

**STATE
ENVIRONMENTAL LAWS AFFECTING
OHIO AGRICULTURE**

*(See NASDA's Website for Federal Environmental Laws
Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
of Agriculture Research Foundation**

through the

**National Center for Agricultural Law
Research and Information**



Website: [http://www.nasda.org/under the Research Foundation Section](http://www.nasda.org/under%20the%20Research%20Foundation%20Section)

Table of Contents

This guide details Ohio's environmental laws that affect agriculture. Please see a companion document on NASDA's Website for Federal environmental laws affecting agriculture.

The Project Participants	OH-iv
Disclaimer	OH-v
Quick Reference Guide	OH-vi
I. Water Quality	OH-1
A. Ohio Water Quality Laws	OH-1
1. Water Quality in Ohio	OH-1
a. NPDES Permit Program	OH-1
b. Ohio EPA	OH-2
c. Water Quality Inspection	OH-4
d. Prohibited Acts	OH-4
e. Filling Isolated Wetlands	OH-5
f. Penalties	OH-7
g. Water Pollution Control Loan Fund, Nonpoint Source Pollution Management Fund, and Surface Water Protection Fund	OH-8
2. Ohio Concentrated Animal Feeding Facilities	OH-9
3. Ohio Conservancy Districts	OH-12
4. Soil and Water Conservation Districts	OH-14
5. Ohio Watershed Districts	OH-15
II. Groundwater	OH-16
A. Ohio Groundwater Laws	OH-16
1. Ohio Water Advisory Council	OH-16
2. Ohio Water Resources Council	OH-17
3. Ohio Safe Drinking Water Act	OH-18
4. Ohio Injection Wells	OH-19
5. Ohio Private Water Systems	OH-19
6. Ohio Drinking Water Enforcement	OH-20
7. Ohio Drinking Water Protection Fund	OH-21
8. Ohio Underground Storage Tanks	OH-21
9. Ohio Water Development Authority	OH-23
III. Air Quality	OH-24
A. Ohio Air Quality Laws	OH-24
1. Ohio Title V Emission Permits	OH-28
a. Agricultural Exemptions	OH-29

	b.	Small Business Assistance Program	OH-29
	2.	Ohio Clean Air Fund	OH-29
	3.	Ohio Open Burning Permits	OH-30
IV.		Solid Waste and Hazardous Waste	OH-31
	A.	Ohio Solid Waste Laws	OH-31
	1.	Ohio Solid Waste Management Districts	OH-31
	2.	Ohio Solid Waste Management Plan	OH-32
	3.	Ohio Biosolids	OH-33
	4.	Ohio Waste Reduction, Recycling, and Litter Prevention Programs.	OH-34
	5.	Ohio Dredge Spoils, Timber, and Other Wastes	OH-35
	6.	Ohio Solid Waste Facilities	OH-37
	B.	Ohio Hazardous Waste Laws	OH-38
	1.	Ohio Hazardous Waste Facility Board	OH-39
	2.	Ohio Disposal of Acute Hazardous Waste	OH-41
	3.	Ohio Hazardous Waste Cleanup Fund	OH-41
V.		Pesticides and Chemigation	OH-41
	A.	Ohio Pesticide and Chemigation Laws	OH-41
	1.	Ohio Pesticide Laws	OH-42
	a.	Pesticide Categories	OH-42
	b.	Pesticide Applicator Businesses	OH-45
	c.	Certification for Restricted-use Pesticides	OH-45
	d.	Pesticide Prohibitions	OH-46
	2.	Ohio Pesticide Custom Applicators	OH-49
	3.	Ohio Pesticide Private Applicators	OH-50
	4.	Ohio Pesticide Commercial Applicators	OH-51
	5.	Ohio Pesticide Limited Commercial Applicators	OH-51
	6.	Ohio Pesticide Registration	OH-51
	7.	Pesticide Dealer Licenses	OH-52
	8.	Ohio Pesticide Records	OH-53
	9.	Ohio Pesticide Program Fund	OH-53
	10.	Ohio Pesticide Enforcement	OH-53
	11.	Ohio Pesticide Crop Damage Claims	OH-55
	12.	Ohio Pesticide Enforcement	OH-55
	13.	Ohio Pesticide Compact	OH-56
	B.	Ohio Fertilizer and Storage Handling Regulations	OH-56
VI.		Protection of Wildlife	OH-58
	A.	Ohio Wildlife Protection Laws	OH-58
	1.	Ohio Endangered Species	OH-58
	2.	Ohio Wild Animals	OH-59

3.	Ohio Division of Wildlife	OH-61
4.	Ohio Wildlife Enforcement	OH-64
5.	Ohio Wildlife Employees	OH-64
6.	Ohio Wildlife Council	OH-65
7.	Ohio Natural Areas Council	OH-66
8.	Ohio Cooperative Management Fund	OH-66
9.	Ohio Wildlife Habitat Fund	OH-67
10.	Ohio Wildlife Habitat Trust Fund	OH-67
11.	Ohio Wild Animal Fund	OH-67
12.	Ohio Nongame and Endangered Wildlife Fund	OH-67
13.	Ohio Wildlife Penalties	OH-68
VII.	Other State Statutes Affecting Agriculture	OH-68
A.	Ohio Agricultural Districts	OH-68
B.	Ohio Right to Farm Law	OH-70
C.	Ohio Dead Animal Disposal	OH-71
	Appendix A - Agencies	OH-72

The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (NCALRI) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The NCALRI focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The NCALRI is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Agricultural producers should always confer with their own attorneys, consultants, or advisors as well as federal, state, and local authorities responsible for the applicable environmental laws.

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Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

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Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, N.W., Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

Regulatory Area	Type of Activity	Permit Required	Agency
Water Quality <i>pp. 1-17</i>	Livestock and aquaculture operations	Possibly an Ohio permit to install (PTI), an Ohio permit to operate (PTO), and/or a National Pollutant Discharge Elimination System (NPDES) permit depending on size and activities	U.S. Environmental Protection Agency (U.S. EPA) Regional Office through its delegation to Ohio Environmental Protection Agency (OEPA) and Ohio Department of Agriculture (ODA)
	Wetlands dredge and fill activity or dam or bridge building activities	Section 404 Clean Water Act (CWA) permit	U.S. Army Corps of Engineers with U.S. EPA and OEPA
	Water well construction and use	No permit unless the facility qualifies as a public drinking water supply (based on the number of employees), but construction standards must be followed	Ohio Department of Health (ODH)
Groundwater <i>pp.17-25</i>	Groundwater protection	Best Management Practices (BMPs) must be followed and well injections may require a permit, otherwise no permit is generally required	OEPA

Regulatory Area	Type of Activity	Permit Required	Agency
Air Quality <i>pp. 25-31</i>	General agricultural operations including odor, dust, or flies	No permit required, but may be subject to nuisance suits	U.S. EPA Regional Office or OEPA
	Burning	Permit usually required but several exemptions exist for agricultural purposes	OEPA
Solid Waste and Hazardous Waste <i>pp. 31-42</i>	Storage, treatment, and disposal of solid waste	A PTI and a PTO is usually required	OEPA, Ohio Department of Natural Resources (ODNR)
	Underground storage tanks	Installers must have certification	Ohio Fire Marshall
	Storage, treatment, and disposal of hazardous waste	PTI and PTO required for disposal, treatment, or storage activities	OEPA and Hazardous Waste Management Board (HWMB)
Pesticides and Chemigation <i>pp. 42-59</i>	Application and use of pesticides	No permit required, but a license may be required	U.S. EPA and ODA
	Use of pesticides around farmworkers	No permit required, but training and notification are required	OEPA and ODA
	Record keeping	No permit required, but all record keeping requirements must be met	ODA
Wildlife Protection <i>pp. 59-69</i>	Taking of wildlife	Permit required if endangered or threatened species may be affected	U.S. Fish and Wildlife Service and ODNR

STATE ENVIRONMENTAL LAWS AFFECTING OHIO AGRICULTURE

Producer Note: The information on environmental regulation provided in this guidebook is presented for the purpose of educating agricultural producers on the breadth and scope of environmental laws which may impact their daily production activities. Environmental regulation is a complex area with both federal, state, and often local government involvement. Similarly, rapid changes in industrialization, computer-based technology, and market dynamics also affect agricultural producers in a number of ways and present many challenges. Staying informed is the producer's most useful tool for meeting these challenges.

I. WATER QUALITY

Producer Note: In order for agricultural producers to maintain compliance with water quality legislation, they must be aware of not only federal water quality standards, NPDES permit requirements, wetland permits, and oil spill liability issues but also state water quality standards, state permit requirements, state and local nonpoint source pollution programs, and state environmental liability issues but also whether there are any waters requiring special protection in their area. The states take active roles in ensuring that agricultural producers comply with environmental requirements.

A. Ohio Water Quality Laws

1. *Water Quality in Ohio*

Most states have enacted clean water legislation. While these state statutes usually contain provisions similar to those found in parallel federal legislation, there may be significant differences. In fact, state statutes may impose requirements that are even more restrictive than federal law. In all cases regarding water quality issues, the federal Clean Water Act (CWA)¹ requirements must be followed and enforced along with any state enacted statutes and state agency regulations.

a. *NPDES Permit Program*

With the authority provided by CWA, the United States Environmental Protection Agency (EPA) can delegate the National Pollutant Discharge Elimination System (NPDES) permit program to the individual state to implement if the U.S. EPA approves that state's program. The U.S. EPA has delegated the implementation of the NPDES permit program to the

¹ 33 U.S.C. § 1251 *et seq.* (1994).

state of Ohio. Thus, the Ohio Environmental Protection Agency (OEPA) administers the federal NPDES permit program.² However, the Ohio Department of Agriculture (ODA) has received delegation of the NPDES implementation for livestock facilities. The NPDES delegation also encompasses permits to install (PTI) and permits to operate (PTO) associated with livestock facilities.

b. Ohio EPA

By state statute, the OEPA is charged with the responsibility of establishing the schedule of water quality standards for the various waters of the state. Water quality standards are established for the following purposes:

- To maintain and improve the quality of state waters;
- To protect the public's health and welfare;
- To protect the present and planned beneficial uses of such waters including its use for:
 - Public water supplies;
 - Industrial and agricultural needs;
 - Propagation of fish, aquatic life, and wildlife; and
 - Recreational purposes.

The OEPA enforces water quality standards through the issuance, revocation, modification, and denial of NPDES permits.³ Additional OEPA responsibilities involving water quality include:

- Establishing rules that set forth and require compliance with national effluent limitations, national standards of performance for new discharge sources, national

² A NPDES permit means a permit issued under the National Pollutant Discharge Elimination System established in Section 402 of the CWA and includes the renewal of such a permit; the term "permit" includes an initial, renewed, or modified permit to install, a permit to operate, a NPDES permit, and an installation permit; a "permit to install" means a permit issued under OHIO REV. CODE ANN. § 903.02 (Anderson 1988 & Supp. 2000); a "permit to operate" means a permit issued or renewed under OHIO REV. CODE ANN. § 903.03 and includes NPDES permit provisions; *see also* OHIO REV. CODE ANN. § 903.01(Q-T) (Anderson 1988 & Supp. 2000).

³ OHIO REV. CODE ANN. § 6111.42 (Anderson 1993 & Supp. 2000).

toxic and pretreatment effluent standards, and national sludge use and disposal standards to ensure compliance with the CWA;⁴

- Collecting, studying, and interpreting all available information, statistics, and data pertaining to the supply, use, conservation, and replenishment of ground and surface waters in the state in coordination with other agencies of the state;
- Cooperating and negotiating with any federal or state agency pertaining to the water resources of the state;
- Stream gauging;
- Furnishing water resource information;
- Adopting necessary rules that address drilling, operating, maintaining, and abandoning wells to prevent the contamination of the ground waters;⁵
- Maintaining accessibility for pertinent public information and statistics related to OEPA duties; and
- Maintaining an accurate map and description of the territorial boundaries of proposed watershed districts within the state;⁶ and

In more general terms, OEPA's mission is to protect the environment and public health by ensuring compliance with environmental laws and by demonstrating state leadership in environmental stewardship.

⁴ OHIO REV. CODE ANN. § 6111.04.2 (Anderson 1993 & Supp. 2000).

⁵ Excluding private wells for human consumption for human and including only wells used for public sources drinking supply.

⁶ The map and description must follow the property line, section line, half-section line, or patent line that is nearest to the hydrologic boundary of the proposed watershed district. There shall not be less than fifteen (15) nor more than eighteen (18) proposed watershed districts in the state, and each must be composed of one (1) or more major river watersheds. When a map and a description of a proposed watershed district has been completed, the director of OEPA must ensure that a copy of the map and the description of the watershed district is filed with the secretary of state and the board of county commissioners of each county contained in whole or in part within the territorial boundaries of the proposed watershed district; *see* OHIO REV. CODE ANN. § 6111.04.1 (Anderson 1993 & Supp. 2000).

c. Water Quality Inspection

The OEPA has authority to investigate and make inquiries into any alleged water pollution violation or any acts that are not in compliance with the conditions of a permit. The term “pollution” means the placing of any sewage, sludge, sludge materials, industrial waste, or other wastes in any waters of the state.⁷ The term “other wastes” means garbage, refuse, decayed wood, sawdust, shavings, bark and other wood debris, lime, sand, ashes, offal, night soil, oil, tar, coal dust, dredged or fill material or silt, plus other substances that are not sewage, sludge, sludge materials, or industrial waste, and any other "pollutants" or "toxic pollutants" as defined in the CWA that are not sewage, sludge, sludge materials, or industrial waste.⁸

Representatives of the OEPA may enter at reasonable times upon any private or public property to:

- Take samples;
- Copy records;
- Investigate conditions related to alleged pollution; and
- Inspect records, equipment, and operations.

It is unlawful to willfully hinder or thwart an investigation or inspection.⁹ Information obtained in an investigation is made public unless the information is properly claimed to the OEPA to be confidential. In such cases, the OEPA must provide ten days notice before divulging the information in order to allow a determination of whether the information is protected by trade secret exceptions.

d. Prohibited Acts

Any act which causes pollution of the waters of the state or any act which places any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where its placement causes pollution of any waters of the state is considered a public nuisance unless such activity is addressed by a valid permit issued by the OEPA.¹⁰ Some specific exceptions, however, include:

⁷ OHIO REV. CODE ANN. § 6111.01(A) (Anderson 1993 & Supp. 2000).

⁸ OHIO REV. CODE ANN. § 6111.01(D) (Anderson 1993 & Supp. 2000).

⁹ OHIO REV. CODE ANN. § 6111.05 (Anderson 1993 & Supp. 2000).

¹⁰ OHIO REV. CODE ANN. § 6111.04 (Anderson 1993 & Supp. 2000).

- Waters used in washing sand, gravel, other aggregates, or mineral products when the waters are entirely confined to that person's land;
- Water, gas, or other material injected into a well for the production of oil or gas, in compliance with an injection well operating permit;
- Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by animal waste or soil sediment otherwise regulated;
- Excrement of domestic and farm animals defecated on land or runoff therefrom;
- Stormwater or manure from an animal feeding facility;¹¹
- Discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works otherwise regulated;
- Septic tanks or any other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings otherwise in compliance with the sanitary code; and
- Exceptional quality sludge¹² generated outside of Ohio and contained in bags or other containers not greater than one hundred (100) pounds in capacity.

Ohio statutes allow the OEPA to amend water quality standards after due notice is provided to the public and public hearings are held. Notice of hearings must be specific and state the waters to which the standards relate along with the time, date, and place of the hearing.

e. Filling Isolated Wetlands

The term “wetlands” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes swamps, marshes, bogs, and similar areas that are delineated in accordance with the 1987 United States Army Corps of Engineers wetland delineation manual.¹³

¹¹ As defined in OHIO REV. CODE ANN. § 903.01 (Anderson 1988 & Supp. 2000).

¹² The term “exceptional quality sludge” means sewage sludge that meets all of the following qualifications: (a) satisfies the class A pathogen standards in paragraphs (N)(1) to (N)(6) of rule 3745-40-05, (b) satisfies one of the vector attraction reduction requirements in paragraphs (Q)(1) to (Q)(8) of rule 3745-40-05, (c) does not exceed the ceiling concentration limits for metals listed in paragraph (F)(1) of rule 3745-40-05, and (d) does not exceed the concentration limitations for paragraph (F)(3) of rule 3745-40-05; *see* OHIO ADMIN. CODE § 3745-40-01(A)(20) (2002).

¹³ OHIO REV. CODE ANN. § 6111.02(P) (Anderson 1993).

The term “isolated wetland” means a wetland that is not subject to regulation under the CWA.¹⁴ The issuance of a general or individual state isolated wetland permit constitutes the issuance of a section 401 water quality certification for purposes of the CWA.¹⁵ A general wetland permit¹⁶ subject to a level one review authorizes the filling activity of a category 1 or 2 isolated wetland of one-half (½) acre or less.¹⁷

Upon proper notice, review, and approval of a general wetland permit, the filling of an isolated wetland may be conducted for a time period up to two years. If, however, the applicant is notified by the OEPA¹⁸ that the filling of the isolated wetland will result in a significant negative impact on state water quality, the proposed filling must not be conducted unless the applicant subsequently obtains an individual wetland permit for the activity.

The filling of a state isolated wetland may be authorized by an individual permit issued by OEPA.¹⁹ The OEPA has authority over the form of the application for a general permit or an individual state isolated wetland permit. If an application is defective for lack of completeness, the OEPA must notify the applicant within fifteen (15) days after the receipt of the application and provide an itemized list of the information needed to complete the application. If an application for an individual state isolated wetland permit is denied, the OEPA must provide an explanation to the applicant for the denial. If the applicant fails to provide information or

¹⁴ OHIO REV. CODE ANN. § 6111.02(F) (Anderson 1993).

¹⁵ A state section 401 water quality certification is required to obtain a federal section 404 permit from the Army Corps of Engineers pursuant to the CWA; *see* OHIO REV. CODE ANN. § 6111.02.1 (Anderson 1993).

¹⁶ A general permit is effective for five (5) years.

¹⁷ Level one (1) review requires pre-activity notice in the form of an application, an acceptable wetland delineation, a wetland categorization, a description of the project, a description of the acreage of the isolated wetland that will be subject to filling, site photographs, and a mitigation proposal for the impact to the isolated wetland. The required mitigation for the proposed filling of an isolated wetland subject to a level one (1) review must be conducted by the applicant either as an on-site mitigation, a mitigation at a wetland mitigation bank within the same United States Army Corps of Engineers District, or an off-site mitigation; *see* § 6111.02.1 (Anderson 1993). Level one (1) review also includes information indicating whether or not high quality waters will be avoided by the proposed filling of the isolated wetland. Level two (2) review consists of the requirements of a level one review plus an analysis of practicable on-site alternatives to the proposed filling of the isolated wetland that would have a less adverse impact on the isolated wetland ecosystem. A level three (3) review consists of the level two (2) review plus an antidegradation review. The antidegradation review includes the OEPA director’s consideration of the technical, social, and economic need that is demonstrated by a person requesting to lower water quality after public notice of the application and, at the discretion of the director, a public hearing on it; *see* § 6111.02.4 (Anderson 1993).

