

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Plant Health – Invasive Plants

Rule Number(s): 901:5-30-(01 and 02)

Date: June 20, 2017

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☐ Rescinded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 chapter establish a list of invasive plants in the state of Ohio. Invasive plants are plant species that are not native to Ohio whose introduction causes or is likely to cause economic or environmental harm or harm to human health as determined by scientific studies. Invasive plants do not include cultivated plants grown as food or livestock feed in accordance with generally accepted agricultural practices, including all plants authorized by the Animal and Plant Health Inspection Service in the U.S. Department of Agriculture.

Am. Sub S.B. 192 of the 130th General Assembly granted the Ohio Department of Agriculture (Department) the exclusive authority to regulate invasive plant species including identification of species and establishment of prohibited activities, and authorizes the Department to adopt rules for that purpose.

After nearly two years of stakeholder outreach, the rules proposed establish a list of invasive plants for sale in the state of Ohio is prohibited. Further, the rules establish an Ohio Invasive Plant Advisory Committee which will provide advice to the Director on matters regarding invasive plants, including but not limited to the identification of invasive plants and the establishment of prohibited activities regarding those species.

In order to allow businesses which may have invested time and resources into growing some of these plants, the Department has built in a grace period for the prohibition to take effect. This will allow these businesses time to recoup costs that were already invested and to develop alternative plants to market as replacements.

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

Revised Code 901.50

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?

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.

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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 Department is statutorily tasked with the exclusive authority to regulate invasive plant species including identification of species and establishment of prohibited activities, and authorizes the Department to adopt rules for that purpose. By establishing this prohibition, the Department is helping to protect Ohio's native plant life and biodiversity.

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

The Department will inspect nurseries for the sale of the prohibited plants. The rules will be judged as being successful when inspections and investigations find few violations of the prohibition.

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.

The following stakeholders comprise a list of the leaders of several agricultural organizations found within the state of Ohio. Each stakeholder was given a copy of the rules contained in this package and asked to submit comments to the Department. The stakeholders contacted are as follows:

Organization	First	Last
Appalachian Ohio Weed Control Partnership	Eric	Boyda
Cincinnati Nature Center	Cory	Christopher
Cincinnati Wildflower Preservation Society	Christine	Hadley
Citizen Concerned About Bamboo	Carrigan	Pamela
Cleveland Metro Parks	Warman	Mark
Cleveland Metro Parks	Connie	Hausman
Cleveland Museum of Natural History	Boronka	Renee
Columbus and Franklin County Metro Parks	Morrow	Carrie
Crane Hollow Preserve	Stehle	Heather
Davey Resource Group	Goerig	David
Dawes Arboretum	Laura	Appleman
DOW Agrosiences	Travis	Rogers
Eco Logic LLC	Mary	Hallinan
Five Rivers Metroparks	Mark	Klunk
Gilson Gardens	Mark	Gilson

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Grange Insurance Audubon Center	Dawn	Tabata
Great Parks of Hamilton County	Tom	Borgman
Holden Arboretum	Roger	Gettig
Lake Erie Allegheny Partnership for Biodiversity (LEAP)	Cathi	Cathi Lehn
Midwest Invasive Plant Network (MIPN)	Mark	Renz
National Wild Turkey Federation	Lee	Crocker
Natural Areas Association	Lisa	Smith
Naturally Native Nursery	Jan	Hunter
Noxious Vegetation Control, Inc (NOVCO)	Dan	Matteson
Ohio Department of Natural Resources	Alistair	Reynolds
Ohio Department of Natural Resources	Rick	Gardener
Ohio Department of Natural Resources	John	Navarro
Ohio Department of Natural Resources	Nathan	Reardon
Ohio Department of Natural Resources	Tom	Arbour
Ohio Department of Natural Resources	Tom	Lucas
Ohio Department of Transportation	Scott	Raymond
Ohio Department of Transportation	Matt	Gara
Ohio Environmental Protection Agency	Brian	Hall
Ohio Environmental Protection Agency	Brian	Gorchov
Ohio Invasive Plants Council	David	Culley
Ohio Invasive Plants Council	Theresa	Windus
Ohio Invasive Plants Council	Jennifer	Sandy
Ohio Landscape Association	Munley	Denny
Ohio Natural Areas and Preserves Association	Guy	Demline
Ohio Nursery Landscape Association	Tom	Manbeck
Ohio Nursery Landscape Association	Keith	Gilson
Ohio Nursery Landscape Association	Mark	Riddell
Ohio Nursery Landscape Association	Knapke	John
Ohio Prairie Nursery	David	Messerly
Ohio Seed Improvement Association	Armstrong	Macy
Ohio State University	Kathy	Debrah
Ohio State University	Amy	Smith
Ohio State University	Eugene	Stone
Ohio Stream & Wetlands Foundation	Vince	Bragg
PA Department of Agriculture	Jessica	Lenker
Pheasants Forever	Charlie	Payne
Spring Grove Cemetery and Arboretum	Brian	Heinz
Summit County Metro Parks	Rob	Curtis
The Conservationist, LLC	Terry	Lavy
The Nature Conservancy	Anthony	Sasson

