

OHIO PESTICIDE LAW – OHIO ADMINISTRATIVE CODE

“THE RULES”

CHAPTERS 901:5-11-01 TO 901:5-11-99



**COVERING THE REGULATION OF PESTICIDES IN OHIO
EFFECTIVE JULY 1, 2005.**

OHIO DEPARTMENT OF AGRICULTURE

DIVISION OF PLANT INDUSTRY

PESTICIDE REGULATION

901:5-11-01**Definitions**

As used in this chapter of the Administrative Code:

- (A) "Anti-siphon device" means a check valve or mechanism used to prevent backflow on any pest control equipment drawing water directly from any supply.
- (B) "Bulk pesticide" means any registered pesticide which is transported or held in an individual container having a capacity greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight.
- (C) "Bulk repackaging" means the transfer of a registered pesticide from one bulk container having a capacity greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight to another bulk container having a capacity greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight in an unadulterated state in preparation for sale or distribution to another person.
- (D) "Commercial lawn" means any cultivated turf, public or private, other than residential lawns, cultivated for aesthetic purposes.
- (E) "Custom mixes or blends" means any pesticide which is combined with commercial feedstuffs or fertilizers on an individual contract basis, and which is delivered to the customer in total and not stored by the person mixing or blending the ingredients.
- (F) "Director" means the director of the Ohio department of agriculture or an authorized representative thereof.
- (G) "Drift" means the airborne movement of pesticides beyond the target site during application.
- (H) "FIFRA" means the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C.A.136, as amended on August 3, 1996.
- (I) "Non-mobile liquid bulk pesticide storage container" means a liquid bulk pesticide container which is not designed by its manufacturer to be readily moved when full of product.
- (J) "Pesticide solicitor" means a pesticide business whose sole pesticide business activity is seeking to sell pesticide applications.
- (K) "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.
- (L) "Registered pesticide business location" or "registered location" means each location associated with a pesticide business that is used for the purpose of engaging in pesticide business activities in the state of Ohio, but does not include the location which is listed as the headquarters of the pesticide business to which the pesticide business license is issued.
- (M) "Residential lawn" means cultivated turf within the close of a single- or multi-family dwelling of four units or less.
- (N) The pesticide use categories recognized by the director for the purposes of commercial applicator licensing under section 921.06 of the Revised Code are defined as follows:
 - (1) "Aerial pest control" means the application of pesticides by aircraft ;
 - (2) "Agricultural pest control" means the application of pesticides to any agronomic and horticultural crops, or to soils being prepared for the production of such crops, for the control of any pests other than vertebrates.
 - (a) "Agronomic pest control" means the application of pesticides to agronomic crops for the control of pests other than weeds and vertebrates. This pesticide-use category does not include the application of pesticides for control of pests in ornamental nursery stock

or in the production of turf, as defined in paragraphs (N)(6) and (N)(8) of this rule, respectively.

- (b) "Horticultural pest control" means the application of pesticides to fruit and vegetable crops for the control of pests other than weeds and vertebrates.
- (c) "Agricultural weed control" means the application of pesticides for the control of weeds in agronomic crops or horticultural crops. This pesticide-use category does not include the application of pesticides for control of weeds in ornamental nursery stock or in the production of turf, as defined in paragraphs (N)(6) and (N)(8) of this rule, respectively.
- (d) "Seed treatment" means the application of pesticides to seed for the control of insects and disease organisms.
- (e) "Tobacco sucker control" means the application of growth regulators to tobacco plants for the control of sucker growth.
- (f) "Soil fumigation" means the application of fumigants to soil for the control of soil-inhabiting pests.
- (3) "Aquatic pest control" means the application of pesticides to standing or running water, for the control of undesirable vegetation or animals, but does not include uses covered by commercial pesticide-use category 10(D), as defined in paragraph (N)(10) of this rule.
 - (a) "General aquatic pest control" means the application of pesticides to standing or running water, other than swimming pools, for the control of aquatic pests.
 - (b) "Boat antifoulant" means the application of restricted-use antifoulants to boats for the control of undesirable organisms.
 - (c) "Sewer root control" means the application of restricted-use pesticides to sewer pipes for the control of tree roots.
 - (4) "Forest pest control" means the application of pesticides to forested areas or forest products for the control of pests other than vertebrates.
 - (a) "General forest pest control" means the application of pesticides to forested areas for the control of tree pests and weeds, and for the selective elimination of unwanted wood species as a forest management practice.
 - (b) "Wood preservation" means the application of pesticides to wood products such as crossties, poles, shingles, posts or other wood products that are not part of a structure when treated and are or will be exposed to insects, fungi, marine pests, or weather. This category does not include the treatment for the control of termites and other wood destroying organisms in houses or in an area as a pretreatment prior to the construction of a structure.
- (5) "Industrial vegetation control" means the application of pesticides to non-agricultural lands, such as roadways, public water courses, utility rights-of-way, or in close proximity to industrial sites, power stations, parking lots or similar areas for the control or eradication of unwanted vegetation.
- (6) "Ornamental pest control" means the application of pesticides to ornamental plants or areas for the control of any pests except vertebrates.
 - (a) "General ornamental pest control" means the application of pesticides to control insects and diseases of exterior ornamental plants and trees, and; weeds of exterior ornamental areas such as landscape beds, tree and shrub plantings, sidewalks, driveways, or similar areas.
 - (b) "Interior plantscape pest control" means the application of pesticides to control insects, diseases, and weeds of indoor ornamental plants in locations such as homes, offices, shopping malls, stores, or similar sites.

