

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

Agency Name

Plant Industry

Division

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901:5-11-09

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Notification requirements for lawn pesticide applicators.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**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: **921.16**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

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:

901:5-11-09 sets forth notification requirements for pesticide applicators. The rule's proposed amendment ensures that the public is properly notified and warned by not allowing obstructed sightlines to the lawn chemical application sign.

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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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: **10/15/2020**

(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:

Pesticide applicators must place the warning sign contained in 901:5-11-09. This sign can be printed at home for less than 10 cents or can be purchased in bulk by an outside company for an even cheaper price. Further, the NPMA-33 Form used for wood destroying insect inspections may be purchased at forty cents per form.

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**

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 taken 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 abide by the requirements of this rule may subject an individual to criminal or civil penalties.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Pesticide applicators must notify the public and place a lawn sign after every application.