

901:10-1-01 **Definitions.**

As used in Chapters 901:10-1 to 901:10-6 of the Administrative Code, the definitions contained in Chapter 903. of the Revised Code and the following definitions are applicable:

(A) Administrator means the administrator of the United States environmental protection agency.

(B) Agricultural drainage well means a class five underground injection control well that receives or has the potential to receive drainage from irrigation tail-waters, animal yards, feedlots or dairy runoff and any related agricultural field runoff. An injection well is any bored, drilled, or driven shaft or dug hole whose depth is greater than the largest surface dimension.

(C) Agricultural stormwater discharge means runoff generated by precipitation that drains over terrain used for agriculture as defined in section 1.61 of the Revised Code that conveys manure to waters of the state, provided that the manure has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of nutrients in manure in compliance with the best management practices set forth in Chapter 901:10-2 of the Administrative Code.

(D) Agronomic rate means a rate of application of nutrients from any source to the land or an amount of nutrients removed by crop based on:

(1) Nutrient content of the manure to be applied;

(2) Nutrient needs of the current or planned crops; and

(3) Nutrient holding capacity of the soil.

(E) Ammonia (as N) means ammonia reported as nitrogen and is listed with approved methods of analysis in table 1B at 40 CFR 136.

(F) Applicant means a person applying for a permit, certificate, or submitting a claim of trade secrecy to the director.

(G) Appropriate design plan means a construction plan for a manure storage or treatment facility that has been accepted by the department as meeting best management practices and recognized industry standards for construction. This includes pre-engineered design plans for the design and construction of manure storage or treatment facilities that have been shown by the engineer, manufacturer, or distributor to conform to the requirements of Chapter 903. of the Revised Code.

(H) Appropriate examination means an examination that has been approved by the department.

(I) Appropriate training program means a training program that has been approved by the

department.

(J) Aquifer means an underground consolidated or unconsolidated geologic formation or series of formations that are hydraulically connected and that have the capability to receive, store, and yield useable quantities of water to wells. Aquifer does not include perched groundwater.

(K) Application means the form and supporting documents used by an applicant to apply for an Ohio permit under this chapter.

(L) Average precipitation means the precipitation over the length of a storage period.

(M) Beneficial organisms mean predators, parasites, or pathogens that, during their life cycle, are used to suppress pest organisms or are otherwise beneficial.

(N) Best management practice (BMP) means a practice or combination of practices that is determined to be the most effective and practicable including technological, economic, and institutional controls as a means of complying with the applicable standards of Chapter 903. of the Revised Code. BMPs may include structural and nonstructural practices, conservation practices, prohibition of practices, schedules of activities, operation and maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage, or leaks, sludge or waste disposal or drainage from raw material storage.

Comment: For purposes of this chapter, institutional controls such as proprietary controls are those that involve legal instruments placed in the chain of title on the site of the property. Such proprietary controls include but are not limited to: easements, covenants, well drilling prohibitions, zoning restrictions and special building requirements.

(O) Biosecurity refers to the policies and measures taken for protecting food supply and agricultural resources from contamination. Biosecurity also refers to those measures taken to keep disease agents out of populations, herds or groups of animals where they do not already exist. Significant areas on a facility in biosecurity are sanitation, isolation of incoming or returning animals, cleaning and disinfection and traffic control to limit disease spread between all facilities in the production unit.

(P) BOD5 means five-day biochemical oxygen demand and is listed with approved methods of analysis in table 1B at 40 CFR 136.

(Q) Buffer strip means setback of an area of permanent vegetation, often planted along the edge or the contour of a land application site or a slope of the field usually for management practices, including practices to slow the flow of water runoff or enhance water filtration, and minimize the risk of any potential nutrients or

pollutants from leaving the field and reaching surface waters. Types of buffers include filter strips, field borders, field windbreaks, shelterbelts, contour grass strips, vegetated cover and riparian buffers.

(R) Certified livestock manager means a person that has been duly certified by the department and currently holds a valid livestock manager certification.

(S) Cold water means waters designated by the Ohio environmental protection agency as set forth in Chapter 3745-1 of the Administrative Code.

(T) Compliance plan means:

(1) A written plan prepared and submitted by the owner or operator by registered or certified mail; and

(2) A statement prepared by the owner or operator that describes the actions the owner or operator will take to eliminate the deficiencies that resulted in noncompliance and includes a schedule stating the time by which each of the actions shall be accomplished to achieve compliance.

