



Ohio Revised Code

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

Effective: January 1, 2016

Legislation: House Bill 64 - 131st General Assembly

(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.