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901:10-1-01 Definitions.

As used in Chapters 901:10-1 to 901:10-6 of the Administrative Code, the definitions contained in Chapter 903. of the Revised Code and the following definitions are applicable:

- (A) Act means the Federal Water Pollution Control Act set forth at 33 USC sections 1251 to 1387.
- (B) Administrator means the administrator of the United States environmental protection agency.
- (C) Agricultural drainage well means a class five underground injection control well that receives or has the potential to receive drainage from irrigation tail-waters, animal yards, feedlots or dairy runoff and any related agricultural field runoff. An injection well is any bored, drilled, or driven shaft or dug hole whose depth is greater than the largest surface dimension.
- (D) Agricultural stormwater discharge means runoff generated by precipitation that drains over terrain used for agriculture as defined in section 1.61 of the Revised Code that conveys manure to waters of the state, provided that the manure has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of nutrients in manure in compliance with the best management practices set forth in Chapter 901:10-2 of the Administrative Code.
- (E) Agronomic rate means a rate of application of nutrients from any source to the land or an amount of nutrients removed by crop based on:
 - (1) Nutrient content of the manure to be applied;
 - (2) Nutrient needs of the current or planned crops; and
 - (3) Nutrient holding capacity of the soil.
- (F) Ammonia (as N) means ammonia reported as nitrogen and is listed with approved methods of analysis in table 1B at 40 CFR 136.
- (G) Applicant means a person applying for a permit, certificate, or submitting a claim of trade secrecy to the director.
- (H) Appropriate design plan means a construction plan for a manure storage or treatment facility that has been accepted by the department as meeting best management practices and recognized industry standards for construction. This includes pre-engineered design plans for the design and construction of manure storage or treatment facilities that have been shown by the engineer, manufacturer, or distributor to conform to the requirements of Chapter 903. of the Revised Code.
- (I) Appropriate examination means an examination that has been approved by the department.
- (J) Appropriate training program means a training program that has been approved by the department.
- (K) 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 groundwater.
- (L) Application means the form and supporting documents used by an applicant to apply for an Ohio permit under this chapter.

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- (M) Average precipitation means the precipitation over the length of a storage period.
- (N) Beneficial organisms mean predators, parasites, or pathogens that, during their life cycle, are used to suppress pest organisms or are otherwise beneficial.
- (O) Best management practice (BMP) means a practice or combination of practices that is determined to be the most effective and practicable including technological, economic, and institutional controls as a means of complying with the applicable standards of Chapter 903. of the Revised Code. BMPs may include structural and nonstructural practices, conservation practices, prohibition of practices, schedules of activities, operation and maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage, or leaks, sludge or waste disposal or drainage from raw material storage.
- (P) Biosecurity refers to the policies and measures taken for protecting food supply and agricultural resources from contamination. Biosecurity also refers to those measures taken to keep disease agents out of populations, herds or groups of animals where they do not already exist. Significant areas on a facility in biosecurity are sanitation, isolation of incoming or returning animals, cleaning and disinfection and traffic control to limit disease spread between all facilities in the production unit.
- (Q) BOD5 means five-day biochemical oxygen demand and is listed with approved methods of analysis in table 1B at 40 CFR 136.
- (R) Buffer strip means setback of an area of permanent dense vegetation, often planted along the edge or the contour of a land application site or a slope of the field usually for management practices, including practices to slow the flow of water runoff or enhance water filtration, and minimize the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters. Types of buffers include filter strips, field borders, contour grass strips, vegetated cover and riparian buffers. Types of buffers include those described in "Ohio Natural Resource Conservation Service, Conservation Practice Standards Section IV, Field Office Technical Guide" which includes the following which are available for review at the Ohio department of agriculture website <http://agri.ohio.gov/>:
- (1) "Filter Strips/Areas, No. 393," June 2002;
 - (2) "Riparian Forest Buffer, No. 391," March 1997;
 - (3) "Field Border, No. 386," June 2002; and
 - (4) "Contour Buffer Strips, No. 332," June 2002.
- (S) Certificate of coverage (COC) means a certificate issued by the director based on receipt of a notice of intent to be covered by rule 901:10-4-03 of the Administrative Code. The certificate of coverage is to be kept in the site office.
- (T) Certified livestock manager means a person that has been duly certified by the department and currently holds a valid livestock manager certification.
- (U) Cold water habitat means waters designated as coldwater aquatic life habitat by the Ohio environmental protection agency as set forth in Chapter 3745-1 of the Administrative Code.
- (V) Construction, for the purposes of stormwater construction permits, means the initial disturbance of soils associated with clearing, grading or excavating activities.

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- (W) Department means the Ohio department of agriculture, the director, or the director's authorized representative.
- (X) Design capacity means the ability to house or maintain the total number of animals confined or to be confined in open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, medication pens, animal walkways, and stables.
- (Y) Dikes mean both dikes and embankments.
- (Z) Director means the director of the Ohio department of agriculture or the director's duly authorized representative.
- (AA) Discharge means to add any pollutant or combination of pollutants from a point source to waters of the state.
- (BB) Distribution and utilization methods means any method of manure management not under the control of the facility and may include, but not be limited to, land application, composting, vermiculture, and alternative fuel source uses.
- (CC) Ditch means an excavation, either dug or natural, for the purpose of drainage or irrigation.
- (DD) Diversion means a channel constructed across the slope for the purpose of intercepting surface runoff.
- (EE) Draft action means a written statement that gives the director's intention with respect to the issuance of any permit, including a NPDES permit or a general permit, concerning which persons authorized by regulation or by section 903.09 of the Revised Code may file comments or request a public meeting, but which will not be the subject of an adjudication hearing before the director.
- (FF) Drinking water source protection area for a public water system means:
- (1) For a public water system using groundwater, the surface and subsurface area surrounding the well(s) of the public water system that will provide water from an aquifer to the well(s) and that is delineated or endorsed by the Ohio environmental protection agency under Ohio's wellhead protection and source water assessment and protection programs; or
 - (2) For a public water system using surface water, the drainage area contributing surface water runoff to the water intakes of the public water system that is delineated or endorsed by the Ohio environmental protection agency under Ohio's source water assessment and protection program.
- (GG) Effluent limitation means any restriction imposed by the director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the state.
- (HH) Fabricated structure means a type of manure storage or treatment facility constructed of engineered, man-made materials such as cast-in-place reinforced concrete, pre-cast concrete, masonry, timber, steel, fiberglass or plastic but does not mean a manure storage pond, a manure treatment lagoon or any of the components of either a manure storage pond or manure treatment lagoon such as described in paragraph (A)(9)(c)(ii) of rule 901:10-2-06 of the Administrative Code. A fabricated structure may contain either solid or liquid manure.
- (II) Fact sheet means the statement of facts provided for in paragraph (A) of rule 901:10-6-05 of the Administrative Code relative to issuance of a NPDES permit.

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- (JJ) Field surface furrow means an area of short-term low-gradient non-erosive concentrated surface water runoff which occurs during or shortly after precipitation events and is not a river, stream, ditch or grassed waterway. Field surface furrows are areas that are normally planted with crops each year.
- (KK) Fecal coliform means fecal coliform bacteria and is listed with approved methods of analysis in table 1A at 40 CFR 136.3.
- (LL) Floodplain means the area designated by the federal emergency management agency adjoining any river, stream, watercourse or lake that has been or may be covered by floodwater.
- (MM) Floodway means the channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable rise as designated by the federal emergency management agency, not exceeding one foot.
- (NN) Grassed waterway means a natural 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 water runoff without causing erosion or flooding.
- (OO) Ground water means any water below the surface of the earth in a zone of saturation, but does not include perched water.
- (PP) Injection means the placement of manure beneath the surface of the soil in the crop root zone but not extending beyond the boundary of a land application site and using equipment specifically designed for this purpose.
- (QQ) Installation means the permanent fabrication, erection or installation of a manure storage or treatment facility or manure control equipment at the location where the manure storage or treatment facility or manure control equipment is intended to be used. The term does not include the following:
- (1) The dismantling of existing equipment and control devices;
 - (2) The ordering of equipment and control devices;
 - (3) Off-site fabrication; and
 - (4) Site preparation.
- (RR) Integrated pest management means a sustainable approach to pest management that combines the use of prevention, avoidance, monitoring and suppression strategies that minimizes and reduces the activity and presence of insects and rodents and keeps such activity and presence below economically damaging levels, minimizing chemical use to reduce pest resistance and the harmful effects of pest control on human health and environmental resources. Integrated pest management includes management, biological controls and the judicious use of chemical controls.
- (SS) Karst terrain means an area where karst topography, including the characteristic surface and subterranean features, has developed as the result of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features present in karst terrains may include the following:
- (1) Sinkholes;
 - (2) Sinking streams;

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(3) Caves.

(TT) Land application areas means land under the control of a concentrated animal feeding operation, whether it is owned, rented, leased or otherwise under the control of the owner or operator, to which manure, or process wastewater from the production area is or may be applied.

(UU) Liquid manure means manure containing more than or equal to eighty percent liquid.

(VV) Livestock manure broker means a person who is in the business of buying, selling, or land applying manure.

(WW) Livestock manure applicator means a person who is in the business of transporting and land applying manure.

(XX) Manure application means the placement of manure within the boundaries of a land application site by:

(1) Spraying or spreading onto the land surface;

(2) Injection below the land surface in the crop root zone using equipment specifically designed for this purpose; or

(3) Incorporation into the soil by means of the mixing of manure with the surface soil using standard agricultural practices, such as tillage.

(YY) Manure management plan (MMP) means a written plan that adheres to the terms in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code.

(ZZ) Manure residuals means settled manure solids combined with varying amounts of water and dissolved materials that remain after some form of treatment.

(AAA) Manure spill means any unexpected, unintended, abnormal or unapproved dumping, leakage, drainage, seepage, discharge, release or other loss of manure. The term does not include releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(BBB) Manure storage area means area of an animal feeding facility used by the owner or operator for the storage of manure produced by the facility. Manure storage areas include, but are not limited to, manure storage or treatment facilities, lagoons, runoff ponds, storage sheds, stockpiles, stacking areas, under house or pit storages, liquid impoundments, and composting piles.

(CCC) Manure storage or treatment facility means any excavated, diked or walled structure or combination of structures designed for the biological stabilization, holding or storage of manure. These facilities include manure storage ponds, manure treatment lagoons, fabricated structures, lagoons, manure storage sheds, under house or pit storages, and composting areas.

(DDD) Manure storage pond means a type of manure storage or treatment facility consisting of an earthen impoundment made by constructing an embankment and/or excavating a pit, the purpose of which is to store or settle manure. A manure storage pond contains liquid manure.

(EEE) Manure treatment lagoon means a type of manure storage or treatment facility consisting of an earthen impoundment made by constructing an embankment and/or excavating a pit, the purpose of which is to biologically treat manure. A manure treatment lagoon contains liquid manure.

*****DRAFT - NOT FOR FILING*****

(FFF) Modification means one or more of the following:

- (1) For NPDES permits, permits to install, and permits to operate: A material and substantial alteration of the facility including an increase of the number of animals that exceed the design capacity of an existing facility by ten per cent or more in excess of the design capacity set forth in the current permit, provided that in no case during a five year period shall the facility's or facility's capacity be modified to increase by more than ten per cent in the aggregate.
- (2) For permits to install and permits to operate: Any structural change to the facility that will alter compliance with siting criteria as set forth in rule 901:10-2-02 of the Administrative Code;
- (3) For permits to operate: Any changes to the insect and rodent control plan approved by the director except as set forth in paragraphs (E) and (F) in rule 901:10-2-19 of the Administrative Code;
- (4) For NPDES permits, permits to install, and permits to operate: Changes described in rule 901:10-1-09 of the Administrative Code as being grounds for modification of the permit type; or
- (5) For NPDES permits, permits to install, and permits to operate: Changes to the manure storage or treatment facility that result from an expansion of the existing facility by ten per cent or more in excess of treatment or storage capacity.

(GGG) Multi-year phosphorus application means phosphorus applied to a field in excess of the crop needs for that year in accordance with appendix e of rule 901:10-2-14 of the Administrative Code.

