

LSC 130 0081-2

**130th General Assembly
Regular Session
2013-2014**

. B. No.

A BILL

To amend sections 901.22, 903.25, 905.31, 905.32, 1
905.34, 905.36, 905.39, 905.41, 905.45, 905.46, 2
905.47, 905.48, 905.49, 905.50, 905.99, 907.111, 3
1511.01, 1511.02, 1511.021, 1515.08, and 3717.53; 4
to amend for the purpose of adopting a new section 5
number as indicated in parentheses section 905.501 6
(905.503); and to enact new section 905.501 and 7
sections 905.321, 905.322, 905.502, 1511.023, and 8
1511.024 of the Revised Code to revise the law 9
governing the abatement of agricultural pollution, 10
to authorize the Director of Natural Resources to 11
designate a watershed as being a critical natural 12
resource area or in distress if certain 13
circumstances apply, to require the Director to 14
establish a watershed management plan for a 15
watershed so designated, to require a person that 16
applies fertilizer for the purposes of 17
agricultural production to be certified to do so 18
by the Director of Agriculture, and to make other 19
changes to the Agricultural Additives, Lime, and 20
Fertilizer Law. 21

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

Section 1. That sections 901.22, 903.25, 905.31, 905.32, 22

905.34, 905.36, 905.39, 905.41, 905.45, 905.46, 905.47, 905.48, 23
905.49, 905.50, 905.99, 907.111, 1511.01, 1511.02, 1511.021, 24
1515.08, and 3717.53 be amended, section 905.501 (905.503) be 25
amended for the purpose of adopting a new section number as 26
indicated in parentheses, and new section 905.501 and sections 27
905.321, 905.322, 905.502, 1511.023, and 1511.024 of the Revised 28
Code be enacted to read as follows: 29

Sec. 901.22. (A) The director of agriculture, in accordance 30
with Chapter 119. of the Revised Code, shall adopt rules that do 31
all of the following: 32

(1) Establish procedures and eligibility criteria for making 33
matching grants to municipal corporations, counties, townships, 34
soil and water conservation districts established under Chapter 35
1515. of the Revised Code, and charitable organizations described 36
in division (B) of section 5301.69 of the Revised Code for the 37
purchase of agricultural easements. With respect to agricultural 38
easements that are purchased or proposed to be purchased with such 39
matching grants that consist in whole or in part of moneys from 40
the clean Ohio agricultural easement fund created in section 41
901.21 of the Revised Code, the rules shall establish all of the 42
following: 43

(a) Procedures for all of the following: 44

(i) Soliciting and accepting applications for matching 45
grants; 46

(ii) Participation by local governments and by the public in 47
the process of making matching grants to charitable organizations; 48

(iii) Notifying local governments, charitable organizations, 49
and organizations that represent the interests of farmers of the 50
ranking system established in rules adopted under division 51
(A)(1)(b) of this section. 52

(b) A ranking system for applications for the matching grants 53
that is based on the soil type, proximity of the land or other 54
land that is conducive to agriculture as defined by rules adopted 55
under this section and that is the subject of an application to 56
other agricultural land or other land that is conducive to 57
agriculture as defined by rules adopted under this section and 58
that is already or is in the process of becoming permanently 59
protected from development, farm stewardship, development 60
pressure, and, if applicable, a local comprehensive land use plan 61
involved with a proposed agricultural easement. The rules shall 62
require that preference be given to proposed agricultural 63
easements that involve the greatest proportion of all of the 64
following: 65

(i) Prime soils, unique or locally important soils, 66
microclimates, or similar features; 67

(ii) Land that is adjacent to or that is in close proximity 68
to other agricultural land or other land that is conducive to 69
agriculture as defined by rules adopted under this section and 70
that is already or is in the process of becoming permanently 71
protected from development, by agricultural easement or otherwise, 72
so that a buffer would exist between the land involving the 73
proposed agricultural easement and areas that have been developed 74
or likely will be developed for purposes other than agriculture; 75

(iii) The use of best management practices, including 76
federally or state approved conservation plans, and a history of 77
substantial compliance with applicable federal and state laws; 78

(iv) Development pressure that is imminent, but not a result 79
of current location in the direct path of urban development; 80

(v) Areas identified for agricultural protection in local 81
comprehensive land use plans. 82

(c) Any other criteria that the director determines are 83

necessary for selecting applications for matching grants; 84

(d) Requirements regarding the information that must be 85
included in the annual monitoring report that must be prepared for 86
an agricultural easement under division (E)(2) of section 5301.691 87
of the Revised Code, procedures for submitting a copy of the 88
report to the office of farmland preservation in the department of 89
agriculture, and requirements and procedures governing corrective 90
actions that may be necessary to enforce the terms of the 91
agricultural easement. 92

(2) Establish provisions that shall be included in the 93
instrument conveying to a municipal corporation, county, township, 94
soil and water conservation district, or charitable organization 95
any agricultural easement purchased with matching grant funds 96
provided by the director under this section, including, without 97
limitation, all of the following provisions: 98

(a) A provision stating that an easement so purchased may be 99
extinguished only if an unexpected change in the conditions of or 100
surrounding the land that is subject to the easement makes 101
impossible or impractical the continued use of the land for the 102
purposes described in the easement, or if the requirements of the 103
easement are extinguished by judicial proceedings; 104

(b) A provision requiring that, upon the sale, exchange, or 105
involuntary conversion of the land subject to the easement, the 106
holder of the easement shall be paid an amount of money that is at 107
least equal to the proportionate value of the easement compared to 108
the total value of the land at the time the easement was acquired; 109

(c) A provision requiring that, upon receipt of the portion 110
of the proceeds of a sale, exchange, or involuntary conversion 111
described in division (A)(2)(b) of this section, the municipal 112
corporation, county, township, soil and water conservation 113
district, or charitable organization remit to the director an 114

amount of money equal to the percentage of the cost of purchasing 115
the easement it received as a matching grant under this section. 116

Moneys received by the director pursuant to rules adopted 117
under division (A)(2)(c) of this section shall be credited to the 118
agricultural easement purchase fund created in section 901.21 of 119
the Revised Code. 120

(3) Establish a provision that provides a charitable 121
organization, municipal corporation, township, county, or soil and 122
water conservation district with the option of purchasing 123
agricultural easements either in installments or with a lump sum 124
payment. The rules shall include a requirement that a charitable 125
organization, municipal corporation, township, county, or soil and 126
water conservation district negotiate with the seller of the 127
agricultural easement concerning any installment payment terms, 128
including the dates and amounts of payments and the interest rate 129
on the outstanding balance. The rules also shall require the 130
director to approve any method of payment that is undertaken in 131
accordance with the rules adopted under division (A)(3) of this 132
section. 133

(4) Establish any other requirements that the director 134
considers to be necessary or appropriate to implement or 135
administer a program to make matching grants under this section 136
and monitor those grants. 137

(B) The director may develop guidelines regarding the 138
acquisition of agricultural easements by the department of 139
agriculture and the provisions of instruments conveying those 140
easements. The director may make the guidelines available to 141
public and private entities authorized to acquire and hold 142
agricultural easements. 143

(C) The director may provide technical assistance in 144
developing a program for the acquisition and monitoring of 145

agricultural easements to public and private entities authorized 146
to hold agricultural easements. The technical assistance may 147
include, without limitation, reviewing and providing advisory 148
recommendations regarding draft instruments conveying agricultural 149
easements. 150

(D)(1) The director may make matching grants from the 151
agricultural easement purchase fund and the clean Ohio 152
agricultural easement fund to municipal corporations, counties, 153
townships, soil and water conservation districts, and charitable 154
organizations to assist those political subdivisions and 155
charitable organizations in purchasing agricultural easements. 156
Application for a matching grant shall be made on forms prescribed 157
and provided by the director. The matching grants shall be made in 158
compliance with the criteria and procedures established in rules 159
adopted under this section. Instruments conveying agricultural 160
easements purchased with matching grant funds provided under this 161
section, at a minimum, shall include the mandatory provisions set 162
forth in those rules. 163

Matching grants made under this division using moneys from 164
the clean Ohio agricultural easement fund created in section 165
901.21 of the Revised Code may provide up to seventy-five per cent 166
of the value of an agricultural easement as determined by a 167
general real estate appraiser who is certified under Chapter 4763. 168
of the Revised Code or as determined through a points-based 169
appraisal system established under division (D)(2) of this 170
section. Not less than twenty-five per cent of the value of the 171
agricultural easement shall be provided by the recipient of the 172
matching grant or donated by the person who is transferring the 173
easement to the grant recipient. The amount of such a matching 174
grant used for the purchase of a single agricultural easement 175
shall not exceed one million dollars. 176