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The Nature Conservancy	Jame	Bissel
The Wild Ones Columbus Chapter	Barb	Velez Barbosa
Toledo Metro Parks	LaRae	LaRae Sprow
United States Department of Agriculture	John	Burch
United States Department of Agriculture	Tony	Koop
United States Forestry Service	Donna-Marie	Foster
United States Forestry Service	Donna	Marie-Smith

Further, ODA emailed the proposed rule to all registered nurseries in the state of Ohio for which it had an email address on file. Those nurseries are as follows:

DOWNS FARM MARKET & GREENHOUSE	TMK NURSERY
DENISE & M DENNIS WADE, OWNERS	BAD CREEK NURSERY
5-F-FISH FARM LLC	NILSSON'S A FULL SERVICE LANDSCAPE
ARABIDOPSIS BIOLOGICAL RESOURCE CTR	BARBATO FLOWERS & GREENHOUSES, INC
A BROWN & SONS NURSERY, INC	KRIDLER GARDENS
Fullmer's Landscaping, Inc	BARLETTA'S TWIN PINE NURSERY & LANDSCAP
ADOPT-A-PLANT GREENHOUSES	BARR'S TREE NURSERY
SMITH'S GARDENS, INC	BATTAGLIAS GARDEN CENTER, INC
THE GARDEN SPOT	MC KOSKY TREE FARM
AGRISCAPES INC	BACKYARD DAYLILY PATCH
ALLYSON'S GARDENS	B C NURSERY
ONE-DERINGS, LLC	APOLLO EVERGREEN NURSERY
ALBYN'S LANDSCAPE & NURSERY CTR Inc	ST BERNARD FARMS
DIVENCENZO TREE FARM	BEARDSLEE NURSERY LLC
ALISON THOMPSON, OWNER	BECKER TREE FARM
Almosta Greenhouse Nursery and Farm	BECK'S GREENHOUSE, INC
AMITY ABLOOM, LLC	DIRTY FINGERNAILS MARKETING, LLC
AMITY FARM PERENNIALS	Phelps Ohio Nursery, LLC
Pondview Gardens	BEROSKE FARMS & GREENHOUSE, INC
MAPLE CREEK DAYLILIES	NETTLE CREEK NURSERY
RICKETTS NURSERY	BLACK FOREST PINES
Sunnybrook Gardens Ltd	GREENSCAPES LANDSCAPE CO, INC
WINDCHIMES & WILLOWS	Bagpipe Tree Farm
Dean Farms & Flowers	PFAHL NURSERY
THE COTTAGE GARDENS, INC	Blairs Tree Farm
AQUATIC GARDENS OF OHIO	POSSUM RUN GREENHOUSE, INC
ARCOLA CREEK NURSERY	GAYLE SATHRE-ZIMMERMAN, OWNER
Arnette Tree Farm	BLUE ACRE GARDENS
ART FORM NURSERIES	RENNER'S BLUEBERRY KNOLLS FARM

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BLUESTONE PERENNIALS, INC
STOLL FARM CHRISTMAS TREES & CATTLE
Buchwalter Greenhouse, Inc
HOEN'S GREENHOUSE, INC
HOMESTEAD NURSERY
INGLIS NURSERY, INC
BOGUE FARMS
Bostdorff Greenhouse Acres
FOX PAW FARM, LLC
Boyle's Nursery & Landscaping
BONNIE PLANT FARM
Brad's Garden Center
SUGARGROVE TREE FARM INC
Sabo's Woodside Nursery, Inc
RICE'S NURSERY & LANDSCAPING, INC
Bridgewood Farm
SIERRA ROSE GREENHOUSE
BRODBECK GREENHOUSE
John B. Jacobs & Son Nurseries, Inc
BRUNK'S TREE FARM
BELL NURSERY USA LLC (OHIO DIVISION)
BIG TREE PLANTATION
Sandusky Valley Nursery
BUCKEYE TREE FARM
ERNEST WITNEY, OWNER
BURKHART NURSERY
PINE CREST TREE FARM
Dendrological Sales
CAACKLER FAMILY FARMS, LLC
Cameron R Brown
Campbell Gardens
CARMAR GARDENS, INC
CARSON NURSERIES
CARRIAGE GARDENS LTD
BLOOMS & BERRIES FARM MARKET
JOHN'S COUNTRY NURSERY INC
BLANCHARD GARDENS
CHRIS MC CULLOUGH, OWNER
ROSE FIRE LTD
CEDAR LANE FARMS CORP

