

**As Reported by the House Agriculture and Rural Development  
Committee**

**131st General Assembly**

**Regular Session  
2015-2016**

**Sub. S. B. No. 1**

**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**

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**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 certification under section 903.07 of the Revised Code. 18  
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(2) The person has been certified under this section to apply the manure by the director of agriculture. 20  
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(B) The director shall issue, renew, and deny certifications for the purposes of division (A)(2) of this section in the manner established in sections 905.321 and 905.322 of the Revised Code and rules adopted under the latter section for the certification of fertilizer applicators. Procedures, requirements, and other provisions that are established in those sections and rules apply to the certification of persons under division (A)(2) of this section. For purposes of that application, references in sections 905.321 and 905.322 of the Revised Code to "fertilizer" are deemed to be replaced with references to "manure." 22  
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**Sec. 905.326.** (A) (1) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer under either of the following circumstances: 33  
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(a) On snow-covered or frozen soil; 36

(b) When the top two inches of soil are saturated from precipitation. 37  
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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. 39  
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(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  
manure under any of the following circumstances: 125

(1) On snow-covered or frozen soil; 126

(2) When the top two inches of soil are saturated from 127

<u>precipitation;</u>	128
<u>(3) When the local weather forecast for the application</u>	129
<u>area contains greater than a fifty per cent chance of</u>	130
<u>precipitation exceeding one-half inch in a twenty-four-hour</u>	131
<u>period.</u>	132
<u>(B) Division (A) of this section does not apply if a</u>	133
<u>person in the western basin applies manure under any of the</u>	134
<u>following circumstances:</u>	135
<u>(1) The manure is injected into the ground.</u>	136
<u>(2) The manure is incorporated within twenty-four hours of</u>	137
<u>surface application.</u>	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</u>	140
<u>division of soil and water resources or the chief's designee</u>	141
<u>provides written consent and the manure application is made in</u>	142
<u>accordance with procedures established in the United States</u>	143
<u>department of agriculture natural resources conservation service</u>	144
<u>practice standard code 590 prepared for this state.</u>	145
<u>(C) (1) Upon receiving a complaint by any person or upon</u>	146
<u>receiving information that would indicate a violation of this</u>	147
<u>section, the chief or the chief's designee may investigate or</u>	148
<u>make inquiries into any alleged failure to comply with this</u>	149
<u>section.</u>	150
<u>(2) After receiving a complaint by any person or upon</u>	151
<u>receiving information that would indicate a violation of this</u>	152
<u>section, the chief or the chief's designee may enter at</u>	153
<u>reasonable times on any private or public property to inspect</u>	154
<u>and investigate conditions relating to any such alleged failure</u>	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 238  
applicant understands the provisions of sections 1511.10 and 239  
1511.11 of the Revised Code; 240

(b) A statement from the applicant affirming that the 241

applicant understands that the applicant must be in compliance 242  
with procedures established in the United States department of 243  
agriculture natural resources conservation service practice 244  
standard code 590 prepared for this state except procedures that 245  
are in conflict with this section and section 1511.10 of the 246  
Revised Code; 247

(c) A place for the applicant to explain the reasons for 248  
the necessity for the exemption; 249

(d) A place on the form that provides information on 250  
programs that may assist an applicant with methods to comply 251  
with division (A) of section 1511.10 of the Revised Code; 252

(e) A place on the form that provides the applicant an 253  
opportunity to request technical assistance or information from 254  
the chief or the applicable soil and water conservation district 255  
to assist the applicant to comply with division (A) of section 256  
1511.10 of the Revised Code. 257

(F) As used in this section: 258

(1) "Small agricultural operation" means an agricultural 259  
operation in the western basin that stables or confines fewer 260  
than any of the numbers of animals specified in divisions (Q) (1) 261  
(a) to (m) of section 903.01 of the Revised Code. 262

(2) "Medium agricultural operation" means an agricultural 263  
operation in the western basin that stables or confines any of 264  
the numbers of animals specified in divisions (Q) (1) (a) to (m) 265  
of section 903.01 of the Revised Code. 266

(3) "Western basin" has the same meaning as in section 267  
905.326 of the Revised Code. 268

**Sec. 3745.50.** (A) The director of environmental protection 269

shall serve as coordinator, or designate a coordinator, of 270  
harmful algae management and response. The director or the 271  
director's designee shall develop plans providing for 272  
coordination that may include, but are not limited to, the 273  
actions and items specified in divisions (B) and (C) of this 274  
section. 275

(B) The director or the director's designee shall consult 276  
with the directors of agriculture, health, and natural resources 277  
and representatives of local governments, publicly owned 278  
treatment works, and public water systems to implement actions 279  
that do both of the following: 280

