Control Act and regulations adopted under it and with this 689
section, except that the director may adopt rules under division 690
(S) of this section that establish requirements that are more 691
stringent than section 405 of the Federal Water Pollution 692
Control Act and regulations adopted under it with regard to 693
monitoring sewage sludge and sewage sludge materials and 694
establishing acceptable sewage sludge management practices and 695
pollutant levels in sewage sludge and sewage sludge materials. 696

(T) Study, examine, and calculate nutrient loading from 697
point and nonpoint sources in order to determine comparative 698
contributions by those sources and to utilize the information 699
derived from those calculations to determine the most 700
environmentally beneficial and cost-effective mechanisms to 701
reduce nutrient loading to watersheds in the Lake Erie basin and 702
the Ohio river basin. In order to evaluate nutrient loading 703
contributions, the director or the director's designee shall 704
conduct a study of the nutrient mass balance for both point and 705
nonpoint sources in watersheds in the Lake Erie basin and the 706
Ohio river basin using available data, including both of the 707
following: 708

(1) Data on water quality and stream flow; 709

(2) Data on point source discharges into those watersheds. 710

The director or the director's designee shall report and 711

update the results of the study to coincide with the release of 712
the Ohio integrated water quality monitoring and assessment 713
report prepared by the director. 714

This chapter authorizes the state to participate in any 715
national sludge management program and the national pollutant 716
discharge elimination system, to administer and enforce the 717
publicly owned treatment works pretreatment program, and to 718
issue permits for the discharge of dredged or fill materials, in 719
accordance with the Federal Water Pollution Control Act. This 720
chapter shall be administered, consistent with the laws of this 721
state and federal law, in the same manner that the Federal Water 722
Pollution Control Act is required to be administered. 723

This section does not apply to residual farm products and 724
manure disposal systems and related management and conservation 725
practices subject to rules adopted pursuant to division (E) (1) 726
of section 1511.02 of the Revised Code. For purposes of this 727
exclusion, "residual farm products" and "manure" have the same 728
meanings as in section 1511.01 of the Revised Code. However, 729
until the date on which the United States environmental 730
protection agency approves the NPDES program submitted by the 731
director of agriculture under section 903.08 of the Revised 732
Code, this exclusion does not apply to animal waste treatment 733
works having a controlled direct discharge to the waters of the 734
state or any concentrated animal feeding operation, as defined 735
in 40 C.F.R. 122.23(b) (2). On and after the date on which the 736
United States environmental protection agency approves the NPDES 737
program submitted by the director of agriculture under section 738
903.08 of the Revised Code, this section does not apply to storm 739
water from an animal feeding facility, as defined in section 740
903.01 of the Revised Code, or to pollutants discharged from a 741
concentrated animal feeding operation, as both terms are defined 742

in that section. Neither of these exclusions applies to the 743
discharge of animal waste into a publicly owned treatment works. 744

A publicly owned treatment works with a design flow of one 745
million gallons per day or more, or designated as a major 746
discharger by the director, shall begin monthly monitoring of 747
total and dissolved phosphorous not later than December 1, 2016. 748
In addition, a publicly owned treatment works that, on the 749
effective date of this amendment, is not subject to a 750
phosphorous effluent limit of one milligram per liter as a 751
thirty-day average shall complete and submit an optimization 752
study that evaluates the publicly owned treatment works' ability 753
to reduce phosphorous to one milligram per liter as a thirty-day 754
average. 755

Sec. 6111.32. (A) In order to ensure the regular and 756
orderly maintenance of federal navigation channels and ports in 757
this state, the director of environmental protection shall 758
endeavor to work with the United States army corps of engineers 759
on a dredging plan that focuses on long-term planning for the 760
disposition of dredged material consistent with the requirements 761
established in this section. 762

