

INTRODUCTION

§ 17.01. Scope

Animal Feedlots [17.02] Pesticide Application [17.03] Fertilizer Storage and Handling [17.04]
Agricultural Drainage [17.05] Dangerous Wild Animals [17.06]

II.

REGULATION OF AGRICULTURAL OPERATIONS

§ 17.02. Animal Feedlots

[1] Regulatory Jurisdiction

[a] Overview

Animal feedlots, known in Ohio regulatory parlance as “animal feeding facilities” or AFFs are subject to environmental regulations by several regulatory agencies, depending on the subject matter of regulation and, in some cases, the size of the AFF. The Ohio Department of Agriculture (ODA), the Ohio EPA, the Ohio Department of Natural Resources (ODNR) and U.S. EPA each play roles in the regulation of Ohio AFFs.

[b] Ohio Department of Agriculture

ODA generally is responsible for regulating the operations of larger AFFs. Ohio legislation effective in 2003 and amended in 2009, also conferred upon ODA authority to seek federal approval to administer the federal Clean Water Act’s wastewater discharge permitting program, NPDES. ODA also administers regulation of pesticides in Ohio.

[c] Ohio EPA

Water - Ohio EPA issues NPDES permits for large and medium AFFs that discharge process wastewaters from their operations. Ohio EPA also issues stormwater discharge NPDES permits to AFFs and other dischargers. Also on premise drinking water systems. And isolated wetlands review.

Air - Ohio EPA & local approved air districts issue permits.

Waste - Ohio EPA also is responsible for solid and hazardous waste regulation.

[d] Federal

U.S. EPA is not overly involved but has oversight responsibilities for the federally-delegated environmental programs, such as the federal CWA NPDES permitting program and the federal CAA Title V major source air permitting program. U.S. EPA may, and does on occasion, become involved in high profile permitting and, more commonly, enforcement matters. The U.S. Army Corps of Engineers has principal authority for the permitting of impacts to waters of the United States, including wetlands under federal jurisdiction.

[2] Animal Feedlot Permitting

[a] Permits to Install and Operate

- ODA requires certain AFFs to obtain Permits to Install (PTIs), Permits to Operate (PTOs) and/or specified compliance certificates.
 - The regulatory thresholds that determine the level of permitting required for a particular AFF generally depend upon the number of animals kept at the AFF.
 - The two categories of large permitted facilities “Large Concentrated Animal Feeding Facilities” (**LCAFFs**) and “Major Concentrated Animal Feeding Facilities” (**MCAFFs**).
- **PTI** - New or modified LCAFFs and MCAFFs are required to obtain Permits to Install (PTI) from ODA before construction or facility modifications. Design specifications, construction plans, siting information, proposed water usage information, certificates that local government notification mandates were met and applicant’s past compliance history with environmental laws in the U.S. and other countries are among the types of information required by ODA to process a PTI application.
- **PTO** - required for existing farm that reaches a design capacity category of LCAFF or MCAFF, or a new farm where a PTI has been submitted.
 - Also, persons supervising the handling and management of manure at MCAFFs must first obtain a livestock manager certification from ODA.
 - PTOs will generally have permit terms of five years.
 - A facility smaller than a LCAFF may be required to obtain a PTO under certain circumstances. Ordinarily, small facilities adopt some form of best management practices (BMPs) to manage manure and control pollution. ODNR, Division of Water Resources has promulgated standards describing minimum practices that prevent water pollution from manure and related activities, over which ODNR has enforcement authority against AFFs smaller than LCAFFs. If a smaller AFF required to obtain a PTO through such ODNR initiated action cannot achieve compliance with mandated BMPs without a physical modification to the existing facility, a PTI must also be obtained.
- PTIs and PTOs are transferable. Need to provide extra info if you’ve not operated a LCAFF in Ohio for at least two of the five years immediately preceding the permit transfer application. Transferees, must identify other farms they have operated and list violations of environmental laws in the U.S. or other countries.
- Permittees who plan to end permit coverage must submit a closure plan to ODA at least 90 days before closure. Of most concern to ODA is the disposition of a facility’s manure. Closure plans focus primarily on the removal of a CAFO’s manure and related storage and treatment facilities. Closure is not complete until after ODA inspects the facility and verifies the permittee has satisfied all closure requirements.

[b] NPDES Permits

It is unlawful for an AFF to discharge wastewater to waters of the state, unless its operator has secured an appropriate NPDES permit.

(Historically, Ohio EPA has administered NPDES permitting of all varieties within the state, including such permits issued to AFFs under R.C. Chapter 6111. However, in 2001 through the enactment of

Senate Bill 141, significant AFF regulatory authority was transferred to ODA. Among the authorities Senate Bill 141 sought to transfer from Ohio EPA to ODA was authority over issuance of NPDES permits to AFFs. The legislation directed ODA to prepare and submit an application for delegation of such NPDES authority to U.S. EPA before the end of 2001. U.S. EPA received the ODA delegation application package in January 2007. As of this writing, U.S. EPA approval of the application has not been granted. For the time being, Ohio EPA remains the state agency administering this program for AFFs.)