(U) Construction, for the purposes of stormwater construction permits, means the initial disturbance of soils associated with clearing, grading or excavating activities.

(V) Department means the Ohio department of agriculture.

(W) Design capacity means the ability to house or maintain the total number of animals confined or to be confined in open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, medication pens, animal walkways, and stables.

(X) Dikes mean both dikes and embankments.

(Y) Director means the director of the Ohio department of agriculture or the director's duly authorized representative.

(Z) Distribution and utilization methods mean written methods of how manure will be distributed and utilized in a manner that may include land application by a person other than the owner or operator and conducted in accordance with rule 901:10-2-11 of the Administrative Code.

(AA) Ditch means an excavation, either dug or natural, for the purpose of drainage or irrigation.

(BB) Diversion means a channel constructed across the slope for the purpose of intercepting surface runoff.

(CC) Drainageway means an area of short-term low-gradient non-erosive concentrated

surface water runoff which occurs during or shortly after precipitation events and is not a river, stream, ditch or grassed waterway. Drainageway areas are normally planted with crops each year.

(DD) Draft action means a written statement that gives the director's intention with respect to the issuance of any permit, including a NPDES permit or a general permit, concerning which persons authorized by regulation or by section 903.09 of the Revised Code may file comments or request a public meeting, but which will not be the subject of an adjudication hearing before the director.

(EE) Drinking water source protection area for a public water system means:

(1) A public water system using groundwater and the surface and subsurface area surrounding the well(s) of a public water system that will provide water from an aquifer to the well(s) and is delineated or endorsed by the Ohio environmental protection agency under Ohio's wellhead protection and source water assessment and protection programs.

(2) A public water system using surface water and the drainage area contributing surface water runoff to the water intakes of the public water system and is delineated or endorsed by the Ohio environmental protection agency under Ohio's source water assessment and protection program.

(FF) Effluent limitation means any restriction imposed by the director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the state.

(GG) Fabricated structure means a type of manure storage or treatment facility constructed of engineered, man-made materials such as cast-in-place reinforced concrete, pre-cast concrete, masonry, timber, steel, fiberglass or plastic but does not mean a manure storage pond, a manure treatment lagoon or any of the components of either a manure storage pond or manure treatment lagoon such as described in paragraph (A)(9)(c)(ii) of rule 901:10-2-06 of the Administrative Code. A fabricated structure may contain either solid or liquid manure.

(HH) Facility means concentrated animal feeding operation and has the same meaning as division (F) of section 903.01 of the Revised Code and refers to those operations that are subject to the federally enforceable provisions of a permit to operate into which NPDES permit provisions have been incorporated. Facility shall also mean concentrated animal feeding facilities and has the same meaning as division (E) of section 903.01 of the Revised Code and refer to those facilities that are subject to permits to operate.

(II) Fact sheet means the statement of facts provided for in paragraph (A) of rule 901:10-6-05 of the Administrative Code relative to issuance of a NPDES permit.

(JJ) Fecal coliform means fecal coliform bacteria and is listed with approved methods of

analysis in table 1A at 40 CFR 136.3.

(KK) Floodplain means the area designated by the federal emergency management agency adjoining any river, stream, watercourse or lake that has been or may be covered by floodwater.

(LL) Floodway means the channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable rise as designated by the federal emergency management agency, not exceeding one foot.

(MM) Grassed waterway means a natural or constructed channel that is shaped or graded to required dimensions and established with suitable vegetation to filter and convey runoff from fields, terraces, diversions or other concentrated water runoff without causing erosion or flooding.

(NN) Ground water means any water below the surface of the earth in a zone of saturation, but does not include perched water.

(OO) Injection means the placement of manure beneath the surface of the soil in the crop root zone but not extending beyond the boundary of a land application site and using equipment specifically designed for this purpose.

(PP) Installation means the permanent fabrication, erection or installation of a manure storage or treatment facility or manure control equipment at the location where the manure storage or treatment facility or manure control equipment is intended to be used. The term does not include the following:

(1) The dismantling of existing equipment and control devices;

(2) The ordering of equipment and control devices;

(3) Off-site fabrication; and

(4) Site preparation.

(OO) Integrated pest management means a sustainable approach to pest management that combines the use of prevention, avoidance, monitoring and suppression strategies that minimizes and reduces the activity and presence of insects and rodents and keeps such activity and presence below economically damaging levels, minimizing chemical use to reduce pest resistance and the harmful effects of pest control on human health and environmental resources. Integrated pest management includes management, biological controls and the judicious use of chemical controls.

