

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 150

Senators Hite, Peterson

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A B I L L

To amend sections 903.25, 905.31, 905.32, 905.34, 1
905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 2
905.48, 905.49, 905.50, 905.99, 907.111, 921.06, 3
921.11, 921.16, 941.14, 953.22, 1511.01, 1511.02, 4
1511.021, 1511.022, 1511.07, 1511.071, 1515.01, 5
1515.02, 1515.08, 3717.53, 3734.02, and 3734.029; 6
to amend for the purpose of adopting new section 7
numbers as indicated in parentheses sections 8
905.501 (905.503), 1511.021 (1511.022), and 9
1511.022 (1511.024); and to enact new sections 10
905.501 and 1511.021 and sections 905.321, 11
905.322, 905.502, and 1511.023 of the Revised Code 12
to revise the law governing the abatement of 13
agricultural pollution, to require a person that 14
applies fertilizer for the purposes of 15
agricultural production to be certified to do so 16
by the Director of Agriculture, to provide for an 17
agricultural pesticide-use category on commercial 18
and private pesticide applicator licenses, and to 19
make other changes to the Agricultural Additives, 20
Lime, and Fertilizer Law. 21

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

Section 1. That sections 903.25, 905.31, 905.32, 905.34, 22
905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 905.49, 23
905.50, 905.99, 907.111, 921.06, 921.11, 921.16, 941.14, 953.22, 24
1511.01, 1511.02, 1511.021, 1511.022, 1511.07, 1511.071, 1515.01, 25
1515.02, 1515.08, 3717.53, 3734.02, and 3734.029 be amended, 26
sections 905.501 (905.503), 1511.021 (1511.022), and 1511.022 27
(1511.024) be amended for the purpose of adopting new section 28
numbers as indicated in parentheses, and new sections 905.501 and 29
1511.021 and sections 905.321, 905.322, 905.502, and 1511.023 of 30
the Revised Code be enacted to read as follows: 31

Sec. 903.25. An owner or operator of an animal feeding 32
facility who holds a permit to install, a permit to operate, a 33
review compliance certificate, or a NPDES permit or who is 34
operating under an operation and management plan, as defined in 35
section 1511.01 of the Revised Code, ~~approved by the chief of the~~ 36
~~division of soil and water resources in the department of natural~~ 37
~~resources under section 1511.02 of the Revised Code or by the~~ 38
~~supervisors of the appropriate soil and water conservation~~ 39
~~district under section 1515.08 of the Revised Code~~ shall not be 40
required by any political subdivision of the state or any officer, 41
employee, agency, board, commission, department, or other 42
instrumentality of a political subdivision to obtain a license, 43
permit, or other approval pertaining to manure, insects or 44
rodents, odor, or siting requirements for installation of an 45
animal feeding facility. 46

Sec. 905.31. As used in sections 905.31 to ~~905.501~~ 905.503 of 47
the Revised Code: 48

(A) "Applicant" means the person who applies for the license 49
or requests registration of a fertilizer. 50

(B) "Brand name" means a name or expression, design, or 51

trademark used in connection with one or several grades of any type of fertilizer.

(C) "Bulk fertilizer" means any type of fertilizer in solid, liquid, or gaseous state, or any combination thereof, in a nonpackaged form.

(D) "Distribute" means to offer for sale, sell, barter, or otherwise supply fertilizer for other than manufacturing purposes.

(E) "Fertilizer" means any substance containing nitrogen, phosphorus, or potassium or any recognized plant nutrient element or compound that is used for its plant nutrient content or for compounding mixed fertilizers. Lime, limestone, marl, unground bone, water, and unmanipulated animal and vegetable manures are excepted unless mixed with fertilizer materials.

(F) "Grade" means the percentages of total nitrogen, available phosphorus or available phosphate (P_2O_5), and soluble potassium or soluble potash (K_2O) stated in the same terms, order, and percentage as in guaranteed analysis.

(G) "Guaranteed analysis" means:

(1) The minimum percentages of plant nutrients claimed in the following order and form:

Total Nitrogen (N)	per cent	72
Available phosphate (P_2O_5)	per cent	73
Soluble Potash (K_2O)	per cent	74

(2) Guaranteed analysis includes, in the following order:

(a) For bone and tankage, total phosphorus (P) or phosphate (P_2O_5);

(b) For basic slag and unacidulated phosphatic materials, available and total phosphorus (P) or phosphate (P_2O_5) and the degree of fineness;

(c) Additional plant nutrients guaranteed expressed as

percentage of elements in the order and form as prescribed by 82
rules adopted by the director of agriculture. 83

(H) "Label" means any written or printed matter on the 84
package or tag attached to it or on the pertinent delivery and 85
billing invoice. 86

(I) "Manufacture" means to process, granulate, blend, mix, or 87
alter the composition of fertilizers for distribution. 88

(J) "Mixed fertilizer" means any combination or mixture of 89
fertilizer designed for use, or claimed to have value, in 90
promoting plant growth, including fertilizer pesticide mixtures. 91

(K) "Net weight" means the weight of a commodity excluding 92
any packaging in pounds or metric equivalent, as determined by a 93
sealed weighing device or other means prescribed by rules adopted 94
by the director. 95

(L) "Packaged fertilizer" means any type of fertilizer in 96
closed containers of not over one hundred pounds or metric 97
equivalent. 98

(M) "Per cent" or "percentage" means the percentage of 99
weight. 100

(N) "Person" includes any partnership, association, firm, 101
corporation, company, society, individual or combination of 102
individuals, institution, park, or public agency administered by 103
the state or any subdivision of the state. 104

(O) "Product name" means a coined or specific designation 105
applied to an individual fertilizer material or mixture of a fixed 106
composition and derivation. 107

(P) "Sale" means exchange of ownership or transfer of 108
custody. 109

(Q) "Official sample" means the sample of fertilizer taken 110
and designated as official by the director. 111

(R) "Specialty fertilizer" means any fertilizer designed,	112
labeled, and distributed for uses other than the production of	113
commercial crops.	114
(S) "Ton" means a net weight of two thousand pounds.	115
(T) "Unmanipulated manure" means any substance composed	116
primarily of excreta, plant remains, or mixtures of such	117
substances that have not been processed in any manner.	118
(U) "Fertilizer material" includes any of the following:	119
(1) A material containing not more than one of the following	120
primary plant nutrients:	121
(a) Nitrogen (N);	122
(b) Phosphorus (P);	123
(c) Potassium (K).	124
(2) A material that has not less than eighty-five per cent of	125
its plant nutrient content composed of a single chemical	126
compound;	127
(3) A material that is derived from a residue or by-product	128
of a plant or animal or a natural material deposit and has been	129
processed in such a way that its plant nutrients content has not	130
been materially changed except by purification and concentration.	131
(V) "Custom mixed fertilizer" means a fertilizer that is not	132
premixed, but that is blended specifically to meet the nutrient	133
needs of one specific customer.	134
(W) "Director" or "director of agriculture" means the	135
director of agriculture or the director's designee.	136
(X) "Lot" means an identifiable quantity of fertilizer that	137
may be used as an official sample.	138
(Y) "Unit" means twenty pounds of fertilizer or one per cent	139
of a ton.	140

(Z) ~~"Metric ton" means a measure of weight equal to one thousand kilograms.~~ 141
142

~~(AA)~~ "Anhydrous ammonia equipment" means, with regard to the 143
handling or storage of anhydrous ammonia, a container or 144
containers with a maximum capacity of not more than four thousand 145
nine hundred ninety-nine gallons or any appurtenances, pumps, 146
compressors, or interconnecting pipes associated with such a 147
container or containers. "Anhydrous ammonia equipment" does not 148
include equipment for the manufacture of anhydrous ammonia or the 149
storage of anhydrous ammonia either underground or in refrigerated 150
structures. 151

~~(BB)~~ (AA) "Anhydrous ammonia system" or "system" means, with 152
regard to the handling or storage of anhydrous ammonia, a 153
container or containers with a minimum capacity of not less than 154
five thousand gallons or any appurtenances, pumps, compressors, or 155
interconnecting pipes associated with such a container or 156
containers. "Anhydrous ammonia system" does not include equipment 157
for the manufacture of anhydrous ammonia or the storage of 158
anhydrous ammonia either underground or in refrigerated 159
structures. 160

(BB) "Agricultural production" means the cultivation, 161
primarily for sale, of plants or any parts of plants on more than 162
ten acres unless the cultivation is excluded from the term by the 163
director in rules. 164

(CC) "Rule" means a rule adopted under section 905.322, 165
905.40, or 905.44 of the Revised Code, as applicable. 166

Sec. 905.32. (A) No person shall manufacture or distribute in 167
this state any type of fertilizer until a license to manufacture 168
or distribute has been obtained by the manufacturer or distributor 169
from the department of agriculture upon payment of a five-dollar 170
fee: 171

(1) For each fixed (permanent) location at which fertilizer is manufactured in this state;	172 173
(2) For each mobile unit used to manufacture fertilizer in this state;	174 175
(3) For each location out of the state from which fertilizer is distributed in <u>into</u> this state to nonlicensees ;	176 177
<u>(4) For each location in this state from which fertilizer is distributed in this state.</u>	178 179
All licenses shall be valid for one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a license shall be submitted no later than the thirtieth day of November each year. A person who submits a renewal application for a license after the thirtieth day of November shall include with the application a late filing fee of ten dollars.	180 181 182 183 184 185 186
(B) An application for <u>a</u> license shall include:	187
(1) The name and address of the licensee;	188
(2) The name and address of each bulk distribution point in the state, not licensed for fertilizer manufacture and distribution.	189 190 191
The name and address shown on the license shall be shown on all labels, pertinent invoices, and bulk storage for fertilizers distributed by the licensee in this state.	192 193 194
(C) The licensee shall inform the director of agriculture in writing of additional distribution points established during the period of the license.	195 196 197
(D) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.	198 199 200

Sec. 905.321. (A) As used in this section, "directly supervised" means the application of a fertilizer for purposes of agricultural production by a person who is acting under the instructions and control, as defined in rules, of a person who is certified under this section and employed by the same employer as the person who is applying the fertilizer. 201-206

(B) On and after the date that is three years after the effective date of this section, no person shall apply fertilizer for the purposes of agricultural production unless that person has been certified to do so by the director of agriculture under this section and rules or is directly supervised by a person who is so certified. 207-212

(C) A person shall be certified to apply fertilizer for purposes of agricultural production in accordance with rules. A person that has been so certified shall comply with requirements and procedures established in those rules. 213-216

(D) A person that has been licensed as a commercial applicator under section 921.06 of the Revised Code or as a private applicator under section 921.11 of the Revised Code and that is applying to be certified under this section shall not be required to pay the application fee for certification established in rules adopted under section 905.322 of the Revised Code. 217-222

Sec. 905.322. (A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that do both of the following: 223-225

(1) Establish all of the following concerning certifications that are required by section 905.321 of the Revised Code: 226-227

(a) The amount of the fee that must be submitted with an application for certification, if applicable; 228-229

(b) Information that must be included with an application for 230

<u>certification;</u>	231
<u>(c) Procedures for the issuance, renewal, and denial of</u>	232
<u>certifications;</u>	233
<u>(d) Grounds for the denial of certifications;</u>	234
<u>(e) Requirements and procedures governing training that must</u>	235
<u>be successfully completed in order for a person to be certified;</u>	236
<u>(f) Requirements for the maintenance of records by a person</u>	237
<u>that is certified.</u>	238
<u>(2) Establish requirements and procedures with which a</u>	239
<u>licensee or registrant must comply when filing an annual tonnage</u>	240
<u>report under section 905.36 of the Revised Code, including the</u>	241
<u>date on which the report must be filed.</u>	242
<u>(B) The director may adopt rules in accordance with Chapter</u>	243
<u>119. of the Revised Code that establish both of the following:</u>	244
<u>(1) Any type of cultivation that is excluded from the</u>	245
<u>definition of "agricultural production" in section 905.31 of the</u>	246
<u>Revised Code;</u>	247
<u>(2) A definition of what constitutes "under the instructions</u>	248
<u>and control" as used in the definition of "directly supervised" in</u>	249
<u>section 905.321 of the Revised Code.</u>	250
Sec. 905.34. No distributor shall be required to obtain a	251
license if the manufacturer is licensed under division (A) of	252
section 905.32 of the Revised Code, or to distribute fertilizer if	253
the manufacturer or distributor <u>fertilizer</u> is registered under	254
division (A) of section 905.33 of the Revised Code.	255
Sec. 905.36. (A) A licensee or registrant, except registrants	256
who package specialty fertilizers only in containers of ten pounds	257
or less, shall pay the director of agriculture for all fertilizers	258
distributed in this state an inspection fee at the rate of	259

~~twenty-five cents per ton or twenty eight cents per metric ton.~~ 260
~~Licenses and registrants shall specify on an invoice whether the~~ 261
~~per ton inspection fee has been paid or whether payment of the fee~~ 262
~~is the responsibility of the purchaser of the fertilizer. The~~ 263
~~payment of this inspection fee by a licensee or registrant shall~~ 264
~~exempt all other persons from the payment of this fee for all of~~ 265
~~the following, as applicable:~~ 266

(1) All fertilizer that the licensee distributes in this 267
state to a person that has not been issued a license under section 268
905.32 of the Revised Code; 269

(2) If the licensee is certified under section 905.321 of the 270
Revised Code, all fertilizer that the licensee applies in this 271
state for purposes of agricultural production; 272

(3) All fertilizer that the registrant distributes in this 273
state. 274

However, the inspection fee does not apply to packaged 275
fertilizers that are in containers of ten pounds or less. 276