- Not all AFFs are subject to NPDES permitting. An AFF is subject to NPDES permitting if (1) it meets the definition of a “concentrated animal feeding operation” (CAFO) under 40 C.F.R. § 122.23(b)(2), and (2) it discharges to waters of the United States.
 - Under fed rules, CAFOs subject to NPDES permitting are defined to include three categories of feeding operations.
 - 1. “Large CAFOs,” is based on numbers and types of livestock. The Large CAFO under the federal rules has the same number thresholds as ODA rules.
 - 2. “Medium CAFO” which includes operations with animal population ranges falling just below those defined as Large CAFOs or Concentrated Animal Feeding Facilities, where the facility also either (a) discharges pollutants through a man-made conveyance or directly to waters of the United States, or (b) confines animals in an area at the facility where any of them come into contact with any surface waterbody running through the property.
 - 3. “Designated CAFO” are typically smaller operations that are not required to apply for NPDES permits, but nevertheless have been evaluated by Ohio EPA and found to satisfy the federal criteria for designation, including a determination that the facility is a significant contributor of pollutants to waters of the US.

[c] ODA Agriculture Pollution Abatement Program

ODA’s Division of Soil and Water Conservation (DSWC) was established beginning January 2016 when ODNR transferred the program to ODA. DSWC implements agricultural and non-point source water pollution control programs and administers various regulatory authorities applicable to livestock operations, including land application and utilization standards for animal manure and also standards for design and construction of manure storage and treatment facilities.

- The rules apply to the control of pollutants from areas within the state used for agricultural production or silvicultural operations including land used for: (1) production or keeping of animals; (2) production of agricultural crops; and (3) private, commercial and public woodlands.
- Also allowed for “watershed in distress” designation - a watershed that has aquatic life and health that is impaired by nutrients or sediment from agricultural land uses and where there is a threat to public health, drinking water supplies, recreation, or public safety and welfare.
 - DSWC may designate an Ohio watershed as a “watershed in distress” based on the following factors: the watershed is listed as impaired by nutrients and/or sediments from agricultural sources; the watershed or a portion thereof exhibits conditions that are a threat to public health; streams, lakes, or other waterbodies within the watershed exhibit periodic evidence of algal and/or cyanobacterial blooms capable of producing toxins that are harmful to humans, domestic animals, or wildlife; there is a threat to, or presence of contaminants in public or private water supplies; there is a threat to, or presence of contaminants in a primary contact recreational water or a bathing water; other

unacceptable nuisance conditions exist, including the depletion of dissolved oxygen in water that results in impacts to aquatic life; and other situations as determined by DSWC in consultation with other federal, state, and local agencies.

- When a watershed is designated as distressed by DSWC, the following changes are triggered, beginning two years after designation:
 - 1. land application of manure must be in accordance with USDA standards and is generally prohibited between December 15th and March 1st, when ground is frozen outside these dates, and when the local weather forecast for the land application area contains a greater than 50 percent chance of exceeding 0.5" precipitation;
 - 2. recordkeeping requirements for manure storage volumes to ensure 120 days of storage is available on December 1st of each year; and
 - 3. requirements for farms generating or using more than 350 tons and/or 100,000 gallons of manure annually must have an approved nutrient management plan.
- "watershed in distress" - Grand Lake St. Mary's watershed in Midwestern Ohio and now Lake Erie has been added!

[3] Waste Disposal

[a] Regulatory Requirements

AFF owners and operators must address various waste handling and disposal regulatory obligations because of the volume and variety of wastes generated by their operations. AFFs are subject to ODA waste disposal requirements for "agricultural wastes," namely manure and dead livestock. For LCAFFs, these waste management obligations are generally incorporated into the ODA permits under which LCAFFs generally operate.

[b] Manure Disposal

A single LCAFF can generate thousands of tons of manure every year. Typical manure management practices at LCAFFs involve manure consolidation in a waste pit or transport to manure treatment lagoons where solids are separated from liquids. The resulting wastes are often either applied to crop fields, sold as fertilizer, and/or partially treated and discharged to waters of the state, if the owner or operator has obtained an NPDES permit. The various regulatory requirements for manure application, and all other components of manure management at a LCAFF, including handling and storage requirements and land application, are specified in a facility's Manure Management Plan.

[c] Animal Mortality

Both ODA and ODNR, Division of Water Resources regulate the disposal of dead livestock. In Ohio, the placement of a dead animal carcass or offal upon land or water is a nuisance prohibited by statute, unless undertaken in accordance with the disposal procedures established by ODA and ODNR.

Owners must employ one of the following disposal methods:

Burial; incineration; dissolving by alkaline hydrolysis; rendering; or composting.

When livestock has died or been destroyed due to a dangerously infectious disease, its owner must dispose of it within twenty-four hours after learning of the animal's death or receiving written notice from ODA regarding disposal. ODA has authority to specify the method of disposal to be employed by the owner when ODA deems a specific method of disposal is necessary for the purpose of animal disease control.

Proper disposal of dead livestock is particularly important in the case of LCAFFs, at which thousands, and sometimes millions, of animals are present. The improper disposal of dead livestock could lead to conditions in and around a LCAFF that threaten human health and the environment, such as infestations of rodents and insects.

