

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 901:5-11-01
Rule Type: Amendment
Rule Title/Tagline: Definitions.
Agency Name: Department of Agriculture
Division: Plant Industry
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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/17/2018
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 921.16
5. **What statute(s) does the rule implement or amplify?** 921.01
6. **What are the reasons for proposing the rule?**

This rule is up for five year rule review.

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

OAC 901:5-11-01 outlines the definitions as used in the chapter. The rule is being amended to comply with the incorporation by reference requirements in order to add an effective date to the Federal Insecticide, Fungicide, and Rodenticide Act. Additionally, the definitions of several pesticide use categories have been amended to clarify that these pesticide categories do not include the use of fumigants. Finally,

the definition of "anti-siphon device" has been amended to include the statement, "physical air gap of at least two times the diameter of the point of discharge between the water supply and the highest portion of the tank." This amendment was made to prevent contamination of the water source.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**
Pursuant to section 121.76 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code.
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

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

This will have no impact on revenues or expenditures.

0.00

Not applicable.

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

This is a definitional rule. There are no costs directly affected by this rule.

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

III. Common Sense Initiative (CSI) Questions

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

16. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

No person can apply pesticides in the state of Ohio unless they have either been licensed by the Department or are acting as a trained serviceperson. Commercial applicators and private applicators must pay a licensing fee of \$35 and \$30 respectively. Commercial applicators must renew annually where private applicators license is valid for a period of three years. Additionally, all pesticide businesses and dealers must be registered with the Department on an annual basis. This registration fee is \$35 annually.

All initial applicants are required to take an examination for which there is no examination fee. Renewal applicants may retake the examination or take a minimum of five hours of continuing education. There are several courses which are offered for free but some courses may have a fee of up to \$85 for all five hours.

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes

Failure to comply with the requirements of this rule or the rules of Chapter 901:5-11 could result in civil or criminal penalties.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No