



REQUEST FOR PUBLIC COMMENT Livestock Environmental Permitting – Five Year Rule Review

The rules in this package have been reviewed pursuant to Chapter 119 of the Revised Code and are being proposed as follows. The comment period will remain open through Monday, November 14, 2016. Comments may be emailed to ecomments@agri.ohio.gov or mailed to Legal Section, Ohio Department of Agriculture, 8995 E. Main St., Reynoldsburg, Ohio 43068

The rules contained in this package are overseen by the Division of Livestock Environmental Permitting. In December 2000, the state legislature gave the Ohio Department of Agriculture the responsibility for overseeing and permitting Ohio's largest livestock and poultry farms. Program staff is responsible for regulating how Ohio's largest livestock and poultry farms handle manure and waste water, as well as manage flies, rodents and other pests. In addition, program staff reviews architectural and engineering plans for these facilities to help ensure that manure and other waste water is properly contained within the facility and to protect Ohio's waterways and environment.

The rules have been reviewed by the Department and key stakeholders in order to comply with the five year rule review process. More specific information regarding the rules and their proposed amendments, if any, can be found below:

OAC 901:10-1-01 outlines the definitions as used in Division 901:10 of the Ohio Administrative Code. The rule is being amended to add a definition for the term "professional geologist." The term has been defined as a person qualified to practice geology and is presently registered by a state licensing or certification board as recognized by the American Institute of Professional Geologists.

OAC 901:10-1-04 sets forth the fees for the permit and certification applications as administered by the Division of Livestock Environmental Permitting. As the rule currently exists, the rule requires that the Director review the fees as described in the rule on a biennial basis. As amended, the rule will require the Director to review the rules on a periodic basis as necessary. The Department is keenly aware of the costs associated with their program and should any changes are necessary, the Department will participate, as required, in the administrative rule amendment process.

OAC 901:10-1-11 outlines discharge exclusions which do not require an NPDES permit. The rule is being amended to comply with the incorporation by reference standards. Specifically, updated references to CFR sections have been included in the rule. Additionally, the rule has been amended to clarify that the director of environmental protection means the director of the Ohio environmental protection agency.

OAC 901:10-2-03 sets forth standards for geological subsurface explorations required under this chapter. Specifically, the rule requires that these subsurface tests be completed to evaluate the suitability of the soil and ground strength in supporting both fabricated structures and manure lagoons/ponds. The rule is being amended to comply with formatting standards as determined by



the Legislative Services Commission. Additionally, other formatting changes have been made to help with reader comprehension. Finally, in accordance with House Bill 64 in the 131st General Assembly, the division of soil and water was transferred from the Ohio Department of Natural Resources to the Ohio Department of Agriculture. The rule has been amended to remove references to the former division. No substantive changes have been made to this rule.

OAC 901:10-2-07 outlines the application requirements for a permit to operate and/or a national pollutant discharge elimination system permit. No changes have been made to this rule.

OAC 901:10-2-15 outlines requirements for plans for the disposal of dead livestock. The rule has been amended to make formatting changes which helps clarify the rule. No substantive changes have been made to this rule.

OAC 901:10-2-17 sets for the requirements for emergency response plans. The rule has been amended to make formatting changes which helps clarify the rule. Further a spelling error has been corrected. No substantive changes have been made to this rule.

OAC 901:10-2-18 outlines the requirements and procedures for when a facility no longer seeks a permit to operate by the Department. The rule has been amended to make formatting changes which helps clarify the rule. Further a spelling error has been corrected. No substantive changes have been made to this rule.

OAC 901:10-3-03 applies to discharges resulting from the production areas at horse and sheep concentrated animal feeding operations. The rule states that there shall be no discharge of such manures to the waters of the state. No changes have been made to this rule.

OAC 901:10-3-05 applies to discharges resulting from the production areas at duck concentrated animal feeding operations. The rule states that there shall be no discharge of such manures to the waters of the state. No changes have been made to this rule.

OAC 901:10-3-06 applies to discharges resulting from the production areas at swine, poultry, and veal calves concentrated animal feeding operations. The rule states that there shall be no discharge of such manures to the waters of the state. The rule is being amended to comply with the incorporation by reference standards. Specifically, updated references to CFR sections have been included in the rule. No substantive changes have been made to this rule.

OAC 901:10-3-11 outlines the process for obtaining a stormwater permit. The rule is being amended to comply with the incorporation by reference standards. Specifically, updated references to CFR sections have been included in the rule. Further, formatting changes have been made to remove the word “comment” from the rule. No substantive changes have been made to this rule.

OAC 901:10-4-01 outlines the requirements for a general permit to operate. The rule is being amended to add the word “and” to paragraph (E)(2)(c)(ii) to clarify that the Directory may consider all of the options (listed in paragraphs (i) through (iii)) in considering the discharge as a significant contributor of pollutants.

OAC 901:10-4-03 sets forth the notice requirements for those desiring to be covered by a general permit to operate. If all information is present, the director will notify the public and provide a thirty day window to submit public comments regarding the prospective permit. The rule has been amended to correct a grammatical error.



OAC 901:10-4-04 outlines the criteria for issuing and renewing NPDES general permits to operate. The rule has been amended to update a code reference that has changed.

OAC 901:10-5-03 outlines the enforcement procedures for violations of Chapter 903 of the Revised Code – or – the rules in Chapter 901:10 of the Administrative Code. The rule is being amended to remove all references to a review compliance certificate. Review compliance certificates have been eliminated from use due to the conversion of Ohio EPA’s permits to install into current ODA permits to operate. Further, in paragraph (D)(2) of the rule, a link was inappropriately placed in the rule. This link has been removed.

OAC 901:10-5-04 sets forth the civil penalty procedures and the penalty matrix for violations of this chapter. The rule is being amended to make formatting changes which allow for easier comprehension. Additionally, formatting changes have been made to the rule in order to comply with LSC’s drafting manual. There have been no substantive changes made to this rule.

OAC 901:10-6-05 sets forth the requirements for an NPDES fact sheet that must be prepared and mailed to all those interested. No changes have been made to this rule.

OAC 901:10-6-06 requires ODA to maintain a mailing list for interested persons. No changes have been made to this rule.