ODA-permitted LCAFFs are required to develop and implement Animal Mortality Plans, which are generally plans for the disposal of dead livestock that utilize best management practices to burn, bury, render, or compost dead animals in accordance with the disposal procedures established by ODA and ODNR.

[d] Ohio Livestock Care Standards Board

In November of 2009, the Ohio Livestock Care Standards Board was established. The Ohio Livestock Care Standards Board is charged with establishing statewide standards governing the care and well-being of livestock while promoting food safety, preventing animal and human diseases, and encouraging local food production.

- The Board's livestock care rules at OAC 901:12 et seq. became effective in September 2011. The rules establish animal care requirements for responsible parties concerning euthanasia, general care considerations, and distressed and disabled livestock.
 - Responsible parties include a person of legal age who is the owner of the livestock and/or a person who has current responsibility or custody of livestock.
 - Minor violations of the rules, which are generally due to neglect or unintentional acts of substandard practice, are finable up to \$500 for the first offense and up to \$1,000 for each subsequent offense committed within 60 months of the previous violation.
 - Major violations are reckless or intentional acts that result in the unjustified infliction of pain, such as placing an animal's life in imminent peril, causing protracted disfigurement, causing protracted impairment of health, or causing protracted loss or impairment of the function of a limb or bodily organ. Fines for major violations range between \$1,000 and \$5,000 for the first violations and \$5,000 and \$10,000 for each subsequent offense committed within 60 months of the previous violation.

[e] Solid and Hazardous Waste Disposal

For wastes not otherwise regulated under an ODA permit or other authority as an agricultural waste (such as manure and dead livestock), handling and disposal obligations must be assessed under Ohio's general solid and hazardous waste authorities.

[4] Air Emissions

Whether a particular operation of an agricultural producer qualifies as an air contaminant source subject to state air permitting requires careful analysis in light of a specific agricultural exemption codified in Ohio air law.

This exemption excludes from the statutory definition of "air contaminant" emissions from "agricultural production" activities, so long as such agricultural production activities 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.”

Despite the various subjective determinations that must be made in order to invoke the agricultural exemption, as a practical matter, very few state air permits have been required in Ohio for “agricultural production” operations such as AFFs for which the agricultural exemption was designed. In recent years, however, U.S. EPA has been gathering air emission data from AFFs. It is anticipated that requirements for the permitting of air emissions from AFFs are, as a result, likely in the near future.

Trap: Note that despite the agricultural exemption, LCAFFs and perhaps other agricultural operations may nevertheless be subject to air permitting if those facilities are deemed “major sources” under the federal Clean Air Act and thus require a “Title V” operating permit.

While each operation should be evaluated on a case-by-case basis to determine whether it may be a “major source,” it is likely few agricultural operations other than perhaps some LCAFFs will have “potentials to emit” pollutants that are elevated enough to surpass the pollutant thresholds (10 to 100 tons per year, depending on pollutant) associated with the federal “major source” definition.

While there has been little state air permitting activity in Ohio directed at LCAFFs in particular, the applicability of the air “agricultural exemption” does play a role in issuance of PTIs, PTOs, and NPDES permits in Ohio since regulators are required to assess a proposed facility’s compliance with other laws prior to issuance of the permit at hand. An Ohio court has held that where a state decision to issue a LCAFF PTO relies in part on a determination that a proposed facility qualifies for the air “agricultural exemption,” a site-specific evaluation of the exemption’s various criteria must be completed prior to permit issuance.

[5] Releases

In December 2008, U.S. EPA published a final rule whereunder all but the largest farms are exempt from reporting their air releases of hazardous substances that are generated from animal wastes. As directed by EPCRA § 304, non-exempt farms must report to their state and local agencies air emissions of ammonia and hydrogen sulfide of 100 pounds or more in a 24-hour period that are generated from animal wastes. The effective date of the new rule is January 2009.

[6] Neighbor Concerns and Disputes

[a] Background

LCAFFs and other large livestock operations are increasingly operating in closer proximity to and also coming into conflict with non-farmers due to the urbanization of traditionally rural areas. In response to odors, dust, noise, insects, rodents, water contamination, and manure spills emanating from livestock operations, non-farmers are taking legal action in the form of nuisance and trespass suits against LCAFFs in order to reduce or eliminate the adverse impacts of their operations. In response to the increased conflict between LCAFFs and non-farmers, Ohio has adopted legislation that establishes procedures for the creation of agricultural districts and agricultural security areas designed to protect farmland from development, defer certain tax assessments, and shield existing agricultural operations from some nuisance suits.

[b] Agricultural Districts and “Right to Farm” Protections

An owner of farmland can request that his property be placed in an agricultural district for a period of five years if, during the three preceding years, the farmland was devoted exclusively to agricultural production.

In the alternative, farmland is eligible for placement in an agricultural district if, at the time of the request and the during the three preceding years, it was enrolled in a federal land retirement or conservation program.

Farmland also must be composed of tracts, lots, or parcels of at least ten acres in size or have a gross income, or anticipated gross income, from agricultural activities of at least twenty-five hundred dollars during each of the preceding three years to be eligible for placement in an agricultural district.