(HHH) Neighboring residence means any occupied permanent dwelling acquired by its current owner prior to the application for a permit to install a new animal feeding operation or prior to the initial construction of an animal feeding operation for which an application for a permit to install expansion or modification has been submitted. A neighboring residence does not include any dwelling owned by the owner or operator of the production area of the facility at the time the permit to install application is submitted.

(III) New discharger means any building, structure, facility, or installation:

- (1) From which there is or may be a discharge of pollutants;
- (2) That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
- (3) Which is not a new source; and
- (4) Which has never received a final effective NPDES permit for discharges at that site.

(JJJ) New source is defined at 40 CFR 122.2 and new source criteria are as defined at 40 CFR 122.29(b).

(KKK) Nitrate (as N) means nitrate reported as nitrogen and is listed with approved methods of analysis in table 1B at 40 CFR 136.

(LLL) Nutrient means, for purposes of Chapter 903. of the Revised Code, nitrogen or phosphorus.

(MMM) Operating record means the written record of a facility and other activities conducted under a permit to operate maintained by the owner or operator as found in rule 901:10-2-16 of the Administrative Code.

(NNN) Owner or operator, for the purposes of sections 903.02, 903.03, 903.04 and 903.05 of the Revised Code, means the person that owns or operates the manure storage or treatment facility or the concentrated animal

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feeding facility or concentrated animal feeding operation or major concentrated animal feeding facility as found in divisions (M), (N), (O), and (EE) of section 903.01 of the Revised Code.

- (1) Owner means the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility or holds or is able to control, either directly or through a holding company or subsidiary, by means of any of the following:
 - (a) The person holds at least twenty-five per cent of the equity of the facility which is a business concern that is a publicly traded corporation; or
 - (b) The person is any other business concern not covered in paragraph (NNN)(1)(a) of this rule and holds at least fifty per cent of the equity of the facility; or
 - (c) The person has provided a loan to the facility with provisions for the right to control management of the facility or actual control of the facility or the selection of officers, directors, or managers of the facility.
- (2) Types of ownership may include the any of the following:
 - (a) "Business concern" means any corporation, association, firm, partnership, trust, or other form of commercial organization.
 - (i) "Sole proprietorship" means a form of business concern, other than a partnership or corporation, in which one person owns all the assets and is solely liable for all the debts of the business. Sole proprietor includes any individual or entity in which an individual is an applicant or permittee or prospective owner.
 - (ii) "Partner" means a business concern where any person holding a position as, or similar to, a general partner, as defined in division (E) of section 1782.01 of the Revised Code, or a limited partner, as defined in division (F) of section 1782.01 of the Revised Code, or persons who share profits and liability and have management powers of a partnership, as partnership is defined in section 1775.05 of the Revised Code.
 - (iii) "Publicly traded corporation" means a business concern that is a corporation:
 - (a) Whose shares are listed on a national securities exchange; or
 - (b) Whose shares are regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association; or
 - (c) With fifty or more shareholders.
 - (b) "Equity" means any ownership interest in a business concern, including sole proprietorship, the shares of a partner, and stock in a corporation.
 - (c) "Loans" means notes, mortgages, or financial loans of any kind, secured or unsecured, unless held by a chartered lending institution.
- (3) "Operator" means the person responsible for the direct control or overall operations of a facility, and whose duties or responsibilities involve, in whole or part, the management of the facility and the exercise of independent or discretionary judgment. An operator may include the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or

*****DRAFT - NOT FOR FILING*****

managers of the facility.

(OOO) Overflow means the discharge of manure resulting from the filling of manure storage or treatment facilities beyond the point at which no more manure or stormwater can be contained by the facilities.

(PPP) Past violations for purposes of rule 901:10-5-04 of the Administrative Code means violations of Chapter 903. of the Revised Code and rules promulgated thereunder that have occurred on more than one occasion in the past five years.

(QQQ) Pests means detrimental insects and rodents.

(RRR) Phosphorus (as P) means the same as phosphate in this chapter.

(SSS) Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, large concentrated animal feeding operation, medium concentrated animal feeding operation, small concentrated animal feeding operation, landfill leachate collection system, vessel or other flooding craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

(TTT) Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et. seq.), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(1) Sewage from vessels; or

(2) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(UUU) Professional engineer means a person qualified to practice engineering according to the provisions of Chapter 4733. of the Revised Code and is presently registered by Ohio's board of registration for professional engineers and land surveyors.

[\(VVV\) Professional geologist means 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.](#)

~~(VVV)~~[\(WWW\)](#) Precipitation event means:

(1) A ten year, twenty-four hour rainfall event with a probable recurrence interval of once in ten years, or

(2) A twenty-five year, twenty-four hour rainfall event with a probable recurrence interval of once in twenty-five years; or

(3) A one-hundred year, twenty-four hour rainfall event.

(4) The terms ten year, twenty-four hour precipitation event, twenty-five year, twenty-four hour precipitation event, and one-hundred year, twenty-four hour precipitation event shall mean a precipitation event with

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a probable recurrence interval of once in ten years or twenty-five years or one hundred years, respectively, as defined by the national weather service in technical paper number forty, rainfall frequency atlas of the United States, May 1961, and subsequent amendments or equivalent regional or state precipitation probability information.

~~(WWW)~~(XXX) Public water system, or PWS, means a system which provides water for human consumption through pipes or other constructed conveyances for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Such term includes any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system and any water supply system serving an agriculture labor camp, as defined in section 3733.41 of the Revised Code. A public water system is either a "community water system" or a "non-community water system".

- (1) Community water system or CWS means a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.
- (2) Non-community water system or NCWS means a public water system that is not a community water system.
 - (a) Non-transient non-community water system or NTNCWS means a public water system that is not a community water system and that regularly serves at least twenty-five of the same persons over six months per year.
 - (b) Transient non-community water system or TNCWS means a non-community public water system that does not regularly serve at least twenty-five of the same persons over six months of the year.

~~(XXX)~~(YYY) Reasonably available means a person that is within a two hour drive of the facility and is available by telephone or by electronic communication.

~~(YYY)~~(ZZZ) Seasonal salmonid habitat means rivers, streams and embayments designated a seasonal salmonid aquatic life habitat by the Ohio environmental protection agency as set forth in Chapter 3745-1 of the Administrative Code.

~~(ZZZ)~~(AAA) Setback means a specified distance from surface waters, wells, neighboring residences, or potential conduits to surface waters where manure, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.

~~(AAA)~~(BBB) Solid manure means manure containing greater than twenty per cent total solids.

~~(BBB)~~(CCC) Sole source aquifer means an aquifer designated by the United States environmental protection agency as the sole or principal source of drinking water for a given aquifer service area.

~~(CCC)~~(DDD) Soil means unconsolidated, erodible earth material consisting of minerals or organics.

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

~~(EEE)~~(FFF) Staging or staging area means the land application area used for placement of manure at the time

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of delivery in such a manner as to facilitate land application within fifteen days at that site. Staging includes the transfer of liquid manure from transport vehicles to land application equipment.

~~(FFFF)~~(GGGG) Stockpile or stockpile area means field placement of the amount of manure to be used at a land application area.

~~(GGGG)~~(HHHH) Storage or storage period means the length of time anticipated between manure clean-out events provided that manure storage does not mean any form of manure containment for a period of fourteen days or less.

~~(HHHH)~~(IIII) Substantial compliance when referring to compliance with the provisions of a permit, means following the effluent limitations and best management practices set forth in the permit.

~~(HHH)~~(JJJJ) Surface waters of the state means all streams, lakes, ponds, marshes, watercourses, wetlands, springs, drainage systems, and other bodies or accumulations of surface water, natural or artificial, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

~~(JJJJ)~~(KKKK) Total coliform means all coliform bacteria and is listed with approved methods of analysis in table 1A at 40 CFR 136.3.

~~(KKKK)~~(LLLL) Total dissolved solids means nonfilterable residue and is listed with approved methods of analysis in table 1B at 40 CFR 136.

~~(LLL)~~(MMMM) Trade secrets means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, improvement, business information or plans, financial information, listing of names, addresses, or telephone numbers that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable through proper means by other persons who can obtain economic value from its disclosure or use.
- (2) The person claiming the secrets has taken reasonable efforts under the circumstances to maintain secrecy.

~~(MMMM)~~(NNNN) Uncovered means any manure storage or treatment facility that allows exposure of manure to precipitation events or to the run-on or run-off from precipitation events.

~~(NNNN)~~(OOOO) Variance means a type of permit modification that applies to NPDES permits.

~~(OOOO)~~(PPPP) Zoonotic diseases means illnesses that can be transmitted between humans and animals.

~~(PPPP)~~(QQQQ) "40 C.F.R." means Title 40 of the Code of Federal Regulations effective July 1, 2010.

901:10-1-04 Fees.

(A) Applicants for permits and certifications shall pay non-refundable fees to the department of agriculture for each such issuance as provided by this rule and rule 901:10-1-02 of the Administrative Code.

(B) As required in rule 901:10-1-06 of the Administrative Code, the livestock manager certificate will be assessed

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a fee of fifty dollars. Fees are assessed upon application for a certificate or renewal of certificate. A late charge of thirty dollars shall be assessed for a certificate expired more than ten days.

- (C) The permit to install shall be submitted simultaneously with the permit to operate with applicable fees for each permit.
- (D) An application for the permit to install will be assessed a fee of two thousand two hundred fifty dollars.
- (E) A stormwater construction permit application will be assessed a fee of five hundred dollars.
- (F) An application for the permit to operate, filed independently or with a permit to install, will be assessed a fee of one thousand dollars. The renewal fee for the permit to operate will be one thousand dollars.
- (G) An application for the permit to operate, filed with an application for a NPDES permit, will be assessed an additional fee of two hundred fifty dollars. The total amount will be one thousand two hundred fifty dollars for this combined permit.
- (H) An application for a general permit to operate will be assessed a fee of one thousand dollars. The renewal fee for the general permit to operate is one thousand dollars.
- (I) An application for a general permit to operate, filed with an application for a NPDES permit, will be assessed an additional fee of two hundred fifty dollars. The total amount will be one thousand two hundred fifty dollars for this combined permit.
- (J) An application for an individual or general NPDES permit will be assessed a fee of two hundred fifty dollars.
- (K) A request for a major operational change shall be assessed a fee of five hundred dollars.
- (L) Permit transfers are subject to a fee of five hundred dollars.
- (M) Modifications to permits are subject to a fee of one thousand dollars.
- (N) The fees assessed under this rule shall be collected upon submission of the application for permit as required by rule 901:10-1-02 of the Administrative Code or certificates or renewals or upon application for permit transfer or permit modification.
- (O) The director ~~shall~~may review the fees prescribed in paragraphs (B) to (N) of this rule ~~biennially~~periodically. If necessary to revise fees, the director shall compile revised fee schedules and shall make the revised schedules available to persons required to pay the fees and to the public.
- (P) If fees do not accompany the application as set forth in paragraphs (B) to (N) of this rule, the application will be deemed incomplete. The applicant will be contacted with notice as to what fees are applicable and the application will not be processed until the fees are paid.

901:10-1-11 Exclusions.

The following discharges do not require NPDES permits:

- (A) Discharges of dredged or fill material into waters of the state which are regulated under section 404 of the act which is codified in 33 USC 1344 (February 4, 1987) and by the director of Ohio environmental protection.

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[agency](#) in accordance with Chapter 6111. of the Revised Code.

- (B) The introduction of sewage, industrial wastes, or other pollutants into publicly owned treatment works by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with NPDES permits until all discharges of pollutants to waters of the state are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other party not leading to treatment works.
- (C) Any discharge in compliance with the instruction of a federal on-scene coordinator, as that term is defined in section 2305.39 of the Revised Code, who is the federal official designated in the national contingency plan pursuant to 40 CFR part 300 ([September 15, 1994](#)) ("The National Oil and Hazardous Substances Pollution Contingency Plan") or 33 CFR ~~153.10(e)~~[153.103\(n\)](#) ([June 19, 2008](#)) ("Pollution by Oil and Hazardous Substances").
- (D) Any introduction of pollutants from nonpoint source agricultural and silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures range lands and forest lands, but not discharges from concentrated animal feeding operations, discharges to aquaculture projects, and discharges from silvicultural point sources.
- (E) Return flows from irrigated agriculture.
- (F) Discharges into a privately owned treatment works, except as the director of [the Ohio](#) environmental protection [agency](#) may otherwise require.