- (c) "Ornamental weed control" means the application of pesticides to exterior ornamental areas such as landscape beds, tree and shrub plantings, sidewalks, driveways, or similar areas for the control or eradication of unwanted vegetation.
- (d) "Greenhouse pest control" means the application of pesticides to control insects, diseases, and weeds of plants grown under glass or plastic cover.
- (7) "Vertebrate animal control" means the application of pesticides other than fumigants for the control of pest birds whether within or outside structures, and for the control of rodents, and any other vertebrates declared by the director to be a pest, in situations other than covered under commercial pesticide-use category 10, as defined in paragraph (N)(10) of this rule.
- (8) "Turf pest control" means the application of pesticides to lawns, turf, sod, or to soil areas being prepared for the production of turf for the control of pests except vertebrates.
- (9) "Animal pest control" means the application of pesticides to domestic animals which are held as agricultural commodities, or to structures in which they are confined, for the control of pests of such animals. (Application of pesticides by licensed veterinarians during the course of their normal practice is specifically exempted by law.)
- (10) "Domestic, institutional, structural, and health-related pest control" means the indoor or outdoor application of pesticides to control pests of humans, their dwellings, work spaces, and other structures used or occupied by humans, and the clothing, furnishings, and stored, processed, or manufactured food products contained therein.
 - (a) "General pest control" means the application of pesticides in or around human dwellings, industrial plants and business offices, food-handling establishments, schools, hospitals or other institutions, warehouses, grain elevators, or similar buildings to control pests, including rodents, of such structures or of the occupants, furnishings, or provisions of those structures, except for the control of pest birds and wood-destroying insects or fungi.
 - (b) "Termite control" means the application of pesticides in or around various structures, or to the ground prior to construction of a structure, for the control of termites and other invertebrate wood-destroying insects.
 - (c) "Fumigation" means the application of fumigants to structures, or commodities or equipment which are enclosed within structures, or other specially confined areas (including areas temporarily confined expressly for the purpose of fumigation) such as bins, rooms, cargo spaces, and boxcars, for the control of any pests contained within these structures or confined areas.
 - (d) "Mosquito, house fly, and other vector control" means the application of pesticides outdoors to control invertebrate pests which are a threat to public health or a nuisance to humans, such as mosquitoes, house flies, chiggers, and ticks, but does not include uses covered by commercial pesticide-use category (7), as defined in paragraph (N)(10) of this rule.
- (11) "Specialized pest control" means the application of pesticides to the property of others under circumstances not covered by paragraphs (N)(1) to (N)(10) of this rule.
- (12) "Wood-destroying insect diagnostic inspection" means the examination of a structure at the request of any party involved in a contemplated real estate transaction to determine if wood destroying insects are present in the structure, if there is evidence they either are or have been present in the structure, or the presence of any visible damage to the structure caused by wood-destroying insects and the generation of a written report of the findings of the examination.
- (O) The pesticide use categories recognized by the director for the purposes of private applicator licensing under section 921.11 of the Revised Code are defined as follows:
 - (1) "Grain and cereal crops" means agronomic field crops including but not limited to corn, grain sorghums, other small grains, soybeans and sweet corn.
 - (2) "Forage crops" means crops grown primarily for use as hay, forage, fodder, or ensilage, and includes but is not limited to such crops as corn and legumes.

- (3) "Field vegetables and specialty crops" means:
 - (a) Field-grown vegetables, sugar beets, sweet corn and other horticultural crops grown primarily for human consumption.
 - (b) Tobacco.
- (4) "Fruit crops" means orchard fruit crops, and small fruits including but not limited to strawberries, brambles and grapes.
- (5) "Ornamentals and turf crops" means commercial nursery crops including but not limited to trees, shrubs, grasses and herbaceous plants produced for replanting for their ornamental value or for future fruit production.
- (6) "Greenhouse crops" means crops grown for food production or ornamental value under an impervious surface large enough to permit worker entry.
- (7) "Forest crops" means tree crops as produced for use as Christmas trees or for their utilitarian value as timber, pulp wood, poles, etc.
- (8) "Livestock and livestock buildings" means domestic animals which are held as agricultural commodities and their quarters.
- (9) "Non-crop land" means lands unused as either pasture or for production of food, fiber, or timber.
- (10) "Stored grain" means seeds, cereal grains or soybeans stored and intended for use as human food or animal feed.
- (11) "Aquatic" means lakes, ponds, and marshes from which it may be desirable to remove or reduce undesirable vegetation or animal life.
- (12) "Seed treatment" means the application of one or more pesticides to seeds for control of organisms detrimental to germinating seeds or emerging seedlings.
- (13) "Wood preservation" means the application of pesticides to wood products such as crossties, poles, posts, or other wood products that are not part of a structure when treated and are or will be exposed to insects, fungi, or weather.
- (14) "Livestock protection collar" means the use on livestock of a collar containing a pesticide for the control of predators.
- (P) "Wood destroying insects" include termites, carpenter ants, carpenter bees and re-infesting wood boring beetles.

HISTORY: Eff: 1-11-77; 6-11-84; 1-30-91; 10-29-98; 10-01-01; 7-01-04; Authority RC 921.16; Amplifies RC 921.01

901:5-11-02 Trained servicepersons, safety and restrictions.

- (A) Trained servicepersons.
 - (1) No employee shall act as a trained serviceperson unless the employee has read the Ohio department of agriculture manual "Safety Training Guide for Trained Servicemen." In lieu of reading the manual, the employee may complete an employer-sponsored training program which provides training equivalent to that provided in the manual. The training or reading of the manual shall occur before the employee's first occupational exposure to pesticides. Both the employee and the immediate supervisor shall verify in writing that the employee has either read the manual or received equivalent training prior to the employee's first exposure to pesticides. The written verification shall be kept on file by the employer throughout the trained serviceperson's period of employment and for three years following termination of the trained serviceperson's employment. This written verification shall be made available to the director of agriculture for inspection.
 - (2) No trained serviceperson shall apply pesticides for hire unless the trained serviceperson is directly supervised by a commercial applicator who is located within close proximity to the work site during the trained serviceperson's pesticide application activities. For the purposes of this paragraph, "close proximity" means the farther of twenty-five miles distance or two hours time.

