

For working definitions for the below laws/rules please visit:

<https://agcrops.osu.edu/newsletter/corn-newsletter/fertilizer-and-manure-application-compliance-ohio-and-civil-penalties>

905.326 Application of fertilizer in western basin.

(A)

(1) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer under either of the following circumstances:

(a) On snow-covered or frozen soil;

(b) When the top two inches of soil are saturated from precipitation.

(2) Except as provided in division (B) of this section, no person in the western basin shall surface apply fertilizer in a granular form when the local weather forecast for the application area contains greater than a fifty per cent chance of precipitation exceeding one inch in a twelve-hour period.

(B) Division (A) of this section does not apply if a person in the western basin applies fertilizer under any of the following circumstances:

(1) The fertilizer is injected into the ground.

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

(3) The fertilizer is applied onto a growing crop.

(C)

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

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

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

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

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

(E) As used in this section , "western basin" means land in the state that is located in the following watersheds identified by the specified United States geological survey hydrologic unit code:

- (1) St. Marys watershed, hydrologic unit code 04100004;
- (2) Auglaize watershed, hydrologic unit code 04100007;
- (3) Blanchard watershed, hydrologic unit code 04100008;
- (4) Sandusky watershed, hydrologic unit code 04100011;
- (5) Cedar-Portage watershed, hydrologic unit code 04100010;
- (6) Lower Maumee watershed, hydrologic unit code 04100009;
- (7) Upper Maumee watershed, hydrologic unit code 04100005;
- (8) Tiffin watershed, hydrologic unit code 04100006;
- (9) St. Joseph watershed, hydrologic unit code 04100003;
- (10) Ottawa watershed, hydrologic unit code 04100001;
- (11) River Raisin watershed, hydrologic unit code 04100002.

(F) Notwithstanding section [905.31](#) of the Revised Code, as used in this section, "fertilizer" means nitrogen or phosphorous.

Added by 131st General Assembly File No. TBD, SB 1, §1, eff. 7/3/2015.

905.327 Penalty for unlawful application of fertilizer.

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

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the director may issue an order requiring compliance with section 905.326 of the Revised Code and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section [119.12](#) of the Revised Code.

(C) A person that has violated section 905.326 of the Revised Code shall pay a civil penalty in an amount established in rules. Each day during which fertilizer is applied in violation of section 905.326 of the Revised Code constitutes a separate violation.

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

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

Added by 131st General Assembly File No. TBD, SB 1, §1, eff. 7/3/2015.

939.08 Application of manure in the western basin.

(A) Except as provided in division (B) of this section, no person in the western basin shall surface apply manure under any of the following circumstances:

(1) On snow-covered or frozen soil;

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

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

(B) Division (A) of this section does not apply if a person in the western basin applies manure under any of the following circumstances:

(1) The manure is injected into the ground.

(2) The manure is incorporated within twenty-four hours of surface application.

(3) The manure is applied onto a growing crop.

(4) In the event of an emergency, the director of agriculture or the director's designee provides written consent and the manure application is made in accordance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state.

(C)

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

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

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

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

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

(E) As used in this section, "western basin" has the same meaning as in section 905.326 of the Revised Code.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.

939.09 Penalty for unlawful application of manure in the western basin.

(A) Except as provided in division (D) of this section, the director of agriculture may assess a civil penalty against a person that violates section 939.08 of the Revised Code. The director may impose a civil penalty only if the director affords the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the person violated section 939.08 of the Revised Code. The person may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the director may issue an order requiring compliance with section 939.08 of the Revised Code and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(C) A person that has violated section 939.08 of the Revised Code shall pay a civil penalty in an amount established in rules. Each day during which manure is applied in violation of section 939.08 of the Revised Code constitutes a separate violation.

(D)

(1) The owner or operator of a small agricultural operation or a medium agricultural operation may apply to the director for an exemption from the prohibition established in division (A) of section 939.08 of the Revised Code. If the director or the director's designee determines that it is appropriate, the director or the director's designee may issue such an exemption as follows:

(a) For a medium agricultural operation, for a period ending not later than one year after July 3, 2015;

(b) For a small agricultural operation, for a period ending not later than two years after July 3, 2015.

(2) The director shall establish the form of the application for an exemption in rules adopted under division (E) of this section.

(3) The director or the director's designee shall approve or deny an application for an exemption submitted under division (D)(1) of this section not later than thirty days after an application has been submitted.

(4) The director or the director's designee may deny an application for an exemption or revoke an exemption approved under division (D)(3) of this section if the director or the director's designee determines that the owner or operator is not in substantial compliance with this chapter and rules adopted under it other than violating division (A) of section 939.08 of the Revised Code.

(5) An owner or operator that has been issued an exemption under this section is not subject to civil penalties assessed for a violation of division (A) of section 939.08 of the Revised Code during the exemption period.

(6) An owner or operator that has an initial application for an exemption that is pending the director's review is not subject to civil penalties assessed for a violation of division (A) of section 939.08 of the Revised Code.

(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish both of the following:

(1) The amount of the civil penalty assessed under this section. The civil penalty shall be not more than ten thousand dollars for each violation.

(2) Requirements governing the application form for an exemption submitted under division (D) of this section. The rules shall require the form to include all of the following:

(a) A statement from the applicant affirming that the applicant understands the provisions of sections 939.08 and 939.09 of the Revised Code;

(b) A statement from the applicant affirming that the applicant understands that the applicant must be in compliance with procedures established in the United States department of agriculture natural resources conservation service practice standard code 590 prepared for this state except procedures that are in conflict with this section and section 939.08 of the Revised Code;

(c) A place for the applicant to explain the reasons for the necessity for the exemption;

(d) A place on the form that provides information on programs that may assist an applicant with methods to comply with division (A) of section 939.08 of the Revised Code;

(e) A place on the form that provides the applicant an opportunity to request technical assistance or information from the director or the applicable soil and water conservation district to assist the applicant to comply with division (A) of section 939.08 of the Revised Code.

(F) Money collected from civil penalties assessed under this section shall be paid into the state treasury to the credit of the agricultural pollution abatement fund created in section 939.10 of the Revised Code.

(G) As used in this section:

(1) "Small agricultural operation" means an agricultural operation in the western basin that stables or confines fewer than any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(2) "Medium agricultural operation" means an agricultural operation in the western basin that stables or confines any of the numbers of animals specified in divisions (Q)(1)(a) to (m) of section 903.01 of the Revised Code.

(3) "Western basin" has the same meaning as in section 905.326 of the Revised Code.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.