(RR) Karst terrain means an area where karst topography, including the characteristic surface and subterranean features, has developed as the result of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features

present in karst terrains may include the following:

(1) Sinkholes;

(2) Sinking streams;

(3) Caves.

(SS) Liquid manure means manure containing more than or equal to eighty percent liquid.

(TT) Livestock manure broker means a person who is in the business of buying, selling, or land applying manure.

(UU) Livestock manure applicator means a person who is in the business of transporting and land applying manure.

(VV) Manure application means the placement of manure within the boundaries of a land application site by:

(1) Spraying or spreading onto the land surface;

(2) Injection below the land surface in the crop root zone using equipment specifically designed for this purpose; or

(3) Incorporation into the soil by means of the mixing of manure with the surface soil using standard agricultural practices, such as tillage.

(WW) Manure management plan (MMP) means a written plan that adheres to the terms in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code.

[Comment: A person preparing a manure management plan is advised to refer to guidance on comprehensive nutrient management plans that have similar components for manure management plans. Comprehensive nutrient management plan standards are prepared and published by the Natural Resource Conservation Service, an agency of the United States department of agriculture. However, the scope of comprehensive nutrient management plans exceeds the requirements of Chapter 903. of the Revised Code and rules of the chapter.]

(XX) Manure residuals means settled manure solids combined with varying amounts of water and dissolved materials that remain after some form of treatment.

(YY) Manure spill means any unexpected, unintended, abnormal or unapproved dumping, leakage, drainage, seepage, discharge, release or other loss of manure. The term does not include releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(ZZ) Manure storage or treatment facility means any excavated, diked or walled structure or combination of structures designed for the biological stabilization, holding or storage of manure. These facilities include manure storage ponds, manure treatment lagoons, fabricated structures, lagoons, manure storage sheds, stockpiles, under house or pit storages, and composting areas.

(AAA) Manure storage pond means a type of manure storage or treatment facility consisting of an earthen impoundment made by constructing an embankment and/or excavating a pit, the purpose of which is to store or settle manure. A manure storage pond contains liquid manure.

(BBB) Manure treatment lagoon means a type of manure storage or treatment facility consisting of an earthen impoundment made by constructing an embankment and/or excavating a pit, the purpose of which is to biologically treat manure. A manure treatment lagoon contains liquid manure.

(CCC) Modification means one or more of the following:

(1) 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.

(2) Any structural change to the facility that will alter compliance with siting criteria as set forth in rule 901:10-2-02 of the Administrative Code;

(3) Any changes to the insect rodent and control plan approved by the director except as set forth in paragraphs (E) and (F) in rule 901:10-2-19 of the Administrative Code;

(4) Changes described in rule 901:10-1-09 of the Administrative Code for NPDES operations; or

(5) Changes to the manure storage or treatment facility that result from any of the following:

(a) An expansion of the existing facility by ten per cent or more in excess of treatment or storage capacity;

(b) A significant change in treatment technology; or

(c) Closure of part of the manure storage or treatment facility and termination of permit coverage under Chapter 903 of the Revised Code..

(DDD) Multi-year phosphorus application means phosphorus applied to a field in excess of the crop needs for that year in accordance with appendix e of rule 901:10-2-14 of the Administrative Code.

(EEE) Neighboring residence means any occupied permanent dwelling acquired by its current owner prior to the application for a permit to install a new animal feeding operation or prior to the initial construction of an animal feeding operation for which an application for a permit to install expansion or modification has been submitted. A neighboring residence does not include any dwelling owned by the owner or operator of the production area of the facility at the time the permit to install application is submitted.

(FFF) New discharger means any building, structure, facility, or installation:

(1) From which there is or may be a discharge of pollutants;

(2) That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;

(3) Which is not a new source; and

(4) Which has never received a final effective NPDES permit for discharges at that site.

(GGG) New source is defined at 40 CFR 122.2 and new source criteria are as defined at 40 CFR 122.29(b).

(HHH) Nitrate (as N) means nitrate reported as nitrogen and is listed with approved methods of analysis in table 1B at 40 CFR 136.

(III) Nonpoint source pollution means any source of pollution that is diffuse and does not have a single point of origin or is not introduced into receiving waters from a specific outlet. Nonpoint source pollution is generally carried off the land by stormwater runoff.