¹⁸ OEPA notice is provided within thirty (30) days after the application is submitted; *see* § 6111.022 (Anderson 1993).

¹⁹ An individual permit is effective for five (5) years. Wetlands created by previous coal mining activities where remining is proposed are excluded.

materials that are necessary to complete the application within sixty days after the original submission to the OEPA, the incomplete application may be returned to the applicant.²⁰

Upon receipt of a completed application for a general or individual permit proposing to fill an isolated wetland, the OEPA must publish notice of its receipt in a newspaper of general circulation in the county in which the proposed filling would take place. During the twenty (20) days following publication of notice, the OEPA accepts comments concerning the application. If any comments or significant public interest is generated, the OEPA provides an opportunity for a public hearing by publishing notice not later than thirty (30) days prior to the date of the hearing in a newspaper of general circulation in the county in which the proposed filling would take place. If a public hearing is requested concerning an application, the OEPA must accept comments concerning the application until five (5) business days after the public hearing. The public hearing must not take place not later than seventy (70) days after the original receipt of the application.²¹

If an application for a state isolated wetland permit is changed, altered, or amended after a public hearing was properly conducted in accordance with these provisions, a second hearing is not be required for the changed, altered, or amended application if the scope of the original application has not changed or the proposed filling has been reduced from the original application.

If the permit sought is part of a project that is subject to regulation by section 404 of the CWA, the applicant may request and the OEPA may revise the time periods established in this section for the public comment period and public hearing to coincide with the time periods for an application for a 401 water quality certification in order to eliminate duplicative public comment and public hearing procedures.²²

The OEPA may modify the terms and conditions of a permit when such modified terms and conditions will require the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of sewage, industrial waste, and other wastes into the waters of the state.²³

f. Penalties

For each day of violation, violators of water quality and effluent limitation statutes may be fined up to twenty-five thousand dollars (\$25,000.00) or imprisoned up to one (1) year or

²⁰ OHIO REV. CODE ANN. § 6111.026(B) (Anderson 1993).

²¹ OHIO REV. CODE ANN. § 6111.026(C) (Anderson 1993).

²² OHIO REV. CODE ANN. § 6111.026(F) (Anderson 1993).

²³ OHIO REV. CODE ANN. § 6111.031 (Anderson 1993).

both. Violations of waste minimization and treatment plans may result in fines up to ten thousand dollars (\$10,000.00). Violations of waste disposal plans may result in fines up to five hundred dollars (\$500.00). Interference with the official duties of the OEPA may also result in fines.²⁴

g. *Water Pollution Control Loan Fund, Nonpoint Source Pollution Management Fund, and Surface Water Protection Fund*

The OEPA manages the Water Pollution Control Loan Fund that provides financial, technical, and administrative assistance for the purposes of:

- Construction of publicly owned wastewater treatment works by municipal corporations, other political subdivisions, and interstate agencies having territory in this state;
- Implementation of nonpoint source pollution management programs under Section 319 of the CWA; and
- Development and implementation of estuary conservation and management programs under Section 320 of the CWA.²⁵

The OEPA also manages the Nonpoint Source Pollution Management Fund. This fund represents grant moneys received under Section 319 of the CWA for the purpose of assisting with the development and implementation of a comprehensive nonpoint source pollution management program. Monies from the fund may be used for research, planning, water quality assessments, demonstration projects, enforcement, technical assistance, education, or training when it addresses the management of nonpoint sources of water pollution.²⁶

A fund called the Surface Water Protection Fund exists within the state treasury for the administration and implementation of surface water protection programs of the OEPA including programs required under the CWA. The OEPA utilizes these monies to:

- Develop water quality standards;
- Develop wasteload allocations;
- Establish water quality-based effluent limits;

²⁴ OHIO REV. CODE ANN. § 6111.99 (Anderson 1993).

²⁵ OHIO REV. CODE ANN. § 6111.036 (Anderson 1993 & Supp. 2000).

²⁶ OHIO REV. CODE ANN. § § 6111.037 (Anderson 1993).

- Monitor and analyze chemical, physical, and biological surface water quality;
- Manage and oversee pretreatment programs;
- Provide technical assistance to publicly owned treatment works;
- Administer the Water Pollution Control Loan Fund; and
- Issue, modify, renew, and ensure compliance of NPDES permits.²⁷

Producer Note: Generally, state agency regulations are amended more frequently than state statutes. Since the specifics of state environmental laws are often found in state agency regulations, an agriculture producer must stay in touch with the agencies that administer specific programs encompassing the producer's activities in order to keep up with changes which may occur.

Many normal agricultural activities such as plowing, cultivating, seeding, or harvesting for crop production are legislatively excluded from the NPDES permit requirement including irrigation return flows,²⁸ but the NPDES permit exclusion does not eliminate other requirements that may be imposed on agricultural operations such as other state or local permits.

2. *Ohio Concentrated Animal Feeding Facilities*

Producer Note: Ohio has special laws relating to the discharge of animal manure. These laws reflect Ohio's commitment to regulating the discharge of animal waste.²⁹ Since agency regulations frequently change, before beginning any activities involving animal waste, agricultural producers should first contact the Ohio Department of Agriculture. The local Soil and Water Conservation District and the Division of Soil and Water Conservation within the Ohio Department of Natural Resources also maintains up to date information about state laws and regulations on animal waste. Additional information on water quality and livestock production may be obtained through the Ohio Environmental Protection Agency, the Ohio State University Extension Service, and the USDA-Natural Resource Conservation Service office.

²⁷ OHIO REV. CODE ANN. § 6111.038 (Anderson 1993 & Supp. 2000).

²⁸ Irrigation return flow is defined as surface water containing pollutants that is discharged from a discernible, confined, and discrete conveyance which results from the controlled application of water by a person to land used primarily for crops, forage growth, or nursery operations.

²⁹ OEPA administers the federal NPDES permit program, however, the ODA is in the process of requesting delegation of the NPDES implementation as it applies to the state's livestock facilities.

A concentrated animal³⁰ feeding operation (CAFO) is an animal feeding operation (AFO)³¹ with a total design capacity of more than 1,000 animal units (AUs),³² and the acronym CAFO has the same meaning as that adopted by the U.S. EPA under the CWA.³³ Any CAFO designed to confine greater than 1,000 AUs that has a documented release of pollutants to waters of the state³⁴ must apply for an individual NPDES permit and a PTI plus obtain an approved manure management plan. The NPDES permit addresses the management of manure³⁵ and wastewater as well as controllable direct discharges. The ODA rather than the OEPA has delegation of the NPDES implementation as it applies to the state's livestock facilities.³⁶

In Ohio, slightly different terminology is utilized for livestock feeding facilities to include the land upon which animal waste is applied. Accordingly, a concentrated animal feeding facility (CAFF) is an animal feeding facility (AFF)³⁷ with a total design capacity of more

³⁰ An "agricultural animal" means any animal generally used for food or in the production of food including cattle, sheep, goats, rabbits, poultry, and swine, horses, and any other animal included by the director of agriculture; *see* OHIO REV. CODE ANN. § 903.01(A) (Anderson 1988 & Supp. 2000).

³¹ An "AFO" is a facility that confines animals for at least forty-five (45) days in a twelve-month (12-month) period and there is no grass or other vegetation in the confinement area during the normal growing season; *see* 40 C.F.R. § 122.23 and Pt. 122, App.B (2001).

³² An "animal unit" (AU) means a unit of measurement calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0; the number of mature dairy cattle multiplied by 1.4; the number of swine heavier than fifty-five (55) pounds multiplied of horses multiplied by 2.0; the number of sheep or lambs multiplied by 0.1; the number of turkeys multiplied by 0.02; the number of laying hens or broilers multiplied by 0.01; the number of ducks multiplied by 0.2; *see* OHIO REV. CODE ANN. § 903.01(C) (Anderson 1988 & Supp. 2000). One thousand (1,000) AUs are equivalent to one thousand (1,000) fed cattle; seven hundred (700) mature dairy cows; two thousand five hundred (2,500) swine animals and/or sow sand litters; fifty-five thousand (55,000) turkeys; one hundred thousand (100,000) chickens (with solid manure waste); thirty thousand (30,000) chickens (with liquid manure waste); five hundred (500) horses; ten thousand (10,000) sheep or lambs; four thousand (4,000) veal calves; or five thousand (5,000) ducks.

³³ OHIO REV. CODE ANN. § 903.01(E) - (F) (Anderson 1988 & Supp. 2000).

³⁴ Excluding a release due to a storm of precipitation intensity greater than or equal to a 25-year/24-hour storm.

³⁵ Manure means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs, animal excreta, discarded products, bedding, process wastewater, process generated wastewater, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta; *see* OHIO REV. CODE ANN. § 903.01(N) (Anderson 1988 & Supp. 2000).

³⁶ Livestock feeding facility regulations; *see* OHIO ADMIN. CODE §§ 901:10-1-01 to -09 (2002).

³⁷ The term "animal feeding facility" means a lot, building, or structure where both of the following conditions are met: (1) animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained there for a total of forty-five (45) days or more in any twelve-month (12-month) period, and (2) crops, vegetative forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot, building, or structure. This term also includes land that is owned or leased by the owner or operator of the lot, building, or structure and on which manure originating from such facility is applied. The term does not include a hatchery, fish farm or other

than one thousand (1,000) AUs,³⁸ and a major concentrated animal feeding facility (MCAFF) is an animal feeding facility with a total design capacity of more than ten thousand (10,000) AUs.³⁹ Facilities not permitted as a CAFF or a MCAFF or those not requiring a NPDES permit are regulated by the Division of Soil and Water Conservation within the Ohio Department of Natural Resources (ODNR) under the animal waste pollution abatement rules.⁴⁰

During an inspection of any CAFF or MCAFF, if the ODA documents any discharge of pollutants into waters of the state, the discharge triggers the need for an NPDES permit and a plan to eliminate the discharge.⁴¹ Furthermore, during an inspection, the ODA assesses any land application of animal wastes associated with a CAFO.⁴² Existing manure and wastewater plans, operating records, insect and rodent control, and animal disposal procedures are reviewed during inspections to determine if they have been approved, properly followed, and in compliance with current permits and with water pollution control laws and regulations.⁴³

If the ODA becomes aware of discharges through field reconnaissance, complaint response, spill reports, referrals from the OEPA, ODNR, or referrals from the Soil and Water Conservation District (SWCD) that a CAFO has discharged pollutants to the waters of the state, the ODA informs the owner or operator that the discharge must cease and that corrective actions must be taken. Otherwise, ODA uses the terms and conditions in the NPDES permit to regulate the discharge.

The ODA provides technical assistance to AFF, CAFF, and CAFO owners and operators and also coordinates efforts with ODNR and OEPA. Particular questions that may arise regarding livestock facilities are directed to the ODA.

facility that raises aquatic animals; *see* OHIO REV. CODE ANN. § 903.01(B) (Anderson 1988 & Supp. 2000).

³⁸ OHIO REV. CODE ANN. § 903.01(F) (Anderson 1988 & Supp. 2000).

³⁹ OHIO REV. CODE ANN. § 903.01(M) (Anderson 1988 & Supp. 2000).

⁴⁰ OHIO ADMIN. CODE §§ 1501:15-5-01 to -18 (2002).

⁴¹ OEPA staff are available to assist in developing a plan if none exists.

⁴² Owners and operators of CAFOs must follow the standards set forth in the “Field Office Technical Guide” and the “Ohio Livestock Manure and Wastewater Management Guide” to achieve the maximum utilization of manure nutrients for crop production and to minimize the potential for pollution; *see* OHIO REV. CODE ANN. §§ 1511.02(E) and 1515.08 (Anderson 1988 & Supp. 2000) and OHIO ADMIN. CODE § 1501:15-5-05 (2002). The “Field Office Technical Guide” means the localized document (current edition) used by the Soil and Water Conservation District and developed by the Natural Resources Conservation Service within the United States Department of Agriculture; *see* OHIO ADMIN. CODE § 1501:15-5-01(21) (2002); the “Ohio Livestock Manure And Wastewater Management Guide” means the current edition of the “Ohio Livestock Manure And Wastewater Management Guide,” Bulletin 604, the Ohio State University Extension; *see* OHIO ADMIN. CODE § 1501:15-5-01(25) (2002).

⁴³ OHIO ADMIN. CODE §§ 901:10-1-07(A) (2002).

Recent additions to Ohio statutes include new procedures for applicants for PTI and PTO permits for concentrated animal feeding facilities. If an applicant for these permits has not operated a confined animal feeding operation (CAFO) in Ohio for at least two (2) of the five (5) years preceding the application, then the permit application must be accompanied by all of the following:

- A list of all AFFs, AFOs, CAFFs, CAFOs, and MCAFFs previously operated or owned in Ohio, in the U.S., and outside the U.S.; and
- A list of any civil actions where liability was assigned or injunctive relief was given, any criminal actions where guilt attached, or any administrative enforcement orders issued upon the applicant in connection with a violation or an alleged violation of the CWA, the SDWA,⁴⁴ or any other related state environmental law regarding any CAFO.⁴⁵

Prior history of substantial noncompliance of the CWA, the SDWA, or other applicable state environmental laws may provide sufficient grounds for permit denial as may other evidence that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed CAFF in substantial compliance with Ohio law.⁴⁶

Regulation of CAFFs in Ohio is the responsibility of the ODA. An applicant who seeks to acquire a PTI or a PTO for a CAFF must submit the compliance history information listed above. Should the applicant's information reflect a history of substantial noncompliance with the CWA, the SDWA, or related state environmental laws or should the applicant lack sufficient reliability, expertise, and competence to operate the CAFF in substantial compliance with Ohio law, such information may provide sufficient grounds to deny the permit.⁴⁷

3. *Ohio Conservancy Districts*

The state of Ohio allows the organization of conservancy districts. Any area or areas situated in one or more counties may be organized as a conservancy district for any of the following purposes:⁴⁸

⁴⁴ The Safe Drinking Water Act; *see* 42 U.S.C. § 300g-1 *et seq.* (1996).

⁴⁵ OHIO REV. CODE ANN. § 903.05(A) (Anderson 1988 & Supp. 2000).

⁴⁶ OHIO REV. CODE ANN. § 903.05(B) (Anderson 1988 & Supp. 2000).

⁴⁷ OHIO REV. CODE ANN. § 903.05(C) (Anderson 1988 & Supp. 2000).

⁴⁸ Any district organized prior to July 19, 1937, entirely within a single county is not affected by this statute.

- Preventing floods;
- Regulating stream channels by changing, widening, and deepening the stream channels;
- Reclaiming or filling wet and overflowed lands;
- Providing for irrigation where it may be needed;
- Regulating the flow of streams and conserving their waters;
- Diverting or eliminating watercourses, in whole or in part;
- Providing a water supply for domestic, industrial, and public use;
- Providing for the collection and disposal of sewage and other liquid wastes produced within the district; and
- Overcoming erosion along the Ohio shore line of Lake Erie.⁴⁹

A conservancy district is initiated by the filing of a petition in the office of the clerk of the court of common pleas of one of the counties containing territory within the proposed district. The petition must be signed either by five hundred residents, or by a majority of the residents, or by the owners of more than half of the property, in either acreage or value, within the limits of the territory proposed to be organized into a district.⁵⁰

The petition must set forth:

- The proposed name of the district;
- A general description of the contemplated improvement and its purpose;
- The necessity for the proposed improvement;
- The contemplated improvement conducive to public health, safety, convenience, or welfare; and
- The territory or area to be included in the proposed district.⁵¹

⁴⁹ OHIO REV. CODE ANN. § 6101.04 (Anderson 1993 & Supp. 2000).

⁵⁰ OHIO REV. CODE ANN. § 6101.05 (Anderson 1993 & Supp. 2000).

⁵¹ The judge of the court of common pleas of the county in which the petition was filed determines whether it bears the necessary signatures and complies; *see* OHIO REV. CODE ANN. § 6101.05 (Anderson 1993 & Supp. 2000).

A hearing on the petition for the establishment of the proposed conservancy district is held not later than sixty days the filing of the petition. The clerk of the court provides notice of the hearing by publication. Any owner of real property in a proposed district who has not signed the petition may file an objection to the organization and incorporation of the district.

After the hearing, if it appears that the established purposes of conservancy districts would be served by the creation of a new district, the court will declare the district organized. Once the district is organized, it is considered a political subdivision of the state and a corporate body with all the powers of a corporation. A conservancy district has perpetual existence, the power to sue and be sued, to incur debts, liabilities, and obligations, to exercise the right of eminent domain and assessment, to issue bonds, and to do all acts necessary and proper to carry out the purposes for which the district was created and to execute the powers with which it is invested.⁵²

4. Soil and Water Conservation Districts

The Division of Soil and Water Conservation (DSWC) within the ODNR has functions:

- To provide leadership to local soil and water conservation districts;
- To develop watersheds and other natural resource conservation works of improvement;
- To coordinate programs with other districts, the ODNR, and other local, state, and federal agencies;
- To adopt rules to carry out SWCD duties and responsibilities;
- To establish standards for management and conservation practices in farming or silvicultural operations that reduce soil erosion or degradation of state waters and for nonfarm soil-disturbing activities and for areawide implementation of waste treatment management plans for purposes of the CWA.
- To develop procedures and rules for agricultural pollution abatement and urban sediment pollution abatement;
- To specify soil erosion and water degradation abatement practices of agricultural or silvicultural operations eligible for state cost sharing;
- To develop other practices eligible for state cost sharing as needed for the health and safety of human beings and domestic animals and the environment;

⁵² OHIO REV. CODE ANN. § 6101.08 (Anderson 1993 & Supp. 2000).

- To establish procedures for administering grants for animal feeding operations, urban sediment pollution abatement programs, and other projects that reduce soil erosion and sedimentation associated with soil-disturbing activities;
- To provide educational material concerning dead animal composts;
- To collect and manage information pertaining to the use and conservation of the soil resources of the state including related reports and maps; and
- To assist in land use planning and zoning and land management activities.⁵³

5. *Ohio Watershed Districts*

A watershed district may be created upon the filing of a map and a description of a watershed district.⁵⁴ The purpose of watershed districts is to ensure orderly development and the most beneficial use of the water resources within the territorial boundaries of the district. Watershed districts may elect a board of directors to assist the district in its purposes. The name of the district is determined and the board of directors are elected by majority vote held during a meeting duly called by a representative of the board of county commissioners.⁵⁵ The board of directors consists of five (5) members. In order that five (5) different viewpoints are represented, each of the board members should represent a different area based upon the individual's vocation, employment, or affiliation. The five (5) areas are the public, agriculture, industry, public water supply, and public recreation. The duties and functions of a watershed district include:

- To make studies, hold hearings, and review and recommend plans for the development of the water resources consistent with the beneficial use of water within the territorial boundaries of the district;
- To recommend appropriate means to resolve water conflicts among water user interests;
- To prepare a comprehensive plan for the development and control of the water resources consistent with promoting the beneficial use of water within the district to submit to the OEPA.
- To counsel with public agencies or private interests seeking advice and assistance relating to the beneficial use of water within the district; and
- To assist governmental agencies and private interests in the planning and development of water resources within the district;

⁵³ OHIO REV. CODE ANN. § 1511.02 (Anderson 2001).

