

901:13-1-01 **General provisions.**

(A) Purpose.

Chapter 901:13-1 of the Administrative Code applies to the control of pollutants from areas within the state used for agricultural production, including land being used for the production or keeping of animals or for the production of agricultural crops.

Chapter 901:13-1 of the Administrative Code establishes state standards for a level of management and conservation practices in farming and animal feeding operations on farms in order to abate excessive soil erosion or the pollution of waters of the state by soil sediment including pollutants attached to the sediment and animal manure. This chapter further define Ohio's pollution abatement grant program for landowners or operators to voluntarily install conservation practices.

The criteria in this chapter are intended for use in determining the acceptability of the level of management and conservation practices and for use by landowners and operators in planning, applying and maintaining appropriate management measures and conservation practices and to prevent the storage, handling, treatment, disposal, or land application of animal manure such that it is polluting or has a potential to pollute waters of the state contrary to these standards established by this chapter. Technical determinations by a district or the director shall be considered prima facie evidence of agricultural pollution.

(B) Definitions. As used in rules Chapter 901:13-1 of the Administrative Code:

- (1) "Agricultural pollution" or "pollution" means failure to use best management or conservation practices in farming agricultural production operations to abate wind or water erosion of the soil or to abate the degradation of waters of the state by residual farm products, animal manure, or soil sediment including attached substances attached thereto.
- (2) "Agricultural production" means the commercial apiculture, animal husbandry or poultry husbandry, the commercial production of field crops, tobacco, fruits, vegetables, timber, nursery stock, sod or flowers or any combination of such husbandry or production and includes the processing, drying, storage, and marketing of food and fiber products and animals used for recreation, fur or wildlife purposes.
- (3) "~~Agriculture animal~~ Animal" means any animal generally used for food or in agricultural production, including cattle, sheep, goats, rabbits, poultry, ~~and~~ swine, horses, alpacas, llamas, and any other animal included by the director of the Ohio department of agriculture by rule. "Agricultural animal" does not

include fish or other aquatic animals regardless of whether they are raised at fish hatcheries, fish farms, or other facilities that raise aquatic animals.

- (4) "Animal feeding operation" means an animal feedlot and animal manure management facilities and land application areas for managing and disposal of animal manure. "Animal feeding operation" does not include operations subject to Chapter 903 of the Revised Code, Chapter 6111. of the Revised Code, or division 901:10 of the Administrative Code.
- (5) "Animal feedlot" means a paved animal feeding or holding area or other lot, pen, yard, or other feeding or holding area where grass or other suitable vegetative cover is not maintained.
- ~~(6) "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 usable quantities of water to wells. "Aquifer" does not include perched ground water.~~
- ~~(7)~~(6) "Best management practice" or "BMP" means a practice or combination of practices that is determined to be the most effective practicable, (including technological, economic, and institutional considerations,) means of preventing or reducing agricultural pollution sources to a level compatible with water quality goals. ~~BMPs~~ Best management practices may include structural and nonstructural practices, conservation practices, and operation and maintenance procedures.
- ~~(8)~~(7) "Conservation" means the wise use and management of natural resources.
- ~~(9)~~(8) "Cost-share monies" means state of Ohio public funds used for the purpose of sharing the cost of establishing needed pollution abatement practices.
- ~~(10)~~(9) "Department" means the Ohio department of agriculture.
- ~~(11)~~(10) "Director" means the director of the Ohio department of agriculture.
- ~~(12)~~(11) "Director's designee" means any individual whom ~~Ohio department of agriculture, soil and water conservation district employee, or soil and water conservation district supervisor who~~ the director has given the responsibility to implement the agricultural pollution abatement program.
- ~~(13)~~(12) "District" means a soil and water conservation district; organized under Chapter 940. of the Revised Code.

~~(14) "Ditch" means an excavation, either dug or natural, for the purpose of drainage or irrigation with intermittent flow.~~

~~(15)~~(13) "Diversion" means a channel constructed across the slope for the purpose of intercepting surface runoff.

~~(16) "Drainageway" means an area of concentrated water flow other than river, stream, ditch, or grassed waterway.~~

~~(17)~~(14) "Erosion" means:

(a) The wearing away of the land surface by running water, wind, ice or other geological agents, including such processes as gravitational creep.

(b) Detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(c) Erosion includes:

(i) "Gully erosion" which means: the erosion process whereby water accumulates in narrow channels during and immediately after rainfall or snow or ice melt and actively removes the soil from this narrow area to considerable depths such that the channel would not be obliterated by normal smoothing or tillage operations.

(ii) "Rill erosion" which means ~~:-an~~ the erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed soils. The small channels formed by rill erosion would be obliterated by normal smoothing or tillage operations.

(iii) "Sheet erosion" ~~:-~~ which means the removal of a fairly uniform layer of soil from the land surface by wind or runoff water.

