



Ohio Revised Code

Section 903.10 Administrative rules for permits to install and permits to operate [see Section 3 of H.B. 363 of the 128th General Assembly].

Effective: June 4, 2012

Legislation: House Bill 276 - 129th General Assembly

The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

- (A) Establish all of the following concerning permits to install and permits to operate:
 - (1) A description of what constitutes a modification of a concentrated animal feeding facility;
 - (2) A description of what constitutes a major operational change at a concentrated animal feeding facility;
 - (3) The amount of the fee that must be submitted with each permit application and each application for a permit modification;
 - (4) Information that must be included in the designs and plans required to be submitted with an application for a permit to install and criteria for approving, disapproving, or requiring modification of the designs and plans;
 - (5) Information that must be included in a manure management plan required to be submitted with an application for a permit to operate;
 - (6) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;
 - (7) Information that must be included in an application for approval of a major operational change at a concentrated animal feeding facility;
 - (8) Any additional information that must be included with a permit application;



- (9) Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits;
 - (10) Procedures for the approval or denial of an application for approval of a major operational change at a concentrated animal feeding facility;
 - (11) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;
 - (12) Grounds for the denial of an application for approval of a major operational change at a concentrated animal feeding facility;
 - (13) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;
 - (14) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate.
- (B) Establish all of the following for the purposes of review compliance certificates issued under section 903.04 of the Revised Code:
- (1) The form of a certificate;
 - (2) Criteria for what constitutes a significant capital expenditure under division (D) of that section;
 - (3) Deadlines and procedures for submitting information under division (E)(2) of that section.
- (C) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding



facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:

- (1) Manure management, including the storage, handling, transportation, and land application of manure. Rules adopted under division (C)(1) of this section shall include practices that prevent surface and ground water contamination caused by the storage of manure or the land application of manure and prevent the contamination of water in drainage tiles that may be caused by that application.
- (2) Disposal of dead livestock;
- (3) Production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas as those terms are defined in section 5713.30 of the Revised Code;
- (4) Any other activity that the director considers appropriate.

Best management practices established in rules adopted under division (C) of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code. The rules adopted under division (C) of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government infrastructure needs and the financing of that infrastructure.

(D) Establish all of the following concerning insect and rodent control plans required under section 903.06 of the Revised Code:

- (1) The information to be included in an insect and rodent control plan;
- (2) Criteria for approving, disapproving, or requiring modification of an insect and rodent control plan;
- (3) Criteria for determining compliance with or violation of an insect and rodent control plan;



- (4) Procedures and standards for monitoring insect and rodent control plans;
 - (5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;
 - (6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (D)(6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility that is not a major concentrated animal feeding facility and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding facility;
 - (7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it;
 - (8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code.
- (E) Establish all of the following concerning livestock manager certifications required under section 903.07 of the Revised Code:
- (1) The information to be included in an application for a livestock manager certification and the amount of the application fee;
 - (2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility, and following best management practices established in rules for disposal of dead animals and manure management, including practices that control odor and protect the environment. The director may specify other types of



recognized training programs that, if completed, are considered to satisfy the training and examination requirement.

(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification;

(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal;

(5) The volume of manure that must be transported and land applied annually or the volume of manure that must be bought, sold, or land applied annually by a person in order for the person to be required to obtain a livestock manager certification under division (A)(2) of section 903.07 of the Revised Code;

(6) Requirements governing the management and handling of manure, including the land application of manure;

(7) Requirements governing the keeping of records regarding the handling of manure, including the land application of manure;

(8) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code.

(F) Establish all of the following concerning NPDES permits:

(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code;

(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;

(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;

(4) Terms and conditions to be included in a permit, including, as applicable, best management



practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;

- (5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;
- (6) The amount of the fee that must be submitted with an application for a permit;
- (7) Procedures for processing permit applications, including public notice and participation requirements;
- (8) Procedures for notifying the United States environmental protection agency of the submission of permit applications, the director's action on those applications, and any other reasonable and relevant information;
- (9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a permit;
- (10) Procedures for the transfer of permits to new owners or operators;
- (11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;
- (12) A definition of "general NPDES permit" that establishes categories of point sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit.

The rules adopted under division (F) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.



(G) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (F)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of permits to install, permits to operate, and NPDES permits consistent with section 903.09 of the Revised Code, including a definition of what constitutes significant public interest for the purposes of divisions (A) and (F) of section 903.09 of the Revised Code and procedures for public meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that are applicable to the permit application that is the subject of the public meeting.

(H) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install, permit to operate, or review compliance certificate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand dollars per day for each violation;

(I) Establish procedures for the protection of trade secrets from public disclosure. The procedures shall authorize the release of trade secrets to officers, employees, or authorized representatives of the state, another state, or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act. The rules shall require at least ten days' written notice to the person to whom a trade secret applies prior to the release of the trade secret. Rules adopted under this division do not apply to any information that is contained in applications, including attachments, for NPDES permits and that is required to be submitted under section 903.08 of the Revised Code or rules adopted under division (F) of this section.

(J) Establish any other provisions necessary to administer and enforce this chapter.