⁵⁴ OHIO REV. CODE ANN. § § 6105.02 (Anderson 1993).

⁵⁵ OHIO REV. CODE ANN. § 6105.07 (Anderson 1993).

Watershed districts have the following powers:

- To access all information, statistics, plans, and data relative to the water resources of the district which any governmental agency possesses;
- To contract with any person or agency for the purpose of carrying out the purposes of the district;
- To designate as restricted any channel or the reaches of any channel or any area appurtenant to a restricted channel as a restricted floodway;⁵⁶
- To issue permits authorizing the construction, change, or alteration of a structure or obstruction in a restricted channel or relocation, alteration, restriction, deposit, or encroachment into or change of grade of a restricted channel or floodway; and
- To petition for the creation of a conservancy district or conservancy subdistrict.⁵⁷

II. GROUNDWATER

A. Ohio Groundwater Laws

1. Ohio Water Advisory Council

Within the ODNR the Ohio Water Advisory Council (OWAC) exists to provide leadership to evolving water issues. Members of the council serve for two (2) years and are appointed by the governor with the advice and consent of the Ohio senate. The membership consists of seven (7) persons with a demonstrated interest in water management and expertise in water issues including dam safety, surface water, groundwater, and flood plain management. The council meets a minimum of four (4) times a year.

The responsibilities of the OWAC include:

- Providing advice to the ODNR in carrying out its duties;
- Recommending policies and legislation with respect to water management and conservation that promote the economic, industrial, and social development of the state and minimize threats to the state's natural environment;
- Recommending plans and programs for long-term, comprehensive water management throughout the state; and

⁵⁶ OHIO REV. CODE ANN. § 6105.12(G-I) (Anderson 1993).

⁵⁷ OHIO REV. CODE ANN. § 6105.12(J-K) (Anderson 1993).

- Recommending ways to enhance cooperation among agencies to encourage wise use and protection of the state's ground and surface waters.⁵⁸

2. *Ohio Water Resources Council*

The Ohio Water Resources Council (OWRC) consists of the directors of the ODA, the OEPA, the ODH, ODNR, the Department of Development, the Department of Transportation, the Ohio Public Works Commission, the chairperson of the Public Utilities Commission, the Ohio Water Development Authority, and an executive assistant in the governor's office appointed by the governor. This council provides strategic direction to water resource programs and a forum for policy development, collaboration, and coordination among state agencies. The functions of this council may be assisted by a state agency coordinating group and an advisory group described infra.⁵⁹

The state agency coordinating group that assists the OWRC consists of the executive director of the Ohio Lake Erie Commission and another member from each state agency, commission, and authority represented on the OWRC selected by the applicable member except that the members from the OEPA are the chiefs of the Division of Surface Water Programs and Drinking and Groundwater Programs and the members from the ODNR are the chiefs of the Division of Water and of the Division of Soil and Water Conservation.⁶⁰

The advisory group that assists the OWRC consists of up to twenty (20) members representing organizations or entities with interests in water resource issues. The OWRC members appoint the advisory group members.⁶¹

The OWRC activities and functions are supported by the Water Resources Council Fund. Equal amounts of monies from each of the state agencies are transferred to the fund. The fund is used to pay the operating expenses of the OWRC and to reimburse necessary expenses of the advisory group.⁶²

⁵⁸ OHIO REV. CODE ANN. § 1521.03.1 (Anderson 2001).

⁵⁹ OHIO REV. CODE ANN. § 1521.19(A) (Anderson 2001).

⁶⁰ OHIO REV. CODE ANN. § 1521.19(B) (Anderson 2001).

⁶¹ OHIO REV. CODE ANN. § 1521.19(C) (Anderson 2001).

⁶² OHIO REV. CODE ANN. § 1521.19(D-E) (Anderson 2001).

3. *Ohio Safe Drinking Water Act*

The Division of Drinking and Ground Waters (DDGW) within the OEPA is responsible for managing the drinking water in Ohio and implementing the federal Safe Drinking Water Act⁶³ (SDWA) first passed by Congress in 1974. The SDWA charged the U.S. EPA with establishing standards for public water systems, and the U.S. EPA set forth those standards in its regulations. The resulting regulations, however, are subject to change due to advances in technology and the evolving nature of the water supply. The U.S. EPA regulations address primary standards for health purposes and secondary standards for taste, odor, and appearance purposes.

The term “public water system” (PWS) defines a system that regularly serves fifteen (15) or more service connections or at least twenty-five (25) individuals for a minimum of sixty (60) days per year. Public water systems may be divided into three (3) categories and four (4) sizes.⁶⁴ The size of the system affects the frequency of compliance monitoring. A public water system must be licensed to lawfully operate.

In Ohio, the DDGW monitors over six thousand (6000) PWSs in Ohio. The water supply for these systems is primarily groundwater, however, a few systems depend on rivers, lakes, and reservoirs as their water supply. Recent amendments to the SDWA provide for each state to determine the water system’s water supply source, identify potential sources of contamination, and the system’s susceptibility to contamination.

The DDGW responsibilities also include:

- Developing regulations at least as stringent as federal regulations;
- Ensuring proper construction and operation of water systems through inspections and appropriate enforcement or compliance actions;
- Providing performance results and information to water systems;
- Certifying laboratories for drinking water analysis and determining compliance for water systems;
- Providing technical assistance, training, and certification for water system operators;

⁶³ 42 U.S.C. § 300g-1 *et seq.* (1996).

⁶⁴ Public water system categories are: (1) community water systems, (2) noncommunity, nontransient water systems, and (3) noncommunity, transient water systems; sizes are (1) less than 250, (2) 250 to 3,299, (3) 3,300 to 50,000, and (4) more than 50,000.

- Responding to complaints and emergencies which may threaten a safe water system; and
- Providing proper data, reports, and information to the U.S. EPA.

4. Ohio Injection Wells

Class V injection wells are usually shallow wells or leach fields that inject a variety of fluids into or above an underground source of drinking water. Class V injection wells include storm water drainage wells and wells injecting fluids from a machine repair shop floor drain. Class V injection wells cannot receive fluids with constituent concentrations above the maximum contaminant limit for drinking water or any other health based standard. This prohibits nitrates and pesticides. Owners or operators of Class V injection wells used to dispose sanitary waste, industrial waste,⁶⁵ or other wastes⁶⁶ must possess a permit to drill prior to construction of the well and a PTO prior to injection. Cesspools and wells used to dispose motor vehicle waste fluids are illegal. All other wells including storm water drainage wells are approved by rule. Inventory information⁶⁷ must be submitted to OEPA on all Class V injection wells or there is no rule authorization to inject. Closure notification and, for Class V wells required to be permitted, a closure plan must be submitted at least thirty (30) days prior to closure of the injection well.

5. Ohio Private Water Systems

Private water systems are governed by Ohio statutes and regulations of the Ohio Department of Health (ODH). Private water systems are defined as systems that have fewer than fifteen (15) service connections and provide drinking water to no more than twenty-five (25)

⁶⁵ The term “industrial waste” means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with any related sewage present.

⁶⁶ The term “other waste” means garbage, refuse, decayed wood, sawdust, shavings, bark and other wood debris, lime, sand, ashes, offal, night soil, oil, tar, coal dust, dredged or fill material or silt, and other substances that are not sewage, sludge, sludge materials, or industrial waste, and any other “pollutants” or “toxic pollutants” as defined in the Federal Water Pollution Control Act that are not sewage, sludge, sludge materials, or industrial waste.

⁶⁷ Inventory information to be submitted includes: facility name, postal address of the well location, and location of each well given by latitude and longitude to the nearest second; name and address of legal contact; identification of the owner and/or operator of the well; nature and type of injection well; operating status of injection well; date of completion each well; total depth of each well; construction narrative; nature of the injected fluid; maintenance and inspection schedule; and average and maximum injection rate.

individuals during sixty (60) days per year. Agricultural producers should note that a system providing water in excess of these parameters is considered a public water system.⁶⁸

The Private Water Systems Advisory Council (PWSAC) exists within the ODH. The nine (9) member council is appointed by the governor with the advice and consent of the senate. The council consists of a pump installer or licensed plumber, a well driller, a cable tool well driller, a general contractor with experience in private water systems other than wells, a registered sanitarian, a health commissioner of a city or general health district, two (2) employees of the ODH, and a person who is not employed by the state or by any of its political subdivisions and who has no pecuniary interest in private water systems. Each PWSAC member serves for two (2) years.

The PWSAC serves without compensation, meets at the behest of the director of the ODH, and acts upon any matter after a majority vote. Council activities include:

- Advising the ODH regarding revocations or nonrenewals of the registration of private water systems contractors; and
- Recommending to the ODH required surety bond amounts for private water system contractors.⁶⁹

6. Ohio Drinking Water Enforcement

The OEPA may enter at reasonable times to inspect and investigate conditions relating to the construction, maintenance, and operation of a public water system and take samples for analysis. If entry or inspection authorized by this section is refused, hindered, or thwarted, an inspection warrant may be issued by the court in order to gain proper access.⁷⁰ Violators of drinking water provisions are subject to fines up to twenty-five thousand dollars (\$25,000.00) per day of violation.

⁶⁸ Ohio agricultural migrant labor camps are governed by the OHIO REV. CODE ANN. § 3733 (Anderson 1997 & Supp. 1998) and regulated by the ODH and various sections in the OHIO REV. CODE ANN. § 3701-33, 3745, and 6111. The federal Department of Labor employment standards may be found at 20 C.F.R. § 654.404 *et seq.*; Office of Safety and Housing Authority regulations on temporary labor camps may be found at 29 C.F.R. § 1910.142.

⁶⁹ OHIO REV. CODE ANN. § 3701.34.6 (Anderson 1997 & Supp. 1998).

⁷⁰ OHIO REV. CODE ANN. § 6109.34 (Anderson 1993).

7. *Ohio Drinking Water Protection Fund*

The Drinking Water Protection Fund is administered by the OEPA⁷¹ The monies are used for the following purposes:⁷²

- Administering the "Safe Drinking Water Act" and related groundwater rules;
- Providing technical assistance for the lawful operation of water systems;
- Conducting special studies for monitoring and testing of drinking water quality;
- Supporting the prevention of contamination of water supply sources of drinking water; and
- Providing up to twenty-five thousand dollars (\$25,000.00) per year as a loan to a single public water system for the emergency remediation of a water supply contamination threat with awards totaling up to two hundred thousand dollars (\$200,000.00) as an overall annual budgetary cap.⁷³

8. *Ohio Underground Storage Tanks*

The term "underground storage tank" (UST) means one (1) or any combination of tanks including any associated underground pipes that are used to contain an accumulation of regulated substances when the volume of such is ten per cent (10%) or more beneath the surface of the ground. The term UST does not include any of the following:

- Natural gas pipeline facilities or gathering lines otherwise regulated;
- Farm or residential tanks with a capacity of one thousand one hundred (1,100) gallons or less that are used for:
 - Storing motor fuel for noncommercial purposes; or
 - Storing heating fuel for consumptive use on the premises where it is stored.
- Surface impoundments, pits, ponds, or lagoons;

⁷¹ OHIO REV. CODE ANN. § 6109.30 (Anderson 1993 & Supp. 2000).

⁷² Monies shall not be used to meet any state matching requirements that are necessary to obtain federal grants.

⁷³ The loan must be repaid no later than twelve (12) months after receiving it.

- Storm or waste water collection systems;
- Flow-through process tanks;
- Storage tanks located in underground areas including basements, cellars, etc., when the tanks are located on or above the surface of the underground floor;
- Septic tanks; and
- Liquid traps or associated gathering lines directly related to oil or gas production.⁷⁴

In Ohio, the Ohio Fire Marshal⁷⁵ has responsibility for the implementation of the federal UST program under the Resource Conservation and Recovery Act⁷⁶ (RCRA) and the corrective action program for UST releases from petroleum storage tanks.⁷⁷ The Ohio Fire Marshal has authority to establish rules for UST programs, to conduct inspections, to require annual registration, to issue enforcement citations and orders, and to perform other duties necessary and consistent with these programs. The Fire Marshal designates sensitive areas for the protection of human health and the environment and adopts additional rules regarding release containment and detection methods for new and upgraded underground storage tank systems located in these sensitive areas. In designating such areas, the Fire Marshal takes into consideration factors such as soil conditions, hydrogeology, water use, and the location of public and private water supplies. Although the Fire Marshal has exclusive jurisdiction to regulate the storage, treatment, and disposal of petroleum contaminated soil generated from corrective actions undertaken in response to releases of petroleum and to identify hazardous substances, the Fire Marshal does not have authority over hazardous waste substances.⁷⁸

The responsibility for the certification of UST installers falls under the Ohio Fire Marshal. Certification is provided upon showing to the Ohio Fire Marshal that the installer has completed the appropriate application; meets the established criterion of knowledge and understanding for the installation, repair, abandonment, and removal of UST systems; passed the

⁷⁴ OHIO REV. CODE ANN. § 3737.87(P) (Anderson 1997).

⁷⁵ OHIO REV. CODE ANN. § 3737.88 (Anderson 1997 & Supp. 1998).

⁷⁶ 42 U.S.C.A. 6901 *et seq.* (1994).

⁷⁷ Established by the federal legislation called the Resource Conservation and Recovery Act; *see* 42 U.S.C.A. § 6901 (1994).

⁷⁸ OHIO REV. CODE ANN. § 3737.88 (Anderson 1997 & Supp. 1998).

certification exam; and paid the appropriate application fee and renewal fee.⁷⁹ A certification will not be approved or renewed if any of the following apply:

- Applicant fails to meet the standards for certification or renewal section;
- Certification was obtained through fraud or misrepresentation; or
- Applicant recklessly caused or permitted a person under his supervision to install, to perform major repairs on site, or to abandon or remove an UST tank system as a prior certificate holder, in violation of the performance standards.⁸⁰

Because certification for the UST program expires each year, certificates must be renewed annually. The Fire Marshal may deny, suspend, or revoke certification if the determination is made that the training program does not or will not meet the standards for established certification.⁸¹

9. Ohio Water Development Authority

The Ohio water development authority has power to:

- Administer loans and grants to governmental agencies for the acquisition or construction of water development projects by any governmental agency;
- Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, or operate water development projects;
- Lease to, rent to, or contract for the operation of water development projects;
- Make the use or services of any water development project available to one or more persons, governmental agencies, or any combination thereof;
- Issue water development revenue bonds and notes plus water development revenue refunding bonds of the state payable solely from revenues;
- Acquire by gift or purchase, hold, and dispose real and personal property in the exercise of its powers and the performance of its duties;

⁷⁹ OHIO REV. CODE ANN. § 3737.881(D) (Anderson 1997).

⁸⁰ OHIO REV. CODE ANN. § 3737.88 or 3737.882 (Anderson 1997).

⁸¹ OHIO REV. CODE ANN. § 3737.881(A) (Anderson 1997).

- Acquire real property by purchase or otherwise by proper exercise of the right of condemnation interests that it considers necessary for carrying out its purposes;
- Seek bonded or certified bids for projects, supplies, and services greater than ten thousand dollars (\$10,000.00);
- Engage in research and development with respect to wastewater or water management facilities;
- Charge fees and rentals for the use or services of any water development project.
- Assist in the implementation and administration of the Drinking Water Assistance Fund and Program and issue water development revenue bonds and notes in principal amounts necessary for the purpose of raising monies for the sole benefit of the Drinking Water Assistance Fund; and
- Issue water development revenue bonds and notes of the state in principal amounts that are necessary for the purpose of raising monies for the sole benefit of the Water Pollution Control Loan Fund.⁸²

The Water Development Authority is also given other powers not listed here that are necessary or proper to carry out its duties.

Producer Note: Generally, agricultural producers in Ohio who drill wells on property owned or leased for farming activities do not need a well driller’s license; however, townships, municipalities, and counties may have different laws and regulations concerning the construction of wells. Agricultural producers should check with local governmental units before beginning any drilling activities.

III. AIR QUALITY

A. Ohio Air Quality Laws

The purposes of Ohio’s air quality laws and regulations are:

- To protect and enhance the quality of the state's air resources;
- To promote the public health, welfare, economic vitality, and productive capacity of the people of the state;

⁸² OHIO REV. CODE ANN. § 6121.04 (Anderson 1993 & Supp. 2000).

- To enable the state to adopt and maintain a program for the prevention, control, and abatement of air pollution consistent with the federal Clean Air Act (CAA); and
- To obtain financial assistance and powers by delegation from the federal government for the prevention, control, and abatement of air pollution.⁸³

In Ohio, it is unlawful to cause or allow the emission of an air contaminant in excess of the emission quantity established by the OEPA unless the person is a holder of a current and valid permit that allows such an emission or a holder of a variance issued by the OEPA consistent with the federal CAA. The OEPA administers all air pollution laws and regulations and, thus, has authority to:

- Develop programs for the prevention, control, and abatement of air pollution;
- Advise, consult, contract, and cooperate with any governmental or private agency in the furtherance of its air quality purposes;
- Encourage or conduct studies and investigations relating to air pollution;
- Provide information, and educational training programs relating to the causes, prevention, control, and abatement of air pollution;
- Set forth rules prescribing ambient air quality standards for the state consistent with the federal CAA;
- Set forth rules for the prevention, control, and abatement of air pollution including odors and opacity⁸⁴ with considerations given to:
 - Conditions relating to benefits to the people of the state;
 - Quantity and characteristics of air contaminants;
 - Frequency, duration, dispersion, and dilution of air contaminants;
 - Physical conditions that may affect air pollution including topography, wind, and other factors;
- Consider alternative emission limits proposed by the owner or operator of an air

⁸³ OHIO REV. CODE ANN. § 3704.02 (Anderson 1997).

⁸⁴ The term “opacity” means the degree to which emissions interferes with the transmission of light and obscures visibility. Opacity is usually expressed as a percentage.

contaminant source that are equivalent to emission limits;

- Set forth rules regarding installation permits for the location, installation, construction, or modification of air contaminant sources or any machine, equipment, device, apparatus, or physical facility consistent with the CAA;
- Set forth rules regarding variances for the issuance of operating permits for air contaminant sources; and
- Delegate its regulatory authority to another entity or agency.

Applications for operating permits must be accompanied by plans, specifications, and other pertinent information if determined necessary by the OEPA. The air permits are usually valid for five (5) years, renewable, transferable, and require the payment of fees. Permit restrictions addressing the potential to emit must set forth both an annual and a short-term limit that is no greater than a thirty day (30-day) period.

