

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

Agency Name

Livestock Environmental Permitting

Division

Howard Henry

Contact

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901:10-1-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Fees.**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 duplicative areas of the rule and to revise the fees associated with the permitting of livestock facilities.

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:

To remove the duplicative references to the fees associated with each permit. An increase in fees is being sought to enable the division to maintain the integrity of the program.

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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: **5/10/2011**

(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.

0.0

This rule is projected to increase revenues for the agency during the current biennium. This is the first fee increase since the original adoption of the rule in 2002. The impact on the division budget will be such as to provide supplemental operating funds to maintain the integrity of the program. While the amount of permitting and certification requests varies from year to year, based on the number of permitting and certification applications received during the 2009-2010 biennium, an estimated increase of \$59,230 in revenues is projected over the next two years. If approval is received from the United States Environmental Protection Agency under 40 CFR Parts 122 and 123 for the agency to issue NPDES permits to concentrated animal feeding operations, additional revenue may be generated from fees associated with NPDES permit applications.

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

Not applicable.

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:

The new additional cost to directly affected persons will vary from \$20 to \$800 depending on the type of permit, certification, or modification being requested by the affected person under 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.
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(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.

Environmental Rule Adoption/Amendment Form

Attachment 1

Contact List:

Cathy Alexander, Ohio EPA, ODA CAFF Advisory Committee

Tony Anderson, County Commissioners Association of Ohio, ODA CAFF Advisory Committee

Carl Ayers, Ohio Dairy Producers Association

Patrick Bailey, ODA

Steve Baker, NRCS

Brad Biggs, Ohio Department of Development

Jon Bernstein, Ohio EPA

Gerald Boynton, Public Representative, ODA CAFF Advisory Committee

Dr. Beverly Byrum, ODA

Jim Chakeres, Ohio Poultry Association

Karen Chapman, Environmental Defense Fund

Matt Detemple, Ohio Township Association

Chuck Divelbiss, Public Representative, ODA CAFF Advisory Committee

Eric Dresbach, Midwest Professional Manure Applicators Association

Trent Dougherty, Ohio Environmental Council, ODA CAFF Advisory Committee

Rod Dunn, Water Management Association of Ohio

Dr. Maurice Eastridge, The Ohio State University, ODA CAFF Advisory Committee

Kevin Elder, ODA

Andy Ety, ODA

Glen Feichtner, Ohio Cattlemens Association, ODA CAFF Advisory Committee

Dr. Tony Forshey, ODA

Heidi Fought, Ohio Township Association

Mark Fritz, ODA

Larry Gearhardt, Ohio Farm Bureau

Elizabeth Harsh, Ohio Cattlemens Association

Josh Hahn, County Commissioners Association of Ohio

Kelly Harvey, ODA

Bernard Heisner, Central Ohio Breeders Association/Select Sires, Inc.

Tom Hertzfeld, Sr., Ohio Poultry Association

Scott Higgins, Ohio Dairy Producers Association

Roger High, Ohio Sheep Improvement Association, ODA CAFF Advisory Committee

Kirk Hines, Ohio Department of Natural Resources, ODA CAFF Advisory Committee

Bill Hopper, ODA

Pat Hord, Swine Producer

Dick Isler, Ohio Pork Producers Council

Rob Hamilton, Ohio Department of Natural Resources

Carl Link, Ohio Pork Producers Council, ODA CAFF Advisory Committee

Joe Logan, Ohio Farmers Union, Ohio Environmental Council, ODA CAFF Advisory Committee

Dick Lorenz, Westerville Water Division, Water Management Association of Ohio, ODA CAFF Advisory Committee

Russell Ludwig, Public Representative, ODA CAFF Advisory Committee

Bruce Macleod, Ohio Water Environment Association, ODA CAFF Advisory Committee

Jason Menchhofer, Ohio Environmental Health Association, ODA CAFF Advisory Committee

Andy Miedema, Ohio Dairy Producers Association, ODA CAFF Advisory Committee

Dr. Michael Mull, Ohio Veterinary Medical Association, ODA CAFF Advisory Committee

Christine Pence, ODA

Marsha Perge, ODA

Todd Price, DVM

John Rausch, OSU-Extension

Chris Rodabaugh, ODA

Mark Scarpitti, NRCS

Bill Schwaderer, ODA

Ryan Sekenge, Ohio Environmental Health Association

George Slater, Public Representative, ODA CAFF Advisory Committee

Keith Stimpert, Ohio Farm Bureau

Roger Tedrick, ODA

Kristina Tonn, ODA

Tim Weaver, Ohio Poultry Association, ODA CAFF Advisory Committee

Dave White, Ohio Farm Bureau

Mark Wilson, Land Stewards, LLC

Ron Wyss, Hardin County Commissioner

Jim Young, ODA

Gary Zwolinski, ODA

(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.)

Environmental Rule Adoption/Amendment Form

Attachment 2

Index List:

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Chapman, S.L. (1995) Soil and solid poultry waste nutrient management and water quality. Poultry Science 75: 862-866.

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Cornell University, Cornell Cooperative Extension, Department of Entomology, Integrated Management of Flies in and around Dairy and Livestock Barns, D. Wes Watson, J. Keith Waldron, and Donald A. Rutz, June 1994.

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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 ?

Yes

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **Yes**

What is the rationale for not incorporating the federal counterpart?

The federal counterpart has been incorporated into the rule.

(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? **Yes**

Please explain why?

To comply with the federal regulations for NPDES delegation.