(B) Every licensee or registrant shall file with the director 277
an annual tonnage report ~~that includes the number of net tons or~~ 278
~~metric tons of fertilizer distributed to nonlicensees or~~ 279
~~nonregistrants in this state by grade, packaged, bulk, dry or~~ 280
~~liquid in accordance with rules. The report shall be filed on or~~ 281
~~before the thirtieth day of November of each calendar year and~~ 282
~~shall include data from the period beginning on the first day of~~ 283
~~November of the year preceding the year in which the report is due~~ 284
~~through the thirty first day of October of the year in which the~~ 285
~~report is due date specified in rules. The licensee or registrant,~~ 286
~~except registrants who package specialty fertilizers only in~~ 287
~~containers of ten pounds or less, shall include with this~~ 288
~~statement the report the inspection fee at the rate stated in~~ 289
division (A) of this section. For a tonnage report that is not 290

filed or payment of inspection fees that is not made on or before 291
the ~~thirtieth day of November of the applicable calendar year~~ date 292
specified in rules, a penalty of fifty dollars or ten per cent of 293
the amount due, whichever is greater, shall be assessed against 294
the licensee or registrant. The amount of fees due, plus penalty, 295
shall constitute a debt and become the basis of a judgment against 296
the licensee or registrant. For tonnage reports found to be 297
incorrect, a penalty of fifteen per cent of the amount due shall 298
be assessed against the licensee or registrant and shall 299
constitute a debt and become the basis of a judgment against the 300
licensee or registrant. 301

(C) No information furnished under this section shall be 302
disclosed by any employee of the department of agriculture in such 303
a way as to divulge the operation of any person required to make 304
such a report. The filing by a licensee or registrant of a ~~sales~~ 305
~~volume tonnage statement~~ report required by division (B) of this 306
section thereby grants permission to the director to verify the 307
same with the records of the licensee or registrant. 308

(D) All money collected under this section shall be credited 309
to the pesticide, fertilizer, and lime program fund created in 310
section 921.22 of the Revised Code. 311

Sec. 905.39. (A) The director of agriculture shall inspect 312
and sample any fertilizer within the state to such an extent as 313
the director considers necessary and make an analysis where need 314
is indicated to determine whether the fertilizer is in compliance 315
with sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~ 316
~~rules adopted under those sections~~. The director may enter upon 317
any public or private premises or conveyances during regular 318
business hours in order to have access to fertilizer subject to 319
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~ 320
~~rules adopted under those sections~~. 321

(B) The director shall maintain the services necessary to 322
effectively administer and enforce sections 905.31 to ~~905.50~~ 323
905.503 of the Revised Code and ~~the rules adopted under those~~ 324
~~sections~~. The methods of sampling and analysis shall be those 325
adopted by the association of official analytical chemists or 326
other sources prescribed by the director. 327

(C) The results of official analysis of any sample of 328
fertilizer found to be in violation of any provisions of sections 329
905.31 to ~~905.50~~ 905.503 of the Revised Code or any rule ~~adopted~~ 330
~~under those sections~~, shall be forwarded to the licensee or 331
registrant. A licensee or registrant may request a portion of any 332
such sample, provided that the request is made not more than 333
thirty days after the date of the analysis report. 334

(D) Analytical tolerances shall be governed by rules ~~adopted~~ 335
~~by the director~~. 336

(E) If the director is denied access to any premises where 337
access is sought for the purpose of inspection and sampling, the 338
director may apply to any court of competent jurisdiction for a 339
search warrant authorizing access to the premises for that 340
purpose. The court, upon application, may issue the search warrant 341
for the purpose requested. 342

Sec. 905.41. (A) A storage facility for anhydrous ammonia 343
that is used for agricultural purposes shall be designed and 344
constructed in accordance with rules ~~adopted under section 905.40~~ 345
~~of the Revised Code~~. On and after ~~the effective date of this~~ 346
~~section~~ September 10, 2012, no person shall construct a storage 347
facility for anhydrous ammonia that is used for agricultural 348
purposes without applying for and receiving approval of the design 349
of the facility and approval to construct the facility from the 350
director of agriculture in accordance with ~~those~~ rules. 351

(B) Upon the submission of an application to the director for 352

the approval of the design and construction of a storage facility 353
for anhydrous ammonia that is used for agricultural purposes in 354
accordance with rules ~~adopted under section 905.40 of the Revised~~ 355
~~Code~~, the applicant shall submit written notification of the 356
application to all of the following: 357

(1) The board of township trustees of the township or the 358
legislative authority of the municipal corporation, as applicable, 359
in which the storage facility is proposed to be located; 360

(2) The county sheriff, or the police chief of the police 361
department of a municipal corporation, township, or township or 362
joint township police district, as applicable, with jurisdiction 363
over the location where the storage facility is proposed to be 364
located; 365

(3) The fire chief of the fire department with jurisdiction 366
over the location where the storage facility is proposed to be 367
located. 368

(C) Prior to approving or disapproving a storage facility for 369
anhydrous ammonia that is used for agricultural purposes, the 370
director may take into consideration any past violations of an 371
applicable state or federal law pertaining to environmental 372
protection or the environmental laws of another country or any 373
conviction of or guilty plea to a violation of section 901.511 of 374
the Revised Code or a felony drug offense as defined in section 375
2925.01 of the Revised Code related to the use and storage of 376
chemicals used for agriculture by the owner of the storage 377
facility. 378

Sec. 905.45. ~~(A) The director of agriculture may revoke the 379
registration of any grade and brand name of fertilizer or any 380
license, or may suspend any registration or license, or may refuse 381
to register any grade and brand name of fertilizer, or to license 382
any applicant, upon a finding supported by substantial evidence 383~~

~~that the registrant, licensee, or applicant has violated any provision of sections 905.31 to 905.50 of the Revised Code, or any rules adopted under those sections. No~~ do any of the following upon a finding supported by substantial evidence that a registrant, licensee, certificate holder, or applicant has violated any provision of sections 905.31 to 905.503 of the Revised Code or any rules:

(1) Revoke the registration of any grade and brand name of fertilizer;

(2) Revoke any license or certificate;

(3) Suspend any registration, license, or certificate;

(4) Refuse to register any grade and brand name of fertilizer;

(5) Refuse to license or certify any applicant.

(B)(1) Except as provided in division (B)(2) of this section, no registration ~~or~~, license, or certificate shall be refused, suspended, or revoked, as applicable, until the registrant, licensee, certificate holder, or applicant has been given an opportunity to appear at an adjudication hearing conducted in accordance with Chapter 119. of the Revised Code.

(2) The director immediately may suspend a registration, license, or certificate, prior to a hearing, when the director believes that a fertilizer or the application of the fertilizer poses an immediate hazard to human or animal health or a hazard to the environment. Not later than thirty days after suspending the registration, license, or certificate, the director shall determine whether the fertilizer or application of the fertilizer poses such a hazard. If the director determines that no hazard exists, the director shall lift the suspension of the registration, license, or certificate. If the director determines that a hazard exists, the director shall revoke the registration,

license, or certificate in accordance with Chapter 119. of the 415
Revised Code. 416

Sec. 905.46. The director of agriculture may issue an order 417
to the owner or custodian of any lot of fertilizer requiring it to 418
be held at a designated place when the director has found the 419
fertilizer to have been offered or exposed for sale in violation 420
of sections 905.31 to ~~905.50~~ 905.503 of the Revised Code, or any 421
rule ~~adopted under those sections~~. A fertilizer shall be held 422
until a release in writing is issued by the director. A release 423
shall not be issued until sections 905.31 to ~~905.50~~ 905.503 of the 424
Revised Code, and ~~the rules adopted under those sections~~, are 425
complied with and until all costs and expenses incurred in 426
connection with the violation have been paid by the manufacturer, 427
distributor, licensee, or registrant. 428

Sec. 905.47. Any lot of fertilizer not in compliance with 429
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code, or any rule 430
~~adopted under those sections~~, is subject to seizure on complaint 431
of the director of agriculture to a court of competent 432
jurisdiction in the county in which the fertilizer is located. The 433
court upon a finding that the fertilizer is in violation of 434
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code, or any rule 435
~~adopted under those sections~~, shall order the condemnation of the 436
fertilizer, and it shall be disposed of in a manner consistent 437
with the laws of this state. The court shall not order the 438
condemnation of the fertilizer without first giving the 439
manufacturer or distributor an opportunity to reprocess or relabel 440
the fertilizer to bring it into compliance with sections 905.31 to 441
~~905.50~~ 905.503 of the Revised Code, and ~~the rules adopted under~~ 442
~~those sections~~. 443

Sec. 905.48. In addition to the remedies provided and 444

irrespective of whether or not there exists any adequate remedy at 445
law, the director of agriculture may apply to the court of common 446
pleas in the county wherein any of the provisions of sections 447
905.31 to ~~905.50~~ 905.503 of the Revised Code, are being violated 448
for a temporary or permanent injunction restraining any person 449
from ~~such~~ the violation. 450

Sec. 905.49. Nothing in sections 905.31 to ~~905.50~~ 905.503 of 451
the Revised Code, shall be considered either to restrict the 452
distribution of fertilizers to each other by importers or 453
manufacturers, who mix fertilizer materials for distribution, or 454
to prevent the free and unrestricted shipment of fertilizer to 455
manufacturers who are licensed or have registered their specialty 456
fertilizer grades and brand names as required by sections 905.31 457
to ~~905.50~~ 905.503 of the Revised Code. 458

Sec. 905.50. If the director of agriculture has taken an 459
official sample of a fertilizer or mixed fertilizer and determined 460
that it constitutes mislabeled fertilizer pursuant to rules 461
~~adopted under section 905.40 or 905.44 of the Revised Code, as~~ 462
~~applicable,~~ the person who labeled the fertilizer or mixed 463
fertilizer shall pay a penalty to the consumer of the mislabeled 464
fertilizer or, if the consumer cannot be determined with 465
reasonable diligence or is not available, to the director to be 466
credited to the pesticide, fertilizer, and lime program fund 467
created under section 921.22 of the Revised Code. The amount of 468
the penalty shall be calculated in accordance with either division 469
(A) or (B) of this section, whichever method of calculation yields 470
the largest amount. 471

(A) (1) A penalty required to be paid under this section may 472
be calculated as follows: 473

(a) Five dollars for each percentage point of total nitrogen 474

or phosphorus in the fertilizer that is below the percentage of 475
nitrogen or phosphorus guaranteed on the label, multiplied by the 476
number of tons of mislabeled fertilizer that have been sold to the 477
consumer; 478

(b) Three dollars for each percentage point of potash in the 479
fertilizer that is below the percentage of potash guaranteed on 480
the label, multiplied by the number of tons of mislabeled 481
fertilizer that have been sold to the consumer. 482

(2) In the case of a fertilizer that contains a quantity of 483
nitrogen, phosphorus, or potash that is more than five percentage 484
points below the percentages guaranteed on the label, the 485
penalties calculated under division (A) (1) of this section shall 486
be tripled. 487

(3) No penalty calculated under division (A) of this section 488
shall be less than twenty-five dollars. 489

(B) A penalty required to be paid under this section may be 490
calculated by multiplying the market value of one unit of the 491
mislabeled fertilizer by the number of units of the mislabeled 492
fertilizer that have been sold to the consumer. 493

(C) Upon making a determination under this section that a 494
person has mislabeled fertilizer or mixed fertilizer, the director 495
shall determine the parties to whom the penalty imposed by this 496
section is required to be paid and, in accordance with division 497
(A) or (B) of this section, as applicable, shall calculate the 498
amount of the penalty required to be paid to each such party. 499
After completing those determinations and calculations, the 500
director shall issue to the person who allegedly mislabeled the 501
fertilizer or mixed fertilizer a notice of violation. The notice 502
shall be accompanied by an order requiring, and specifying the 503
manner of, payment of the penalty imposed by this section to the 504
parties in the amounts set forth in the determinations and 505

calculations required by this division. The order shall be issued 506
in accordance with Chapter 119. of the Revised Code. 507

No person shall violate a term or condition of an order 508
issued under this division. 509

Sec. 905.501. Whenever the director of agriculture has cause 510
to believe that a person has violated, or is violating, sections 511
905.31 to 905.503 of the Revised Code or rules or an order issued 512
under those sections or rules, the director may conduct a hearing 513
in accordance with Chapter 119. of the Revised Code to determine 514
whether a violation has occurred. If the director determines that 515
a violation has occurred, the director may require the violator to 516
pay a civil penalty in accordance with the schedule of civil 517
penalties established in rules. Each day of violation constitutes 518
a separate violation. 519

Sec. 905.502. Nothing in sections 905.31 to 905.502 of the 520
Revised Code or rules shall be construed to require the director 521
of agriculture to report any findings to the appropriate 522
prosecuting authority for proceedings in the prosecution of, or 523
issue any order or institute any enforcement procedure for, a 524
violation of sections 905.31 to 905.502 of the Revised Code or 525
rules when the director believes that the public interest will be 526
best served by a suitable written notice of warning. A person who 527
receives a written notice of warning may respond in writing to the 528
notice. 529

Sec. ~~905.501~~ 905.503. (A) As used in this section: 530

(1) "Political subdivision" means a county, township, or 531
municipal corporation and any other body corporate and politic 532
that is responsible for government activities in a geographic area 533
smaller than that of the state. 534

(2) "Local legislation" includes, but is not limited to, an ordinance, resolution, regulation, rule, motion, or amendment that is enacted or adopted by a political subdivision.