Comment: Common sources of nonpoint source pollution include agriculture, forestry, urban areas, mining and construction.

(JJJ) Notice of deficiencies resulting in noncompliance means a notice issued in accordance with section 903.16 or section 903.17 of the Revised Code:

(1) Informing the owner or operator of the deficiencies resulting in noncompliance, including a reference to a particular statute, administrative rule(s) or order involved, the location of the violation when appropriate and the consequences of the violation or future violations;

- (2) Directing the owner or operator to perform those actions necessary to comply with the permit including rules or any orders made pursuant to this chapter and to pay a penalty;
- (3) Specifying a reasonable period of time by which compliance is to be achieved or is to be implemented not to exceed thirty days after the date of notice, or if the violation requires more than thirty days to correct, a period of time contained in a compliance plan acceptable to the department;
- (4) Issued by the director or the director's designated representative; and
- (5) In writing and shall be served personally or by registered or certified mail.

(KKK) Nutrient means, for purposes of Chapter 903. of the Revised Code, nitrogen or phosphorus.

(LLL) Operating record means the written record of a facility and other activities conducted under a permit to operate maintained by the owner or operator as found in rule 901:10-2-16 of the Administrative Code.

(MMM) Owner or operator, for the purposes of sections 903.02, 903.03, 903.04 and 903.05 of the Revised Code, means the person that owns or operates the manure storage or treatment facility or the concentrated animal feeding facility or concentrated animal feeding operation or major concentrated animal feeding facility as found in divisions (M), (N), (O), and (EE) of section 903.01 of the Revised Code.

- (1) Owner means the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility or holds or is able to control, either directly or through a holding company or subsidiary, by means of any of the following:
 - (a) The person holds at least twenty-five per cent of the equity of the facility which is a business concern that is a publicly traded corporation; or
 - (b) The person is any other business concern not covered in paragraph (1)(a) of this rule and holds at least fifty per cent of the equity of the facility; or
 - (c) The person has provided a loan to the facility with provisions for the right to control management of the facility or actual control of the facility or the selection of officers, directors, or managers of the facility.

(2) Types of ownership may include the any of the following:

- (a) "Business concern" means any corporation, association, firm, partnership,

trust, or other form of commercial organization.

(i) "Sole proprietorship" means a form of business concern, other than a partnership or corporation, in which one person owns all the assets and is solely liable for all the debts of the business. Sole proprietor includes any individual or entity in which an individual is an applicant or permittee or prospective owner.

(ii) "Partner" means a business concern where any person holding a position as, or similar to, a general partner, as defined in division (E) of section 1782.01 of the Revised Code, or a limited partner, as defined in division (F) of section 1782.01 of the Revised Code, or persons who share profits and liability and have management powers of a partnership, as partnership is defined in section 1775.05 of the Revised Code.

(iii) "Publicly traded corporation" means a business concern that is a corporation:

(a) Whose shares are listed on a national securities exchange; or

(b) Whose shares are regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association; or

(c) With fifty or more shareholders.

(b) "Equity" means any ownership interest in a business concern, including sole proprietorship, the shares of a partner, and stock in a corporation.

(c) "Loans" means notes, mortgages, or financial loans of any kind, secured or unsecured, unless held by a chartered lending institution.

(3) "Operator" means the person responsible for the direct control or overall operations of a facility, and whose duties or responsibilities involve, in whole or part, the management of the facility and the exercise of independent or discretionary judgment. An operator may include the person who has the right to control or in fact controls management of the facility and or the selection of officers, directors, or managers of the facility.

(NNN) Overflow means the discharge of manure resulting from the filling of manure storage or treatment facilities beyond the point at which no more manure or stormwater can be contained by the facilities.

(OOO) Past violations for purposes of rule 901:10-5-04 of the Administrative Code means violations of Chapter 903. of the Revised Code and rules promulgated thereunder that have occurred on more than one occasion in the past five years.

(PPP) Pests means detrimental insects and rodents.

(QQQ) Phosphorus (as P) means the same as phosphate in these rules.

(RRR) Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et. seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(1) Sewage from vessels; or

(2) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(SSS) Professional engineer means a person qualified to practice engineering according to the provisions of Chapter 4733. of the Revised Code and is presently registered by Ohio's board of registration for professional engineers and land surveyors.

(TTT) Precipitation event means:

(1) A ten year, twenty-four hour rainfall event with a probable recurrence interval of once in ten years, or

(2) A twenty-five year, twenty-four hour rainfall event with a probable recurrence interval of once in twenty-five years; or

(3) A one-hundred year, twenty-four hour rainfall event.