Applications for placement of farmland in an agricultural district are made to the county auditor if the farmland is located in an unincorporated area. The auditor **MUST** grant the application if the eligibility criteria are met.

Applications regarding farmland located in a municipal corporation shall be submitted to the county auditor and the legislative body of the municipal corporation. Should the municipal corporation’s legislative body modify or reject the application, it must demonstrate that the modification or rejection was necessary to prevent a substantial, adverse effect within the municipal corporation on: the provision of municipal services; efficient use of land; orderly growth and development; or public health, safety, or welfare.

The denial or modification of an application may be appealed to the county court of common pleas.

Benefits of Ag Districts: First, assessments made on farmland by public entities for purposes of sewer, water, or electrical service are deferred while farmland remains in an agricultural district. The assessments may, however, be recovered when the farmland is withdrawn from an agricultural district or there is a change in its use. Second, agricultural districts also shield owners of farmland from nuisance liability under Ohio’s “right to farm” law. Under the “right to farm” law, an owner of farmland will not be found liable in a civil action for nuisance so long as the agricultural activities complained of were:

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

The above benefits and protections associated with agricultural districts are intended to create incentives to maintain the viability of farming as an industry in Ohio.

[c] Agricultural Security Areas

Agricultural security areas are designed to maintain the viability of farming as an industry in Ohio by protecting farmland from development and providing real property tax abatements. The legislation permits owners of farmland in unincorporated areas to request from their county commissioners and township trustees the enrollment of at least five hundred acres of contiguous farmland into an agricultural security area for ten years. The eligibility criteria for owners include:

enrollment in the Current Agricultural Use Valuation tax program;
enrollment in an agricultural district;
utilization of “best management practices”;

no civil or criminal violations of Ohio or federal environmental law in the ten years preceding the date of application.

If approved, the farmland will be enrolled in the agricultural security area for ten years, during which time the farmland will be protected from incompatible development and may receive a real property tax exemption on investments. If you withdraw, you pay back tax benefit.

[7] Enforcement

[a] Overview

Both Ohio EPA and ODA have enforcement authority with respect to the permitting and operation of Concentrated Animal Feeding Facilities.

[b] Ohio EPA Enforcement

AFFs are subject to regulation by Ohio EPA in several areas, including solid and hazardous waste disposal and NPDES permitting, until the ODA NPDES permitting program receives final approval from U.S. EPA. Any person who violates a law or regulation governed by Ohio EPA is subject to possible civil or criminal penalties, injunctive action, and jail time in some cases.

[c] ODA Enforcement

An ODA enforcement action against the owner or operator of a LCAFF may be initiated by a citizen complaint to ODA or it may follow agency action, such as an inspection of a LCAFF. ODA is authorized to require corrective actions and assess a civil penalty against an owner or operator who is in violation of the ODA permitting requirements for LCAFFs, the terms and conditions of a PTI or PTO, or the terms and conditions of an NPDES permit. A civil penalty may be imposed after the following conditions are met: ODA provides the owner or operator with written notice that identifies the violation, the actions that may be taken to correct the violation, and the time period within which compliance must be achieved; ODA issues notice of an adjudication hearing after the period of time within which to achieve compliance has passed and a subsequent ODA inspection determines that the LCAFF remains in violation; and ODA affords the owner or operator an opportunity for an adjudication hearing to challenge the alleged violation, the civil penalty, or both.

ODA may issue an order that requires abatement of the violation and payment of a civil penalty following the adjudication hearing or waiver of the hearing by the owner or operator. The order and penalty may be appealed in accordance with R.C. 119.12.

A person who violates the terms and conditions of a PTI, PTO, or NPDES permit may be liable for a civil penalty of up to but not more than twenty-five thousand dollars. ODA will evaluate the following factors when determining the amount of a civil penalty: (1) economic benefit from the violation; (2) economic impact on the violator; (3) acts of nature or third parties that resulted in or contributed to the violation; (4) any history of such violations; (5) any good-faith efforts to comply with applicable regulations; (6) any supplemental environmental projects undertaken by the owner or operator; (7) seriousness or magnitude of the violation; (8) gravity of effect of the violation; (9) such other matters as justice requires.⁸⁰ ODA may further modify the amount of a civil penalty using the penalty matrix provided in OAC 901:10-5-04(E), which accounts for the magnitude or seriousness of a violation, its gravity of effect, and the history of violations.⁸¹

A person who fails to obtain a PTI and/or PTO may be subject to a fine of up to twenty-five thousand dollars for each violation and imprisonment. The size of the fine and length of imprisonment depend on whether the violator acted negligently, recklessly, or knowingly. In addition, the Attorney General, at the request of ODA, may obtain injunctive relief and impose a civil penalty of not more than ten thousand dollars from any person violating or threatening to violate the LCAFFs permitting requirements or the terms and conditions of an NPDES permit.

§ 17.04. Storage and Handling of Fertilizers

Certain aspects of the storage and handling of fertilizers are regulated by ODA.

