Rule Summary and Fiscal Analysis (Part A)

Department of Agriculture
Agency Name

Livestock Environmental Permitting
Division

David E Miran
Contact

8995 East Main Street Reynoldsburg OH 614-728-6390
43068-0000
Agency Mailing Address (Plus Zip)

Phone
Fax

david.miran@agri.ohio.gov
Email

901:10-3-02
Rule Number

AMENDMENT
TYPE of rule filing

Rule Title/Tag Line Effluent limitations definitions and applicability.

RULE SUMMARY

1. Is the rule being filed for five year review (FYR)? 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, 903.08, 903.09, 903.10

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

This rule is being proposed in accordance with the five year rule review process. The rules in this package were originally filed with JCARR but later withdrawn when it was realized that the filings did not comply with the incorporation by reference standards and contained a deleted reference. This filing completes these changes with no other changes.
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:

Rule 901:10-3-02 sets forth the definitions and applicability of the effluent limitation standards. It is being amended to comply with incorporation by reference rules.

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:

Pursuant to sections 121.76 and or 121.75 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code.

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:

Not applicable.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: 11/5/2015
(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

   Not applicable.

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:

   There is no cost of compliance associated with this rule. This rule outlines the applicability of these rules to feeding operations.

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.

**S.B. 2 (129th General Assembly) Questions**
18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? Yes

19. Specific to this rule, answer the following:

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

   This rule applies to all concentrated feeding facilities as licensed under OAC 901:10-3-01.

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
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? Yes

Please list each contact.

Cathy Alexander, Ohio EPA, ODA CAFF Advisory Committee

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

Patrick Bailey, ODA

Mike Monnin, USDA-NRCS

Tim Sword, Ohio Department of Development, ODA CAFF Advisory Committee

Jim Chakeres, Ohio Poultry Association

Tim Weaver, Ohio Poultry Association, ODA CAFF Advisory Committee

Karen Chapman, Environmental Defense Fund, ODA CAFF Advisory Committee
Chuck Divelbiss, Public Representative, ODA CAFF Advisory Committee

Eric Dresbach, Midwest Professional Manure Applicators Association & Ohio Water Environment Association, ODA CAFF Advisory Committee

Trent Doughtery, Ohio Environmental Council, ODA CAFF Advisory Committee

Rod Dunn, Water Management Association of Ohio, ODA CAFF Advisory Committee

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

Kevin Elder, ODA

Andy Ety, ODA

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

Mark Fritz, ODA

David White, Ohio Farm Bureau

Elizabeth Harsh, Ohio Cattlemen's Association, ODA CAFF Advisory Committee

Josh Hahn, County Commissioners Association of Ohio

Todd Price, DVM, ODA CAFF Advisory Committee

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

Pat Hord, Swine Producer, ODA CAFF Advisory Committee

Dick Isler, Ohio Pork Producers Council

Carl Link, Ohio Pork Producers 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
(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.)

APHA (1992) Standard methods for examination of water and wastewater (18th

American Concrete Institute. 2010. 360R. Design of Slabs on Grade. Farmington
Hills, MI.

American Concrete Institute. 2008. 318. Building Code Requirements for Structural
Concrete. Farmington Hills, MI.

American Concrete Institute. 2005. 530. Building Code Requirements for Masonry
Structures. Farmington Hills, MI.

American Society of Agricultural Engineers (2007). Standards Engineering

American Society of Agricultural Engineers Standards (2004). Standards
Engineering Practices Data. EP378.3 Floor and Suspended Loads on Agricultural
Structures Due to Use. St. Joseph, MI.


Bulletin, Little Rock, AR.


Cornell and Penn State Cooperative Extension, Pest Management Recommendations for Dairy Cattle, Donald A. Rutz and Christopher J. Geden, Department of Entomology, Cornell University, and Charles W. Pitts, Department of Entomology, Penn State.


Eastridge, M.L. and S. Steele (2001). Questions Pertaining to Large Dairy Enterprises in Ohio: Regulations. AS-0008-01. Ohio State University Extension: Columbus, OH.


MidWest Plan Service. 2005. Rectangular Concrete Manure Storages, MWPS-36. Iowa State University, Ames, IA.


Systems Series, MWPS-18 Section 1, Second Edition. Iowa State University, Ames, IA.


Midwest Plan Service, TR-9: Circular Concrete Manure Tanks, 1999, Iowa State University, Ames, IA.

Midwest Plan Service, 1983, Swine Housing and Equipment Handbook, MWPS-08. Iowa State University, Ames, IA.


Mississippi State University, Mississippi State Extension Service, Control Commensal Rodents In Poultry Houses, December 2, 1999.


North Central Regional Research Publication No. 284, Manure Digestion, Runoff, Refeeding, Odors, MWPS-25 (1982), Iowa State University, Ames, IA.

North Dakota Agricultural Experiment Station. Recommended Chemical Soil Test Procedures for the North Central Region, North Central Region Committee on Soil Testing and Plant Analysis (NCR#13).


Northeast Regional Agricultural Engineering Service, Designing a Modern Milking Center, NRAES-73, Rochester, NY.


Northeast Regional Agricultural Engineering Service, Private Drinking Water

Ohio Department of Natural Resources (2010). Rainwater and Land Development: Ohio Standards. Columbus, OH.

Ohio Department of Natural Resources. Evaluating Ground Water Pollution Potential in Ohio (Drastic).


The Ohio State University, College of Veterinary Medicine, Rodent Control, Grasso M. Ebako, DVM, MS, MS.

The Ohio State University, Ohio State University Extension, Livestock and Livestock Building Pest Management, Using Fly Parasites with Chemicals, Bulletin 473.


Pest Management Recommendations for Poultry (2000), Department of Entomology, Penn State.

Purdue University, Department of Entomology, Ralph E. Williams, Focus on Flies: The Integrated Pest Management Approach.

Purdue University Extension, Using the Presidedress Nitrate Soil Test (PSNT) to Predict N Needs for Corn, David Mengel, Extension Agronomist, AGRY 96-09

Purdue University, West Lafayette, IN.


The University of Nebraska, Institute of Agriculture and Natural Resources, Insects and Pests, 2001.

USDA-Natural Resources Conservation Service. Field Office Technical Guide: Section IV. Washington, DC/Columbus, OH.


(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.