

## PUBLIC NOTICE

The Ohio Department of Agriculture will hold a public hearing for the purpose of accepting testimony on the proposed amendments made to Ohio Administrative Code rules 901:13-1-11, 901:13-1-19, and 901:13-1-99.

Watersheds in Distress were adopted in 2010, and the Grand Lake St. Marys watershed was designated as “distressed” in early 2011. The administration, originally through the Department of Natural Resources, and now the Department of Agriculture (Department), enacted and continues to enforce these regulations with careful and deliberate action at Grand Lake St. Marys. As you will see in the proposed rule, the Department will ensure that cooperative practice continues for future watersheds designated as “distressed”.

Ohio has invested more than \$3 billion since July 2011 in Lake Erie and its watershed to improve drinking water and wastewater facilities, monitor water quality, plant cover crops, recycle dredge material, install controlled drainage structures on farm fields and fix faulty septic systems. Ohio sees this challenge as not caused by a single contributing source, but an effort to address all types of contributing nutrient sources to improve water quality.

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 next step for watersheds designated as “distressed”.

The hearing will be held on:

**November 20, 2018 at 9:00 A.M.**

**Ohio Department of Agriculture  
Bromfield Administration Building  
Auditorium 141  
8995 East Main Street  
Reynoldsburg, Ohio 43068-3399.**

The rules and their proposed amendments are outlined below:

OAC 901:13-1-11 sets forth the rules and requirements for the land application of animal manure and nutrients in the state of Ohio. More specifically, the rule currently requires all Ohio farms to follow the conservation practices found in the relevant U.S. Department of Agriculture (USDA) “Field Office Technical Guide,” also known as the “590 standards,” developed by USDA’s Natural



Resources Conservation Service. Farms within watersheds that have been designated as distressed are subject to the enforcement of 590 standards even if they have not experienced a discharge to waters of the state, and farms outside of watersheds that have been designated as distressed are subject to enforcement of 590 standards only if they experience a discharge. These standards include the most limiting application rates for manure and nutrients based on field conditions, as well as minimum setback distances for the application of manure in order to protect water quality.

The proposed rule amendments would delay non-discharge enforcement of 590 standards in watersheds in distress to give farms sufficient time to complete their nutrient management plans. Finally, the proposed amendments update existing regulations for distressed watersheds located in the Western Lake Erie Basin to reflect the standards enacted in 2015's Senate Bill (SB) 1. SB 1 does not include the prohibition against spreading manure between December 15 and March 1 and instead incorporates a standard which bars spreading manure on frozen, snow-covered, or rain-soaked ground unless certain precautions are taken.

OAC 901:13-1-19 outlines the nutrient management planning requirements for watersheds in distress. The rule has been amended to require all owners, operators, or persons responsible for applying nutrients on more than fifty acres on an annual basis within a watershed in distress to develop a nutrient management plan in accordance with the rule. The rule outlines the information that must be included within the nutrient management plan.

Further, the rule has been amended to require operations to attest to the completion of a nutrient management plan. This amendment removes the requirement that plans need to be submitted and approved by the Department. This amendment will aid the Department's ability to handle a large influx of nutrient management plans after a designation. The Department will move to adopt an attestation mechanism of approval of nutrient management plans, with the ability to request a plan at its discretion, subject to civil penalties if out of compliance. This mechanism is not dissimilar to other regulatory methods, such as auto insurance verification.

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.

The hearing will be conducted in accordance with Chapter 119 of the Revised Code. Any person affected by the no change rule package may appear and be heard in person, by his attorney, or both, may present his position, arguments, or contentions, orally or in writing, offer and examine witnesses, and present evidence tending to show that the no change rule package, if adopted or effectuated, will be unreasonable or unlawful.

**More information on the rule package, including a business impact analysis and copies of the rules, can be found by visiting the [Department's Administrative Rule](#) page or by visiting the Register of Ohio at [www.registerofohio.state.oh.us](http://www.registerofohio.state.oh.us).**

Any person who wishes to present his position, arguments, or contentions in writing, other than at the public hearing, may do so by either mailing his or her written comments to the Ohio Department of Agriculture, c/o Legal Section, 8995 East Main Street, Reynoldsburg, Ohio 43068; by email at



[ecomments@agri.ohio.gov](mailto:ecomments@agri.ohio.gov), or by transmitting by facsimile at (614) 995-4585. Written comments sent by mail shall be postmarked no later than the day of the hearing. Written comments transmitted by facsimile shall be received no later than 5:00 p.m. on the day of the hearing.



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