

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Lab Fees Package

Rule Number(s): 901-15-(01-05)

Date: September 17, 2015

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The rules contained in this package set forth the laboratory services provided by and through the Ohio Department of Agriculture (hereinafter “ODA”).

Pursuant to Ohio Revised Code Section 901.43 (hereinafter “O.R.C.”), the Director of ODA may authorize any ODA Division to perform laboratory services for any person or organization. Specifically, O.R.C. Section 901.43(A) states that the Director shall adopt and enforce rules to provide for the rendering of laboratory services.

This rule package establishes the process in which an individual, public entity, or organization desiring a laboratory service may request ODA to perform a laboratory service. This rule package also provides the public with reference to ODA’s website www.agri.ohio.gov where a complete listing of ODA’s laboratory services and associated fees are published.

901-15-01, titled “Agreement for the performance of laboratory services,” outlines the application process for anyone seeking laboratory services provided by or through ODA and provides reference to ODA’s website for a complete listing of laboratory services and associated fees.

901-15-02, titled “Services performed by the consumer protection laboratory,” is being rescinded since the laboratory services performed by the consumer protection laboratory are published on ODA’s website.

901-15-03, titled “Services performed by the division of plant health,” is being rescinded since the laboratory services performed by the division of plant health are published on ODA’s website.

901-15-04, titled “Rates for laboratory services performed by the division of weights and measures” and 901-15-04.1, titled “Rates for type evaluation,” are being rescinded since the laboratory services performed by the division of weights and measures are published on ODA’s website.

901-15-05, titled “Services performed by the division of animal health,” is being rescinded since the laboratory services performed by the division of animal health are published on ODA’s website.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

O.R.C. Sections 901.43, 907.10, and 1327.50.

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- 3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

No.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The Director of ODA has the authority to provide for the rendering of laboratory services through ODA's laboratories. These laboratory services provide a direct benefit to the individuals and organizations seeking these services and protect the health and safety of Ohio's consumers and animals.

ODA's Consumer Protection Laboratory ("CPL") is Ohio's primary emergency response laboratory for biological and chemical terrorism in food and environmental products. CPL tests food, feeds, fertilizers, pesticides, and animal exhibition samples.

ODA's Division of Weights and Measures protects Ohio businesses and consumers by working with county and city weights and measures programs to test devices ranging from fuel meters to retail store scanners. ODA administers one of only four National Type Evaluation Program (NTEP) laboratories in the nation, which tests and evaluates new scale designs and technology.

ODA'S Animal Disease Diagnostic Laboratory ("ADDL") provides diagnostic expertise to veterinarians for food animals, horses, small animals, and exotic species. ADDL is the only veterinary diagnostic lab in Ohio that is accredited by the American Associations of Veterinary Laboratory Diagnosticians.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Overall, ODA will measure the success of these proposed laboratory services in terms of whether the services rendered protect the health and safety of Ohio's animals and Ohio's consumers by preventing the spread of disease, facilitating food safety, and protecting Ohio citizens.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Jim Bishop	Remkes
Jeff Gardner	Retalix
Dave Boykin	NCR
Casey Utter	Tolt Service Group
Mike Tallman	Keystone Petroleum
Tim Ries	NCR
Aloyna Berry	Brechbuhler Scales
Terri Yates	A.C.Lister
Vicki Lape	Jungle Jim's Market
Sue Ewald	Jones & Frank
Francyne Klein	Crompco
Joe Bilpunch	Kanawha Scales
Bill Cress	Fairbanks Scales
Tricia Allen	Brechbuhler Scales
Cindy Turner	Tusko Sales & Service
John Kohl	AES Scales
James "Huck" Alderson	Air Transport International, Inc.
John Gasper	Fujitsu America
Darlene Smith	Mid-State Michigan Service
Darlene Scott	CW Meter Service
Rich Vanaman	LTS Scale
Steve Smith	Buckeye Scale

Fred Gottfried	Ashland Scale
Richard Klecha Jr	Tom Troy Enterprises
Dawn M. Ulatowski	OCS Teechnologies
Stacey Sutherland	Crop Production
Keith Lambert	Giant Eagle
Penni Beall	CompuCom
Mike Nadaud	1 Stop Inc.
Jason Bond	Trillium CNG
David K. Angione	All American Scale
David Fosnight	Hobart Scales
Nancy Alexander	CompuCom
James Urso	Giant Eagle
Anita Bennett	ITRS
Kevin Hamp	Kroger
Stephanie Bass	ITRS
Denny Knott	Ney Oil
Jason Brookbank	CBT Solutions
Scott Yauch	CH Bradshaw
George Coburn	Mettler Toledo
Randy Humbert	Antibus Scales
Lisa Mackey	M&M Service, Inc./Mid-Valley Supply
Jerry Reichelderfer	NCR
Nichole Martin	Musick's Service Station Maintenance, Inc
Jason Swigert	Mettler Toledo
Tom Dick	True North Energy
Mike Scott	Brechbuhler Scales
Tim Powers	Sheetz Inc.