The OEPA has a tiered permitting system that categorizes, prioritizes, and expedites permit applications. The tiered permitting system includes those that are exempted and those that are registered, and it divides the permits into general permits and permits-by-rule.

The OEPA issues PTIs, PTOs, and permits-by-rule for contaminant sources with sufficiently similar characteristics to warrant substantially identical terms and conditions contained in the permit language.⁸⁵ Permit denials, revocations, and modifications must be accompanied by a written order stating the reasons for the OEPA determination.

Representatives of the OEPA have authority to enter upon the premises of the person to whom the permit has been issued at any reasonable time for the purpose of determining compliance with the permit and air contaminant regulations. If entry or inspection is refused, hindered, or thwarted, the OEPA may apply for a warrant to achieve the necessary purposes.

The OEPA may establish guidelines for variances for emissions in excess of emission standards consistent with CAA. These guidelines may address the consistency of emissions; different classes, categories, and sources for which variances may be issued; and how to demonstrate that compliance with applicable emission standards is technically infeasible or economically unreasonable or impossible because of conditions beyond the control of the applicant;

Variances from any emission limitation that is applicable to a source pursuant to an installation permit are not permissible. The OEPA holds a public hearing on each application for a variance or renewal in the county where the variance is sought. Not less than twenty (20) days

⁸⁵ OHIO REV. CODE ANN. § 3704.037 (Anderson 1997). Although the OEPA has authority to issue general permits, it does not as yet do so.

notice of the hearing must be provided to the variance applicant along with notice to the public by publication of notice in a newspaper with general circulation in the county where the variance is sought.

Information regarding any requested variance is available for public inspection. An official stenographic record is made of variance hearings, and OEPA variance determinations are written and become part of the official record. Variances may be granted or renewed for a period not to exceed three (3) years. Variance denials, revocations, and modifications are provided in writing to the applicant.

The OEPA has authority to maintain monitoring stations and to require the installation of emission monitoring devices consistent with the CAA provided it is with due consideration of the technical feasibility, economic reasonableness, and reasonable time for compliance. In general, the OEPA also has other reasonable and necessary incidental powers to carry out its purposes consistent with the CAA including establishing advisory boards, collecting monetary penalties, establishing construction specifications for emission sources, establishing procedures for emissions trading, marketable permits, auctions of emission rights, and providing economic incentives that would reduce the cost or increase the efficiency to achieve a specified level of environmental protection.

The OEPA is responsible for investigating all complaints of air pollution received from the public or referred by other agencies. The OEPA is also responsible for developing the plan to control air pollution resulting from state-operated facilities and property.⁸⁶

The attorney general upon the request of the director of the OEPA may bring an action for an injunction, a civil penalty, or any other appropriate proceedings in a court of competent jurisdiction to prosecute any person violating or threatening to violate pollution control provisions.⁸⁷

Violations of the air contaminant provisions for emissions without an air permit or a variance that are determined to be reckless violations may be subject to fines up to twenty-five thousand dollars (\$25,000.00) or imprisonment for (1) one year or both for each day of violation. Violations that involve the falsification of any plans, specifications, data, reports, or records that renders any monitoring device required by a Title V permit inaccurate (See following section.) or makes any false material statement, representation, or certification in any form, notice, or report required by the Title V permit program may be subject to a fine up to ten thousand dollars (\$10,000.00) for each day of violation. Furthermore, failure to pay an administrative penalty assessed may be criminally charged as a first degree misdemeanor.⁸⁸

⁸⁶ OHIO REV. CODE ANN. §§ 3704.03, .05 (Anderson 1997 & Supp. 1998).

⁸⁷ OHIO REV. CODE ANN. § 3704.06 (Anderson 1997).

⁸⁸ OHIO REV. CODE ANN. § 3704.99 (Anderson 1997).

1. *Ohio Title V Emission Permits*

The Title V program originates from the Clean Air Act (CAA)⁸⁹ amendments. It requires each state to develop a permit-to-operate system and emission fee program for major sources of air pollution within the state.⁹⁰ The U.S. EPA approved Ohio's Title V program in 1995.⁹¹ The OEPA administers this program.

Title V seeks to regulate major sources of air pollution. A major source under the Title V section of the CAA is defined as a source with potential to emit one of the following:

- One hundred (100) tons per year or more of any regulated pollutant or particulate matter;⁹²
- Ten (10) tons per year or more of any hazardous air pollutant (HAP); or
- Twenty-five (25) tons per year or more of any two (2) or more hazardous air pollutants.

Title V permit applications are first submitted to the OEPA. The OEPA reviews the application for completeness and conducts a detailed technical review. The OEPA makes a draft decision to reject or award a permit. The OEPA then publishes notice and allows a thirty-day (30-day) public comment period. Written response is provided to all comments generated during this period. If sufficient comments arise, a public hearing is held. If the OEPA determines a permit is merited, the OEPA submits the proposed permit to the U.S. EPA. If the U.S. EPA agrees with the OEPA determination, the OEPA issues a final permit to the applicant. If the U.S. EPA disagrees, the permit may be revised or have conditions and limitations imposed. The OEPA cannot issue a permit over the objections of the U.S. EPA, but the U.S. EPA may issue a federal-only permit if the OEPA disagrees with the U.S. EPA determination. Appeals of U.S. EPA decisions may be made to the U.S. 6th Circuit Court. Appeals of OEPA decisions may be directed to the Ohio Environmental Board of Review (EBR).

The Title V permit program includes limitations and standards for air emissions as well as monitoring, recordkeeping, reporting requirements, and the payment of air pollution control

⁸⁹ 42 U.S.C. § 7401 *et seq.* (1994).

⁹⁰ 40 C.F.R. § 70 (2001).

⁹¹ OHIO REV. CODE ANN. §§ 3704 *et seq.* and §§ 3745 *et seq.* (Anderson 1997 & Supp. 1998).

⁹² Regulated pollutants include nitrogen oxides, sulfur dioxide, carbon monoxide, volatile organic compounds, and lead; 42 U.S.C. § 7412 (2001), 40 C.F.R. § 63.91 (2001). The term "organic compound" means any chemical compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate; *see* OHIO REV. CODE ANN. § 3745.111(H)(4) (Anderson 1997).

fees. Title V permit holders are also required to certify their compliance each year. Fees are assessed on the actual amount of emissions.

a. Agricultural Exemptions

Most agricultural producers do not meet the definition of a major source of air pollution. Furthermore, the Ohio statutes place limitations on the state's authority to regulate agricultural sources of air emissions. The statutory definition of the term "air contaminant" specifically exempts any agricultural production activities except those that exceed the air contaminant emission threshold that otherwise would require the producer to obtain a Title V permit.⁹³ Producers should note, however, that alfalfa dehydrating facilities, rendering plants, and feed or grain mills, elevators, and terminals are not within this exemption.

Currently, it is the position of the Division of Air Pollution Control (DAPC) within the OEPA that accurate air emission assessments from poultry and swine operations are not available on a reliable basis for use in regulatory purposes, and these operations are also considered exempt from air quality regulation.

b. Small Business Assistance Program

The OEPA provides technical assistance as an ombudsman to represent small business concerns, information regarding compliance methods, and technologies to support and assist small businesses.

2. Ohio Clean Air Fund

Within the Ohio state treasury, there is a Clean Air Fund. All monies collected under Ohio's clean air statutes plus any gifts, grants, or contributions received by the OEPA from the federal government or any other source received for purposes of the carrying out clean air legislation are credited to the fund. The OEPA may use monies from the fund to pay costs of

⁹³ OHIO REV. CODE ANN. § 3704.01 (Anderson 1997 & Supp. 1998); the term "air contaminant" is defined as particulate matter, dust, fumes, gas, mist, radio nuclides, smoke, vapor, or odorous substances, or any combination thereof, but does not mean emissions from agri- production activities, as defined in OHIO REV. CODE ANN. § 929.01, that are consistent with generally accepted agricultural practices, were established prior to adjacent nonagricultural activities, have no substantial, adverse effect on the public health, safety, or welfare, do not result from the negligent or other improper operations of any such agricultural activities, and would not be required to obtain a Title V permit. For purposes of this chapter, agricultural production activities do not include the installation and operation of off-farm facilities for the storage or processing of agricultural products, including, but not limited to, alfalfa dehydrating facilities, rendering plants, and feed and grain mills, elevators, and terminals. The term "agricultural production" is defined as commercial agriculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use or any combination of such husbandry, production, or growth; and includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

administering and enforcing the laws pertaining to the prevention, control, and abatement of air pollution including the enforcing rules related to air pollution permits, variances, and orders issued under those laws but not for the administration and enforcement of motor vehicle emission inspections, maintenance programs, and requirements. The Clean Air Fund may also be used for the Title V emissions permit program unless the funds are restricted by the CAA. The director of the OEPA is accountable to the Ohio assembly for these expenditures.⁹⁴

3. *Ohio Open Burning Permits*

The term “open burning” means the burning of solid wastes in an open area or burning of solid wastes in a chamber or vessel that is not approved or authorized by the OEPA. In Ohio, it is unlawful to dispose solid wastes or treated or untreated infectious wastes⁹⁵ by open burning or open dumping except:

- Burying or burning the body of a dead animal;⁹⁶
- Burning authorized by the OEPA by permit; and
- Burning by a permitted and licensed solid waste facility that is maintained and operated in a sanitary manner and that does not create a nuisance to public health, safety, or fire hazard.

If the OEPA determines that any person is violating or has violated the open burning provisions, the OEPA may request that the attorney general bring a civil action and appropriate relief. Furthermore, violators may also be subject to a criminal felony charge and fined up to twenty-five thousand dollars (\$25,000.00) for each day of violation or imprisoned for (2 to 4) two to four years or both.⁹⁷

⁹⁴ OHIO REV. CODE ANN. § 3704.035 (Anderson 1997).

⁹⁵ The total management of infectious wastes is regulated from the point of generation; this includes syringes used on animals.

⁹⁶ OHIO REV. CODE ANN. § 941.14 (Anderson 1988 & Supp. 2000).

⁹⁷ OHIO REV. CODE ANN. § 3734.99 (Anderson 1997).

IV. SOLID WASTE AND HAZARDOUS WASTE

A. Ohio Solid Waste Laws

Solid waste and hazardous waste laws are primarily addressed in chapter 3734 of the Ohio Revised Code.⁹⁸ The term "solid wastes" means unwanted residual solid or semisolid material that results from industrial, commercial, agricultural,⁹⁹ and community operations including nontoxic fly ash and bottom ash, spent foundry sand, slag, garbage, scrap tires, street dirt, and debris.¹⁰⁰ The term "disposal" means discharging, depositing, injecting, dumping, spilling, leaking, emitting, or placing of any solid or hazardous waste into or on any land or ground or surface water or into the air unless:

- The disposition or placement constitutes storage or treatment; or
- The solid wastes consist of scrap tires¹⁰¹ and the disposition or placement:
 - Constitutes a beneficial use or
 - Occurs at a duly licensed scrap tire recovery facility.¹⁰²

Ohio uses various methods of management to control solid waste including landfills, incinerators, land application, and recycling, reuse, reduction, and minimization programs.

1. *Ohio Solid Waste Management Districts*

In Ohio, the board of commissioners of each county¹⁰³ is charged with establishing and maintaining a solid waste management district or a joint solid waste management district to comply with preparing, adopting, submitting, and implementing a solid waste management plan for the safe and sanitary management of its solid wastes, however, the statutes also allow

⁹⁸ Construction and demolition debris laws are found at OHIO REV. CODE ANN. § 3714 (Anderson 2002) and OHIO ADMIN. CODE § 3735-400 (2002).

⁹⁹ Composting is a form of solid waste disposal that is utilized by the agricultural community; *see infra* pages 72.

¹⁰⁰ OHIO REV. CODE ANN. § 3734.01(E) (Anderson 1997 & Supp. 1998).

¹⁰¹ The use of scrap tires as a commodity for sale or exchange is allowed; *see* OHIO REV. CODE ANN. § 3734.03 (Anderson 2002).

¹⁰² OHIO REV. CODE ANN. § 3734.01(F) (Anderson 1997 & Supp. 1998).

¹⁰³ Counties with less than a population of one hundred twenty thousand (120,000) may be exempt from the requirement that the district have a population of a least one hundred twenty thousand (120,000) upon application to the OEPA as long as the county has access to sufficient disposal facilities to dispose the solid waste generated within the county; *see* OHIO REV. CODE ANN. § 3734.52(b)(2) (Anderson 1997).

counties to form joint districts. In order to prepare, adopt, submit, and implement a solid waste management plan and to establish a solid waste management district, the board of county commissioners may issue bonds to generate necessary funds for the costs associated with establishing the plan and the facilities.¹⁰⁴ However, most solid waste districts are funded by disposal fees.¹⁰⁵

2. *Ohio Solid Waste Management Plan*

The OEPA, with the advice of the Solid Waste Management Advisory Council (SWMAC), is responsible for preparing the overall state solid waste management plan.¹⁰⁶ The OEPA and the SWMAC review the implementation of the plan plus every three (3) years review the plan to accomplish the following:

- Reduce Ohio's reliance on the use of landfills for management of solid wastes;
- Establish objectives¹⁰⁷ for solid waste reduction, recycling, reuse, and minimization and a schedule for implementing those objectives;
- Establish restrictions on the types of solid wastes disposed by landfilling for which alternative management methods are available such as yard wastes plus a schedule for implementing these restrictions;
- Establish revised general criteria for the location of solid waste facilities;
- Examine alternative methods for disposal of fly ash and bottom ash resulting from the burning of mixed municipal solid wastes;
- Establish a statewide strategy for managing scrap tires;
- Establish a strategy that contains specific recommendations to promote markets for products containing recycled materials; and

¹⁰⁴ Bonds may issue to build facilities but not for the general operation of a facility.

¹⁰⁵ Levied under OHIO REV. CODE ANN. §§ 3734.57 or .573 (Anderson 2002).

¹⁰⁶ OHIO REV. CODE ANN. § 3734.50 (Anderson 2002).

¹⁰⁷ These objectives are not required to be uniform throughout the state so that the OEPA may take into consideration the differences in urban, suburban, and rural areas as to the feasibility of waste reduction, recycling, reuse, and minimization; *see* OHIO REV. CODE ANN. § 3734.50(C) (Anderson 2002).

- Establish a program for the proper separation and disposal of hazardous waste generated by households.¹⁰⁸

The Solid Waste Management Advisory Council (SWMAC) consists of the directors or their designees of environmental protection, development, and natural resources as ex officio members, one (1) member of the senate, one (1) member of the house of representatives, and fourteen (14) members appointed by the governor with the advice and consent of the senate.¹⁰⁹

3. *Ohio Biosolids*

Major¹¹⁰ publicly owned treatment works (POTWs) generate approximately ninety per cent (90%) of the sewage sludge¹¹¹ in Ohio. Sludge, also referred to as biosolids, is primarily an organic product produced in the wastewater treatment process. Federal regulations¹¹² allow the OEPA to regulate several dispositions or uses of biosolids in Ohio. The most common are land applications for agronomic benefit, incineration, and disposal in a landfill.

Biosolids contain residual nutrients from consumed food and may be beneficially reused for agricultural purposes as a soil amendment. The OEPA has stringent guidelines and requirements regarding land application of biosolids in order to protect the health and safety of Ohio citizens.¹¹³ Requirements may vary according to the quality of the biosolids. Requirements include valid permits, posted signage at access points, prescribed methods of application, prescribed isolation distances, monitoring, pathogen reduction, vector reduction, and recordkeeping. Restrictions limit the application of biosolids in certain areas including on

¹⁰⁸ OHIO REV. CODE ANN. § 3734.50 (Anderson 1997).

¹⁰⁹ One (1) member must be an employee of a health district, two (2) members must represent the interest of the counties, two (2) members must represent the interests of municipal corporations, two (2) members must represent the interests of townships, one (1) member must represent the interests of industrial generators, one (1) member must represent the interests of county solid waste districts, one (1) member must represent the interests of joint solid waste management districts, one (1) member must be from the private recycling industry, one (1) member must be from a statewide environmental advocacy organization, and one (1) member must represent the public; *see* OHIO REV. CODE ANN. § 3734.51 (Anderson 2002). The advisory council also reviews county and joint counties solid waste management plans.

¹¹⁰ A sewage sludge facility is classified as a major when it has an average daily effluent flow greater than or equal to one million (1,000,000) gallons per day.

¹¹¹ The term “sludge” means sewage sludge and a solid, semi-solid, or liquid residue; it is generated from an industrial wastewater treatment process and may be applied to land for agronomic benefit; the term “sludge” does not include ash generated during the firing of sludge in a sludge incinerator nor grit and screening generated during preliminary treatment of sewage treatment works nor animal manure, nor residue generated during treatment of animal manure nor domestic septage; *see* OHIO ADMIN. CODE § 3745:40-02-59 (2002).

¹¹² 40 C.F.R. §§ 122.2, 403.8(a), 403.10(e), and 501.2 (2001).

¹¹³ OHIO ADMIN. CODE § 3745-40-01 to -07 (2002).

slopes, on snow, frozen or saturated ground, on flooded areas, and on grassy waterways. Biosolids labeled as exceptional quality sewage sludge have fewer requirements and restrictions.

4. Ohio Waste Reduction, Recycling, and Litter Prevention Programs

The Division of Recycling and Litter Prevention (DRLP) within the ODNR administers and implements the statewide waste reduction, recycling, and litter prevention programs. These programs include:

- Assessment of waste generation within the state;
- Implementation of waste reduction practices;
- Implementation of recycling and recycling market development activities and projects including:
 - Collection of recyclables;
 - Separation of recyclables; and
 - Processing of recyclables;
- Facilitation and encouragement of the use of recyclables and products made with recyclables;
- Education and training concerning recycling and products manufactured with recyclables;
- Public awareness campaigns and other activities and projects to promote recycling;
- Litter prevention encouragement, education, and enforcement; and
- Research and development regarding waste reduction, recycling, and litter prevention.¹¹⁴

¹¹⁴ OHIO REV. CODE ANN. § 1502.03 (Anderson 2001).