(2) The director shall establish a points-based appraisal 177

system for the purposes of division (D)(1) of this section. The	178
director may include any or all of the following factors in the	179
system:	180
(a) Whether the applicable county auditor has determined that	181
the land is land that is devoted exclusively to agriculture for	182
the purposes of sections 5713.30 to 5713.38 of the Revised Code;	183
(b) Changes in land values following the completion of the	184
applicable county auditor's reappraisal or triennial update;	185
(c) Soil types and productivity;	186
(d) Proximity of the land to land that is already subject to	187
an agricultural easement, conservation easement created under	188
sections 5301.67 to 5301.70 of the Revised Code, or similar	189
land-use limitation;	190
(e) Proximity of the land to water and sewer lines, road	191
interchanges, and nonagricultural development;	192
(f) Parcel size and roadway frontage of the land;	193
(g) Existence of an agreement entered into under division (D)	194
of section 1515.08 of the Revised Code or of an operation and	195
<u>nutrient</u> management plan developed under division (A) of section	196
1511.021 of the Revised Code;	197
(h) Existence of a comprehensive plan that is adopted under	198
section 303.02 or 519.02 of the Revised Code or that is adopted by	199
the planning commission of a municipal corporation under section	200
713.06 of the Revised Code;	201
(i) Any other factors that the director determines are	202
necessary for inclusion in the system.	203
(E) For any agricultural easement purchased with a matching	204
grant that consists in whole or in part of moneys from the clean	205
Ohio agricultural easement fund, the director shall be named as a	206
grantee on the instrument conveying the easement, as shall the	207

municipal corporation, county, township, soil and water 208
conservation district, or charitable organization that receives 209
the grant. 210

(F)(1) The director shall monitor and evaluate the 211
effectiveness and efficiency of the agricultural easement program 212
as a farmland preservation tool. On or before July 1, 1999, and 213
the first day of July of each year thereafter, the director shall 214
prepare and submit a report to the chairpersons of the standing 215
committees of the senate and the house of representatives that 216
consider legislation regarding agriculture. The report shall 217
consider and address the following criteria to determine the 218
program's effectiveness: 219

(a) The number of agricultural easements purchased during the 220
preceding year; 221

(b) The location of those easements; 222

(c) The number of acres of land preserved for agricultural 223
use; 224

(d) The amount of money used by a municipal corporation, 225
township, county, or soil and water conservation district from any 226
fund to purchase the agricultural easements; 227

(e) The number of state matching grants given to purchase the 228
agricultural easements; 229

(f) The amount of state matching grant moneys used to 230
purchase the agricultural easements. 231

(2) The report also shall consider and include, at a minimum, 232
the following information for each county to determine the 233
program's efficiency: 234

(a) The total number of acres in the county; 235

(b) The total number of acres in current agricultural use; 236

(c) The total number of acres preserved for agricultural use 237

in the preceding year;	238
(d) The average cost, per acre, of land preserved for agricultural use in the preceding year.	239 240
Sec. 903.25. An owner or operator of an animal feeding facility who holds a permit to install, a permit to operate, a review compliance certificate, or a NPDES permit or who is operating under an operation and <u>nutrient</u> management plan, as defined in section 1511.01 of the Revised Code, approved by the chief of the division of soil and water resources in the department of natural resources under section 1511.02 of the Revised Code or by the supervisors of the appropriate soil and water conservation district under section 1515.08 of the Revised Code shall not be required by any political subdivision of the state or any officer, employee, agency, board, commission, department, or other instrumentality of a political subdivision to obtain a license, permit, or other approval pertaining to manure, insects or rodents, odor, or siting requirements for installation of an animal feeding facility.	241 242 243 244 245 246 247 248 249 250 251 252 253 254 255
Sec. 905.31. As used in sections 905.31 to 905.501 <u>905.503</u> of the Revised Code:	256 257
(A) "Applicant" means the person who applies for the license or requests registration of a fertilizer.	258 259
(B) "Brand name" means a name or expression, design, or trademark used in connection with one or several grades of any type of fertilizer.	260 261 262
(C) "Bulk fertilizer" means any type of fertilizer in solid, liquid, or gaseous state, or any combination thereof, in a nonpackaged form.	263 264 265
(D) "Distribute" means to offer for sale, sell, barter, or otherwise supply fertilizer for other than manufacturing purposes.	266 267

(E) "Fertilizer" means any substance containing nitrogen, 268
phosphorus, or potassium or any recognized plant nutrient element 269
or compound that is used for its plant nutrient content or for 270
compounding mixed fertilizers. Lime, limestone, marl, unground 271
bone, water, and unmanipulated animal and vegetable manures are 272
excepted unless mixed with fertilizer materials. 273

(F) "Grade" means the percentages of total nitrogen, 274
available phosphorus or available phosphate (P_2O_5), and soluble 275
potassium or soluble potash (K_2O) stated in the same terms, order, 276
and percentage as in guaranteed analysis. 277

(G) "Guaranteed analysis" means: 278

(1) The minimum percentages of plant nutrients claimed in the 279
following order and form: 280

Total Nitrogen (N)	per cent	281
Available phosphate (P_2O_5)	per cent	282
Soluble Potash (K_2O)	per cent	283

(2) Guaranteed analysis includes, in the following order: 284

(a) For bone and tankage, total phosphorus (P) or phosphate 285
(P_2O_5); 286

(b) For basic slag and unacidulated phosphatic materials, 287
available and total phosphorus (P) or phosphate (P_2O_5) and the 288
degree of fineness; 289

(c) Additional plant nutrients guaranteed expressed as 290
percentage of elements in the order and form as prescribed by 291
rules adopted by the director of agriculture. 292

(H) "Label" means any written or printed matter on the 293
package or tag attached to it or on the pertinent delivery and 294
billing invoice. 295

(I) "Manufacture" means to process, granulate, blend, mix, or 296
alter the composition of fertilizers for distribution. 297

(J) "Mixed fertilizer" means any combination or mixture of fertilizer designed for use, or claimed to have value, in promoting plant growth, including fertilizer pesticide mixtures.	298 299 300
(K) "Net weight" means the weight of a commodity excluding any packaging in pounds or metric equivalent, as determined by a sealed weighing device or other means prescribed by rules adopted by the director.	301 302 303 304
(L) "Packaged fertilizer" means any type of fertilizer in closed containers of not over one hundred pounds or metric equivalent.	305 306 307
(M) "Per cent" or "percentage" means the percentage of weight.	308 309
(N) "Person" includes any partnership, association, firm, corporation, company, society, individual or combination of individuals, institution, park, or public agency administered by the state or any subdivision of the state.	310 311 312 313
(O) "Product name" means a coined or specific designation applied to an individual fertilizer material or mixture of a fixed composition and derivation.	314 315 316
(P) "Sale" means exchange of ownership or transfer of custody.	317 318
(Q) "Official sample" means the sample of fertilizer taken and designated as official by the director.	319 320
(R) "Specialty fertilizer" means any fertilizer designed, labeled, and distributed for uses other than the production of commercial crops.	321 322 323
(S) "Ton" means a net weight of two thousand pounds.	324
(T) "Unmanipulated manure" means any substance composed primarily of excreta, plant remains, or mixtures of such substances that have not been processed in any manner.	325 326 327

(U) "Fertilizer material" includes any of the following:	328
(1) A material containing not more than one of the following primary plant nutrients:	329
(a) Nitrogen (N);	330
(b) Phosphorus (P);	331
(c) Potassium (K).	332
(2) A material that has not less than eighty-five per cent of its plant nutrient content composed of a single chemical compound;	333
(3) A material that is derived from a residue or by-product of a plant or animal or a natural material deposit and has been processed in such a way that its plant nutrients content has not been materially changed except by purification and concentration.	334
(V) "Custom mixed fertilizer" means a fertilizer that is not premixed, but that is blended specifically to meet the nutrient needs of one specific customer.	335
(W) "Director" or "director of agriculture" means the director of agriculture or the director's designee.	336
(X) "Lot" means an identifiable quantity of fertilizer that may be used as an official sample.	337
(Y) "Unit" means twenty pounds of fertilizer or one per cent of a ton.	338
(Z) " Metric ton " means a measure of weight equal to one thousand kilograms.	339
(AA) "Anhydrous ammonia equipment" means, with regard to the handling or storage of anhydrous ammonia, a container or containers with a maximum capacity of not more than four thousand nine hundred ninety-nine gallons or any appurtenances, pumps, compressors, or interconnecting pipes associated with such a	340
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container or containers. "Anhydrous ammonia equipment" does not 357
include equipment for the manufacture of anhydrous ammonia or the 358
storage of anhydrous ammonia either underground or in refrigerated 359
structures. 360