901:10-2-03 Geological explorations.

- (A) Fabricated structures - A subsurface geological exploration shall be completed for fabricated structures as described in this paragraph:
 - (1) For fabricated structures storing solid manure.

Evaluate the suitability of the soil to provide the appropriate load bearing strength for the proposed fabricated structure by use of a soil survey or by a geological exploration conducted in accordance with this rule. The director may require on-site subsurface geological explorations depending on the soil survey, depth of the structure to be installed below existing grade and type of structural loading of the fabricated structure. The geological report shall meet the requirements in paragraph (C) of this rule.

~~(a) Evaluate the suitability of the soil to provide the appropriate load bearing strength for the proposed fabricated structure by use of a soil survey or by a geological exploration conducted in accordance with this rule. The director may require on-site subsurface geological explorations depending on the soil survey, depth of the structure to be installed below existing grade and type of structural loading of the fabricated structure.~~

- (2) For fabricated structures storing liquid manure.

The subsurface geological exploration and report, [described in paragraph \(C\) of this rule](#), shall be completed under the supervision of ~~an engineering~~ [a professional](#) geologist or a professional engineer;

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and shall be in compliance with, and describe, the following:

- (a) The subsurface geological exploration shall include a minimum of three test pits or borings. The test pits or borings must be at regular intervals and within a reasonable distance of the boundaries of the proposed fabricated structure. Additional test pits or borings may be required by the director, ~~or the~~ professional engineer, or ~~engineering the professional~~ geologist.
- (b) The test pits or borings shall extend a minimum of five feet below the planned bottom of the fabricated structure. In addition, a representative number of test pits or borings shall extend deep enough to determine if the fabricated structure meets the siting criteria from the uppermost aquifer described in rule 901:10-2-02 of the Administrative Code. Upon completion, any boring or pit used for sampling shall be properly plugged and sealed.
- (c) The classification of the soil material shall be provided, as set forth in the appendix to this rule.
- (d) The in-situ hydraulic conductivity of the soil material shall be determined, based on lab results, within five feet below the planned bottom of the fabricated structure.
- (e) The subsurface geological exploration shall evaluate the suitability of the soil to provide the appropriate load bearing strength for the proposed fabricated structure as set forth in the appendix to rule 901:10-2-05 of the Administrative Code.
- (f) The subsurface geological exploration shall determine soil strength values so that lateral earth pressures can be calculated as set forth in the appendix to rule 901:10-2-05 of the Administrative Code.
- (g) The subsurface geological exploration shall evaluate whether the proposed fabricated structure is to be located within a karst area; and
- (h) Ground water quality characteristics. ~~Ground water shall be sampled from a well existing at the facility or, if no well exists at the facility, from a well that is constructed in accordance with rule 3701-28-12 of the Administrative Code. A well installed or otherwise approved for use to satisfy the requirements of this rule, shall also be used to satisfy the annual ground water sampling and analysis required by rule 901:10-2-08 of the Administrative Code.~~
 - (i) Ground water shall be sampled from a well existing at the facility. ~~or, if no well exists at the facility, from a well that is constructed in accordance with rule 3701-28-12 of the Administrative Code. A well installed or otherwise approved for use to satisfy the requirements of this rule, shall also be used to satisfy the annual ground water sampling and analysis required by rule 901:10-2-08 of the Administrative Code.~~**
 - (ii) If no well exists at the facility, ground water shall be sampled from a well that is nearby as approved by the department. If no nearby existing well is available for sampling prior to construction of a new facility, then the director may allow sampling prior to approval of stocking as described in rule 901:10-2-01(B)(4).
 - (iii) A well installed or otherwise approved for use to satisfy the requirements of this rule, shall also be used to satisfy the annual ground water sampling and analysis required by rule 901:10-2-08 of the Administrative Code.

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(i) In the event that the director determines that ground water monitoring shall be required to satisfy the requirements of this rule or rule 901:10-2-02 of the Administrative Code, then a ground water monitoring program shall be designed, installed, and implemented as approved by the director in a permit to install and permit to operate.

(B) "~~Manure Storage Ponds or Manure Treatment Lagoons~~" - A subsurface geological exploration shall be completed for manure storage ponds or manure treatment lagoons as described in this paragraph.

The subsurface geological exploration and report shall be completed under the supervision of ~~an engineering~~ a professional geologist or a professional engineer, and shall be in compliance with, and describe, the following:

- (1) The subsurface geological exploration shall include a minimum of four test pits or borings. The test pits or borings must be at regular intervals and within a reasonable distance of the boundaries of the proposed manure storage pond or manure treatment lagoon. Additional test pits or borings may be required by the director, ~~or the professional engineer,~~ or the engineering professional geologist.
- (2) The test pits or borings shall extend a minimum of five feet below the planned bottom of the manure storage pond or manure treatment lagoon. In addition, a representative number of test pits or borings shall extend deep enough to determine if the manure storage pond or manure treatment lagoon meets the siting criteria from the uppermost aquifer described in rule 901:10-2-02 of the Administrative Code. Upon completion, any boring or pit used for sampling shall be properly plugged and sealed. Any pit used for sampling that is within the construction boundaries of the concentrated animal feeding facility, the manure storage pond or the manure treatment lagoon shall be restored by the addition of cohesive soil compacted in lifts no greater than six inches;
- (3) The classification of the soil material shall be provided, as set forth in the appendix to this rule;
- (4) The in-situ hydraulic conductivity of the soil material shall be determined, based on lab results, within five feet below the planned bottom of the manure storage pond or manure treatment lagoon;
- (5) The subsurface geological exploration shall evaluate the suitability of the soil material to provide adequate sealing of the bottom of the manure storage pond or manure treatment lagoon and construction of the planned embankments as described in rule 901:10-2-06 of the Administrative Code;
- (6) The subsurface geological exploration shall evaluate whether the proposed manure storage pond or manure treatment lagoon is to be located within a karst area;
- (7) Ground water quality characteristics. ~~Ground water shall be sampled from a well existing at the facility or, if no well exists at the facility, from a well that is constructed in accordance with rule 3701-28-12 of the Administrative Code. A well installed or otherwise approved for use to satisfy the requirements of this rule, shall also be used to satisfy the annual ground water sampling and analysis required by rule 901:10-2-08 of the Administrative Code.~~

(a) Ground water shall be sampled from a well existing at the facility. ~~or, if no well exists at the facility, from a well that is constructed in accordance with rule 3701-28-12 of the Administrative Code. A well installed or otherwise approved for use to satisfy the requirements of this rule, shall also be used to satisfy the annual ground water sampling and~~

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~~analysis required by rule 901:10-2-08 of the Administrative Code.~~

(b) If no well exists as the facility, ground water shall be sampled from a well that is nearby as approved by the department. If no nearby existing well is available for sampling prior to construction of a new facility, then the director may allow sampling prior to approval of stocking as described in rule 901:10-2-01(B)(4).

(c) A well installed or otherwise approved for use to satisfy the requirements of this rule, shall also be used to satisfy the annual ground water sampling and analysis required by rule 901:10-2-08 of the Administrative Code.

- (8) In the event that the director determines that ground water monitoring shall be required to satisfy the requirements of this rule or rule 901:10-2-02 of the Administrative Code, then a ground water monitoring program shall be designed, installed, and implemented as approved by the director in a permit to install and permit to operate.
- (9) Based on the results of the subsurface geological exploration and determinations by the ~~engineering-professional~~ geologist, professional engineer, or the director, additional tests may be required to determine the potential need for a liner and the liner specifications;
- (10) The department may require additional subsurface geological explorations depending on the soils and geological formations on site to ensure the protection of the ground water, surface water or the structural integrity of the manure storage pond or manure treatment lagoon. The subsurface geological exploration shall refer to the Ohio department of natural resources, ~~division of soil and water resources~~, ground water pollution potential (DRASTIC) maps to determine the pollution potential for each site, the pathways of contamination, if any, and whether additional design is needed to protect water and ground water.
- (C) The results of subsurface geological explorations performed in accordance with paragraphs (A) and (B) of this rule shall be included in a report prepared by ~~an a engineering-professional~~ geologist or a professional engineer and submitted with the facility design plans.
- (1) The report shall include but not be limited to an analysis or evaluation that demonstrates that the information provided meets the requirements of rules 901:10-2-01 to 901:10-2-06 of the Administrative Code, and as follows for each applicable type of manure storage and treatment facility:
- (a) For any planned manure storage or treatment facility, the analysis or evaluation shall provide the following information:
- (i) A plan and profile view of the of a facility wells, and any exploration pits and borings shown in relation to the manure storage or treatment facility;
- (ii) Available Ohio department of natural resources, ~~division of soil and water resources~~, water well logs of wells located within a minimum of one thousand feet of the planned manure storage or treatment facility;
- (iii) Subsurface materials identified using either the group classification system by the American association of state highway and transportation officials or the unified soil classification system

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appended to this rule;

(iv) Identification of the uppermost aquifer at the site and the criteria used to make this determination.

(b) For any planned liquid manure fabricated structure, manure storage pond, or manure treatment lagoon, the analysis or evaluation shall also provide the following additional information:

(i) Evidence of seepage or ground water conditions and depths in pits or borings;

(ii) Determination of the suitability of in-situ soils to provide an acceptable liner system, or lining recommendations when the in-situ soils are not suitable, which shall include remold permeability tests of planned liner material;

(iii) The results of the [laboratory analyses](#) soil ~~tests~~[samples](#).

(c) For any planned manure storage pond or manure treatment lagoon, the analysis or evaluation shall also provide the following additional information: ~~Recommendation from the laboratory analysis of the compactive effort or soil density, and soil moisture requirements needed during construction to achieve design hydraulic conductivity;~~

(i) Recommendation from the laboratory analysis of the compactive effort or soil density, and; soil moisture requirements needed during construction to achieve design hydraulic conductivity;

(ii) Soil moisture requirements needed during construction to achieve design hydraulic conductivity.

(2) Based on the results of the tests of this rule the professional engineer, ~~engineering~~[professional](#) geologist, or director may require additional explorations that may include laboratory testing of soils and additional ground water monitoring wells.

(D) Laboratory testing and analysis:

(1) Soil samples taken during the subsurface geological exploration shall be tested in accordance with approved or certified soil testing procedures.-

(2) Tests and results reported shall include, but not be limited to, hydraulic conductivity, dry unit weight, Atterberg limits, and standard compaction with recompaction to achieve design hydraulic conductivity.

(E) Upon request by the owner or operator and subsequent written approval from the department, field changes may be made in order to meet site-specific conditions during construction. The owner or operator shall demonstrate that such changes shall be at least as protective of the ground water, surface water, and the structural integrity of the manure storage or treatment facility as requirements of this chapter.

901:10-2-07 Contents of a permit to operate and NPDES applications.

(A) The application for a permit to operate and for a NPDES permit shall contain the following information:

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- (1) A manure management plan that is developed and implemented to comply with the best management practices set forth in rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16, and 901:10-2-18 of the Administrative Code, and
 - (2) Plans or schedules for inspections required in rule 901:10-2-08 of the Administrative Code.
- (B) Additional requirements for an application for a permit to operate include submittal of:
- (1) An insect and rodent control plan that conforms to best management practices and is in accordance with rule 901:10-2-19 of the Administrative Code.
 - (2) A plan for odor minimization in accordance with rule 901:10-2-12 of the Administrative Code.
 - (3) An emergency response plan in accordance with rule 901:10-2-17 of the Administrative Code.
- (C) Additional requirements for an application for a NPDES permit for a large concentrated animal feeding operation shall contain the information required in Chapter 901:10-3 of the Administrative Code.
- (D) If a biosecurity plan is submitted, it shall be included with the permit to operate application.
- (E) The owner or operator shall maintain a copy of the current permit to operate and NPDES permit issued by the department at the concentrated animal feeding facility's site office.
- (F) Additional requirements for an application for a NPDES permit for a medium or small concentrated animal feeding operation may also include best management practices specified by the director.

901:10-2-15 Manure management plan and the plan for the disposal of dead livestock.

