



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information: Renee Schmauch
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Regulation/Package Title (a general description of the rules' substantive content):

Agreement for the Performance of Laboratory Services

Rule Number(s): 901-15-01

Date of Submission for CSI Review: 4/30/24

Public Comment Period End Date: 5/21/24

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? __)

Amended/ 1 rules (FYR? 1)

Rescinded/___ rules (FYR?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 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.

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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.

This rule sets 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 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 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 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. The rule has been revised to delete the option of seed testing by the plant health division without cost during the period of June first through December thirty-first.

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.**

ORC 901.43

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.

No

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.**

Not Applicable

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 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.

7. **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.

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

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.

The following stakeholders comprise a list of the leaders of several agricultural organizations found within the state of Ohio. The following stakeholders were contacted via email on March 29, 2024, for a public comment period open until April 12, 2024.

Alliance for the Great Lakes	Crystal Davis
Alliance for the Great Lakes	Helena Vozer
AmericanHort	Meagan Nace
AmericanHort	Craig Regelbrugge
ANDERHOLM VETERINARY CLINIC	Anderholm, Constance
Animal Welfare Institute	Craig, Adrienne
Animal Welfare Institute	Reyes, Wendy
ANIMALS UNLIMITED VETERINARY HOSPITAL	Anderson, Valerie
Aquaculture	Dan Longnecker
Black Swamp	Rob Krain
Buckeye Quality Beef Association	David Hyde
Burroughs Veterinary Services	Dr Brittany Erbe (Burroughs)
Burroughs Veterinary Services	Dr Mark Burroughs
BYLAND ANIMAL HOSPITAL	general email
Capital Advocates	Kurt Leib
Capitol Advocates	Rob Eshenbaugh
CCAO	Cheryl Subler
CELINA ANIMAL HOSPITAL, INC.	Miese, Craig
CIFT	Troy Wildermuth
CLAREMONT VET CLINIC	Kaeser, Donald R
Columbiana County Dog Warden	general email
Columbus Dog Connection	Defrischia, Kelly
Commercial Dog Breeder Advisory Board	Dr. Micheal Frederick
Commercial Dog Breeder Advisory Board	Dr. Patricia Haynes
Commercial Dog Breeder Advisory Board	Linda Stickney
Commercial Dog Breeder Advisory Board	Lisa Zimmerman
Commercial Dog Breeder Advisory Board	Lori Carlson
Commercial Dog Breeder Advisory Board	Matt Granito
COUNTRY ROADS VETERINARY SERVICES	Brennan, David T
CRANK AND KIRKPATRICK ANIMAL HOSPITAL	general email
DANVILLE VETERINARY CLINIC	Hoxworth, Teresa

DANVILLE VETERINARY CLINIC	Webb, L. Jarrod
Delaware Equine LLC	Chase, James P
DHI Cooperative, Inc	Brian Winters
DIAMOND M VETERINARY CLINIC	Kearns, Earnest
Ducks Unlimited	Russ Terry
East Holmes Vet Clinic	Mierzwiak, Kristen
East Holmes Vet Clinic	Shaver, Eric M
East Holmes Vet Clinic	Wise, Aaron
FAYETTE VETERINARY HOSPITAL	general email
Filing Scale	Sam Tassone
Government Advantage Group	Amanda Sines
Grand St Mary's Restoration Commission	Keith Westrick
Great Lakes Community Action Partnership	Robin Richter
Greater Ohio Showmen Association	general email
Greater Ohio Showmen Association	Eric German
Greater Ohio Showmen Association	David Drake
Greater Ohio Showmen Association	Randy Kissel
Greater Ohio Showmen Association	Russell Clements
GREEN CAMP VET CLINIC	Forshey, Melissa
Greenfield Vet	Sims, Michael
HEALTHY PETS OF WEDGEWOOD	general email
Heritage Veterinary Care	general email
Hillsboro Veterinary Hospital	general email
Hocking Hills Animal Clinic	Shannon Moore
Holmes County Dog Warden	general email
Humane Society of the United States	Corey Roscoe
Ice Miller	Samuel Porter
Karr Veterinary Clinic	Karr, Paul E
Knox County Dog Warden	John Carhart
KOLEHMAINEN VETERINARY CLINIC	Kolehmainen, William J
Lake Erie Charter Boat Association	Paul Pacholski
Lake Erie Foundation	Matt Fisher
Lake Erie Improvement	Jim Stoffer
LISBON VET CLINIC INC	Schmucker, Gordon
Little Puppies Online LLC	Nathan Bazler
Maple Producers	Dan Brown
MASTERSON VETERINARY CLINIC	Masterson, Rhonda
MedVet Columbus	general email
Mid-Ohio Growers	general email

