

**Rule Summary and Fiscal Analysis (Part A)****Department of Agriculture**

Agency Name

**Livestock Environmental Permitting**

Division

**Marsha Perge**

Contact

**8995 East Main Street Reynoldsburg OH  
43068-3399**

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**901:10-1-01**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Definitions.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **903.08, 903.10**

5. Statute(s) the rule, as filed, amplifies or implements: **903.01, 903.02, 903.03, 903.04, 903.05, 903.07, 903.08, 903.081, 903.082, 903.09, 903.10**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To remove and/or add definitions pursuant to the changes and guidelines for delegation of the NPDES program, and revise definition of reasonably available as it relates to livestock manager certification.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

Clarify definition regarding cold water habitat, director's authorized representative, distribution and utilization, facility, land application areas, manure storage, manure storage or treatment facility, reasonably available, and surface waters.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule references chapter 40 of the code of federal regulations as well as multiple rules established by the department. All references are available free via website at [www.usda.gov](http://www.usda.gov) or [www.ohioagriculture.gov](http://www.ohioagriculture.gov). A hard copy is also available for a fee to any person who submits a request to the appropriate governing body.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

As the referenced material in this rule is either being filed in a package in conjunction with this rule package or the referenced material is readily available to affected persons, it would be infeasible to file it as an electronic attachment to this rule.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

*Not Applicable.*

12. 119.032 Rule Review Date: **10/6/2008**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

No impact on the agency.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable. This rule does not authorize an expenditure.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

No new cost to affected persons. The cost of compliance is minimal if the affected persons are in compliance with the rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

**Environmental Rule Adoption/Amendment Form**

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
- (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
- (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
- (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.

(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted?

  X                                
 Yes                              No

If YES, please list each contact.  
Please see attached list number 1

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If NO, please explain why affected organizations were not contacted.

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

(B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered?

  X                                
 Yes                              No

Rule # \_\_\_\_\_

If YES, please list the information provided and attach a copy of each piece of documentation to this

form (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION).  
See attachment list 2

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If NO, please indicate the reasons for not providing the information.

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(C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program?

  X                                
Yes                              No

If YES, is the proposed rule or rule amendment more stringent than its federal counterpart?

  X                                
Yes                              No

If YES, what is the rationale for not incorporating the federal counterpart?

The federal counterpart has been incorporated into the rule.

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(D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend?

  X                                
Yes                              No

If YES, please explain why?

To comply with the federal regulations for NPDES delegation.

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Environmental Rule Adoption/Amendment Form

Attachment 1

Contact List:

Doug Alderman, Ohio Water Environment Association, ODA CAFF Committee

Cathy Alexander, Ohio EPA, ODA CAFF Committee

Carl Ayers, Ohio Dairy Farmers

Patrick Bailey, ODA

Ron Baldrich, Ottawa Vet Clinic

Tim Barnes, Ohio Sheep Improvement Association, ODA CAFF Committee

Richard Bodenbender, Citizens of Putnam County

Robert J. Boggs, ODA

Gary Bowman, OSU

Gerald Boynton, Public Representative, ODA CAFF Committee

Scott Briggs, Tuscarawas SWCD

Dr. Beverly Byrum, ODA

James Carey, Concerned Citizens

Jim Chakeres, Ohio Poultry Assn.

Don Clark, Ohio Dept. of Development

Michael Cochran, Ohio Township Assn.

Collin Coy, Water Management Association of Ohio, ODA CAFF Committee

Matt Davis, Ohio Pork Producers

Chuck Divelbiss, Public Representative, ODA CAFF Committee

Trent Dougherty, Rep. of Statewide Environmental Advocacy, ODA CAFF Committee

Dr. Maurice Eastridge, OSU, ODA CAFF Committee

Kristina Erlewine, ODA

Michael Eggert, OEPA

Kevin Elder, ODA

Andy Ety, ODA

Norman Fausey, USDA-ARS

Glen Feichtner, Ohio Cattlemen's Association, ODA CAFF Committee

Kit Fogle, Ohio Farmers Union

Dr. Tony Forshey, ODA

Heidi Fought, Ohio Township Assn.