~~A manure management plan shall include a plan for the disposal of dead livestock. The plan shall include best management practices for burning, burial, rendering, composting, or other methods consistent with sections 941.14, 953.26, and 1511.022 of the Revised Code. In the alternative, the owner or operator may choose to follow the requirements set forth in section 3734.02 of the Revised Code and rules promulgated thereunder. Records for implementing the plan for the disposal of dead livestock shall be included in the operating record set forth in rule 901:10-2-16 of the Administrative Code.~~

- (A) A manure management plan shall include a plan for the disposal of dead livestock. The plan shall include best management practices for burning, burial, rendering, composting, alkaline hydrolysis or other methods consistent with sections 941.14, 953.26, and 1511.022 of the Revised Code. ~~In the alternative, the owner or operator may choose to follow the requirements set forth in section 3734.02 of the Revised Code and rules promulgated thereunder. Records for implementing the plan for the disposal of dead livestock shall be included in the operating record set forth in rule 901:10-2-16 of the Administrative Code.~~**
- (B) In the alternative, the owner or operator may choose to follow the requirements set forth in section 3734.02 of the Revised Code and rules promulgated thereunder.**
- (C) Records for implementing the plan for the disposal of dead livestock shall be included in the operating record set forth in rule 901:10-2-16 of the Administrative Code.**

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901:10-2-17 Emergency response plan.

(A) An emergency response plan shall include, but is not limited to the following:

- (1) The names and telephone numbers of persons who are identified by the owner or operator as responsible for implementing the plan.
- (2) Areas of the facility where potential spills can occur and their accompanying surface and subsurface drainage points.
- (3) Procedures to be followed in the event of a spill, including actual or imminent discharge to waters of the state:
 - (a) Actions to contain or manage the spill;
 - (b) Identification of proper authorities to be contacted;
 - (c) Actions to mitigate any adverse effects of a spill; and
 - (d) Identification of equipment and clean-up materials to be used in the event of a spill.

~~(4)~~ (B) Procedures for reporting.

~~(a)~~ (1) The owner or operator shall report by telephone to the department as soon as possible, but in no case more than twenty-four hours following first knowledge of the occurrence of the following:

~~(i)~~ (a) The times at which the discharge or manure spill occurred and was discovered;

~~(ii)~~ (b) The approximate amount and the characteristics of the discharge or manure spillage;

~~(iii)~~ (c) The waters of the state affected by the discharge or spillage;

~~(iv)~~ (d) The circumstances which created the discharge or spillage;

~~(v)~~ (e) The names and telephone numbers of persons who have knowledge of these circumstances;

~~(vi)~~ (f) Those steps being taken to clean up the discharge or spillage; and

~~(vii)~~ (g) The names and telephone numbers of persons responsible for the cleanup.

~~(b)~~ (2) For any emergency that requires immediate reporting after normal business hours, contact the Ohio department of agriculture's emergency telephone number.

~~(c)~~ (3) If applicable, the owner or operator shall notify appropriate local authorities.

~~(d)~~ (4) The owner or operator shall also file a written report of the occurrence in letter form within five days following first knowledge of the occurrence, unless the director allows an extension of time or waives the reporting requirement. This report shall outline the actions taken or proposed to be taken to correct the problem and to ensure that the problem does not ~~reoccur~~ reoccur.

901:10-2-18 Closure plan requirements.

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(A) The owner or operator of a facility need not seek continued permit coverage under a permit to operate or reapply for a permit to operate, if the facility is no longer a concentrated animal feeding facility, or if the facility is no longer required to maintain permit coverage in the permit program in accordance with section 903.082 of the Revised Code. ~~The owner or operator of a concentrated animal feeding operation need not reapply for an NPDES permit if the concentrated animal feeding operation will not discharge or propose to discharge upon expiration of the NPDES permit.~~

(B) The owner or operator of a concentrated animal feeding operation need not reapply for an NPDES permit if the concentrated animal feeding operation will not discharge or propose to discharge upon expiration of the NPDES permit.

~~(B)~~ (C) Permittees who plan to end permit coverage must submit a closure plan. The owner or operator shall notify the director in writing and allow the director an opportunity to inspect the facility to verify that a permit is no longer required and that the facility is closed for purposes of Chapter 903. of the Revised Code and in accordance this rule. Thereafter, the director will notify the owner or operator in writing that the facility is closed in accordance with this rule.

- (1) If all of a concentrated animal feeding facility or a concentrated animal feeding operation will be closed or discontinued, the owner or operator shall implement a closure plan for all of the concentrated animal feeding facility or concentrated animal feeding operation. At least ninety days before closure, the owner or operator shall submit a closure plan for the director's approval that provides for the following:
 - (a) Implementation of best management practices during closure.
 - (b) Removal of all manure from the manure storage or treatment facilities.
 - (c) Removal of all associated appurtenances and conveyance structures from liquid manure storage or treatment facilities.
 - (d) Land application of the manure in accordance with rule 901:10-2-14 of the Administrative Code or disposal in another manner allowed by this chapter.
 - (e) If a manure storage or treatment facility will be filled with soil or if it will be demolished, the director may require a complete description or outline for the plan and specifications that will be required for this type of closure.
- (2) If the design capacity of the facility will be reduced so that the facility is no longer required to be covered under a permit to operate or an NPDES permit, because of closure of animal housing buildings, then the owner or operator shall, at least ninety days before such closure, submit for the director's approval, and thereafter shall implement, a closure plan that provides for the following:
 - (a) Implementation of best management practices during closure.
 - (b) A detailed explanation of how the design capacity of the facility will be reduced. This explanation would include information such as, but not limited to: ~~a description of the reduction of animals per cage, pen, lot or barn, reason for reduction, assurance that the reduction is intended to be permanent in nature and any other information that is deemed necessary by the director in order to explain the closure of the facility.~~

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(i) A description of the reduction of animals per cage, pen, lot or barn; ~~reason for reduction, assurance that the reduction is intended to be permanent in nature and any other information that is deemed necessary by the director in order to explain the closure of the facility.~~

(ii) The reason for the reduction; and

(iii) Assurance that the reduction is intended to be permanent in nature and any other information that is deemed necessary by the director in order to explain the closure of the facility.

(c) Any other action necessary to prevent a discharge of manure that was generated while the operation was a concentrated animal feeding operation, other than agricultural stormwater from application areas.

(3) If the design capacity of the facility will be reduced so that the facility is no longer required to be covered under a permit to operate or an NPDES permit, but there will be no actual closure of any housing buildings or of a manure storage or treatment facility, then the owner or operator shall, at least ninety days before such closure, submit for the director's approval, and thereafter shall implement, a closure plan that provides for the following:

(a) Implementation of best management practices during closure.

(b) A detailed explanation of how the design capacity of the facility will be reduced without any closure of a housing building. This explanation would include information such as, but not limited to: a description of the reduction of animals per cage, pen, lot or barn, reason for reduction, assurance that the reduction is intended to be permanent in nature and any other information that is deemed necessary by the director in order to explain the closure of the facility.

(c) If a closure of the facility involves a part of the facility being transferred to a different owner, then the owner or operator of the permitted facility must provide the following:

(i) A copy of a revised site map showing new property lines and new ownership of each lot;

(ii) A copy of any new deed; and,

(iii) Documentation that demonstrates how the facility, after the land transfer, will not continue to meet the definition of either a concentrated animal feeding facility or a concentrated animal feeding operation.

(d) Any other action necessary to prevent a discharge of manure that was generated while the operation was a concentrated animal feeding operation, other than agricultural stormwater from application areas.

~~(C)~~ (D) If a permittee seeks to close permanently a manure storage or treatment facility or to close the entire facility temporarily without terminating permit coverage, the permittee must submit a closure plan. The owner or operator shall notify the director in writing and allow the director an opportunity to inspect the facility to verify that the facility or a portion of the facility is closed for purposes of Chapter 903. of the Revised Code and in accordance this rule. Thereafter, the director will notify the owner or operator in writing that the facility is closed in accordance with this rule.

(1) If all or part of a manure storage or treatment facility at a concentrated animal feeding facility or a

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concentrated animal feeding operation will be closed or discontinued, the owner or operator shall implement a closure plan for all or part of the manure storage or treatment facility. At least ninety days before closure, the owner or operator shall submit such a closure plan for the director's approval that provides for the following:

- (a) Implementation of best management practices during closure.
 - (b) Removal of all manure from the discontinued portions of the manure storage or treatment facility.
 - (c) Removal of all associated appurtenances and conveyance structures from discontinued liquid manure storage or treatment facilities.
 - (d) Land application of the manure in accordance with rule 901:10-2-14 of the Administrative Code or disposal in another manner allowed by this chapter.
 - (e) Calculations showing the remaining manure storage and days of storage for the facility that would allow for compliance with the permit to operate or NPDES permit, or Chapter 901:10-2 of the Administrative Code.
 - (f) If a manure storage or treatment facility will be filled with soil or if it will be demolished, the director may require a complete description or outline for the plan and specifications that will be required for this type of closure.
- (2) If a concentrated animal feeding facility or a concentrated animal feeding operation is to be temporarily closed or discontinued, the owner or operator shall implement a closure plan that addresses the temporary closure of the facility. At least ninety days before closure, the owner or operator shall submit such a closure plan for the director's approval that provides for the following:
- (a) Implementation of best management practices during closure.
 - (b) Removal of manure from the manure storage or treatment facilities.
 - (c) Land application of the manure in accordance with rule 901:10-2-14 of the Administrative Code or disposal in another manner allowed by this chapter.
 - (d) Calculations showing the remaining manure storage and days of storage for the facility that would allow for compliance with the permit to operate or NPDES permit, or Chapter 901:10-2 of the Administrative Code.
 - (e) Any other action necessary to prevent a discharge of manure during the time of the temporary closure, other than agricultural stormwater from application areas.
- (3) If the closure would constitute a modification as defined in rule 901:10-1-01 of the Administrative Code, the owner or operator shall apply for a permit modification removing the closed portions of the facility from the permit and recalculating the storage volume for the facility. If applicable, the owner or operator shall also submit an application for a permit to install.

901:10-3-03 Horses and sheep.

This rule applies to discharges resulting from the production areas at horse and sheep concentrated animal feeding operations. This rule does not apply to such concentrated animal feeding operations with less than

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the following capacities: ten thousand sheep or five hundred horses.

- (A) Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
 - (1) Except as provided in rule 901:10-3-08 of the Administrative Code, and subject to the provisions of paragraph (A)(2) of this rule, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BPT: there shall be no discharge of manure to waters of the state.
 - (2) Manure in the overflow may be discharged to waters of the state whenever rainfall events, either chronic or catastrophic, cause an overflow of manure from a facility designed, constructed and operated to contain all manure plus the runoff from a ten-year, twenty-four hour rainfall event for the location of the point source.
- (B) Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
 - (1) Except as provided in rule 901:10-3-08 of the Administrative Code, and when the provisions of paragraph (B)(2) of this rule apply, any existing point source subject to the rule must achieve the following effluent limitations representing the application of BAT: there shall be no discharge of manure into waters of the state.
 - (2) Whenever rainfall events cause an overflow of manure from a facility designed, constructed, operated, and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be discharged into waters of the state.
- (C) Standards of performance for new sources (new source performance standards or "NSPS").
 - (1) Except as provided in paragraph (C)(2) of this rule, any new source subject to this rule must achieve the following performance standards: there must be no discharge of manure to waters of the state.
 - (2) Whenever rainfall events cause an overflow of manure from a facility designed, constructed, operated, and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be discharged into waters of the state.

901:10-3-05 Effluent limitations for ducks category of feedlots.

This rule applies to discharges resulting from the production areas at dry lot and wet lot duck concentrated animal feeding operations. This rule does not apply to such concentrated animal feeding operations with less than the following capacities: five thousand ducks.

(A) Definitions

- (1) Dry lot means a facility for raising ducks in confinement with a dry litter floor cover and no access to swimming areas.
- (2) Wet lot means a confinement facility for raising ducks which is open to the environment, has a small

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portion of shelter area, and having open water runs and swimming areas to which ducks have access.

