

901:5-11-09

Requirements for noticeNotification requirements for lawn pesticide applicators.

(A) ~~No licensee~~commercial applicator or trained serviceperson working under the direct supervision of a commercial applicator shall:

(1) Apply any lawn pesticides to residential lawns in any municipal corporation or subdivided area of a township unless:

(a) They ~~have left~~provide the following information in writing ~~with~~to the person on whose property the chemical is being applied. This information shall be provided prior to or at the time of application:

(i) The brand or common name of each lawn pesticide applied;

(ii) The chemical type (fungicide, herbicide, or insecticide);

(iii) Any special instruction on the label of the lawn care pesticide product applicable to the customer;

(iv) The company name and telephone number of the applicator's employer;

(v) The date and time of the application;

(vi) Any other pertinent information as required by the ~~department of agriculture~~label.

(vii) A written statement regarding lawn signs posted in accordance with paragraph (A)(1)(c) of this rule which reads as follows: "Lawn posting signs must remain in place for twenty-four hours following lawn application."; and

(b) The pesticide business has attempted the notification required by paragraph (B)(1) of this rule.

(b) ~~They have made a reasonable attempt to provide, on the previous business day or before, the approximate time of application and their company name and telephone number to any occupant of a residence whose property abuts to the property on which lawn pesticide is to be applied who has notified the licensee in writing, providing their name, address and telephone number, that he/she wishes to receive prior notification of lawn pesticide applications. The license holder must make available either by telephone or in writing all information listed in paragraphs~~

~~(A)(1)(a)(i) to (A)(1)(a)(vi) of this rule to an abutting property owner who contacts the license holder following a lawn chemical application requesting this information.~~

~~(e) They have notified the customer in writing that signs posted in accordance with this rule must remain in place for twenty-four hours following lawn application.~~

~~(d)~~(c) They have placed at conspicuous points, including, but not limited to, common access points on the property to which lawn pesticides have been applied, one or more signs:

(i) The sign shall measure at least five inches by four inches on adjacent sides and be attached to the upper portion of a dowel or other supporting device. The bottom edge of the sign must be at least fourteen inches from the ground and the sign must be weatherproof for twenty-four hours.

The sign shall be in the form and carry the wording and warning symbol illustrated:

The required warning symbol and lettering on the sign shall be in the same proportion as the wording and warning symbol illustrated herein. No company logos or other advertising graphics may appear on the face of the sign. The signs posted at access points must be within five feet of the access point.

(2) Apply any lawn pesticides to commercial lawns in any municipal corporation or subdivided area of a township unless:

(a) They have provided the information required in paragraph (A)(1)(a) of this rule and the date and approximate time of application with the individual on site who is responsible for administration of the property on which the lawn pesticide is applied.

(b) They have posted the signs required under paragraph (A)(1)~~(d)~~(c) of this rule in the manner prescribed therein.

(3) Apply any lawn pesticides to public lawns in any municipal corporation or subdivided area of a township unless:

(a) They have provided the information required in paragraph (A)(1)(a) of

this rule and the date and approximate time of application to the individual on site who is responsible for administration of the property on which the lawn pesticide is applied. The information required under paragraph (A)(1)(a)(vii) of this rule may be omitted if signs have been permanently placed in accordance with paragraph (A)(3)(b) of this rule.

(b) They have either posted the signs required under paragraph (A)(1)(~~d~~)(c) of this rule in the manner prescribed therein or they have permanently placed at common access points to the property a sign no less than eight inches by ten inches with the legend: "PERIODIC APPLICATION OF LAWN PESTICIDES - INQUIRE AT: (location where information may be obtained)." The designated location shall be a site which is accessible to the public during normal hours of operation.

(c) The information in paragraphs (A)(1)(a)(i) to (A)(1)(a)(vi) of this rule must be made available to the public upon request at the designated information location noted on the permanent sign when signs are posted in accordance with paragraph (A)(1)(c) of this rule. .