~~(BB)~~(AA) "Anhydrous ammonia system" or "system" means, with 361
regard to the handling or storage of anhydrous ammonia, a 362
container or containers with a minimum capacity of not less than 363
five thousand gallons or any appurtenances, pumps, compressors, or 364
interconnecting pipes associated with such a container or 365
containers. "Anhydrous ammonia system" does not include equipment 366
for the manufacture of anhydrous ammonia or the storage of 367
anhydrous ammonia either underground or in refrigerated 368
structures. 369

(BB) "Agricultural production" means the cultivation, 370
primarily for sale, of plants or any parts of plants on more than 371
ten acres unless the cultivation is excluded from the term by the 372
director in rules. 373

(CC) "Rule" means a rule adopted under section 905.322, 374
905.40, or 905.44 of the Revised Code, as applicable. 375

Sec. 905.32. (A) No person shall manufacture or distribute in 376
this state any type of fertilizer until a license to manufacture 377
or distribute has been obtained by the manufacturer or distributor 378
from the department of agriculture upon payment of a five-dollar 379
fee: 380

(1) For each fixed (permanent) location at which fertilizer 381
is manufactured in this state; 382

(2) For each mobile unit used to manufacture fertilizer in 383
this state; 384

(3) For each location out of the state from which fertilizer 385
is distributed ~~in~~ into this state ~~to nonlicensees~~; 386

(4) For each location in this state from which fertilizer is distributed in this state. 387
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All licenses shall be valid for one year beginning on the 389
first day of December of a calendar year through the thirtieth day 390
of November of the following calendar year. A renewal application 391
for a license shall be submitted no later than the thirtieth day 392
of November each year. A person who submits a renewal application 393
for a license after the thirtieth day of November shall include 394
with the application a late filing fee of ten dollars. 395

(B) An application for a license shall include: 396

(1) The name and address of the licensee; 397

(2) The name and address of each bulk distribution point in 398
the state, not licensed for fertilizer manufacture and 399
distribution. 400

The name and address shown on the license shall be shown on 401
all labels, pertinent invoices, and bulk storage for fertilizers 402
distributed by the licensee in this state. 403

(C) The licensee shall inform the director of agriculture in 404
writing of additional distribution points established during the 405
period of the license. 406

(D) All money collected under this section shall be credited 407
to the pesticide, fertilizer, and lime program fund created in 408
section 921.22 of the Revised Code. 409

Sec. 905.321. (A) As used in section: 410

(1) "Directly supervised" means the application of a 411
fertilizer for purposes of agricultural production by a person who 412
is acting under the instructions and control, as defined in rules, 413
of a person who is certified under section 905.321 of the Revised 414
Code and employed by the same employer as the person who is 415
applying the fertilizer. 416

(2) Notwithstanding section 905.31 of the Revised Code, 417
"fertilizer" has the same meaning as in section 1511.01 of the 418
Revised Code. 419

(B) On and after the date that is three years after the 420
effective date of this section, no person shall apply fertilizer 421
for the purposes of agricultural production unless that person has 422
been certified to do so by the director of agriculture under this 423
section and rules or is directly supervised by a person who is so 424
certified. 425

(C) A person shall be certified to apply fertilizer for 426
purposes of agricultural production in accordance with rules. A 427
person that has been so certified shall comply with requirements 428
and procedures established in those rules. 429

Sec. 905.322. (A) The director of agriculture shall adopt 430
rules in accordance with Chapter 119. of the Revised Code that do 431
both of the following: 432

(1) Establish all of the following concerning certifications 433
that are required by section 905.321 of the Revised Code: 434

(a) The amount of the fee that must be submitted with an 435
application for certification; 436

(b) Information that must be included with an application for 437
certification; 438

(c) Procedures for the issuance, renewal, and denial of 439
certifications; 440

(d) Grounds for the denial of certifications; 441

(e) Requirements and procedures governing training that must 442
be successfully completed in order for a person to be certified; 443

(f) Requirements for the maintenance of records by a person 444
that is certified. 445

(2) Establish requirements and procedures with which a licensee or registrant must comply when filing an annual tonnage report under section 905.36 of the Revised Code, including the date on which the report must be filed. 446
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(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code that establish both of the following: 450
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(1) Any type of cultivation that is excluded from the definition of "agricultural production" in section 905.31 of the Revised Code; 452
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(2) A definition of what constitutes "under the instructions and control" as used in the definition of "directly supervised" in section 905.321 of the Revised Code. 455
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Sec. 905.34. No distributor shall be required to obtain a license ~~if the manufacturer is licensed~~ under division (A) of section 905.32 of the Revised Code; or to distribute fertilizer if the ~~manufacturer or distributor~~ fertilizer is registered under division (A) of section 905.33 of the Revised Code. 458
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Sec. 905.36. (A) A licensee or registrant, ~~except registrants who package specialty fertilizers only in containers of ten pounds or less,~~ shall pay the director of agriculture ~~for all fertilizers distributed in this state~~ an inspection fee at the rate of twenty-five cents per ton ~~or twenty eight cents per metric ton.~~ Licensees and registrants shall specify on an invoice whether the per ton inspection fee has been paid or whether payment of the fee is the responsibility of the purchaser of the fertilizer. The payment of this inspection fee by a licensee or registrant shall exempt all other persons from the payment of this fee for all of the following, as applicable: 463
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(1) All fertilizer that the licensee distributes in this state to a person that has not been issued a license under section 474
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905.32 of the Revised Code; 476

(2) If the licensee is certified under section 905.321 of the 477
Revised Code, all fertilizer that the licensee applies in this 478
state for purposes of agricultural production; 479

(3) All fertilizer that the registrant distributes in this 480
state. 481

However, the inspection fee does not apply to packaged 482
fertilizers that are in containers of ten pounds or less. 483

(B) Every licensee or registrant shall file with the director 484
an annual tonnage report ~~that includes the number of net tons or~~ 485
~~metric tons of fertilizer distributed to nonlicensees or~~ 486
~~nonregistrants in this state by grade; packaged; bulk, dry or~~ 487
~~liquid in accordance with rules.~~ The report shall be filed on or 488
before the ~~thirtieth day of November of each calendar year and~~ 489
~~shall include data from the period beginning on the first day of~~ 490
~~November of the year preceding the year in which the report is due~~ 491
~~through the thirty first day of October of the year in which the~~ 492
~~report is due~~ date specified in rules. The licensee or registrant, 493
~~except registrants who package specialty fertilizers only in~~ 494
~~containers of ten pounds or less,~~ shall include with this 495
~~statement~~ the report the inspection fee at the rate stated in 496
division (A) of this section. For a tonnage report that is not 497
filed or payment of inspection fees that is not made on or before 498
the ~~thirtieth day of November of the applicable calendar year~~ date 499
specified in rules, a penalty of fifty dollars or ten per cent of 500
the amount due, whichever is greater, shall be assessed against 501
the licensee or registrant. The amount of fees due, plus penalty, 502
shall constitute a debt and become the basis of a judgment against 503
the licensee or registrant. For tonnage reports found to be 504
incorrect, a penalty of fifteen per cent of the amount due shall 505
be assessed against the licensee or registrant and shall 506
constitute a debt and become the basis of a judgment against the 507

licensee or registrant. 508

(C) No information furnished under this section shall be 509
disclosed by any employee of the department of agriculture in such 510
a way as to divulge the operation of any person required to make 511
such a report. The filing by a licensee or registrant of a ~~sales~~ 512
~~volume tonnage statement~~ report required by division (B) of this 513
section thereby grants permission to the director to verify the 514
same with the records of the licensee or registrant. 515

(D) All money collected under this section shall be credited 516
to the pesticide, fertilizer, and lime program fund created in 517
section 921.22 of the Revised Code. 518

Sec. 905.39. (A) The director of agriculture shall inspect 519
and sample any fertilizer within the state to such an extent as 520
the director considers necessary and make an analysis where need 521
is indicated to determine whether the fertilizer is in compliance 522
with sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~ 523
~~rules adopted under those sections~~. The director may enter upon 524
any public or private premises or conveyances during regular 525
business hours in order to have access to fertilizer subject to 526
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code and ~~the~~ 527
~~rules adopted under those sections~~. 528

(B) The director shall maintain the services necessary to 529
effectively administer and enforce sections 905.31 to ~~905.50~~ 530
905.503 of the Revised Code and ~~the rules adopted under those~~ 531
~~sections~~. The methods of sampling and analysis shall be those 532
adopted by the association of official analytical chemists or 533
other sources prescribed by the director. 534

(C) The results of official analysis of any sample of 535
fertilizer found to be in violation of any provisions of sections 536
905.31 to ~~905.50~~ 905.503 of the Revised Code or any rule ~~adopted~~ 537
~~under those sections~~, shall be forwarded to the licensee or 538

registrant. A licensee or registrant may request a portion of any 539
such sample, provided that the request is made not more than 540
thirty days after the date of the analysis report. 541