(B) Effluent limitation attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule shall achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Effluent limitations

Regulated parameter	Maximum Daily ¹	Maximum Monthly Average ¹	Maximum Daily ²	Maximum Monthly Average ²
BOD5	3.66	2.0	1.66	0.91
Fecal coliform	(3)	(3)	(3)	(3)

1 Pounds per 1,000 ducks

2 Kilograms per 1,000 ducks

3 Not to exceed most probable number (mpn) of 400 per 100 ml at any time.

(C) New source performance standards (NSPS).

- (1) Except as provided in paragraph (C)(2) of this rule, any new source subject to this rule must achieve the following performance standards: there must be no discharge of manure into waters of the state.
- (2) Whenever rainfall events cause an overflow of manure from a facility designed, constructed, operated, and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be discharged into waters of the state.

(D) Pretreatment standards for new sources

- (1) Except as provided in paragraph (D)(2) of this rule, any new source subject to this rule must comply with paragraph (E) of rule 901:10-3-02 of the Administrative Code and must achieve the following performance standards: there must be no introduction of manure to a publicly owned treatment works.
- (2) Whenever precipitation events cause an overflow of manure from a facility designed, constructed, operated and maintained to contain all manure plus the runoff from a twenty-five year, twenty-four hour rainfall event at the location of the point source, any manure in the overflow may be introduced to a publicly owned treatment works but in accordance with the requirements of paragraph (E) of rule 901:10-3-02 of the Administrative Code.

901:10-3-06 Swine, poultry, and veal calves.

This rule applies to operations defined as concentrated animal feeding operations and includes the following

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animals: swine; chickens; turkeys; and veal calves. This rule does not apply to such operations with less than the following capacities: two thousand five hundred swine each weighing fifty-five pounds or more; ten thousand swine each weighing less than fifty-five pounds; thirty thousand laying hens or broilers if the facility uses a liquid manure handling system; one hundred twenty-five thousand chickens other than laying hens if the facility uses other than a liquid manure handling system; eighty-two thousand laying hens if the facility uses other than a liquid manure handling system; fifty-five thousand turkeys; and one thousand veal calves.

(A) Effluent limitations attainable by the application of the best practicable control technology currently available (BPT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BPT:

(1) For production areas. Except as provided in paragraph (A)(1)(a) of this rule, there must be no discharge of manure into waters of the state from the production area. The limitations and requirements of this paragraph must be attained as of the date of permit coverage.

(a) Whenever precipitation causes an overflow of manure, pollutants in the overflow may be discharged into waters of the state provided:

(i) The production area is designed, constructed, operated and maintained to contain all manure including the runoff and the direct precipitation from a twenty-five year, twenty-four hour rainfall event; and

(ii) The production area is operated in accordance with the requirements set forth in the manure management plan in rule 901:10-2-08 of the Administrative Code and the records required by rule 901:10-2-16 of the Administrative Code.

(b) Voluntary alternative performance standards. Any CAFO subject to this subpart may request the director to establish NPDES permit effluent limitations based upon site-specific alternative technologies that achieve a quantity of pollutants discharged from the production area equal to or less than the quantity of pollutants that would be discharged under the baseline performance standards as provided by paragraph (A)(1) of this rule.

(i) Supporting information. In requesting site-specific effluent limitations to be included in the NPDES permit, the CAFO owner or operator must submit a supporting technical analysis and any other relevant information and data that would support such site-specific effluent limitations within the time frame provided by the director. The supporting technical analysis must include calculation of the quantity of pollutants discharged, on a mass basis where appropriate, based on a site-specific analysis of a system designed, constructed, operated, and maintained to contain all manure, litter, and process wastewater, including the runoff from a twenty-five-year, twenty-four-hour rainfall event. The technical analysis of the discharge of pollutants must include:

(a) All daily inputs to the storage system, including manure, litter, all process waste waters, direct precipitation, and runoff.

(b) All daily outputs from the storage system, including losses due to evaporation, sludge removal, and the removal of waste water for use on cropland at the CAFO or transport off site.

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- (c) A calculation determining the predicted median annual overflow volume based on a twenty-five-year period of actual rainfall data applicable to the site.
 - (d) Site-specific pollutant data, including N, P, BOD5, TSS, for the CAFO from representative sampling and analysis of all sources of input to the storage system, or other appropriate pollutant data.
 - (e) Predicted annual average discharge of pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and calculated considering paragraphs (A)(1)(b)(i)(a) to (A)(1)(b)(i)(d) of this rule.
- (ii) The director has the discretion to request additional information to supplement the supporting technical analysis, including inspection of the CAFO.

(c) The CAFO shall attain the limitations and requirements of this paragraph as of the date of permit coverage.

(2) For the land application areas.

(a) The operation shall attain the same limitations and requirements listed for the manure management plan in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code and record keeping requirements in rule 901:10-2-16 of the Administrative Code.

(b) The operation shall attain the limitations and requirements of this paragraph by December 31, 2006.

(B) Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT).

(1) Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BCT:

(a) For operation production areas: the operation shall attain the same limitations and requirements in paragraph (A)(1) of this rule.

(b) For the land application areas: the operation shall attain the same limitations and requirements in paragraph (A)(2) of this rule.

(C) Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BAT:

(1) For production areas: the concentrated animal feeding operation shall attain the same limitations and requirements in paragraph (A)(1) of this rule.

(2) For land application areas: the concentrated animal feeding operation shall attain the same limitations and requirements listed in paragraph (A)(2) of this rule.

(D) New source performance standards (NSPS).

Any new source subject to this rule must achieve the following effluent limitations representing the application of NSPS.

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- (1) For production areas: there must be no discharge of manure into waters of the state from the production area, subject to paragraphs (D)(1)(a) to (D)(1)(c) of this rule.
 - (a) A new source subject to this rule may request that the director establish NPDES permit best management practice effluent limitations designed to ensure no discharge of manure, litter, or process wastewater based upon a site-specific evaluation of the concentrated animal feeding operation's open surface manure storage or treatment facilities. The NPDES permit best management practice effluent limitations must address the CAFO's entire production area. In the case of any CAFO using an open surface manure storage or treatment facility for which the director establishes such effluent limitations, no discharge of manure as used in this section, means that the manure storage or treatment facility is designed, operated, and maintained in accordance with best management practices established by the director on a site-specific basis after a technical evaluation of the manure storage or treatment facility. The technical evaluation must address the elements established in 40 CFR 412.46(a)(1) ([November 20, 2008](#)). Manure storage or treatment facilities designed, constructed, operated, and maintained consistent with the analysis conducted in 40 CFR 412.46(a)(1)(i) to (a)(1)(vii) ([November 20, 2008](#)) and operated in accordance with the manure management plan and records required by rules 901:10-2-08 and 901:10-2-16 of the Administrative Code will fulfill the requirements of this rule. The director has the discretion to request additional information to support a request for effluent limitations based on a site-specific open surface manure storage structure.
 - (b) The production area shall be operated in accordance with the requirements set forth in the manure management plan in rule 901:10-2-08 of the Administrative Code and the records required by rule 901:10-2-16 of the Administrative Code.
 - (c) Provisions for upset/bypass, as provided in paragraphs (T) and (U) of rule 901:10-3-10 of the Administrative Code, apply to a new source subject to paragraph (D) of this rule.
- (2) For land application areas: the operation shall comply with the requirements listed for the manure management plan required by paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code and the recordkeeping requirements of rule 901:10-2-16 of the Administrative Code.
- (3) The operation shall attain the limitations and requirements of paragraph (D) of this rule as of the date of permit coverage.
- (4) Any source subject to this rule that commenced discharging after April 14, 1993 and prior to April 14, 2003 which was a new source subject to the standards specified in 40 CFR 412.15, (~~revised as of July 1, 2002~~), must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1) ([May 15, 2000](#)). Thereafter, the source must achieve the standards specified in paragraphs (A)(1) and (A)(2) of this rule.
- (5) Any source subject to this rule that commenced discharging after April 14, 2003 and prior to January 20, 2009 which was a new source subject to the standards specified in 40 CFR 412.46(a) to (d) in the July 1, 2008 edition of 40 CFR part 439, must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1) ([May 15, 2000](#)).

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901:10-3-11 Stormwater permits general and individual.

(A) Definitions.

~~{Comment: the~~The following definitions shall apply specifically to stormwater. All other definitions contained in this rule and not otherwise defined below shall retain the meaning in the rules contained in definitions rule 901:10-1-01 of the Administrative Code and in Chapter 903. of the Revised Code.}

- (1) Best management practices for stormwater means erosion control, sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions and other management practices published by the state or other agencies, such as "Rainwater and Land Development, Ohio's Standards for Storm Water Management, Land Development and Urban Stream Protection, Third Edition, 2006," prepared by the Ohio department of natural resources, division of soil and water conservation.
- (2) Construction activity means clearing, grading, excavation, grubbing and filling.
- (3) Erosion means the wearing away of soil by rainfall, surface water runoff, wind or ice movement.
- (4) Erosion control means methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover and construction phasing.
- (5) Exposed soil area means all areas of the construction site where the perennial vegetation (including trees, shrubs and brush) has been removed. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site.
- (6) Final stabilization means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of seventy percent of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures have been employed.
- (7) First order stream means all streams identified on a United States geological survey seven and five tenths minute topographical map by either a dashed or blue solid line.
- (8) Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt or gravel roads.
- (9) "National Pollutant Discharge Elimination System" (NPDES) means the program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits under the Clean Water Act (Sections 301, 318, 402 and 405), ~~and 33 USC 1317 (February 4, 1987), 33 USC 1328 (December 27, 1977), 33 USC 1342 (February 7, 2014), 33 USC 1345 (February 4, 1987)~~United States Code Title 33, sect. 1317, 1328, 1342, and 1345.
- (10) Permanent cover means final stabilization including, but not limited to, grass, gravel, asphalt and concrete.

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- (11) 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.
- (12) Sediment control means methods employed to prevent sediment from leaving the site. Sediment control practices include filter strips, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.
- (13) Soil means the unconsolidated, erodible earth material consisting of minerals or organics.
- (14) Stabilized means the exposed ground surface has been covered by staked sod, rip rap, wood fiber blanket, or other material, which prevents erosion from occurring. Grass seed by itself is not stabilization.
- (15) Stormwater means the precipitation runoff, stormwater runoff, snowmelt runoff and any other surface runoff and drainage defined in 40 CFR section 122.26(b)(13) ([November 16, 1990](#)). Stormwater does not include construction site dewatering or agricultural stormwater discharges.

Stormwater resulting from an animal feeding facility includes immediate access roads and rail lines used or traveled by carriers of raw materials, products, waste materials, or by-products used or created by the facility, sites used for handling material other than manure, refuse sites, sites used for storage and maintenance of material handling equipment, shipping and receiving areas, and under the control of the owner or operator. All areas that fall within the meaning of production area are excluded from this definition.
- (16) Temporary protection means temporary methods employed to prevent erosion. Examples of temporary protection include: straw, wood fiber blanket, wood chips and erosion netting.
- (17) Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and other bodies or accumulations of water, surface and underground, natural or artificial which are situated wholly within, 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.
- (18) Wet weather discharge refers collectively to point source discharges that result from precipitation events, such as rainfall and snowmelt. Wet weather discharges include stormwater runoff, combined sewer overflows and wet weather sanitary sewer overflows. Stormwater runoff accumulates pollutants such as oil and grease, chemicals, nutrients, metals and bacteria as it travels across land.

(B) Permit requirements.

- (1) General stormwater requirements. No person shall discharge stormwater resulting from an animal feeding facility without first obtaining a NPDES permit issued by the director of agriculture in accordance with rules when such a permit is required by the act. The director may designate a stormwater discharge as a point source subject to a NPDES permit. In addition, any person may petition the director to require a NPDES permit for a discharge which is composed entirely of stormwater which contributes to a violation of water quality standards or is a significant contributor of pollutants to waters of the United States. Persons that have been issued a NPDES permit by the director of the Ohio environmental protection agency for the discharge of storm water from an animal feeding facility prior to the date on

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which the USEPA approved the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. Such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit.