~~(18)~~(15) "Field Office Technical Guide" office technical guide means the ~~localized document used by the soil and water conservation district and developed~~ Ohio field office technical guide (current edition) created by the United States department of agriculture, natural resources conservation service, United States department of agriculture, which serves as the technical guide for the conservation of soil, water, air, and related plant and animal resources. The field office technical guide is available by visiting www.nrcs.usda.gov to all Ohio county soil and water conservation districts, available at http://www.oh.nrcs.usda.gov/technical/ohio_eFOTG.html and which provides:

- ~~(a) Soil descriptions;~~
- ~~(b) Sound land use alternatives;~~
- ~~(c) Adequate conservation treatment alternatives;~~
- ~~(d) Standards and specifications of conservation practices;~~
- ~~(e) Conservation cost-return information;~~
- ~~(f) Practice maintenance requirements;~~
- ~~(g) Erosion prediction procedures.~~

~~(19)~~ "Grassed waterway" means a natural course 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 runoff without causing erosion or flooding.

~~(20)~~(16) "Ground water" means any water below the surface of the earth in a zone of saturation, but does not include a perched water table.

~~(21)~~(17) "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting, on farm biodigester operation residue that includes at least seventy-five per cent manure, or the composting of animal excreta.

~~(22)~~(18) "Manure ~~storage or treatment~~management facility" means any area or facilities used for the collection, storage, handling or treatment of manure.

~~(23)~~(19) "Mortality composting" means the controlled decomposition of organic solid material consisting of animal mortality that stabilizes the organic fraction of the material.

~~(24)~~(20) "Ohio soil and water conservation commission" means ~~the seven member board that directs and recommends conservation policies and programs as authorized~~the Ohio soil and water conservation commission established under section 940.02 of the Revised Code.

~~(25)~~ "Ohio Livestock Manure Management Guide" means the 2006 edition of the "Ohio Livestock Manure Management Guide," bulletin 604, the Ohio state

~~university extension, which is available at all county offices of Ohio state university extension, local soil and water conservation district offices, and at <http://ohioline.osu.edu/b604>.~~

~~(26)~~(21) "Operation and management plan" means a written record, developed or approved by the director, the director's designee, or the district board of supervisors of a soil and water conservation district~~or the director~~, for the owner or operator of agricultural land or an animal feeding operations operation that contains both of the following: implementation schedules and operational procedures for a level of management and best management practices which will abate the degradation of the waters of the state by animal manure and by soil sediment including attached pollutants.

(a) Implementation schedules and operational procedures for a level of management and pollution abatement practices that will abate the degradation of the waters of the state by residual farm products, manure, and soil sediment, including attached pollutants;

(b) Best management practices that are to be used by the owner or operator.

~~(27)~~ "Permeability" means the quality of a soil horizon that enables water or air to move through it. Terms used to describe it are as follows: very slow, slow, moderately slow, moderate, moderately rapid, rapid, and very rapid, measured in inches per hour or inches per day.

~~(28)~~(22) "Person" has the same meaning as in section 1.59 of the Revised Code~~means any individual, corporation, partnership, joint venture, agency, unincorporated association, or any combination thereof.~~

~~(29)~~ "Pollution" means ~~failure to use management or conservation practices in farming operations to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by animal manure or soil sediment including pollutants attached thereto.~~

~~(30)~~(23) "Prima facie evidence" means law evidence adequate to establish a fact or raise a presumption of fact unless refuted.

~~(31)~~ "Primary contact recreation resource water" means waters that, during the recreation season of May first to October fifteenth, are suitable for full-body contact recreation such as, but not limited to, swimming, canoeing and scuba diving with minimal threat to public health as a result of water quality.

~~(32)~~ "RUSLE" means the "Revised Universal Soil Loss Equation" which is a method used to estimate soil loss by sheet and rill erosion and wind erosion. This will

~~be estimated using the current soil loss prediction technologies found in the "Field Office Technical Guide."~~

~~(33) "Saturated soil" means soil in which all voids between soil particles are filled with liquid.~~

(24) "Residual farm products" has the same meaning as found in section 939.01 of the Revised Code.

~~(34)~~(25) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice, and has come to rest on the earth's surface.

~~(35)~~(26) "Sloughing" means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth disturbing activity of man.

~~(36)~~(27) "Snow pack manure" means the accumulation of snow and ice when combined with manure from animal feedlot.

~~(37)~~(28) "Soil" means unconsolidated, erodible earth material consisting of minerals and organics.

~~(38) "Soil horizon" means a layer of soil, approximately parallel to the soil surface, with characteristics produced by soil-forming processes.~~

~~(39)~~(29) "Soil loss" means soil moved from a given site by the forces of erosion and redeposited at another site, on land or in a body of water.

~~(40)~~(30) "Stream" means a body of water running or flowing on the earth's surface or channel in which such flow occurs. Flow may be seasonally intermittent.

~~(41) "Substantial", when referring to compliance with the provisions of an approved operation and management plan, means following the approved schedule of conservation practice implementation.~~

~~(42) "T" means the soil loss tolerance expressed in tons per acre per year. This represents the tons of soil (related to the specific soil series) which can be lost through erosion annually without causing significant degradation of the soil or potential for crop production.~~

~~(43)~~(31) "Useful life" means the expected service life of a best management practice as defined by the ~~"Field Office Technical Guide"~~field office technical guide or by the director.

~~(44)~~(32) "Waters of the state" has the same meaning as found in section 939.01 of the Revised Code~~means all streams, lakes, ponds, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.~~

~~(45)~~ "Watershed in Distress" ~~means a watershed, and boundaries thereof as established by the United States geological survey, which has aquatic life and health that is impaired by nutrients or sediment from agricultural land uses and where there is a threat to public health, drinking water supplies, recreation, or public safety and welfare.~~

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