

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

Agency Name

Plant Industry

Division

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901:5-4-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Fertilizer applicator certification.**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: **905.321, 905.322**
5. Statute(s) the rule, as filed, amplifies or implements: **905.321, 905.322**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rules in this package were originally enacted pursuant to Senate Bill 150 of the 130th General Assembly. The rules established a fertilizers certification program, which required training, certification, and record keeping for individuals who apply fertilizer to over 50 acres of land for agricultural production. The amendments found in this chapter have been proposed to fine tune the certification program after its first two years.

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:

Rules 901:5-4-02 outlines requirements for obtaining a fertilizer certificate from the Department. The rule is being amended to clarify the definition of a person acting #under the instructions and control# of a certificate holder. Further, the rule adds a 180-day grace period for those who have completed their educational requirements but have failed to submit a timely application.

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: **12/13/2019**

(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:

Applicants for certification must complete a formal application with the information provided in the rule. This requires time for compliance. Individuals must pay a \$30 application fee for certification. Individuals who have either a private or a commercial pesticide applicator license are exempt from the fee requirement.

Applicants for certification and applicants for a renewal of their certification must attend and satisfy requirements for agricultural nutrient training. All initial applicants must either complete three hours of agricultural nutrient training or demonstrate that they have adequate knowledge of fertilizer application by successfully passing a fertilizer examination. All individuals seeking to renew their certificate must take one hour of agricultural nutrient training or pass the examination discussed above. This requires time for compliance as well as any fees associated with the course itself. There is no cost for the examination. Individuals

who are certified crop advisors or certified livestock managers are exempt from this training requirement.

All fertilizer certificate holders must maintain a fertilizer application record. Statute requires certificate holders to maintain these records for a period of three years. The application records require time for compliance as well as storage. These records do not need to be submitted to the Department for approval, however, must be available for inspection upon the Department's request. The quantified impact of the record keeping requirements in this package is minimal. Depending on the sophistication of the applicators equipment, records may be generated automatically by their fertilizer spreaders. Regardless, the time required for recordkeeping is minimal and varies depending on the size of the property, the amount of fertilizer used, and the different analyses of the fertilizer used.

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**

This rule requires that individuals applying fertilizer for the purposes of agricultural production obtain a fertilizer certificate from the Department of Agriculture. This requirement can be found in chapter 905 of the Revised Code.

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? **No**

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

As required in section 905.322 of the Revised Code, each applicant for a fertilizer certificate must complete a formal application and pay a \$30 registration fee.