(D) Analytical tolerances shall be governed by rules ~~adopted~~ 542
~~by the director.~~ 543

(E) If the director is denied access to any premises where 544
access is sought for the purpose of inspection and sampling, the 545
director may apply to any court of competent jurisdiction for a 546
search warrant authorizing access to the premises for that 547
purpose. The court, upon application, may issue the search warrant 548
for the purpose requested. 549

Sec. 905.41. (A) A storage facility for anhydrous ammonia 550
that is used for agricultural purposes shall be designed and 551
constructed in accordance with rules ~~adopted under section 905.40~~ 552
~~of the Revised Code.~~ On and after ~~the effective date of this~~ 553
~~section~~ September 10, 2012, no person shall construct a storage 554
facility for anhydrous ammonia that is used for agricultural 555
purposes without applying for and receiving approval of the design 556
of the facility and approval to construct the facility from the 557
director of agriculture in accordance with ~~those~~ rules. 558

(B) Upon the submission of an application to the director for 559
the approval of the design and construction of a storage facility 560
for anhydrous ammonia that is used for agricultural purposes in 561
accordance with rules ~~adopted under section 905.40 of the Revised~~ 562
~~Code~~, the applicant shall submit written notification of the 563
application to all of the following: 564

(1) The board of township trustees of the township or the 565
legislative authority of the municipal corporation, as applicable, 566
in which the storage facility is proposed to be located; 567

(2) The county sheriff, or the police chief of the police 568

department of a municipal corporation, township, or township or 569
joint township police district, as applicable, with jurisdiction 570
over the location where the storage facility is proposed to be 571
located; 572

(3) The fire chief of the fire department with jurisdiction 573
over the location where the storage facility is proposed to be 574
located. 575

(C) Prior to approving or disapproving a storage facility for 576
anhydrous ammonia that is used for agricultural purposes, the 577
director may take into consideration any past violations of an 578
applicable state or federal law pertaining to environmental 579
protection or the environmental laws of another country or any 580
conviction of or guilty plea to a violation of section 901.511 of 581
the Revised Code or a felony drug offense as defined in section 582
2925.01 of the Revised Code related to the use and storage of 583
chemicals used for agriculture by the owner of the storage 584
facility. 585

Sec. 905.45. (A) ~~The director of agriculture may revoke the~~ 586
~~registration of any grade and brand name of fertilizer or any~~ 587
~~license, or may suspend any registration or license, or may refuse~~ 588
~~to register any grade and brand name of fertilizer, or to license~~ 589
~~any applicant, upon a finding supported by substantial evidence~~ 590
~~that the registrant, licensee, or applicant has violated any~~ 591
~~provision of sections 905.31 to 905.50 of the Revised Code, or any~~ 592
~~rules adopted under those sections. No do any of the following~~ 593
~~upon a finding supported by substantial evidence that a~~ 594
~~registrant, licensee, certificate holder, or applicant has~~ 595
~~violated any provision of sections 905.31 to 905.503 of the~~ 596
~~Revised Code or any rules:~~ 597

(1) Revoke the registration of any grade and brand name of 598
fertilizer; 599

<u>(2) Revoke any license or certificate;</u>	600
<u>(3) Suspend any registration, license, or certificate;</u>	601
<u>(4) Refuse to register any grade and brand name of fertilizer;</u>	602 603
<u>(5) Refuse to license or certify any applicant.</u>	604
<u>(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.</u>	605 606 607 608 609 610
<u>(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 Revised Code.</u>	611 612 613 614 615 616 617 618 619 620 621 622 623
Sec. 905.46. The director of agriculture may issue an order to the owner or custodian of any lot of fertilizer requiring it to be held at a designated place when the director has found the fertilizer to have been offered or exposed for sale in violation of sections 905.31 to 905.50 <u>905.503</u> of the Revised Code, or any rule adopted under those sections . A fertilizer shall be held	624 625 626 627 628 629

until a release in writing is issued by the director. A release 630
shall not be issued until sections 905.31 to ~~905.50~~ 905.503 of the 631
Revised Code~~, and the rules adopted under those sections,~~ are 632
complied with and until all costs and expenses incurred in 633
connection with the violation have been paid by the manufacturer, 634
distributor, licensee, or registrant. 635

Sec. 905.47. Any lot of fertilizer not in compliance with 636
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code~~, or any rule~~ 637
~~adopted under those sections,~~ is subject to seizure on complaint 638
of the director of agriculture to a court of competent 639
jurisdiction in the county in which the fertilizer is located. The 640
court upon a finding that the fertilizer is in violation of 641
sections 905.31 to ~~905.50~~ 905.503 of the Revised Code~~, or any rule~~ 642
~~adopted under those sections,~~ shall order the condemnation of the 643
fertilizer, and it shall be disposed of in a manner consistent 644
with the laws of this state. The court shall not order the 645
condemnation of the fertilizer without first giving the 646
manufacturer or distributor an opportunity to reprocess or relabel 647
the fertilizer to bring it into compliance with sections 905.31 to 648
~~905.50~~ 905.503 of the Revised Code~~, and the rules adopted under~~ 649
~~those sections.~~ 650

Sec. 905.48. In addition to the remedies provided and 651
irrespective of whether or not there exists any adequate remedy at 652
law, the director of agriculture may apply to the court of common 653
pleas in the county wherein any of the provisions of sections 654
905.31 to ~~905.50~~ 905.503 of the Revised Code~~, are being violated~~ 655
for a temporary or permanent injunction restraining any person 656
from ~~such~~ the violation. 657

Sec. 905.49. Nothing in sections 905.31 to ~~905.50~~ 905.503 of 658
the Revised Code~~, shall be considered either to restrict the~~ 659

distribution of fertilizers to each other by importers or 660
manufacturers, who mix fertilizer materials for distribution, or 661
to prevent the free and unrestricted shipment of fertilizer to 662
manufacturers who are licensed or have registered their specialty 663
fertilizer grades and brand names as required by sections 905.31 664
to ~~905.50~~ 905.503 of the Revised Code. 665

Sec. 905.50. If the director of agriculture has taken an 666
official sample of a fertilizer or mixed fertilizer and determined 667
that it constitutes mislabeled fertilizer pursuant to rules 668
~~adopted under section 905.40 or 905.44 of the Revised Code, as~~ 669
~~applicable,~~ the person who labeled the fertilizer or mixed 670
fertilizer shall pay a penalty to the consumer of the mislabeled 671
fertilizer or, if the consumer cannot be determined with 672
reasonable diligence or is not available, to the director to be 673
credited to the pesticide, fertilizer, and lime program fund 674
created under section 921.22 of the Revised Code. The amount of 675
the penalty shall be calculated in accordance with either division 676
(A) or (B) of this section, whichever method of calculation yields 677
the largest amount. 678

(A)(1) A penalty required to be paid under this section may 679
be calculated as follows: 680

(a) Five dollars for each percentage point of total nitrogen 681
or phosphorus in the fertilizer that is below the percentage of 682
nitrogen or phosphorus guaranteed on the label, multiplied by the 683
number of tons of mislabeled fertilizer that have been sold to the 684
consumer; 685

(b) Three dollars for each percentage point of potash in the 686
fertilizer that is below the percentage of potash guaranteed on 687
the label, multiplied by the number of tons of mislabeled 688
fertilizer that have been sold to the consumer. 689

(2) In the case of a fertilizer that contains a quantity of 690

nitrogen, phosphorus, or potash that is more than five percentage 691
points below the percentages guaranteed on the label, the 692
penalties calculated under division (A)(1) of this section shall 693
be tripled. 694

(3) No penalty calculated under division (A) of this section 695
shall be less than twenty-five dollars. 696

(B) A penalty required to be paid under this section may be 697
calculated by multiplying the market value of one unit of the 698
mislabeled fertilizer by the number of units of the mislabeled 699
fertilizer that have been sold to the consumer. 700

(C) Upon making a determination under this section that a 701
person has mislabeled fertilizer or mixed fertilizer, the director 702
shall determine the parties to whom the penalty imposed by this 703
section is required to be paid and, in accordance with division 704
(A) or (B) of this section, as applicable, shall calculate the 705
amount of the penalty required to be paid to each such party. 706
After completing those determinations and calculations, the 707
director shall issue to the person who allegedly mislabeled the 708
fertilizer or mixed fertilizer a notice of violation. The notice 709
shall be accompanied by an order requiring, and specifying the 710
manner of, payment of the penalty imposed by this section to the 711
parties in the amounts set forth in the determinations and 712
calculations required by this division. The order shall be issued 713
in accordance with Chapter 119. of the Revised Code. 714

