

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:13-1-99

Rule Type: Amendment

Rule Title/Tagline: Civil penalties.

Agency Name: Department of Agriculture

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 10/15/2018
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, 939.09
5. What statute(s) does the rule implement or amplify? 939.07, 939.08, 939.09
6. What are the reasons for proposing the rule?

Due to the presence of harmful algae blooms (HABs), Ohio Environmental Protection Agency's 2018 Integrated Water Quality Report declared the Western Basin of Lake Erie "impaired", and amended its 2016 report to say the same. It has become clear that focusing solely on manure-based nutrient management plans for watersheds in distress limits the distress designation to only one type of agriculture nutrient source, and all agriculture-based nutrient sources should be considered. The Department views this rule package as the proper next step to help improve watersheds designated as "distressed".

- 7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC 901:13-1-99 establishes the schedule of civil penalties for violations to Chapter 901:13-1 of the Ohio Administrative Code. The rule has been amended to update a paragraph reference due to the proposed amendments to OAC 901:13-1-19.

- 8. Does the rule incorporate material by reference? Yes**

- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Pursuant to section 121.76 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.

- 10. 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

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

Unknown

The changes to this rule will likely have a net-zero impact for the Department. Any additional civil penalties obtained by the Department will be offset by the costs of additional 119 hearings.

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

The cost of compliance with this rule is correlated to the violation committed. Individuals which comply with the rules of this Chapter will not face any costs of compliance with this rule.

Individuals which commit a minor violation are subject to not more than two hundred and fifty dollars for the first violation; not more than one thousand dollars for the second violation; and not more than five thousand dollars for the third violation.

Individuals which commit a major violation are subject to not more than two thousand dollars for the first violation; not more than five thousand dollars for the second violation; and not more than ten thousand dollars for the third violation.

Further, individuals who are subject to this rule would be eligible for a Chapter 119 Administrative Hearing. At the cost and option of the individual they may seek to retain counsel for this hearing and have other hearing related expenses.

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

III. Common Sense Initiative (CSI) Questions

15. **Was this rule filed with the Common Sense Initiative Office? Yes**
16. **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**

Failure to comply with the rules in this Chapter may result in a civil penalty being levied against the violator.
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance? No**