- (2) Construction stormwater requirements. No person shall discharge stormwater resulting from an animal feeding facility that is undergoing construction activities that include clearing, grading, excavating, grubbing and/or filling activities that result in the disturbance of one or more acres unless the person first obtains a NPDES permit issued by the director of agriculture in accordance with rules when such a permit is required by the Act. Persons that have been issued a NPDES permit by the director of the Ohio environmental protection agency for the discharge of stormwater from an animal feeding facility prior to the date on which the USEPA approved the NPDES program submitted by the director of agriculture under this section may continue to operate under that permit until it expires or is modified or revoked. Such a permit shall be enforced by the director of agriculture upon the transfer of authority to enforce the terms and conditions of the permit.

(C) Individual permit or general permit.

- (1) The director may require an owner or operator to apply for and obtain either an individual NPDES permit or coverage under a NPDES general permit. Any interested person may petition the director to take action under circumstances listed below. An individual NPDES permit may be required under the following circumstances:
 - (a) A discharge exists and is a significant contributor of pollutants;
 - (b) Noncompliance with the conditions of a NPDES general permit;
 - (c) Noncompliance with the rules; or
 - (d) Receiving streams not meeting applicable water quality standards;
 - (e) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - (f) Effluent limitation guidelines are promulgated for point sources covered by a general NPDES permit;
 - (g) A water quality management plan containing requirements applicable to such point sources is approved; or
 - (h) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
- (2) The director may require the owner or operator authorized to discharge by a general permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application and a statement setting a deadline for the owner or operator to file the application and a statement that on the effective date of the individual permit, coverage under this general permit shall automatically terminate. The director may grant additional time to submit the application upon request of the applicant. If an owner, operator or developer fails to submit in a timely manner an individual NPDES permit application required by the director under this paragraph, then the applicability of this

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general permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

- (3) Any owner or operator authorized by general permit may request to be excluded from the coverage of a general permit by applying for an individual permit. The owner or operator shall submit an individual application with reasons supporting the request to the director in accordance with the requirements of 40 CFR section 122.26 ([November 16, 1990](#)). The request shall be granted by issuance of an individual permit if the reasons cited by the owner or operator are adequate to support the request.
- (4) When an individual NPDES permit is issued to an owner or operator otherwise subject to a general permit, or the owner, operator or developer is approved for coverage under an NPDES general permit, the applicability of a general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of approval for coverage under the general permit, whichever the case may be.

(D) Requirements for stormwater discharge associated with construction activity.

- (1) Application. Individuals who intend to obtain coverage for a stormwater discharge associated with construction activity shall submit an application for a permit at least thirty days prior to the commencement of new construction activity. Application requirements for stormwater discharges associated with construction activity include a summary of the following:
 - (a) The location (including a scaled map) and the nature of the construction activity;
 - (b) The total area of the site and the area of the site that is expected to undergo excavation, grubbing and filling during the life of the permit;
 - (i) The owner or operator's name, address, telephone number, and manager's name (if applicable);
 - (ii) The proposed start and end date of the project;
 - (iii) An estimate of the area to be disturbed;
 - (iv) Proposed measures, including best management practices to control pollutants in stormwater discharges during construction;
 - (v) Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed;

~~Comment:~~ These measures ~~should~~must be compatible with paragraph (F) of rule 901:10-2-04 of the Administrative Code.†

 - (vi) An estimate of the runoff of the site and the increase in the impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and
 - (vii) The name of the receiving water.
- (2) Fees. A one-time fee must be submitted with the application in accordance with rule 901:10-1-04 of the Administrative Code. The owner or operator will indicate on the application whether the stormwater

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permit is to be a general or individual permit.

- (3) Transfer. A stormwater permit is transferable if the owner or operator notifies the department of agriculture in writing sixty days prior to any proposed transfer. The transferee must inform the department of agriculture in writing that he or she will assume the responsibilities of the original transferor. The director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the act.
- (4) Record keeping.
 - (a) For construction stormwater requirements, the facility's final plans and specifications, which incorporate the requirements of the erosion and sediment control plan must be:
 - (i) Available at the construction site in either the field office, the inspector's vehicle, or contractor's vehicle; and
 - (ii) Available to federal, state and local officials for inspection for the duration of this permit.
 - (b) The following plans and records must be made available to federal, state, and local officials within twenty-four hours of request for the duration of this permit:
 - (i) The erosion and sediment control plan.
 - (ii) Records of all inspections. Records shall include:
 - (a) The dates and times of inspections;
 - (b) Findings of inspections;
 - (c) Corrective actions taken (including dates and times); and
 - (d) Documentation of changes to the erosion and sediment control plan made during construction.
 - (iii) Dates of all precipitation events exceeding one-half inch.
 - (iv) The owner or operator shall retain records for a period of five years after the completion of the construction activity.
 - (c) The notice of the general stormwater permit coverage card or individual stormwater permit shall be posted at any of the following locations:
 - (i) Construction site entrance and visible from the nearest public roadway;
 - (ii) Visible from nearest public roadway, if no construction site entrance exists;
 - (iii) Field office, ~~(if applicable)~~; or
 - (iv) For linear utility and noncontiguous projects, at the office responsible for project administration.
- (5) Sediment control
 - (a) Stabilization and nonstructural practices. A description of control practices designed to preserve

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existing vegetation where attainable and revegetation of disturbed areas as soon as practicable after grading or construction shall be provided. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing and protection of trees. The owner or operator shall initiate appropriate vegetative practices on all disturbed areas within seven days if they are to remain dormant for more than forty-five days. For areas within fifty feet of any stream, first order or larger, soil stabilization practices shall be initiated within two days on all inactive, disturbed areas. Permanent or temporary soil stabilization shall be applied to disturbed areas within seven days after final grade is reached on any portion of the site. When seasonal conditions prohibit the application of temporary or permanent seeding, non-vegetative soil stabilization practices such as mulching and matting shall be used.

- (b) Structural practices. A description of structural practices that shall store runoff allowing sediments to settle and/or divert flows from exposed soils or otherwise limit runoff from eroding exposed areas of the site shall be provided. Structural practices shall be used to control erosion and trap sediment from all sites remaining disturbed for more than fourteen days. Such practices may include, but are not limited to, sediment traps, sediment basins, silt fences, earth diversion dikes, check dams and storm drain inlet protection.

Timing. Sediment control structures shall be functional throughout earth disturbing activity. Sediment ponds and perimeter sediment barriers shall be implemented as the first step of grading and within seven days from the start of grubbing. They shall continue to function until the upslope development area is restabilized.

- (c) Settling ponds. Concentrated stormwater runoff from disturbed areas flowing at rates which exceed the design capacity of sediment barriers shall pass through a sediment settling pond. The facility's storage capacity shall be a minimum of sixty-seven cubic yards per acre of drainage area.
- (d) Sediment barriers. Sheet flow runoff from denuded areas shall be intercepted by sediment barriers. Sediment barriers, such as silt fences or diversions directing runoff to settling facilities, shall protect adjacent properties and water resources from sediment transported by sheet flow.
- (e) Stream protection. Structural practices shall be designed and implemented on site to protect all adjacent streams, first order and larger, from the impacts of sediment runoff.

Other erosion and sediment control practices shall prevent sediment laden water from entering storm drain systems, unless the storm drain system drains to a settling pond. These practices shall divert runoff from disturbed areas and steep slopes where practicable and stabilize channels and outfalls from erosive flows.

- (6) Post construction stormwater pollution prevention. A description of measures that will be installed during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed shall be provided. Such practices may include among others: infiltration of runoff, flow reduction by use of open vegetated swales and natural depressions and stormwater retention and detention ponds.

~~{Comment:-~~These measures ~~should~~must be compatible with paragraph (F) of rule 901:10-2-04 of the Administrative Code.~~}~~

- (a) Where such controls are needed to prevent or minimize erosion, velocity dissipation devices shall be placed at the outfall of all detention or retention structures and along the length of any outfall

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channel as necessary to provide a non-erosive flow velocity from the structure to a watercourse. Justification shall be provided by the owner or operator for rejecting each practice based on site conditions.

- (7) Surface water protection. If the project site contains any streams, rivers, lakes, wetlands or other surface waters, certain construction activities at the site may be regulated under the act. Sections 404 and 401 of the act regulate the discharge of dredged or fill material into surface waters and the impacts of such activities on water quality, respectively. Construction activities in surface waters which may be subject to regulation include, but are not limited to: sewer line crossings, grading, backfilling or culverting streams, filling wetlands, road and utility line construction, bridge installation and installation of flow control structures.
- (8) Other controls.
 - (a) Waste disposal. No solid, ~~(other than sediment)~~, or liquid waste, including building materials, shall be discharged in stormwater runoff.
 - (b) Off-site vehicle tracking of sediments shall be minimized.
 - (c) The plan shall ensure and demonstrate compliance with applicable state or local waste disposal, sanitary sewer or septic system regulations.
- (9) Maintenance
 - (a) All temporary and permanent control practices shall be maintained and repaired as needed to assure continued performance of their intended function.
 - (b) The pollution prevention plan shall be designed to minimize maintenance requirements. The owner or operator shall provide a description of maintenance procedures needed to assure the continued performance of control practices.
- (10) Inspections
 - (a) Procedures in a plan shall provide that all erosion and sediment controls on the site are inspected at least once every seven calendar days and within twenty-four hours after any precipitation event greater than one-half inch of precipitation in a twenty-four hour period. In addition, qualified inspection personnel provided by the owner or operator shall conduct a weekly inspection of the construction site to identify areas contributing to stormwater discharges associated with construction activity and evaluate whether measures associated with erosion and control of pollutant loadings identified in a stormwater pollution prevention plan are adequate and properly implemented. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving waters. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.
- (11) Notice of termination.
 - (a) Once the construction activity is completed, the permittee shall submit notice to the department of

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agriculture within thirty days after final site stabilization has been achieved. Final site stabilization is considered achieved once all temporary erosion and sediment control practices are removed and disposed of and all trapped sediment has been permanently stabilized to prevent further erosion.

(b) The stormwater pollution prevention plan shall contain the following:

(i) Erosion and sediment control practices;

(ii) Permanent stormwater management practices to be used to control pollutants in stormwater after construction operations have been completed.

~~Comment:~~ These measures ~~should~~must be compatible with paragraph (F) of rule 901:10-2-04 of the Administrative Code. ~~‡~~

(c) The owner or operator shall amend the plan whenever there is a change in design, construction, operation or maintenance, which has a significant effect on the potential for the discharge of pollutants to waters of the state and shall record such changes in the operating record required by rule 901:10-2-16 of the Administrative Code. If the stormwater pollution prevention plan proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity, the owner or operator may change the plan, provided such changes are recorded in the operating record.

(d) The owner or operator shall inform all contractors and subcontractors who will be involved in the implementation of the stormwater pollution prevention plan of the terms and conditions of the permit that authorizes the discharges.

(E) Requirements for general and individual stormwater permits.

(1) A stormwater pollution prevention plan shall be developed for the production area of each facility required to have a stormwater permit.

(a) The stormwater pollution plan shall comply with and be submitted as part of paragraph (F) of rule 901:10-2-04 of the Administrative Code and the application for a permit to install. The stormwater pollution plan shall contain spill prevention and good housekeeping techniques, along with plans to divert clean water. Spill prevention and good housekeeping techniques, along with diversion of clean water, shall be used to ensure that uncontained storm water from the production area is not contaminated by manure and to ensure that storm water discharges from the following areas maintain Ohio water quality standards in the receiving waters of the state: immediate access roads and rail lines used or traveled by carriers of raw materials, products, waste material, or by-products used or created by the CAFO; refuse sites; sites used for the storage and maintenance of material handling equipment; and shipping and receiving areas. Storm water that is contaminated by manure or raw materials, ~~(such as silage),~~ is process wastewater, which is included in the definition of manure and may only be discharged in accordance with a NPDES permit.

(b) The stormwater pollution plan shall be included with the conditions of a NPDES permit which shall require compliance with the stormwater pollution plan as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

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- (2) Fees. A one-time fee must be submitted with the application in accordance with rule 901:10-1-04 of the Administrative Code. The owner or operator will indicate on the application whether the stormwater permit is to be a general or individual permit.
- (3) Transfer. A stormwater permit is transferable as part of a NPDES permit. The owner or operator shall notify the department of agriculture in writing sixty days prior to any proposed transfer. The transferee must inform the department of agriculture in writing that he or she will assume the responsibilities of the original transferor.
- (4) Inspections and record keeping. The facility shall implement the best management practices, including inspections, in rule 901:10-2-08 of the Administrative Code and shall maintain records specified in rule 901:10-2-16 of the Administrative Code.