Carson Lugibihl, Owner
OBERSON'S NURSERY & LANDSCAPES, INC
CHANEY'S NURSERY, INC
RALPH T NORMAN NURSERIES
HUDSON LAWN & GARDEN, INC
BUNTON'S GREENLEAF GARDENS
HANG LOOSE PLANTS
SUMMERSHADES NURSERY, LTD
DEITERING LANDSCAPE, INC
ELECTROHIO, INC
CINDERELLA'S FLOWERS
PEABODY LANDSCAPE GROUP
HARVEST THYME CRAFTS
SPIELES NURSERIES
HAWTHORN SPRINGS GREENHOUSE
Forever Green Nursery, Inc
SUNNYDELL FARMS
Northridge Nursery
SASSAFRAS HILL FARMS, LLC
Hosta Haven
JOHNNIE'S NURSERY
Mohican Garden Center, LLC
CORSI TREE FARM
COUNTRY COLORS GREENHOUSE, LLC
Catalpa Grove Farm
PASQUALE NURSERY, LLC
CREATIVE CONTOURS LANDSCAPERS
Crintonic Gardens
Wades Nursery
STEINBERGER CHRISTMAS TREE FARM
THE HOLDEN ARBORETUM-NURSERY
GLASS-N-GREENS NURSERY
WILDE NURSERY, INC/WILSTAR, INC
DALLAMA ACRES
BELLO GIARDINO LLC
WILLO'DELL NURSERY, INC
Country Pines Tree Farms
BEAVERCREEK LANDSCAPE & NURSERY
DOUBLE D PLANT RANCH
SKYLAR BROOK FARM, LLC

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WILLITS NURSERY LLC
Dave Dalton Farm
MEADOW VIEW GROWERS, INC
Willow Brook Acres
POPLAR CREEK PERENNIALS
BRADLEY TREE FARM
DAILEY'S DAYLILIES
AJ RAHN GREENHOUSES, INC
The Succulent Station
DEETER NURSERIES, INC
DE MONYE'S GREENHOUSE INC
MEANS NURSERY
SPRING GROVE CEMETERY & ARBORETUM
HILL HAVEN FARM & GREENHOUSE, INC
O'BANNON SPRINGS DAYLILIES
DITTMER'S TREE DEPOT
DIVERSIFIED TREE FARM
TEPE LAND SERVICES, LLC
MCFADDEN TREE FARM
MC MURRY GARDENS
Agricultural Technical Institute
STAR GREENHOUSES, INC
KUSHNER'S GARDEN & PATIO LTD
DORSETS N DAYLILIES
LOHMAN'S Feed Store & Garden Center
THORSEN'S GREENHOUSE, LLC
DOUGHERTY FLOWERS, INC
Sabo's Plant Works, LLC
ANDERSON LANDSCAPING INC
Dreamscapes Nurseries, LLC
GREEN CIRCLE GROWERS, INC
AUBURN CAREER CENTER
KINGWOOD CENTER
QUAIL RIDGE SPECIMEN TREES, LLC
WILD FLOWER FARM, INC
WHITEHOUSE TREE FARM
NODDING ONION GARDENS
EARTHCOVER NURSERY
EDDYBROOK TREE FARM
East Of Eden Nursery, Inc

DOEBEL'S FLOWERS
Riverside Nursery
ELIZABETH HERMAN, OWNER
Emerald Forest Nurseries, LLC
EMPIRE CHESTNUT COMPANY
EPPLEY TREE FARM
Carroll Landscape & Nursery
COUNTRY MEADOWS GARDEN CENTER, LLC
Eustace Daylily Farm
EVER GREEN ACRES
EVERSCAPES LAWN & LANDSCAPE, LLC
WORTHINGTON LANDSCAPE COMPANY, INC
LIBERTY FARM'S NURSERY INC
CherylDaylilies
FLINT FARM NURSERY
SWINDLER & SONS FLORISTS, INC
MENTOR HEIGHTS NURSERY, LTD
4 ACRE NURSERY
Not Your Average Daylily
THE PORUBAN NURSERY
Frank's Foliage & Landscape, Inc.
Frank P Stupak
EAGLE RIDGE NURSERY
FRUITS OF LIFE GREENHOUSE
Down In The Hollow
Ridge Manor Nursery
KENT LANDSCAPING
ACOMB NURSERY & LANDSCAPING, INC
NATIVES IN HARMONY
GARDEN BEGINNINGS
GEBELLE NURSERY, LLC
GREENLER ENTERPRISES
Feisley Tree Farm
MILLCREEK GARDENS, LLC
BREMEC GREENHOUSES & NURSERY
GREENFIELD PLANT FARM, LLC
J. GILMORE DESIGN LIMITED
Russell's Greenhouse
RAINES FARMS
R M GRAHAM OWNER

