



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis RESCINDED RULES

This form is intended for rules that are being permanently rescinded and not replaced by a new rule.

New, Amended, No Change, and Rescind/New rules must use the standard BIA.

Agency, Board, or Commission Name: Ohio Department of Agriculture

Rule Contact Name and Contact Information: Jacquie Keller-Potvin

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Regulation/Package Title (a general description of the rules' substantive content):

Plant Health Rescinded Rules – White Pine Blister and Walnut Twig Beetle

Rule Number(s): 901:5-58-01, 901:5-58-02, 901:5-58-03, 901:5-58-04, 901:5-58-05, and 901:5-43-01.

Date of Submission for CSI Review: June 14, 2021

Public Comment Period End Date: July 6, 2021

Rule Type/Number of Rules:

☒ Rescinded/ 6 rules (FYR? 6)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☒ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please describe in plain language the regulation that is being rescinded.**

Rule 901:5-58-01 sets out the notice of quarantine for the Walnut Twig Beetle and the general rule that no person shall transport any regulated article from a regulated area to a non-regulated area in the state.

Rule 901:5-58-02 outlines the definitions that are used in the chapter.

Rule 901:5-58-03 sets forth the regulated articles for the quarantine.

Rule 901:5-58-04 outlines the regulated areas in the state.

Rule 901:5-58-05 outlines the conditions of movement as exceptions to the general rule found in rule 901:5-58-01.

Rule 901:5-43-01 declares white pine blister rust disease as a plant pest pursuant to section 927.52 of the Revised Code.

3. **Why is the regulation being rescinded?**

Please be specific (ORC change, request of stakeholders, etc.)

Chapter 901:5-58 and Chapter 901:5-43 are being rescinded as the quarantine for Walnut Twig Beetle and White Pine Blister Rust are no longer needed within the state of Ohio. In addition, the department of agriculture has received stakeholder request supporting the rescission of Chapter 901:5-58 for the Walnut Twig Beetle.

4. Please describe in general terms the adverse impacts to business, including currently impacted industries, in the existing rule(s).

Failure to comply with Chapter 901:5-58 could subject an individual to a misdemeanor of the third degree for their first offense and further violations could result in the destruction of the product. In certain cases, certificates must be produced showing that an individual is legally allowed to move regulated articles.

Failure to comply with Chapter 901:5-53 could result in the destruction of the prohibited articles.

5. Are there other regulations (either existing or to be created) which will replace the regulation being rescinded or which will now apply because this regulation is being rescinded? This can include rules, statute, federal regulations, agency policies, or industry standards etc.

There are no other regulations which will replace the regulations being rescinded. There are no additional regulations which now apply because of these regulations are being rescinded.

6. Does the rescission of this regulation eliminate flexibility or create more adverse impacts for stakeholders? If yes, please describe stakeholder outreach and justify the impacts.

The rescission of these chapters does not eliminate flexibility or create more adverse impacts for stakeholders.