No person shall violate a term or condition of an order 715
issued under this division. 716

Sec. 905.501. Whenever the director of agriculture has cause 717
to believe that a person has violated, or is violating, sections 718
905.31 to 905.503 of the Revised Code or rules or an order issued 719
under those sections or rules, the director may conduct a hearing 720
in accordance with Chapter 119. of the Revised Code to determine 721

whether a violation has occurred. If the director determines that 722
a violation has occurred, the director may require the violator to 723
pay a civil penalty in accordance with the schedule of civil 724
penalties established in rules. Each day of violation constitutes 725
a separate violation. 726

Sec. 905.502. Nothing in sections 905.31 to 905.502 of the 727
Revised Code or rules shall be construed to require the director 728
of agriculture to report any findings to the appropriate 729
prosecuting authority for proceedings in the prosecution of, or 730
issue any order or institute any enforcement procedure for, a 731
violation of sections 905.31 to 905.502 of the Revised Code or 732
rules when the director believes that the public interest will be 733
best served by a suitable written notice of warning. A person who 734
receives a written notice of warning may respond in writing to the 735
notice. 736

Sec. ~~905.501~~ 905.503. (A) As used in this section: 737

(1) "Political subdivision" means a county, township, or 738
municipal corporation and any other body corporate and politic 739
that is responsible for government activities in a geographic area 740
smaller than that of the state. 741

(2) "Local legislation" includes, but is not limited to, an 742
ordinance, resolution, regulation, rule, motion, or amendment that 743
is enacted or adopted by a political subdivision. 744

(B)(1) No political subdivision shall regulate the 745
registration, packaging, labeling, sale, storage, distribution, 746
use, or application of fertilizer, or require a person licensed or 747
registered under sections 905.31 to 905.99 of the Revised Code to 748
obtain a license or permit to operate in a manner described in 749
those sections, or to satisfy any other condition except as 750
provided by a statute or rule of this state or of the United 751

States. 752

(2) No political subdivision shall enact, adopt, or continue 753
in effect local legislation relating to the registration, 754
packaging, labeling, sale, storage, distribution, use, or 755
application of fertilizers. 756

Sec. 905.99. Whoever violates ~~section 905.02, 905.04, 905.08,~~ 757
~~905.11, 905.32, 905.33, 905.331, 905.35, 905.36, 905.40, 905.42,~~ 758
~~905.43, 905.44, 905.45, 905.50, 905.52, 905.54, 905.55, 905.59,~~ 759
~~905.60, or 905.61 of the Revised Code~~ this chapter or rules 760
adopted under it is guilty of a misdemeanor of the ~~second~~ third 761
degree ~~for~~ on a first offense. ~~On each subsequent offense the~~ 762
~~offender is guilty of,~~ a misdemeanor of the second degree on a 763
second offense, and a misdemeanor of the first degree on a third 764
or subsequent offense. 765

Sec. 907.111. (A) The department of agriculture has sole and 766
exclusive authority to regulate the registration, labeling, sale, 767
storage, transportation, distribution, notification of use, use, 768
and planting of seed within the state. The regulation of seed is a 769
matter of general statewide interest that requires uniform 770
statewide regulation, and this chapter and rules adopted under it 771
constitute a comprehensive plan with respect to all aspects of the 772
regulation of seed within this state. 773

(B) No political subdivision shall do any of the following: 774

(1) Regulate the registration, labeling, sale, storage, 775
transportation, distribution, notification of use, use, or 776
planting of seed; 777

(2) Require a person who has been issued a permit or license 778
under this chapter to obtain a permit or license to operate in a 779
manner described in this chapter or to satisfy any other condition 780
except as provided by a statute or rule of this state or of the 781

United States;	782
(3) Require a person who has registered a legume innoculant	783
under this chapter to register that innoculant in a manner	784
described in this chapter or to satisfy any other condition except	785
as provided by a statute or rule of this state or of the United	786
States.	787
(C) No political subdivision shall enact, adopt, or continue	788
in effect local legislation relating to the permitting or	789
licensure of any person who is required to obtain a permit or	790
license under this chapter or to the registration, labeling, sale,	791
storage, transportation, distribution, notification of use, use,	792
or planting of seed.	793
(D) As used in this section, "political subdivision" and	794
"local legislation" have the same meanings as in section 905.501	795
<u>905.503</u> of the Revised Code.	796
Sec. 1511.01. For the purposes of this chapter:	797
(A) "Conservation" means the wise use and management of	798
natural resources.	799
(B) "Critical natural resource area" means an area identified	800
by the director of natural resources in which occurs a natural	801
resource that requires special management because of its	802
importance to the well-being of the surrounding communities, the	803
region, or the state.	804
(C) "Pollution abatement practice" means any erosion control	805
or animal waste <u>agricultural</u> pollution abatement facility,	806
structure, or procedure and the operation and management	807
associated with it as contained in operation and <u>nutrient</u>	808
management plans developed or approved by the chief of the	809
division of soil and water resources or by soil and water	810
conservation districts established under Chapter 1515. of the	811

Revised Code. 812

(D) "Agricultural pollution" means failure to use management 813
or conservation practices in farming or silvicultural operations 814
to abate wind or water erosion of the soil or to abate the 815
degradation of the waters of the state by animal waste, 816
fertilizers, or soil sediment, including substances attached 817
thereto. 818

(E) "Waters of the state" means all streams, lakes, ponds, 819
wetlands, watercourses, waterways, wells, springs, irrigation 820
systems, drainage systems, and all other bodies or accumulations 821
of water, surface and underground, natural or artificial, 822
regardless of the depth of the strata in which underground water 823
is located, that are situated wholly or partly within, or border 824
upon, this state or are within its jurisdiction, except those 825
private waters that do not combine or effect a junction with 826
natural surface or underground waters. 827

(F) "Operation and nutrient management plan" means a written 828
record, developed or approved by the district board of supervisors 829
or the chief, for the owner or operator of agricultural land or a 830
~~concentrated~~ an animal feeding operation that ~~contains~~ may contain 831
implementation schedules and operational procedures for a level of 832
management and pollution abatement practices and the methods, 833
amount, form, placement, and timing of all nutrient applications 834
for achieving a level of nutrient management that will abate the 835
possible degradation of the waters of the state by animal waste 836
~~and by,~~ fertilizers, or soil sediment, including attached 837
pollutants. 838

(G) "Animal waste" means animal excreta, discarded products, 839
bedding, wash waters, waste feed, and silage drainage. "Animal 840
waste" also includes the compost products resulting from the 841
composting of dead animals in operations subject to section 842
1511.022 of the Revised Code when either of the following applies: 843

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

(2) 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.

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

(I) "Fertilizer" means any substance containing nitrogen, phosphorous, potassium, or any other recognized plant nutrient element or compound that is used for its plant nutrient content or for compounding mixed fertilizers. "Fertilizer" includes the nutrient content of biosolids as determined by the chief in rules adopted under section 1511.02 of the Revised Code.

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:

(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;

(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; 874

(C) Assist in expediting state responsibilities for watershed 875
development and other natural resource conservation works of 876
improvement; 877

(D) Coordinate the development and implementation of 878
cooperative programs and working agreements between local soil and 879
water conservation districts and divisions or sections of the 880
department of natural resources, or other agencies of local, 881
state, and federal government; 882

(E) Subject to the approval of the Ohio soil and water 883
conservation commission, adopt, amend, or rescind rules pursuant 884
to Chapter 119. of the Revised Code. Rules adopted pursuant to 885
this section: 886

(1) Shall establish technically feasible and economically 887
reasonable standards to achieve a level of management and 888
conservation practices in farming or silvicultural operations that 889
will abate wind or water erosion of the soil or abate the 890
degradation of the waters of the state by animal waste, 891
fertilizers, or ~~by~~ soil sediment, including substances attached 892
thereto, and establish criteria for determination of the 893
acceptability of such management and conservation practices; 894

(2) Shall establish technically feasible and economically 895
reasonable standards to achieve a level of management and 896
conservation practices that will abate wind or water erosion of 897
the soil or abate the degradation of the waters of the state by 898
soil sediment in conjunction with land grading, excavating, 899
filling, or other soil-disturbing activities on land used or being 900
developed for nonfarm commercial, industrial, residential, or 901
other nonfarm purposes, and establish criteria for determination 902
of the acceptability of such management and conservation 903
practices. The standards shall be designed to implement applicable 904

areawide waste treatment management plans prepared under section 905
208 of the "Federal Water Pollution Control Act," 86 Stat. 816 906
(1972), 33 U.S.C.A. 1288, as amended. The standards and criteria 907
shall not apply in any municipal corporation or county that adopts 908
ordinances or rules pertaining to sediment control, nor to lands 909
being used in a strip mine operation as defined in section 1513.01 910
of the Revised Code, nor to lands being used in a surface mining 911
operation as defined in section 1514.01 of the Revised Code. 912