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GROOVY PLANTS RANCH
T.L.C. LANDSCAPING, INC
TEPE ENVIRONMENTAL SERVICES, LTE
CORSO'S FLOWER & GARDEN
GREEN VALLEY GROWERS INC
HATCHER'S GREENHOUSES, INC
HEALTHY HOME HERBS, LLC
WILLIAM L HINTON, OWNER
HIRST TREE FARM, LLC
Plants By The Yard
HOBBY NURSERY
HOOT OWL HOLLOW NURSERY
WILLOW SPRINGS NURSERY FARM
HOOVER NURSERY & LANDSCAPING INC
HORNBERGER LANDSCAPE & NURSERY, INC
IN THE WOODS BARN & GARDEN CTR LLC
HARTFORD GREENHOUSES
RIDGEVIEW DAYLILY FARM
HARVEST HOME GREENHOUSE & FARMERS MKT
MAJESTIC NURSERY COMPANY
2 PLANT INTERNATIONAL, LLC
Beech Creek Botanical Grdn & Nature Pre
DANNAHER LANDSCAPING, INC
E.F. POULY COMPANY
ENVIROTECH CONSULTANTS, INC
BAUGHMAN, INC
LCN HOLDINGS, INC
LILYBLOOMS AQUATIC GARDENS LLC
OLD LOG HOUSE PLANTATION, INC
Maple Lane, LLC
RIEPENHOFF LANDSCAPE LTD
WERTZ FAMILY TREE FARM, INC
Goosecreek Nursery
Moore's Tree Farm
KURTZ XMAS TREES
Jack Church, Owner
THIRION NURSERIES, LLC
GATEWAY GARDENS & NURSERY
JOAN'S BACKYARD TREASURES

DEMUTH NURSERY
DILL'S GREENHOUSE
Durbin Nursery
Evergreen At Tall Oaks
JEFF CREQUE FARMS, INC
Native Roots, Inc
JENKINS TREE FARMS LLC
CONN'S NURSERY LLC
ACORN FARMS, INC
Lilies Of The Field
Armintrout Tree Transplanting
Heavenly Gardens
GREYSTONE HOMESTEAD
EAGLE CREEK WHOLESALE, LLC
TEPE NURSERY, INC
PIONEER RIDGE NURSERY
Adgate's Garden Center, Inc.
SRRING HILL NURSERIES CO, INC
BRECK'S
MICHIGAN BULB CO
GURNEY'S SEED & NURSERY
HENRY FIELD'S SEED & NURSERY, CO
GARDENS ALIVE!
BITS AND PIECES
THE PARAGON
K VAN BOURGONDIE
Denes Tree Farm, Ltd.
RUSTY OAK NURSERY, LTD
DEVORE'S LAND & WATER GARDENS, INC
ANDY'S GARDEN, INC
Countryside Gardens, Inc.
MAD RIVER TREE COMPANY
DIVIDE AND CULTURE
FLORES LANDSCAPING & NURSERY, INC
JAO NURSERIES
MOORE'S TREE FARM
Fox Nursery
Fox Nursery
PEACEFUL VALLEY GREENHOUSE
CHERRY LANE NURSERY

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R & S Halley & Company, Inc
JUANITA'S FLOWERS & VEG'S
Reedurban Nursery LLC
JARMAN'S GREENHOUSE
Scioto Blooms, Ltd
CEDAR RIDGE FARMS
DAVIS TREE FARM
HERMAN LOSELY AND SON, INC
Trade Star International, Inc.
NORTH COAST PERENNIALS, INC
NETTLECREEK
KATILA'S NURSERY
AMBER & KEVIN MOHR, OWNERS
BARD NURSERIES, INC
CLEMEN'S GARDEN GIFTS
KEN'S WORLD OF BONSAI
MONNIN ENTERPRISES, LLC
Dayton Nurseries, Inc
STUDEBAKER NURSERIES INC
J. Aponte Nursery
GREENTREE FARM
NORTHFIELD NURSERY, LLC
Neville Landscape & Tree Service, Inc.
K & J GREENHOUSE, INC
Whispering Pines Tree Farm
STRADER'S GARDEN CENTER, INC
KLYN NURSERIES, INC
Ben Sell Greenhouse
KNOLL TOP CHRISTMAS TREES & WREATHS
Konen Landscape, Inc
HICKORY RIDGE TREE FARM, LLC
DON MOULD'S PLANTATION, INC
Cincinnati Zoo & Botanical Garden-CREW
R L SUNDY NURSERIES
THE WM A NATORP COMPANY
LAGERGREN NURSERY
Roots To Shoots Nursery LLC
LARRY LANG LANDSCAPING, INC
LAURIE'S NATURESCAPES, LLC
LAUBER TREE FARM