(1) Protect against cyanobacteria in the western basin and 281  
public water supplies; 282

(2) Manage wastewater to limit nutrient loading into the 283  
western basin. 284

(C) The director or the director's designee shall develop 285  
and implement protocols and actions that may include, but are 286  
not limited to, the following: 287

(1) Analytical protocols for monitoring of cyanobacteria 288  
at water intake structures of public water systems, testing for 289  
cyanobacteria in Lake Erie, and establishing public health 290  
advisory levels and public notification protocols if trigger 291  
levels of cyanotoxins are detected; 292

(2) Provisions on training, testing, and treatment and 293  
other support regarding cyanobacteria identification, sampling, 294  
treatment techniques, algaecide application, public 295  
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

<u>environmental protection agency if any of the following occurs:</u>	299
<u>(a) Cyanotoxins are detected in finished drinking water.</u>	300
<u>(b) Cyanobacteria are detected in their source water.</u>	301
<u>(c) Application of an algaecide is anticipated to the</u> <u>source water.</u>	302 303
<u>(D) As used in this section, "western basin" has the same</u> <u>meaning as in section 905.326 of the Revised Code.</u>	304 305
<b>Sec. 6111.03.</b> The director of environmental protection may do any of the following:	306 307
(A) Develop plans and programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;	308 309 310
(B) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, and interstate agencies and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter. Before adopting, amending, or rescinding a standard or rule pursuant to division (G) of this section or section 6111.041 or 6111.042 of the Revised Code, the director shall do all of the following:	311 312 313 314 315 316 317 318
(1) Mail notice to each statewide organization that the director determines represents persons who would be affected by the proposed standard or rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;	319 320 321 322 323
(2) Mail a copy of each proposed standard or rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request	324 325 326

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.	328 329 330 331
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.	332 333 334 335
(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;	336 337 338 339 340
(D) Administer state grants for the construction of sewage and waste collection and treatment works;	341 342
(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;	343 344 345 346 347
(F) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;	348 349
(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;	350 351 352 353 354

(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 442  
landfill" means a sanitary landfill facility, as defined in 443  
rules adopted under section 3734.02 of the Revised Code, that is 444

licensed as a solid waste facility under section 3734.05 of the Revised Code. 445  
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(2) An application for a permit or renewal thereof shall be denied if any of the following applies: 447  
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(a) The secretary of the army determines in writing that anchorage or navigation would be substantially impaired thereby; 449  
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(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; 451  
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(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; 455  
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(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. 459  
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(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 462  
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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 594

owned treatment works pretreatment programs, oversee those 595  
programs, and implement, in whole or in part, those programs 596  
under any of the following conditions: 597

(a) The director has denied a request for approval of the 598  
publicly owned treatment works pretreatment program; 599

(b) The director has revoked the publicly owned treatment 600  
works pretreatment program; 601

(c) There is no pretreatment program currently being 602  
implemented by the publicly owned treatment works; 603

(d) The publicly owned treatment works has requested the 604  
director to implement, in whole or in part, the pretreatment 605  
program. 606

(3) Require that a publicly owned treatment works 607  
pretreatment program be incorporated in a permit issued to a 608  
publicly owned treatment works as required by the Federal Water 609  
Pollution Control Act, require compliance by publicly owned 610  
treatment works with those programs, and require compliance by 611  
industrial users with pretreatment standards; 612

(4) Approve and deny requests for authority to modify 613  
categorical pretreatment standards to reflect removal of 614  
pollutants achieved by publicly owned treatment works; 615

(5) Deny and recommend approval of requests for 616  
fundamentally different factors variances submitted by 617  
industrial users; 618

(6) Make determinations on categorization of industrial 619  
users; 620

(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 709  
manure disposal systems and related management and conservation 710  
practices subject to rules adopted pursuant to division (E) (1) 711

of section 1511.02 of the Revised Code. For purposes of this 712  
exclusion, "residual farm products" and "manure" have the same 713  
meanings as in section 1511.01 of the Revised Code. However, 714  
until the date on which the United States environmental 715  
protection agency approves the NPDES program submitted by the 716  
director of agriculture under section 903.08 of the Revised 717  
Code, this exclusion does not apply to animal waste treatment 718  
works having a controlled direct discharge to the waters of the 719  
state or any concentrated animal feeding operation, as defined 720  
in 40 C.F.R. 122.23(b) (2). On and after the date on which the 721  
United States environmental protection agency approves the NPDES 722  
program submitted by the director of agriculture under section 723  
903.08 of the Revised Code, this section does not apply to storm 724  
water from an animal feeding facility, as defined in section 725  
903.01 of the Revised Code, or to pollutants discharged from a 726  
concentrated animal feeding operation, as both terms are defined 727  
in that section. Neither of these exclusions applies to the 728  
discharge of animal waste into a publicly owned treatment works. 729