Jerry Freewalt, Ohio Catholic Rural Life

Mark Fritz, ODA

Julie Funk, OSU

Larry Gearhardt, Ohio Farm Bureau

Ralph Haefner, USGS

Tom Hafer, Marion SWCD

Joe Haines, ODA

David Hanselman, Ohio Dept. of Natural Resources, ODA CAFF Committee

Amanda Hargett, OSU Extension

Elizabeth Harsh, Ohio Cattlemen's Assn.

Kelly Harvey, ODA

Bernard Heisner, COBA/Select Sires, Inc.

Tom Hertzfeld, Sr., Ohio Poultry Assn.

Kent Hoblet, OSU

Leo Homan, Ohio Farmers Union

Jim Hoops, State Representative

Bill Hopper, ODA

Pat Hord, Swine Producer

Dick Isler, Ohio Pork Producers

Peggy Jackson, ODA

Rob Hamilton, ODNR

Ron Kadesch, Ohio Family Farm Coalition

Vicki Kadesch, Pauling County First  
John Kahle, Citizens of Putnam County  
Janice Kennedy, Concerned Citizens  
Jeff Layman, OSU  
Ritchie Laymon, Ohio Law Coalition  
Jeff LeJeune, OSU  
Maggie Lewis, OCDRCM  
Carl Link, Ohio Pork Producers, ODA CAFF Committee  
David Linkhart, OFSWCD  
Joe Logan, Ohio Farmers Union  
William Long, Ohio Farm Family Coalition  
Dick Lorenz, Westerville Water Division  
Lenny Losh  
Russell Ludwig, County Commissioners Association, ODA CAFF Committee  
Ed Luersman, Ohio Family Farm Coalition  
Laddie Marous, Ohio State Grange  
Alice McKenney, Tuscarawas SWCD  
Jason Menchhofer, Ohio Environmental Health Association, ODA CAFF Committee  
Thomas Menke, Menke Consulting, Inc.  
Terry Mescher, ODNR  
Mike Monnin, NRCS  
Dr. Bobby Moser, OSU  
Dr. Michael Mull, Ohio Veterinary Medical, ODA CAFF Committee  
Christine Pence, ODA  
Marsha Perge, ODA  
Lisa Pfeifer, OSU  
Tom Price, Public Representative, ODA CAFF Committee  
Irene Probasco, Ohio Alliance for the Environment  
Nancy Raeder, Ohio Farm Family Coalition



John Rausch, OSU - Extension

Christina Ritchey Wilson, Columbus Health Dept.

Chris Rodabaugh, ODA

Rob Russell, Protect Our Earth's Trees

Bill Saville, OSU

Peter Schade, Cuyahoga Co. Health Dept.

David Schleich, ODA

Heather Schofield, Ohio Dairy Farmers Federation

Mike Schroeder, Windmill Swine Farms

Bill Schwaderer, ODA

Rendell Shira, Burch Hydro

William Shulaw, OSU

George Slater, Public Representative, ODA CAFF Committee

Brent Sohngen, OSU

Tom Sporleder, OSU

Keith Stimpert, Ohio Farm Bureau

Ralph Stonerock, Akey, Inc.

Susan Sutherland, Ohio Environmental Health Assn.

Mac Swinford, ODNR-Geo Survey

Roger Tedrick, ODA

Lisa Tharp, Ohio State Grange

Jim Tobin, Catholic Conference of Ohio

Curtis Truss, Ohio Water Environment Assn.

Charles Twining, ODA

Leon Weaver, Ohio Dairy Farmers Federation, ODA CAFF Committee

Tim Weaver, Ohio Poultry Association, ODA CAFF Committee

Dave White, Ohio Farm Bureau

Mark Scarpitti, NRCS

Adam Ward, ODA

Rick Wilson, Ohio EPA

Jim Young, ODA

Gary Zwolinski, ODA

Environmental Rule Adoption/Amendment Form  
Attachment 2

Index List:

**APHA (1992) *Standard methods for examination of water and wastewater* (18<sup>th</sup> edition). New York, NY.**

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- \*M.L. Eastridge and S. Steele (2001). Questions Pertaining to Large Dairy Enterprises in Ohio: Regulations. AS-0009-01. Ohio State University Extension: Columbus, OH
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