901:10-4-01 General permit to operate requirements.

- (A) General permit to operate or general permit means a type of permit developed by the director for one or more categories of facilities as facility is defined in rule 901:10-1-01 of the Administrative Code.
 - (1) The director shall develop general permits to operate that relate to the following areas:
 - (a) The facilities involve the same or substantially similar operations including, but not limited to, the same types of animals;
 - (b) The facilities manage the same types of manure storage or treatment facilities or operate with substantially similar manure management plans; or
 - (c) The facilities are regulated by a NPDES permit and have similar discharge characteristics and require the same operating conditions to meet either effluent limitations or water quality standards.
 - (2) The general permit to operate may be written to cover facilities within a geographic area, including but not limited to the following:
 - (a) Existing geographic or political boundaries;
 - (b) Any other appropriate combination of boundaries.
- (B) The following are eligible for general permits to operate. Any owner or operator may apply for a general permit to operate if the owner or operator falls under one of the following categories:
 - (1) Construction stormwater sources;
 - (2) Any concentrated animal feeding facility that requires NPDES permit coverage as a concentrated animal feeding operation and is not a major concentrated animal feeding facility;~~or~~
 - (3) Any concentrated animal feeding facility that is not a major concentrated animal feeding facility; or
 - (4) Other facilities or operations that meet the criteria in paragraph (A) of this rule.
- (C) If the director decides to issue a general permit to operate the director shall follow the notice procedures in Chapter 901:10-6 of the Administrative Code.

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- (D) No provision in any general permit to operate issued under this rule shall be interpreted as allowing the owner or operator to violate state water quality standards or other applicable environmental standards.
- (E) General permits to operate will be effective for a term not to exceed five years at the end of which time the director may renew them. Public notice requirements as found in Chapter 901:10-6 of the Administrative Code shall be satisfied prior to renewal of general permits. If the director chooses not to renew a general permit to operate, all facilities or operations covered under that general permit to operate, shall be notified to submit applications for individual permits. If the director chooses to deny, modify, revoke or suspend a general permit to operate the director will afford the affected parties the opportunity to request a hearing under Chapter 119. of the Revised Code.
- (1) The director may deny, modify, suspend, or revoke eligibility for or coverage under a general permit to operate in situations that include, but are not limited to the following:
- (a) Noncompliance with the general permit to operate; or
 - (b) Noncompliance with rules of Chapter 903. of the Revised Code.
- (2) The director may modify, suspend, or revoke eligibility for or coverage under a NPDES general permit to operate for the criteria set forth in paragraphs (E)(1) of this rule or in the following situations:
- (a) The discharging facility is not in compliance with the conditions of the general NPDES permit;
 - (b) New discharges which are not discharges currently covered by a NPDES general or individual permit. A general NPDES permit to operate will not be issued for new discharges associated with concentrated animal feeding facilities requiring a NPDES permit if the receiving waters are designated as outstanding national resource waters, outstanding high quality waters, superior high quality waters, or state resource waters, or to receiving waters that discharge to a water with one of these designations within two stream miles of the discharge point;
 - (c) A discharge exists and is a significant contributor of pollutants. The director may consider the following factors:
 - (i) Location of discharge with respect to waters of the State;
 - (ii) Size of discharge; [and](#)
 - (iii) Quantity and nature of pollutants discharged; or other relevant factors.
 - (d) Conditions at the permitted NPDES operation change, altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for coverage under a general permit;
 - (e) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general NPDES permit or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
 - (f) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of effluent or effluent limitations are promulgated for the facility covered by the general permit;
 - (g) A determination has been made that the waters are not meeting applicable water quality standards; or

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and approved water quality management plan; or

(h) Effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit.

(3) The director may require any discharging facility authorized by a NPDES general permit to operate to apply for and obtain an individual NPDES permit to operate. Any interested person may petition the director to take action under this paragraph. Cases where an individual NPDES permit to operate may be required shall be as set forth in the criteria of paragraph (E)(2) of this rule.

(F) Each general NPDES permit to operate for NPDES operations must be approved by the United States environmental protection agency before the permit becomes effective.

(G) Only the director may modify general permits to operate. When a permit is modified, only the conditions subject to modification are reopened. The owner or operator shall be afforded the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code.

901:10-4-03 Notification of coverage.

(A) An owner or operator requesting to be covered by a general permit to operate shall submit a notice of intent.

(B) Notices of intent shall be filed on forms approved by the director and, where applicable to a NPDES operation, shall be considered and processed as an application for coverage under a NPDES permit.

(C) Notices of intent shall contain:

(1) The general permit to operate category under which the applicant requests to be covered;

(2) Name, address, telephone number, contact person and title of owner or operator;

(3) Location, including the latitude and longitude of the production area (entrance to production area);

(4) Topographic map of the geographic area in which the facility is located showing the specific location of the production area;

(5) Specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing fifty-five pounds or more, swine weighing less than fifty-five pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(6) The type of manure storage or treatment facility (anaerobic lagoon, fabricated structure, manure storage ponds, underfloor pits, above ground storage tanks, below ground tanks, concrete pad, impervious soil pad, other) and total capacity for manure (tons/gallons);

(7) The total number of acres under control of the applicant available for land application of manure;

(8) Estimated amounts of manure generated per year (tons/gallons);

(9) Estimated amounts of manure transferred to other persons per year (tons/gallons);

(10) Identification of the permit to install number, if any;

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- (11) A manure management plan that complies with the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18 of the Administrative Code, and any applicable provisions in rules 901:10-3-02 to 901:10-3-11 of the Administrative Code;
 - (12) The name of the receiving water(s);
 - (13) Any other information deemed necessary by the director found in the general permit to operate form; and,
 - (14) Any other information deemed necessary to complete the notice of intent or clarify, modify, or supplement previously submitted material.
- (D) Each person eligible for a general permit may provide notice that the person wishes to receive an individual permit instead.
- (E) The director shall review the notice of intent to ensure that the notice of intent includes all information required by this rule. If the director makes a preliminary determination that the notice of intent meets the requirements of this rule, the director shall notify the public of the director's proposal to grant a certificate of coverage to the applicant and make available for public review and comment the notice of intent submitted by the applicant, including the applicant's manure management plan and the draft terms of the manure management plan to be incorporated into the permit. A comment period of thirty days shall be provided for public review and comment, with notice of the comment period being provided to the applicant and published on the Ohio department of agriculture, livestock environmental permitting program web site. During the comment period any interested person may submit written comments on the notice and may request a public meeting. The grounds for a public meeting shall be the same as those provided in paragraph (D) of rules 901:10-6-01 and 901:10-6-04 of the Administrative Code. Any public meeting shall be conducted as described in rule 901:10-6-04 of the Administrative Code, except that notice regarding the scheduling of the public meeting shall be provided on the Ohio department of agriculture, livestock environmental permitting program's web site, rather than through publication in the legal notice section of a newspaper. The provisions of paragraph (J) of rule 901:10-6-04 of the Administrative Code shall also apply to the public comment period. The director shall, if necessary, require the applicant to revise the manure management plan in order to be granted permit coverage.
- (F) The director shall notify each affected owner or operator in writing that his or her facility or operation is authorized pursuant to the general permit by issuing a certificate of coverage. When the director authorizes coverage for the owner or operator under the general permit, the terms of the manure management plan become incorporated as terms and conditions of the permit for the owner and operator. The director shall maintain a list of each facility or operation authorized under each general permit. The director shall notify the applicant and inform the public that coverage has been authorized and of the terms of the manure management plan incorporated as terms and conditions of the permit applicable to the facility or operation.
- (G) Persons that receive a certificate of coverage for a category from the director will be deemed covered under that general permit to operate. Owners or operators covered under general permits to operate shall be subject to the same limits, management practices, enforcement authorities and rights and privileges specified in the general permit to operate.

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901:10-4-04 Criteria for issuing and renewing NPDES general permit to operate.

- (A) Criteria for issuing and renewing a general NPDES permit to operate.
- (1) If, on the basis of all information available, the director determines that:
 - (a) Discharges, if any, authorized by a general NPDES permit to operate will have only minimal adverse effects on the environment;
 - (b) The activities authorized by an individual NPDES permit are more appropriately authorized by a NPDES general permit to operate than an individual permit; and
 - (c) Adequate monitoring to obtain required information is provided; then
 - (d) The director shall issue a NPDES general permit to operate.
 - (2) The director shall not issue a NPDES general permit to operate or renewal thereof if the United States environmental protection agency regional administrator objects in writing to the issuance or renewal of a NPDES general permit to operate in accordance with section 402 of the Act.
- (B) Permit duration. A general NPDES permit to operate shall be effective for a fixed term not to exceed five years.
- (C) Fact sheets. The director shall prepare for each general NPDES permit to operate a fact sheet that sets forth the principal facts and significant factual, legal, methodological and policy questions considered in preparing the general permit.
- (D) The general NPDES permit to operate shall comply with paragraphs ~~(D)(1)(a)~~(D)(1) to ~~(D)(1)(g)~~(D)(7) of rule 901:10-3-01 of the Administrative Code.

901:10-5-03 Enforcement procedures.

- (A) Applicability. ~~This rule applies to concentrated animal feeding operations, concentrated animal feeding facilities, and major concentrated animal feeding facilities.~~
- This rule applies to concentrated animal feeding operations, concentrated animal feeding facilities, and major concentrated animal feeding facilities.**
- (B) An agent or employee of the department shall conduct inspections and determine if the owner or operator is not in compliance with section 903.02, 903.03, or 903.04 or division (A) of section 903.07 of the Revised Code, the terms and conditions of a permit to install, or a permit to operate ~~or review compliance certificate~~ issued for the facility, including the requirements established under division (C) of section 903.06, of the Revised Code, division (B) of section 903.08 of the Revised Code, or paragraph (D) of rule 901:10-1-10 of the Administrative Code, the terms and conditions of a NPDES permit, the NPDES provisions of a permit to operate, or rules adopted under division (A), (B), (C), (D), (E), (F), or (J) of section 903.10 of the Revised Code. Violations shall be described in an inspection report.
- (C) Upon observation by an agent or employee of the department during an inspection, through notification by another agency or through a written complaint from a person, the director will initiate an investigation in

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order to determine if there is a violation of Chapter 903. of the Revised Code and the rules adopted thereunder. Violations shall be described in an inspection report.

(D) If the inspection report indicates a violation, the director shall do the following:

(1) Evaluate the facts established by the inspection report.

(2) ~~http://schemas.microsoft.com/office/word/2003/wordml013fCommence~~[Commence](#) enforcement action commensurate with the nature and degree of the violation and consistent with the requirements of sections 903.16, 903.17, and 903.99 of the Revised Code.

(E) Penalties. Penalties assessed by the director shall be commensurate with the nature and degree of the violation. Penalties shall be assessed in accordance with rule 901:10-5-04 of the Administrative Code.

901:10-5-04 Civil penalties.

(A) Civil penalty rules applicability. ~~For purposes of this rule, facility means concentrated animal feeding operations, concentrated animal feeding facilities, and major concentrated animal feeding facilities.~~

For purposes of this rule, facility means concentrated animal feeding operations, concentrated animal feeding facilities, and major concentrated animal feeding facilities.

(B) Consolidation. ~~Each and every day of violation of any rule or statute of Chapter 903. of the Revised Code is a separate and distinct offense, and in cases of continuing violations, each day's continuance is a separate and distinct violation unless otherwise determined by the department or unless the violations are of division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code. Proceedings for the assessment of multiple civil penalties for multiple violations against an owner or operator may be consolidated into a single proceeding.~~

Each and every day of violation of any rule or statute of Chapter 903. of the Revised Code is a separate and distinct offense, and in cases of continuing violations, each day's continuance is a separate and distinct violation unless otherwise determined by the department or unless the violations are of division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code. Proceedings for the assessment of multiple civil penalties for multiple violations against an owner or operator may be consolidated into a single proceeding.

