

## State Efforts in Water Quality: Addressing Non-point Sources of Agricultural Nutrients in Ohio

Peggy Kirk Hall, Ohio State University Agricultural & Resource Law Program

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### Background

- Agricultural point sources are regulated through NPDES and Ohio Livestock Environmental Permitting programs administered by Ohio Department of Agriculture and Ohio EPA.
- Recent planning efforts and funding for practices include the Agricultural Nutrients and Water Quality Working Group, Ohio Lake Erie Phosphorous Task Force, Ohio Nutrient Reduction Strategy, National Water Quality Initiative, Ohio Clean Lakes Initiative, development of Nutrient Water Quality Standards (ongoing).
- Several Harmful Algal Bloom incidents and public drinking water restrictions in the Lake Erie watershed since 2013 have heightened public attention to agricultural nutrient management.

### Recent Legislative Activity

- Proposals in 2014 (Senate Bill 150, 130<sup>th</sup> General Assembly, effective Aug. 21, 2014) and 2015 (Senate Bill 1, 131<sup>st</sup> General Assembly, effective July 3, 2015) targeted nutrient management.

#### 1. *Agricultural Fertilizer Certification Requirements*

- Any person applying fertilizer to more than 50 acres of land that is producing plants for sale must obtain fertilizer certification from the Ohio Department of Agriculture by September 30, 2017 and maintain fertilizer application records for three years after the application date. Fertilizers are N, P, K and recognized plant nutrients but not lime, limestone, water, residual farm products or manure, unless manure is mixed with fertilizer and distributed with a guaranteed analysis. ORC 905.321
- A person who applies manure from a permitted Concentrated Animal Feeding Facility on more than 50 acres of land that is producing plants for sale must obtain fertilizer certification unless the person is a Certified Livestock Manager. ORC 903.40

#### 2. *Voluntary Nutrient Management Plans*

- A landowner may obtain and operate under a Nutrient Management Plan approved by the Soil and Water Conservation District and must submit an approved NMP for review every five years. ORC 905.323

#### 3. *Civil Defense*

- In a private civil action concerning the application of fertilizer, a person has an affirmative defense if: 1) the person who applied fertilizer was certified or operating under supervision of a certified applicator; 2) application records were properly maintained; 3) the fertilizer was applied in accordance with an approved NMP. ORC 905.325

#### 4. *Restrictions on the Application of Fertilizers and Manure in the Western Basin of Northwest Ohio*

- Fertilizer and manure applications that are not injected, incorporated within 24 hours or applied onto a growing crop are prohibited: 1) on frozen or snow covered soil; 2) when the top two inches of soil are saturated from precipitation; 3) when local weather forecasts +50% chance of +0.5 inch of precipitation in 24 hours for manure applications or +1 inch of precipitation in 12 hours for granular fertilizer. ORC 905.326 and ORC 1511.10
- A small operation working toward compliance may seek an exemption from the restrictions for two years and a medium operation may seek a three-year exemption.
- The legislation includes a process for complaints, investigations and civil penalties. ORC 905.327