

As Introduced

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S. B. No. 16

Senator Brown

**Cosponsors: Senators Cafaro, Gentile, Sawyer, Schiavoni, Skindell, Tavares,
Thomas, Williams, Yuko**

A BILL

To amend sections 905.321 and 6111.03 and to enact
sections 901.80, 901.81, 901.82, 901.83,
905.326, and 905.327 of the Revised Code to
require applicators of fertilizer or manure to
comply with specified requirements and to
authorize the Director of Environmental
Protection to study and calculate nutrient
loading to Ohio watersheds from point and
nonpoint sources.

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

Section 1. That sections 905.321 and 6111.03 be amended
and sections 901.80, 901.81, 901.82, 901.83, 905.326, and
905.327 of the Revised Code be enacted to read as follows:

Sec. 901.80. (A) Beginning on the effective date of this
section through December 31, 2016, the chief of the division of
soil and water resources in the department of natural resources
shall administer and enforce this section and section 901.81 of
the Revised Code. On and after January 1, 2017, the director of
agriculture shall administer and enforce those sections.

(B) Except as provided in division (C) of this section, no person shall surface apply manure under any of the following circumstances: 19
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(1) On snow-covered or frozen soil unless: 22

(a) The manure application is injected into the ground. 23

(b) The manure application is incorporated within twenty-four hours of surface application. 24
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(c) In the event of an emergency, the chief or the director, as applicable, provides written consent and the person applying the manure complies with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state governing the application of manure on snow-covered or frozen soil. 26
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(2) When the top two inches of soil are saturated from precipitation; 33
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(3) When the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one-half inch in a twenty-four-hour period. 35
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(C) Division (B) of this section does not apply if a person applies manure onto a growing crop at the agronomic rate. 39
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(D) (1) Upon receiving a complaint by any person or upon receiving information that would indicate a violation of this section, the chief, the chief's designee, the director, or the director's designee, as applicable, may investigate or make inquiries into any alleged failure to comply with this section. 41
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(2) After receiving a complaint by any person or upon 46

receiving information that would indicate a violation of this 47
section, the chief, the chief's designee, the director, or the 48
director's designee, as applicable, may enter at reasonable 49
times on any private or public property to inspect and 50
investigate conditions relating to any such alleged failure to 51
comply with this section. 52

(3) If an individual denies access to the individual's 53
property, the chief, the chief's designee, the director, or the 54
director's designee, as applicable, may apply to a court of 55
competent jurisdiction in the county in which the premises is 56
located for a search warrant authorizing access to the premises 57
for the purposes of this section. 58

(4) The court shall issue the search warrant for the 59
purposes requested if there is probable cause to believe that 60
the person is not in compliance with this section. The finding 61
of probable cause may be based on hearsay, provided that there 62
is a reasonable basis for believing that the source of the 63
hearsay is credible. 64

(E) As used in this section, "agronomic rate" means the 65
rate at which manure can be added to soil for optimum crop 66
growth. 67

Sec. 901.81. (A) The chief of the division of soil and 68
water resources in the department of natural resources or the 69
director of agriculture, as applicable, may assess a civil 70
penalty against a person that violates section 901.80 of the 71
Revised Code. The chief or the director, as applicable, may 72
impose a civil penalty only if the chief or the director affords 73
the person an opportunity for an adjudication hearing under 74
Chapter 119. of the Revised Code to challenge the chief's or the 75
director's determination that the person violated section 901.80 76

of the Revised Code. The person may waive the right to an 77
adjudication hearing. 78

(B) If the opportunity for an adjudication hearing is 79
waived or if, after an adjudication hearing, the chief or the 80
director, as applicable, determines that a violation has 81
occurred or is occurring, the chief or the director may issue an 82
order requiring compliance with section 901.80 of the Revised 83
Code and assess the civil penalty. The order and the assessment 84
of the civil penalty may be appealed in accordance with section 85
119.12 of the Revised Code. 86

