

Summary of Senate Bill 1

This bill will become effective 90 days after the governor signed the bill on April 2, 2015 (on July 1). Rules implementing components of the bill will be drafted and completed ninety days after the bill's effective date of July 1.

Restriction of the application of fertilizer and manure

- The bill restricts the land application of fertilizer (defined in the bill as phosphorous and nitrogen) and manure on frozen, snow covered and saturated ground (when the top two inches of soil are saturated with precipitation) in the Western Lake Erie Basin ("WLEB").
- The bill also restricts the application of fertilizer and manure if the weather forecast calls for an amount of precipitation in a time frame designated in the bill. For fertilizer, it is if the forecast calls for a greater than fifty percent chance of precipitation exceeding one inch in a twelve hour-period. For manure it is a one-half inch in a twenty-four hour period.

Exceptions to the land application restrictions

- The bill allows for the application of fertilizer and manure on frozen, snow covered or saturated ground or the weather precipitation condition under any of the following circumstances:
 1. it is injected into the ground,
 2. it is incorporated within twenty-four hours,
 3. if it is applied to a growing crop.
- There is an additional "emergency" exception for manure- in the event of an emergency (e.g. manure lagoon or pit is about ready to overflow) the farmer may receive written consent from the Ohio Department of Natural Resources ("ODNR") chief of the division of soil and water resources, or his designee, to apply the manure in accordance with the setbacks and procedures in the United States Department of Agriculture ("USDA") Natural Resources Conservation Service ("NRCS") standard 590.

Farmers can request an exemption to the restriction on manure application.

- Because some farmers in the WLEB will not have the necessary storage, equipment, or practices in place in order to be in compliance with the new law when it becomes effective, farmers can request an exemption. The exemption can be requested from ODNR's chief of the soil and water resources, or someone he designates.
- The chief has thirty days to approve or deny the requested exemption. However, from the time the exemption is requested until it is denied or approved the farmer cannot receive a civil penalty for a violation. If the exemption is approved, it will last for the time remaining depending on if the farm is a small farm or a medium farm.
- Small farms have two years from the effective date of the bill to have the exemption. Small farm is defined in the bill and is based on the number of animal units (ex. 150 dairy cows). See chart.

- Medium sized farms have one year from the effective date of the bill to have the exemption. Medium sized farm is defined in the bill and is based on the number of animal units (ex. 500 dairy cows). *See* chart.
- For example, a medium size farm requests the exemption on February 1, 2016. Since the exemption lasts for one year from the effective date of the bill (assumed to be July 1, 2015) the farm will have a five month exemption.

Exemption Application

The exemption application will require certain information be provided.

- A statement from the farmer affirming that the farmer understands the restrictions on application of nutrients on frozen, snow-covered or saturated ground and the exceptions.
- A statement from the farmer affirming that the farmer understands that the procedures established in the United States Department of Agriculture Natural Resources Conservation Service Practice standard code 590 regarding the application of nutrients, including set-backs, must be followed. However, the farmer will not have to follow those 590 standards that deal with nutrient application restrictions on frozen, snow-covered or saturated ground since that is what the exemption is requesting.
- A place for the farmer to explain the reasons the exemption is necessary.
- A place on the form that provides information on programs that may assist the farmer with methods to comply with the restrictions on applying nutrients on frozen, snow-covered or saturated ground.
- A place on the form that provides the farmer an opportunity to request technical assistance or information from the chief or the applicable soil and water conservation district to assist the farmer to comply with the restrictions on applying nutrients on frozen, snow-covered or saturated ground.

Enforcement of the restriction on fertilizer

- The Ohio Department of Agriculture (“ODA”) has jurisdiction over the fertilizer application restriction. **The enforcement is a complaint driven process** meaning someone will have to contact ODA to report a farmer who is land applying fertilizer in violation of the restriction.
- The ODA may inspect the property to conduct an investigation. If the farmer denies ODA access then ODA may request a search warrant.
- The director of ODA may assess a civil penalty for violating the fertilizer application restriction against a farmer only if the farmer is given a hearing. If after the hearing the director finds the farmer was in violation the director may assess a civil penalty and an order requiring the farmer to comply with the land application restriction. Each day fertilizer is applied in violation of the restriction is a separate violation. The civil penalty can be *up to* \$10,000. The farmer can appeal.

Enforcement of the restriction on manure

- ODNR has jurisdiction over the manure application. The enforcement process is the same as it is for fertilizer under ODA. Each day manure is applied in violation of the restriction is a separate violation. The civil penalty can be *up to* \$10,000.

Manure “loophole” closed

- The bill also requires anyone who applies manure from a permitted livestock operation (a concentrated animal feeding facility) to have either a livestock manager certification or be certified by the director of ODA to apply manure under a program similar to the fertilizer applicator certification in SB 150.

Non-Agricultural Provisions

- The bill will prohibit the open lake dumping of dredge material in Lake Erie by 2020. However, dredge material may be dumped in Lake Erie if the director determines it is suitable and meets the location and purpose as determined by the director of the Ohio Environmental Protection Agency (“OEPA”).
- The bill authorizes the director of OEPA to be the coordinator of harmful algae management and response. The director or the director's designee shall develop plans providing for coordination with other state and local officials to protect public water from harmful algae blooms.
- Specifies that publically owned treatment works are required to begin monthly monitoring of total and dissolved reactive phosphorus by December 1, 2016.

Medium size farm that stables or confines the following animal numbers

200 to 699 mature dairy cattle, milked or dry
300 to 999 veal calves
300 to 999 cattle other than mature dairy cattle or veal calves
750 to 2,499 swine that each weigh fifty-five pounds or more
3,000 to 9,999 swine that each weigh less than fifty-five pounds
150 to 499 horses
3,000 to 9,999 sheep or lambs
16,500 to 54,999 turkeys
9,000 to 29,999 laying hens or broilers if a liquid manure handling system is used
37,500 to 124,999 chickens, other than laying hens, if a non-liquid manure handling system is used
25,000 to 81,999 laying hens if a non-liquid manure handling system is used
10,000 to 29,999 ducks if a non-liquid manure handling system is used
1,500 to 4,999 ducks if a liquid manure handling system is used

Small size farm that stables or confines the following animal numbers

1 to 199 mature dairy cattle, milked or dry
1 to 299 veal calves
1 to 299 cattle other than mature dairy cattle or veal calves
1 to 749 swine that each weigh fifty-five pounds or more
1 to 2,999 swine that each weigh less than fifty-five pounds
1 to 149 horses
1 to 2,999 sheep or lambs
1 to 16,499 turkeys
1 to 8,999 laying hens or broilers if a liquid manure handling system is used
1 to 37,499 chickens, other than laying hens, if a non-liquid manure handling system is used
1 to 24,999 laying hens if a non-liquid manure handling system is used
1 to 9,999 ducks if a non-liquid manure handling system is used
1 to 1,499 ducks if a liquid manure handling system is used