(B) (1) No political subdivision shall regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizer, or require a person licensed or registered under sections 905.31 to 905.99 of the Revised Code to obtain a license or permit to operate in a manner described in those sections, or to satisfy any other condition except as provided by a statute or rule of this state or of the United States.

(2) No political subdivision shall enact, adopt, or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizers.

Sec. 905.99. Whoever violates ~~section 905.02, 905.04, 905.08, 905.11, 905.32, 905.33, 905.331, 905.35, 905.36, 905.40, 905.42, 905.43, 905.44, 905.45, 905.50, 905.52, 905.54, 905.55, 905.59, 905.60, or 905.61 of the Revised Code~~ this chapter or rules adopted under it is guilty of a misdemeanor of the ~~second~~ third degree ~~for~~ on a first offense. ~~On each subsequent offense the offender is guilty of,~~ a misdemeanor of the second degree on a second offense, and a misdemeanor of the first degree on a third or subsequent offense.

Sec. 907.111. (A) The department of agriculture has sole and exclusive authority to regulate the registration, labeling, sale, storage, transportation, distribution, notification of use, use, and planting of seed within the state. The regulation of seed is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it

constitute a comprehensive plan with respect to all aspects of the 565
regulation of seed within this state. 566

(B) No political subdivision shall do any of the following: 567

(1) Regulate the registration, labeling, sale, storage, 568
transportation, distribution, notification of use, use, or 569
planting of seed; 570

(2) Require a person who has been issued a permit or license 571
under this chapter to obtain a permit or license to operate in a 572
manner described in this chapter or to satisfy any other condition 573
except as provided by a statute or rule of this state or of the 574
United States; 575

(3) Require a person who has registered a legume innoculant 576
under this chapter to register that innoculant in a manner 577
described in this chapter or to satisfy any other condition except 578
as provided by a statute or rule of this state or of the United 579
States. 580

(C) No political subdivision shall enact, adopt, or continue 581
in effect local legislation relating to the permitting or 582
licensure of any person who is required to obtain a permit or 583
license under this chapter or to the registration, labeling, sale, 584
storage, transportation, distribution, notification of use, use, 585
or planting of seed. 586

(D) As used in this section, "political subdivision" and 587
"local legislation" have the same meanings as in section ~~905.501~~ 588
905.503 of the Revised Code. 589

Sec. 921.06. (A) (1) No individual shall do any of the 590
following without having a commercial applicator license issued by 591
the director of agriculture: 592

(a) Apply pesticides for a pesticide business without direct 593

supervision;	594
(b) Apply pesticides as part of the individual's duties while acting as an employee of the United States government, a state, county, township, or municipal corporation, or a park district, port authority, or sanitary district created under Chapter 1545., 4582., or 6115. of the Revised Code, respectively;	595 596 597 598 599
(c) Apply restricted use pesticides. Division (A)(1)(c) of this section does not apply to a private applicator or an immediate family member or a subordinate employee of a private applicator who is acting under the direct supervision of that private applicator.	600 601 602 603 604
(d) If the individual is the owner of a business other than a pesticide business or an employee of such an owner, apply pesticides at any of the following publicly accessible sites that are located on the property:	605 606 607 608
(i) Food service operations that are licensed under Chapter 3717. of the Revised Code;	609 610
(ii) Retail food establishments that are licensed under Chapter 3717. of the Revised Code;	611 612
(iii) Golf courses;	613
(iv) Rental properties of more than four apartment units at one location;	614 615
(v) Hospitals or medical facilities as defined in section 3701.01 of the Revised Code;	616 617
(vi) Child day-care centers or school child day-care centers as defined in section 5104.01 of the Revised Code;	618 619
(vii) Facilities owned or operated by a school district established under Chapter 3311. of the Revised Code, including an education <u>educational</u> service center, a community school established under Chapter 3314. of the Revised Code, or a	620 621 622 623

chartered or nonchartered nonpublic school that meets minimum 624
standards established by the state board of education; 625

(viii) Colleges as defined in section 3365.01 of the Revised 626
Code; 627

(ix) Food processing establishments as defined in section 628
3715.021 of the Revised Code; 629

(x) Any other site designated by rule. 630

(e) Conduct authorized diagnostic inspections. 631

(2) Divisions (A)(1)(a) to (d) of this section do not apply 632
to an individual who is acting as a trained serviceperson under 633
the direct supervision of a commercial applicator. 634

(3) Licenses shall be issued for a period of time established 635
by rule and shall be renewed in accordance with deadlines 636
established by rule. The fee for each such license shall be 637
established by rule. If a license is not issued or renewed, the 638
application fee shall be retained by the state as payment for the 639
reasonable expense of processing the application. The director 640
shall by rule classify by pesticide-use category licenses to be 641
issued under this section. A single license may include more than 642
one pesticide-use category. No individual shall be required to pay 643
an additional license fee if the individual is licensed for more 644
than one category. 645

The fee for each license or renewal does not apply to an 646
applicant who is an employee of the department of agriculture 647
whose job duties require licensure as a commercial applicator as a 648
condition of employment. 649

(B) Application for a commercial applicator license shall be 650
made on a form prescribed by the director. Each application for a 651
license shall state the pesticide-use category or categories of 652
license for which the applicant is applying and other information 653

that the director determines essential to the administration of 654
this chapter. 655

(C) If the director finds that the applicant is competent to 656
apply pesticides and conduct diagnostic inspections and that the 657
applicant has passed both the general examination and each 658
applicable pesticide-use category examination as required under 659
division (A) of section 921.12 of the Revised Code, the director 660
shall issue a commercial applicator license limited to the 661
pesticide-use category or categories for which the applicant is 662
found to be competent. If the director rejects an application, the 663
director may explain why the application was rejected, describe 664
the additional requirements necessary for the applicant to obtain 665
a license, and return the application. The applicant may resubmit 666
the application without payment of any additional fee. 667

(D) (1) A person who is a commercial applicator shall be 668
deemed to hold a private applicator's license for purposes of 669
applying pesticides on agricultural commodities that are produced 670
by the commercial applicator. 671

(2) A commercial applicator shall apply pesticides only in 672
the pesticide-use category or categories in which the applicator 673
is licensed under this chapter. 674

(E) If a commercial applicator has been certified under 675
section 905.321 of the Revised Code and applicable rules, the 676
director shall indicate on the applicator's license an 677
agricultural nutrient pesticide-use category. As used in this 678
division, "agricultural nutrient" means fertilizer as defined in 679
section 905.31 of the Revised Code. 680

(F) All money collected under this section shall be credited 681
to the pesticide, fertilizer, and lime program fund created in 682
section 921.22 of the Revised Code. 683

Sec. 921.11. (A) (1) No individual shall apply restricted use pesticides unless the individual is one of the following:

(a) Licensed under section 921.06 of the Revised Code;

(b) Licensed under division (B) of this section;

(c) A trained serviceperson who is acting under the direct supervision of a commercial applicator;

(d) An immediate family member or a subordinate employee of a private applicator who is acting under the direct supervision of that private applicator.

(2) No individual shall directly supervise the application of a restricted use pesticide unless the individual is one of the following:

(a) Licensed under section 921.06 of the Revised Code;

(b) Licensed under division (B) of this section.

(B) The director of agriculture shall adopt rules to establish standards and procedures for the licensure of private applicators. An individual shall apply for a private applicator license to the director, on forms prescribed by the director. The individual shall include in the application the pesticide-use category or categories of the license for which the individual is applying and any other information that the director determines is essential to the administration of this chapter. The fee for each license shall be established by rule. Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. If a license is not issued or renewed, the state shall retain any fee submitted as payment for reasonable expenses of processing the application.

(C) An individual who is licensed under this section shall use or directly supervise the use of a restricted use pesticide only for the purpose of producing agricultural commodities on

property that is owned or rented by the individual or the 714
individual's employer. 715

(D) If a private applicator has been certified under section 716
905.321 of the Revised Code and applicable rules, the director 717
shall indicate on the applicator's license an agricultural 718
nutrient pesticide-use category. As used in this division, 719
"agricultural nutrient" means fertilizer as defined in section 720
905.31 of the Revised Code. 721

(E) All money collected under this section shall be credited 722
to the pesticide, fertilizer, and lime program fund created in 723
section 921.22 of the Revised Code. 724

Sec. 921.16. (A) The director of agriculture shall adopt 725
rules the director determines necessary for the effective 726
enforcement and administration of this chapter. The rules may 727
relate to, but are not limited to, the time, place, manner, and 728
methods of application, materials, and amounts and concentrations 729
of application of pesticides, may restrict or prohibit the use of 730
pesticides in designated areas during specified periods of time, 731
and shall encompass all reasonable factors that the director 732
determines necessary to minimize or prevent damage to the 733
environment. In addition, the rules shall establish the deadlines 734
and time periods for registration, registration renewal, late 735
registration renewal, and failure to register under section 921.02 736
of the Revised Code; the fees for registration, registration 737
renewal, late registration renewal, and failure to register under 738
section 921.02 of the Revised Code that shall apply until the fees 739
that are established under that section take effect on January 1, 740
2007; and the fees, deadlines, and time periods for licensure and 741
license renewal under sections 921.06, 921.09, 921.11, and 921.13 742
of the Revised Code. 743

(B) The director shall adopt rules that establish a schedule 744

of civil penalties for violations of this chapter, or any rule or 745
order adopted or issued under it, provided that the civil penalty 746
for a first violation shall not exceed five thousand dollars and 747
the civil penalty for each subsequent violation shall not exceed 748
ten thousand dollars. In determining the amount of a civil penalty 749
for a violation, the director shall consider factors relevant to 750
the severity of the violation, including past violations and the 751
amount of actual or potential damage to the environment or to 752
human beings. All money collected under this division shall be 753
credited to the pesticide, fertilizer, and lime program fund 754
created in section 921.22 of the Revised Code. 755

(C) The director shall adopt rules that set forth the 756
conditions under which the director: 757

(1) Requires that notice or posting be given of a proposed 758
application of a pesticide; 759

(2) Requires inspection, condemnation, or repair of equipment 760
used to apply a pesticide; 761

(3) Will suspend, revoke, or refuse to issue any pesticide 762
registration for a violation of this chapter; 763

(4) Requires safe handling, transportation, storage, display, 764
distribution, and disposal of pesticides and their containers; 765

(5) Ensures the protection of the health and safety of 766
agricultural workers storing, handling, or applying pesticides, 767
and all residents of agricultural labor camps, as that term is 768
defined in section 3733.41 of the Revised Code, who are living or 769
working in the vicinity of pesticide-treated areas; 770

(6) Requires a record to be kept of all pesticide 771
applications made by each commercial applicator and by any trained 772
serviceperson acting under the commercial applicator's direct 773
supervision and of all restricted use pesticide applications made 774
by each private applicator and by any immediate family member or 775

subordinate employee of that private applicator who is acting 776
under the private applicator's direct supervision as required 777
under section 921.14 of the Revised Code; 778

(7) Determines the pesticide-use categories of diagnostic 779
inspections that must be conducted by a commercial applicator; 780

(8) Requires a record to be kept of all diagnostic 781
inspections conducted by each commercial applicator and by any 782
trained service person. 783

(D) The director shall prescribe standards for the licensure 784
of applicators of pesticides consistent with those prescribed by 785
the federal act and the regulations adopted under it or prescribe 786
standards that are more restrictive than those prescribed by the 787
federal act and the regulations adopted under it. The standards 788
may relate to the use of a pesticide or to an individual's 789
pesticide-use category. 790

The director shall take into consideration standards of the 791
United States environmental protection agency. 792

(E) The director may adopt rules setting forth the conditions 793
under which the director will: 794

(1) Collect and examine samples of pesticides or devices; 795

(2) Specify classes of devices that shall be subject to this 796
chapter; 797

(3) Prescribe other necessary registration information. 798

(F) The director may adopt rules that do either or both of 799
the following: 800

(1) Designate, in addition to those restricted uses so 801
classified by the administrator of the United States environmental 802
protection agency, restricted uses of pesticides for the state or 803
for designated areas within the state and, if the director 804
considers it necessary, to further restrict such use; 805

(2) Define what constitutes "acting under the instructions and control of a commercial applicator" as used in the definition of "direct supervision" in division (Q)(1) of section 921.01 of the Revised Code. In adopting a rule under division (F)(2) of this section, the director shall consider the factors associated with the use of pesticide in the various pesticide-use categories. Based on consideration of the factors, the director may define "acting under the instructions and control of a commercial applicator" to include communications between a commercial applicator and a trained serviceperson that are conducted via landline telephone or a means of wireless communication. Any rules adopted under division (F)(2) of this section shall be drafted in consultation with representatives of the pesticide industry.

(G) Except as provided in division (D) of this section, the director shall not adopt any rule under this chapter that is inconsistent with the requirements of the federal act and regulations adopted thereunder.

(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than human beings and other than bacteria, viruses, and other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment.

(I) The director may make reports to the United States environmental protection agency, in the form and containing the information the agency may require.

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies.