(C) A person that has violated section 901.80 of the 87
Revised Code shall pay a civil penalty in an amount established 88
in rules. Each day that a violation continues constitutes a 89
separate violation. 90

(D) The chief or the director, as applicable, shall adopt 91
rules in accordance with Chapter 119. of the Revised Code that 92
establish the amount of the civil penalty assessed under this 93
section. The civil penalty shall be not more than ten thousand 94
dollars for each violation. 95

Sec. 901.82. (A) Except as provided in division (B) of 96
this section, the owner or operator of an animal feeding 97
facility or a certified livestock manager for that owner or 98
operator shall annually file a report with the director of 99
agriculture in accordance with rules adopted under section 100
901.83 of the Revised Code. The owner or operator or manager 101
shall include in the report the following information for the 102
twelve-month period specified in the report with regard to each 103
applicable watershed or subwatershed in the state: 104

(1) The total estimated amount of manure applied on the 105

surface of agricultural fields by the owner or operator or 106
certified livestock manager; 107

(2) The total estimated amount of manure sold, otherwise 108
transferred, or both by the owner or operator or certified 109
livestock manager to other persons that apply the manure on the 110
surface of agricultural fields. 111

(B) Division (A) of this section does not apply to the 112
owner or operator of an animal feeding facility or a certified 113
livestock manager for that owner or operator that applies less 114
than three hundred fifty tons of dry manure per year or less 115
than one hundred thousand gallons of liquid manure per year. 116

(C) As used in this section: 117

(1) "Animal feeding facility" means an animal feeding 118
facility, as defined in section 903.01 of the Revised Code, 119
including a facility that has been issued a permit under Chapter 120
903. of the Revised Code or division (J) of section 6111.03 of 121
the Revised Code. 122

(2) "Certified livestock manager" means a person that has 123
been issued a livestock manager certification under section 124
903.07 of the Revised Code. 125

Sec. 901.83. The director of agriculture shall adopt rules 126
in accordance with Chapter 119. of the Revised Code that 127
establish requirements and procedures governing the filing of a 128
report under section 901.82 of the Revised Code with the 129
director by the owner or operator of an animal feeding facility 130
or the person who has been issued a livestock manager 131
certification under section 903.07 of the Revised Code for that 132
owner or operator. The rules shall include guidelines for use by 133
such an owner or operator or person when determining the 134

estimated annual amount of manure generated by agricultural 135
animals. The guidelines shall use animal units, as defined in 136
section 903.01 of the Revised Code, as the unit of measurement. 137

As used in this section, "animal feeding facility" has the 138
same meaning as in section 901.82 of the Revised Code. 139

Sec. 905.321. (A) ~~Beginning September thirtieth of the~~ 140
~~third year after the effective date of this section~~ June 30, 141
2015, no person shall apply fertilizer for the purposes of 142
agricultural production unless that person has been certified to 143
do so by the director of agriculture under this section and 144
rules or is acting under the instructions and control of a 145
person who is so certified. 146

(B) A person shall be certified to apply fertilizer for 147
purposes of agricultural production in accordance with rules. A 148
person that has been so certified shall comply with requirements 149
and procedures established in those rules. 150

(C) A person that has been licensed as a commercial 151
applicator under section 921.06 of the Revised Code or as a 152
private applicator under section 921.11 of the Revised Code may 153
apply to be certified under this section, but shall not be 154
required to pay the application fee for certification 155
established in rules adopted under section 905.322 of the 156
Revised Code. 157

(D) (1) Notwithstanding division (D) of section 905.31 of 158
the Revised Code, as used in this section and sections 905.322 159
to 905.325 of the Revised Code, "fertilizer" includes manure. 160

(2) For purposes of division (D) (1) of this section, 161
"manure" means animal excreta. 162

Sec. 905.326. (A) Except as provided in division (B) of 163

this section, no person shall surface apply fertilizer under any 164
of the following circumstances: 165