Ohio's litter law addresses most littering situations and is implemented by local law enforcement officers.¹¹⁵ Those cited for littering are subject to fines up to five hundred dollars (\$500.00), imprisonment up to sixty (60) days, or both.¹¹⁶ Open dumping¹¹⁷ of solid waste is prohibited.¹¹⁸ Persons found guilty of open dumping are guilty of a felony and are subject to fines up to twenty-five thousand dollars (\$25,000.00), imprisonment up to four (4) years, or both.¹¹⁹

Violators that discharge into the state's water are in violation of Ohio's Stream Litter Act.¹²⁰ Proceedings for alleged violators are held in criminal court. Violators are subject to fines up to five hundred dollars (\$500.00), sixty (60) days imprisonment, or both for a first offense. Fines for corporations are significantly higher.¹²¹

5. *Ohio Dredge Spoils, Timber, and Other Wastes*

The Division of Parks and Recreation (DPR) within the ODNR,¹²² may dispose any of the following by sale, donation, trade, trade-in, recycling, or any other lawful means, in a manner that will benefit the DPR:

- Standing timber that as a result of wind, storm, or any other natural occurrence may present a hazard to life or property;
- Timber that has fallen on lands under DPR control and management;

¹¹⁵ In some solid waste management districts, the local health department enforces open dumping laws and upon a complaint conducts an investigation to confirm the problem and issues a notice of violation letter upon confirmation; failure to abate the dumping problem or comply with the notice of violation letter results in the matter being referred to the local prosecutor; open dumping complaints may be reported to (800) 707-2673.

¹¹⁶ OHIO REV. CODE ANN. § 3767.32 (Anderson 2002).

¹¹⁷ The term "open dumping" is the deposition of solid waste into the waters of the state, the final deposition of solid waste on or into the ground at any place other than a licensed or permitted solid waste facility; *see* OHIO REV. CODE ANN. § 3734.03 (Anderson 2002).

¹¹⁸ OHIO REV. CODE ANN. § 3734.03 (Anderson 1997).

¹¹⁹ OHIO REV. CODE ANN. § 3734.99 (Anderson 2002).

¹²⁰ OHIO REV. CODE ANN. § 1531.02 to .04 (Anderson 2001 & Supp. 2002).

¹²¹ OHIO REV. CODE ANN. § 1531.99 (Anderson 2001).

¹²² After notification to and consent from the OEPA that the wastes are not solid wastes nor hazardous wastes that must be disposed otherwise.

- Spoils of a dredging operation conducted by DPR in waters under DPR control and management;
- Excess and surplus supplies;
- Agricultural products that are grown or raised by the DPR;¹²³ and
- Abandoned personal property under DPR control and management.¹²⁴

The OEPA regulates construction and demolition debris¹²⁵ as well as the inspection and issuance of licenses for those facilities that dispose these materials. It is a violation to knowingly place or cause to be placed any reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure as fill material in or upon any land owned, leased, or controlled by the person other than the site where the materials were so generated or removed without providing written notice to the board of health in the health district where the land is located or to the OEPA if the health district is not approved at least seven (7) days prior to the first placement of any such materials as fill material at the off-site location.¹²⁶ Violation of the placement of fill material at an off-site location is a criminal offense classified as a second (2nd) degree misdemeanor.¹²⁷

The primary concern of the regulation is to prevent facilities that might create a nuisance, fire hazard, or health hazard or cause or contribute to air or water pollution.¹²⁸ The OEPA has authority to establish the standards for design, construction, and location of these facilities, control of access to these facilities, operation including plans of operation and response to fire or

¹²³ The term "agricultural products" includes products of apiculture, animal husbandry, or poultry husbandry, field crops, fruits, and vegetables.

¹²⁴ OHIO REV. CODE ANN. § 1541.05 (Anderson 2001).

¹²⁵ The term "construction and demolition debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including but not limited to houses, buildings, industrial, or commercial facilities, or roadways; but not solid wastes or hazardous waste as defined by Chapter 3734 nor material from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag nor reinforced or nonreinforced concrete, asphalt, building or paving brick or building or paving stone that is stored for a period of less than two (2) years for recycling into an usable construction material; *see* OHIO REV. CODE ANN. § 3714.01 (Anderson 2002). In health districts that are not on the approved list, the board of health may inspect or license and enforce the OEPA standards established for construction and demolition debris facilities.

¹²⁶ OHIO REV. CODE ANN. § 3714.13 (Anderson 2002).

¹²⁷ OHIO REV. CODE ANN. § 3714.99 (Anderson 2002).

¹²⁸ OHIO REV. CODE ANN. § 3714.02 (Anderson 2002).

explosion, closure of the facilities, and financial assurance.¹²⁹ Both the board of health of a health district and the OEPA have the authority to issue enforcement orders to a license holder or other person to abate actions that violate regulations regarding construction and demolition debris. Furthermore, if the conditions are such that the actions are causing or threatening to cause an imminent and substantial threat to public health or safety or the environment or an imminent and substantial risk of fire and that an emergency exists requiring immediate action to protect the public health or safety or the environment, the board of health and the OEPA may without notice or a hearing issue an emergency order to properly respond to the emergency, and all persons to whom the order is directed must comply immediately.¹³⁰

Persons subject to violations involving construction and demolition debris may be fined up to ten thousand dollars (\$10,000.00) for each day of violation including violations of a term or condition of a related license or order. Monies from civil penalties resulting from actions brought at the request of the board of health are credited to the special fund of the health district. Monies from civil penalties resulting from action brought at the request of the OEPA are credited to the hazardous waste clean-up fund.¹³¹

6. *Ohio Solid Waste Facilities*

All solid waste facilities must be licensed to operate, and the license must be renewed annually.¹³² The OEPA is charged with the responsibility to regulate the inspection, permitting, and licensing of solid waste facilities. Upon written request by any person, the board of health and the OEPA have authority to conduct investigations to determine a facility's compliance with solid and hazardous waste laws. Investigations may include inquiries into any alleged violation or act of improper solid waste disposal; improper infectious waste transportation, treatment, or management; improper hazardous waste storage, transportation, treatment, or disposal; or the management of scrap tires.

¹²⁹ OHIO REV. CODE ANN. § 3714.02(A) to (- I) and .03(Anderson 2002). Facilities may not be located within the boundaries of an one-hundred-year (100 year) flood plain of watercourse. By OEPA order, certain debris may be exempted if it is unlikely to adversely affect the public health or safety or the environment and does not create a fire hazard; *see* OHIO REV. CODE ANN. § 3714.04 (Anderson 2002).

¹³⁰ Upon application, a hearing is afforded within thirty (30) days; a determination is made to continue, modify, or revoke the order; however, no emergency order remains in effect for more than ninety (90) days after its issuance; *see* OHIO REV. CODE ANN. § 3714.12 (Anderson 2002).

¹³¹ OHIO REV. CODE ANN. § 3714.11 (Anderson 2002).

¹³² OHIO REV. CODE ANN. § 3734.05 (Anderson 1997 & Supp. 1998).

The tampering or damage of a solid waste facility constitutes a violation as does the refusal to allow an inspection by the county board of commissioners. Disposing solid wastes other than those designated to be disposed at a facility also constitutes a violation.¹³³

Violations of solid waste provisions are prosecuted by the attorney general or the prosecuting authority of a county, city, or village. Criminal prosecution or an action for injunction may be brought upon the request of the board of health representative of that district or the OEPA.¹³⁴

Civil actions involving solid or hazardous waste may be brought by persons aggrieved or adversely affected by an alleged violation of a permit, license, variance, or order. Any actions against the state may only relate to its activities involved in generating, transporting, storing, treating, or disposing solid waste, hazardous waste, or infectious waste but may not relate to any such activities involved in the cleanup of a facility or to any regulatory activity including inspections. A person bringing the civil action must first give notice to the OEPA, the attorney general, and the alleged violator and wait a brief time period to allow voluntary correction or compliance.¹³⁵

B. Ohio Hazardous Waste Laws

<p>Producer Note: There are several laws which control the use, disposal, and cleanup of hazardous wastes. Agricultural producers who use hazardous chemicals, petroleum, or other products stored in storage tanks should be aware of requirements governing their actions.</p>

The term "hazardous waste" includes any substance identified as hazardous waste under RCRA.¹³⁶ The term also means any waste or combination of wastes in a solid, liquid, semisolid, or contained gaseous form that because of its quantity, concentration, or physical or chemical characteristics may:

- Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

¹³³ Excluding solid waste disposal facilities that exclusively dispose solid wastes generated at premises owned by the generator and facilities that dispose wastes from the combustion of coal in combination with scrap tires by not garbage.

¹³⁴ OHIO REV. CODE ANN. § 3734.10 (Anderson 1997 & Supp. 1998).

¹³⁵ OHIO REV. CODE ANN. § 3734.101 (Anderson 1997).

¹³⁶ 42 U.S.C.A. § 6921 *et seq.* (1994).

- Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed, or otherwise managed.¹³⁷

Hazardous waste, by its definition, does not include any substance regulated by the Atomic Energy Act.¹³⁸ The term "treat" or "treatment" when used in connection with hazardous waste means any method, technique, or process designed:

- To change the physical, chemical, or biological characteristics or composition of any hazardous waste;
- To neutralize the waste;
- To recover energy or material resources from the waste;
- To render the waste nonhazardous or less hazardous; safer to transport, store, or dispose; or amenable for recovery, storage, further treatment, or disposal; or
- To reduce the volume of the waste.¹³⁹

1. Ohio Hazardous Waste Facility Board

Ohio statutes establish a Hazardous Waste Facility Board (HWFB). The HWFB is a five-member (5-member) board that consists of the directors of the OEPA, ODNR, and the chairperson of the Ohio Water Development Authority or their designees plus one (1) chemical engineer and one (1) geologist from an Ohio university appointed by the governor with the advice and consent of the senate. The duties of the HWFB are:

- To establish appropriate rules for hearings before the board;
- To review permit applications for approval for modifications to existing permits and for new facility installations and operations;¹⁴⁰

¹³⁷ OHIO REV. CODE ANN. § 3734.01(J) (Anderson 1997 & Supp. 1998).

¹³⁸ 42 U.S.C.A. § 2011 *et seq.* (2001).

¹³⁹ OHIO REV. CODE ANN. § 3734.01(K) (Anderson 1997 & Supp. 1998).

¹⁴⁰ OHIO REV. CODE ANN. § 3734.05(D)(2) (Anderson 1997 & Supp. 1998).

- To hold public hearings for proposed hazardous waste facility installations and operations; and
- To conduct adjudications for disputed issues arising from permit applications for installations and operations.¹⁴¹

To obtain an approval for a hazardous waste PTI and a PTO, the HWMB must determine:

- The nature and volume of the waste to be treated, stored, or disposed at the facility; and
- Whether the facility complies with hazardous waste standards and whether minimum adverse environmental impacts would result from its operation when considering alternative operations, economics, and technology available including minimum contamination of water resources and soil; potential fires, explosions, or accidents; impacts on public health and safety; air pollution; and past history of hazardous waste activities with regard to past related crimes of the proposed owner and operator;¹⁴² and
- Whether the proximity of the proposed facility location would be near or within wetlands, flood plains, or areas including residences, schools, hospitals, prisons, or public parks.¹⁴³

Decisions of the HWMB are appealable to the court of appeals of the county in which the proposed facility would be located. The record on appeal is the record that is made and certified by the HWMB.

Permit approvals are based on accurate plans, specifications, data reports, records, and manifests. Falsified information is prohibited. A continuance or renewal of an approved permit is based on performance and compliance.¹⁴⁴ Sufficient reliability, expertise, and competency to operate the facility must also be shown. The HWMB must be assured that continued operation, maintenance, closure, and post-closure care of the facility is in accordance with all hazardous waste laws and regulations. Granted draft permit renewals are subjected to public notice and time for comment. Public hearings are held if significant interest is shown.

¹⁴¹ OHIO REV. CODE ANN. § 3734.05(D)(3), (5) (Anderson 1997 & Supp. 1998).

¹⁴² The term “owner” means the person who owns a majority or controlling interest in a facility; the term “operator” means the person who is responsible for the overall operation of a facility.

¹⁴³ OHIO REV. CODE ANN. § 3734.05(D)(6) (Anderson 1997 & Supp. 1998).

¹⁴⁴ OHIO REV. CODE ANN. § 3734.05(H) (Anderson 1997 & Supp. 1998).

2. *Ohio Disposal of Acute Hazardous Waste*

In Ohio, it is unlawful to dispose any acute hazardous waste ¹⁴⁵ unless the OEPA determines upon information provided by the generator of the waste that the waste:

- Cannot be treated and rendered nonhazardous, recycled, reclaimed, or destroyed by incineration or biological agents;
- Has been reduced to its lowest level of toxicity; and
- Has been completely encapsulated or is otherwise protected so as to eliminate its leaching potential.¹⁴⁶

3. *Ohio Hazardous Waste Cleanup Fund*

All monies and fees collected in Ohio through the administration and implementation of state hazardous waste provisions are paid into the state treasury and credited to the Hazardous Waste Cleanup Fund. The OEPA uses the fund for expenses in hazardous waste cleanup, for expenses in long-term operation and maintenance costs of cleanup projects, or for matching share monies to obtain federal funds.¹⁴⁷

V. PESTICIDES AND CHEMIGATION

Producer Note: Use of pesticides and other farm chemicals is regulated by federal and state statutes, and most states have some form of licensing or certification requirements controlling those who use pesticides. In addition, most states including Ohio have laws that address safety concerns about pesticide use by agricultural employees or around agricultural employees.

A. **Ohio Pesticide and Chemigation Laws**

In addition to the federal laws and regulations governing pesticides and their use, Ohio has state laws and regulations governing these substances. It is unlawful to transport, store, dispose, display, or distribute any pesticide or pesticide container in a manner that would have

¹⁴⁵ These wastes are listed at 40 C.F.R. § 261.33 (2001).

¹⁴⁶ OHIO REV. CODE ANN. § 3734.141 (Anderson 1997).

¹⁴⁷ OHIO REV. CODE ANN. § 3734.28 (Anderson 1997 & Supp. 1998).

adverse effects on the environment.¹⁴⁸ The ODA is responsible for administering Ohio's Pesticide Law¹⁴⁹ (PL). The ODA has authority to enter upon the premises of a pesticide user at any time during regular business hours in order to have access to books, accounts, records, memoranda, pesticides, devices, or transport vehicles that are subject to the PL and its associated regulations for the purpose of:

- Making copies of pesticide records;
- Determining pesticide applications, the financial responsibility of the applicator, and the storage or disposal of pesticides;
- Inspecting and sampling pesticides in storage or in use; and
- Inspecting equipment or devices that are used to apply pesticides.¹⁵⁰

1. Ohio Pesticide Laws

The ODA handles pesticide registration, application, and disposal as well as the licensing of pesticide applicators.

a. Pesticide Categories

The ODA is authorized to distinguish pesticide uses by categories of licenses that may be issued. Each application to ODA for a pesticide license must state the pesticide license category or categories for which the applicant is applying. No additional license fee is required if the applicant desires to become licensed for more than one pesticide category, but the applicant must pay an additional license fee for each pesticide business location for which the applicant is the commercial applicator of record.¹⁵¹ The ODA may enter upon the premises at any time where pesticides are being applied:

- To determine if the pesticide user is or should be licensed or certified;
- To determine if proper notice is given before the pesticide applications;

¹⁴⁸ OHIO REV. CODE ANN. § 921.15 (Anderson 1988 & Supp. 2000).

¹⁴⁹ OHIO REV. CODE ANN. § 921 *et seq.* (Anderson 1988 & Supp. 2000).

¹⁵⁰ OHIO REV. CODE ANN. § 921.18(A)(1) (Anderson 1988 & Supp. 2000).

¹⁵¹ OHIO REV. CODE ANN. § 921.06(A) (Anderson 1988 & Supp. 2000).

- To inspect pesticide equipment or devices; or
- To collect pesticide samples.¹⁵²

The ODA may enter upon premises at reasonable hours:

- To inspect any property;
- To collect samples of vegetation or animal life, water, soil, or other matter; and
- To determine pesticide residue levels, efficacy of pesticide applications, or adverse effects of application, drift, or spillage.¹⁵³

Should the ODA be denied access, the ODA may seek a search warrant from the court in order to gain access if necessary. Should the ODA have reasonable cause to believe that calibration, adjustment, or repair of pesticide equipment or devices is needed for satisfactory performance, the ODA may require that such adjustment be made immediately or issue an administrative stop order or stop operation.¹⁵⁴ If the ODA has reasonable cause to believe that a shipment or lot of pesticide has been distributed, stored, transported, or used in violation of the PL, an administrative hold order may be issued.¹⁵⁵

Pesticide categories for private applicators are:

- Grain and cereal crops;
- Forage crops;
- Vegetable crops;
- Fruit crops;
- Ornamentals and turf;

¹⁵² OHIO REV. CODE ANN. § 921.18(A)(2) (Anderson 1988 & Supp. 2000).

¹⁵³ OHIO REV. CODE ANN. § 921.18(A)(3) (Anderson 1988 & Supp. 2000).

¹⁵⁴ OHIO REV. CODE ANN. § 921.18(B) (Anderson 1988 & Supp. 2000).

¹⁵⁵ OHIO REV. CODE ANN. § 921.18(C)(1) (Anderson 1988 & Supp. 2000).

- Greenhouse crops;
- Forest crops;
- Livestock and livestock buildings;
- Non-crop land;
- Stored grain;
- Aquatics;
- Seed treatment;
- Wood preservative; and
- Livestock protection collars.

Pesticide categories for commercial applicators are:

- Aerial pest control;
- Agronomic pest control including horticultural pest control, agricultural weed control, seed treatment, tobacco sucker control, and soil fumigation;
- General aquatic pest control including swimming pool pest control, boat antifoulant, and sewer root control;
- Forest pest control including wood preservation;
- Industrial vegetation;
- Ornamental pest control including interior plantscape, ornamental weeds, and greenhouse;
- Vertebrate;
- Animal pest control; and
- General pest control including termite fumigation, and mosquito, house fly, and other vector control.

b. Pesticide Applicator Businesses

The owner or operator of a pesticide application business is considered responsible for the acts of each employee in the handling, application, and use of pesticides. Additionally, within a twenty-four (24) month period, if three (3) violations of ODA enforcement guidelines consisting of a high or moderate level of severity are committed by an employee or agent relating to the storage, preparation, handling, distribution, application of pesticides, or involving fraud, the owner or operator of the pesticide application business is deemed a violator based upon the premise that the owner or operator ratified the violations.¹⁵⁶

c. Certification for Restricted-use Pesticides

In Ohio, the term "certified applicator" means an individual who is authorized by the ODA to use or to directly supervise the use of restricted-use pesticides in specific categories listed in the individual's certification or for specific uses named in the permit.¹⁵⁷ Persons who may apply restricted-use pesticides include:

- Those with a custom applicator license;
- Those with a custom operator license;
- Those with a public operator license;
- Those with a limited commercial applicator license;
- Those with a certified private applicator license;
- A trained serviceman acting under the direct supervision of a commercial applicator or a limited commercial applicator; and
- An employee or immediate family member of a certified private applicator acting under the direct supervision of the certified private applicator.

The ODA is authorized to establish rules that set forth the standards for the certification of private applicators. The categories of licenses available for custom applicators are the same categories as for the limited commercial applicator. Limited commercial applicators are certified

¹⁵⁶ OHIO REV. CODE ANN. § 921.021(E) (Anderson 1988 & Supp. 2000).