Rory Light	Liquid Meter Services, Inc.
Shirley Gimpel	Franklin Equipment
Thomas Hipwell	TPH Service
Rich Vanaman	Filing Scale
Phillip, Dyreck	Bizerba Inc.
Katherine Wright	Oscar W. Larson
David Kidd	Zebra Solutions
Scott Booher	NCR
John Pfister	Kanawha Scales
Tina Beard	Collins Equipment
David Biro	Biro Sales
Marsha L. King	Kanawha Scales
Dave Mrowinski	CNG Services
David Machar	Toshiba
Chris Henney	Ohio Agribusiness Association
Tadd Nicholson	Ohio Corn & Wheat Marketing
Leah Curtis	Ohio Farm Bureau
Ron Sylvester	Ohio Farmers Union
John Armstrong	Ohio Seed Improvement Association
Adam Ward	Ohio Soybean Council

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

ODA emailed the above listed stakeholders on July 22, 2015 with the proposed amendments and did not receive any comments.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

This question is not applicable because scientific data was not necessary in order to develop the rules contained in this package. These rules set forth the laboratory services provided by

and through ODA and the process in which an individual, public entity, or organization desiring a laboratory service may request such services from ODA.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

These rules set forth the laboratory services available and offered by ODA and do not provide for any type of regulation.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, *but don't dictate the process* the regulated stakeholders must use to achieve compliance.

The rules in this package are not performance based due to the nature of the services being performed. Any individual, political entity, or organization may request laboratory services performed by ODA when the department has the personnel and facilities to perform such services.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

Pursuant to O.R.C. Section 901.43, ODA is given sole authority to perform laboratory services for any person, political entity, or organization, whether public or private, who requests such services available and offered by ODA.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

ODA's laboratories already provide the services established in these rules to the public. The amendments proposed in this rule package make laboratory services offered by ODA more accessible and user-friendly for the public seeking such services. The public is now able to search online, by Division, for available services and fees instead of searching the Ohio Administrative Code to determine what laboratory services are available.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The rules contained in this package impacts anyone requesting services performed by ODA. The impacted community includes, but is not limited to, veterinarians,

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pet/livestock owners, city and county weights and measures divisions, and public entities who request laboratory services from ODA.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Each laboratory service has an associated fee that covers the cost of equipment, sample preparation, analyst time, and cost for performing the requested service.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

Each laboratory service or test has an associated fee that represents the cost of preparing, performing, and analyzing the specific laboratory test. Please see ODA’s website www.agri.ohio.gov for the fee of each specific test.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

ODA acknowledges that there are fees associated with the laboratory services. However, these fees are necessary in order to cover the cost of preparing, conducting, and analyzing the tests. Most of the laboratory services performed by ODA are voluntarily requested by individuals and entities paying for the services.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Due to the health and safety nature of these rules, different standards based on the size of the business would be inappropriate. The fees associated with the laboratory services performed by ODA are based on the equipment, analysis, and time required to conduct the tests.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Penalties and fines are not applicable to these rules. These rules merely inform the public how to request laboratory services from ODA and provide reference to ODA’s website for a complete listing of services and associated fees.

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18. What resources are available to assist small businesses with compliance of the regulation?

Each laboratory is available to answer any questions from the public concerning the services offered by ODA:

Division of Weights and Measures:

Weights & Measures
8995 E. Main St
Reynoldsburg, OH 43068
Phone: (614) 728-6290
Email: weights@agri.ohio.gov

Consumer Protection Laboratory:

Consumer Protection Laboratory
8995 East Main Street
Reynoldsburg, OH 43068-3399
Phone: (614) 728-6230
Email: cpl@agri.ohio.gov

Animal Disease Diagnostic Laboratory:

Animal Disease Diagnostic Laboratory
8995 East Main Street
Reynoldsburg, OH 43068-3399
Phone: (614) 728-6220
Email: animal@agri.ohio.gov

Division of Plant Health:

Division of Plant Health
8995 East Main Street
Reynoldsburg, OH 43068-3399
Phone: (614) 728-6270
Email: plant@agri.ohio.gov