

# \*\*\*DRAFT - NOT FOR FILING\*\*\*

## 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~~ application equipment drawing water directly from any supply. If the anti-siphon device is not a mechanical device it must include a physical air gap of at least two times the diameter of the point of discharge between the water supply and the highest portion of the tank.
- (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.~~ U.S.C. 136 et seq., ~~as amended on August 3, 1996~~ (2014).
- (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:

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- (1) "Aerial pest control" means the application of pesticides, [except fumigants](#), 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, [except fumigants](#), 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, [except fumigants](#), to fruit and vegetable crops for the control of pests other than weeds and vertebrates.
  - (c) "Agricultural weed control" means the application of pesticides, [except fumigants](#), 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, [except fumigants](#), 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, [except fumigants](#), 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, [except fumigants](#), to wood products such as

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crossies, 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, except fumigants, 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. This category also covers the use sites as defined in pesticide use in category 6C "ornamental weed control.
- (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, except fumigants, 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, except fumigants, 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, except fumigants, 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, except fumigants, 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, ~~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, except fumigants, to lawns, turf, sod, or to soil areas being prepared for the production of turf for the control of pests except vertebrates. This category also covers the use sites as defined in pesticide use in category 6C "ornamental weed control."
- (9) "Animal pest control" means the application of pesticides, except fumigants, 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

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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, except fumigants, 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 termites or fungi.
  - (b) "Termite control" means the application of pesticides, except fumigants, 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, except fumigants, 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, except fumigants, 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:
- (1) "Grain and cereal crops," for applications of restricted-use pesticides, except fumigants, to agronomic field crops including but not limited to corn, grain sorghums, other small grains, soybeans and sweet corn.
  - (2) "Forage crops and livestock," for applications of restricted-use pesticides, except fumigants, to crops grown primarily for use as hay, forage, fodder, or ensilage, and includes but is not limited to such crops as corn and legumes, and to domestic animals which are held as agricultural commodities and their quarters.
  - (3) "Fruit and vegetable crops," for applications of restricted-use pesticides, except fumigants, to orchard fruit crops, and small fruits including but not limited to strawberries, brambles and grapes, field-grown vegetables, sugar beets, sweet corn and other horticultural crops grown primarily for human consumption.

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- (4) "Nursery and forest crops," for applications of restricted-use pesticides, except fumigants, to 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; and tree crops produced for use as Christmas trees or for their utilitarian value.
- (5) "Greenhouse crops," for applications of restricted-use pesticides, except fumigants, to crops grown for food production or ornamental value under an impervious surface large enough to permit worker entry.
- (6) "Fumigation," for applications of restricted-use fumigants to soil, grain storage, greenhouse areas or any other confined areas.
- (7) "Specialty uses," for applications of restricted-use pesticides, except fumigants, for purposes not covered by paragraphs (O)(1) to (O)(6) of this rule, including but not limited to applications for wood preservation, aquaculture, seed treatment, sod production, and for controlling pests of tobacco, ponds and non-cropland areas.

Private applicators licensed in the pesticide use categories covered by paragraphs (O)(1) to (O)(6) of this rule shall be deemed to be licensed under paragraph (O)(7) of this rule.

- (P) "Wood destroying insects" include termites, carpenter ants, carpenter bees and re-infesting wood boring beetles.

### **901:5-11-10 Recordkeeping.**

(A) Commercial applicators:

- ~~(1) (1) Applying pesticides to areas other than structures or their contents shall record, in English, 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) (a) Name of responsible commercial applicator and names of the trained servicepersons applying pesticides under the commercial applicator's direct supervision;~~
  - ~~(b) (b) Name and address of person contracting for service;~~
  - ~~(c) (c) Date of application;~~
  - ~~(d) (d) Type and size of area to be treated;~~
  - ~~(e) (e) Location or field identification number of treatment area, if different than the address in paragraph (A)(1)(b) of this rule;~~
  - ~~(f) (f) Trade name (brand name) and EPA registration number of pesticides used;~~
  - ~~(g) (g) Total amount of each pesticide product used;~~
  - ~~(h) (h) If diluted, total volume of use dilution applied;~~
  - ~~(i) (i) Type of equipment used;~~
  - ~~(j) (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~~

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~~(k)(k) Wind direction, velocity and air temperature.~~

~~(2)~~(1) Applying pesticides under the pesticide use categories defined in paragraphs (N)(7) and (N)(10) of rule 901:5-11-01 of the Administrative Code, or to structures and their contents shall record, in English, 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 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) 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) Application concentration or dilution used for each pesticide and total volume applied;
- (h) 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.

(2) All pesticide applications not covered in paragaraph (A)(1) of this rule shall record, in English, 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 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 and size of area to be treated;
- (e) Location or field identification number of treatment area, if different than the address in paragraph (A)(2)(b) of this rule;
- (f) Trade name (brand name) and EPA registration number of pesticides used;
- (g) Total amount of each pesticide product used;
- (h) If diluted, total volume of use dilution applied;
- (i) Type of equipment used; 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
- (j) Wind direction, velocity and air temperature.

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- (3) Applying pesticides or monitoring devices to structures for the control or monitoring of termites, shall create before the application, a detailed drawing of the footprint of the structure to be treated. This drawing must include linear dimensions of the structure and, for liquid termiticide applications, the depth to footer on all exterior walls.
- (4) Utilizing bait or monitoring devices in and around structures for the monitoring or control of termites shall create in English on the date of installation and subsequent monitoring of those stations, a record which includes all information required in paragraphs ~~(A)(2)(a), (A)(2)(b), (A)(2)(c), and (A)(2)(f)~~ (A)(1)(a), (A)(1)(b), (A)(1)(c), and (A)(1)(f) of this rule, as well as:
- (a) Total number of bait or monitoring devices installed or monitored;
  - (b) Status of termite activity in each bait or monitoring device.
- (5) Shall submit, within ten days following the date of completion, a copy of each record required under paragraphs (A)(1), (A)(2), (A)(3) and (A)(4) 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.
- (6) 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 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 or inspection 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 to them under this rule or paragraph (I) of rule 901:5-11-13 of the Administrative Code. Those records shall be maintained for a period of three years from the date of application or inspection and shall be made 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;

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- (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 and license number;
  - (b) The brand or product name and EPA registration number of the restricted use pesticide applied;
  - (c) The total amount of the restricted use pesticide applied;
  - (d) Location and/or field number for area treated and total area or acreage treated;
  - (e) Crop treated; and
  - (f) Month, day and year of application;
- (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.
- (4) Shall record the information required in paragraph (E)(1) of this rule for both restricted and general use pesticides applied under the exemption in division (D) of section 921.26 of the Revised Code.