¹⁵⁷ OHIO REV. CODE ANN. § 921.01(I) (Anderson 1988 & Supp. 2000).

applicators for applying or directly supervising the use of general-use and restricted-use pesticides.¹⁵⁸

d. Pesticide Prohibitions

It is unlawful for any person to do any of the following:

- Apply, use, or directly supervise pesticide application or use inconsistent with its labeling, treatment standards, or other restrictions imposed by the ODA;¹⁵⁹
- Use any pesticide without being licensed or certified to do so or without acting under the direct supervision of a commercial applicator or limited commercial applicator;¹⁶⁰
- Use any restricted-use pesticide unless certified to do so or acting under the direct supervision of a commercial applicator or limited commercial applicator or acting as an employee or immediate family member of a private applicator under the direct supervision of that private applicator;¹⁶¹
- Refuse or fail to keep and maintain required pesticide records;¹⁶²
- Falsely or fraudulently represent the effect of pesticides or methods to be utilized;¹⁶³
- Apply known ineffective or improper materials;¹⁶⁴

¹⁵⁸ OHIO REV. CODE ANN. § 921.12 (Anderson 1988 & Supp. 2000).

¹⁵⁹ OHIO REV. CODE ANN. § 921.25(A) (Anderson 1988 & Supp. 2000).

¹⁶⁰ OHIO REV. CODE ANN. § 921.25(B) (Anderson 1988 & Supp. 2000).

¹⁶¹ OHIO REV. CODE ANN. § 921.25(C) (Anderson 1988 & Supp. 2000).

¹⁶² OHIO REV. CODE ANN. § 921.25(D) (Anderson 1988 & Supp. 2000).

¹⁶³ OHIO REV. CODE ANN. § 921.25(E) (Anderson 1988 & Supp. 2000).

¹⁶⁴ OHIO REV. CODE ANN. § 921.25(F) (Anderson 1988 & Supp. 2000).

- Operate in a negligent manner including operation of faulty or unsafe equipment;¹⁶⁵
- Make false or fraudulent pesticide records, invoices, or reports;¹⁶⁶
- Directly supervise on the property of another the use of any restricted-use pesticide without being a certified applicator;¹⁶⁷
- Directly supervise on the property of another the use of any general-use pesticide without being a licensed applicator;¹⁶⁸
- Use fraud or misrepresentation in an application for a license or certificate or renewal of a license or certificate;¹⁶⁹
- Refuse, fail, or neglect to comply with any limitation or restriction of a pesticide license;¹⁷⁰
- Aid or abet another person in violating pesticide laws and regulations;¹⁷¹
- Make a false or misleading statement concerning a pesticide or pests in a pesticide inspection;¹⁷²
- Refuse or fail to comply with any lawful order of the ODA relating to pesticides;¹⁷³

¹⁶⁵ OHIO REV. CODE ANN. § 921.25(G) (Anderson 1988 & Supp. 2000).

¹⁶⁶ OHIO REV. CODE ANN. § 921.25(I) (Anderson 1988 & Supp. 2000).

¹⁶⁷ OHIO REV. CODE ANN. § 921.25(J) (Anderson 1988 & Supp. 2000).

¹⁶⁸ OHIO REV. CODE ANN. § 921.25(K) (Anderson 1988 & Supp. 2000).

¹⁶⁹ OHIO REV. CODE ANN. § 921.25(L) (Anderson 1988 & Supp. 2000).

¹⁷⁰ OHIO REV. CODE ANN. § 921.25(M) (Anderson 1988 & Supp. 2000).

¹⁷¹ OHIO REV. CODE ANN. § 921.25(N) (Anderson 1988 & Supp. 2000).

¹⁷² OHIO REV. CODE ANN. § 921.25(O) (Anderson 1988 & Supp. 2000).

¹⁷³ OHIO REV. CODE ANN. § 921.25(P) (Anderson 1988 & Supp. 2000).

- Distribute restricted-use pesticides to an ultimate user without a pesticide dealer's license or to an ultimate user who is not a certified licensed applicator;¹⁷⁴
- Use any experimental-use pesticide contrary to the provisions of its permit;¹⁷⁵
- Engage in fraudulent business practices in the pesticide application;¹⁷⁶
- Dispose of any pesticide product or container in a manner as to have unreasonable adverse effects on the environment;¹⁷⁷
- Display any pesticide in any manner to produce unreasonable adverse effects on the environment or to contaminate adjacent food, feed, or other products;¹⁷⁸ and
- Apply any pesticide by aircraft without being licensed as a commercial applicator.¹⁷⁹

One who is not mentally competent or for any reason is unable to satisfactorily communicate with or understand instruction given by the pesticide applicator may not be employed as an aide or helper in a pesticide operation. Anyone that is not yet eighteen (18) years old may not be employed to handle pesticides labeled with “danger-poison®” except under on-site supervision by a certified pesticide applicator. Pesticides may not be mixed or loaded by employees in an area where the light is not sufficient to read the label. Agricultural pesticides may not be mixed, loaded, or stored within a migrant labor camp. Pesticide applicators must provide the necessary safety equipment set forth on the pesticide label for employees.¹⁸⁰

¹⁷⁴ OHIO REV. CODE ANN. § 921.25(Q) (Anderson 1988 & Supp. 2000).

¹⁷⁵ OHIO REV. CODE ANN. § 921.25(R) (Anderson 1988 & Supp. 2000).

¹⁷⁶ OHIO REV. CODE ANN. § 921.25(S) (Anderson 1988 & Supp. 2000).

¹⁷⁷ OHIO REV. CODE ANN. § 921.25(T) (Anderson 1988 & Supp. 2000).

¹⁷⁸ OHIO REV. CODE ANN. § 921.25(U) (Anderson 1988 & Supp. 2000).

¹⁷⁹ OHIO REV. CODE ANN. § 921.25(V) (Anderson 1988 & Supp. 2000).

¹⁸⁰ OAC § 901:5-11-02(A).

Storage of pesticides for agricultural purposes must be stored:

- In a manner that will not contaminate animal feeds or commercial fertilizers;
- Away from work areas where equipment is used for the production of animal feeds or where feed components or finished feeds are stored except for those pesticide products which are approved for use in animal feeds; and
- Away from an airline passenger terminal including the loading of pesticides into application equipment.¹⁸¹

2. *Ohio Pesticide Custom Applicators*

Ohio statutes provide that one who holds oneself out to the public as a custom applicator must have a custom applicator license issued by the ODA.¹⁸² The ODA also has authority to determine categories of pesticide licenses that may be issued under a custom applicator license. A separate license must be obtained for each pesticide application business location for which an individual is the commercial applicator of record.¹⁸³ In order to obtain a pesticide application business license, the applicant must provide evidence of effective financial responsibility in an amount that the ODA determines is necessary based on the category of the license and the applicant's operation.¹⁸⁴ If the liability insurance expires, the license of the pesticide application business is automatically suspended. Possession of a pesticide license does not protect any person from liability for any damage to persons or lands of another caused by the use of pesticides even if such use is conformant to Ohio pesticide rules.¹⁸⁵

Ohio statutes also provide that no one other than an individual licensed as a custom applicator may act as a custom operator unless the individual has a custom operator license issued by the ODA. A licensed custom operator is a certified applicator authorized to apply or

¹⁸¹ OAC § 901:5-11-05.

¹⁸² The requirements relating to a custom applicator do not apply to an individual who uses only ground equipment for the individual's use or the individual's neighbor's use provided the individual meets all of the following requirements: (1) is certified as a private applicator if restricted-use pesticides are involved; (2) operates farm property and operates and maintains pesticide application equipment primarily for his own use; (3) is not regularly engaged in the business of applying pesticides for hire or does not publicly hold oneself out as a pesticide applicator; *see* OHIO REV. CODE ANN. § 921.23(D) (Anderson 1988 & Supp. 2000).

¹⁸³ OHIO REV. CODE ANN. § 921.06 (Anderson 1988 & Supp. 2000).

¹⁸⁴ OHIO REV. CODE ANN. § 921.10(A) (Anderson 1988 & Supp. 2000).

¹⁸⁵ OHIO REV. CODE ANN. § 921.10(E) (Anderson 1988 & Supp. 2000).

directly supervise the use of restricted-use pesticides.¹⁸⁶ The ODA has authority to determine the categories of pesticide licenses that may be issued under a custom operator license.¹⁸⁷

The ODA may suspend any pesticide license, permit, or certification issued by the ODA up to ten (10) days. After notice and opportunity for a hearing, the ODA may deny, suspend, revoke, refuse to renew, or modify any provision of any pesticide license, permit, or certification issued by the ODA if it finds that the applicant or holder:

- Is no longer qualified;
- Has violated any pesticide provision;
- Has been found guilty of violating the FIFRA; or
- Has been convicted of a misdemeanor involving moral turpitude or a felony.¹⁸⁸

3. *Ohio Pesticide Private Applicators*

In Ohio, the term "private applicator" means an individual who is authorized by the ODA to use or directly supervise the use of any restricted-use pesticide for purposes of producing any agricultural commodity on property owned or rented by the individual or the individual's employer or on the property of another person if the pesticide is applied without compensation other than the trading of personal services between producers of agricultural commodities.¹⁸⁹

¹⁸⁶ OHIO REV. CODE ANN. § 921.07 (Anderson 1988 & Supp. 2000).

¹⁸⁷ OHIO REV. CODE ANN. § 921.06(C) (Anderson 1988 & Supp. 2000).

¹⁸⁸ OHIO REV. CODE ANN. § 921.24 (Anderson 1988 & Supp. 2000).

¹⁸⁹ OHIO REV. CODE ANN. § 921.01(J) (Anderson 1988 & Supp. 2000). The term "agricultural commodity" means any plant or part of an animal or animal product produced for commercial use by a person including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, foresters, or other comparable persons primarily for the sale, consumption, propagation, or other use, by man or animals; *see* OHIO REV. CODE ANN. § 921.01(C) (Anderson 1988 & Supp. 2000).

4. *Ohio Pesticide Commercial Applicators*

The term "commercial applicator" is defined as individual who is authorized by the ODA to use any pesticide or directly supervise the use of any pesticide as a custom applicator, a custom operator, or a public operator and who may provide diagnostic inspections to determine infestations of pests on property or offer pest control services other than those lawfully provided as a "private applicator."¹⁹⁰

5. *Ohio Pesticide Limited Commercial Applicators*

In Ohio, the term "limited commercial applicator" means an individual other than a private applicator who is certified or licensed by the ODA as competent to apply restricted-use pesticides or general-use pesticides in certain named categories and in the manner specified in the individual's certification or licensure and who limits pesticide application activities¹⁹¹ to the individual's own property or to that of the individual's principal employer.¹⁹²

6. *Ohio Pesticide Registration*

Every pesticide sold in the state must be registered with the ODA, and each pesticide that is distributed within Ohio must be registered with the ODA unless the pesticide is distributed under the provisions of an experimental-use permit issued by the ODA or the U.S. EPA.¹⁹³ Applications for the registration of a pesticide must include an inspection fee and must be submitted on forms provided by the ODA. An application for pesticide registration requires:

- Applicant's name and address and name and address of the person whose name will appear on the label if it is other than the applicant's name;
- Product name and brand name of the pesticide;
- Complete copy of the pesticide labeling including all claims made, directions for use, and the use classification;¹⁹⁴

¹⁹⁰ OHIO REV. CODE ANN. § 921.01(K) (Anderson 1988 & Supp. 2000).

¹⁹¹ Including direct supervision of the use of pesticides.

¹⁹² OHIO REV. CODE ANN. § 921.01(L) (Anderson 1988 & Supp. 2000).

¹⁹³ OHIO REV. CODE ANN. § 921.02 (Anderson 1988 & Supp. 2000).

¹⁹⁴ The ODA may require the submission of the complete formula of a pesticide including the active and inert ingredients and a full description of the tests made and the results upon which the claims are based. If this information involves a trade secret or confidential business information, any information so designated is treated as confidential and is not revealed without the consent of the applicants except to persons directly involved in the registration process;

- ODA's registration number; and
- Any other information deemed necessary by the ODA.

To obtain registration approval, the ODA reviews the pesticide application and considers whether the pesticide:

- Composition warrants its proposed claims;
- Labeling complies with the requirements of the federal act;¹⁹⁵
- Performance is as it is intended and without unreasonable adverse effects on the environment;
- Use is in accordance with widespread and commonly recognized practices and will not generally cause unreasonable adverse effects on the environment; and
- Classification, for general-use or restricted-use, is in conformity with the federal FIFRA.¹⁹⁶

7. *Pesticide Dealer Licenses*

Any person who is acting in the capacity of a pesticide dealer or who advertises or assumes to act as a pesticide dealer must obtain a pesticide dealer license from the ODA.¹⁹⁷ A license is required for each location or outlet within the state from which the person distributes pesticides. Even when a pesticide dealer who has no pesticide dealer outlets in the state but who distributes restricted-use pesticides directly into the state must obtain a pesticide dealer license from the ODA for the pesticide dealer's principal out-of-state location or outlet and for each sales person operating in the state.

Pesticide dealers must submit records to the ODA for all restricted-use pesticides the pesticide dealer has distributed. Duplicate records must be retained by the pesticide dealer for an established time set forth in the ODA regulations. Currently that time period is three (3) years. These requirements do not apply to a custom applicator who exclusively sells pesticides only as an integral part of the custom applicator's pesticide application business when the pesticides are

see OHIO REV. CODE ANN. § 921.01(C), (D), (E) (Anderson 1988 & Supp. 2000).

¹⁹⁵ Federal Insecticide, Fungicide and Rodenticide Act; *see* 7 U.S.C. § 136 *et seq.* (1994).

¹⁹⁶ OHIO REV. CODE ANN. § 921.01(G) (Anderson 1988 & Supp. 2000).

¹⁹⁷ OHIO REV. CODE ANN. § 921.13(A) (Anderson 1988 & Supp. 2000).

dispensed only through equipment used for the pesticide.¹⁹⁸ Licensed pesticide dealers are responsible for the acts of each employee in the solicitation and sale of pesticides and all claims and recommendations for pesticide use. The pesticide dealer's license is subject to denial, suspension, or revocation after a hearing for any violation of the PL committed by the pesticide dealer or by the pesticide dealer's officer, agent, or employee.

8. *Ohio Pesticide Records*

Licensed custom applicators, limited commercial applicators, and public operators must keep records of all pesticide applications for a period of three (3) years from the date of pesticide application or longer if the ODA determines that it is necessary. Certified private applicators must keep a record of all restricted-use pesticide applications whether the application is made by the individual or under the individual's direct supervision.

9. *Ohio Pesticide Program Fund*

The Pesticide Program Fund exists within the Ohio state treasury. Monies in the fund are used to carry out provisions of the PL. The fund consists of licensing and certification fees collected under the PL along with all fines, penalties, costs, and damages collected by either the ODA or the attorney general. Excess monies that are not needed to meet the expenses of the ODA in administering the PL are transferred on an annual basis to the general revenue fund.¹⁹⁹

10. *Ohio Pesticide Enforcement*

The ODA has liberal authority to set forth rules and regulations regarding administration and implementation of the PL including:

- Time, place, manner, and methods of pesticide application, materials, amounts, and concentrations including the restriction of areas and designation of certain times when such factors are reasonable and necessary to minimize or prevent damage to the environment;²⁰⁰
- Notice required for proposed applications of pesticide;
- Requirements for a permit to apply a restricted-use pesticide;
- Required inspections, condemnations, or repairs of pesticide equipment;

¹⁹⁸ OHIO REV. CODE ANN. § 921.13(B) (Anderson 1988 & Supp. 2000).

¹⁹⁹ OHIO REV. CODE ANN. § 921.15.1 (Anderson 1988 & Supp. 2000).

²⁰⁰ OHIO REV. CODE ANN. § 921.16(A) (Anderson 1988 & Supp. 2000).

- Suspension, revocation, or refusal to issue pesticide registrations when activities involve pesticide violations;
- Required safe handling, transportation, storage, display, distribution, and disposal of pesticides and pesticide containers;
- Required protection of health and safety of agricultural workers storing, handling, or applying pesticides and of residents of agricultural labor camps who are living or working in the vicinity of pesticide-treated areas;
- Required records for all pesticide applications by licensed custom applicators, limited commercial applicators, and public operators and for all restricted-use pesticide applications made by certified private applicators;
- Required records of categories of applicators who conduct diagnostic inspections or who offer pest control services that must be performed by a certified commercial applicator;
- Required standards for the certification of pesticide applicators to be consistent with the federal FIFRA²⁰¹ and associated regulations and the Ohio PL and the regulations adopted thereunder;²⁰²
- Required standards that relate to the use and handling of pesticides and the hazards involved as well as the use experience necessary to correspond with an individual's certification;²⁰³
- Conditions for required sampling of pesticides or associated devices, the classes of devices subject to the PL, and other necessary registration information;²⁰⁴
- Designation of areas where pesticide use is restricted;²⁰⁵ and
- Required rules for the application, use, storage, and disposal of pesticides if existing programs of the U.S. EPA necessitates such rules or the pesticide labels do not sufficiently address the appropriate issues;²⁰⁶

²⁰¹ FIFRA; *see* 7 U.S.C. § 136 *et seq.* (1994).

²⁰² OHIO REV. CODE ANN. § 921.16(C) (2000).

²⁰³ OHIO REV. CODE ANN. § 921.16(D) (Anderson 1988 & Supp. 2000).

²⁰⁴ OHIO REV. CODE ANN. § 921.16(E) (Anderson 1988 & Supp. 2000).

²⁰⁵ OHIO REV. CODE ANN. § 921.16(F) (Anderson 1988 & Supp. 2000).

²⁰⁶ OHIO REV. CODE ANN. § 921.16(J) (Anderson 1988 & Supp. 2000).

The ODA may, after notice and opportunity for hearing, declare and identify pests that are injurious to health or the environment.²⁰⁷ The ODA may also develop and implement voluntary or mandatory pesticide management plans to prevent unreasonable adverse effects on human health and the environment or enter into cooperative agreements with other state agencies for that purpose.²⁰⁸

11. Ohio Pesticide Crop Damage Claims

In Ohio, to claim damages from a pesticide application, a person must notify the ODA and the pesticide applicator by making a statement, either oral or written, that includes the following:

- The person believed to be responsible for the pesticide application;
- The name of the owner or operator of the land on which the crop is grown and for which damages are claimed;
- The date on which the alleged damage occurred; and
- Other such information that the ODA determines may be necessary.²⁰⁹

12. Ohio Pesticide Enforcement

The ODA has authority to issue civil penalties for violating Ohio's PL and related regulations. First-time violators are subject to fines up to five thousand dollars (\$5,000.00) per day of violation. Second-time violators are subject to fines up to ten thousand dollars (\$10,000.00) per day of violation. Factors that are relevant to ODA's determination of the amount of the civil penalty include the severity of the violation, past violations, and the extent of any actual or potential damage to the environment or to human beings.

