Rule Summary and Fiscal Analysis (Part A)

Department of Agriculture

Agency Name

Livestock Environmental Permitting Division

Marsha Perge Contact

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<u>901:10-1-01</u>

Rule Number

AMENDMENT

Rule Title/Tag Line

<u>Definitions.</u>

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 utilitization, 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 or 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:

To clarify effective date of federal reference.

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 ot 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.

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ERAF 6/00

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

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

No

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

(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 No

Rule #

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

(C)

(D)

form (A SUMMARY OR INDEX MAY BE ATTACHED IN LIE DOCUMENTATION). See attachment list 2	EU OF THE ACTUAL
If NO, please indicate the reasons for not providing the information.	
Is the proposed rule or rule amendment being adopted or amended to ena maintain approval to administer and enforce a federal environmental la federal environmental program?	
X Yes No	
If YES, is the proposed rule or rule amendment more stringent than its federal counterpart?	
<u>X</u> Yes No	
If YES, what is the rationale for not incorporating the federal counterpart? The federal counterpart has been incorporated into the rule.	
If this is a rule amendment that is being adopted under a state statute the with which the amendment is to comply, is the proposed rule amendment rule that it is proposing to amend?	
<u>X</u> Yes No	

If YES, please explain why? To comply with the federal regulations for NPDES delegation.

ACTION: Refiled

DATE: 11/25/2008 3:05 PM

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, Ottowa 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:

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