(1) On snow-covered or frozen soil; 166

(2) When the top two inches of soil are saturated from 167
precipitation; 168

(3) When the local weather forecast for the application 169
area contains greater than a fifty per cent chance of 170
precipitation exceeding one-half inch in a twenty-four-hour 171
period. 172

(B) Division (A) of this section does not apply if a 173
person applies fertilizer under any of the following 174
circumstances: 175

(1) The fertilizer application is injected into the 176
ground. 177

(2) The fertilizer application is incorporated within 178
twenty-four hours of surface application. 179

(3) The fertilizer application is applied onto a growing 180
crop at the agronomic rate. 181

(C) (1) Upon receiving a complaint by any person or upon 182
receiving information that would indicate a violation of this 183
section, the director or the director's designee may investigate 184
or make inquiries into any alleged failure to comply with this 185
section. 186

(2) After receiving a complaint by any person or upon 187
receiving information that would indicate a violation of this 188
section, the director or the director's designee may enter at 189
reasonable times on any private or public property to inspect 190
and investigate conditions relating to any such alleged failure 191

to comply with this section. 192

(3) If an individual denies access to the director or the 193
director's designee, the director may apply to a court of 194
competent jurisdiction in the county in which the premises is 195
located for a search warrant authorizing access to the premises 196
for the purposes of this section. 197

(4) The court shall issue the search warrant for the 198
purposes requested if there is probable cause to believe that 199
the person is not in compliance with this section. The finding 200
of probable cause may be based on hearsay, provided that there 201
is a reasonable basis for believing that the source of the 202
hearsay is credible. 203

(D) This section does not affect any restrictions 204
established in Chapter 903. of the Revised Code or otherwise 205
apply to those entities or facilities that are permitted as 206
concentrated animal feeding facilities under that chapter. 207

(E) As used in this section, "agronomic rate" means the 208
rate at which fertilizer can be added to soil for optimum crop 209
growth. 210

Sec. 905.327. (A) The director of agriculture may assess a 211
civil penalty against a person that violates section 905.326 of 212
the Revised Code. The director may impose a civil penalty only 213
if the director affords the person an opportunity for an 214
adjudication hearing under Chapter 119. of the Revised Code to 215
challenge the director's determination that the person violated 216
section 905.326 of the Revised Code. The person may waive the 217
right to an adjudication hearing. 218

(B) If the opportunity for an adjudication hearing is 219
waived or if, after an adjudication hearing, the director 220

determines that a violation has occurred or is occurring, the 221
director may issue an order requiring compliance with section 222
905.326 of the Revised Code and assess the civil penalty. The 223
order and the assessment of the civil penalty may be appealed in 224
accordance with section 119.12 of the Revised Code. 225

(C) A person that has violated section 905.326 of the 226
Revised Code shall pay a civil penalty in an amount established 227
in rules. Each day that a violation continues constitutes a 228
separate violation. 229

(D) The director shall adopt rules in accordance with 230
Chapter 119. of the Revised Code that establish the amount of 231
the civil penalty assessed under this section. The civil penalty 232
shall not be more than ten thousand dollars for each violation. 233

(E) For purposes of this section, "rule" means a rule 234
adopted under division (D) of this section. 235

Sec. 6111.03. The director of environmental protection may 236
do any of the following: 237

(A) Develop plans and programs for the prevention, 238
control, and abatement of new or existing pollution of the 239
waters of the state; 240

(B) Advise, consult, and cooperate with other agencies of 241
the state, the federal government, other states, and interstate 242
agencies and with affected groups, political subdivisions, and 243
industries in furtherance of the purposes of this chapter. 244
Before adopting, amending, or rescinding a standard or rule 245
pursuant to division (G) of this section or section 6111.041 or 246
6111.042 of the Revised Code, the director shall do all of the 247
following: 248

(1) Mail notice to each statewide organization that the 249

director determines represents persons who would be affected by 250
the proposed standard or rule, amendment thereto, or rescission 251
thereof at least thirty-five days before any public hearing 252
thereon; 253