THE SIEBENTHALER COMPANY
Landscape Creations Nursery, LLC
LEMLE'S GREENHOUSES
WENGERLAWN NURSERY CO
Lewis Landscape & Nursery, Inc
COWAN TREE FARM
Applegate Gardens
Living Color Nursery
LISKAI FARMS INC
WILLOW SPRINGS TREE FARM
L & M GREENHOUSE, LLC
LOCKE'S GREENSIDE UP
Dennis Topsoil & Landscaping
LUBRECHT'S LANDSCAPING
MIKE'S MURSERY, LLC
UPSHOOT LLC
CM BROWN NURSERIES, INC
Gilson Gardens, Inc
DAY'S NURSERY
M.E. Enterprises, Inc.
STEPUK TREE FARM
MARTIN'S VALLEY VIEW NURSERY
MARTIN'S NURSERY, INC
NIGHT CRAWLER GARDENS, LLC
Pioneer Trails Tree Farm
MARY'S PLANT FARM & LANDSCAPING
MASTERSON TREE FARM
McCARTY GARDENS, LLC
FORTY ACRES & SOME TREES, LLC
MC GINNESS FARMS, LLC
KINDIG-COUDRIET NURSERY
MCGROARTY ENTERPRISES, INC
Hecklinger Greenhouse, Inc
J F KRIZMAN LANDSCAPE
THE DAWES ARBORETUM
Meyer's Garden Ctr & Landscaping, Inc
Mazzocca's Greenhouse
BOSTON HEIGHTS NURSERY
MIAMI NURSERY CO, LTD
MIAMI VALLEY TREE FARM

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FAIRMOUNT GARDENS, INC
LAKEWOOD GREENHOUSE INC
PURPLE LEAF PERENNIALS & AQUATICS
Wildwood Gardens
NEWTON FAMILY FARMS, LLC
SCHMIDT BROTHERS, INC
Dues Nursery & Landscaping, Ltd
HICKORY LANE FARMS
PINE ROW FARM, LLC
MICHALE MILLER INC
MILLER FLOWERS, LLC
J MILLER'S GREENHOUSE, LLC
McCLURG ENVIRONMENTAL, INC
NORTHWYND, LLC
DECKER'S NURSERY
Matt Dominish, Owner
LUCAS LANDSCAPING & NURSERY, INC
MOHAWK NURSERY
SPRING VALLEY TREE FARM
Dehoff's F.G.L., Inc.
MOX NURSERY
MOYER'S NURSERY & LANDSCAPING
ML SEIFERT TREES
Bluestone Perennials
DRY CREEK NURSERY, LLC
Mountain Creek Farm
MC RURY TEBBE FARM
MULBERRY CREEK HERB FARM
Murphy's Nursery
COUNTRYSIDE NURSERY & GREENHOUSE
PAUL'S FARM MARKET & GREENHOUSES, LTD
LOGAN'S LANE GREENHOUSE
COOLEY'S
Parsell's Tree Farm
DAVISON'S LANDSCAPING & NURSERY
Leuty Nursery
Besser Landscaping, Inc
MARVIN R YODER, OWNER
WHOLESALE TREES

Whispering Wind Nursery
COUNTRY FLOWERS
STOUT'S TREE FARM, LTD
CREEKSIDE GREENHOUSE
PENN OHIO WHOLESALE GARDENS, LLC
RIVER ROAD NURSERY
ROGERS GREENHOUSE
Double Bar A
ANGLE'S NURSERY
HOLLOW RUN TREE FARM
Bettinger's Greenhouse
Whiteford Road Greenhouse
Sadowski's Produce
UHRAIN GREENHOUSES
HOLCOMB FARMS
S & S FARMS, LTD
EMERSON GREENHOUSE & GARDEN
Settecase Nursery
BELLWOOD NURSERY, INC
Janice Spayde, Owner
CROSLEY TREE FARM
BRENNER TREE FARM
MOTTS GREENHOUSE
Cochran's Plants
CHICKS NURSERY
HUGH'S NURSERY
CHUCK'S DOGWOOD NURSERY
GILMORE'S GREENHOUSE, INC
B & H Landscaping
SPRINGRUN FARM
M.N.A. Construction
Kassner Landscaping, Inc
ELLIS FARMS & GARDEN
CASSINELLI'S GLENDALE NURSERIES INC
ACH NURSERY
J MALICOATE NURSERY
Meadowbrook Nursery, LLC
SANOR TREES
Kobel's Landscaping
J & L NURSERY, LLC