(K) The director shall adopt rules establishing all of the following: 837
838

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators; 839
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841

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete: 842
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844

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it; 845
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(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs; 849
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851

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval; 852
853

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination; 854
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(3) Training requirements for a trained serviceperson; 858

(4) Pesticide-use categories for commercial applicator licenses and private applicator licenses, including an agricultural nutrient pesticide-use category. As used in division (K) (4) of this section, "agricultural nutrient" means fertilizer as defined in section 905.31 of the Revised Code. 859
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(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code. 864
865

Sec. 941.14. (A) The owner shall burn the body of an animal 866
that has died of, or been destroyed because of, a dangerously 867
infectious or contagious disease, bury it not less than four feet 868
under the surface of the ground, dissolve it by alkaline 869
hydrolysis, remove it in a watertight tank to a rendering 870
establishment, or otherwise dispose of it in accordance with 871
section 953.26 or ~~1511.022~~ 1511.024 of the Revised Code within 872
twenty-four hours after knowledge thereof or after notice in 873
writing from the department of agriculture. 874

(B) The owner of premises that contain a dead animal shall 875
burn the body of the animal, bury it not less than four feet 876
beneath the surface of the ground, dissolve it by alkaline 877
hydrolysis, remove it in a watertight tank to a rendering 878
establishment, or otherwise dispose of it in accordance with 879
section 953.26 or ~~1511.022~~ 1511.024 of the Revised Code within a 880
reasonable time after knowledge thereof or after notice in writing 881
from the department or from the township trustees of the township 882
in which the owner's premises are located. 883

(C) Notwithstanding division (A) or (B) of this section, the 884
director of agriculture, in written notice sent to the owner of a 885
dead animal, may require the owner to employ a specific method of 886
disposition of the body, including burning, burying, rendering, 887
composting, or alkaline hydrolysis, when that method does not 888
conflict with any law or rule governing the disposal of infectious 889
wastes and, in the director's judgment, is necessary for purposes 890
of animal disease control. No person shall fail to employ the 891
method of disposition required under this division. 892

(D) The director, in written notice sent to the owner of a 893
dead animal, may prohibit the owner from transporting the body of 894
the dead animal on any street or highway if that prohibition does 895
not conflict with any law or rule governing the transportation of 896

infectious wastes and, in the director's judgment, is necessary 897
for purposes of animal disease control. No person shall fail to 898
comply with a prohibition issued under this division. 899

(E) As used in this section, "infectious wastes" has the same 900
meaning as in section 3734.01 of the Revised Code, and "street" or 901
"highway" has the same meaning as in section 4511.01 of the 902
Revised Code. 903

Sec. 953.22. (A) No person shall engage in the business of 904
disposing of, picking up, rendering, or collecting raw rendering 905
material or transporting the material to a composting facility 906
without a license to do so from the department of agriculture. 907

(B) This chapter does not apply to any of the following: 908

(1) A farmer who slaughters the farmer's own animals, raised 909
by the farmer on the farmer's own farm, processes the farmer's own 910
meat therefrom, and disposes of the farmer's raw rendering 911
material only by delivery to a person licensed under section 912
953.23 of the Revised Code; 913

(2) A person whose only connection with raw rendering 914
material is curing hides and skins; 915

(3) A person whose only connection with raw rendering 916
material is operating a pet cemetery; 917

(4) A person who is conducting composting, as defined in 918
section 1511.01 of the Revised Code, in accordance with section 919
~~1511.022~~ 1511.024 of the Revised Code; 920

(5) A person whose only connection with raw rendering 921
material is trapping wild animals in accordance with a nuisance 922
wild animal permit issued by the chief of the division of wildlife 923
in the department of natural resources under rules adopted 924
pursuant to section 1531.08 of the Revised Code; 925

(6) A county dog warden or animal control officer who 926

transports raw rendering material only for disposal purposes. 927

Sec. 1511.01. For the purposes of this chapter: 928

(A) "Conservation" means the wise use and management of 929
natural resources. 930

(B) "Critical natural resource area" means an area identified 931
by the director of natural resources in which occurs a natural 932
resource that requires special management because of its 933
importance to the well-being of the surrounding communities, the 934
region, or the state. 935

(C) "Pollution abatement practice" means any ~~erosion control~~ 936
~~or animal waste~~ agricultural pollution abatement facility, 937
structure, or procedure and the operation and management 938
associated with it as contained in operation and management plans 939
~~developed or approved by the chief of the division of soil and~~ 940
~~water resources or by soil and water conservation districts~~ 941
~~established under Chapter 1515. of the Revised Code.~~ 942

(D) "Agricultural pollution" means failure to use management 943
or conservation practices in ~~farming or silvicultural~~ agricultural 944
operations to abate wind or water erosion of the soil or to abate 945
the degradation of the waters of the state by ~~animal waste or soil~~ 946
sediment, ~~including substances attached thereto~~ nutrients, manure, 947
animal bedding, wash waters, waste feed, or silage drainage. 948

(E) "Waters of the state" means all streams, lakes, ponds, 949
wetlands, watercourses, waterways, wells, springs, irrigation 950
systems, drainage systems, and all other bodies or accumulations 951
of water, surface and underground, natural or artificial, 952
regardless of the depth of the strata in which underground water 953
is located, that are situated wholly or partly within, or border 954
upon, this state or are within its jurisdiction, except those 955
private waters that do not combine or effect a junction with 956

natural surface or underground waters. 957

(F) ~~"Operation and management plan" means a written record,~~ 958
~~developed or approved by the district board of supervisors or the~~ 959
~~chief, for the owner or operator of agricultural land or a~~ 960
~~concentrated animal feeding operation that contains implementation~~ 961
~~schedules and operational procedures for a level of management and~~ 962
~~pollution abatement practices that will abate the degradation of~~ 963
~~the waters of the state by animal waste and by soil sediment~~ 964
~~including attached pollutants plan developed under section~~ 965
~~1511.021 of the Revised Code, including a plan required by an~~ 966
~~order issued by the chief of the division of soil and water~~ 967
~~resources under division (G) of section 1511.02 of the Revised~~ 968
~~Code.~~ 969

(G) ~~"Animal waste" "Manure" means animal excreta, discarded~~ 970
~~products, bedding, wash waters, waste feed, and silage drainage.~~ 971
~~"Animal waste" also includes the compost products resulting from~~ 972
~~the composting of dead animals in operations subject to section~~ 973
~~1511.022 of the Revised Code when either of the following applies:~~ 974

~~(1) The composting is conducted by the person who raises the~~ 975
~~animals and the compost product is used in agricultural operations~~ 976
~~owned or operated by that person, regardless of whether the person~~ 977
~~owns the animals;~~ 978

~~(2) The composting is conducted by the person who owns the~~ 979
~~animals, but does not raise them and the compost product is used~~ 980
~~in agricultural operations either by a person who raises the~~ 981
~~animals or by a person who raises grain that is used to feed them~~ 982
~~and that is supplied by the owner of the animals.~~ 983

(H) "Composting" means the controlled decomposition of 984
organic solid material consisting of dead animals that stabilizes 985
the organic fraction of the material. 986

(I) "Nutrient" means a primary chemical element that is 987

<u>essential to plant nutrition.</u>	988
<u>(J) "Nutrient management plan" means a component of an operation and management plan that contains implementation schedules and operating procedures specific to nutrient management.</u>	989 990 991 992
<u>(K) "Animal feeding operation" means an agricultural operation where agricultural animals that are capable of producing at least three hundred fifty tons or one hundred thousand gallons of manure in a calendar year are kept and raised in confined areas. "Animal feeding operation" does not include a facility that is issued any type of permit by the department of agriculture or the environmental protection agency.</u>	993 994 995 996 997 998 999
<u>(L) "Soil and water conservation district" has the same meaning as in section 1515.01 of the Revised Code.</u>	1000 1001
Sec. 1511.02. The chief of the division of soil and water resources, subject to the approval of the director of natural resources, shall do all of the following:	1002 1003 1004
(A) Provide administrative leadership to local soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 1515. of the Revised Code;	1005 1006 1007 1008 1009 1010
(B) Administer this chapter and Chapter 1515. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;	1011 1012 1013 1014
(C) Assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement;	1015 1016 1017

(D) Coordinate the development and implementation of 1018
cooperative programs and working agreements between ~~local~~ soil and 1019
water conservation districts and divisions or sections of the 1020
department of natural resources, or other agencies of local, 1021
state, and federal government; 1022

(E) Subject to the approval of the Ohio soil and water 1023
conservation commission, adopt, amend, or rescind rules pursuant 1024
to Chapter 119. of the Revised Code. Rules adopted pursuant to 1025
this section: 1026

(1) Shall establish technically feasible and economically 1027
reasonable standards to achieve a level of management and 1028
conservation practices in ~~farming or silvicultural~~ agricultural 1029
operations that will abate wind or water erosion of the soil or 1030
abate the degradation of the waters of the state by ~~animal waste~~ 1031
~~or by soil sediment including substances attached thereto,~~ 1032
agricultural pollution and establish criteria for determination of 1033
the acceptability of such management and conservation practices; 1034

(2) Shall establish technically feasible and economically 1035
reasonable standards to achieve a level of management and 1036
conservation practices that will abate wind or water erosion of 1037
the soil or abate the degradation of the waters of the state by 1038
soil sediment in conjunction with land grading, excavating, 1039
filling, or other soil-disturbing activities on land used or being 1040
developed for nonfarm commercial, industrial, residential, or 1041
other nonfarm purposes, and establish criteria for determination 1042
of the acceptability of such management and conservation 1043
practices. The standards shall be designed to implement applicable 1044
areawide waste treatment management plans prepared under section 1045
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 1046
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 1047
shall not apply in any municipal corporation or county that adopts 1048
ordinances or rules pertaining to sediment control, nor to lands 1049

being used in a strip mine operation as defined in section 1513.01 1050
of the Revised Code, nor to lands being used in a surface mining 1051
operation as defined in section 1514.01 of the Revised Code. 1052

(3) May recommend criteria and procedures for the approval of 1053
urban sediment pollution abatement plans and issuance of permits 1054
prior to any grading, excavating, filling, or other whole or 1055
partial disturbance of five or more contiguous acres of land owned 1056
by one person or operated as one development unit and require 1057
implementation of such a plan. Areas of less than five contiguous 1058
acres are not exempt from compliance with other provisions of this 1059
chapter and rules adopted under them. 1060

(4) Shall establish procedures for administration of rules 1061
for agricultural pollution abatement and urban sediment pollution 1062
abatement and for enforcement of rules for agricultural pollution 1063
abatement; 1064

(5) Shall specify the pollution abatement practices eligible 1065
for state cost sharing and determine the conditions for 1066
eligibility, the construction standards and specifications, the 1067
useful life, the maintenance requirements, and the limits of cost 1068
sharing for those practices. Eligible practices shall be limited 1069
to practices that address agricultural ~~or silvicultural~~ operations 1070
and that require expenditures that are likely to exceed the 1071
economic returns to the owner or operator and that abate soil 1072
erosion or degradation of the waters of the state by ~~animal waste~~ 1073
~~or soil sediment including pollutants attached thereto~~ 1074
agricultural pollution. 1075

(6) Shall establish procedures for administering grants to 1076
owners or operators of agricultural land or ~~concentrated~~ animal 1077
feeding operations for the implementation of operation and 1078
management plans; 1079

(7) Shall establish procedures for administering grants to 1080

soil and water conservation districts for urban sediment pollution 1081
abatement programs, specify the types of projects eligible for 1082
grants, establish limits on the availability of grants, and 1083
establish requirements governing the execution of projects to 1084
encourage the reduction of erosion and sedimentation associated 1085
with soil-disturbing activities; 1086

(8) Shall do all of the following with regard to composting 1087
conducted in conjunction with agricultural operations: 1088

(a) Provide for the distribution of educational material 1089
concerning composting to the offices of the Ohio cooperative 1090
extension service for the purposes of section ~~1511.022~~ 1511.024 of 1091
the Revised Code; 1092

(b) Establish methods, techniques, or practices for 1093
composting dead animals, or particular types of dead animals, that 1094
are to be used at such operations, as the chief considers to be 1095
necessary or appropriate; 1096

(c) Establish requirements and procedures governing the 1097
review and approval or disapproval of composting plans by the 1098
supervisors of soil and water conservation districts under 1099
division ~~(Q)~~(P) of section 1515.08 of the Revised Code. 1100

(9) Shall be adopted, amended, or rescinded after the chief 1101
does all of the following: 1102

(a) Mails notice to each statewide organization that the 1103
chief determines represents persons or local governmental agencies 1104
who would be affected by the proposed rule, amendment thereto, or 1105
rescission thereof at least thirty-five days before any public 1106
hearing thereon; 1107

(b) Mails a copy of each proposed rule, amendment thereto, or 1108
rescission thereof to any person who requests a copy, within five 1109
days after receipt of the request; 1110

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

(10) Shall not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(11) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division (N) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established pursuant to division (E) (5) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful

life shall subject the landowner to full repayment to the 1143
division. 1144

(G) Issue orders requiring compliance with any rule adopted 1145
under division (E) (1) of this section or with section ~~1511.022~~ 1146
1511.024 of the Revised Code. Before the chief issues an order, 1147
the chief shall afford each person allegedly liable an 1148
adjudication hearing under Chapter 119. of the Revised Code. The 1149
chief may require in an order that a person who has caused 1150
agricultural pollution by failure to comply with the standards 1151
established under division (E) (1) of this section operate under an 1152
operation and management plan ~~approved by the chief under this~~ 1153
~~section~~. The chief shall require in an order that a person who has 1154
failed to comply with division (A) of section ~~1511.022~~ 1511.024 of 1155
the Revised Code prepare a composting plan in accordance with 1156
rules adopted under division (E) (10) (c) of this section and 1157
operate in accordance with that plan or that a person who has 1158
failed to operate in accordance with such a plan begin to operate 1159
in accordance with it. Each order shall be issued in writing and 1160
contain a finding by the chief of the facts upon which the order 1161
is based and the standard that is not being met. 1162

