

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:10-1-01
Rule Type: Amendment
Rule Title/Tagline: Definitions.
Agency Name: Department of Agriculture
Division: Livestock Environmental Permitting
Address: 8995 E. Main St. Reynoldsburg OH 43068
Contact: Renee Schmauch **Phone:** 614-728-6295
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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 4/23/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 903.08, 903.10
5. **What statute(s) does the rule implement or amplify?** 903.01, 903.02, 903.03, 903.04, 903.05, 903.07, 903.08, 903.081, 903.082, 903.09, 903.10
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

The rules in this package are being filed in accordance with the five year rule review process.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:10-1-01 Definitions outlines the definitions as used in Division 901:10 of the Ohio Administrative Code. The rule is being amended to revise language to further clarify definitions: revised the definition "Agricultural Stormwater Discharge" to remove the term "runoff" and the phrase "drains over terrain" as they limit manure application scenarios that could be considered agricultural stormwater discharges; adds "permit transfer" and "permit modification" to the definition "Applicant"; adds the website where the Ohio Natural Resource Conservation Service, Conservation Practice Standards may be found to the definition "Buffer Strip"; updates the edition year of the standards to the definition "Buffer Strip"; changes the word "operation" to "facility" where applicable; replaces the word "site" with "area" to describe land where manure is applied where applicable; changes the word "lagoon" to "anaerobic digesters"; the definition of "manure storage or treatment facility" has been further described by adding "treatment, energy recovery, nutrient recovery"; the definition of "Overflow" has been revised to mean spillage instead of discharge; the definition of "Point source" has been simplified; and changes the word "embayments" to "embankments" to correct a misspelling. The rule revision makes stylistic changes according to the Legislative Service Commission's rule drafting requirements.

- 9. Does the rule incorporate material by reference? Yes**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates Ohio Revised Code and/or Federal Code sections in the rule which are exempted from the incorporation by reference standards in section 121.75 of the Revised Code.

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

Not Applicable

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). Yes

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. Does this rule have an adverse impact on business? No

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 1

OAC 901:10-1-01 paragraph FFF, section 1 removes the requirement that A material and substantial alteration of the facility including an increase of the number of animals that exceed the design capacity of an existing facility by ten per cent or more in excess of the design capacity set forth in the current permit, provided that in no case during a five year period shall the facility's or facility's capacity be modified to increase by more than ten per cent in the aggregate.

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable

Rule Summary and Fiscal Analysis

Part C - Environmental Rule Questions

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? Yes

Please list each contact.

David Neef – Ohio Pork Producers Council
Chris Weaver – Ohio Dairy Producers Association
Franklin Phelps – Ohio Cattlemen's Association
Tom Hertzfeld, Jr. – Ohio Poultry Association
Roger High – Ohio Sheep Improvement Association
Todd Price, DVM – Ohio Veterinary Medical Association
Tony Anderson – Ohio County Commissioners Association of Ohio
Eric Dresbach – Ohio Water Environment Association
Pete Bucher – Ohio Environmental Council
Dick Lorenz – Water Management Association of Ohio
Jason Menchofer – Ohio Environmental Health Association
Jessica D'Ambrosio – Statewide Environmental Advocacy (TNC)
Mike Monnin – Public Representative
Lori Scott Martensen – Public Representative
Doug Billman – Public Representative
David Quallen – Public Representative

Brad Lodge – Ohio Department of Natural Resources
Rick Wilson – Ohio EPA
Maurice Eastridge, PhD – The Ohio State University
Sam Mullins – Ohio Department of Agriculture

- (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? 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.)

Previous development of this rule contained such documents; however at this time the rule is being reviewed solely in accordance with the five-year review requirement.

(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? No

Is the proposed rule or rule amendment more stringent than its federal counterpart?
Not Applicable

(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? No