- (B) No person shall:
 - (1) Use a pesticide except in accordance with the label registered with the Ohio department of agriculture, or in accordance with sections 5, 24(c) or 18 of FIFRA, and the rules adopted thereunder.
 - (2) Employ to perform an activity subject to section 921.01 of the Revised Code:
 - (a) Any person who is forbidden such employment by state or federal labor laws; or
 - (b) Any person who is mentally incompetent or for any reason unable to satisfactorily communicate with or understand instructions given by the pesticide applicator.
 - (3) Permit any person under the age of eighteen years to handle, mix or load a pesticide displaying on its label the signal words "danger - poison" without on-site supervision by a pesticide applicator.
 - (4) Permit any person to mix or load pesticides in an area where the light, whether natural or artificial, is insufficient to read the pesticide label and work in a safe manner.
 - (5) Operate application equipment which draws water from surface waters or public water supplies unless the equipment has an effective anti-siphon device to prevent backflow.
 - (6) Operate equipment for the application of pesticides, including such auxiliary equipment as hoses and metering devices in such conditions or in such a manner as to result in leakage, spillage, dripping, backflow, vapors or drift.
 - (7) Knowingly loan, rent or permit the use of applicator equipment owned or controlled by that person which is faulty in any particular as described in paragraphs (B)(5) and (B)(6) of this rule, or which has not been thoroughly cleaned in a manner to prevent contamination of a pesticide solution or other formulation by previous use.
 - (8) Apply pesticide to an area or a crop in such a manner or at such a time that adjacent crops, pasture land, water or other areas will be damaged or contaminated.
 - (9) Mix, load or store agricultural pesticides within the perimeter of a migrant labor camp.
 - (10) Distribute a restricted-use pesticide to a person who is not:
 - (a) A licensed pesticide dealer; or
 - (b) A properly licensed pesticide applicator, unless when making the distribution they receive verification that the ultimate user is a properly licensed pesticide applicator who holds a valid license or certification issued by the state in which the pesticide applicator applies the restricted-use pesticide.
 - (11) Under authority of division (D) of section 921.16 of the Revised Code, use or cause to be used an ester formulation of 2, 4-D (2, 4-Dichlorophenoxy -acetic acid) within Madison township, Lake county, Ohio.
 - (12) Apply herbicidal foliage sprays to woody vegetation by aircraft on rights-of-way when the wind velocity exceeds seven miles per hour at eye level.
 - (13) Drive a moving vehicle while applying an herbicide to roadside vegetation within public right-of-way limits unless the spray is directed by a second person or unless the applicator is using a vehicle equipped with a mounted spray boom which is designed to be operated by the driver.
 - (14) Apply by aircraft:
 - (a) Any pesticide without having first obtained licensure for both the aerial application pesticide-use category and the pesticide-use category appropriate to the particular pesticide being applied.
 - (b) Any rodenticide, avicide, or vertebrate repellent until the proposed application has been jointly approved by the director and by the division of wildlife of the Ohio department of natural resources; the application for such approval shall be submitted to both agencies fourteen days prior to planned treatment and shall include:
 - (i) The county, township and sections involved;
 - (ii) A clear description of areas to be treated;
 - (iii) Inclusive dates of intended operation;
 - (iv) The name of the pesticide and the formulation to include all active and inert ingredients;

- (v) The name of the target pest; and
- (vi) The effect which may be expected on non-target species in the area.
- (15) Apply or cause to be applied any pesticide that is required to carry a special warning on its label indicating that it is toxic to honey bees, over an area of one-half acre or more in which the crop-plant is in flower unless the owner or caretaker of any apiary located within one-half mile of the treatment site has been notified by the person no less than twenty-four hours in advance of the intended treatment; provided the apiary is registered and identified as required by section 909.02 of the Revised Code, and that the apiary has been posted with the name and telephone number of the owner or responsible caretaker.
- (16) Apply pesticides which are hazardous to honey bees at times when pollinating insects are actively working in the target area; however, application of calyx sprays on fruits and other similar applications may be made.
- (C) No commercial applicator shall apply fumigants unless the commercial applicator is properly licensed in, and the application is made within, the following pesticide-use categories:
 - (1) "Soil fumigation" as defined in paragraph (N)(2)(f) of rule 901:5-11-01 of the Administrative Code;
 - (2) "Fumigation" as defined in paragraph (N)(10)(c) of rule 901:5-11-01 of the Administrative Code; or
 - (3) "Greenhouse pest control" as defined in paragraph (N)(6)(d) of rule 901:5-11-01 of the Administrative Code.
- (D) Pesticide applicators:
 - (1) Shall provide to trained servicepersons, immediate family members and subordinate employees working under the pesticide applicator's direct supervision the necessary safety equipment as set forth on the pesticide label or as required by the pesticide being used.
 - (2) Shall acquaint trained servicepersons, immediate family members and subordinate employees working under the pesticide applicator's direct supervision with any special hazards involved with those pesticides with which they might be in contact and instruct them in appropriate precautions to avoid those hazards.
 - (3) Shall ensure that trained servicepersons, immediate family members and subordinate employees working under the pesticide applicator's direct supervision do not apply pesticides in the absence of the supervising pesticide applicator unless the label of the pesticide they are applying is readily available to them at the worksite. The label of the pesticide shall be made available to the director for inspection during the application. Notwithstanding the foregoing, a pesticide applicator shall be present during application of a pesticide by their trained serviceperson, immediate family member or subordinate employee when the pesticide applicator's presence is required by the pesticide label.
 - (4) Shall report to the department of agriculture:
 - (a) By telephone, within forty-eight hours after learning of any human illness requiring medical attention resulting from or allegedly resulting from a pesticide used by the pesticide applicator or a trained serviceperson, immediate family member or subordinate employee working under the pesticide applicator's direct supervision. Such telephone notification shall be followed by a written report within seven calendar days.
 - (b) By written report within ten calendar days after learning of any property damage in excess of five hundred dollars resulting from or allegedly resulting from a pesticide used by the pesticide applicator or a trained serviceperson, immediate family member or subordinate employee working under the pesticide applicator's direct supervision.
 - (5) And trained servicepersons, immediate family members or subordinate employees working under the pesticide applicator's direct supervision, shall not apply a restricted use pesticide whose label requires that notice be given to occupants of nearby properties or that the area to be treated be posted with re-entry times unless those requirements have been met.
 - (6) And trained servicepersons working under the pesticide applicator's direct supervision shall provide to each customer if requested, or required by the pesticide label, a printed or legibly written statement of the pesticide applied, the amount applied, the date of application, and any other pertinent

information as required by the pesticide label.

HISTORY: Eff: 1-11-77; 6-11-84; 1-30-91; 10-29-98; 10-01-01; 7-01-04; 1-18-05; Authority RC 921.16; Amplifies RC 921.

901:5-11-03 Pesticide business license and registered locations.

- (A) The initial and renewal fee for each pesticide business license and registered location shall be thirty-five dollars per licensing period. This fee is non-refundable. If an application for license renewal is not postmarked prior to the expiration of the current licensing period as established in paragraph (B) of this rule, this fee shall be increased by fifty per cent.
- (B) The licensing period for pesticide businesses shall commence on the first day of October of each year and expire on the last day of September of the following year.
- (C) An applicant shall be issued a pesticide business license if the applicant has satisfied the licensing requirements set out in chapter 921. of the Revised Code and the rules adopted thereunder, and the following have been received by the director:
 - (1) A completed formal application listing the headquarters of the pesticide business and each registered location;
 - (2) Proof of financial responsibility as required by paragraph (E) of rule 901:5-11-07 of the Administrative Code. For a license renewal, failure to provide acceptable proof of financial responsibility prior to the first day of October of each year shall cause the fee to be increased by fifty per cent in accordance with paragraph (A) of this rule, and
 - (3) The fee as set out in paragraph (A) of this rule.
- (D) The holder of a pesticide business license may add a registered location to the pesticide business license at any time by submitting an amended application, and the initial licensing fee as set out in paragraph (A) of this rule.