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HANNAH'S GARDEN CENTER
SCOTT'S GARDEN CENTER
Great Roots Ohio
ROHR & SON'S NURSERY, INC
KEYSTONE FLORA LLC
Marlene A. Mullett, Owner
JONES FISH HATCHERY & DISTRIB, INC
SOMEDAY FARM
BAKER'S ACRES, INC
A J NIEMAN NURSERY
Juventino Soto Pacheco
ASHWOOD GARDEN
WILSON'S HILLVIEW FARM, INC
W L WELLS NURSERY
DAYLILY TRADER
EVER-GREENS
PICKENS TREE FARMS
Rock Creek Tree Farm
OSTERBROCK GREENHOUSES
ALEXANDER TREE FARM
SCHOENBRUNN LANDSCAPING, INC
Pam's Perennial Plant Farm, LLc
Paradise Tree Farm, Inc
TREE TYME NURSERY, INC
PAWLACZYK'S EVER-GREEN LANDSCAPE CO
MR TREE, LLC
MELRAGON LANDSCAPE NURSERY
PERENNIALS PREFERRED
EVERGREEN PERENNIALS
COMPANION PLANTS, INC
SCARFF'S NURSERY, INC
PHIL KOHLER, OWNER
HOLLY RIDGE NURSERY, INC
GOODING'S NURSERY, INC
Peter J. Mondron, Owner
ANTIOCH FARMS
ZIEGLER LANDSCAPE & NURSERY
Willowbend Nursery, LLC
Bern's Greenhouse & Garden Center, Inc
PRISCILLA NURSERY

PORTAGE TREE FARMS, LLC
POSSUM WOODS NURSERY, LLC
POUND'S NURSERY, INC
PERENNIAL PLANT PEDDLER, LLC
PRECHTL NURSERY
QUAILCREST FARM, LTD
WOODLAND TRAILS, LLC
Brown's Design Landscaping, Inc
Paradise Hill Tree Farm
The Albany Nursery Company
BENDER TREE LLC
Boyles Evergreen Tree Farm
R W BYRNES NURSERY, INC
RANDY'S RAISINGS INC
River's Bend Farm
KALEIDOSCOPE FARMS, LLC
Sorg's Yule Time Pines & Farm
Legg's Tree Farm
GROVES TREESCAPE SUPPLY
POPLAR RIDGE TREE FARM
HANNIBAL GARDEN CENTER
RHOADES CHRISTMAS TREE FARM
RHOADS FARM, INC
BIG TREES, INC
RICHARDSON'S GREENHOUSE, INC
SAYBROOK PINE ACRES
THE DAVEY TREE EXPERT COMPANY
A.T.A.C., LLC "POND MGMT SPECIALIST"
WEBB PERENNIALS, LLC
Deb's Tree Farm
PINE TREE HOLDINGS, INC
R & J FARMS, INC
HARP'S NURSERY
GARDEN STONE GREENHOUSE
RICHARD'S LANDSCAPING, INC
STAR GREENHOUSES
DAVIS LANDSCAPING
MILLERS CORNER NURSERY, LLC
Hagee's Nursery, Inc
ALLENTOWN NURSERY, INC

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KENNEDY TREE FARM
SHADEMAKERS NURSERY & LANDSCAPE, INC
CORY'S HOSTA GARDENS
RYERSON TREE, LLC
Running River Farm, LLC
ROBINSON TREE FARM
HIRAM VALLEY GROWERS
Alta Greenhouse
WEST HILLS GREENHOUSES, INC
ROHRIG'S TREE FARM
FLORASCAPES, LLC
Diamond Tree Farm
HIDDEN ACRES FARM
ALBERT FAMILY TREE FARM & NURSERY, INC
PIKE COUNTY FARM, LLC
THE WOODS TREE FARMS
Wyatt's Greenhouse
PAULUS NURSERY
MICHAEL C ZEHENTBAUER, OWNER
CRANBERRY CREEK NURSERY
Saksa Farms, LLC
A-1 Daylilies
SCIOTO GARDENS
POT-LUCK GREENHOUSE, LLC
SARNA'S TREE FARM
M & M LAND DESIGNS
SCHEIDERER FARMS
TOP NOTCH TREES
SCHMIDLIN PRODUCE, INC
SCHUSTER'S GREENHOUSE
Cipiti Nursery
PINE RIDGE TREE FARM
J & H GREENHOUSE
SECOR'S NURSERY
HUTZEL LANDSCAPING, LLC
Granny B. Farms, LLC
BLAIR CARE LAWN SERVICES
WARNKE & SONS NURSERY
COUNTRY HILL TREE FARM
Main Street Gardens