(d) The information in paragraphs (A)(1)(a)(i) to (A)(1)(a)(vi) of this rule must be obtainable at the location designated on signs which are permanently placed in accordance with paragraph (A)(3)(b) of this rule.

(B) The pesticide business shall, for applications made under paragraph (A)(1) of this rule:

(1) Make a reasonable attempt to provide, on or before the business day preceding the applications, the date and approximate time of application, and the name and telephone number of the pesticide business, to any occupant of a residence whose property abuts the treated property and who has notified the pesticide business in a writing that includes the occupant's name, mailing address, and telephone number, that they wish to receive prior notice of pesticide applications;

(2) Make available to in writing all the information listed in paragraphs (A)(1)(a)(i) to (A)(1)(a)(vi) of this rule to an occupant of a residence whose property abuts the treated property and who contacts the pesticide business following an application made under this rule requesting information about that application; and

(3) Retain for a period of three years the name, address and telephone number of each person who has requested notification under this paragraph. These records shall be complete, current and in a form that accommodates inspection by the director. Prior to deleting these records at the end of three years, the pesticide business shall notify the person that their record is going

to be deleted. The pesticide business shall not delete the record for any person who indicates in writing that that they wish to continue receiving notification under this paragraph.

For the purposes of this paragraph, properties which are completely separated from the treated property by a right-of-way, or which share with the treated property a single common point along the perimeters of the properties are not considered abutting properties.

~~(B)~~(C) No ~~licensee~~pesticide business or employee of a pesticide business shall bear liability for the removal by unauthorized persons of the signs required by this rule except that no ~~licensee or his~~ employee of the pesticide business shall remove the signs prior to twenty-four hours following lawn pesticide application.

(D) Any information required to be provided under paragraph (A) of this rule may, if the person to whom the information is to be given is absent or inaccessible at the time the attempt is made, be left at that person's place of residence or business.

~~(C)~~(E) Paragraphs (A)(1), (A)(2) and (A)(3) of this rule do not apply to any ~~licensee~~commercial applicator while making the following pesticide applications:

(1) Any application to any property that is an agricultural district or that would meet the eligibility requirements established for an agricultural district under Chapter 929. of the Revised Code, on which agricultural commodities are or will be produced;

~~(2) Any termite application;~~

~~(3)~~(2) Any application for the purpose of the maintenance, operation or construction of a public utility;

~~(4)~~(3) Any treatment for the eradication or control of pests declared to be a nuisance by the director of the Ohio department of agriculture, director of the Ohio department of health or local health districts, and for which immediate application is necessary to prevent significant human, environmental, or economic harm.

~~(D) As used in this rule:~~

~~(1) "Residential lawn" means cultivated turf within the close of a single or multi-family dwelling of four units or less.~~

~~(2) "Commercial lawn" means any cultivated turf, public or private, other than residential lawns, cultivated for aesthetic purposes.~~

- ~~(3) "Public lawn" means any cultivated turf, public or private, cultivated for recreational use and includes by way of example but is not limited to golf course play areas, parks, and school yards.~~
- ~~(4) "Licensee" means any person, firm or corporation licensed under section 921.06, 921.07, 921.08 or 921.12 of the Revised Code.~~
- ~~(E) Any information required to be provided under paragraphs (A)(1) and (A)(2) of this rule may, if the person to whom the information is to be given is absent or inaccessible at the time the attempt is made, be left at that person's place of residence or business.~~
- ~~(F) The licensee shall retain the name, address and telephone number for a period of four years of each person who has notified the licensee in the manner specified in paragraph (A)(1)(b) of this rule. The records shall be complete, current and in a form reasonably calculated to allow inspection by representatives of the Ohio department of agriculture. Before a person's name, address and telephone number is deleted at the end of four years, the licensee must first notify the person their name is going to be deleted from the records. The licensee must maintain for another four years the name, address and telephone number of any person who indicates in writing that they still wish prior notification of lawn pesticide applications.~~

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Certification

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