HISTORY: Eff: 4-30-02; 7-01-04; Authority RC 921.16; Amplifies RC 921.09

901:5-11-04 Commercial applicator license.

- (A) The initial and renewal fee for a commercial applicator license shall be thirty-five dollars per licensing period. This fee is non-refundable. If an application for license renewal is not postmarked prior to the expiration of the current licensing period as established in paragraph (B) of this rule, this fee shall be increased by fifty per cent.
- (B) The licensing period for commercial applicators shall commence on the first day of October of each year and expire on the last day of September of the following year.
- (C) An applicant shall be issued a commercial applicator license if the applicant has satisfied the licensing requirements set out in chapter 921. of the Revised Code and the rules adopted thereunder, and the following have been received by the director:
 - (1) A completed formal application,
 - (2) Demonstration that the applicant possesses the adequate knowledge and competence to apply pesticides and conduct diagnostic inspections within the pesticide use categories for which the applicant seeks licensure, as set forth in rule 901:5-11-08 of the Administrative Code: and
 - (3) The fee as set forth in paragraph (A) of this rule.
- (D) Nonresident commercial applicators may be exempted from the requirements of paragraph (C)(2) of this rule for those pesticide use categories in which they are currently licensed in another state:
 - (1) The nonresident commercial applicator has filed with the director an official copy of the nonresident commercial applicator's valid license: and
 - (2) A reciprocal agreement has been reached with the licensing state finding that the requirements for obtaining licensure and determining competence in the licensing state are deemed to be substantially equivalent to those in Ohio

HISTORY: Eff: 1-1-77; 2-1-94; 10-29-98; 10-1-01; 4-30-02; 7-01-04; Authority RC 921.16; Amplifies RC 921.09; 921.16

901:5-11-05 Private applicator license.

- (A) The initial and renewal fee for a private applicator license is thirty dollars per licensing period.
- (B) The licensing period for private applicators shall commence on the first day of April and shall expire on the last day of March of the third year following issuance of the license.
- (C) A applicant shall be issued a private applicator license if the applicant has satisfied the licensing requirements set out in chapter 921. of the Revised Code and the rules adopted thereunder, and the following have been received by the director
 - (1) A completed formal application;
 - (2) Demonstration that the applicant possesses the adequate knowledge and competence to apply pesticides within the pesticide use categories for which the applicant seeks licensure as set forth in rule 901:5-11-08 of the Administrative Code, and
 - (3) The fee as set forth in paragraph (A) of this rule.
- (D) Nonresident private applicators may be exempted from the requirements of paragraph (C)(2) of this rule for those pesticide use categories in which they are currently licensed in their state of residence if:
 - (1) The nonresident private applicator has filed with the director an official copy of the nonresident private applicator's valid license, and
 - (2) A reciprocal agreement has been reached with the licensing state finding that the requirements for obtaining licensure and determining competence in the licensing state are deemed to be substantially equivalent to those in Ohio.

HISTORY: Eff: 7-01-04; Authority RC 921.16; 921.11; Amplifies RC 921.11; 921.08

901:5-11-06 Pesticide dealer license.

- (A) The initial and renewal fee for a pesticide dealer license shall be thirty-five dollars per licensing period. This fee is non-refundable.
- (B) The licensing period for pesticide dealers shall commence on the first day of October of each year and expire on the last day of September of the following year.
- (C) An applicant shall be issued a pesticide dealer license if the applicant has satisfied the licensing requirements set out in chapter 921. of the Revised Code and the rules adopted thereunder, and the following have been received by the director:
 - (1) A completed formal application; and
 - (2) The fee as set forth in paragraph(A) of this rule.

HISTORY: Eff: 4-30-02; 7-01-04; Authority RC 921.16; Amplifies RC 921.13; 921.16

901:5-11-07 Financial responsibility.

- (A) Applicability.
 - (1) Paragraph (B) of this rule shall apply to all pesticide businesses, except pesticide businesses whose activities are limited to:
 - (a) Conducting wood-destroying insect diagnostic inspections;
 - (b) Application of boat antifoulants;
 - (c) Seed treatment; or
 - (d) Those performed as a pesticide solicitor.
 - (2) Paragraph (C) of this rule shall apply to pesticide businesses that make wood-destroying insect diagnostic inspections, whether or not that business also applies pesticides.
 - (3) Paragraph (D) of this rule shall apply to pesticide businesses that conduct aerial pest control

- applications.
- (4) Paragraph (E) of this rule shall apply to all pesticide businesses that are required to maintain financial responsibility under this rule.
 - (B) Every pesticide business shall have in force a comprehensive general liability insurance policy and, either a separate professional liability insurance policy or an endorsement covering liability arising from the application of pesticides in each of the pesticide use categories in which the commercial applicators employed by the business are licensed. The policy and endorsements shall be in force for the entire term of the pesticide business license, shall provide coverage for each registered location associated with the pesticide business, and shall be issued by a company permitted to do business in Ohio. The policy shall provide coverage for bodily injury, property damage, products, and completed operations. The policy shall contain the following minimum limits of insurance:
 - (1) Three hundred thousand dollars policy general aggregate;
 - (2) Three hundred thousand dollars per occurrence limit; and
 - (3) Three hundred thousand dollars products and completed operations aggregate.
 - (C) Every pesticide business which is also licensed in the pesticide use category of wood-destroying insect diagnostic inspection shall obtain either a specific liability policy or an endorsement on an existing comprehensive general liability policy covering claims which arise from errors or omissions in the performance of wood-destroying insect diagnostic inspections. The policy and endorsements shall be in force for the entire term of the license and shall be issued by a company permitted to do business in Ohio. The minimum amount of coverage for the policy shall be fifty thousand dollars per occurrence with an aggregate limit of at least one hundred thousand dollars.
 - (D) Every pesticide business that conducts aerial pest control applications shall have in force a comprehensive chemical liability insurance policy for liability arising from the application of pesticides from aircraft. The policy and endorsements shall be in force for the entire term of the pesticide business license and shall be issued by a company permitted to do business in Ohio. The policy shall provide coverage for bodily injury, property damage, and products. The policy shall contain the following minimum limits of insurance:
 - (1) One hundred thousand dollars property damage coverage per occurrence; and
 - (2) One hundred thousand dollars bodily injury (excluding passengers) coverage for each person; and
 - (3) Three hundred thousand dollars bodily injury (excluding passengers) coverage per occurrence.
 - (E) Every person applying for a pesticide business license shall submit with their license application either a certificate of insurance or a binder verifying that they meet the requirements of this rule. The certificate of insurance or binder shall contain:
 - (1) The name and address of the issuing company;
 - (2) The name and address of the insured pesticide business;
 - (3) The name and address of each registered location associated with the insured pesticide business;
 - (4) The effective date and expiration date of the insurance policy;
 - (5) The policy number;
 - (6) A statement verifying that the policy covers liability arising from:
 - (a) The application of pesticides, if the pesticide business performs pesticide applications; and
 - (b) The performance of wood-destroying insect diagnostic inspections, if the pesticide business performs wood-destroying insect diagnostic inspections.
 - (7) The limits of insurance; and
 - (8) A clause which states in the same or similar language: "In the event of cancellation for non-payment, the insurer agrees to advise the Ohio Department of Agriculture, Pesticide Regulation Section, 8995 East Main Street, Reynoldsburg, Ohio 43068, by written notice ten days prior to the effective date of cancellation. If the policy is, for any other reason, canceled, not renewed, or there is a material change the insurer agrees to give the Ohio Department of Agriculture thirty days written notice."

