

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 901:13-1-06

**Rule Type:** Amendment

**Rule Title/Tagline:** Flooding of animal feeding operations.

**Agency Name:** Department of Agriculture

**Division:** Soil and Water Conservation

**Address:** 8995 E. Main St. Reynoldsburg OH 43068

**Contact:** Renee Schmauch **Phone:** 614-728-6295

**Email:** renee.schmauch@agri.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 4/19/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 939.02
5. **What statute(s) does the rule implement or amplify?** 939.02
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

The rules in this package are being filed in accordance with the five year rule review process.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:13-1-06 states that operators shall prevent pollution caused from flooding of animal feeding operations. The amendments proposed alter the structure of the rule which should allow for easier reading comprehension. The amendments do not impact the substance of the rule.

9. **Does the rule incorporate material by reference? No**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

OAC 901:13-1-02 states that owners, operators, or persons responsible for an animal feeding operation (hereinafter "operator") shall prevent pollution by operating and maintaining their facilities so that overflow or discharge of manure into waters of the state is prevented. The amendments proposed alter the structure of the rule which should allow for easier reading comprehension. The amendments do not impact the substance of the rule.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). Yes**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

### **III. Common Sense Initiative (CSI) Questions**

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
  - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
  - 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? Yes**

Operations must invest time and resources in implementing the best management practices outlined by the rules of this chapter. Individuals who violate a provision of ORC Chapter 939 and OAC Chapter 901:13-1 may be subject to civil penalties or be required to take corrective actions as outlined in these rule. There is no quantifiable impact for those individuals who remain in compliance with the standards in ORC Chapter 939 and OAC Chapter 901:13-1. However, individuals who do commit a violation of these rules may be subject to civil fines in amounts from \$250 to \$10,000. The amount of the violation depends on the particular rule violated, the severity of the violation, and any past history of non-compliance. Further, the quantified impact of corrective actions will depend entirely on the violation and the means to correct that violation. Implementation of these best management practices could result in overall cost savings through more efficient nutrient use and higher yields in their agricultural practices.

- C. **Does this rule require specific expenditures or the report of information as a condition of compliance? No**
- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

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**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No**

**A. How many new regulatory restrictions do you propose adding to this rule?**

Not Applicable

**B. How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

## Rule Summary and Fiscal Analysis

### Part C - Environmental Rule Questions

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.**

Jennifer Bowman Represents Rural Interests  
Kate Bartter Arnold Knowledge or Interest  
Etta Reed Knowledge or Interest, Chair  
Fran Buchholzer Knowledge or Interest  
David Hanselmann Represents Urban Interests  
Jerry McBride Designated by OFSWCD, Vice Chair  
Anthony Debevc Knowledge of Interest in Ag Production  
Director Ann Vogel Ex Officio, Director of Environmental Protection  
Director Mary Mertz Ex Officio, Director of Natural Resources  
Cathann Kress Ex Officio, Vice President of Agricultural Administration of OSU  
Jeff Duling Ex Officio, Officer of the Ohio Federation of SWCD  
Kirk Hines Designated Executive Secretary  
Crystal Davis Alliance for the Great Lakes  
Rob Krain Black Swamp  
Kurt Leib Capital Advocates  
Rob Eshenbaugh Capitol Advocates

Cheryl Subler CCAO  
Russ Terry Ducks Unlimited  
Keith Westrick Grand St Marys Restoration Commission  
Matt Fisher Lake Erie Foundation  
Gail Hesse National Wildlife Federation  
Chris Henney Ohio Agribusiness Assoc.  
Elizabeth Harsh Ohio Beef Council/Ohio Cattlemen's Association  
Tadd Nicholson Ohio Corn & Wheat  
Scott Higgins Ohio Dairy Producers  
Amalie Lipstreu Ohio Ecological Food and Farm Association  
Trent Dougherty Ohio Environmental Council  
Vickie Askins Ohio Environmental Stewardship Alliance  
Adam Sharp Ohio Farm Bureau  
Jack Irvin Ohio Farm Bureau  
Larry Antosh Ohio Farm Bureau  
Leah Curtis Ohio Farm Bureau  
Roger High Ohio Farm Bureau  
Tony Seegers Ohio Farm Bureau  
Joe Logan Ohio Farmers Union  
Janelle Mead Ohio Federation of Soil and Water Conservation Districts  
Kent Scarlett Ohio Municipal League  
Cheryl Day Ohio Pork Producers Council  
Jim Chakeres Ohio Poultry Association  
John Armstrong Ohio Seed Improvement Assoc  
Fran Buchholzer Ohio Soil and Water Conservation Commission  
Etta Reed Ohio Soil and Water Conservation Commission  
Jerry McBride Ohio Soil and Water Conservation Commission  
Kate Bartter Arnold Ohio Soil and Water Conservation Commission  
Jen Bowman Ohio Soil and Water Conservation Commission  
Tony Debevec Ohio Soil and Water Conservation Commission  
Brandon Kern Ohio Soybean Association  
Kirk Merritt Ohio Soybean Council  
Adam Ward Ohio State University  
Heidi Fought Ohio Township Association  
Brian Laurent Ohio Turf Association  
Larry Fletcher Ohio's Lake Erie Shores and Islands  
Kris Patterson Partners for Clean Streams  
Jim Inglis Pheasants Forever  
Adam Rissien Sierra Club, Ohio Chapter  
Jessica D'Ambrosio The Nature Conservancy  
Peggy Hall The Ohio State University  
Sandy Spang Toledo Metropolitan Area Council of Governments

Kari Gerwin Toledo Metropolitan Area Council of Governments  
Bill Stanley The Nature Conservancy  
Jessica D'Ambrosio The Nature Conservancy

- (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.)**

Natural Resources Conservation Service (NRCS) Conservation Practice Standard, Nutrient Management, Code 590. A copy of which may be found here: [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1192371.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1192371.pdf) NRCS,

Field Office Technical Guide (FOTG). A copy of which may be found here: <https://efotg.sc.egov.usda.gov/>

- (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? No**

**Is the proposed rule or rule amendment more stringent than its federal counterpart?**  
*Not Applicable*

- (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? No**