

901:5-11-02

Trained servicepersons, safety and restrictions.**(A) Trained servicepersons.**

- (1) No employee shall act as a trained serviceperson unless the employee has read the Ohio department of agriculture manual "Safety Training Guide for Trained Servicemen." In lieu of reading the manual, the employee may complete an employer-sponsored training program which provides training equivalent to that provided in the manual. The training or reading of the manual shall occur before the employee's first occupational exposure to pesticides. Both the employee and the immediate supervisor shall verify in writing that the employee has either read the manual or received equivalent training prior to the employee's first exposure to pesticides. The written verification shall be kept on file by the employer throughout the trained serviceperson's period of employment and for three years following termination of the trained serviceperson's employment. This written verification shall be made available to the director of agriculture for inspection.
- (2) No trained serviceperson shall apply pesticides for hire unless the trained serviceperson is directly supervised by a commercial applicator who is located within close proximity to the work site during the trained serviceperson's pesticide application activities. For the purposes of this paragraph, "close proximity" means the farther of twenty-five miles distance or two hours time.

(B) No person shall:

- (1) Use a pesticide except in accordance with the label registered with the Ohio department of agriculture, or in accordance with sections 5, 24(c) or 18 of FIFRA, and the rules adopted thereunder.
- (2) Employ to perform an activity subject to Chapter 921.01 of the Revised Code:
 - (a) any person who is forbidden such employment by state or federal labor laws; or
 - (b) any person who is mentally incompetent or for any reason unable to satisfactorily communicate with or understand instructions given by the pesticide applicator.
- (3) Permit any person under the age of eighteen years to handle, mix or load a pesticide displaying on its label the signal words "danger - poison" without on-site supervision by a pesticide applicator.
- (4) Permit any person to mix or load pesticides in an area where the light, whether natural or artificial, is insufficient to read the pesticide label and work in a safe manner.

- (5) Operate application equipment which draws water from surface waters or public water supplies unless the equipment has an effective anti-siphon device to prevent backflow.
- (6) Operate equipment for the application of pesticides, including such auxiliary equipment as hoses and metering devices in such conditions or in such a manner as to result in leakage, spillage, dripping, backflow, vapors or drift.
- (7) Knowingly loan, rent or permit the use of applicator equipment owned or controlled by that person which is faulty in any particular as described in paragraphs (B)(5) and (B)(6) of this rule, or which has not been thoroughly cleaned in a manner to prevent contamination of a pesticide solution or other formulation by previous use.
- (8) Apply pesticide to an area or a crop in such a manner or at such a time that adjacent crops, pasture land, water or other areas will be damaged or contaminated.
- (9) Mix, load or store agricultural pesticides within the perimeter of a migrant labor camp.
- (10) Distribute a restricted-use pesticide to a person who is not:
- (a) a licensed pesticide dealer; or
 - (b) a properly licensed pesticide applicator, unless when making the distribution they receive verification that the ultimate user is a properly licensed pesticide applicator who holds a valid license or certification issued by the state in which the pesticide applicator applies the restricted-use pesticide.
- (11) Under authority of division (D) of section 921.16 of the Revised Code, use or cause to be used an ester formulation of 2, 4-D (2, 4-Dichlorophenoxy-acetic acid) within Madison Township, Lake County, Ohio.
- (12) Apply herbicidal foliage sprays to woody vegetation by aircraft on rights-of-way when the wind velocity exceeds seven miles per hour at eye level.
- (13) Drive a moving vehicle while applying an herbicide to roadside vegetation within public right-of-way limits unless the spray is directed by a second person or unless the applicator is using a vehicle equipped with a mounted spray boom which is designed to be operated by the driver.
- (14) Apply by aircraft:

- (a) Any pesticide without having first obtained licensure for both the aerial application pesticide-use category and the pesticide-use category appropriate to the particular pesticide being applied.
- (b) Any rodenticide, avicide, or vertebrate repellent until the proposed application has been jointly approved by the director and by the division of wildlife of the Ohio department of natural resources; the application for such approval shall be submitted to both agencies fourteen days prior to planned treatment and shall include:

 - (i) The county, township and sections involved;
 - (ii) A clear description of areas to be treated;
 - (iii) Inclusive dates of intended operation;
 - (iv) The name of the pesticide and the formulation to include all active and inert ingredients;
 - (v) The name of the target pest; and
 - (vi) The effect which may be expected on non-target species in the area.
- (15) Apply or cause to be applied any pesticide that is required to carry a special warning on its label indicating that it is toxic to honey bees, over an area of one-half acre or more in which the crop-plant is in flower unless the owner or caretaker of any apiary located within one-half mile of the treatment site has been notified by the person no less than twenty-four hours in advance of the intended treatment; provided the apiary is registered and identified as required by section 909.02 of the Revised Code of Ohio, and that the apiary has been posted with the name and telephone number of the owner or responsible caretaker.
- (16) Apply pesticides which are hazardous to honey bees at times when pollinating insects are actively working in the target area; however, application of calyx sprays on fruits and other similar applications may be made.
- (C) No commercial applicator shall apply fumigants unless the commercial applicator is properly licensed in, and the application is made within, the following pesticide-use categories:

 - (1) "Soil fumigation" as defined in paragraph (N)(2)(f) of rule 901:5-11-01 of the Administrative Code;
 - (2) "Fumigation" as defined in paragraph (N)(10)(c) of rule 901:5-11-01 of the Administrative Code; or

(3) "Greenhouse pest control" as defined in paragraph (N)(6)(d) of rule 901:5-11-01 of the Administrative Code.

(D) Pesticide applicators:

(1) Shall provide to trained servicepersons, immediate family members and subordinate employees working under the pesticide applicator's direct supervision the necessary safety equipment as set forth on the pesticide label or as required by the pesticide being used.

(2) Shall acquaint trained servicepersons, immediate family members and subordinate employees working under the pesticide applicator's direct supervision with any special hazards involved with those pesticides with which they might be in contact and instruct them in appropriate precautions to avoid those hazards.

(3) Shall ensure that trained servicepersons, immediate family members and subordinate employees working under the pesticide applicator's direct supervision do not apply pesticides in the absence of the supervising pesticide applicator unless the label of the pesticide they are applying is readily available to them at the worksite. The label of the pesticide shall be made available to the director for inspection during the application. Notwithstanding the foregoing, a pesticide applicator shall be present during application of a pesticide by their trained serviceperson, immediate family member or subordinate employee when the pesticide applicator's presence is required by the pesticide label.

(4) Shall report to the department of agriculture:

(a) By telephone, within forty-eight hours after learning of any human illness requiring medical attention resulting from or allegedly resulting from a pesticide used by the pesticide applicator or a trained serviceperson, immediate family member or subordinate employee working under the pesticide applicator's direct supervision. Such telephone notification shall be followed by a written report within seven calendar days.

(b) By written report within ten calendar days after learning of any property damage in excess of five hundred dollars resulting from or allegedly resulting from a pesticide used by the pesticide applicator or a trained serviceperson, immediate family member or subordinate employee working under the pesticide applicator's direct supervision.

(5) And trained servicepersons, immediate family members or subordinate employees working under the pesticide applicator's direct supervision, shall not apply a restricted use pesticide whose label requires that notice be given to occupants of nearby properties or that the area to be treated be posted with

re-entry times unless those requirements have been met.

(6) And trained servicepersons working under the pesticide applicator's direct supervision shall provide to each customer if requested, or required by the pesticide label, a printed or legibly written statement of the pesticide applied, the amount applied, the date of application, and any other pertinent information as required by the pesticide label.

(7) Shall conduct all wood-destroying insect diagnostic inspections in accordance with the Ohio wood-destroying insect inspection program.

For the purposes of the Ohio wood-destroying insect inspection program, "breaking apart or into, dismantling, or removal" as used in section ix, paragraph 4 of the NPCA-1 form, as set out in Appendix A of rule 901:5-11-10 of the Administrative Code, does not mean removal of access coverings which are easily removed using commonly available hand tools such as screwdrivers, pliers, and wrenches.

Replaces: Former 901:5-11-02, Part of 901:5-11-04

Effective: 07/01/2004

R.C. 119.032 review dates: 07/01/2009

CERTIFIED ELECTRONICALLY

Certification

05/18/2004

Date

Promulgated Under: 119.03
Statutory Authority: 921.16
Rule Amplifies: 921.01 to 921.28
Prior Effective Dates: 1/13/72, 1/1/77, 8/2/96,
10/29/98, 6/25/99