(H) Employ field assistants and such other employees as are 1163
necessary for the performance of the work prescribed by Chapter 1164
1515. of the Revised Code, for performance of work of the 1165
division, and as agreed to under working agreements or contractual 1166
arrangements with ~~local~~ soil and water conservation districts, 1167
prescribe their duties, and fix their compensation in accordance 1168
with such schedules as are provided by law for the compensation of 1169
state employees. 1170

All employees of the division, unless specifically exempted 1171
by law, shall be employed subject to the classified civil service 1172
laws in force at the time of employment. 1173

(I) In connection with new or relocated projects involving 1174

highways, underground cables, pipelines, railroads, and other 1175
improvements affecting soil and water resources, including surface 1176
and subsurface drainage: 1177

(1) Provide engineering service as is mutually agreeable to 1178
the Ohio soil and water conservation commission and the director 1179
of natural resources to aid in the design and installation of soil 1180
and water conservation practices as a necessary component of such 1181
projects; 1182

(2) Maintain close liaison between the owners of lands on 1183
which the projects are executed, ~~local~~ soil and water conservation 1184
districts, and authorities responsible for such projects; 1185

(3) Review plans for such projects to ensure their compliance 1186
with standards developed under division (E) of this section in 1187
cooperation with the department of transportation or with any 1188
other interested agency that is engaged in soil or water 1189
conservation projects in the state in order to minimize adverse 1190
impacts on soil and water resources adjacent to or otherwise 1191
affected by these projects; 1192

(4) Recommend measures to retard erosion and protect soil and 1193
water resources through the installation of water impoundment or 1194
other soil and water conservation practices; 1195

(5) Cooperate with other agencies and subdivisions of the 1196
state to protect the agricultural status of rural lands adjacent 1197
to such projects and control adverse impacts on soil and water 1198
resources. 1199

(J) Collect, analyze, inventory, and interpret all available 1200
information pertaining to the origin, distribution, extent, use, 1201
and conservation of the soil resources of the state; 1202

(K) Prepare and maintain up-to-date reports, maps, and other 1203
materials pertaining to the soil resources of the state and their 1204
use and make that information available to governmental agencies, 1205

public officials, conservation entities, and the public; 1206

(L) Provide soil and water conservation districts with 1207
technical assistance including on-site soil investigations and 1208
soil interpretation reports on the suitability or limitations of 1209
soil to support a particular use or to plan soil conservation 1210
measures. The assistance shall be upon such terms as are mutually 1211
agreeable to the districts and the department of natural 1212
resources. 1213

(M) Assist local government officials in utilizing land use 1214
planning and zoning, current agricultural use value assessment, 1215
development reviews, and land management activities. 1216

~~(N) When necessary for the purposes of this chapter or 1217
Chapter 1515. of the Revised Code, develop or approve operation 1218
and management plans. 1219~~

This section does not restrict ~~the excrement of domestic or 1220
farm animals manure~~ defecated on land outside a ~~concentrated an 1221
animal feeding operation or runoff therefrom into the waters of 1222
the state. 1223~~

Sec. 1511.021. (A) Any of the following may develop an 1224
operation and management plan in accordance with the standards 1225
established in rules adopted under division (E)(1) of section 1226
1511.02 of the Revised Code for a person who owns or operates 1227
agricultural land or an animal feeding operation: 1228

(1) The chief of the division of soil and water resources; 1229

(2) The supervisors of the soil and water conservation 1230
district in which the agricultural land or animal feeding 1231
operation is located; 1232

(3) A designee of the chief. 1233

(B) If a designee of the chief develops an operation and 1234
management plan under division (A) of this section, the chief 1235

shall approve the plan prior to its implementation. 1236

(C) In addition to the standards established in rules adopted 1237
under division (E) (1) of section 1511.02 of the Revised Code, an 1238
operation and management plan shall include implementation 1239
schedules and operational procedures for a level of management and 1240
pollution abatement practices that will abate degradation of the 1241
waters of the state caused by agricultural pollution. An operation 1242
and management plan may include a nutrient management plan. 1243

Sec. ~~1511.021~~ 1511.022. (A) Any person who owns or operates 1244
agricultural land or a ~~concentrated~~ an animal feeding operation 1245
may ~~develop and~~ operate under an operation and management plan 1246
~~approved by the chief of the division of soil and water resources~~ 1247
~~under section 1511.02 of the Revised Code or by the supervisors of~~ 1248
~~the local soil and water conservation district under section~~ 1249
~~1515.08 of the Revised Code.~~ 1250

(B) Any person who wishes to make a complaint regarding 1251
nuisances involving agricultural pollution may do so orally or by 1252
submitting a written, signed, and dated complaint to the chief of 1253
the division of soil and water resources or to the chief's 1254
designee. After receiving an oral complaint, the chief or the 1255
chief's designee may cause an investigation to be conducted to 1256
determine whether agricultural pollution has occurred or is 1257
imminent. After receiving a written, signed, and dated complaint, 1258
the chief or the chief's designee shall cause such an 1259
investigation to be conducted. 1260

(C) In a private civil action for nuisances involving 1261
agricultural pollution, it is an affirmative defense if the person 1262
owning, operating, or otherwise responsible for agricultural land 1263
or a ~~concentrated~~ an animal feeding operation is operating under 1264
and in substantial compliance with an ~~approved~~ operation and 1265
management plan ~~developed under division (A) of this section, with~~ 1266

~~an operation and management plan developed by the chief under 1267
section 1511.02 of the Revised Code or by the supervisors of the 1268
local soil and water conservation district under section 1515.08 1269
of the Revised Code, or with an operation and management plan 1270
required by an order issued by the chief under division (G) of 1271
section 1511.02 of the Revised Code. Nothing in this section is in 1272
derogation of the authority granted to the chief in division (E) 1273
of section 1511.02 and in section 1511.07 of the Revised Code. 1274~~

Sec. 1511.023. (A) Except as provided in division (B) of this 1275
section, the director of natural resources, an employee of the 1276
department of natural resources, the supervisors of a soil and 1277
water conservation district, an employee of a district, and a 1278
contractor of the department or a district shall not disclose 1279
either of the following: 1280

(1) Information, including data from geographic information 1281
systems and global positioning systems, provided by a person who 1282
owns or operates agricultural land or an animal feeding operation 1283
and operates under an operation and management plan; 1284

(2) Information gathered as a result of an inspection of 1285
agricultural land or an animal feeding operation to determine 1286
whether the person who owns or operates the land or operation is 1287
in compliance with an operation and management plan. 1288

(B) The director or the supervisors of a district may release 1289
or disclose information specified in division (A) of this section 1290
to a person or a federal, state, or local agency working in 1291
cooperation with the chief of the division of soil and water 1292
resources or the supervisors in the development of an operation 1293
and management plan or an inspection to determine compliance with 1294
such a plan if the director or supervisors determine that the 1295
person or federal, state, or local agency will not subsequently 1296
disclose the information to another person. 1297

Sec. ~~1511.022~~ 1511.024. (A) Any person who owns or operates 1298
an agricultural operation, or owns the animals raised by the owner 1299
or operator of an agricultural operation, and who wishes to 1300
conduct composting of dead animals resulting from the agricultural 1301
operation shall do both of the following: 1302

(1) Participate in an educational course concerning 1303
composting conducted by the Ohio cooperative extension service and 1304
obtain a certificate of completion for the course; 1305

(2) Use the appropriate method, technique, or practice of 1306
composting established in rules adopted under division (E)(8) of 1307
section 1511.02 of the Revised Code. 1308

(B) Any person who fails to comply with division (A) of this 1309
section shall prepare and operate under a composting plan in 1310
accordance with an order issued by the chief of the division of 1311
soil and water resources under division (G) of section 1511.02 of 1312
the Revised Code. If the person's proposed composting plan is 1313
disapproved by the board of supervisors of the appropriate soil 1314
and water conservation district under division ~~(Q)~~(P)(3) of 1315
section 1515.08 of the Revised Code, the person may appeal the 1316
plan disapproval to the chief, who shall afford the person a 1317
hearing. Following the hearing, the chief shall uphold the plan 1318
disapproval or reverse it. If the chief reverses the disapproval, 1319
the plan shall be deemed approved. 1320

Sec. 1511.07. (A)(1) No person shall fail to comply with an 1321
order of the chief of the division of soil and water resources 1322
issued pursuant to division (G) of section 1511.02 of the Revised 1323
Code. 1324

(2) In addition to the remedies provided and irrespective of 1325
whether an adequate remedy at law exists, the chief may apply to 1326
the court of common pleas in the county where a violation of a 1327

standard established under division (E) (1) or (8) (b) of section 1328
1511.02 of the Revised Code causes pollution of the waters of the 1329
state for an order to compel the violator to cease the violation 1330
and to remove the agricultural pollutant or to comply with the 1331
rules adopted under division (E) (8) (b) of that section, as 1332
appropriate. 1333

(3) In addition to the remedies provided and irrespective of 1334
whether an adequate remedy at law exists, whenever the chief 1335
officially determines that an emergency exists because of 1336
agricultural pollution or an unauthorized release, spill, or 1337
discharge of ~~animal waste~~ manure, or a violation of a rule adopted 1338
under division (E) (8) (b) of section 1511.02 of the Revised Code, 1339
that causes pollution of the waters of the state, the chief may, 1340
without notice or hearing, issue an order reciting the existence 1341
of the emergency and requiring that necessary action be taken to 1342
meet the emergency. The order shall be effective immediately. Any 1343
person to whom the order is directed shall comply with the order 1344
immediately, but on application to the chief shall be afforded a 1345
hearing as soon as possible, but not later than twenty days after 1346
making the application. On the basis of the hearing, the chief 1347
shall continue the order in effect, revoke it, or modify it. No 1348
emergency order shall remain in effect for more than sixty days 1349
after its issuance. If a person to whom an order is issued does 1350
not comply with the order within a reasonable period, as 1351
determined by the chief, the chief or the chief's designee may 1352
enter upon private or public lands and take action to mitigate, 1353
minimize, remove, or abate the agricultural pollution, release, 1354
spill, discharge, or conditions caused by the violation of the 1355
rule. 1356

(B) The attorney general, upon the written request of the 1357
chief, shall bring appropriate legal action in Franklin county 1358
against any person who fails to comply with an order of the chief 1359

issued pursuant to division (G) of section 1511.02 of the Revised Code. 1360
1361

Sec. 1511.071. There is hereby created in the state treasury 1362
the agricultural pollution abatement fund, which shall be 1363
administered by the chief of the division of soil and water 1364
resources. The fund may be used to pay costs incurred by the 1365
division under division (A)(3) of section 1511.07 of the Revised 1366
Code in investigating, mitigating, minimizing, removing, or 1367
abating any pollution of the waters of the state caused by 1368
agricultural pollution or an unauthorized release, spill, or 1369
discharge of ~~animal waste~~ manure into or upon the environment that 1370
requires emergency action to protect the public health. 1371

Any person responsible for causing or allowing agricultural 1372
pollution or an unauthorized release, spill, or discharge is 1373
liable to the chief for any costs incurred by the division and 1374
soil and water conservation districts in investigating, 1375
mitigating, minimizing, removing, or abating the agricultural 1376
pollution or release, spill, or discharge, regardless of whether 1377
those costs were paid out of the agricultural pollution abatement 1378
fund or any other fund of the division or a district. Upon the 1379
request of the chief, the attorney general shall bring a civil 1380
action against the responsible person to recover those costs. 1381
Moneys recovered under this section shall be paid into the 1382
agricultural pollution abatement fund. 1383

Sec. 1515.01. As used in this chapter: 1384

(A) "Soil and water conservation district" means a district 1385
organized in accordance with this chapter. 1386

(B) "Supervisor" means one of the members of the governing 1387
body of a district. 1388

(C) "Landowner," "owner," or "owner of land" means an owner 1389

of record as shown by the records in the office of the county recorder. With respect to an improvement or a proposed improvement, "landowner," "owner," or "owner of land" also includes any public corporation and the director of any department, office, or institution of the state that is affected by the improvement or that would be affected by the proposed improvement, but that does not own any right, title, estate, or interest in or to any real property.

(D) "Land occupier" or "occupier of land" means any person, firm, or corporation that controls the use of land whether as landowner, lessee, renter, or tenant.

(E) "Due notice" means notice published at least twice, stating time and place, with an interval of at least thirteen days between the two publication dates, in a newspaper of general circulation within a soil and water conservation district.

(F) ~~"Agricultural pollution" means failure to use management or conservation practices in farming or silvicultural operations to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by animal waste or soil sediment including substances attached thereto~~ has the same meaning as in section 1511.01 of the Revised Code.