HISTORY: Eff: 1-26-73; 1-1-77; 10-29-98; 4-1-03; 7-01-04; Authority RC 921.16; Amplifies RC 921.10

901:5-11-08 Demonstration of competence.

- (A) Each applicant for a pesticide applicator license shall show, by passing a general examination and an examination for each applicable pesticide-use category, that the applicant possesses adequate knowledge of general pesticide application principles and competence to apply pesticides and, in the case of commercial applicators, adequate knowledge and competence to conduct diagnostic inspections within the pesticide-use categories for which the applicant seeks licensure.
 - (1) Opportunity to take examinations will be provided at such times and places as determined by the director in consideration of the number and location of requests.
 - (2) A pesticide applicator may apply to broaden their license to include a new pesticide-use category at any time.
 - (3) In establishing the standards for training and examination of pesticide applicators, the director will be guided by the standards set forth in the "State Plan for Certification of Applicators" as approved by the administrator of the United States department of environmental protection.

- (4) Each applicant for licensure as a commercial applicator in the category of wood-destroying insect diagnostic inspection shall submit a valid certificate verifying that they have completed the Ohio wood-destroying insect inspection program.
- (5) Applicants who fail to pass an examination may apply to be re-tested at a pre-arranged time and location, but no earlier than five business days after a previous examination except by special permission of the director.
- (6) Applicants must pass a core examination and a pesticide-use category examination to be issued a license. If an applicant fails either the core or all pesticide-use category examinations they have taken, the applicant shall not receive a license until both the core and at least one pesticide-use category examination have received a passing score. The applicant has one year from the date of the first examination for which the applicant has obtained a passing score to obtain licensure. If the applicant is unable to obtain licensure within that year, the applicant must pass anew both a core examination and a pesticide-use category examination, even if the applicant had previously received a passing score on either the core or a pesticide-use category examination.
- (B) Re-examination shall be required at three-year intervals, except that a pesticide applicator may be exempted from re-examination if they have participated in the minimum amount of approved training during the three years prior to the date of their scheduled re-examination. Notwithstanding the minimum number of hours set forth below, a licensee shall participate in at least one-half hour of training for each pesticide-use category in which they are licensed in order to avoid re-examination in that particular category,
 - (1) For commercial applicators the minimum amount of approved training required shall be five hours. Of the five hours, at least one hour shall consist of core training material and at least one-half hour shall consist of training material specific to the pesticide-use category in which the commercial applicator is licensed.
 - (2) For private applicators, the minimum amount of approved training required shall be three hours. Of the three hours, at least one hour shall consist of core training material and at least one-half hour shall consist of training material specific to each pesticide-use category in which the private applicator is licensed.
- (C) In no case shall an applicant be permitted to take an examination or a re-examination unless the applicant has presented at the time of the examination or re-examination current government-issued photographic identification to the ODA representative administering the examination or re-examination. This paragraph shall not apply to an applicant whose religion does not permit the applicant to be photographed.

HISTORY: Eff: 1-1-77; 2-1-94; 8-2-96; 10-29-98; 4-1-03; 6-25-99; 7-01-04; Authority RC 921.16; Amplifies RC 921.12

901:5-11-09 Notification requirements for lawn pesticide applicators.

- (A) No 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 provide the following information in writing 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 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.
 - (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)(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)(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 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 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.
 - (C) No 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 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.
 - (E) Paragraphs (A)(1), (A)(2) and (A)(3) of this rule do not apply to any 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 application for the purpose of the maintenance, operation or construction of a public utility;
 - (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.

901:5-11-10 Recordkeeping .

- (A) Commercial applicators:
 - (1) Applying pesticides to areas other than structures or their contents shall record on the date of application the following information for each application made by the commercial applicator or trained servicepersons working under the commercial applicator's direct supervision:
 - (a) Name and business address of responsible commercial applicator and names of the trained servicepersons applying pesticides under the commercial applicator's direct supervision;
 - (b) Name and address of person contracting for service;
 - (c) Date of application;
 - (d) Type of plants, crop or animals to be treated;
 - (e) Principal pests to be controlled;
 - (f) Acreage or number of plants or animals treated;
 - (g) Location or field identification number of treatment area;
 - (h) Trade name (brand name) and EPA registration number of pesticides used;
 - (i) Total amount of each pesticide product used;
 - (j) Rate of application and concentration of pesticide formulation applied;
 - (k) Type of equipment used;
 - (l) Time of day of application, including the time of starting the actual application and the time of completion of application or, if uncompleted, the time when operations ceased for the day;
 - (m) Wind direction and velocity, air temperature and other weather conditions when applicable; and
 - (n) Any other pertinent information as required by the pesticide label.
 - (2) Applying pesticides to structures and their contents shall record on the date of application the following information for each application made by the commercial applicator or trained servicepersons working under the commercial applicator's direct supervision:
 - (a) Name and business address of responsible commercial applicator and names of the trained servicepersons applying pesticides under the commercial applicator's direct supervision;
 - (b) Name and address of person contracting for service;
 - (c) Date of application;
 - (d) Principal pests to be controlled;
 - (e) Locations and methods of treatment for each pesticide used;
 - (f) Trade name (brand name) and EPA registration number of pesticides used;
 - (g) Total amount of each pesticide product used;
 - (h) Rate of application and concentration of pesticide formulation applied;
 - (i) Type of equipment used;
 - (j) Time of day of application, including the time of starting the actual application and the time of completion of application or, if uncompleted, the time when operations ceased for the day; and
 - (k) Any other pertinent information as required by the pesticide label.
 - (3) Conducting wood-destroying insect diagnostic inspections shall record the results of each inspection - pursuant to rule 901:5-11-13 of the Administrative Code.
- (4) Shall submit, within ten days following the date of completion, a copy of each record required under paragraphs (A)(1) and (A)(2) of this rule to the registered pesticide business location from which the application was conducted or the commercial applicator's employer if the employer is not a pesticide business.
- (5) Applying pesticides under pesticide-use categories 2A, 2B, 2C, 2E, and 2F shall provide a copy of each pesticide application record to the person contracting for service, upon request or, if not requested, within thirty days after the pesticide application unless the person contracting for services has provided to the pesticide business a signed agreement allowing the pesticide business to retain

