

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

Agency Name

Division

**David E Miran**

Contact

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**901:5-4-03**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Education Requirements.****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? **Yes**Bill Number: **SB150**General Assembly: **130**Sponsor: **Hite and Peterson**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 contained in this chapter are in response to the enactment of Senate Bill 150, which was signed by Governor Kasich in May of this year. Senate Bill 150 gave the Ohio Department of Agriculture (#Department#) regulatory authority over the application of fertilizer by farmers on more than fifty acres used for agricultural production. The rules drafted in this package focus on science-based practices which support responsible agriculture practices while allowing Ohio to continue to

grow its vital agriculture industry.

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:

Rule 901:5-4-03 sets forth the requirements for satisfying the agricultural nutrient training course. The rule states the number of hours of training required as well as individuals who are exempt from training. The rule outlines what, at a minimum, the course shall educate applicants on.

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:

(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:

Rule 901:5-4-03 sets forth the requirements for satisfying the agricultural nutrient training course. The rule states the number of hours of training required as well as individuals who are exempt from training. The rule outlines what, at a minimum, the course shall educate applicants on.

Applicants for certification and applicants for a renewal of their certification must attend and satisfy requirements for agricultural nutrient training. Applicants who have either a private or a commercial pesticide applicator license are required to take two hours of agricultural nutrient training. Applicants who do not have a pesticide applicator license are required to take three hours of agricultural nutrient training. All individuals seeking to renew their certificate must take two hour of agricultural nutrient training. This training is on a three year basis.

Due to the infancy of this program, the cost of attending the agricultural nutrient training courses has not been established. The Department is currently working in conjunction with the Ohio State University to develop the training courses. It is the Department's intention to subsidize the cost of the training courses for the first three years. After this three year period, it is believed that the cost of the training courses would be similar to the cost of the pesticide training courses. The cost of the pesticide courses is around \$35 for a three hour course.

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? **Yes**

You must complete the Environmental rule Adoption/Amendment Form in order to comply with Am. Sub. 106 of the 121st General Assembly.

**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**

As outlined in 905.322 of the Revised Code, all individuals seeking to acquire a fertilizer certificate must go through a fertilizer applicator program which educates applicants on fertilizer practices.

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 take these courses will result in an application being denied.

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

**Environmental Rule Adoption/Amendment Form**

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
  - (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
  - (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
  - (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.
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(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted ? **Yes**

Please list each contact.

Abbruzzese, Chris Ohio EPA

Abele, Jerry Lake Erie Charter Boat Association

Adkins, Matt ODNR SWR

Aichele, Nathan ODA

Alvey, Ken Lake Erie Marine Trades Assoc

Amin, Dr. Mohammed ODA

Anderson, Tony Farmer/County Commissioner

Antosch, Larry Ohio Farm Bureau

Arnold, Glen OSU Extension

Ashworth, David Novozymes BioAg, Inc.

Bailey, Mike ODA

Baker, Dr. David Heidelberg University

Bankey, Mindy OFSWCD

Baumgardner, Gene Ohio Corn & Wheat Growers

Beal, Matt ODA

Beiler, Joe VanTilburg Farms

Benner, Steve S & D Application

Berning, Tim Ohio CCA Board

Black, Rocky ODA Bray, Kellie CropLifeAmerica

Breece, Dr. Donald OSU - Extension

Broering, Paul ODPa

Brookes, Cindy Sandusky River Watershed Coalition

Brown, Ed Crop Production Services

Brown, Larry OSU - Food, Ag & Bio Eng.

Burkett, Frank Ohio Farm Bureau

Busdeker, Douglas The Andersons, Inc.

Byrum, Dr. Bev ODA

Chakeres, Jim Ohio Poultry Association

Chapman, Karen Environmental Defense Fund

Cobb, Glen ODNR

Coleman, Jennifer Ohio Soybean Council

Coulon, Chris USDA Cross, Brenna Blue Stone Solutions, Ltd.

Cross, Diane Blue Stone Solutions, Ltd.

Cross, Ed Blue Stone Solutions, Ltd.