(G) "Urban sediment pollution" means failure to use management or conservation practices to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, except lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code and except lands being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(H) "Uniform assessment" means an assessment that is both of 1421
the following: 1422

(1) Based upon a complete appraisal of each parcel of land, 1423
together with all improvements thereon, within a project area and 1424
of the benefits or damages brought about as a result of the 1425
project that is determined by criteria applied equally to all 1426
parcels within the project area; 1427

(2) Levied upon the parcels at a uniform rate on the basis of 1428
the appraisal. 1429

(I) "Varied assessment" means any assessment that does not 1430
meet the criteria established in division (H) of this section. 1431

(J) "Project area" means an area determined and certified by 1432
the supervisors of a soil and water conservation district under 1433
section 1515.19 of the Revised Code. 1434

(K) "Benefit" or "benefits" means advantages to land and 1435
owners, to public corporations, and to the state resulting from 1436
drainage, conservation, control, and management of water and from 1437
environmental, wildlife, and recreational improvements. "Benefit" 1438
or "benefits" includes, but is not limited to, any of the 1439
following factors: 1440

(1) Elimination or reduction of damage from flooding; 1441

(2) Removal of water conditions that jeopardize public 1442
health, safety, or welfare; 1443

(3) Increased value of land resulting from an improvement; 1444

(4) Use of water for irrigation, storage, regulation of 1445
stream flow, soil conservation, water supply, or any other 1446
incidental purpose; 1447

(5) Providing an outlet for the accelerated runoff from 1448
artificial drainage if a stream, watercourse, channel, or ditch 1449
that is under improvement is called upon to discharge functions 1450

for which it was not designed. Uplands that have been removed from 1451
their natural state by deforestation, cultivation, artificial 1452
drainage, urban development, or other human methods shall be 1453
considered to be benefited by an improvement that is required to 1454
dispose of the accelerated flow of water from the uplands. 1455

(L) "Improvement" or "conservation works of improvement" 1456
means an improvement that is made under the authority established 1457
in division (C) of section 1515.08 of the Revised Code. 1458

(M) "Land" has the same meaning as in section 6131.01 of the 1459
Revised Code. 1460

Sec. 1515.02. There is hereby established in the department 1461
of natural resources the Ohio soil and water conservation 1462
commission. The commission shall consist of seven members of equal 1463
status and authority, ~~four~~ six of whom shall be appointed by the 1464
governor with the advice and consent of the senate, and one of 1465
whom shall be designated by resolution of the board of directors 1466
of the Ohio federation of soil and water conservation districts. 1467
The ~~other two members shall be the director~~ directors of 1468
agriculture, environmental protection, and natural resources and 1469
the vice-president for agricultural administration of the Ohio 1470
state university. ~~The director of natural resources may~~ 1471
participate in the deliberations or their designees may serve as 1472
ex officio members of the commission, but without the power to 1473
vote. A vacancy in the office of an appointed member shall be 1474
filled by the governor, with the advice and consent of the senate. 1475
Any member appointed to fill a vacancy occurring prior to the 1476
expiration of the term for which the member's predecessor was 1477
appointed shall hold office for the remainder of that term. Of the 1478
appointed members, ~~two~~ four shall be farmers and all shall be 1479
persons who have a knowledge of or interest in soil- and 1480
water-related topics and the natural resources of the state. Not 1481

more than ~~two~~ three of the appointed members shall be members of 1482
the same political party. 1483

Terms of office of the member designated by the board of 1484
directors of the federation and the members appointed by the 1485
governor shall be for four years, commencing on the first day of 1486
July and ending on the thirtieth day of June. 1487

Each appointed member shall hold office from the date of 1488
appointment until the end of the term for which the member was 1489
appointed. Any appointed member shall continue in office 1490
subsequent to the expiration date of the member's term until the 1491
member's successor takes office, or until a period of sixty days 1492
has elapsed, whichever occurs first. 1493

The commission shall organize by selecting from its members a 1494
chairperson and a vice-chairperson. The commission shall hold at 1495
least one regular meeting in each quarter of each calendar year 1496
and shall keep a record of its proceedings, which shall be open to 1497
the public for inspection. Special meetings may be called by the 1498
chairperson and shall be called by the chairperson upon receipt of 1499
a written request signed by two or more members of the commission. 1500
Written notice of the time and place of each meeting shall be sent 1501
to each member of the commission. A majority of the commission 1502
shall constitute a quorum. 1503

The commission may adopt rules as necessary to carry out the 1504
purposes of this chapter, subject to Chapter 119. of the Revised 1505
Code. 1506

The governor may remove any appointed member of the 1507
commission at any time for inefficiency, neglect of duty, or 1508
malfeasance in office, after giving to the member a copy of the 1509
charges against the member and an opportunity to be heard publicly 1510
in person or by counsel in the member's defense. Any such act of 1511
removal by the governor is final. A statement of the findings of 1512

the governor, the reason for the governor's action, and the 1513
answer, if any, of the member shall be filed by the governor with 1514
the secretary of state and shall be open to public inspection. 1515

All members of the commission shall be reimbursed for the 1516
necessary expenses incurred by them in the performance of their 1517
duties as members. 1518

Upon recommendation by the commission, the director of 1519
natural resources shall designate an executive secretary and 1520
provide staff necessary to carry out the powers and duties of the 1521
commission. ~~The commission may utilize the services of such staff 1522~~
~~members in the college of agriculture of the Ohio state university 1523~~
~~as may be agreed upon by the commission and the college. 1524~~

The commission shall do all of the following: 1525

(A) Determine distribution of funds under section 1515.14 of 1526
the Revised Code, recommend to the director of natural resources 1527
and other agencies the levels of appropriations to special funds 1528
established to assist soil and water conservation districts, and 1529
recommend the amount of federal funds to be requested and policies 1530
for the use of such funds in support of soil and water 1531
conservation district programs; 1532

(B) Assist in keeping the supervisors of soil and water 1533
conservation districts informed of their powers and duties, 1534
program opportunities, and the activities and experience of all 1535
other districts, and facilitate the interchange of advice, 1536
experience, and cooperation between the districts; 1537

(C) Seek the cooperation and assistance of the federal 1538
government or any of its agencies, and of agencies of this state, 1539
in the work of the districts; 1540

(D) Adopt appropriate rules governing the conduct of 1541
elections provided for in this chapter, subject to Chapter 119. of 1542
the Revised Code, provided that only owners and occupiers of lands 1543

situated within the boundaries of the districts or proposed 1544
districts to which the elections apply shall be eligible to vote 1545
in the elections; 1546

(E) Recommend to the director priorities for planning and 1547
construction of small watershed projects, and make recommendations 1548
to the director concerning coordination of programs as proposed 1549
and implemented in agreements with soil and water conservation 1550
districts; 1551

(F) Recommend to the director, the governor, and the general 1552
assembly programs and legislation with respect to the operations 1553
of soil and water conservation districts that will encourage 1554
proper soil, water, and other natural resource management and 1555
promote the economic and social development of the state. 1556

Sec. 1515.08. The supervisors of a soil and water 1557
conservation district have the following powers in addition to 1558
their other powers: 1559

(A) To conduct surveys, investigations, and research relating 1560
to the character of soil erosion, floodwater and sediment damages, 1561
and the preventive and control measures and works of improvement 1562
for flood prevention and the conservation, development, 1563
utilization, and disposal of water needed within the district, and 1564
to publish the results of those surveys, investigations, or 1565
research, provided that no district shall initiate any research 1566
program except in cooperation or after consultation with the Ohio 1567
agricultural research and development center; 1568

(B) To develop plans for the conservation of soil resources, 1569
for the control and prevention of soil erosion, and for works of 1570
improvement for flood prevention and the conservation, 1571
development, utilization, and disposal of water within the 1572
district, and to publish those plans and information; 1573

(C) To implement, construct, repair, maintain, and operate 1574
preventive and control measures and other works of improvement for 1575
natural resource conservation and development and flood 1576
prevention, and the conservation, development, utilization, and 1577
disposal of water within the district on lands owned or controlled 1578
by this state or any of its agencies and on any other lands within 1579
the district, which works may include any facilities authorized 1580
under state or federal programs, and to acquire, by purchase or 1581
gift, to hold, encumber, or dispose of, and to lease real and 1582
personal property or interests in such property for those 1583
purposes; 1584

(D) To cooperate or enter into agreements with any occupier 1585
of lands within the district in the carrying on of natural 1586
resource conservation operations and works of improvement for 1587
flood prevention and the conservation, development, utilization, 1588
and management of natural resources within the district, subject 1589
to such conditions as the supervisors consider necessary; 1590

(E) To accept donations, gifts, grants, and contributions in 1591
money, service, materials, or otherwise, and to use or expend them 1592
according to their terms; 1593

(F) To adopt, amend, and rescind rules to carry into effect 1594
the purposes and powers of the district; 1595

(G) To sue and plead in the name of the district, and be sued 1596
and impleaded in the name of the district, with respect to its 1597
contracts and, as indicated in section 1515.081 of the Revised 1598
Code, certain torts of its officers, employees, or agents acting 1599
within the scope of their employment or official responsibilities, 1600
or with respect to the enforcement of its obligations and 1601
covenants made under this chapter; 1602

(H) To make and enter into all contracts, leases, and 1603
agreements and execute all instruments necessary or incidental to 1604

the performance of the duties and the execution of the powers of 1605
the district under this chapter, provided that all of the 1606
following apply: 1607

(1) Except as provided in section 307.86 of the Revised Code 1608
regarding expenditures by boards of county commissioners, when the 1609
cost under any such contract, lease, or agreement, other than 1610
compensation for personal services or rental of office space, 1611
involves an expenditure of more than the amount established in 1612
that section regarding expenditures by boards of county 1613
commissioners, the supervisors shall make a written contract with 1614
the lowest and best bidder after advertisement, for not less than 1615
two nor more than four consecutive weeks preceding the day of the 1616
opening of bids, in a newspaper of general circulation within the 1617
district or as provided in section 7.16 of the Revised Code and in 1618
such other publications as the supervisors determine. The notice 1619
shall state the general character of the work and materials to be 1620
furnished, the place where plans and specifications may be 1621
examined, and the time and place of receiving bids. 1622

(2) Each bid for a contract shall contain the full name of 1623
every person interested in it. 1624

(3) Each bid for a contract for the construction, demolition, 1625
alteration, repair, or reconstruction of an improvement shall meet 1626
the requirements of section 153.54 of the Revised Code. 1627

(4) Each bid for a contract, other than a contract for the 1628
construction, demolition, alteration, repair, or reconstruction of 1629
an improvement, at the discretion of the supervisors, may be 1630
accompanied by a bond or certified check on a solvent bank in an 1631
amount not to exceed five per cent of the bid, conditioned that, 1632
if the bid is accepted, a contract shall be entered into. 1633

(5) The supervisors may reject any and all bids. 1634

(I) To make agreements with the department of natural 1635

resources giving it control over lands of the district for the 1636
purpose of construction of improvements by the department under 1637
section 1501.011 of the Revised Code; 1638

(J) To charge, alter, and collect rentals and other charges 1639
for the use or services of any works of the district; 1640

(K) To enter, either in person or by designated 1641
representatives, upon lands, private or public, in the necessary 1642
discharge of their duties; 1643

(L) To enter into agreements or contracts with the department 1644
for the determination, implementation, inspection, and funding of 1645
agricultural pollution abatement and urban sediment pollution 1646
abatement measures whereby landowners, operators, managers, and 1647
developers may meet adopted state standards for a quality 1648
environment, except that failure of a district board of 1649
supervisors to negotiate an agreement or contract with the 1650
department shall authorize the division of soil and water 1651
resources to implement the required program; 1652

(M) To conduct demonstrations and provide information to the 1653
public regarding practices and methods for natural resource 1654
conservation, development, and utilization; 1655

(N) To enter into contracts or agreements with the chief of 1656
the division of soil and water resources to implement and 1657
administer a program for urban sediment pollution abatement and to 1658
receive and expend moneys provided by the chief for that purpose; 1659

(O) To develop operation and management plans, ~~as defined in~~ 1660
under section 1511.01 1511.021 of the Revised Code, as necessary; 1661

(P) ~~To determine whether operation and management plans~~ 1662
~~developed under division (A) of section 1511.021 of the Revised~~ 1663
~~Code comply with the standards established under division (E) (1)~~ 1664
~~of section 1511.02 of the Revised Code and to approve or~~ 1665
~~disapprove the plans, based on such compliance. If an operation~~ 1666

~~and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or a concentrated animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.~~

~~(Q)~~ With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section ~~1511.022~~ 1511.024 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E) (8) (c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E) (8) (c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division ~~(Q)~~(P) of this section, "composting" has 1699
the same meaning as in section 1511.01 of the Revised Code. 1700

~~(R)~~(O) With regard to conservation activities that are 1701
conducted in conjunction with agricultural operations, to assist 1702
the county auditor, upon request, in determining whether a 1703
conservation activity is a conservation practice for purposes of 1704
Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the 1705
Revised Code. 1706

As used in this division, "conservation practice" has the 1707
same meaning as in section 5713.30 of the Revised Code. 1708

~~(S)~~(R) To do all acts necessary or proper to carry out the 1709
powers granted in this chapter. 1710

The director of natural resources shall make recommendations 1711
to reduce the adverse environmental effects of each project that a 1712
soil and water conservation district plans to undertake under 1713
division (A), (B), (C), or (D) of this section and that will be 1714
funded in whole or in part by moneys authorized under section 1715
1515.16 of the Revised Code and shall disapprove any such project 1716
that the director finds will adversely affect the environment 1717
without equal or greater benefit to the public. The director's 1718
disapproval or recommendations, upon the request of the district 1719
filed in accordance with rules adopted by the Ohio soil and water 1720
conservation commission, shall be reviewed by the commission, 1721
which may confirm the director's decision, modify it, or add 1722
recommendations to or approve a project the director has 1723
disapproved. 1724

Any instrument by which real property is acquired pursuant to 1725
this section shall identify the agency of the state that has the 1726
use and benefit of the real property as specified in section 1727
5301.012 of the Revised Code. 1728

Sec. 3717.53. (A) As used in this section: 1729

(1) "Food nutrition information" includes, but is not limited 1730
to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, 1731
potassium, protein, vitamin, mineral, allergen, and sodium content 1732
of food. "Food nutrition information" also includes the 1733
designation of food as healthy or unhealthy. 1734

(2) "Political subdivision" and "local legislation" have the 1735
same meanings as in section ~~905.501~~ 905.503 of the Revised Code. 1736

