

Chapter 4901:1-10, Ohio Adm.Code
Electrical Service and Safety Standards
Case No. 22-872-EL-ORD



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Public Utilities Commission of Ohio

Rule Contact Name and Contact Information:

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

Ohio Adm.Code Chapter 4901:1-10 Electrical Safety and Service Standards

Rule Number(s): Ohio Adm.Code 4901:1-10-01; 02; 03; 04; 05; 06; 07; 08; 09; 10; 11;

12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35

Date of Submission for CSI Review: November 2, 2022

Public Comment Period End Date: November 30, 2022

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 24 rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

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

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adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing 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 briefly describe the draft regulation in plain language.

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

Ohio Adm.Code Chapter 4901:1-10 sets forth the electrical service and safety standards. It is intended to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices among electric utilities.

Any and all amendments to these proposed rules are made pursuant to Ohio Revised Code R.C. 121.951(A)(1) that requires state agencies to reduce their total number of regulatory restrictions, including redundancies and typographical errors when applicable. We have balanced the requirements set forth in applicable statutes with the need to reduce regulatory restrictions in R.C. 121.95.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

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	Statutory Authority/ Amplifies R.C.
Rule 4901:1-10-01	4905.22, 4905.04, 4928.06, 4928.11, 4933.121, 4905.06, 4905.22, 4928.11
Rule 4901:1-10-02	4905.22, 4905.04, 4928.06, 4928.11, 4933.121, 4905.06
Rule 4901:1-10-03	4905.22, 4905.04, 4928.06, 4928.11, 4933.121, 4905.06
Rule 4901:1-10-04	4905.22, 4905.04, 4928.06, 4928.11, 4905.28, 4905.06, 4905.28
Rule 4901:1-10-05	4905.22, 4905.04, 4928.06, 4928.11, 4905.28, 4905.06
Rule 4901:1-10-06	4905.22, 4905.04, 4928.06, 4928.11, 4905.28, 4905.06
Rule 4901:1-10-07	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.28
Rule 4901:1-10-08	4928.112, 4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.22, 4905.28
Rule 4901:1-10-09	4905.22, 4905.04, 4928.06, 4928.11, 4905.28
Rule 4901:1-10-10	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.28
Rule 4901:1-10-11	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.22, 4905.28, 4928.11
Rule 4901:1-10-12	4905.22, 4905.04, 4928.06, 4928.11, 4905.261, 4905.06, 4905.22, 4905.28, 4928.11, 4905.261, 4911.021
Rule 4901:1-10-13	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.28
Rule 4901:1-10-14	4905.22, 4905.04, 4928.06, 4928.11, 4905.06
Rule 4901:1-10-15	4905.22, 4905.04, 4928.06, 4928.11, 4905.06
Rule 4901:1-10-16	4905.22, 4905.04, 4928.06, 4928.11, 4905.06
Rule 4901:1-10-17	4905.22, 4905.04, 4928.06, 4928.11, 4905.06
Rule 4901:1-10-18	4905.22, 4905.04, 4928.06, 4928.11, 4905.06

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Rule 4901:1-10-19	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.22, 4933.122
Rule 4901:1-10-20	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4933.122, 4933.18, 4933.19
Rule 4901:1-10-21	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4933.122, 4933.18, 4933.19
Rule 4901:1-10-22	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.30, 4905.261, 4928.67, 4911.021
Rule 4901:1-10-23	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.37, 4933.28
Rule 4901:1-10-24	4905.22, 4905.04, 4928.06, 4928.11, 4905.06, 4905.37
Rule 4901:1-10-25	4905.22, 4905.04, 4928.06, 4928.11, 4905.06
Rule 4901:1-10-26	4905.22, 4905.04, 4928.06, 4928.11, 4905.06
Rule 4901:1-10-27	4928.06, 4928.11, 4905.28, 4928.67, 4928.67
Rule 4901:1-10-28	4928.06, 4928.11, 4928.53, 4928.10, 4928.54
Rule 4901:1-10-29	4905.04, 4928.06, 4928.08, 4928.16, 4928.11
Rule 4901:1-10-30	4905.04, 4928.06, 4928.10
Rule 4901:1-10-31	4928.06, 4928.11, 4928.20
Rule 4901:1-10-32	4905.22, 4905.04, 4928.06, 4928.10, 4905.06, 4905.22, 4928.11, 4928.67
Rule 4901:1-10-33	4905.06, 4928.06, 4928.02
Rule 4901:1-10-34	4928.65
Rule 4901:1-10-35	4905.22, 4905.04, 4928.06, 4928.11, 4933.121, 4905.06

