

Rule Summary and Fiscal Analysis (Part A)**Department of Agriculture**

Agency Name

Plant Industry

Division

David E Miran

Contact

**8995 East Main Street Reynoldsburg OH
43068-0000**

Agency Mailing Address (Plus Zip)

614-728-6390

Phone

Fax

david.miran@agri.ohio.gov

Email

901:5-11-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Trained servicepersons, safety and restrictions.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **921.16**
5. Statute(s) the rule, as filed, amplifies or implements: **921.01**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rules in chapter 901:5-11 of the Administrative Code regulate pesticide application in the state of Ohio. These rules protect the citizens of Ohio by training and regulating pesticide applicators on proper pesticide use and application. The rules below have been review by the Department of Agriculture (#Department#) and industry stakeholders pursuant to Revised Code 119.32, and have been found to need the changes as outlined.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

901:5-11-02 sets forth standards for the training of servicepersons. The rule establishes prohibitions regarding the use and application of pesticides. The amendments to this rule ensure that the rule is in compliance with incorporation by reference guidelines. Further, the rule has been amended to require pesticide applicators, if request, to provide the resident of the applied property a document with information regarding the pesticide application. Additionally, there are stylistic amendments which allow the regulated community to better understand their responsibilities.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

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.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **7/29/2015**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

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. In order to be a trained serviceperson, individuals must either read the Department manual on safety and or complete an employer sponsored training program. This requires time for employer compliance.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component

dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Yes, no person can apply pesticides without either obtaining licensure or acting as a trained serviceperson. 901:5-11-02 outlines how someone becomes a trained service person.

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**

901:5-11-99 outline the potential violations of the rules in this chapter. A first offense carries a maximum penalty of \$5,000 whereas following offenses carry a maximum violation of \$10,000.

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