Midwest Foods Association - Ohio group	Pat Anderson
Mt Hope Vet Services, Walnut Creek Veterinary Clinic	Varga, Joseph
Napoleon Veterinary Clinic	general email
Nation Farmers Organization	Alva Heiss
National Wildlife Federation	Gail Hesse
NPMA SPAR	Kurt Scherzinger
ODNR DOW	Kendra Wecker
OEPA	Alison Shockley
Ohio Aggregates & Industrial Minerals	Patrick Jacomet
Ohio Agribusiness Assoc.	Aaron Heilers
Ohio Agribusiness Assoc.	Janice Welsheimer
Ohio Animal Welfare Federation	Colleen Evans
Ohio Apples	general email
Ohio Aquaculture Association	Matthew A. Smith
Ohio Association of Food Banks	Joree Novotny
Ohio Association of Meat Processors	James
Ohio Association of Meat Processors	Valerie Parks Graham
Ohio Bakery Association	Lora Miller
Ohio Beef Council/Ohio Cattlemen's Association	Elizabeth Harsh
Ohio Belgian Breeders Association	Carolyn Piergallini
Ohio Christmas Tree Association	Valerie Graham
Ohio Corn & Wheat	Tadd Nicholson
Ohio Corn & Wheat	Kimberly Shriver
Ohio Corn & Wheat Growers Assoc.	Luke Crumley
Ohio Council of Retail Merchants	David Raber
Ohio Craft Brewer's Association	Ashley Rose
Ohio Craft Brewer's Association	Mary MacDonald
Ohio Dairy Producers	Scott Higgins
Ohio Dairy Veterinarians	Dr. Gabe Middleton
Ohio Ecological Food and Farm Association	Alisha Schleining
Ohio Ecological Food and Farm Association	Amber Mitchell
Ohio Environmental Council	Trent Dougherty
Ohio Environmental Council (OEC)	Pete Bucher
Ohio Environmental Council (OEC)	Chris Tavenor
Ohio Environmental Stewardship Alliance	Vickie Askins
Ohio Ethanol Producers	Judd Templin
Ohio Farm Bureau	Adam Sharp
Ohio Farm Bureau	Jack Irvin
Ohio Farm Bureau	Leah Curtis

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Ohio Farm Bureau	Roger High
Ohio Farm Bureau	Tony Seegers
Ohio Farm Bureau Federation (OFBF)	Adam Sharp
Ohio Farm Bureau Federation (OFBF)	Jack Irvin
Ohio Farm Bureau Federation (OFBF)	Jordan Hoewischer
Ohio Farmers Market Network	general email
Ohio Farmers Market Network	general email
Ohio Farmers Union	Joe Logan
Ohio Federation of Soil and Water Conservation Districts	Janelle Mead
Ohio Federation of Soil and Water Conservation Districts	Mindy Bankey
Ohio Forestry Association	Jenna Reese
Ohio Forum for Companion Animals	Leon Beachy
Ohio Forum for Companion Animals	general email
Ohio Green Industry Association	Tracy Schiefferle
Ohio Green Industry Association	Roni Peterson
Ohio Grocers	Kristin Mullins
Ohio Haflinger Association	Lucy Workman
Ohio Harness Horsemen's Association	Renee Mancino
Ohio Invasive Plants Council	Jennifer Windus
Ohio Invasive Plants Council	Gary Conley
Ohio Lawn Care Association	Mark Bennett
Ohio Manufacturer's Association	Ryan Augsberger
Ohio Municipal League	Kent Scarlett
Ohio P.L.A.N.T.	Tony Seegars
Ohio Percheron Breeders Association	Darlana Chettle
Ohio Pest Management Association	Melinda Howells
Ohio Pest Mgmt Assoc. (OPMA)	Molly Mash
Ohio Pest Mgmt.Assoc. (OPMA)	Sheri Maskow
Ohio Pork Producers Council	Bryan Humphreys
Ohio Pork Producers Council	Cheryl Day
Ohio Poultry Association	Jim Chakeres
Ohio Produce Growers & Marketers	Valerie Graham
Ohio Produce Growers Association	Lisa Schacht
Ohio Quarter Horse Association	Scott Myers
Ohio Restaurant Association	John Barker
Ohio Restaurant Association	Laura Morrison
Ohio Seed Improvement Assoc	John Armstrong
Ohio Soil and Water Conservation Commission	Bethany Gibson