Not later than December 1, 2016, a publicly owned 730  
treatment works with a design flow of one million gallons per 731  
day or more, or designated as a major discharger by the 732  
director, shall be required to begin monthly monitoring of total 733  
and dissolved reactive phosphorus pursuant to a new NPDES 734  
permit, an NPDES permit renewal, or a director-initiated 735  
modification. The director shall include in each applicable new 736  
NPDES permit, NPDES permit renewal, or director-initiated 737  
modification a requirement that such monitoring be conducted. A 738  
director-initiated modification for that purpose shall be 739  
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

<u>(1) Confined disposal facilities;</u>	773
<u>(2) Beneficial use projects;</u>	774
<u>(3) Beach nourishment projects if at least eighty per cent of the dredged material is sand;</u>	775 776
<u>(4) Placement in the littoral drift if at least sixty per cent of the dredged material is sand;</u>	777 778
<u>(5) Habitat restoration projects;</u>	779
<u>(6) Projects involving amounts of dredged material that do not exceed ten thousand cubic yards, including material associated with dewatering operations related to dredging operations.</u>	780 781 782 783
<u>(D) In order to coordinate the activities and responsibilities established under this chapter and Chapter 1506. of the Revised Code, the director shall consult with the director of natural resources when approving the location in which dredged material is proposed to be deposited in the portion of Lake Erie that is within the jurisdictional boundaries of this state or in the direct tributaries of Lake Erie within this state.</u>	784 785 786 787 788 789 790 791
<u>(E) The director of environmental protection, in consultation with the director of natural resources, may determine that financial, environmental, regulatory, or other factors exist that result in the inability to comply with this section. After making that determination, the director of environmental protection, through the issuance of a section 401 water quality certification, may allow for open lake placement of dredged material from the Maumee river, Maumee bay federal navigation channel, and Toledo harbor.</u>	792 793 794 795 796 797 798 799 800

(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the implementation of this section. 801  
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**Section 2.** That existing section 6111.03 of the Revised Code is hereby repealed. 804  
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**Section 3.** That Section 333.30 of H.B. 59 of the 130th General Assembly be amended to read as follows: 806  
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**Sec. 333.30. LEASE RENTAL PAYMENTS** 808

The foregoing appropriation item 725413, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapter 154. of the Revised Code. 809  
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**CANAL LANDS** 817

The foregoing appropriation item 725456, Canal Lands, shall be used to provide operating expenses for the State Canal Lands Program. 818  
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**HEALTHY LAKE ERIE FUND** 821

The foregoing appropriation item 725505, Healthy Lake Erie Fund, shall be used by the Director of Natural Resources, ~~in consultation with the Director of Agriculture and the Director of Environmental Protection, to implement nonstatutory recommendations of the Agriculture Nutrients and Water Quality Working Group. The Director shall give priority to recommendations that encourage farmers to adopt agricultural~~ 822  
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~~production guidelines commonly known as 4R nutrient stewardship~~ 829  
~~practices. Funds may also be used for enhanced~~ 830  
(1) conservation measures in the Western Lake Erie Basin as 831  
determined by the Director; (2) funding assistance for soil 832  
testing, in the Western Lake Erie Basin, monitoring the quality 833  
of Lake Erie and its tributaries, and conducting research and 834  
establishing pilot projects that have the goal of reducing algae 835  
blooms in Lake Erie. winter cover crops, edge of field testing, 836  
tributary monitoring, animal waste abatement; and (3) any 837  
additional efforts to reduce nutrient runoff as the Director may 838  
decide. The Director shall give priority to recommendations that 839  
encourage farmers to adopt agricultural production guidelines 840  
commonly known as 4R nutrient stewardship practices. 841

COAL AND MINE SAFETY PROGRAM 842

The foregoing appropriation item 725507, Coal and Mine 843  
Safety Program, shall be used for the administration of the Mine 844  
Safety Program and the Coal Regulation Program. 845

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 846

The foregoing appropriation item 725903, Natural Resources 847  
General Obligation Debt Service, shall be used to pay all debt 848  
service and related financing costs during the period July 1, 849  
2013, through June 30, 2015, on obligations issued under 850  
sections 151.01 and 151.05 of the Revised Code. 851

**Section 4.** That existing Section 333.30 of Am. Sub. H.B. 852  
59 of the 130th General Assembly is hereby repealed. 853

**Section 5.** (A) Not later than three years after the 854  
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