FOUR GREEN FIELDS INC
Madison Shore Gardens
HONEYSUCKLE FLOWER FARM
Scioto Backyard Nursery
HILLCREST TREE FARMS, INC
The Holden Arboretum
Kroslak Nursery & Tree Moving Co
SMITH EVERGREEN NURSERY
Morgenstern's Nursery & Greenhouses
Somerset Herbs, LLC
RED ROCK NURSERY, INC & LANDSCAPING
Spring Forth Gardens
SPRINGLAKE NURSERY
Pochedly Greenhouse
SQUARE NURSERY
WHISPERING PINES FARM
SOUTH RIDGE FARMS
Stahl's Nursery, Inc.
Brian D. Stoffer, Owner
STONEY CREEK GARDEN CENTER, LLC
GLASSHOUSE WORKS
STOREYLAND INC
SHAWNEE TRAIL TREE FARM
Stropkey Nurseries, Inc
SUMMERFIELD'S TREE FARM
Sunbeam Gardens, Inc.
Ohio Heritage Farm, LLC
BAKO LANDSCAPING INC
SPRING VALLEY GARDENS, INC
MIDDLE RIDGE GARDENS, LTD.
SKIP'S NURSERIES
LINCOLN SHIRE FARM
BOURNE NURSERY
Gehret Nursery, Inc
Wierzbicki Tree Farms
BRENDA TESS, OWNER
HUSS NURSERY & LANDSCAPING, LLC
THE BLACK BARN
DARON FARMS GREENHOUSE
THE GREATEST SCAPE INC

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HELWIGS FAMILY NURSERY
THE SHADY NOOK
STAN HYWET HALL & GARDEN, INC
BRIAR ROSE NURSERIES, INC
Brotzman's Nursery, Inc.
Split Creek Nursery
TIMBERPEG TREE FARM
TIMBER RUN GARDENS, LLC
TIMBUK FARMS, INC
NORWESCO GREENHOUSE
T & J NURSERY
BIG RUN EVERGREENS
APPLEWOOD NURSERY
BARNES NURSERY, INC
MOORE'S GARDEN CENTER, LLC
Delventhal Landscaping & Nursery, Inc
North Branch Nursery, Inc.
Wade Gardens Landscaping
WILLOWAY NURSERIES, INC
WILLOWAY NURSERIES INC
OLD STONE HOUSE NURSERY
DIRR NURSERIES
SHARON NURSERY GARDEN CTR
A's AND O's FARM
MOORE WATERLILIES
Homestead Division
HERBERTS PINE HOLLOW FARM
CROSS CREEK NURSERY
MORNINGSTAR MEADOW
HAYDEN'S HAVEN, INC

CONIFER CREEK, LLC
HACKETT, LLC
J & S CLICK, INC
TWIN BEECH GARDENS
BRUSH CREEK NURSERY
Valley of the Daylilies
MUNSON VALLEY NURSERY
CHESTERLAND NURSERIEC, LTD
David Shuler
CHAGRIN VALLEY NURSERIES, INC
VOGEL'S NURSERY
Whitehouse Speciality Crops, LLC
WADE & GATTON NURSERIES
MARCIA REYNOLDS, OWNER
WALSH CHRISTMAS TREE FARM
WILLIAM A EIKELBERRY
WESEMEYER TREE FARM
ALLISON NURSERIES
WICKLINE'S LANDSCAPING INC
William Tricker, Inc.
WINCHESTER LANDSCAPE GARDENS INC
WOODRIDGE TREE FARM, INC
WORKING GARDENS, LTD
GARDENS IN THE WORKS, LLC
WRIGHT NURSERY
Wells Nursery
W.S. YOE NURSERIES, INC
YOKIE NURSERY
Zemnicki Greenhouse
Zupcsan's Nursery

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

The Department received a wide range of input from the stakeholders, much of which impacted the final proposed rule. Based on this input, the Department added plants to the list, removed plants from the list, added a phase out period for particular plants, and amended the composition of the Advisory Committee.

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For example, the Ohio Farm Bureau indicated that two species which were originally on the prohibited plants list, specifically Smooth Brome and Reed Canary Grass, are actually utilized as pasture plantings for livestock feed. In accordance with ORC 901.50, plants grown as livestock feed are prohibited from being included on the list. Therefore, the Department removed these plants from the proposed rule. Further, after many requests from many land managers, parks districts, university personnel, and some nursery owners, Callery Pear and Chinese Silvergrass were added to the list, but phase out periods were created to account for those businesses with existing inventories of these species.

The original proposed rule sent to stakeholders provided a seat on the advisory committee for “a professor of an agriculture or natural resources department of a college or university located in this state.” Several stakeholders commented stating that other college departments or specialties should be included in this position. The Department amended this provision to now state, “a member of academia with knowledge of invasive plants and horticulture employed at a college or university located in this state.” The Department believes that the provision will be broad enough in order to ensure that a person knowledgeable of the subject at hand will be on the committee.