(2) Mail a copy of each proposed standard or rule, 254
amendment thereto, or rescission thereof to any person who 255
requests a copy, within five days after receipt of the request 256
therefor; 257

(3) Consult with appropriate state and local government 258
agencies or their representatives, including statewide 259
organizations of local government officials, industrial 260
representatives, and other interested persons. 261

Although the director is expected to discharge these 262
duties diligently, failure to mail any such notice or copy or to 263
so consult with any person shall not invalidate any proceeding 264
or action of the director. 265

(C) Administer grants from the federal government and from 266
other sources, public or private, for carrying out any of its 267
functions, all such moneys to be deposited in the state treasury 268
and kept by the treasurer of state in a separate fund subject to 269
the lawful orders of the director; 270

(D) Administer state grants for the construction of sewage 271
and waste collection and treatment works; 272

(E) Encourage, participate in, or conduct studies, 273
investigations, research, and demonstrations relating to water 274
pollution, and the causes, prevention, control, and abatement 275
thereof, that are advisable and necessary for the discharge of 276
the director's duties under this chapter; 277

(F) Collect and disseminate information relating to water 278

pollution and prevention, control, and abatement thereof;	279
(G) Adopt, amend, and rescind rules in accordance with	280
Chapter 119. of the Revised Code governing the procedure for	281
hearings, the filing of reports, the issuance of permits, the	282
issuance of industrial water pollution control certificates, and	283
all other matters relating to procedure;	284
(H) Issue, modify, or revoke orders to prevent, control,	285
or abate water pollution by such means as the following:	286
(1) Prohibiting or abating discharges of sewage,	287
industrial waste, or other wastes into the waters of the state;	288
(2) Requiring the construction of new disposal systems or	289
any parts thereof, or the modification, extension, or alteration	290
of existing disposal systems or any parts thereof;	291
(3) Prohibiting additional connections to or extensions of	292
a sewerage system when the connections or extensions would	293
result in an increase in the polluting properties of the	294
effluent from the system when discharged into any waters of the	295
state;	296
(4) Requiring compliance with any standard or rule adopted	297
under sections 6111.01 to 6111.05 of the Revised Code or term or	298
condition of a permit.	299
In the making of those orders, wherever compliance with a	300
rule adopted under section 6111.042 of the Revised Code is not	301
involved, consistent with the Federal Water Pollution Control	302
Act, the director shall give consideration to, and base the	303
determination on, evidence relating to the technical feasibility	304
and economic reasonableness of complying with those orders and	305
to evidence relating to conditions calculated to result from	306
compliance with those orders, and their relation to benefits to	307

the people of the state to be derived from such compliance in 308
accomplishing the purposes of this chapter. 309

(I) Review plans, specifications, or other data relative 310
to disposal systems or any part thereof in connection with the 311
issuance of orders, permits, and industrial water pollution 312
control certificates under this chapter; 313

(J) (1) Issue, revoke, modify, or deny sludge management 314
permits and permits for the discharge of sewage, industrial 315
waste, or other wastes into the waters of the state, and for the 316
installation or modification of disposal systems or any parts 317
thereof in compliance with all requirements of the Federal Water 318
Pollution Control Act and mandatory regulations adopted 319
thereunder, including regulations adopted under section 405 of 320
the Federal Water Pollution Control Act, and set terms and 321
conditions of permits, including schedules of compliance, where 322
necessary. Any person who discharges, transports, or handles 323
storm water from an animal feeding facility, as defined in 324
section 903.01 of the Revised Code, or pollutants from a 325
concentrated animal feeding operation, as both terms are defined 326
in that section, is not required to obtain a permit under 327
division (J) (1) of this section for the installation or 328
modification of a disposal system involving pollutants or storm 329
water or any parts of such a system on and after the date on 330
which the director of agriculture has finalized the program 331
required under division (A) (1) of section 903.02 of the Revised 332
Code. In addition, any person who discharges, transports, or 333
handles storm water from an animal feeding facility, as defined 334
in section 903.01 of the Revised Code, or pollutants from a 335
concentrated animal feeding operation, as both terms are defined 336
in that section, is not required to obtain a permit under 337
division (J) (1) of this section for the discharge of storm water 338

from an animal feeding facility or pollutants from a 339
concentrated animal feeding operation on and after the date on 340
which the United States environmental protection agency approves 341
the NPDES program submitted by the director of agriculture under 342
section 903.08 of the Revised Code. 343