Any fines, penalties, costs, and damages that have been assessed for violations of Ohio's pesticide provisions against a person through a judgment or an order of the ODA may be collected by the execution of a lien upon any personal or real property owned by that person.²¹⁰

²⁰⁷ OHIO REV. CODE ANN. § 921.16(H) (Anderson 1988 & Supp. 2000).

²⁰⁸ OHIO REV. CODE ANN. § 921.16(J) (Anderson 1988 & Supp. 2000).

²⁰⁹ OHIO REV. CODE ANN. § 921.28 (Anderson 1988 & Supp. 2000).

²¹⁰ OHIO REV. CODE ANN. § 921.29 (Anderson 1988 & Supp. 2000).

13. *Ohio Pesticide Compact*

Ohio is a member of a Pest Control Compact along with several other states. The purpose of the agreement is provide cooperation and financial support for pest control programs when faced with serious and dangerous infestation and reinfestation of pests. The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation. The Pesticide Control Compact functions as an insurance fund, and individual states contribute in accordance with their relative interest to apply or supervise the application of pesticides.²¹¹

B. Ohio Fertilizer and Storage Handling Regulations

Ohio requires that new permanent storage vessels for liquid fertilizers²¹² to be approved by the ODA. New construction also requires approved plans and specifications that meet all design and site requirements as well as all zoning regulations, building standards, and fire codes.²¹³ Permanent storage vessels must be inspected and monitored by the owner once a week checking all liquid level gauging equipment, roof drains, vents and pressure relief devices, and electrical grounding lines and connections; visual inspection for erosion, cracks, and deterioration of the dike of the secondary containment facility. A written record of the liquid level is required any time it contains any product.²¹⁴ Once a month an inventory of all spill control and emergency response equipment must be conducted along with an inspection of all exterior surfaces, welds, rivets/bolts, and foundations.²¹⁵ Once a year the exterior must meet the API 653 inspection checklist,²¹⁶ and once every five (5) years the interior must meet the API 653

²¹¹ OHIO REV. CODE ANN. § 921.60 (Anderson 1988 & Supp. 2000).

²¹² The term “liquid fertilizer” means any fluid containing plant nutrients used to improve the quality or quantity of plant growth but does not include anhydrous ammonia; *see* OHIO ADMIN. CODE § 901:5-2-01(K) (2002).

²¹³ OHIO ADMIN. CODE § 901:5-2-02(A) (2002). Design requirements include: (1) the use of construction materials meeting the applicable standards for use with the type liquid fertilizer or having a manufacturer’s recommendation for use with the type liquid fertilizer; (2) a design that meets generally accepted engineering standards and practices and encompasses consideration of full hydrostatic head pressure, pressure buildup from pumps and compressors and other mechanical stresses that foreseeably occur; (3) a lockable liquid level gauging device; (4) the prevention of flotation or instability; (5) clearly visible and legibly labeled capacity and contents; and (6) a lockable shutoff valve; *see* OHIO ADMIN. CODE § 901:5-2-03(A)(1) - (6) (2002). Appurtenances to new permanent storage vessels and secondary containment facilities must meet specific requirements; *see* OHIO ADMIN. CODE § 901:5-2-03(B) and (C) (2002). The term “appurtenances” means plumbing, pumps, valves, gauges, fittings, seals, hoses, metering devices, mixing containers, and portable manufacturing units which are connected to a permanent storage vessel, or which are used to transfer bulk liquid fertilizer into or out of a permanent storage vessel; *see* OHIO ADMIN. CODE § 901:5-2-01 (E) (2002).

²¹⁴ OHIO ADMIN. CODE § 901:5-2-04(A)(1) (2002).

²¹⁵ OHIO ADMIN. CODE § 901:5-2-04(A)(2) (2002).

²¹⁶ American Petroleum Institute Standard 653, “Tank Inspection, Repair, Alteration, and Reconstruction.” (Dec. 1995).

checklist.²¹⁷ Permanent storage vessels equipped with a bladder have additional inspection requirements.²¹⁸ Owners must maintain these fertilizer vessels free from rust, corrosion, galling, cracking and other similar damage to protect the vessel's strength and watertight integrity.²¹⁹

During the transfer or mixing of liquid fertilizers, containment methods including collection pans, pads, and dikes, must be used under each valve, coupling, and pump to contain any foreseeable leaks or spills which may occur, and any discharge must be recovered and corrected. All wash water and rinsates from related equipment cleaning and fertilizer handling must not be handled in violation of water quality standards before they can be disposed through field tile, sewers, or watercourses.²²⁰

Required records for permanent fertilizer storage vessels include:

- An immediate record of all discharges, i.e., the date and time of any discharge, the type and volume of fertilizer discharged, the cause of the discharge, the action taken to control or recover the discharge, and the method of disposal of any recovered discharge;
- A record of the fertilizer level;
- A record of all repairs and maintenance; and
- A record of all evaluations, tests, alterations, reconstructions, and calculations.²²¹

New construction of pit storage of liquid fertilizers are prohibited.²²² Pits remaining in service must meet stringent specifications. Two impermeable linings are required, a lining that is in direct contact with the liquid fertilizer and a second lining between the earthen walls and the first lining in contact with the fertilizer; plus a tiled drainage field between the two liners which empties into a sump with an automatic pump that empties into a separate tank built for that

²¹⁷ OHIO ADMIN. CODE § 901:5-2-04(A)(3) and (4) (2002).

²¹⁸ OHIO ADMIN. CODE § 901:5-2-04(A)(5) (2002).

²¹⁹ OHIO ADMIN. CODE § 901:5-2-04(B) (2002).

²²⁰ OHIO ADMIN. CODE § 901:5-2-05(A) - (D) (2002).

²²¹ OHIO ADMIN. CODE § 901:5-2-07 (2002).

²²² OHIO ADMIN. CODE § 901:5-2-03(F) (2002).

purpose or returns the leakage to the pit.²²³ Existing pits that meet these specifications must still be taken out of service permanently at the end of the useful life of the current primary liner.²²⁴

Dry fertilizer materials and nonliquid fertilizers must be stored inside a structure or device having a roof or cover, sidewalls, and a base sufficiently impermeable to prevent contact with precipitation and surface water if stored for more than thirty (30) days in any calendar year. If dry fertilizer and nonliquid fertilizer are stored for less than thirty (30) days or less, they may be stored outdoors provided they are placed on a ground cover sufficiently impermeable to prevent contact with precipitation and surface water and if they are also completely covered with a waterproof tarpaulin.²²⁵

VI. PROTECTION OF WILDLIFE

Producer Note: Agricultural producers have responsibilities concerning wildlife and migratory birds which may have habitat on the producer's property. Federal and state laws contain measures designed to protect or enhance wildlife and wildlife habitat.

A. Ohio Wildlife Protection Laws

Producer Note: Many states have laws and regulations that either enhance the protections under federal laws or address issues peculiar to wildlife found within the state. States also may address frequent problems caused by wildlife. Ohio has laws and regulations protecting wildlife.

1. Ohio Endangered Species

Ohio's state Constitution provides for the conservation of the natural resources of the state. With the advice of the Natural Areas Council, the Division of Natural Areas and Preserves (DNA&P) within the ODNR sets forth criteria for identifying and designating species of plants native to Ohio which are in danger of extirpation or which are threatened with becoming endangered. The DNA&P compiles and maintains Ohio's list of endangered species. The list includes the common and the scientific names of each endangered species along with any other native species of wildlife or plants that are listed under the federal Endangered Species

²²³ OHIO ADMIN. CODE § 901:5-2-02(E) (2002).

²²⁴ OHIO ADMIN. CODE § 901:5-2-03(F) (2002).

²²⁵ OHIO ADMIN. CODE § 901:5-2-08 (2002).

Act (ESA).²²⁶ The DNA&P also adopts rules that help protect and prevent these species from extirpation.²²⁷

In Ohio, it is unlawful to injure or remove any plant that is listed on the Ohio endangered species list without permission from the DNA&P. This includes willful or intentional rooting up, destroying, or carrying away from public highways, waters of the state or other public properties, and the property of another without the written permission of the owner, lessee, or person entitled to possession.²²⁸

Violators of any endangered species provision or condition of any wildlife permit are subject to criminal misdemeanor charges and a fine of one thousand to five thousand dollars (\$1,000.00 to \$5,000.00). Subsequent violations call for fines of two thousand to ten thousand dollars (\$2,000.00 to \$10,000.00).²²⁹

2. *Ohio Wild Animals*

The Division of Wildlife (DW) has authority and control in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals. The DW may adopt, amend, rescind, and enforce rules throughout the state or in any waters after holding a public hearing. The rules are based upon an investigation of the best available biological information derived from professionally accepted practices in wildlife and fisheries management. Each year a public fish hearing and public game hearing is held. The results of the investigations and public hearings are filed in the DW office and are available for public inspection during all regular office hours.

The DW has authority to regulate any of the following activities:

- Taking and possessing wild animals at any time and place or in any number, quantity, or length and in any manner and with any devices;
- Transporting of wild animals or any part thereof;
- Buying, selling, offering for sale, or exposing for sale any wild animal or part thereof; and

²²⁶ 16 U.S.C. 1531 *et seq.* (1994).

²²⁷ OHIO REV. CODE ANN. § 1518.01 (Anderson 2001).

²²⁸ OHIO REV. CODE ANN. § 1518.02 (Anderson 2001).

²²⁹ OHIO REV. CODE ANN. §§ 1518.05 and 1518.99 (Anderson 2001).

- Taking, possessing, transporting, buying, selling, offering for sale, and exposing for sale commercial fish or any part thereof including the species taken, its length and weight, the method of taking, establishing mesh sizes and specifications of nets, plus other fishing devices, seasons, and time and place of taking.²³⁰

The DW does not regulate domestic deer, however, as these animals are regulated as agricultural animals by the ODA.²³¹ In Ohio, all wild animals that are not legally confined or that are held by private ownership but were illegally acquired are deemed to be owned by the people of Ohio or are deemed to be held in trust for the benefit of the people of Ohio. Individual possession or the taking of a wild animal is allowed only when:

- It is in accordance with laws and regulations that allow a wild animal to be taken, hunted, killed, or possessed by individuals; and
- It is within the specific time, place, and the manner prescribed as necessary.

It is unlawful to take, kill, possess, transport, sell, or buy a wild animal contrary to DW regulations.²³² Furthermore, it is unlawful to sell, offer to sell, buy, or transport any part of a wild animal except as allowed by law or regulation. The DW clearly defines and marks the boundaries of the lands and waters owned or leased or under its supervision and control where the taking of any wild animal is prohibited. Possession or transportation of a wild animal within Ohio that has been unlawfully taken outside the state is also prohibited. Wild animal violations are also committed by an individual if that individual:

- Receives or possesses any prohibited wild animal;
- Counsels, aids, shields, or harbors an wild animal offender; or
- Knowingly shares in the proceeds of such a violation.²³³

Migratory game birds may not be taken at any time using a rifle.²³⁴ Hunting wild birds or quadruped²³⁵ animals on Sunday is prohibited except:

²³⁰ OHIO REV. CODE ANN. § 1531.08 (Anderson 2001).

²³¹ OHIO REV. CODE ANN. § 1531.08.1 (Anderson 2001).

²³² OHIO REV. CODE ANN. § 1531.11 (Anderson 2001).

²³³ OHIO REV. CODE ANN. § 1531.02 (Anderson 2001).

²³⁴ OHIO REV. CODE ANN. § 1531.02 (Anderson 2001).

²³⁵ Four (4) legged animals.

- Hunting on public land designated by the DW as a state public hunting area;
- Hunting on private land properly registered with the DW for Sunday hunting²³⁶
- Hunting by certain family members on private land consisting of twenty (20) acres or more;
- Hunting on a commercial bird shooting preserve or a wild animal hunting preserve;
- Hunting coyotes, fox, groundhogs, or migratory waterfowl;²³⁷ and
- Engaging in the sport of falconry.²³⁸

3. *Ohio Division of Wildlife*

The Division of Wildlife (DW) within the ODNR has the following responsibilities:

- Plans, develops, and institutes programs and policies based on the best available information including biological information derived from professionally accepted practices in wildlife and fisheries management;²³⁹
- Ensures the general care, protection, and supervision of the wildlife in state parks;²⁴⁰ and

²³⁶ Land may be registered by the landowner or by more than one landowner if the landowners jointly register when the area consists of at least one hundred (100) contiguous acres. Areas of land separated by a public road or highway are considered to be contiguous. Registration is confirmed by the issuance of a five-year (5-year) permit that proves Sunday hunting on the specified land is allowed. The permit is cancelled if the land is sold, and the seller landowner has a duty to notify the DW. Upon receiving such a notice from a landowner who jointly registered land, the DW notifies the other landowners named in the joint registration of the invalidation of the permit. The permit may be cancelled if the landowner notifies the DW and requests cancellation. The DW may furnish a landowner with a valid Sunday hunting permit with signage that provides that Sunday hunting is lawful upon the lands on which the signs are posted; *see* OHIO REV. CODE ANN. § 1531.022 (Anderson 2001).

²³⁷ As defined in the Migratory Bird Hunting Stamp Act; *see* 16 U.S.C. § 718 (Anderson 1988 & Supp. 2000).

²³⁸ OHIO REV. CODE ANN. § 1531.02.1 (Anderson 2001).

²³⁹ OHIO REV. CODE ANN. § 1531.04(A) (Anderson 2001).

²⁴⁰ OHIO REV. CODE ANN. § 1531.04(B) (Anderson 2001).

- Enforces Ohio laws and regulations that protect, preserve, propagate, and manage wild animals plus the sanctuaries and refuges for the propagation of those wild animals and any other provisions the DW considers necessary in the performance of its duties.²⁴¹

The DW has authority to acquire lands and waters or surface rights upon lands and waters by gift, lease, purchase, or otherwise to be used for:

- Wild animal, fish, or game management;
- Preservation, propagation, and protection of wild animals, fish, or game;
- Outdoor and nature activities;
- Public fishing or hunting grounds; for flora and fauna preservation;
- State fish hatcheries and game farms; and
- Erecting any necessary buildings or structures using grants, devises, bequests, donations, or assignment evidences of indebtedness.

The DW establishes regulations for the protection of state-owned or leased lands and waters and property under DW's control against wrongful use or occupancy and against depredation, molestation, spoilation, and destruction. The DW also has the authority to establish regulations for recreational activities on such lands, waters, and property.²⁴²

The lease or purchase price of wildlife lands and waters may be derived from hunting, trapping, and fishing licenses and any other funds. Other duties or responsibilities of the DW include:

- Providing public recreation in the form of public fishing using stream and lake agreements;
- Establishing user fees for the use of special public facilities such as:

²⁴¹ ORV § 1531.04(C) (Anderson 2001).

²⁴² OHIO REV. CODE ANN. § 1531.06(A)-(B) (Anderson 2001).

- Hunting or fishing activities; and
- Field trial facilities, wildlife nature centers, firearm ranges, boat mooring facilities, camping sites, and other similar special facilities and activities.
- Establishing or entering into lease agreements for concessions or other special projects situated on state-owned or leased lands or waters or other property under the DW's control;
- Selling or donating conservation-related items or items that promote wildlife conservation, for example:
 - Stamps, pins, badges, books, bulletins, maps, publications, calendars, and any other educational article or artifact pertaining to wild animals;
 - Confiscated or forfeited items;
 - Surplus structures and equipment; and
 - Timber or crops from lands owned or controlled by the DW.²⁴³
- Selling, leasing, or transferring minerals or mineral rights including mining, drilling, or excavating iron ore, stone, coal, petroleum, gas, salt, and other minerals;²⁴⁴
- Bartering or selling wild animals to other states, state or federal agencies, and conservation or zoological organizations;²⁴⁵ and
- Adopting rules that establish standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals including specific chemicals, delivery methods and devices, and monitoring requirements.²⁴⁶

²⁴³ All monies received through user fees for the use of special public facilities, rental of concessions or other special projects, and items that promote wildlife conservation are paid into the state treasury and credited to a fund that is used for the purposes outlined in OHIO REV. CODE ANN. § 1533.15 and for the management of other wild animals for their ecological and nonconsumptive recreational value or benefit; *see* OHIO REV. CODE ANN. § 1531.06(I) (Anderson 2001).

²⁴⁴ Monies collected are paid into the state treasury and credited to the Wildlife Habitat Fund.

²⁴⁵ Monies received from the sale of wild animals shall be deposited into the Wild Animal Fund.

²⁴⁶ OHIO REV. CODE ANN. § 1531.06 (Anderson 2001).

4. Ohio Wildlife Enforcement

The enforcement officers of the DW enforce all laws pertaining to the taking, possession, protection, preservation, management, and propagation of wild animals. A wildlife officer has authority to enter any private lands or waters if the wildlife officer has good cause to believe that a violation is being committed. Owners or tenants of private lands or waters, however, are not liable to wildlife officers for any injuries suffered while carrying out their duties while on the lands or waters of the owners or tenants unless the injuries are caused by the willful or wanton misconduct of the owners or tenants. Each wildlife officer is bonded by a surety company for the faithful performance of the duties of the wildlife officer's office.²⁴⁷

Wildlife officers enforce laws against hunting without permission of the owner or authorized agent of the land; they have authority to make arrests upon viewing violations without issuance of a warrant; and they have authority to inspect any container or package at any time²⁴⁸ to determine if a violation has occurred involving the bag limits for wild animals taken during an open or closed season. Wildlife officers also have authority to search any place in which they have good reason to believe contains a wild animal or any part of a wild animal taken or possessed contrary to law or regulation and to search any boat, gun, net, seine, trap, ferret, or device used in the alleged violation. If the owner or person in charge of the place to be searched refuses to allow the search, the wildlife officer may file an affidavit describing the offense with a court having jurisdiction. If there is reasonable cause to support the officer's belief, the court may issue a search warrant. Upon receiving the search warrant, the wildlife officer may search the place described and use force if necessary to do so. A wildlife officer, upon finding any prohibited wild animal or part of a wild animal, may seize the wild animal or any part of the wild animal along with any boat, gun, net, seine, trap, ferret, or device used to carry out or to commit the prohibited possession and arrest the person in whose custody or possession the wild animal or any part was found. Wild animals or any parts of wild animals and any boat, gun, net, seine, trap, ferret, or device that are seized escheat to the state.²⁴⁹

Wildlife officers also enforce laws prohibiting the dumping of refuse into or along waters, nature preserves, and trails and are authorized to arrest violators. The jurisdictional authority of a wildlife officer is concurrent with that of peace officers of the county, township, or municipal corporation in which the violation occurs.²⁵⁰

5. Ohio Wildlife Employees

Employees of the DW have authority to enter upon, cross over, be upon, and remain upon privately owned lands without being subject to arrest for trespass the following purposes:

²⁴⁷ OHIO REV. CODE ANN. § 1531.13 (Anderson 2001).

²⁴⁸ Except when within a building and the owner or person in charge of the building objects.