- Storage of liquid fertilizers in particular is subject to stringent regulation. “Liquid fertilizer” is defined to mean any fluid containing plant nutrients used to improve the quantity or quality of plant growth, excluding anhydrous ammonia.
 - New permanent storage vessels for liquid fertilizers must be approved prior to construction by ODA, which reviews such plans in light of applicable zoning, building and fire code mandates.
 - New construction of in-ground pits for storage of liquid fertilizers is prohibited. In-ground storage pits for liquid fertilizer remaining in service that were constructed prior to 1991 may continue to be operated, but must meet specific lining and leachate collection requirements and also must be taken out of service at the end of the useful life of the pit’s primary liner.
 - Operators of such vessels are subject to various spill control, containment, inspection and recordkeeping requirements. Storage of anhydrous ammonia also requires securing a license from ODA.
- Storage of dry fertilizer materials and nonliquid fertilizers are also subject to some ODA regulatory mandates, including a requirement that long-term (greater than thirty (30) days per year) storage must occur inside a structure or impermeable device.
- In 2007, the U.S. Department of Homeland Security (DHS) adopted regulations, which are called the “chemical facility” rules, that require any chemical facility that possesses any chemical of interest at or above the screening threshold quantity set forth in Appendix A of the rules to complete and submit information—called a “Top Screen” analysis—to the DHS by January 22, 2008.
 - “Chemical facility” is broadly defined in the rules as any establishment that possesses or plans to possess, at any relevant point in time, a quantity of a chemical substance determined by the DHS to be potentially dangerous or that meets other risk-related criteria identified by the DHS.

In the meantime, DHS has indefinitely delayed the requirement that regulated agricultural users provide DHS with a Top Screen analysis. Until further notice, or unless otherwise specifically notified in writing by DHS, the Top Screens will not be required for any facility that is required to submit a Top Screen solely because it possesses any chemical of interest, at or above the applicable screening threshold quantity, for use in preparation for the treatment of crops, feed, land, livestock, or other areas of an agricultural production facility, or during application to or treatment of crops, feed, land livestock, or other areas of an agricultural production facility.

The extension does not, however, apply to agricultural production facilities that possess a chemical of interest at or above a screening threshold quantity that the facility uses as a fuel.⁹⁶ Consequently, a

farmer who possesses propane, for example, at one farm in an amount above the Appendix A screening threshold quantity, should have completed a Top Screen analysis for the propane by January 22, 2008.

Alert: In May 2014, Governor Kasich signed Ohio S.B. 150 into law, creating the Agricultural Fertilizer Applicator Program. The first of its kind, the program requires anyone who applies commercial fertilizer to 50 or more acres to become certified by ODA (or operate under the direct supervision of a person who is certified) no later than September 30, 2017. Certification requires three steps: filling out an application form, paying an application fee, and attending a training session. Certifications are valid for three years. Persons holding a valid certification will obtain an affirmative defense to civil actions for claims involving or resulting from the application of fertilizer, if certain other requirements are met.

§ 17.05. Agricultural Drainage

Proper drainage of agricultural lands is a necessity in Ohio.

Approximately fifty-five percent of Ohio's arable soils require the removal of excess water in order to prevent soil erosion, increase agricultural productivity, and reduce conditions that would prevent farm equipment from accessing fields during the spring and fall. Drainage improvements take a variety of forms; however, ditches and subsurface drains are most commonly used to remove excess water from the surface and subsurface of agricultural lands.

Landowners are responsible for the construction and maintenance of drainage improvements on their property. In the course of constructing or maintaining such improvements, landowners are legally permitted to make a "reasonable use" of their land, even if the improvements alter or interfere with the natural flow of water causing harm to others and their land.

A landowner may petition the county government to construct and assume responsibility for the maintenance of drainage improvements in those circumstances where a drainage problem impacts more than one landowner and the proposed improvement would benefit the general public. However, the county's costs to construct and maintain the drainage improvement are paid via assessment by the landowners who receive the benefit of the improvement.

§ 17.06. Dangerous Wild Animals

Ohio regulates the possession of dangerous wild animals and certain snakes. Dangerous wild animals generally include large cats, bears, elephants, certain monkeys, rhinos, alligators, crocodiles, anacondas and pythons that are 12 feet or longer, vipers, and certain other venomous snakes. Executive Order 2012- 18K, dated November 27, 2012, authorized ODA to immediately adopt the administrative rules written by the Dangerous and Restricted Animals Advisory Board that govern the care and housing of registered dangerous wild animals in Ohio. Persons in possession of dangerous wild animals on the effective date of the law were required to register them with ODA and come into compliance with the temporary rules no later than February 25, 2013.

- The law generally prohibits any person from:
 - trading, removing the required locator microchip that is implanted in a dangerous animal;
 - selling or offering for sale a dangerous wild animal;
 - knowingly
 - allowing a dangerous wild animal to roam off the property where it is confined;

removing the teeth or claws of a dangerous wild animal;
failing to comply with signage requirements; and
knowingly releasing a dangerous wild animal into the wild.