(C) Hearing procedures. ~~All adjudication hearings concerning violations cited in accordance with section 903.16 and section 903.17 of the Revised Code shall be conducted in accordance with Chapter 119. of the Revised Code. The director may consider the factors listed in paragraph (D)(1) of this rule in the adjudication hearing as presented by the parties.~~

All adjudication hearings concerning violations cited in accordance with section 903.16 and section 903.17 of the Revised Code shall be conducted in accordance with Chapter 119. of the Revised Code. The director may consider the factors listed in paragraph (D)(1) of this rule in the adjudication hearing as presented by the parties.

(D) Civil penalty assessment.

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The amount of a civil penalty shall be determined by the reasonable exercise of the director's discretion in considering the following factors

- (1) The economic benefit (if any) resulting from the violation.
- (2) The economic impact on the violator.

Comment: In considering economic impact, the director may consider such factors as cost of repairs, construction, installation including, but not limited to, installation of equipment, monitoring devices and related operational costs.

- (3) Acts of nature or acts of third parties that resulted in or contributed to violations.
- (4) Any history of such violations, including recalcitrance resulting in costs incurred by the director to enforce any previously issued final orders of the director.
- (5) Any good-faith efforts to comply with applicable requirements.
- (6) Any supplemental environmental projects that may be undertaken by the owner or operator to off-set some of the amount of civil penalty payable to the livestock management fund if the director finds that any project may enhance the owner's or the operator's compliance by undertaking a project that is beyond any work or activities required by law or if the director agrees that any proposed supplemental environmental projects will enhance the environment.
- (7) The seriousness or magnitude of the violation or violations.
- (8) The gravity of effect of the violation or violations.
- (9) Such other matters as justice requires.

(E) Penalty matrix.

- (1) ~~Applicability. The director may use the penalty matrix contained in this paragraph to modify a penalty amount derived from paragraph (D) of this rule by following this procedure:~~

The director may use the penalty matrix contained in this paragraph to modify a penalty amount derived from paragraph (D) of this rule by following this procedure:

- (a) Determine the magnitude or seriousness of the violation as specified in paragraph (E)(2)~~(a)~~ of this rule;
- (b) Determine the gravity of effect pertinent to the violation as specified in paragraph (E)~~(2)(b)~~(3) of this rule; and
- (c) Determine whether the violation is the first violation or past violation, and modify the penalty amount by reference to the appropriate matrix contained in paragraphs (F) to (K) of this rule.

~~(2) Penalty matrix.~~

~~(a)~~(2) Categories of magnitude or seriousness.

~~(+)~~(a) Category I (major):

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- ~~(a)~~ (i) A violation of a department order issued as part of or in connection with a formal enforcement action;
- ~~(b)~~ (ii) Failure to provide access to premises or records when required by statute, rule or order;
- ~~(c)~~ (iii) Any discharge of manure that enters the waters of the state, either without a permit or from a point source not authorized by a permit unless the discharge has been reported as an emergency in accordance with rule 901:10-2-17 of the Administrative Code or unless discharge is an agricultural stormwater discharge as defined in paragraph (C) of rule 901:10-1-01 of the Administrative Code;
- ~~(d)~~ (iv) Submitting records, reports or application forms which are false, misleading, or fraudulent;
- ~~(e)~~ (v) Failure to provide notification of a known spill or upset condition that results in a non-permitted discharge into waters of the state;
- ~~(f)~~ (vi) Failure to comply with division (A) of section 903.07 of the Revised Code;
- ~~(g)~~ (vii) The presence of insects or rodents indicating a failure to comply with the insect and rodent control plan approved by the director in accordance with rule 901:10-2-19 of the Administrative Code.
- ~~(h)~~ (viii) Failure to apply for applicable permits or review compliance certificate;
- ~~(i)~~ (ix) Installing or operating facilities regulated under Chapter 903. of the Revised Code prior to issuance of applicable permits;
- ~~(j)~~ (x) Failure to provide corrections specified by the director's designated representatives on any applicable permits or review compliance certificate; or
- ~~(k)~~ (xi) Upon completing construction authorized by a permit to install, failure to comply with paragraph (B)(2) of rule 901:10-2-01 of the Administrative Code.
- ~~(ii)~~ (b) Category II (moderate):
 - ~~(a)~~ (i) Failure to submit a plan or report if required by permit or rule;
 - ~~(b)~~ (ii) Placing manure such that manure is likely to enter the waters of the state by any means;
 - ~~(c)~~ (iii) Any violation of a department rule or order that is not classified elsewhere in these rules as major or minor or any failure to operate in accordance with approved best management practices;
 - ~~(d)~~ (iv) Failure to maintain the freeboard requirements of approved best management practices; or
 - ~~(e)~~ (v) Failure to comply with the insect and rodent control plan approved by the director in accordance with rule 901:10-2-19 of the Administrative Code.
- ~~(iii)~~ (c) -Category III (minor):
 - ~~(a)~~ (i) Any violation of record keeping requirements in approved best management practices.
 - ~~(b)~~ (ii) Failure to maintain records in accordance with rule 901:10-2-16 of the Administrative Code.

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~~(b)(3)~~ Gravity. The gravity of effect of the violation shall be determined by consideration of the individual or cumulative possibility of harm to the public health or the environment caused by a violation or violations. Gravity of effect shall be classified as high, medium or low. The existence of one or more factors determined to be high level shall result in the gravity of effect considered to be of high level. Lacking any factor determined to be of high level, the existence of one or more factors of medium level shall result in the gravity of effect to be considered to be of medium level. Lacking any factor of high or medium level shall result in the gravity being of low level:

The gravity of effect of the violation shall be determined by consideration of the individual or cumulative possibility of harm to the public health or the environment caused by a violation or violations. Gravity of effect shall be classified as high, medium or low. The existence of one or more factors determined to be high level shall result in the gravity of effect considered to be of high level. Lacking any factor determined to be of high level, the existence of one or more factors of medium level shall result in the gravity of effect to be considered to be of medium level. Lacking any factor of high or medium level shall result in the gravity being of low level:

~~(i)(a)~~ Gravity of effect high level:

~~(a)(i)~~ Significant risk of injury or actual injury to wildlife; ~~or~~

~~(b)(ii)~~ Surface or groundwater contamination of a level that poses a significant risk of harm to public health or the environment; or

~~(c)(iii)~~ High risk of or actual zoonotic disease transmission as determined by the director upon consultation with federal, state or local health agencies.

~~(ii)(b)~~ Gravity of effect medium level:

~~(a)(i)~~ Surface or groundwater contamination that causes short-term impact but does not meet the criteria of high level gravity of effect yet exceeds the definition of low gravity of effect and does not pose a significant threat to human health or the environment; or

~~(b)(ii)~~ Insect and rodent populations in ~~exceedance~~ excess of target levels posing potential off-site impacts or posing a lower risk of zoonotic disease transmission.

~~(iii)(c)~~ Gravity of effect low level:

~~(a)(i)~~ Surface water contamination not found or not found at a level in excess of applicable water quality standards; or

~~(b)(ii)~~ Insect and rodent populations not found off-site but not in compliance with the approved plan for the facility.

(F) Civil penalty matrix for first violation of Chapter 903. of the Revised Code except violations of requirements for insect and rodent control plans which shall be assessed in accordance with division (B)(2) of section 903.16 of the Revised Code or violations of requirements for certified livestock managers which shall be assessed in accordance with division (B)(3) of section 903.16 of the Revised Code shall be assessed per day per violation.

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	Gravity of effect		
Magnitude of Violation	High	Medium	Low
Category I (Major)	Up to and including \$10,000	Up to \$3,200	Up to \$1,600
Category II (Moderate)	Up to \$2,400	Up to \$1,600	Up to \$800
Category III (Minor)	Up to \$1,000	Up to \$500	Up to \$200

(G) Civil penalty matrix in the event of past violations of Chapter 903. of the Revised Code (except violations of requirements for insect and rodent control plans which shall be assessed in accordance with division (B)(2) of section 903.16 of the Revised Code or violations of requirements for certified livestock managers which shall be assessed in accordance with division (B)(3) of the Revised Code) shall be assessed per day per violation.

	Gravity of effect		
Magnitude of Violation	High	Medium	Low
Category I (Major)	Up to \$10,000	Up to \$6,000	Up to \$3,200
Category II (Moderate)	Up to \$6,000	Up to \$3,200	Up to \$1,600
Category III (Minor)	Up to \$3,000	Up to \$1,600	Up to \$400

(H) Civil penalty matrix for insect and rodent control plans. As set forth in division (D) of section 903.10 of the Revised Code, the director may use this penalty matrix to assess a preliminary penalty amount for enforcement of section 903.06 of the Revised Code and shall exercise reasonable discretion in accordance with paragraph (D) of this rule.

Concentrated animal feeding facility - civil penalty matrix for insect and rodent control first violation per seven days.

	Gravity of Effect		
Magnitude of Violation	High	Medium	Low
Category I (Major)	Up to \$5,000	Up to \$2,500	Up to \$1,000
Category II (Moderate)	Up to \$2,500	Up to \$1,500	Up to \$500
Category III (Minor)	Up to \$1,000	Up to \$500	Up to \$200

(I) Concentrated animal feeding facility - civil penalty matrix for insect and rodent control in the event of past violations per seven days.

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	Gravity of effect		
Magnitude of Violation	High	Medium	Low
Category I (Major)	Up to \$10,000	Up to \$5,000	Up to \$2,000
Category II (Moderate)	Up to \$5,000	Up to \$2,500	Up to \$1,000
Category III (Minor)	Up to \$2,000	Up to \$1,000	Up to \$500

(J) Major concentrated animal feeding facility - civil penalty matrix for insect and rodent control first violation per seven days.

	Gravity of effect		
Magnitude of Violation	High	Medium	Low
Category I (Major)	Up to \$12,500	Up to \$7,500	Up to \$4,000
Category II (Moderate)	Up to \$7,500	Up to \$4,500	Up to \$2,500
Category III (Minor)	Up to \$4,000	Up to \$2,500	Up to \$1,500

(K) Major concentrated animal feeding facility - civil penalty matrix for insect and rodent control in the event of past violations per seven days.

	Gravity of effect		
Magnitude of Violation	High	Medium	Low
Category I (Major)	Up to \$25,000	Up to \$15,000	Up to \$7,500
Category II (Moderate)	Up to \$15,000	Up to \$9,000	Up to \$4,500
Category III (Minor)	Up to \$7,500	Up to \$4,500	Up to \$2,500

901:10-6-05 NPDES fact sheets.

- (A) A fact sheet shall be prepared prior to issuance of a draft NPDES permit and NPDES permit modifications. The fact sheet shall include such information as may be required by federal statute or rule and may also include such additional information as the department deems desirable.
- (B) The department shall maintain a mailing list of persons or groups requesting fact sheets and of persons or organizations who have expressed an interest in or may, by the nature of their purposes, their activities or their members, be affected by or have an interest in obtaining fact sheets for any of the following:
- (1) Any specified NPDES permits under section 903.08 of the Revised Code;
 - (2) Any antidegradation reviews associated with NPDES permits; and
 - (3) Any specified proceedings relating to applications for the specified NPDES permits or any

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antidegradation reviews or additional copies of fact sheets prepared, or other information desired.

- (C) All notices required or authorized for actions on NPDES permits or NPDES permit modifications shall be mailed to all persons on the mailing list of subscribers maintained for the issuance of NPDES permits.

901:10-6-06 Public information.

- (A) The department shall maintain a mailing list of persons or groups interested in receiving copies of fact sheets as described in paragraph (B) of rule 901:10-6-05 of the Administrative Code, and public meeting notices issued or renewed in accordance with rules 901:10-6-01 and 901:10-6-02 of the Administrative Code. Persons interested in subscribing to the mailing list shall notify the director in writing and the director may assess fees to reflect the costs of copying and mailing to subscribers. In the alternative, the department may develop electronic methods to distribute the information described in this paragraph. The director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The director may delete from the list the name of any person who fails to respond to such a request.
- (B) The department shall develop a mailing list by:
- (1) Including those persons who request in writing to be on the list;
 - (2) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
 - (3) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental and agricultural bulletins or state law journals.