Davis, Bret Ohio Soybean Association  
Davis, Steve NRCS  
Dayton, Libby OSU-SENR  
Dudley, Dan Ohio EPA  
Elder, Kevin ODA  
Fausey, Norm USDA-ARS  
Fontana, Tom Ohio Soybean Council  
Forshey, Dr. Tony ODA, Interim Director  
Gates, Brett ODA  
Gates, Daryl Morral Companies  
Gebhardt, Karl ODNR -DSWR  
Gibson, Russ OEPA - Surface Water  
Graham, Adam Ohio Soybean Council  
Grimes, John OSU Extension  
Hammon, Fred ODNR - DSWR  
Harsh, Elizabeth Ohio Cattlemen's Assoc.  
Hendrick, Ron OSU  
Henney, Chris Ohio AgriBusiness Association  
Hess, Carl Farm Credit Services  
Hesse, Gail Ohio Lake Erie Commission  
Higgins, Scott Ohio Dairy Producers Association  
High, Roger Ohio Sheep Improvement Association  
Hines, Kirk ODNR-DSWR  
Homan, Eugene OSGMP  
Hoorman, Jim OSUE - Mercer

Hostetler, Brent Ohio Corn & Wheat Growers

Irvin, Jack Ohio Corn & Wheat Growers

Isler, Dick Ohio Pork Producers J

ones, Belinda OPARR

Jones, Laura ODNR

Keller, Steve Morral Companies

Kessler, John ODNR - DSWR

King, Kevin USDA-ARS

Knapke, William Ohio Pork Producers

Koehler, Brandi Ohio FSA State Office

LaBarge, Greg OSU Extension

Linebaugh, Neal DFA Mideast

Logan, Joe The Ohio Environmental Council

Lohstroh, Michelle USDA-NRCS

Lozier, Ted ODNR

Lust, Tina Certified Crop Advisors

McClure, Terry Ohio Soybean Council

McCoy, Denise ODNR

McDevitt, Steve NRCS

Mead, Janelle ODA

Menke, Tom Menke Consulting

Merritt, Kirk Ohio Soybean Council

Moore, Richard OSU-SENRC

Morris, James Ohio Water Science Center

Moser, Dr. Bobby OSU



Motter, John Ohio Soybean Council  
Nally, Scott Ohio EPA, Director  
Nicholson, Tadd Ohio Corn and Wheat Growers  
Pennell, Gary Farmers Elevator Grain & Supply  
Phelps, Frank Farmer/County Commissioner  
Pitchford, Erica ODA Rausch, Jon OSU Extension  
Renner, Nick Mercer County SWCD  
Reutter, Dr. Jeff OSU-Sea Grant and Stone Laboratory  
Richards, Dr. R. Peter Heidelberg University  
Ricker, Dale OSU Extension  
Rockhold, Ronald Ohio Corn & Wheat Growers  
Russell, Dave Brownfield Ag Network  
Sasson, Anthony The Nature Conservancy  
Scarpitti, Mark USDA NRCS  
Schmidt, Stacy The Andersons, Inc.  
Schrimpf, Paul Croplife Magazine  
Schwartz, Dan Ohio Soybean Council  
Sharp, Adam Ohio Farm Bureau  
Shearer, Scott OSU Shimp, Fred ODNR  
Sloan, Dale CAA Board - Channel Bio  
Smith, Mark NRCS  
Stanley, Bill The Nature Conservancy  
Stark, John The Nature Conservancy  
Stimpert, Keith Ohio Farm Bureau  
Strait, David Mercer Landmark

Stuckey, Kent OFSWCD  
Sunderman, Mark Deshler Farms  
Sundermeier, Lee Morral Companies  
Sutton, Don OPARR/Ohio Turfgrass Foundation  
Swartz, Kris OFSWCD  
Swartz, Nate CCA Board  
Unger, Rick Lake Erie Charter Boat Association  
Vollmer-Sanders, Carrie The Nature Conservancy  
Ward, Adam Ohio Soybean Council  
Ward, Andy OSU  
Ware, Andy ODNR  
Watters, Harold OSU Extension  
Weaver, Chris Bridgewater Dairy  
White, David Ohio Livestock Coalition  
Wible, Chris Scotts-OPARR  
Wilson, Mark Land Stewards, LLC  
Wilson, Rick Ohio EPA  
Wise, Howard ODA  
Wise, Roger Ohio Farmers Union  
Witter, Jon OSU Wyss, Ronald Hardin County  
Zehringer, James  
(Director) ODNR  
Zody, Scott ODNR

(B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological

feasibility of the proposed rule or amendment considered ? **Yes**

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

The Department of Agriculture with the help of the Department of Natural Resources and the Ohio Environmental Protection Agency created a working group to study the impact of agricultural nutrients on water quality. The results of this group impacted the proposed rules. The study can be found here:  
[http://www.agri.ohio.gov/topnews/waterquality/docs/FINAL\\_REPORT\\_03-09-12.pdf](http://www.agri.ohio.gov/topnews/waterquality/docs/FINAL_REPORT_03-09-12.pdf)

- (C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program ? **No**

Is the proposed rule or rule amendment more stringent than its federal counterpart ? **Not Applicable**

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? **Yes**

Please explain why?

The proposed rules are slightly more stringent than the statute's created in Senate Bill 150. Namely, the proposed rules create additional record keeping requirements. The statute specifically grants the Department of Agriculture the authority to create additional record keeping requirements.