- Venomous snake owners are required to have access to anti-venom for each of their species of venomous snake at the location the snakes are confined. Owners are also required to provide ODA with proof the required anti-venom is maintained. Under the law, all costs associated with the treatment of a venomous snake bite are the responsibility of the owner.
- The law provides for five types of dangerous wild animal permits:
 - Wildlife Shelter Permit;
 - Wildlife Propagation Permit;
 - Restricted Snake Possession Permit;
 - Restricted Snake Propagation Permit; and
 - Rescue Facility Permit.
- Each permit type requires the permittee to maintain certain levels of liability insurance. With respect to Rescue Facility Permits, permittees are prohibited from (1) purchasing animals; (2) selling or trading animals; (3) using animals in any manner for profit; (4) breeding animals; and (5) allowing the public to come into contact with the animals.
- Today, no person shall possess a dangerous wild animal unless registered and permitted. Exceptions to the ODA permitting requirements include:
 - accredited zoos and aquariums; certain research facilities; accredited circuses;
 - veterinarians providing temporary care; wildlife shelters accredited by the Global Federation of Animal Sanctuaries; individuals traveling through Ohio who are not in the state for more than 48 hours and do not exhibit the animals or allow them contact with the public; educational institutes that display a single dangerous wild animal as a mascot; persons or facilities possessing certain Ohio DNR permits; service spider monkeys trained by non-profit organizations.

(Interesting read) - In December 2012, the constitutionality of the law was upheld by the U.S. District Court for the Southern District of Ohio, Eastern Division following a three-day trial. The challenge was brought by seven owners of dangerous wild animals who claimed the law imposed unreasonable financial hardships on them and its requirements endangered their animals. For example, the plaintiffs argued that animals anesthetized during the required microchipping procedure, particularly older animals, were less likely to recover. Ultimately, the court concluded protecting the public outweighed the possible infringement of the rights of individuals to own dangerous wild animals without regulation. In March 2014, the constitutionality of the law was upheld by the Sixth U.S. Circuit Court of Appeals.

§ 19.01. Introduction

ODNR Division of Wildlife regulates Ohio's plant and animal species through a number of regulations.

The Division of Wildlife regulations regulates the conduct of hunting and fishing throughout Ohio, including the licensing of hunters and the maintenance of state-owned or administered lands designated as public hunting areas. Division of Wildlife also regulates the propagation of wild animals and is responsible for the protection of Ohio's endangered or threatened plant and animal species.

§ 19.02. Hunting and Fishing

[1] Open and Closed Seasons

Ohio law mandates that fishing in the inland of Ohio and its Lake Erie fishing districts, the hunting for game birds and game animals throughout the state, and the taking of fur bearing animals in designated trapping areas may occur only during open season.

Division of Wildlife regulations also specify the length of each open season for each wild animal, as well as the number and size of the animals that may be taken during each open season. The possession of the hide, skin, or pelt of a wild animal during closed season constitutes prima facie evidence that the person in possession took the wild animal illegally. Each hide, skin, or pelt taken or in a person's possession during closed season also constitutes a separate offense. Generally, any person may engage in the live trapping and releasing of nuisance wild animals at any time of year, although certain nuisance wild animals—such as white-tailed deer, black bear, and wild turkey—cannot be trapped without first obtaining a permit from the Division of Wildlife. Persons who engage in the trapping or taking of nuisance wild animals for profit must first obtain a commercial nuisance wild animal control operator license from the Division of Wildlife.

[2] Permits and Licenses

The Division of Wildlife requires permits and licenses for hunting, fishing, commercial fishing of yellow perch in the Ohio Waters of Lake Erie, falconry, fur taking, and fur dealing in Ohio. In addition to a license, special permits are required to hunt or trap specific game animals, such as turkey, deer, and water fowl. A permit is also required where operation of an energy facility (i.e., a facility where energy is produced) results in an incidental taking of a wild animal.

Licenses and permits may be issued by agents designated by the Chief of ODNR, Division of Wildlife, including village clerks, township fiscal officers, and the Clerk of the Court of Common Pleas. Licenses are valid from March 1 to the last day of February of the ensuing year and are nontransferable. They must be exhibited by the hunter to any person in control of the land upon which the hunter is engaged in hunting or trapping. All license and permit fees received by ODNR are to be used for hunter education programs, the management of wild animals, and the Department's acquisition of land.

In March 2011, ODNR adopted a web-based licensing and gamecheck system that replaced its current point-of-sale system. The web-based system, called the Wild Ohio Customer Relationship Management System, enables hunters to purchase and print licenses and permits instantly via the Internet from home or at a license sales outlet. The system also enables deer and turkey hunters to check game on the Internet, over the phone, or at any license sales outlet.

Certain individuals are not required to obtain licenses, permits, or stamps for hunting or trapping.

Exempt individuals include:

Ohio resident landowners, spouses, and their children are not required to have a hunting license, fur taker permit, either-sex deer permit, antlerless deer permit, spring or fall turkey permit, or Ohio Wetlands Habitat Stamp when hunting or trapping on land they own.

A nonresident landowner, and the spouse and children living with the landowner, may hunt on that property without a license, either-sex deer permit, antlerless deer permit, spring or fall turkey permit, Ohio Wetlands Habitat Stamp, or fur taker permit if the nonresident's home state allows residents of Ohio owning property in the nonresident's home state, and the spouse and children living with the Ohio property owner, to hunt without a license, deer permit, spring or fall turkey permit, wetlands habitat stamp, or fur taker permit.