- that record.
- (B) The employer of a commercial applicator that receives copies of records under paragraph (A)(4) of this rule or paragraph (I) of rule 901:5-11-13 of the Administrative Code shall retain those records for a period of three years from the date of application and shall make those records available to the director.
- (C) Pesticide businesses shall:
- (1) Retain at the appropriate registered location, or at the pesticide business if there is no registered location, records submitted under paragraph (A)(4) of this rule for a period of three years from the date of application and shall make those records available to the director.
 - (2) Retain for three years following the employee's termination, written verification documenting that the employee has read the Ohio department of agriculture trained servicepersons manual or received equivalent training prior to the employee's first exposure to pesticides, as required by paragraph (A)(1) of rule 901:5-11-02 of the Administrative Code. This verification shall be made available to the director.
- (D) Pesticide dealers shall:
- (1) Keep a record of all sales of restricted-use pesticides made to pesticide applicators. This record shall be maintained at the registered pesticide business location where the sale was made using a format which includes the following items:
 - (a) The name of the pesticide applicator;
 - (b) The license number and pesticide-use categories listed on the pesticide applicator's license;
 - (c) The brand name and quantity of pesticide purchased;
 - (d) The EPA registration number and invoice number from the pesticide dealer's sales paperwork;
 - (e) The date of sale; and
 - (f) The name of the person receiving the pesticide if different from the pesticide applicator.
 The pesticide dealer's copy of the records of sales shall be kept in a file and made available to the director during reasonable hours. The dealer shall retain such records for no less than three years.
 - (2) Compile an annual report of restricted-use pesticide sales records made for the period from the first day of July to the last day of June of the following calendar year. The report shall contain all of the information required under paragraph (D)(1) of this rule. If there are no sales of restricted-use pesticides for the period, the report shall so state. This report shall be made on a form designed by the director or on a computer-generated equivalent. The report shall be made available to the director during reasonable business hours. The dealer shall retain the report for no less than three years.
 - (3) Submit on or before the last day of July of each year to the pesticide regulation section of the Ohio department of agriculture a copy of the report for the most recently completed reporting period compiled pursuant to paragraph (D)(2) of this rule. The copy submitted under this paragraph shall be identical to the report compiled and retained pursuant to paragraph (D)(2) of this rule.
- (E) Private applicators:
- (1) Shall record the following information for each application on the date of application:
 - (a) The responsible private applicator's name, address, and license number;
 - (b) The brand or product name, formulation, and EPA registration number of the restricted use pesticide applied;
 - (c) The total amount and the rate of application of the restricted use pesticide applied;
 - (d) Location and/or field number for area treated and total area or acreage treated;
 - (e) Crop treated;
 - (f) Target pest;
 - (g) Month, day and year of application;
 - (h) Type of application equipment;
 - (i) Method of application (pre-emergence, post-emergence, planter, foliar, etc.); and
 - (j) Weather conditions including air temperature, wind speed and direction when pesticides are applied outside of a structure.
 - (2) Shall submit on the date of application a copy of records required under paragraph (E)(1) of this rule to the private applicator's employer, if applicable.
 - (3) Or their employers, if applicable, shall retain records generated pursuant to paragraph (E)(1) of this

rule for a period of three years from the date of application and shall make those records available to the director. In the case of a crop site being leased or rented by a private applicator, the private applicator shall make the pesticide application record available within thirty days of the request by the owner of the land or an agent thereof.

HISTORY: Eff: 1-1-77; 2-1-94; 10-29-98; 10-1-01; 11-11-02; 7-01-04; 1-18-05; Authorized by 921.16; Amplifies 921.14

901:5-11-11 Storage, handling, disposal and distribution of pesticides. custom mixes and blends.

- (A) Storage:
 - (1) For agricultural purposes:
 - (a) Pesticides shall not be stored in a manner that would result in contamination of animal feeds or commercial fertilizers.
 - (b) Pesticides shall not be stored above or against feed components, animal foods, foodstuffs, medications, or children's toys.
 - (c) Pesticides shall not be stored or loaded into application equipment within one hundred yards of an airline passenger terminal.
 - (d) Storage areas shall not contain a drain unless it is plugged to prohibit movement of pesticide releases.
 - (2) For display purposes:
 - (a) Pesticides shall not be shelved above or against feed components, animal foods, foodstuffs, medications, or children's toys.
 - (b) Shelving or display areas used for pesticide display shall be thoroughly cleaned before they are re-used for display of other products.
 - (c) Pesticides having a skull and crossbones symbol on the label shall not be displayed in such manner as to be accessible to children.
 - (3) For liquid bulk pesticide facilities:
 - (a) Bulk pesticide storage and handling facilities shall be sited in accordance with appropriate local, state and federal regulations.
 - (b) Containers and accessory equipment used for the storage and handling of bulk pesticides shall be of materials and construction compatible with the pesticide stored and the conditions of storage as specified by the label instructions.
 - (c) Non-mobile liquid bulk pesticide storage container installations shall be constructed such that a secondary means of containment is provided.
 - (i) Secondary containment shall be constructed of sufficient thickness, density and composition so as to contain any spillage or discharged material.
 - (ii) Secondary containment for outside storage shall be maintained to contain a minimum of one hundred ten per cent of the capacity of the largest single container. Secondary containment for storage under roof shall be maintained to contain the full capacity of the largest single container.
 - (iii) Secondary containment areas shall not contain a drain unless it is plugged to prevent the release of any spillage from the containment area.
 - (iv) In the event of a spill or release of a pesticide in an amount equal to or exceeding the reportable quantity, as that term is defined by 40 C.F.R. 302.4, the Ohio environmental protection agency shall be contacted in accordance with section 3750.06 of the Revised Code and the rules adopted thereunder.
 - (d) Upon delivery of the bulk pesticide, the registered product label shall be prominently displayed on the bulk pesticide storage container.
 - (e) Bulk pesticide storage containers shall be locked or ready access to bulk storage containers by unauthorized personnel shall be prevented when the facility is unattended.
- (B) Transportation of bulk pesticide containers.
 - (1) Bulk pesticide containers shall meet all applicable standards as specified by the label instructions and Ohio and United States departments of transportation requirements.
 - (2) Bulk pesticide containers shall be thoroughly secured so as to prevent spillage of pesticide and