²⁴⁹ OHIO REV. CODE ANN. § 1531.13 (Anderson 2001).

²⁵⁰ OHIO REV. CODE ANN. § 1531.13.1 (Anderson 2001).

- Conducting research and investigation of game or fish or their habitat conditions;
- Restocking game or fish or in related game or fish restoration projects;
- Enforcing laws or DW regulations relating to game, fish, or other wildlife and their habitat or relating to the pollution of state land and water including the dumping of refuse in or along streams;²⁵¹ and
- Enforcing watercraft laws as part of normal, lawful, and peaceful investigation, work, or followup.²⁵²

If voluntary permission for access to private property is withheld, an employee of the DW must, upon request or demand by the owner, tenant, or manager of privately owned lands, show proof of identity by a badge or card that certifies the individual's employment by the DW in order to gain lawful access.²⁵³

6. Ohio Wildlife Council

The Wildlife Council consists of eight (8) members appointed by the governor with the advice and consent of the senate that are interested in the conservation of the natural resources of the state. At least two (2) members must be engaged in farming as their principal means of support. The members serve four-year (4-year) terms on the Wildlife Council which meets at least four (4) times per year. All matters are determined by majority vote of the members. After public hearings are held on such matters, the Wildlife Council has authority to adopt and approve all pronouncements of DW regulations that involve seasons, bag limits, sizes, species, methods of taking, and lawful possessions.²⁵⁴ The Wildlife Council also:

²⁵¹ Placement or disposal of garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil, or anything unsightly or unsanitary nature on any state owned, controlled, or administered land or in any ditch, stream, river, lake, pond, or other watercourse, except those waters which do not combine or effect a junction with natural surface or underground waters, or upon the bank thereof where the same is likely to be washed into the water either by ordinary flow or floods is prohibited unless specifically exempted or otherwise allowed; *see* OHIO REV. CODE ANN. § 1531.29 (Anderson 2001).

²⁵² OHIO REV. CODE ANN. § 1531.14 (Anderson 2001).

²⁵³ OHIO REV. CODE ANN. § 1531.14 (Anderson 2001).

²⁵⁴ OHIO REV. CODE ANN. § 1531.03 (A) (Anderson 2001).

- Advises the DW on policies including the planning, development, and implementation of DW programs;²⁵⁵
- Investigates, considers, and makes recommendations in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals;²⁵⁶
- Reports to the governor from time to time the results of its investigations concerning the wildlife resources of the state with recommendations of such measures as it considers necessary or suitable to conserve or develop those resources and preserve them as far as practicable;²⁵⁷ and
- Approves all fees set by the DW.²⁵⁸

7. *Ohio Natural Areas Council*

The Natural Areas Council advises the DNA&P on the administration of nature preserves and the preservation of natural areas. The council consists of eight (8) members having four-year (4-year) terms. The chief of DNA&P serves as the ex-officio member, and the governor appoints the other seven (7) members with the advice and consent of the senate. The members must be active or have interests in natural area preservation and represent natural history museums, metropolitan park districts, colleges and universities, and outdoor education programs in primary and secondary schools. The council meets at least one (1) time each quarter and the records of its proceedings are open to the public for inspection.²⁵⁹

8. *Ohio Cooperative Management Fund*

All revenue generated on land in Ohio owned by the United States Army Corps of Engineers and managed by the DW pursuant to an agreement with the corps is credited to the Cooperative Management Fund. Monies in this fund are spent for fish and wildlife management and for the management and maintenance of the areas controlled by the DW.²⁶⁰

²⁵⁵ OHIO REV. CODE ANN. § 1531.03 (B) (Anderson 2001).

²⁵⁶ OHIO REV. CODE ANN. § 1531.03(C) (Anderson 2001).

²⁵⁷ OHIO REV. CODE ANN. § 1531.03(D) (Anderson 2001).

²⁵⁸ OHIO REV. CODE ANN. § 1531.06(L) (Anderson 2001).

²⁵⁹ OHIO REV. CODE ANN. § 1517.03 (Anderson 2001).

²⁶⁰ OHIO REV. CODE ANN. § 1531.30 (Anderson 2001).

9. Ohio Wildlife Habitat Fund

The wildlife habitat fund is used by the DW to acquire and develop lands for the preservation, propagation, and protection of wild animals.²⁶¹ The fund consists of investment earnings from the wildlife habitat trust fund and other gifts, donations, bequests, and monies contributed along with monies received by the DW pursuant to negotiated mitigation settlements from persons who have adversely affected fish, wildlife, or their habitats.²⁶²

10. Ohio Wildlife Habitat Trust Fund

The purpose of the wildlife habitat trust fund is to facilitate the acquisition and development of lands for the preservation, propagation, and protection of wild animals. The fund is not part of the state treasury, and it consists of money received from gifts, donations, bequests, and other monies contributed to the DW for such purposes.²⁶³

11. Ohio Wild Animal Fund

The Wild Animal Fund consists of monies received from the authorized sale of wild animals. Monies in the fund are for the acquisition, development, and management of lands and waters within the state for wildlife purposes. The funds may be spent on programs administered by the DW or contributed to an appropriate nonprofit organization.²⁶⁴

12. Ohio Nongame and Endangered Wildlife Fund

The Nongame and Endangered Wildlife Fund exists within the Ohio state treasury and consists of monies paid into it by the wildlife tax, monies from the issuance of wildlife conservation license plates and bald eagle license plates, and direct contributions. Funds are disbursed by vouchers after approval by the director of ODNR for use by the DW solely for the purchase, management, preservation, propagation, protection, and stocking of wild animals that are not commonly taken for sport or commercial purposes including the acquisition of title and easements to lands; biological investigations; law enforcement; production of educational materials; sociological surveys; habitat development; personnel and equipment costs; and for the protection of threatened species. Monies, however, may also be used to promote and develop nonconsumptive wildlife recreational opportunities involving wild animals. Monies from the issuance of bald eagle license plates must only be spent by the division only to pay the costs of acquiring, developing, and restoring habitat for bald eagles within Ohio, and other monies in the

²⁶¹ OHIO REV. CODE ANN. § 1531.31 (Anderson 2001).

²⁶² Other than fish and wildlife of the Ohio river or their habitats.

²⁶³ OHIO REV. CODE ANN. § 1531.32 (Anderson 2001).

²⁶⁴ OHIO REV. CODE ANN. § 1531.34 (Anderson 2001).

fund from any other source may be used to pay the costs of acquiring, developing, and restoring habitat for bald eagles within the state.²⁶⁵

13. *Ohio Wildlife Penalties*

Generally, violators of wildlife provisions are criminally charged with a fourth (4th) degree misdemeanor.²⁶⁶ However, violations concerning the taking or possession of deer or involving the decimation of state lands and waters are third (3rd) degree misdemeanors on a first (1st) offense and first (1st) degree misdemeanors on each subsequent offense. Violations that concern the sale or an offer to sell any wild animal or any part of a wild animal when the value involved is greater than one thousand dollars (\$1,000.00) become fifth (5th) degree felonies. Besides criminal charges, violations involving the taking, killing, possessing, transporting, buying, selling, or holding of any wild animals require restitution for the value of the wild animal illegally taken, killed, possessed, transported, bought, sold, or held. Monies paid as restitution are credited to the Wildlife Fund.²⁶⁷

VII. OTHER STATE STATUTES AFFECTING AGRICULTURE

Producer Note: Many other state statutes have the potential of impacting agricultural operations and their relationship to the environment. The following is a brief discussion of some of these state laws in Ohio.

A. Ohio Agricultural Districts

Any person who owns agricultural land may file an application with the county auditor to place the land in an agricultural district for five (5) years if, during the three (3) prior calendar years, the owner can prove the land was devoted exclusively to agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an federal agency agreement, and:

- The land is composed of tracts, lots, or parcels that total not less than ten (10) acres; or
- The agricultural activities conducted on the land produced an average yearly gross income of at least twenty-five hundred dollars (\$2,500.00) during that three-year (3-year) period or the owner has evidence of an anticipated gross income of that amount from agricultural production activities.

²⁶⁵ OHIO REV. CODE ANN. § 1531.26 (Anderson 2001).

²⁶⁶ Other than violations involving species that are threatened with statewide extinction which are first (1st) degree misdemeanors.

²⁶⁷ OHIO REV. CODE ANN. § 1531.99 (Anderson 2001).

If the county auditor determines that the application does not meet these requirements, the county auditor must deny the application and notify the applicant by certified mail, return receipt, within thirty (30) days of the filing of the application. An applicant may appeal a denial to the court of common pleas of the county in which the application was filed but must do so within thirty (30) days of the receipt of the notice. If the county auditor determines that the application meets the requirements of this section, the county auditor approves the application and notifies the applicant within thirty (30) days of the filing. An application that is not denied is deemed to be approved.²⁶⁸

When the land at issue is within a municipality, the applicant must also file a duplicate copy of the application with the clerk of the municipality. The clerk provides public notice of the application and of a public hearing on the matter by publication in a newspaper of general circulation in the county. An application that is not modified or rejected by the legislative body of the municipality is deemed approved. When a modification or rejection occurs, the legislative body must demonstrate that such action was necessary:

- To prevent a substantial, adverse effect on the provision of municipal services;
- To prevent an inefficient use of land within the municipality;
- To prevent the disorderly growth and development of the municipality; or
- To ensure public health, safety, or welfare.²⁶⁹

The clerk of the municipality provides notice to the applicant in the same manner prescribed for the county auditor but must do so within five (5) days of the legislative body's decision. The clerk also transmits a copy of the decision to the county auditor. An appeal of the decision may be lodged with the court of common pleas within thirty (30) days.²⁷⁰

The county auditor keeps a record of all land in the county that is within an agricultural district and any final action taken by a legislative body when the application is modified. At the end of the five-year (5-year) period, a renewal application must be filed in March²⁷¹ in the year of expiration.

Land transfers of land approved to be within an agricultural district transfers to the new owner unless the new owner files within sixty (60) days of the transfer notice of the owner's

²⁶⁸ OHIO REV. CODE ANN. § 929.02(A)(1)-(2) (1988).

²⁶⁹ OHIO REV. CODE ANN. § 929.02(B) (1988).

²⁷⁰ OHIO REV. CODE ANN. § 929.02(B) (1988).

²⁷¹ The renewal must be filed before the first Monday in March; *see* OHIO REV. CODE ANN. § 929.02(C) (1988).

election to withdraw from the agricultural district.²⁷² The term “withdrawal from an agricultural district” includes the explicit removal of land from an agricultural district, conversion of land in an agricultural district to use for purposes other than agricultural production, and withdrawal of land from a land retirement or conservation program to use for purposes other than agricultural production.²⁷³ There is a penalty for withdrawal from the district. Any prior tax savings received while the land was in the agricultural district ends and a calculated fee must be paid unless at the time of annexation the landowner did not favor or sign a petition favoring annexation.²⁷⁴ The ODA prescribes the application form used in agricultural district determinations.

The term "agricultural production" means commercial aquaculture, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.²⁷⁵

B. Ohio Right to Farm Law

In Ohio, when a civil action for nuisance is filed against agricultural activities, a complete defense exists for the agricultural activities if all of the following factors exist:

- The agricultural activities were conducted within an agricultural district;
- The agricultural activities were established within the agricultural district prior to the plaintiff's activities or plaintiff's interest on which the action is based;
- The plaintiff was not involved in agricultural production; and
- The agricultural activities were not in conflict with federal, state, and local laws and rules relating to the alleged nuisance or the activities were conducted in accordance with generally accepted agriculture practices.²⁷⁶

²⁷² OHIO REV. CODE ANN. § 929.02(C) (1988).

²⁷³ OHIO REV. CODE ANN. § 929.01(B) (1988).

²⁷⁴ OHIO REV. CODE ANN. § 929.02(D)(1) (1988).

²⁷⁵ OHIO REV. CODE ANN. § 929.01(A) (1988).

²⁷⁶ OHIO REV. CODE ANN. § 929.04 (1988).

C. Ohio Dead Animal Disposal

The ODA regulates how dead animals may be disposed, e.g., burial incineration, rendering, and on-farm composting,²⁷⁷ however, on-farm composting is regulated by the Division of Soil and Water Conservation within ODNR.²⁷⁸ If necessary, the ODA may require the owner of a dead animal to employ a specific method of disposal if that method does not conflict with any law or rule governing the transportation of infectious wastes and is necessary for animal disease control.²⁷⁹

Composting is allowed by persons who own or operate an agricultural operation or who own and raise animals. Persons, however, must first participate in an educational course about composting that is conducted by the Ohio Cooperative Extension Service and obtain a certificate of completion for the course and compost the animals properly.²⁸⁰

Any animal that has died or been destroyed because of a dangerously infectious or contagious disease must either be buried not less than four (4) feet under the surface of the ground or removed in a watertight tank to a rendering establishment within twenty-four (24) hours after knowledge of its death or intentional destruction or after notice in writing from the Division of Soil and Water Conservation within ODNR or trustees of the applicable township.²⁸¹

Ohio prohibits the deposit of dead animals and offal upon land or water. It is unlawful to put upon or into a lake, river, bay, creek, pond, canal, road, street, alley, lot, field, meadow, public ground, market place, or common the carcass of a dead animal; the offal from a slaughterhouse, butcher's establishment, packing house, or fish house; spoiled meat or fish or other putrid substance; or the contents of a privy vault. Owners or occupants of such places must not knowingly allow such thing to remain there to the annoyance of any citizen or neglect to remove or abate the nuisance caused within twenty-four (24) hours after having knowledge of its existence or within twenty-four (24) hours after written notice from a township trustee or township highway superintendent, constable, or health commissioner of a city or general health district in which such nuisance exists or from a county commissioner of such county.²⁸²

²⁷⁷ OHIO ADMIN. CODE §941.14 (2002).

²⁷⁸ OHIO REV. CODE ANN. §1511.022 (Anderson 2001).

²⁷⁹ OHIO REV. CODE § 941.14(C) and (D) (Anderson 1988 & Supp. 2002).

²⁸⁰ OHIO REV. CODE ANN. §1511.022(A) (Anderson 2001).

²⁸¹ The composting method described here and alternative composting methods are allowed if it follows a composting plan which is approved by the board of supervisors of the applicable soil and water conservation district and is in accordance with an order issued by the Division of Soil and Water Conservation; *see* OHIO REV. CODE ANN. §1511.022(B) (Anderson 2001); or *see* OHIO REV. CODE ANN. §953.26 (Anderson 2002). OHIO REV. CODE § 941.14 (Anderson 1988 & Supp. 2002).

²⁸² OHIO REV. CODE ANN. § 3767.16 (Anderson 1997).

Appendix A - Agencies

Producer Note: State and federal agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of agencies which should be able to answer questions or provide materials for a producer.

State Agencies:

Air Quality Development Authority

1901 LeVeque Tower
50 West Broad Street
Columbus, OH 432115-5985
(614) 224-3383
(614) 752-9188 fax
www.ohioairquality.org/

Attorney General

State Office Tower, 17th Floor
30 East Broad Street
Columbus, OH 43215-3428
(614) 466-4320
(614) 644-6135 fax
www.ag.state.oh.us/

Department of Agriculture

8995 East Main Street
Reynoldsburg, Ohio 43068
(614) 728-6250
(614) 644-0720 fax
www.state.oh.us/agr/

Department of Health

246 North High Street or
P.O. Box 118
Columbus, OH 43216-0118
(614) 466-3543 or 1390 (Wells)
(614) 466-4556 fax
www.odh.state.oh.us/

Department of Natural Resources

Division of Civilian Conservation Corps
4383 Fountain Square Drive, Building B-1
Columbus, Ohio 43224-1362
(614) 265-6565
(614) 261-9601 fax
www.state.oh.us/scripts/phone/agency/dnr.asp

12 Divisions within Ohio DNR:

- 1. Division of Engineering
889 Fountain Square Court, Building F-3
Columbus, Ohio 43224-1331
(614) 265-6948
(614) 262-2197 fax*
- 2. Division of Forestry
1855 Fountain Square Court, Building H-1
Columbus, Ohio 43224-1327
(614) 265-6694
(614) 447-9231 fax*
- 3. Division of Geological Survey
4383 Fountain Square Drive, Building B-2
Columbus, Ohio 43224-1362
(614) 265-6576
(614)447-1918 fax*
- 4. Division of Mineral Resource Management
1855 Fountain Square, Building H-3
Columbus, Ohio 43224
(614) 265-6633
(614) 265-7999 fax*
- 5. Division of Natural Areas and Preserves
1889 Fountain Square, Building F-1
Columbus, OH 43224
(614) 265-6453
(614) 267-3096 fax*
- 6. Division of Parks and Recreation
1952 Belcher Drive, Building C-3
Columbus, Ohio 43224-1386
(614) 265-6561
(614) 261-8407 fax*
- 7. Division of Real Estate & Land Management
1952 Belcher Drive, Building C-4
Columbus, Ohio 43224-1386
(614) 265-6395
(614)267-2981 fax*
- 8. Division of Recycling & Litter Prevention
1889 Fountain Square Court, Building F-2
Columbus, Ohio 43224-1331
(614) 265-6333
(614) 262-6546 fax*

9. *Division of Soil and Water Conservation*
4383 Fountain Square Court, Building B-3
Columbus, Ohio 43224-1362

(614) 265-6610

(614) 262-2064 fax

10. *Division of Water*

1939 Fountain Square Court, Building E-3
Columbus, Ohio 43224-1336

(614) 265-6717

(614)447-9503 fax

11. *Division of Watercraft*

4435 Fountain Square Drive, Building A
Columbus, Ohio 43224-1300

(614) 265-6480

(614) 267-8883 fax

12. *Division of Wildlife*

1840 Belcher Drive, Building G
Columbus, Ohio 43224-1329

(614) 265-6300

(614) 262-1143 fax

4. *Surface Water*

5. *Environmental Services*

6. *Hazardous Waste Management*

7. *Solid & Infectious Waste Management*

8. *Environmental & Financial Assistance*

3 *Offices within Ohio EPA*

1. *Federal Facilities Oversight*

2. *Pollution Prevention*

3. *Environmental Education*

Environmental Board of Review

236 East Town Street

Room 300

Columbus, OH 43215

(614) 466-8950

Environmental Enforcement

(800) 348-3248 toll free

Ohio State University Cooperative Extension

Agricultural Business Enhancement Center

440 East Poe Road, Suite 201

Bowling Green, OH 43402

419/ 354-6916

419/ 354-6416 fax

www.ohioline.osu.edu/

Ohio Environmental Protection Agency

Lazarus Government Center

122 South Front Street or

P. O. Box 1040

Columbus, Ohio 43216-1049

(614) 644-3020

(614) 644-2807fax

<http://www.epa.ohio.gov/ddaqw/ddaqwmain.html>

8 *Divisions within Ohio EPA:*

1. *Air Pollution Control*

2. *Drinking & Ground Water*

3. *Emergency & Remedial Response*