Any permit terms and conditions set by the director shall 344
be designed to achieve and maintain full compliance with the 345
national effluent limitations, national standards of performance 346
for new sources, and national toxic and pretreatment effluent 347
standards set under that act, and any other mandatory 348
requirements of that act that are imposed by regulation of the 349
administrator of the United States environmental protection 350
agency. If an applicant for a sludge management permit also 351
applies for a related permit for the discharge of sewage, 352
industrial waste, or other wastes into the waters of the state, 353
the director may combine the two permits and issue one permit to 354
the applicant. 355

A sludge management permit is not required for an entity 356
that treats or transports sewage sludge or for a sanitary 357
landfill when all of the following apply: 358

(a) The entity or sanitary landfill does not generate the 359
sewage sludge. 360

(b) Prior to receipt at the sanitary landfill, the entity 361
has ensured that the sewage sludge meets the requirements 362
established in rules adopted by the director under section 363
3734.02 of the Revised Code concerning disposal of municipal 364
solid waste in a sanitary landfill. 365

(c) Disposal of the sewage sludge occurs at a sanitary 366
landfill that complies with rules adopted by the director under 367

section 3734.02 of the Revised Code. 368

As used in division (J) (1) of this section, "sanitary 369
landfill" means a sanitary landfill facility, as defined in 370
rules adopted under section 3734.02 of the Revised Code, that is 371
licensed as a solid waste facility under section 3734.05 of the 372
Revised Code. 373

(2) An application for a permit or renewal thereof shall 374
be denied if any of the following applies: 375

(a) The secretary of the army determines in writing that 376
anchorage or navigation would be substantially impaired thereby; 377

(b) The director determines that the proposed discharge or 378
source would conflict with an areawide waste treatment 379
management plan adopted in accordance with section 208 of the 380
Federal Water Pollution Control Act; 381

(c) The administrator of the United States environmental 382
protection agency objects in writing to the issuance or renewal 383
of the permit in accordance with section 402 (d) of the Federal 384
Water Pollution Control Act; 385

(d) The application is for the discharge of any 386
radiological, chemical, or biological warfare agent or high- 387
level radioactive waste into the waters of the United States. 388

(3) To achieve and maintain applicable standards of 389
quality for the waters of the state adopted pursuant to section 390
6111.041 of the Revised Code, the director shall impose, where 391
necessary and appropriate, as conditions of each permit, water 392
quality related effluent limitations in accordance with sections 393
301, 302, 306, 307, and 405 of the Federal Water Pollution 394
Control Act and, to the extent consistent with that act, shall 395
give consideration to, and base the determination on, evidence 396

relating to the technical feasibility and economic 397
reasonableness of removing the polluting properties from those 398
wastes and to evidence relating to conditions calculated to 399
result from that action and their relation to benefits to the 400
people of the state and to accomplishment of the purposes of 401
this chapter. 402

(4) Where a discharge having a thermal component from a 403
source that is constructed or modified on or after October 18, 404
1972, meets national or state effluent limitations or more 405
stringent permit conditions designed to achieve and maintain 406
compliance with applicable standards of quality for the waters 407
of the state, which limitations or conditions will ensure 408
protection and propagation of a balanced, indigenous population 409
of shellfish, fish, and wildlife in or on the body of water into 410
which the discharge is made, taking into account the interaction 411
of the thermal component with sewage, industrial waste, or other 412
wastes, the director shall not impose any more stringent 413
limitation on the thermal component of the discharge, as a 414
condition of a permit or renewal thereof for the discharge, 415
during a ten-year period beginning on the date of completion of 416
the construction or modification of the source, or during the 417
period of depreciation or amortization of the source for the 418
purpose of section 167 or 169 of the Internal Revenue Code of 419
1954, whichever period ends first. 420