- damage to containers during transportation.
- (3) Bulk pesticide containers shall bear the registered product label for the material contained therein.
 - (4) In the event of a spill or release of a pesticide in an amount equal to or exceeding the reportable quantity, as that term is defined by 40 C.F.R. 302.4, the Ohio environmental protection agency shall be contacted in accordance with section 3750.06 of the Revised Code and the rules adopted thereunder.
- (C) Handling and loading of bulk pesticides.
- (1) Bulk pesticides shall be handled, mixed and loaded in a manner that will assure the protection of crops, livestock, the general public and the environment. Physical and chemical properties shall be considered in the handling and loading of bulk pesticides.
 - (2) Loading and mixing of bulk pesticides conducted at permanent distribution sites shall be on impervious surfaces with provisions sufficient to allow containment and recovery of any spillage.
 - (3) Prior to refilling, bulk pesticide containers must be thoroughly cleaned except when a sealed or dedicated recyclable bulk container is refilled with the same labeled pesticide and bears the same label as the pesticide immediately preceding it.
 - (4) All rinsates and minor spillages which have not resulted from a container failure and which accumulate in the secondary containment shall be disposed as provided by the pesticide's label, or in the absence of specific label instructions, shall be disposed in accordance with chapter 3734. of the Revised Code and the rules adopted thereunder.
- (D) Disposal of containers and unused pesticides:
- (1) Empty pesticide containers and containers which have held pesticide-treated seed:
 - (a) Shall be disposed in a manner consistent with the pesticide label: or
 - (b) In the absence of specific label instructions, shall be triple-rinsed and disposed in accordance with chapter 3734. of the Revised Code and the rules adopted thereunder; and
 - (c) Shall not be sold or re-used for any purpose, except as provided by paragraph (B)(3) of this rule, unless the containers have been properly cleaned and reconditioned in a manner approved by the director for their intended use or purpose. Re-use of such containers for the storage of human or animal food or water, or for the storage of cooking utensils, dishes or clothing is strictly prohibited.
 - (2) Unused pesticides and unwanted pesticide-treated seeds shall be disposed in a manner consistent with their labeling or, in the absence of specific label instructions, shall be disposed in accordance with chapter 3734. of the Revised Code and the rules adopted thereunder.
- (E) Distribution of bulk pesticides:
- (1) Bulk pesticides may be repackaged for sale or delivery if:
 - (a) The establishments conducting the sale or delivery are registered as pesticide-producing establishments in accordance with section 7 of FIFRA;
 - (b) A representative of said registered establishment is present when the product is repackaged for sale or delivery; and.
 - (c) There is no change in any of the following as a result of the repackaging:
 - (i) The pesticide formulation;
 - (ii) The product labeling, except for the addition of the required EPA establishment number and net contents statement; or
 - (iii) The registrant as evidenced by the assigned EPA product registration number.
 - (d) A written authorization for the repackaging of bulk pesticides is obtained from the registrant, held at the facility conducting the repackaging and made available for inspection by the director.
 - (2) Bulk pesticides may be repackaged for sale using only containers which conform with paragraph (A)(3)(b) of this rule and if applicable, paragraph (B)(1) of this rule, and that are approved for this purpose by the seller of the pesticide.
 - (3) Scales and meters used for bulk pesticide sales shall meet the specifications tolerances and other technical requirements for weighing and measuring devices as specified in the current "National Bureau of Standards Handbook 44," or as approved or exempted by the weights and measures division of the Ohio department of agriculture.
 - (4) Separate pumps and meters shall be used for each pesticide when distributed for sale.

- (5) All bulk pesticides used for custom mixing, tank mixing or repackaging in Ohio must be registered and labeled in compliance with FIFRA and Chapter 921. of the Revised Code and the rules adopted thereunder.
- (F) Custom mixes or blends:
 - (1) Shall be prepared to the order of the user within the recommended range of the pesticide's labeling,
 - (2) Shall not be held in inventory;
 - (3) Or portions thereof, if divided for delivery, shall be labeled with the actual percentage of the pesticide within the custom mix or blend to ether with the pertinent and proper directions for its use, purpose and cautions. This requirement may be met by attaching a copy of the end-use labeling of the pesticides used in the blend.
 - (4) Shall be prepared in an establishment that:
 - (a) Is registered with the United States environmental protection agency in accordance with FIFRA; and
 - (b) Adheres to the "Good Manufacturing Practices for Medicated Feeds" as promulgated by the United States food and drug administration. 21 C.F.R. 225 to 226, revised April 1. 2003.

HISTORY: Eff: 1-13-72; 1-1-77; 6-11-8; 10-29-98; 7-01-04; Authorized by 921.15, 921.16; Amplifies 921.15, 921.16

901:5-11-12 Pesticide registration.

- (A) Each pesticide distributed for use or sale in this state shall be registered with the director of agriculture, including those pesticides which are exempted from EPA registration under section 25(b) of FIFRA.
- (B) Beginning with the registration period commencing on the first day of July, 2005, the initial and renewal inspection and registration fee for each pesticide name and brand registered shall be one hundred dollars per registration period. This fee is non-refundable. If an application for license renewal is not postmarked prior to the expiration of the current licensing period as established in paragraph (C) of this rule, this fee shall be increased by fifty per cent.
- (C) The registration period for pesticides shall commence on the first day of July of each year and expire on the last day of June of the following year.
- (D) An applicant shall be issued a pesticide registration if the applicant has satisfied the registration requirements set out in Chapter 921. of the Revised Code and the rules adopted thereunder, and the following have been received by the director:
 - (1) A completed formal application;
 - (2) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the federal act: and
 - (3) The fee as set forth in paragraph (B) of this rule.
- (E) A pesticide registration shall be suspended or revoked, or shall not be issued when the director finds that:
 - (1) Its composition is such that it does not warrant the proposed claims for it;
 - (2) Its labeling, or any other material required to be submitted with its label, does not comply with the requirements of FIFRA and of Chapter 921. of the Revised Code and the rules promulgated thereunder;
 - (3) It will not perform its intended function without unreasonable adverse effects on the environment.

HISTORY: Eff: 1-13-72; 1-1-77; 6-11-8; 10-29-98; 4-30-98; 7-01-04; Authorized by 921.16; Amplifies 921.02, 921.16

901:5-11-13 Recordkeeping for wood-destroying insect diagnostic inspections.