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Ohio Soil and Water Conservation Commission	Etta Reed
Ohio Soil and Water Conservation Commission	Fred Cash
Ohio Soil and Water Conservation Commission	Kate Bartter Arnold
Ohio Soil and Water Conservation Commission	Tom Price
Ohio Soil and Water Conservation Commission	Frank Buchholzer
Ohio Soil and Water Conservation Commission	Jerry McBride
Ohio Soil and Water Conservation Commission	Jen Bowman
Ohio Soil and Water Conservation Commission	Tony Debevec
Ohio Soybean Association	Brandon Kern
Ohio Soybean Council	Kirk Merritt
Ohio State Beekeepers Assoc. (OSBA)	Jamie Walters
Ohio State grange	Mike Russell
Ohio State University	Adam Ward
Ohio State University (Farmers Markets)	Christie Welch
Ohio Township Association	Heidi Fought
Ohio Turf Association	Brian Laurent
Ohio Turfgrass Foundation	Mark Bennett
Ohio Turfgrass Foundation	Troy Judy
Ohio Turfgrass Foundation	Mark Bennett
Ohio Veterinarian Medical Association	Chris Henney
Ohio Veterinarian Medical Association	general email
Ohio Welsh Pony Association	Paul Hurd
Ohio Wine Producers	Donniella Winchell
Ohio's Lake Erie Shores and Islands	Larry Fletcher
OSBA - John Grafton	John Grafton
PACA Inc.	David P. Corey
Partners for Clean Streams	Kris Patterson
Paw Patch Veterinary Services	Hirt, Laurie
Pesticide Applicator for Responsible Reg	Mike Grace
Petco	Mike Gonidakis
Pheasants Forever	Jim Inglis
Plant Health- Invasive Plant Advisory Board	Dr. Theresa Culley
Plant Health- Invasive Plant Advisory Board	Thomas Macy
Plant Health- Invasive Plant Advisory Board	Kyle Natorp
Plant Health- Invasive Plant Advisory Board	Matthew Lamoreaux
PONDVIEW VETERINARY CLINIC	Dougherty, Patrick
PONDVIEW VETERINARY CLINIC	Small, Tasha Nichole
Premier Pups LLC	Michael Schoeff
SHELBY ANIMAL CLINIC	Knox, John W

Sierra Club, Ohio Chapter	Adam Rissien
Snack Food Association – Arlington, VA	David Walsh
STONYRIDGE VETERINARY SERVICE	Eisenberg, Eric
Sugarcreek Veterinary Clinic	Daugherty, Rick
Sugarcreek Veterinary Clinic	Donley, Shane
Sugarcreek Veterinary Clinic	Honigford, James
Sugarcreek Veterinary Clinic	Sugarcreek Veterinary Clinic
The Batchelder Company	Judy, Troy
The Nature Conservancy	Jessica D'Ambrosio
The Nature Conservancy	Bill Stanley
The Ohio State University	Dr. Jeanette O'Quinn
The Ohio State University	Dr. Rustin Moore
The Ohio State University	Dr. Tom Wittum
The Ohio State University	Peggy Hall
THE PLAINS VETERINARY HOSPITAL, LLC	Ryan, Ericka
Toledo Metropolitan Area Council of Governments	Sandy Spang
Toledo Metropolitan Area Council of Governments	Kari Gerwin
Tuscarawas County Dog Warden	general email
Twin Valley Animal Hospital	Twin Valley Animal Hospital
Twinsburg Vet Hospital	Lozanoff, Stacy
United Producer's Inc	Mike Bumgarner
USDA APHIS WS	Andy Montenev
Wayne County Dog Warden	general email
WHEELERSBURG ANIMAL HOSPITAL INC.	general email
Wholesale Beer and Wine Association	Timothy Bechtold
WILLARD VETERINARY CLINIC	general email
Wood County Committee on Aging	Angie Bradford
Veterinarian	Dr. Dennis Trautwein
Veterinarian	Dr. Gabe Middleton
Veterinarian	Dr. Greg Price
Veterinarian	Hoxworth, Teresa
Veterinarian	Mike Tonkovich
Veterinarian	Meghan Provo

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

No comments were received during the stakeholder outreach 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?

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.

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?
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

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

13. 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.

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.

ODA's laboratories already provide the services established in this rule to the public. This rule makes laboratory services offered by ODA more accessible and user-friendly for the public seeking such services. The public is 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

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The rule contained in this package impacts anyone requesting laboratory services performed by ODA. The impacted community includes, but is not limited to, veterinarians, pet/livestock owners, city and county weights and measures divisions, and public entities who request laboratory services from ODA.

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

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.

- 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*).**

No

- 17. 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. ORC 901.43 authorizes ODA to collect a reasonable fee for the performance of laboratory services 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. This rule addresses the process, and is not the rule that addresses the fees charged for the laboratory services.

Regulatory Flexibility

- 18. 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.

- 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?**

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.

- 20. 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