(B) On and after July 1, 2020, no person shall deposit 763
dredged material in the portion of Lake Erie that is within the 764
jurisdictional boundaries of this state or in the direct 765
tributaries of Lake Erie within this state that resulted from 766
harbor or navigation maintenance activities unless the director 767
has determined that the dredged material is suitable for one of 768
the locations, purposes, or activities specified in division (C) 769
of this section and has issued a section 401 water quality 770
certification authorizing the deposit. 771

(C) The director may authorize the deposit of dredged 772

material in the portion of Lake Erie that is within the 773
jurisdictional boundaries of this state or in the direct 774
tributaries of Lake Erie within this state that resulted from 775
harbor or navigation maintenance activities for any of the 776
following: 777

(1) Confined disposal facilities; 778

(2) Beneficial use projects; 779

(3) Beach nourishment projects if at least eighty per cent 780
of the dredged material is sand; 781

(4) Placement in the littoral drift if at least sixty per 782
cent of the dredged material is sand; 783

(5) Habitat restoration projects; 784

(6) Projects involving amounts of dredged material that do 785
not exceed ten thousand cubic yards, including material 786
associated with dewatering operations related to dredging 787
operations. 788

(D) The director may consult with the director of natural 789
resources for the purposes of this section. The director of 790
environmental protection has exclusive authority to approve the 791
location in which dredged material is proposed to be deposited 792
in the portion of Lake Erie that is within the jurisdictional 793
boundaries of this state or in the direct tributaries of Lake 794
Erie within this state. 795

(E) The director, in consultation with the director of 796
natural resources, may determine that financial, environmental, 797
regulatory, or other factors exist that result in the inability 798
to comply with this section. After making that determination, 799
the director, through the issuance of a section 401 water 800

quality certification, may allow for open lake placement of 801
dredged material from the Maumee river, Maumee bay federal 802
navigation channel, and Toledo harbor. 803

(F) The director may adopt rules in accordance with 804
Chapter 119. of the Revised Code that are necessary for the 805
implementation of this section. 806

Section 2. That existing sections 6109.10 and 6111.03 of 807
the Revised Code are hereby repealed. 808

Section 3. That Section 333.30 of H.B. 59 of the 130th 809
General Assembly be amended to read as follows: 810

Sec. 333.30. LEASE RENTAL PAYMENTS 811

The foregoing appropriation item 725413, Lease Rental 812
Payments, shall be used to meet all payments at the times they 813
are required to be made during the period from July 1, 2013, 814
through June 30, 2015, by the Department of Natural Resources 815
pursuant to leases and agreements made under section 154.22 of 816
the Revised Code. These appropriations are the source of funds 817
pledged for bond service charges on related obligations issued 818
under Chapter 154. of the Revised Code. 819

CANAL LANDS 820

The foregoing appropriation item 725456, Canal Lands, 821
shall be used to provide operating expenses for the State Canal 822
Lands Program. 823

HEALTHY LAKE ERIE FUND 824

The foregoing appropriation item 725505, Healthy Lake Erie 825
Fund, shall be used by the Director of Natural Resources, ~~in~~ 826
~~consultation with the Director of Agriculture and the Director~~ 827
~~of Environmental Protection, to implement nonstatutory~~ 828

~~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) Except as provided in division (B) of this

section, sections 905.326, 905.327, 1511.10, and 1511.11 of the Revised Code, as enacted by this act, cease to operate five years after the effective date of this section.

(B) Not later than four years after the effective date of this section, the committees of the House of Representatives and the Senate that are primarily responsible for agriculture and natural resources matters jointly shall review the effectiveness of the sections of the Revised Code specified in division (A) of this section in order to determine whether to recommend legislation terminating the cessation of operation established in that division. The committees jointly shall issue a report to the Governor containing their findings and recommendation. If the committees recommend termination of the cessation, the committees may include in the report additional recommendations for revisions to those sections.

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

Section 7. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that it is imperative to address public health issues in the western Lake Erie basin related to algae and algal blooms prior to this year's growing and recreation seasons. Therefore, this act shall go into immediate effect.