(3) May recommend criteria and procedures for the approval of 913
urban sediment pollution abatement plans and issuance of permits 914
prior to any grading, excavating, filling, or other whole or 915
partial disturbance of five or more contiguous acres of land owned 916
by one person or operated as one development unit and require 917
implementation of such a plan. Areas of less than five contiguous 918
acres are not exempt from compliance with other provisions of this 919
chapter and rules adopted under them. 920

(4) Shall establish procedures for administration of rules 921
for agricultural pollution abatement and urban sediment pollution 922
abatement and for enforcement of rules for agricultural pollution 923
abatement; 924

(5) Shall specify the pollution abatement practices eligible 925
for state cost sharing and determine the conditions for 926
eligibility, the construction standards and specifications, the 927
useful life, the maintenance requirements, and the limits of cost 928
sharing for those practices. Eligible practices shall be limited 929
to practices that address agricultural or silvicultural operations 930
and that require expenditures that are likely to exceed the 931
economic returns to the owner or operator and that abate soil 932
erosion or degradation of the waters of the state by animal waste 933
or soil sediment including pollutants attached thereto. 934

(6) Shall establish procedures for administering grants to 935
owners or operators of agricultural land or ~~concentrated~~ animal 936

feeding operations for the implementation of operation and 937
nutrient management plans; 938

(7) Shall establish procedures for administering grants to 939
soil and water conservation districts for urban sediment pollution 940
abatement programs, specify the types of projects eligible for 941
grants, establish limits on the availability of grants, and 942
establish requirements governing the execution of projects to 943
encourage the reduction of erosion and sedimentation associated 944
with soil-disturbing activities; 945

(8) Shall do all of the following with regard to composting 946
conducted in conjunction with agricultural operations: 947

(a) Provide for the distribution of educational material 948
concerning composting to the offices of the Ohio cooperative 949
extension service for the purposes of section 1511.022 of the 950
Revised Code; 951

(b) Establish methods, techniques, or practices for 952
composting dead animals, or particular types of dead animals, that 953
are to be used at such operations, as the chief considers to be 954
necessary or appropriate; 955

(c) Establish requirements and procedures governing the 956
review and approval or disapproval of composting plans by the 957
supervisors of soil and water conservation districts under 958
division (Q) of section 1515.08 of the Revised Code. 959

(9) Shall be adopted, amended, or rescinded after the chief 960
does all of the following: 961

(a) Mails notice to each statewide organization that the 962
chief determines represents persons or local governmental agencies 963
who would be affected by the proposed rule, amendment thereto, or 964
rescission thereof at least thirty-five days before any public 965
hearing thereon; 966

(b) Mails a copy of each proposed rule, amendment thereto, or 967
rescission thereof to any person who requests a copy, within five 968
days after receipt of the request; 969

(c) Consults with appropriate state and local governmental 970
agencies or their representatives, including statewide 971
organizations of local governmental officials, industrial 972
representatives, and other interested persons; 973

(d) If the rule relates to agricultural pollution abatement, 974
develops an economic impact statement concerning the effect of the 975
proposed rule or amendment. 976

(10) Shall not conflict with air or water quality standards 977
adopted pursuant to section 3704.03 or 6111.041 of the Revised 978
Code. Compliance with rules adopted pursuant to this section does 979
not affect liability for noncompliance with air or water quality 980
standards adopted pursuant to section 3704.03 or 6111.041 of the 981
Revised Code. The application of a level of management and 982
conservation practices recommended under this section to control 983
windblown soil from farming operations creates a presumption of 984
compliance with section 3704.03 of the Revised Code as that 985
section applies to windblown soil. 986

(11) Insofar as the rules relate to urban sediment pollution, 987
shall not be applicable in a municipal corporation or county that 988
adopts ordinances or rules for urban sediment control, except that 989
a municipal corporation or county that adopts such ordinances or 990
rules may receive moneys for urban sediment control that are 991
disbursed by the board of supervisors of the applicable soil and 992
water conservation district under division (N) of section 1515.08 993
of the Revised Code. The rules shall not exempt any person from 994
compliance with municipal ordinances enacted pursuant to Section 3 995
of Article XVIII, Ohio Constitution. 996

(12) Shall identify what constitutes the nutrient content of 997

biosolids pursuant to division (I) of section 1511.01 of the 998
Revised Code. The chief shall consult with the director of 999
environmental protection when adopting rules under division 1000
(E)(12) of this section. 1001

(F) Cost share with landowners on practices established 1002
pursuant to division (E)(5) of this section as moneys are 1003
appropriated and available for that purpose. Any practice for 1004
which cost share is provided shall be maintained for its useful 1005
life. Failure to maintain a cost share practice for its useful 1006
life shall subject the landowner to full repayment to the 1007
division. 1008

(G) Issue orders requiring compliance with any rule adopted 1009
under division (E)(1) of this section or with section 1511.022 of 1010
the Revised Code. Before the chief issues an order, the chief 1011
shall afford each person allegedly liable an adjudication hearing 1012
under Chapter 119. of the Revised Code. The chief may require in 1013
an order that a person who has caused agricultural pollution by 1014
failure to comply with the standards established under division 1015
(E)(1) of this section operate under an operation and nutrient 1016
management plan approved by the chief under this section. The 1017
chief shall require in an order that a person who has failed to 1018
comply with division (A) of section 1511.022 of the Revised Code 1019
prepare a composting plan in accordance with rules adopted under 1020
division (E)(10)(c) of this section and operate in accordance with 1021
that plan or that a person who has failed to operate in accordance 1022
with such a plan begin to operate in accordance with it. Each 1023
order shall be issued in writing and contain a finding by the 1024
chief of the facts upon which the order is based and the standard 1025
that is not being met. 1026

(H) Employ field assistants and such other employees as are 1027
necessary for the performance of the work prescribed by Chapter 1028
1515. of the Revised Code, for performance of work of the 1029

division, and as agreed to under working agreements or contractual 1030
arrangements with local soil and water conservation districts, 1031
prescribe their duties, and fix their compensation in accordance 1032
with such schedules as are provided by law for the compensation of 1033
state employees. 1034

All employees of the division, unless specifically exempted 1035
by law, shall be employed subject to the classified civil service 1036
laws in force at the time of employment. 1037

(I) In connection with new or relocated projects involving 1038
highways, underground cables, pipelines, railroads, and other 1039
improvements affecting soil and water resources, including surface 1040
and subsurface drainage: 1041

(1) Provide engineering service as is mutually agreeable to 1042
the Ohio soil and water conservation commission and the director 1043
of natural resources to aid in the design and installation of soil 1044
and water conservation practices as a necessary component of such 1045
projects; 1046

(2) Maintain close liaison between the owners of lands on 1047
which the projects are executed, local soil and water conservation 1048
districts, and authorities responsible for such projects; 1049

(3) Review plans for such projects to ensure their compliance 1050
with standards developed under division (E) of this section in 1051
cooperation with the department of transportation or with any 1052
other interested agency that is engaged in soil or water 1053
conservation projects in the state in order to minimize adverse 1054
impacts on soil and water resources adjacent to or otherwise 1055
affected by these projects; 1056

(4) Recommend measures to retard erosion and protect soil and 1057
water resources through the installation of water impoundment or 1058
other soil and water conservation practices; 1059

(5) Cooperate with other agencies and subdivisions of the 1060

state to protect the agricultural status of rural lands adjacent 1061
to such projects and control adverse impacts on soil and water 1062
resources. 1063

(J) Collect, analyze, inventory, and interpret all available 1064
information pertaining to the origin, distribution, extent, use, 1065
and conservation of the soil resources of the state; 1066

(K) Prepare and maintain up-to-date reports, maps, and other 1067
materials pertaining to the soil resources of the state and their 1068
use and make that information available to governmental agencies, 1069
public officials, conservation entities, and the public; 1070

(L) Provide soil and water conservation districts with 1071
technical assistance including on-site soil investigations and 1072
soil interpretation reports on the suitability or limitations of 1073
soil to support a particular use or to plan soil conservation 1074
measures. The assistance shall be upon such terms as are mutually 1075
agreeable to the districts and the department of natural 1076
resources. 1077

(M) Assist local government officials in utilizing land use 1078
planning and zoning, current agricultural use value assessment, 1079
development reviews, and land management activities; 1080

(N) When necessary for the purposes of this chapter or 1081
Chapter 1515. of the Revised Code, develop or approve operation 1082
and nutrient management plans. 1083