As stated above, the Department received a wide range of comments including calls for plants to be added and removed. There were calls to both add and remove many of the same plants. With such conflicting opinions, the Department often elected to remove the plant from the list. The Department intends to have the Advisory Committee review these plants in more detail. Advisory committee review will allow a more robust scientific and economic discussion of the particular plant.

In conclusion, the Department believes the rules as proposed best reflect the wide ranging views on this subject. Once effective, the Department and the Advisory Committee will continue to review plants for inclusion on this list in order to protect Ohio’s native plants and biodiversity.

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?

The Department is required to establish the list of prohibited plants as determined by “scientific studies.” See ORC 901.50. In compiling this list, the Department met with many stakeholder groups to discuss the work already accomplished and information gathered with respect to invasive plants. Specifically, the Department met with the Ohio Invasive Plants Council (OIPC) which is a non-governmental organization dedicated to the identification and elimination of invasive plants in Ohio. The OIPC has developed an assessment protocol by utilizing scientific data to create a list of invasive plants in Ohio. Scientific data used by the

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OIPC is collected from Ohio land managers and other informed sources. Upon comparison, nearly all of the plants listed in OAC 901:5-30-01 are on the OIPC invasive plant list. The Department also conducted a review of the approaches used by USDA and neighboring states, as well as the invasive plant species listed by those states with similar climates, and took that information into consideration.

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?

As stated above, the Department received a wide variety of comments from interested stakeholders. The Department considered all of them individually and elected to proceed with the rule as proposed. Once established, the ODA Invasive Plants Advisory Committee will be able to review any scientific evidence presented and discuss whether additional plants should be added to the rule and whether phase out periods are appropriate.

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 contained in this package are performance based as they define the required outcome. It is up to the individual to comply with these regulations.

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

The Department is given the sole regulatory authority through Revised Code 901.50 to establish the list of invasive plants in the state of Ohio.

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.

The Department will work to educate the regulated community through continued outreach. Specifically, the Department plans to educate all nurseries upon inspection to inform them of the upcoming rule changes. The Department has already begun this education through emailing all nurseries in the state. Further, the Department has worked and will work closely with stakeholder groups to continue to educate Ohio businesses.

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;

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Any person who produces, sells, offers to sell, transports, or plans to transport any of the prohibited plants listed in OAC 901:5-30-01.

b. Identify the nature of the adverse impact; and

No person shall sell, offer for sale, propagate, distribute, import or intentionally cause the dissemination of any invasive plant as defined in paragraph (A) of OAC 901:5-30-01 in the state of Ohio.

c. Quantify the expected adverse impact from the regulation.

The prohibition will not allow the sale of certain plant varieties in the state of Ohio. For some nurseries, revenue from the sale of prohibited plants may be lost. The adverse impact cannot be quantified in terms of dollars due to the variety of business models and levels of stock available at each nursery.

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

As stated previous, ORC 901.50 requires the Department to identify invasive plant species and establish the prohibited activities regarding them. Invasive plants are bad for Ohio's environment and native species as they alter Ohio's native biodiversity, changing the way that Ohio's plant and animal life exist.

Further, the phase out period included with some of the prohibited plants will allow nurseries to recoup costs which have already been invested by temporarily allowing for the sale of such plants to decrease inventory rather than requiring immediate destruction. Some crops, such as trees, take years to grow in order to see a profit. These phase out periods will allow these companies to not take a significant loss on their already invested inventory. In addition, during stakeholder outreach, the Department learned that many nurseries have begun to phase out these prohibited plants based on education and research from third party advisory groups. This will help to minimize the impact on the regulated community.

Finally, many of the prohibited species can be replaced by already existing native plants or other non-invasive options. These plants will likely replace a significant amount of the lost potential profit of the new prohibited invasive plants.

For all of the reasons above, the Department believes that the adverse impact is justified when compared with the environmental impact and other entrepreneurial opportunities.

Regulatory Flexibility

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

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Due to the potential environmental and industry impact invasive plants can have and are already having on Ohio native biodiversity, the Department did not create any exemptions or alternative means of compliance for small businesses. However, as indicated above, some of the prohibited species have a phase out period which will allow all businesses to recoup already invested costs by selling/disposing of invasive plants already in their possession.

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?

The Department works with all offenders to educate them as to requirements and identifying violations to ensure voluntary compliance. First-time offenders are routinely offered settlements that are appropriate to the circumstances of the violation.

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

The Department has online resources and has field staff available to provide assistance. Training and seminars are also available via the United States Department of Agriculture.