(5) The director shall specify in permits for the 421
discharge of sewage, industrial waste, and other wastes, the net 422
volume, net weight, duration, frequency, and, where necessary, 423
concentration of the sewage, industrial waste, and other wastes 424
that may be discharged into the waters of the state. The 425
director shall specify in those permits and in sludge management 426
permits that the permit is conditioned upon payment of 427

applicable fees as required by section 3745.11 of the Revised 428
Code and upon the right of the director's authorized 429
representatives to enter upon the premises of the person to whom 430
the permit has been issued for the purpose of determining 431
compliance with this chapter, rules adopted thereunder, or the 432
terms and conditions of a permit, order, or other determination. 433
The director shall issue or deny an application for a sludge 434
management permit or a permit for a new discharge, for the 435
installation or modification of a disposal system, or for the 436
renewal of a permit, within one hundred eighty days of the date 437
on which a complete application with all plans, specifications, 438
construction schedules, and other pertinent information required 439
by the director is received. 440

(6) The director may condition permits upon the 441
installation of discharge or water quality monitoring equipment 442
or devices and the filing of periodic reports on the amounts and 443
contents of discharges and the quality of receiving waters that 444
the director prescribes. The director shall condition each 445
permit for a government-owned disposal system or any other 446
"treatment works" as defined in the Federal Water Pollution 447
Control Act upon the reporting of new introductions of 448
industrial waste or other wastes and substantial changes in 449
volume or character thereof being introduced into those systems 450
or works from "industrial users" as defined in section 502 of 451
that act, as necessary to comply with section 402(b)(8) of that 452
act; upon the identification of the character and volume of 453
pollutants subject to pretreatment standards being introduced 454
into the system or works; and upon the existence of a program to 455
ensure compliance with pretreatment standards by "industrial 456
users" of the system or works. In requiring monitoring devices 457
and reports, the director, to the extent consistent with the 458

Federal Water Pollution Control Act, shall give consideration to 459
technical feasibility and economic reasonableness and shall 460
allow reasonable time for compliance. 461

(7) A permit may be issued for a period not to exceed five 462
years and may be renewed upon application for renewal. In 463
renewing a permit, the director shall consider the compliance 464
history of the permit holder and may deny the renewal if the 465
director determines that the permit holder has not complied with 466
the terms and conditions of the existing permit. A permit may be 467
modified, suspended, or revoked for cause, including, but not 468
limited to, violation of any condition of the permit, obtaining 469
a permit by misrepresentation or failure to disclose fully all 470
relevant facts of the permitted discharge or of the sludge use, 471
storage, treatment, or disposal practice, or changes in any 472
condition that requires either a temporary or permanent 473
reduction or elimination of the permitted activity. No 474
application shall be denied or permit revoked or modified 475
without a written order stating the findings upon which the 476
denial, revocation, or modification is based. A copy of the 477
order shall be sent to the applicant or permit holder by 478
certified mail. 479

(K) Institute or cause to be instituted in any court of 480
competent jurisdiction proceedings to compel compliance with 481
this chapter or with the orders of the director issued under 482
this chapter, or to ensure compliance with sections 204(b), 307, 483
308, and 405 of the Federal Water Pollution Control Act; 484

(L) Issue, deny, revoke, or modify industrial water 485
pollution control certificates; 486

(M) Certify to the government of the United States or any 487
agency thereof that an industrial water pollution control 488

facility is in conformity with the state program or requirements 489
for the control of water pollution whenever the certification 490
may be required for a taxpayer under the Internal Revenue Code 491
of the United States, as amended; 492