Commercial applicators conducting wood-destroying insect diagnostic inspections [inspections]:

- (A) Shall conduct all inspections in accordance with the practices set forth in the Ohio wood-destroying

- insect diagnostic inspection training program.
- (B) Shall make a complete record of the findings of each inspection on form NPMA-33 which is attached to this rule as an appendix. For the purposes of this chapter, a "complete record" means that the information recorded in NPMA-33 [the form] shall be recorded pursuant to this rule. In the event of conflicting instructions for completing the form, the provisions of this rule shall apply for all inspections made within this state.
 - (C) Shall completely and accurately record the following information in section one of the form:
 - (1) The name, address and telephone number of the pesticide business conducting the inspection; and
 - (2) The license number of the pesticide business or registered location conducting the inspection; and
 - (3) The date of the inspection; and
 - (4) The physical address of the property inspected; and
 - (5) The name, license number and original signature of the commercial applicator conducting the inspection; and
 - (6) The specific structures inspected.
 - (D) Shall record the following in section two of the form for inspection findings on or within the specific structures inspected by:
 - (1) Checking box A if there is no visible evidence of wood-destroying insect [insect] activity;
 - (2) Checking box B if there is visible evidence of insects observed; and
 - (a) Shall, if live insects are observed:
 - (i) Check box B(1); and
 - (ii) List the types of insects observed; and
 - (iii) State the specific location (including by way of example but not limited to sill plates, foundations, etc.) where the insects are observed;
 - (b) Shall, if dead insects, insect parts, frass, shelter tubes, exit holes, staining or other physical evidence are observed:
 - (i) Check box B(2); and
 - (ii) Describe the type of insects and insect parts observed, and describe all other physical indicators observed, including but not limited to frass, shelter tubes, exit holes and staining; and
 - (iii) State the specific location (including by way of example but not limited to sill plates, foundations, etc.) where the dead insects, insect parts, frass, shelter tubes, exit holes, staining or other physical indicators are observed.
 - (c) Shall, if visible insect damage to the structure was observed:
 - (i) Check box 3; and
 - (ii) Describe the type of damage observed; and
 - (iii) State the specific locations (including by way of example but not limited to sill plates, foundations, etc.) where damage is observed; and
 - (3) Checking "yes" or "no" in response to the question of whether evidence of previous treatment was observed. If evidence of previous treatment, including but not limited to drill marks, bait stations, dyed wood from borate treatments, and dusted carpenter bee holes, etc. is observed, or documentation of previous treatment was supplied to the inspector prior to the inspection, the commercial applicator conducting the inspection shall check yes and:
 - (a) Describe the evidence of previous treatment; and
 - (b) State the specific location (including by way of example but not limited to sill plates, foundation, etc.) where the evidence of previous treatment is observed or documented; and
 - (c) Attach to the form a copy of all documentation supplied.
This box shall be checked regardless of whether box A or box B in section two of the form is checked.
 - (d) If the comments to be noted in this section of the form exceed the space provided, the commercial applicator conducting the inspection shall attach supplemental pages to the form, and state in section five of the form that additional pages are attached to the form.
 - (e) In section three of the form, shall check one box in accordance with the following:
 - (1) Shall check the box indicating "no treatment recommended" if box A in section two of the form is checked; or

- (2) May check the box indicating that treatment is recommended if box B in section two of the form is checked; and
 - (a) There is evidence of active insect infestation; or
 - (b) There is:
 - (i) No evidence of previous treatment; or
 - (ii) Evidence of insect activity that appears to have occurred after the most recent treatment; or
 - (iii) Evidence of subterranean termites; and
 - (a) The structure is not currently under a termite treatment service contract or warranty; and
 - (b) The structure has not been treated with a liquid soil termite treatment within the previous five years; and
- (c) The commercial applicator conducting the inspection describes the evidence relied upon in making the determination that treatment is recommended.
- (3) May check the box indicating that no treatment is recommended if:
 - (a) Box B in section two of the form is checked; and
 - (b) The commercial applicator conducting the inspection:
 - (i) Believes, based on the evidence observed, that there is not an active insect infestation; and
 - (ii) Describes the evidence relied upon in making the determination that treatment is not recommended.
- (F) Shall designate by checkmark in section four of the form any obstructed or inaccessible area of the specific structure inspected. Access coverings which are readily removed using commonly available tools such as screwdrivers, pliers and wrenches do not render an area obstructed or inaccessible.
- (G) Shall include in section five of the form:
 - (1) Any comments which are not provided for in the other sections of the form, including but not limited to infestation or damage observed in areas other than the specific structure inspected; and
 - (2) Any comments amplifying information provided in other sections of the form; and
 - (3) If attachments were used to detail inspection findings described in other sections of the form, a list and description of these attachments.
- (H) Shall complete and sign the form within five business days following completion of the inspection. The commercial applicator's signature on the form is the commercial applicator's certification that the inspection was conducted and reported in accordance with the requirements of Chapter 901:5-11 of the Administrative Code.
- (I) Shall submit, within ten days following completion of the inspection, a copy of the completed and signed form to the pesticide business or registered location from which the inspection was conducted.

APPENDIX ATTACHED AT END OF RULE PACKAGE

HISTORY: Eff: 1-18-05; 5-19-05, Authorized by 921.16; Amplifies 921.14

901:5-11-99 Civil penalties.

- (A) A civil penalty may be assessed for each violation of section 921.01 to 921.29 of the Revised Code, any rule adopted, and any order issued under authority of these sections. The amount of the penalty shall be based on the following criteria:
 - (1) The cost to the department of agriculture to investigate the violation. Calculation of the cost shall include:
 - (a) The average salary of all state employees directly involved in pesticide use investigations with the rate being that amount charged to other agencies for grant supported activities,
 - (b) Fringe benefits for all state employees directly involved in the investigation;
 - (c) Indirect costs for hours shown in paragraph (A)(1)(a) of this rule with the rate being that amount charged to other agencies for grant supported activities,
 - (d) Duplicating and copying costs,
 - (e) Direct and indirect costs of all laboratory analysis.
 - (2) When a violation results in material damage to the environment or harm to a human being, an additional civil penalty not to exceed two times the amount calculated under paragraph (A)(1) of

- this rule may be assessed in addition to the amount under paragraph (A)(1) of this rule.
- (B) In no event shall the civil penalty assessed under paragraphs (A)(1) and (A)(2) of this rule exceed in the aggregate five thousand dollars for a first offense or ten thousand dollars for a second offense.
 - (C) All monies collected from civil penalties shall be deposited in the pesticide program fund of the state treasury.

HISTORY: Eff: 6/30/92; 7/01/04; 1-18-05; Authorized by 921.16; Amplifies 921.16; 921.22; 921.25