A member of a limited liability company or partnership is a landowner provided the member is an Ohio resident and the limited liability company or limited liability partnership consists of three or fewer individual members or partners, or the beneficiary or trustee of a trust that has three or fewer trustees or beneficiaries.

Tenants and their children on land on which they reside and from which they derive the majority (more than 50 percent) of their income from agricultural production on that land are not required to have a hunting license, fur taker permit, either-sex deer permit, antlerless deer permit, spring or fall turkey permit, or Ohio Wetlands Habitat Stamp when they are hunting or trapping on land where they reside. Ohio resident landowners' grandchildren who are under 18 years of age are not required to have a hunting license or an Ohio Wetlands Habitat Stamp while hunting on their grandparents' land. All other licenses and permits are required.

Members of the U.S. Armed Forces on active duty while on leave or furlough are not required to purchase a hunting license, Ohio Wetlands Habitat Stamp, or fur taker permit. All other licenses and permits are required.

The following Ohio residents are eligible for free licenses, permits and stamps:

Ohio residents born on or before December 31, 1937 will receive a free fishing license, hunting license, either-sex deer permit, antlerless deer permit, spring and fall turkey permits, Ohio Wetlands Habitat Stamp, and fur taker permit. Ohio residents age 66 and older who were born on or after January 1, 1938 are eligible for reduced-cost licenses and permits.

Ohio residents who are holders of a veteran's license plate displaying the international wheelchair symbol must apply in writing for a free hunting license, fur taker permit, either-sex deer permit, spring or fall turkey permit, and an Ohio Wetlands Habitat Stamp endorsement. Applications must be certified by the U.S. Department of Veterans Affairs.

Permanently and total disabled veterans who receive pension or compensation due to their service-related injuries and who are Ohio residents must apply in writing for a free hunting license, fur taker permit, either-sex deer permit, turkey permit, and Ohio Wetlands Habitat Stamp. Applications must be certified by the U.S. Department of Veterans Affairs.

Ohio residents who are former prisoners of war must apply in writing for a free hunting license, fur taker permit, and Ohio Wetlands Habitat Stamp. All other licenses and permits are required to be purchased.

Applications must be certified by the U.S. Department of Veterans Affairs.

A resident of any other state who owns real property in Ohio, and the spouse and children living with the property owner, may hunt on that property without a license, provided that the state of residence of the real property owner allows residents of Ohio owning real property in that state, and the spouse and children living with the property owner, to hunt without a license.

First time hunters cannot obtain a hunting license until after they pass a hunting education course. Youth hunters (ages 17 and under) are also restricted. They must obtain a youth license, and must be accompanied by an adult 18 or older at all times. Ohio also issues an apprentice hunting license to adults and youth as a means of sampling the experience of hunting under the mentorship of a licensed adult prior to completing a hunter education course. Apprentice hunters must be accompanied by an adult 21 or older at all times.

[3] Interstate Wildlife Violator Compact

Ohio is a member of the Interstate Wildlife Violator Compact, an agreement that recognizes suspension of hunting, fishing, and trapping licenses in member states. Illegal activities in one state can affect a person's hunting or fishing privileges in all participating states. For example, any person whose license privileges or rights are suspended in a member state may also be suspended in Ohio. Ohio residents with suspended hunting, fishing, or trapping licenses who plan to hunt, fish, or trap in another state must contact the other state to see if they can legally hunt, fish, or trap there. A list of member states is available at <http://wildlife.ohiodnr.gov/licensesand-permits/interstate-wildlife-violator-compact>.

The Interstate Wildlife Violator Compact also establishes a process whereby wildlife law violations by a non-resident from a member state are handled as if the person were a resident, meaning they can be served a ticket rather than being arrested, booked, and bonded. This process is a convenience for hunters, fisherman, and trappers of member states, and increases efficiency of Wildlife Officers by allowing more time for enforcement duties rather than violator processing procedures.

[4] Hunting Without Permission

The Division of Wildlife maintains approximately 165,000 acres of state-owned or administrated lands for use as public hunting areas; however, these lands make up only five percent of the land in Ohio. Much of the remainder of Ohio's land is privately owned. Hunting and trapping on private lands is not permitted unless the hunter or trapper has obtained written permission in advance from the landowner pursuant to Ohio's "recreational user" law. The Division of Wildlife provides printed "Permission for Hunting and Trapping on Private Land" forms that a hunter or trapper can carry with him or her and present to a private landowner for signature as needed to access private lands. The hunter or trapper is required to carry his or her written permission at all times when he or she is upon private lands. Private

landowners and their authorized agents who grant written permission to use their land for hunting and trapping, without charging a fee, are not liable to the user or others for injuries in the event of an accident. Private landowners and their authorized agents are not, however, exempt under Ohio's "recreational user" law for injuries that result from their willful or wanton misconduct or intentionally tortious conduct.

[5] Harassment of Hunters Prohibited

The Division of Wildlife prohibits a variety of activities intended to interfere with the lawful hunting, trapping, and fishing for wild animals.