(4) The terms ten year, twenty-four hour precipitation event, twenty-five year, twenty-four hour precipitation event, and one-hundred year, twenty-four hour precipitation event shall mean a precipitation event with a probable recurrence interval of once in ten years or twenty-five years or one hundred years, respectively, as defined by the national weather service in technical paper number forty, rainfall frequency atlas of the United States, May 1961, and subsequent amendments or equivalent regional or state precipitation probability information.

(UUU) Public water system, or PWS, means a system which provides water for human consumption through pipes or other constructed conveyances for the provision to

the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Such term includes any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system and any water supply system serving an agriculture labor camp, as defined in section 3733.41 of the Revised Code. A public water system is either a "community water system" or a "non-community water system".

(1) Community water system or CWS means a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

(2) Non-community water system or NCWS means a public water system that is not a community water system.

(a) Non-transient non-community water system or NTNCWS means a public water system that is not a community water system and that regularly serves at least twenty-five of the same persons over six months per year.

(b) Transient non-community water system or TNCWS means a non-community public water system that does not regularly serve at least twenty-five of the same persons over six months of the year.

(VVV) Reasonably available means that a livestock manager certified in accordance with rule 901:10-1-06 of the Administrative Code is physically located within the state and is available by telephone or by electronic communication.

(WWW) Seasonal salmonid habitat means rivers, streams and embayments designated by the Ohio environmental protection agency as set forth in Chapter 3745-1 of the Administrative Code.

(XXX) Setback means a specified distance from surface waters, wells, neighboring residences, or potential conduits to surface waters where manure, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.

(YYY) Significant capital expenditure means a capital expenditure that exceeds the dollar amount specified for the following per animal:

(1) Five dollars and sixty cents each for mature dairy cow, whether milked or dry;

(2) Four dollars each for cattle other than mature dairy cows or veal calves.

including heifers, steers, bulls, and cow/calf pairs:

(3) One dollar and sixty cents each for swine weighing fifty-five pounds or more;

(4) Eight dollars each for horses;

(5) Seven cents each for turkeys;

(6) Four cents each for laying hens or broilers, if the animal feeding facility does or does not use a liquid manure handling system.

Comment: If private financial data is submitted to make a claim regarding significant capital expenditure, then the owner or operator may claim the data as a trade secret. The department will inform the owner or operator that the owner or operator has the option to claim private financial data as trade secret.

(ZZZ) Solid manure means manure containing greater than twenty per cent total solids.

(AAAA) Sole source aquifer means an aquifer designated by the United States environmental protection agency as the sole or principle source of drinking water for a given aquifer service area.

(BBBB) Soil means unconsolidated, erodible earth material consisting of minerals or organics.

(CCCC) Soil horizon means a layer of soil, approximately parallel to the soil surface, with characteristics produced by soil-forming processes.

(DDDD) Staging or staging area means the site used for placement of manure at the time of delivery in such a manner as to facilitate land application within twenty-four hours for the duration of the land application at that site. Staging includes the transfer of liquid manure from transport vehicles to land application equipment for subsurface injection.

(EEEE) Stockpile area means field placement of the amount of manure to be used at a land application site.

(FFFF) Storage or storage period means the length of time anticipated between manure clean-out events provided that manure storage does not mean any form of manure containment for a period of fourteen days or less.

(GGGG) Substantial compliance when referring to compliance with the provisions of a permit, means following the best management practices set forth in the rules.

(HHHH) Total coliform means all coliform bacteria and is listed with approved methods of analysis in table 1A at 40 CFR 136.3.

(III) Total dissolved solids means nonfilterable residue and is listed with approved methods of analysis in table 1B at 40 CFR 136.

(JJJ) Trade secrets means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, improvement, business information or plans, financial information, listing of names, addresses, or telephone numbers that satisfies both of the following:

(1) It derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable through proper means by other persons who can obtain economic value from its disclosure or use.

(2) The person claiming the secrets has taken reasonable efforts under the circumstances to maintain secrecy.

(KKKK) Uncovered means any manure storage or treatment facility that allows exposure of manure to precipitation events or to the run-on or run-off from precipitation events.

(LLLL) Variance means a type of permit modification that applies to NPDES permits.

(MMMM) Zoonotic diseases means illnesses that can be transmitted between humans and animals.

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