This section does not restrict the excrement of domestic or 1084
farm animals defecated on land outside ~~a concentrated~~ an animal 1085
feeding operation or runoff therefrom into the waters of the 1086
state. 1087

Sec. 1511.021. (A) Any person who owns or operates 1088
agricultural land or ~~a concentrated~~ an animal feeding operation 1089
may develop and operate under an operation and nutrient management 1090

plan approved by the chief of the division of soil and water 1091
resources under section 1511.02 of the Revised Code or by the 1092
supervisors of the local soil and water conservation district 1093
under section 1515.08 of the Revised Code. 1094

(B) Any person who wishes to make a complaint regarding 1095
nuisances involving agricultural pollution may do so orally or by 1096
submitting a written, signed, and dated complaint to the chief or 1097
to the chief's designee. After receiving an oral complaint, the 1098
chief or the chief's designee may cause an investigation to be 1099
conducted to determine whether agricultural pollution has occurred 1100
or is imminent. After receiving a written, signed, and dated 1101
complaint, the chief or the chief's designee shall cause such an 1102
investigation to be conducted. 1103

(C) In a private civil action for nuisances involving 1104
agricultural pollution, it is an affirmative defense if the person 1105
owning, operating, or otherwise responsible for agricultural land 1106
or ~~a concentrated~~ an animal feeding operation is operating under 1107
and in substantial compliance with an approved operation and 1108
nutrient management plan developed under division (A) of this 1109
section, with an operation and nutrient management plan developed 1110
by the chief under section 1511.02 of the Revised Code or by the 1111
supervisors of the local soil and water conservation district 1112
under section 1515.08 of the Revised Code, or with an operation 1113
and nutrient management plan required by an order issued by the 1114
chief under division (G) of section 1511.02 of the Revised Code. 1115
Nothing in this section is in derogation of the authority granted 1116
to the chief in division (E) of section 1511.02 and in section 1117
1511.07 of the Revised Code. 1118

Sec. 1511.023. (A) The chief of the division of soil and 1119
water resources may review each watershed in the state to 1120
determine if any of the following applies to that watershed: 1121

(1) The watershed is listed as impaired by nutrients or 1122
sediments or both from agricultural sources by the director of 1123
environmental protection and so identified in the Ohio integrated 1124
water quality monitoring and assessment report published pursuant 1125
to Section 303(d) of the Federal Water Pollution Control Act. 1126

(2) Waters in the watershed are identified as impaired by 1127
nutrients or sediments or both from agricultural sources by the 1128
director of environmental protection in an approved total maximum 1129
daily load report prepared pursuant to rule 3745-2-12 of the 1130
Administrative Code as required by Section 303(d) of the Federal 1131
Water Pollution Control Act. 1132

(3) Waters in the watershed exhibit conditions that result 1133
from agricultural sources and that are a threat to public health 1134
as determined by the department of health or a board of health. 1135

(4) With regard to public or private water supplies in the 1136
watershed, there is an imminent threat from agricultural sources 1137
to, or the presence of contaminants in, any of the supplies as 1138
determined by the director of environmental protection or a board 1139
of health. 1140

(5) There is an imminent threat from agricultural sources to 1141
fish and other aquatic species living in bodies of water in the 1142
watershed as determined by the director of natural resources or 1143
the director of environmental protection. 1144

(6) Other circumstances exist that are identified by the 1145
chief upon consultation with federal, state, and local agencies. 1146

(B) If either of the circumstances specified in division 1147
(A)(1) or (2) of this section applies to a watershed, the chief 1148
may recommend to the director of natural resources that the 1149
watershed be designated as a critical natural resource area. Not 1150
later than six months after receiving the recommendations of the 1151
chief, the director may designate a watershed to be a critical 1152

natural resource area. After making a designation, the director 1153
shall conduct an analysis of the watershed that is primarily 1154
focused on identifying sources and causes of agricultural 1155
pollution. After identifying the sources and causes of 1156
agricultural pollution in the watershed, the director shall 1157
establish a watershed management plan for that watershed that 1158
addresses the causes and sources of agricultural pollution. The 1159
plan may include requirements governing both of the following: 1160

(1) The storage, handling, and land application of manure, 1161
fertilizer, or both; 1162

(2) The control of erosion of sediment and substances 1163
attached to the sediment. 1164

In addition, the director shall encourage any person who owns 1165
or operates agricultural land or an animal feeding operation that 1166
is located in a watershed that has been designated a critical 1167
natural resource area to voluntarily develop and operate under an 1168
operation and nutrient management plan that is approved by the 1169
chief under section 1511.02 of the Revised Code as a means of 1170
addressing the causes and sources of agricultural pollution. 1171

(C)(1) If any of the circumstances specified in divisions 1172
(A)(3) to (6) of this section applies to a watershed, the chief 1173
may recommend to the director that the watershed be designated as 1174
in distress. Based on the recommendations of the chief, the 1175
director, in consultation with the directors of agriculture, 1176
environmental protection, and health and upon notification of the 1177
Ohio soil and water conservation commission, may designate a 1178
watershed as in distress. In determining whether to designate a 1179
watershed as in distress, the director of natural resources shall 1180
consider the geographic size of the watershed relative to the 1181
economic practicality of implementing programs to address the 1182
causes and sources of agricultural pollution in the watershed. 1183

(2) Not later than six months after designating a watershed 1184
as in distress, the director shall conduct an analysis of the 1185
watershed that is primarily focused on identifying sources and 1186
causes of agricultural pollution. After identifying the sources 1187
and causes of agricultural pollution in the watershed, the 1188
director shall establish a watershed management plan for the 1189
watershed that addresses the causes and sources of agricultural 1190
pollution. The plan may include requirements governing both of the 1191
following: 1192

(a) The development of operation and nutrient management 1193
plans addressing the storage, handling, and application of manure, 1194
fertilizer, or both; 1195

(b) The control of erosion of sediment and substances 1196
attached to the sediment. 1197

In addition, the watershed management plan may include a 1198
schedule for implementing the requirements specified in divisions 1199
(C)(2)(a) and (b) of this section, if applicable. 1200

(3) A person who owns or operates agricultural land or an 1201
animal feeding operation that is located in a watershed that has 1202
been designated as in distress shall operate in accordance with 1203
the watershed management plan that is established by the director 1204
under division (C) of this section for that watershed. 1205

(D) When distributing money to soil and water conservation 1206
districts established under Chapter 1515. of the Revised Code that 1207
has been appropriated by the general assembly from the general 1208
revenue fund to the department of natural resources for purposes 1209
of that distribution, the director shall notify the supervisors of 1210
those districts that the money must be used for watersheds that 1211
have been designated as critical natural resources areas or as in 1212
distress under this section. 1213

(E) If the director determines that a watershed is no longer 1214

a critical natural resource area or in distress, the director may 1215
remove the applicable designation from the watershed. With regard 1216
to a watershed that is designated as in distress, the director may 1217
consult with the directors of agriculture, environmental 1218
protection, and health prior to removing a designation. 1219

(F) As used in this section: 1220

(1) "Board of health" has the same meaning as in section 1221
3734.01 of the Revised Code. 1222

(2) "Federal Water Pollution Control Act" has the same 1223
meaning as in section 6111.01 of the Revised Code. 1224

Sec. 1511.024. (A) Except as provided in division (B) of this 1225
section, the director of natural resources, an employee of the 1226
department of natural resources, the supervisors of a local soil 1227
and water conservation district established under Chapter 1515. of 1228
the Revised Code, an employee of a district, and a contractor of 1229
the department or a district shall not disclose either of the 1230
following: 1231

(1) Information, including data from geographic information 1232
systems and global positioning systems, provided by a person who 1233
owns or operates agricultural land or an animal feeding operation 1234
and operates under an operation and nutrient management plan; 1235

(2) Information gathered as a result of an inspection of 1236
agricultural land or an animal feeding operation to determine 1237
whether the person who owns or operates the land or operation is 1238
in compliance with an operation and nutrient management plan. 1239

(B) The director or the supervisors of a district may release 1240
or disclose information specified in division (A) of this section 1241
to a person or a federal, state, or local agency working in 1242
cooperation with the chief of the division of soil and water 1243
resources or the supervisors in the development of an operation 1244

and nutrient management plan or an inspection to determine 1245
compliance with such a plan if the director or supervisors 1246
determine that the person or federal, state, or local agency will 1247
not subsequently disclose the information to another person. 1248

Sec. 1515.08. The supervisors of a soil and water 1249
conservation district have the following powers in addition to 1250
their other powers: 1251

(A) To conduct surveys, investigations, and research relating 1252
to the character of soil erosion, floodwater and sediment damages, 1253
and the preventive and control measures and works of improvement 1254
for flood prevention and the conservation, development, 1255
utilization, and disposal of water needed within the district, and 1256
to publish the results of those surveys, investigations, or 1257
research, provided that no district shall initiate any research 1258
program except in cooperation or after consultation with the Ohio 1259
agricultural research and development center; 1260