(3) "Consumer incentive item" means any licensed media 1737
character, toy, game, trading card, contest, point accumulation, 1738
club membership, admission ticket, token, code or password for 1739
digital access, coupon, voucher, incentive, crayons, coloring 1740
placemat, or other premium, prize, or consumer product that is 1741
associated with a meal served by or acquired from a food service 1742
operation. 1743

(B) The director of agriculture has sole and exclusive 1744
authority in this state to regulate the provision of food 1745
nutrition information and consumer incentive items at food service 1746
operations. The director may adopt rules for that purpose in 1747
accordance with Chapter 119. of the Revised Code, including rules 1748
that establish a schedule of civil penalties for violations of 1749
this section and rules adopted under it. Subject to the approval 1750
of the joint committee on agency rule review, portions of the 1751
rules may be adopted by referencing all or any part of any federal 1752
regulations pertaining to the provision of food nutrition 1753
information and consumer incentive items. 1754

The regulation of the provision of food nutrition information 1755
and consumer incentive items at food service operations and how 1756
food service operations are characterized are matters of general 1757
statewide interest that require statewide regulation, and rules 1758
adopted under this section constitute a comprehensive plan with 1759

respect to all aspects of the regulation of the provision of food 1760
nutrition information and consumer incentive items at food service 1761
operations in this state. Rules adopted under this section shall 1762
be applied uniformly throughout this state. 1763

(C) No political subdivision shall do any of the following: 1764

(1) Enact, adopt, or continue in effect local legislation 1765
relating to the provision or nonprovision of food nutrition 1766
information or consumer incentive items at food service 1767
operations; 1768

(2) Condition a license, a permit, or regulatory approval on 1769
the provision or nonprovision of food nutrition information or 1770
consumer incentive items at food service operations; 1771

(3) Ban, prohibit, or otherwise restrict food at food service 1772
operations based on the food nutrition information or on the 1773
provision or nonprovision of consumer incentive items; 1774

(4) Condition a license, a permit, or regulatory approval for 1775
a food service operation on the existence or nonexistence of 1776
food-based health disparities; 1777

(5) Where food service operations are permitted to operate, 1778
ban, prohibit, or otherwise restrict a food service operation 1779
based on the existence or nonexistence of food-based health 1780
disparities as recognized by the department of health, the 1781
national institute of health, or the centers for disease control. 1782

Sec. 3734.02. (A) The director of environmental protection, 1783
in accordance with Chapter 119. of the Revised Code, shall adopt 1784
and may amend, suspend, or rescind rules having uniform 1785
application throughout the state governing solid waste facilities 1786
and the inspections of and issuance of permits and licenses for 1787
all solid waste facilities in order to ensure that the facilities 1788
will be located, maintained, and operated, and will undergo 1789

closure and post-closure care, in a sanitary manner so as not to 1790
create a nuisance, cause or contribute to water pollution, create 1791
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 1792
257.3-8, as amended. The rules may include, without limitation, 1793
financial assurance requirements for closure and post-closure care 1794
and corrective action and requirements for taking corrective 1795
action in the event of the surface or subsurface discharge or 1796
migration of explosive gases or leachate from a solid waste 1797
facility, or of ground water contamination resulting from the 1798
transfer or disposal of solid wastes at a facility, beyond the 1799
boundaries of any area within a facility that is operating or is 1800
undergoing closure or post-closure care where solid wastes were 1801
disposed of or are being disposed of. The rules shall not concern 1802
or relate to personnel policies, salaries, wages, fringe benefits, 1803
or other conditions of employment of employees of persons owning 1804
or operating solid waste facilities. The director, in accordance 1805
with Chapter 119. of the Revised Code, shall adopt and may amend, 1806
suspend, or rescind rules governing the issuance, modification, 1807
revocation, suspension, or denial of variances from the director's 1808
solid waste rules, including, without limitation, rules adopted 1809
under this chapter governing the management of scrap tires. 1810

Variances shall be issued, modified, revoked, suspended, or 1811
rescinded in accordance with this division, rules adopted under 1812
it, and Chapter 3745. of the Revised Code. The director may order 1813
the person to whom a variance is issued to take such action within 1814
such time as the director may determine to be appropriate and 1815
reasonable to prevent the creation of a nuisance or a hazard to 1816
the public health or safety or the environment. Applications for 1817
variances shall contain such detail plans, specifications, and 1818
information regarding objectives, procedures, controls, and other 1819
pertinent data as the director may require. The director shall 1820
grant a variance only if the applicant demonstrates to the 1821
director's satisfaction that construction and operation of the 1822

solid waste facility in the manner allowed by the variance and any 1823
terms or conditions imposed as part of the variance will not 1824
create a nuisance or a hazard to the public health or safety or 1825
the environment. In granting any variance, the director shall 1826
state the specific provision or provisions whose terms are to be 1827
varied and also shall state specific terms or conditions imposed 1828
upon the applicant in place of the provision or provisions. The 1829
director may hold a public hearing on an application for a 1830
variance or renewal of a variance at a location in the county 1831
where the operations that are the subject of the application for 1832
the variance are conducted. The director shall give not less than 1833
twenty days' notice of the hearing to the applicant by certified 1834
mail or by another type of mail accompanied by a receipt and shall 1835
publish at least one notice of the hearing in a newspaper with 1836
general circulation in the county where the hearing is to be held. 1837
The director shall make available for public inspection at the 1838
principal office of the environmental protection agency a current 1839
list of pending applications for variances and a current schedule 1840
of pending variance hearings. The director shall make a complete 1841
stenographic record of testimony and other evidence submitted at 1842
the hearing. Within ten days after the hearing, the director shall 1843
make a written determination to issue, renew, or deny the variance 1844
and shall enter the determination and the basis for it into the 1845
record of the hearing. The director shall issue, renew, or deny an 1846
application for a variance or renewal of a variance within six 1847
months of the date upon which the director receives a complete 1848
application with all pertinent information and data required. No 1849
variance shall be issued, revoked, modified, or denied until the 1850
director has considered the relative interests of the applicant, 1851
other persons and property affected by the variance, and the 1852
general public. Any variance granted under this division shall be 1853
for a period specified by the director and may be renewed from 1854
time to time on such terms and for such periods as the director 1855

determines to be appropriate. No application shall be denied and 1856
no variance shall be revoked or modified without a written order 1857
stating the findings upon which the denial, revocation, or 1858
modification is based. A copy of the order shall be sent to the 1859
applicant or variance holder by certified mail or by another type 1860
of mail accompanied by a receipt. 1861

(B) The director shall prescribe and furnish the forms 1862
necessary to administer and enforce this chapter. The director may 1863
cooperate with and enter into agreements with other state, local, 1864
or federal agencies to carry out the purposes of this chapter. The 1865
director may exercise all incidental powers necessary to carry out 1866
the purposes of this chapter. 1867

The director may use moneys in the infectious waste 1868
management fund created in section 3734.021 of the Revised Code 1869
exclusively for administering and enforcing the provisions of this 1870
chapter governing the management of infectious wastes. 1871

(C) Except as provided in this division and divisions (N) (2) 1872
and (3) of this section, no person shall establish a new solid 1873
waste facility or infectious waste treatment facility, or modify 1874
an existing solid waste facility or infectious waste treatment 1875
facility, without submitting an application for a permit with 1876
accompanying detail plans, specifications, and information 1877
regarding the facility and method of operation and receiving a 1878
permit issued by the director, except that no permit shall be 1879
required under this division to install or operate a solid waste 1880
facility for sewage sludge treatment or disposal when the 1881
treatment or disposal is authorized by a current permit issued 1882
under Chapter 3704. or 6111. of the Revised Code. 1883

No person shall continue to operate a solid waste facility 1884
for which the director has denied a permit for which an 1885
application was required under division (A) (3) of section 3734.05 1886
of the Revised Code, or for which the director has disapproved 1887

plans and specifications required to be filed by an order issued 1888
under division (A) (5) of that section, after the date prescribed 1889
for commencement of closure of the facility in the order issued 1890
under division (A) (6) of section 3734.05 of the Revised Code 1891
denying the permit application or approval. 1892

On and after the effective date of the rules adopted under 1893
division (A) of this section and division (D) of section 3734.12 1894
of the Revised Code governing solid waste transfer facilities, no 1895
person shall establish a new, or modify an existing, solid waste 1896
transfer facility without first submitting an application for a 1897
permit with accompanying engineering detail plans, specifications, 1898
and information regarding the facility and its method of operation 1899
to the director and receiving a permit issued by the director. 1900

No person shall establish a new compost facility or continue 1901
to operate an existing compost facility that accepts exclusively 1902
source separated yard wastes without submitting a completed 1903
registration for the facility to the director in accordance with 1904
rules adopted under divisions (A) and (N) (3) of this section. 1905

This division does not apply to a generator of infectious 1906
wastes that does any of the following: 1907

(1) Treats, by methods, techniques, and practices established 1908
by rules adopted under division (B) (2) (a) of section 3734.021 of 1909
the Revised Code, any of the following: 1910

(a) Infectious wastes that are generated on any premises that 1911
are owned or operated by the generator; 1912

(b) Infectious wastes that are generated by a generator who 1913
has staff privileges at a hospital as defined in section 3727.01 1914
of the Revised Code; 1915

(c) Infectious wastes that are generated in providing care to 1916
a patient by an emergency medical services organization as defined 1917
in section 4765.01 of the Revised Code. 1918

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;	1919 1920 1921
(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:	1922 1923
(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;	1924 1925
(b) Chapter 918. of the Revised Code;	1926
(c) Chapter 953. of the Revised Code.	1927
(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 <u>1511.024</u> of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.	1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944
(E) (1) As used in this division:	1945
(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.	1946 1947 1948

(b) "Off-site facility" means a facility that stores, treats, 1949
or disposes of hazardous waste that is generated off the premises 1950
of the facility and includes such a facility that is also an 1951
on-site facility. 1952

(c) "Satellite facility" means any of the following: 1953

(i) An on-site facility that also receives hazardous waste 1954
from other premises owned by the same person who generates the 1955
waste on the facility premises; 1956

(ii) An off-site facility operated so that all of the 1957
hazardous waste it receives is generated on one or more premises 1958
owned by the person who owns the facility; 1959

(iii) An on-site facility that also receives hazardous waste 1960
that is transported uninterruptedly and directly to the facility 1961
through a pipeline from a generator who is not the owner of the 1962
facility. 1963

(2) Except as provided in division (E) (3) of this section, no 1964
person shall establish or operate a hazardous waste facility, or 1965
use a solid waste facility for the storage, treatment, or disposal 1966
of any hazardous waste, without a hazardous waste facility 1967
installation and operation permit issued in accordance with 1968
section 3734.05 of the Revised Code and subject to the payment of 1969
an application fee not to exceed one thousand five hundred 1970
dollars, payable upon application for a hazardous waste facility 1971
installation and operation permit and upon application for a 1972
renewal permit issued under division (H) of section 3734.05 of the 1973
Revised Code, to be credited to the hazardous waste facility 1974
management fund created in section 3734.18 of the Revised Code. 1975
The term of a hazardous waste facility installation and operation 1976
permit shall not exceed ten years. 1977

In addition to the application fee, there is hereby levied an 1978
annual permit fee to be paid by the permit holder upon the 1979

anniversaries of the date of issuance of the hazardous waste			1980
facility installation and operation permit and of any subsequent			1981
renewal permits and to be credited to the hazardous waste facility			1982
management fund. Annual permit fees totaling forty thousand			1983
dollars or more for any one facility may be paid on a quarterly			1984
basis with the first quarterly payment each year being due on the			1985
anniversary of the date of issuance of the hazardous waste			1986
facility installation and operation permit and of any subsequent			1987
renewal permits. The annual permit fee shall be determined for			1988
each permit holder by the director in accordance with the			1989
following schedule:			1990
TYPE OF BASIC			1991
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	1992
Storage facility using:			1993
Containers	On-site, off-site, and		1994
	satellite	\$ 500	1995
Tanks	On-site, off-site, and		1996
	satellite	500	1997
Waste pile	On-site, off-site, and		1998
	satellite	3,000	1999
Surface impoundment	On-site and satellite	8,000	2000
	Off-site	10,000	2001
Disposal facility using:			2002
Deep well injection	On-site and satellite	15,000	2003
	Off-site	25,000	2004
Landfill	On-site and satellite	25,000	2005
	Off-site	40,000	2006
Land application	On-site and satellite	2,500	2007
	Off-site	5,000	2008
Surface impoundment	On-site and satellite	10,000	2009
	Off-site	20,000	2010
Treatment facility using:			2011
Tanks	On-site, off-site, and		2012

	satellite	700	2013
Surface impoundment	On-site and satellite	8,000	2014
	Off-site	10,000	2015
Incinerator	On-site and satellite	5,000	2016
	Off-site	10,000	2017
Other forms			2018
of treatment	On-site, off-site, and		2019
	satellite	1,000	2020

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 2045
119. and 3745. of the Revised Code, shall prescribe procedures for 2046
collecting the annual permit fee established by this division and 2047
may prescribe other requirements necessary to carry out this 2048
division. 2049

(3) The prohibition against establishing or operating a 2050
hazardous waste facility without a hazardous waste facility 2051
installation and operation permit does not apply to either of the 2052
following: 2053

(a) A facility that is operating in accordance with a permit 2054
renewal issued under division (H) of section 3734.05 of the 2055
Revised Code, a revision issued under division (I) of that section 2056
as it existed prior to August 20, 1996, or a modification issued 2057
by the director under division (I) of that section on and after 2058
August 20, 1996; 2059