Prohibited activities include:

Creating noise to interfere with hunting;

Placing oneself in a location where their presence will affect the behaviour of the wild animal or the feasibility of it being taken;

Creating sights, smells, or other stimuli that will affect behavior of the wild animal; and

Affecting the condition or location of personal property intended for use in hunting, trapping, or fishing.

The Court of Common Pleas may enjoin any such conduct deemed to be harassment of hunters, trappers, and fishermen.

[6] Hunting Preserves

The Division of Wildlife permits the operation of wild animal hunting preserves and commercial bird shooting preserves.

Wild animal hunting preserves are areas of land no less than 80 acres where game, captive whitetailed deer, and nonnative wildlife other than game birds are released and hunted as authorized by a license obtained from the Division of Wildlife under R.C. 1533.721.29 Commercial bird shooting preserves are areas of land no less than 80 acres where game birds are released and hunted by shooting as authorized by a license obtained under R.C. 1533.72.30 Wild animal hunting preserves must be surrounded by a fence of at least 8 feet in height that is clearly identified by posted signs at intervals of not more than 400 feet. No person may release for hunting, or hunt within a wild animal hunting preserve, any game or nonnative wildlife listed as an endangered species, bears native to North America, or large feline carnivores (e.g., lions, tigers, leopards, cougars). Similarly, the boundaries of each licensed commercial bird shooting preserve must be clearly marked at intervals of not more than 200 feet. Recent legislation allows persons to hunt within licensed preserves without first obtaining a hunting license from the Division of Wildlife.

[7] Nuisance Wild Animals

In Ohio, any person may trap live, non-migratory animals, except whitetailed deer, black bear, or wild turkey when such animals become a nuisance. A nuisance wild animal is a wild animal that interferes with the use or enjoyment of property, is causing a threat to public safety, or may cause damage or harm to a structure, person or property. It is unlawful for a non-licensed person to live-trap on the lands of another without permission or possess a live-trapped wild animal longer than 24 hours. Individuals who possess a commercial nuisance wild animal control operator license may trap and take wild animals, except white-tailed deer, black bears, wild turkey, and waterfowl. Nuisance animals may be killed by a license holder with written permission of the Division of Wildlife if it is established the animals are causing damage and cannot be live-trapped,⁴¹ although no such written permission is required for the taking of certain nuisance animals, such as opossum, raccoon, coyote, or fox. All trapped animals must be released outside the limits of any incorporated village or city.

Nuisance white-tailed deer, black bear, and wild turkey that are causing damage may be killed by licensed individuals or other persons after receiving written permission from the Division of Wildlife. Nuisance Canada Geese that are causing damage may be captured or taken by licensed individuals, landowners, or their agents only after receiving a goose damage permit from the Division of Wildlife.

§ 19.03. Wild Animal Propagation

[1] Licensing

Ownership of and title to wild animals in Ohio is held by the state. Consequently, individuals may not own, raise, or keep wild animals without obtaining a license from the Division of Wildlife. Three licenses are available for the propagation of wild animals in Ohio. A commercial propagatory license permits the licensee to raise wild animals and sell them or kill them for food. A non-commercial propagatory license permits the licensee to raise wild animals for personal use, but the person is not permitted to sell the animals. A third license, the "Raise and Release" license, permits clubs and similar organizations to raise wild animals for release only. Each license issued for the propagation of wild animals expires on March 15 of the following year.

[2] Private Ownership of Wild Dangerous Animals

See Chapter 17.

[3] Aquaculture

Aquaculture, which is the raising of aquatic animals for sale such as fish and fish food, is regulated by the Division of Wildlife. Permits to propagate fish and fish food, deal bait, and transport fish into the state are issued by ODNR on an annual basis. ODNR maintains a list of fish and fish food propagators, which ODNR makes available to the public on its website.

§ 19.04. Endangered and Threatened Species

The Division of Wildlife has adopted regulations setting forth the criteria for identifying and designating endangered and threatened species of plants native to Ohio. A list of endangered and threatened species of plants is maintained at OAC 1501:18-1-03. The taking of any such plants for commercial purposes by any person is prohibited. However, the taking of endangered or threatened plants for scientific, educational, or preservation purposes is allowed so long as the person obtains a permit from the Division of Wildlife before doing so.

The Division of Wildlife also protects endangered animal species that are native to Ohio. Lists of Ohio's endangered and threatened animal species are maintained at OAC 1501:31-23-01 and OAC 1501:31-23-02. An ODNR-issued permit is required to take, transport, sell, or possess an endangered animal species, or any part thereof.

§ 19.05. Enforcement

What methods the Division of Wildlife employs to enforce its regulations

- Wildlife officers and employees of the Division of Wildlife designated by the Division Chief are granted certain authority to act as law enforcement officers, including the serving and executing of warrants, enforcement of ODNR laws and regulations, making arrests, and seizing wild animals, and parts thereof, that have been taken or propagated illegally.

- The Division of Wildlife also may suspend or revoke licenses and permits associated with hunting, trapping, and fishing, prosecute violations of ODNR regulations, and impose monetary penalties against violators. Each Ohio wild animal or plant species may be assigned a monetary value and the Division of Wildlife may bring a civil action to recover possession of or restitution value of any wild animal held, taken, bought, sold or possessed in violation of Ohio laws & regulations.