(B) To develop plans for the conservation of soil resources, 1261
for the control and prevention of soil erosion, and for works of 1262
improvement for flood prevention and the conservation, 1263
development, utilization, and disposal of water within the 1264
district, and to publish those plans and information; 1265

(C) To implement, construct, repair, maintain, and operate 1266
preventive and control measures and other works of improvement for 1267
natural resource conservation and development and flood 1268
prevention, and the conservation, development, utilization, and 1269
disposal of water within the district on lands owned or controlled 1270
by this state or any of its agencies and on any other lands within 1271
the district, which works may include any facilities authorized 1272
under state or federal programs, and to acquire, by purchase or 1273
gift, to hold, encumber, or dispose of, and to lease real and 1274
personal property or interests in such property for those 1275

purposes;	1276
(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;	1277 1278 1279 1280 1281 1282
(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;	1283 1284 1285
(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;	1286 1287
(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;	1288 1289 1290 1291 1292 1293 1294
(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:	1295 1296 1297 1298 1299
(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with	1300 1301 1302 1303 1304 1305 1306

the lowest and best bidder after advertisement, for not less than 1307
two nor more than four consecutive weeks preceding the day of the 1308
opening of bids, in a newspaper of general circulation within the 1309
district or as provided in section 7.16 of the Revised Code and in 1310
such other publications as the supervisors determine. The notice 1311
shall state the general character of the work and materials to be 1312
furnished, the place where plans and specifications may be 1313
examined, and the time and place of receiving bids. 1314

(2) Each bid for a contract shall contain the full name of 1315
every person interested in it. 1316

(3) Each bid for a contract for the construction, demolition, 1317
alteration, repair, or reconstruction of an improvement shall meet 1318
the requirements of section 153.54 of the Revised Code. 1319

(4) Each bid for a contract, other than a contract for the 1320
construction, demolition, alteration, repair, or reconstruction of 1321
an improvement, at the discretion of the supervisors, may be 1322
accompanied by a bond or certified check on a solvent bank in an 1323
amount not to exceed five per cent of the bid, conditioned that, 1324
if the bid is accepted, a contract shall be entered into. 1325

(5) The supervisors may reject any and all bids. 1326

(I) To make agreements with the department of natural 1327
resources giving it control over lands of the district for the 1328
purpose of construction of improvements by the department under 1329
section 1501.011 of the Revised Code; 1330

(J) To charge, alter, and collect rentals and other charges 1331
for the use or services of any works of the district; 1332

(K) To enter, either in person or by designated 1333
representatives, upon lands, private or public, in the necessary 1334
discharge of their duties; 1335

(L) To enter into agreements or contracts with the department 1336

for the determination, implementation, inspection, and funding of 1337
agricultural pollution abatement and urban sediment pollution 1338
abatement measures whereby landowners, operators, managers, and 1339
developers may meet adopted state standards for a quality 1340
environment, except that failure of a district board of 1341
supervisors to negotiate an agreement or contract with the 1342
department shall authorize the division of soil and water 1343
resources to implement the required program; 1344

(M) To conduct demonstrations and provide information to the 1345
public regarding practices and methods for natural resource 1346
conservation, development, and utilization; 1347

(N) To enter into contracts or agreements with the chief of 1348
the division of soil and water resources to implement and 1349
administer a program for urban sediment pollution abatement and to 1350
receive and expend moneys provided by the chief for that purpose; 1351

(O) To develop operation and nutrient management plans, as 1352
defined in section 1511.01 of the Revised Code, as necessary; 1353

(P) To determine whether operation and nutrient management 1354
plans developed under division (A) of section 1511.021 of the 1355
Revised Code comply with the standards established under division 1356
(E)(1) of section 1511.02 of the Revised Code and to approve or 1357
disapprove the plans, based on such compliance. If an operation 1358
and nutrient management plan is disapproved, the board shall 1359
provide a written explanation to the person who submitted the 1360
plan. The person may appeal the plan disapproval to the chief, who 1361
shall afford the person a hearing. Following the hearing, the 1362
chief shall uphold the plan disapproval or reverse it. If the 1363
chief reverses the plan disapproval, the plan shall be deemed 1364
approved under this division. In the event that any person 1365
operating or owning agricultural land or ~~a concentrated~~ an animal 1366
feeding operation in accordance with an approved operation and 1367
nutrient management plan who, in good faith, is following that 1368

plan, causes agricultural pollution, the plan shall be revised in 1369
a fashion necessary to mitigate the agricultural pollution, as 1370
determined and approved by the board of supervisors of the soil 1371
and water conservation district. 1372

(Q) With regard to composting conducted in conjunction with 1373
agricultural operations, to do all of the following: 1374

(1) Upon request or upon their own initiative, inspect 1375
composting at any such operation to determine whether the 1376
composting is being conducted in accordance with section 1511.022 1377
of the Revised Code; 1378

(2) If the board determines that composting is not being so 1379
conducted, request the chief to issue an order under division (G) 1380
of section 1511.02 of the Revised Code requiring the person who is 1381
conducting the composting to prepare a composting plan in 1382
accordance with rules adopted under division (E)(8)(c) of that 1383
section and to operate in accordance with that plan or to operate 1384
in accordance with a previously prepared plan, as applicable; 1385

(3) In accordance with rules adopted under division (E)(8)(c) 1386
of section 1511.02 of the Revised Code, review and approve or 1387
disapprove any such composting plan. If a plan is disapproved, the 1388
board shall provide a written explanation to the person who 1389
submitted the plan. 1390

As used in division (Q) of this section, "composting" has the 1391
same meaning as in section 1511.01 of the Revised Code. 1392

(R) With regard to conservation activities that are conducted 1393
in conjunction with agricultural operations, to assist the county 1394
auditor, upon request, in determining whether a conservation 1395
activity is a conservation practice for purposes of Chapter 929. 1396
or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code. 1397

As used in this division, "conservation practice" has the 1398
same meaning as in section 5713.30 of the Revised Code. 1399

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

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

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

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

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

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

(3) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation,

club membership, admission ticket, token, code or password for 1430
digital access, coupon, voucher, incentive, crayons, coloring 1431
placemat, or other premium, prize, or consumer product that is 1432
associated with a meal served by or acquired from a food service 1433
operation. 1434

(B) The director of agriculture has sole and exclusive 1435
authority in this state to regulate the provision of food 1436
nutrition information and consumer incentive items at food service 1437
operations. The director may adopt rules for that purpose in 1438
accordance with Chapter 119. of the Revised Code, including rules 1439
that establish a schedule of civil penalties for violations of 1440
this section and rules adopted under it. Subject to the approval 1441
of the joint committee on agency rule review, portions of the 1442
rules may be adopted by referencing all or any part of any federal 1443
regulations pertaining to the provision of food nutrition 1444
information and consumer incentive items. 1445

The regulation of the provision of food nutrition information 1446
and consumer incentive items at food service operations and how 1447
food service operations are characterized are matters of general 1448
statewide interest that require statewide regulation, and rules 1449
adopted under this section constitute a comprehensive plan with 1450
respect to all aspects of the regulation of the provision of food 1451
nutrition information and consumer incentive items at food service 1452
operations in this state. Rules adopted under this section shall 1453
be applied uniformly throughout this state. 1454

(C) No political subdivision shall do any of the following: 1455

(1) Enact, adopt, or continue in effect local legislation 1456
relating to the provision or nonprovision of food nutrition 1457
information or consumer incentive items at food service 1458
operations; 1459

(2) Condition a license, a permit, or regulatory approval on 1460

the provision or nonprovision of food nutrition information or	1461
consumer incentive items at food service operations;	1462
(3) Ban, prohibit, or otherwise restrict food at food service	1463
operations based on the food nutrition information or on the	1464
provision or nonprovision of consumer incentive items;	1465
(4) Condition a license, a permit, or regulatory approval for	1466
a food service operation on the existence or nonexistence of	1467
food-based health disparities;	1468
(5) Where food service operations are permitted to operate,	1469
ban, prohibit, or otherwise restrict a food service operation	1470
based on the existence or nonexistence of food-based health	1471
disparities as recognized by the department of health, the	1472
national institute of health, or the centers for disease control.	1473
Section 2. That existing sections 901.22, 903.25, 905.31,	1474
905.32, 905.34, 905.36, 905.39, 905.41, 905.45, 905.46, 905.47,	1475
905.48, 905.49, 905.50, 905.501, 905.99, 907.111, 1511.01,	1476
1511.02, 1511.021, 1515.08, and 3717.53 of the Revised Code are	1477
hereby repealed.	1478