- 4. 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.**

Rule 4901:1-10-34, which already existed prior to this rulemaking, complies with the federal requirements set forth in the Public Utility Regulatory Policies Act of 1978 (PURPA), as

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amended by the Energy Policies Act of 2005. This federal requirement is to provide a market-based rate to small power producing and cogeneration qualifying facilities. The rule requires electric utilities to pay the standard market-based rate to qualifying facilities unless contracted otherwise.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The rules in Ohio Adm.Code Chapter 4901:1-10 do not implement a federal requirement, with the exception of 4901:1-10-34. Rule 4901:1-10-34 is written to comply with PURPA, it is not written to exceed the federal PURPA requirement. In fact, the Federal Power Act defines a small power production facility as a facility that uses certain types of technology and has a capacity up to 80 megawatts. See 16 U.S.C. 796(17)(A)(i)-(ii) (2000). The rule to Chapter 4901:1-10-34 would limit the PURPA compliance requirements to facilities that generate up to five megawatts.

6. 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 rules contained in Ohio Adm.Code 4901:1-10 are intended to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices. The proposed revisions to the rules in this chapter comply with the public purpose for the regulation.

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

The rules contained in this chapter govern electric companies. The success of the regulation in terms of outputs and outcomes will be measured based upon customer and electric utility feedback.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No, not applicable.

Development of the Regulation

9. 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.

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On November 2, 2022, in Case No. 22-872-EL-ORD, the Commission issued an Entry to all investor-owned electric utilities and certified competitive retail electric service providers in Ohio, and served upon the Electric-Energy industry list-serve to solicit comments for proposed amended rules under this Chapter.

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

The Commission will consider any and all comments made by stakeholders during the established comment period.

11. 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?

No scientific data was provided or considered. In adopting any changes to Ohio Adm.Code Chapter 4901:1-10, the Commission takes into account feedback from stakeholders and the general public.

12. 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?

This Chapter is necessary to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices. Being that this Chapter accomplishes this objective, as it pertains to electric service providers, in the most efficient and least restrictive manner, we believe that this is the best alternative.

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

The Commission has reviewed other Ohio regulations and found no duplicate.

14. 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.

Upon completion of the rulemaking process, the changes made to Ohio Adm.Code Chapter 4901:1-10 will be attached to the Commission's finding and order and served upon all investor-owned electric utilities in the state of Ohio, all competitive retail electric service providers in the state of Ohio, and the Electric-Energy industry list-serve.

Adverse Impact to Business

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15. 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; and

The scope of the business community impacted by the proposed revisions to Ohio Adm.Code Chapter 4901:1-10 includes all electric utilities in the state of Ohio, all customer-generators, and all transmission owners.

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

Generally, Ohio Adm.Code Chapter 4901:1-10 requires several actions on the part of electric utilities, transmission owners, and customer generators to maintain certain records and information regarding their equipment and facilities, comply with minimum standards for the provision of electric service, and develop procedures in the event the provision of electric service does not comply with those Commission-imposed standards. While we do not specifically identify every impact to the business community outlined in this Chapter, we note that the proposed revisions only eliminate regulatory restrictions on the aggregate; therefore, there should be no additional adverse impact from this rulemaking. These costs are difficult to quantify in terms of dollars, hours to comply, or other factors. The above entities will have to expend resources both financially and in terms of time to comply with all of the requirements of this chapter. Again, this specific rule review, however, focuses on reducing regulatory restrictions found in this Chapter; therefore, reducing adverse impacts to businesses.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

Yes, as noted above, any and all amendments made to this Chapter are pursuant to the requirements under R.C. 121.951(A)(1) that requires the Commission to reduce regulatory restrictions. In this chapter, a significant number of regulatory requirements were eliminated, thus reducing the number of regulatory burdens imposed on complying entities.

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

The proposed revisions were drafted in an effort to minimize any adverse impact on business, while promoting the policies of the state of Ohio in R.C. 4928.02. Again, the purpose of this specific rulemaking is to comply with R.C. 121.95(A)(1), meaning the proposed revisions remove regulatory restrictions thus reducing the adverse impact on entities affected by this Chapter.

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Regulatory Flexibility

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

No, electric utilities and transmission owners are under the jurisdiction of the Commission and may not be exempted from the requirements provided in Ohio Adm.Code Chapter 4901:1-10. However, Ohio Adm.Code 4901:1-10-02 provides that the Commission may, upon an application or motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.

19. 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?

Not Applicable.

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

Commission Staff works with small businesses to ensure compliance with the rules. Small businesses may contact Commission Staff at any time and may comment on the proposed revisions during the open comment period once the proposed revisions have been released via Commission Entry.