(b) Except as provided in division (J) of section 3734.05 of 2060
the Revised Code, a facility that will operate or is operating in 2061
accordance with a permit by rule, or that is not subject to permit 2062
requirements, under rules adopted by the director. In accordance 2063
with Chapter 119. of the Revised Code, the director shall adopt, 2064
and subsequently may amend, suspend, or rescind, rules for the 2065
purposes of division (E) (3) (b) of this section. Any rules so 2066
adopted shall be consistent with and equivalent to regulations 2067
pertaining to interim status adopted under the "Resource 2068
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 2069
6921, as amended, except as otherwise provided in this chapter. 2070

If a modification is requested or proposed for a facility 2071
described in division (E) (3) (a) or (b) of this section, division 2072
(I) (7) of section 3734.05 of the Revised Code applies. 2073

(F) No person shall store, treat, or dispose of hazardous 2074
waste identified or listed under this chapter and rules adopted 2075

under it, regardless of whether generated on or off the premises 2076
where the waste is stored, treated, or disposed of, or transport 2077
or cause to be transported any hazardous waste identified or 2078
listed under this chapter and rules adopted under it to any other 2079
premises, except at or to any of the following: 2080

(1) A hazardous waste facility operating under a permit 2081
issued in accordance with this chapter; 2082

(2) A facility in another state operating under a license or 2083
permit issued in accordance with the "Resource Conservation and 2084
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 2085
amended; 2086

(3) A facility in another nation operating in accordance with 2087
the laws of that nation; 2088

(4) A facility holding a permit issued pursuant to Title I of 2089
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 2090
Stat. 1052, 33 U.S.C.A. 1401, as amended; 2091

(5) A hazardous waste facility as described in division 2092
(E) (3) (a) or (b) of this section. 2093

(G) The director, by order, may exempt any person generating, 2094
collecting, storing, treating, disposing of, or transporting solid 2095
wastes, infectious wastes, or hazardous waste, or processing solid 2096
wastes that consist of scrap tires, in such quantities or under 2097
such circumstances that, in the determination of the director, are 2098
unlikely to adversely affect the public health or safety or the 2099
environment from any requirement to obtain a registration 2100
certificate, permit, or license or comply with the manifest system 2101
or other requirements of this chapter. Such an exemption shall be 2102
consistent with and equivalent to any regulations adopted by the 2103
administrator of the United States environmental protection agency 2104
under the "Resource Conservation and Recovery Act of 1976," 90 2105
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 2106

provided in this chapter. 2107

(H) No person shall engage in filling, grading, excavating, 2108
building, drilling, or mining on land where a hazardous waste 2109
facility, or a solid waste facility, was operated without prior 2110
authorization from the director, who shall establish the procedure 2111
for granting such authorization by rules adopted in accordance 2112
with Chapter 119. of the Revised Code. 2113

A public utility that has main or distribution lines above or 2114
below the land surface located on an easement or right-of-way 2115
across land where a solid waste facility was operated may engage 2116
in any such activity within the easement or right-of-way without 2117
prior authorization from the director for purposes of performing 2118
emergency repair or emergency replacement of its lines; of the 2119
poles, towers, foundations, or other structures supporting or 2120
sustaining any such lines; or of the appurtenances to those 2121
structures, necessary to restore or maintain existing public 2122
utility service. A public utility may enter upon any such easement 2123
or right-of-way without prior authorization from the director for 2124
purposes of performing necessary or routine maintenance of those 2125
portions of its existing lines; of the existing poles, towers, 2126
foundations, or other structures sustaining or supporting its 2127
lines; or of the appurtenances to any such supporting or 2128
sustaining structure, located on or above the land surface on any 2129
such easement or right-of-way. Within twenty-four hours after 2130
commencing any such emergency repair, replacement, or maintenance 2131
work, the public utility shall notify the director or the 2132
director's authorized representative of those activities and shall 2133
provide such information regarding those activities as the 2134
director or the director's representative may request. Upon 2135
completion of the emergency repair, replacement, or maintenance 2136
activities, the public utility shall restore any land of the solid 2137
waste facility disturbed by those activities to the condition 2138

existing prior to the commencement of those activities. 2139

(I) No owner or operator of a hazardous waste facility, in 2140
the operation of the facility, shall cause, permit, or allow the 2141
emission therefrom of any particulate matter, dust, fumes, gas, 2142
mist, smoke, vapor, or odorous substance that, in the opinion of 2143
the director, unreasonably interferes with the comfortable 2144
enjoyment of life or property by persons living or working in the 2145
vicinity of the facility, or that is injurious to public health. 2146
Any such action is hereby declared to be a public nuisance. 2147

(J) Notwithstanding any other provision of this chapter, in 2148
the event the director finds an imminent and substantial danger to 2149
public health or safety or the environment that creates an 2150
emergency situation requiring the immediate treatment, storage, or 2151
disposal of hazardous waste, the director may issue a temporary 2152
emergency permit to allow the treatment, storage, or disposal of 2153
the hazardous waste at a facility that is not otherwise authorized 2154
by a hazardous waste facility installation and operation permit to 2155
treat, store, or dispose of the waste. The emergency permit shall 2156
not exceed ninety days in duration and shall not be renewed. The 2157
director shall adopt, and may amend, suspend, or rescind, rules in 2158
accordance with Chapter 119. of the Revised Code governing the 2159
issuance, modification, revocation, and denial of emergency 2160
permits. 2161

(K) Except for infectious wastes generated by a person who 2162
produces fewer than fifty pounds of infectious wastes at a 2163
premises during any one month, no owner or operator of a sanitary 2164
landfill shall knowingly accept for disposal, or dispose of, any 2165
infectious wastes that have not been treated to render them 2166
noninfectious. 2167

(L) The director, in accordance with Chapter 119. of the 2168
Revised Code, shall adopt, and may amend, suspend, or rescind, 2169
rules having uniform application throughout the state establishing 2170

a training and certification program that shall be required for 2171
employees of boards of health who are responsible for enforcing 2172
the solid waste and infectious waste provisions of this chapter 2173
and rules adopted under them and for persons who are responsible 2174
for the operation of solid waste facilities or infectious waste 2175
treatment facilities. The rules shall provide all of the 2176
following, without limitation: 2177

(1) The program shall be administered by the director and 2178
shall consist of a course on new solid waste and infectious waste 2179
technologies, enforcement procedures, and rules; 2180

(2) The course shall be offered on an annual basis; 2181

(3) Those persons who are required to take the course under 2182
division (L) of this section shall do so triennially; 2183

(4) Persons who successfully complete the course shall be 2184
certified by the director; 2185

(5) Certification shall be required for all employees of 2186
boards of health who are responsible for enforcing the solid waste 2187
or infectious waste provisions of this chapter and rules adopted 2188
under them and for all persons who are responsible for the 2189
operation of solid waste facilities or infectious waste treatment 2190
facilities; 2191

(6) (a) All employees of a board of health who, on the 2192
effective date of the rules adopted under this division, are 2193
responsible for enforcing the solid waste or infectious waste 2194
provisions of this chapter and the rules adopted under them shall 2195
complete the course and be certified by the director not later 2196
than January 1, 1995; 2197

(b) All employees of a board of health who, after the 2198
effective date of the rules adopted under division (L) of this 2199
section, become responsible for enforcing the solid waste or 2200
infectious waste provisions of this chapter and rules adopted 2201

under them and who do not hold a current and valid certification 2202
from the director at that time shall complete the course and be 2203
certified by the director within two years after becoming 2204
responsible for performing those activities. 2205

No person shall fail to obtain the certification required 2206
under this division. 2207

(M) The director shall not issue a permit under section 2208
3734.05 of the Revised Code to establish a solid waste facility, 2209
or to modify a solid waste facility operating on December 21, 2210
1988, in a manner that expands the disposal capacity or geographic 2211
area covered by the facility, that is or is to be located within 2212
the boundaries of a state park established or dedicated under 2213
Chapter 1541. of the Revised Code, a state park purchase area 2214
established under section 1541.02 of the Revised Code, any unit of 2215
the national park system, or any property that lies within the 2216
boundaries of a national park or recreation area, but that has not 2217
been acquired or is not administered by the secretary of the 2218
United States department of the interior, located in this state, 2219
or any candidate area located in this state and identified for 2220
potential inclusion in the national park system in the edition of 2221
the "national park system plan" submitted under paragraph (b) of 2222
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 2223
U.S.C.A. 1a-5, as amended, current at the time of filing of the 2224
application for the permit, unless the facility or proposed 2225
facility is or is to be used exclusively for the disposal of solid 2226
wastes generated within the park or recreation area and the 2227
director determines that the facility or proposed facility will 2228
not degrade any of the natural or cultural resources of the park 2229
or recreation area. The director shall not issue a variance under 2230
division (A) of this section and rules adopted under it, or issue 2231
an exemption order under division (G) of this section, that would 2232
authorize any such establishment or expansion of a solid waste 2233

facility within the boundaries of any such park or recreation 2234
area, state park purchase area, or candidate area, other than a 2235
solid waste facility exclusively for the disposal of solid wastes 2236
generated within the park or recreation area when the director 2237
determines that the facility will not degrade any of the natural 2238
or cultural resources of the park or recreation area. 2239

(N) (1) The rules adopted under division (A) of this section, 2240
other than those governing variances, do not apply to scrap tire 2241
collection, storage, monocell, monofill, and recovery facilities. 2242
Those facilities are subject to and governed by rules adopted 2243
under sections 3734.70 to 3734.73 of the Revised Code, as 2244
applicable. 2245

(2) Division (C) of this section does not apply to scrap tire 2246
collection, storage, monocell, monofill, and recovery facilities. 2247
The establishment and modification of those facilities are subject 2248
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 2249
Code, as applicable. 2250

(3) The director may adopt, amend, suspend, or rescind rules 2251
under division (A) of this section creating an alternative system 2252
for authorizing the establishment, operation, or modification of a 2253
solid waste compost facility in lieu of the requirement that a 2254
person seeking to establish, operate, or modify a solid waste 2255
compost facility apply for and receive a permit under division (C) 2256
of this section and section 3734.05 of the Revised Code and a 2257
license under division (A) (1) of that section. The rules may 2258
include requirements governing, without limitation, the 2259
classification of solid waste compost facilities, the submittal of 2260
operating records for solid waste compost facilities, and the 2261
creation of a registration or notification system in lieu of the 2262
issuance of permits and licenses for solid waste compost 2263
facilities. The rules shall specify the applicability of divisions 2264
(A) (1), (2) (a), (3), and (4) of section 3734.05 of the Revised 2265

Code to a solid waste compost facility.	2266
(O) (1) As used in this division, "secondary aluminum waste"	2267
means waste material or byproducts, when disposed of, containing	2268
aluminum generated from secondary aluminum smelting operations and	2269
consisting of dross, salt cake, baghouse dust associated with	2270
aluminum recycling furnace operations, or dry-milled wastes.	2271
(2) The owner or operator of a sanitary landfill shall not	2272
dispose of municipal solid waste that has been commingled with	2273
secondary aluminum waste.	2274
(3) The owner or operator of a sanitary landfill may dispose	2275
of secondary aluminum waste, but only in a monocell or monofill	2276
that has been permitted for that purpose in accordance with this	2277
chapter and rules adopted under it.	2278
Sec. 3734.029. (A) (1) Except as otherwise provided in	2279
division (A) (2) of this section, the standards of quality for	2280
compost products established in rules adopted under division (A)	2281
of section 3734.028 of the Revised Code apply to compost products	2282
produced by a facility composting dead animals that is subject to	2283
section 1511.022 <u>1511.024</u> of the Revised Code in addition to	2284
compost products produced by facilities subject to this chapter.	2285
(2) The standards of quality established in rules adopted	2286
under division (A) of section 3734.028 of the Revised Code do not	2287
apply to the use, distribution for use, or giving away of the	2288
compost products produced by a composting facility subject to	2289
section 1511.022 <u>1511.024</u> of the Revised Code when either of the	2290
following applies:	2291
(a) The composting is conducted by the person who raises the	2292
animals and the compost product is used in agricultural operations	2293
owned or operated by that person, regardless of whether the person	2294
owns the animals.	2295

(b) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.

(B) No owner or operator of a composting facility that is subject to regulation under section ~~1511.022~~ 1511.024 of the Revised Code shall sell or offer for sale at retail or wholesale, distribute for use, or give away any compost product that does not comply with the standard of quality applicable under division (A) of this section for the use for which the product is being sold, offered for sale, distributed, or given away.

No person shall violate this division.

Section 2. That existing sections 903.25, 905.31, 905.32, 905.34, 905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 905.49, 905.50, 905.501, 905.99, 907.111, 921.06, 921.11, 921.16, 941.14, 953.22, 1511.01, 1511.02, 1511.021, 1511.022, 1511.07, 1511.071, 1515.01, 1515.02, 1515.08, 3717.53, 3734.02, and 3734.029 of the Revised Code are hereby repealed.

Section 3. (A) In accordance with the amendment of section 1515.02 of the Revised Code by this act, the Governor shall appoint two additional members to the Ohio Soil and Water Conservation Commission established in that section, as amended by this act, not later than thirty days after the effective date of this section as follows:

(1) One member shall be appointed for a term ending June 30, 2015.

(2) One member shall be appointed for a term ending June 30, 2016.

Thereafter, terms of office for the additional members shall

be for four years, each term ending on the same day of the same 2326
month of the year as did the term that it succeeds. Those 2327
additional members may be reappointed in accordance with section 2328
1515.02 of the Revised Code, as amended by this act. 2329

(B) The Soil and Water Conservation Commission established in 2330
section 1515.02 of the Revised Code, as amended by this act, is a 2331
continuation of the Soil and Water Conservation Commission 2332
established in that section prior to its amendment by this act. 2333