(N) Issue, modify, and revoke orders requiring any 493
"industrial user" of any publicly owned "treatment works" as 494
defined in sections 212(2) and 502(18) of the Federal Water 495
Pollution Control Act to comply with pretreatment standards; 496
establish and maintain records; make reports; install, use, and 497
maintain monitoring equipment or methods, including, where 498
appropriate, biological monitoring methods; sample discharges in 499
accordance with methods, at locations, at intervals, and in a 500
manner that the director determines; and provide other 501
information that is necessary to ascertain whether or not there 502
is compliance with toxic and pretreatment effluent standards. In 503
issuing, modifying, and revoking those orders, the director, to 504
the extent consistent with the Federal Water Pollution Control 505
Act, shall give consideration to technical feasibility and 506
economic reasonableness and shall allow reasonable time for 507
compliance. 508

(O) Exercise all incidental powers necessary to carry out 509
the purposes of this chapter; 510

(P) Certify or deny certification to any applicant for a 511
federal license or permit to conduct any activity that may 512
result in any discharge into the waters of the state that the 513
discharge will comply with the Federal Water Pollution Control 514
Act; 515

(Q) Administer and enforce the publicly owned treatment 516
works pretreatment program in accordance with the Federal Water 517
Pollution Control Act. In the administration of that program, 518

the director may do any of the following:	519
(1) Apply and enforce pretreatment standards;	520
(2) Approve and deny requests for approval of publicly owned treatment works pretreatment programs, oversee those programs, and implement, in whole or in part, those programs under any of the following conditions:	521
(a) The director has denied a request for approval of the publicly owned treatment works pretreatment program;	522
(b) The director has revoked the publicly owned treatment works pretreatment program;	523
(c) There is no pretreatment program currently being implemented by the publicly owned treatment works;	524
(d) The publicly owned treatment works has requested the director to implement, in whole or in part, the pretreatment program.	525
(3) Require that a publicly owned treatment works pretreatment program be incorporated in a permit issued to a publicly owned treatment works as required by the Federal Water Pollution Control Act, require compliance by publicly owned treatment works with those programs, and require compliance by industrial users with pretreatment standards;	526
(4) Approve and deny requests for authority to modify categorical pretreatment standards to reflect removal of pollutants achieved by publicly owned treatment works;	527
(5) Deny and recommend approval of requests for fundamentally different factors variances submitted by industrial users;	528
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(6) Make determinations on categorization of industrial users; 546
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(7) Adopt, amend, or rescind rules and issue, modify, or revoke orders necessary for the administration and enforcement of the publicly owned treatment works pretreatment program. 548
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Any approval of a publicly owned treatment works pretreatment program may contain any terms and conditions, including schedules of compliance, that are necessary to achieve compliance with this chapter. 551
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(R) Except as otherwise provided in this division, adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures, methods, and equipment and other requirements for equipment to prevent and contain discharges of oil and hazardous substances into the waters of the state. The rules shall be consistent with and equivalent in scope, content, and coverage to section 311(j) (1) (c) of the Federal Water Pollution Control Act and regulations adopted under it. The director shall not adopt rules under this division relating to discharges of oil from oil production facilities and oil drilling and workover facilities as those terms are defined in that act and regulations adopted under it. 555
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(S) (1) Administer and enforce a program for the regulation of sludge management in this state. In administering the program, the director, in addition to exercising the authority provided in any other applicable sections of this chapter, may do any of the following: 567
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(a) Develop plans and programs for the disposal and utilization of sludge and sludge materials; 572
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(b) Encourage, participate in, or conduct studies, 574

investigations, research, and demonstrations relating to the 575
disposal and use of sludge and sludge materials and the impact 576
of sludge and sludge materials on land located in the state and 577
on the air and waters of the state; 578

(c) Collect and disseminate information relating to the 579
disposal and use of sludge and sludge materials and the impact 580
of sludge and sludge materials on land located in the state and 581
on the air and waters of the state; 582

(d) Issue, modify, or revoke orders to prevent, control, 583
or abate the use and disposal of sludge and sludge materials or 584
the effects of the use of sludge and sludge materials on land 585
located in the state and on the air and waters of the state; 586

(e) Adopt and enforce, modify, or rescind rules necessary 587
for the implementation of division (S) of this section. The 588
rules reasonably shall protect public health and the 589
environment, encourage the beneficial reuse of sludge and sludge 590
materials, and minimize the creation of nuisance odors. 591

The director may specify in sludge management permits the 592
net volume, net weight, quality, and pollutant concentration of 593
the sludge or sludge materials that may be used, stored, 594
treated, or disposed of, and the manner and frequency of the 595
use, storage, treatment, or disposal, to protect public health 596
and the environment from adverse effects relating to those 597
activities. The director shall impose other terms and conditions 598
to protect public health and the environment, minimize the 599
creation of nuisance odors, and achieve compliance with this 600
chapter and rules adopted under it and, in doing so, shall 601
consider whether the terms and conditions are consistent with 602
the goal of encouraging the beneficial reuse of sludge and 603
sludge materials. 604

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

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

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

(T) Study, examine, and calculate nutrient loading from point and nonpoint sources in order to determine comparative contributions by those sources and to utilize the information derived from those calculations to determine the most environmentally beneficial and cost-effective mechanisms to reduce nutrient loading to watersheds in the state. In order to evaluate nutrient loading contributions, the director or the director's designee shall conduct a study of the statewide

nutrient mass balance for both point and nonpoint sources in 635
watersheds in the state using available data, including both of 636
the following: 637

(1) Data on water quality; 638

(2) Data on point source discharges into watersheds in the 639
state. 640

The director or the director's designee shall report and 641
update the results of the study to coincide with the release of 642
the Ohio integrated water quality monitoring and assessment 643
report prepared by the director. 644

This chapter authorizes the state to participate in any 645
national sludge management program and the national pollutant 646
discharge elimination system, to administer and enforce the 647
publicly owned treatment works pretreatment program, and to 648
issue permits for the discharge of dredged or fill materials, in 649
accordance with the Federal Water Pollution Control Act. This 650
chapter shall be administered, consistent with the laws of this 651
state and federal law, in the same manner that the Federal Water 652
Pollution Control Act is required to be administered. 653

This section does not apply to residual farm products and 654
manure disposal systems and related management and conservation 655
practices subject to rules adopted pursuant to division (E) (1) 656
of section 1511.02 of the Revised Code. For purposes of this 657
exclusion, "residual farm products" and "manure" have the same 658
meanings as in section 1511.01 of the Revised Code. However, 659
until the date on which the United States environmental 660
protection agency approves the NPDES program submitted by the 661
director of agriculture under section 903.08 of the Revised 662
Code, this exclusion does not apply to animal waste treatment 663

works having a controlled direct discharge to the waters of the state or any concentrated animal feeding operation, as defined in 40 C.F.R. 122.23(b)(2). On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, this section does not apply to storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or to pollutants discharged from a concentrated animal feeding operation, as both terms are defined in that section. Neither of these exclusions applies to the discharge of animal waste into a publicly owned treatment works.

Section 2. That existing sections 905.321 and 6111.03 of the Revised Code are hereby repealed.

Section 3. (A) Not later than forty-two months after the effective date of this section, the Director of Agriculture and the Chief of the Division of Soil and Water Resources in the Department of Natural Resources shall assess the results of the implementation of sections 901.80, 901.81, 905.326, and 905.327 of the Revised Code as enacted by this act. The Director and Chief shall issue a report of their assessment to the committees of the House and the Senate that are primarily responsible for agriculture and natural resources matters.

(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 report issued by the Director and Chief under division (A) of this section. The committees jointly shall issue a report to the Governor containing their findings and recommendation. The committees may include in the report recommendations for revisions to or the

repeal of the sections of the Revised Code specified in division	694
(A) of this section.	695