



Common Sense Initiative

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Business Impact Analysis

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

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

Soil and Water Conservation- Election of District Supervisors

Rule Number(s): 901:13-3-01 to 05

Date of Submission for CSI Review: 9/27/24

Public Comment Period End Date: 10/18/24

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

Amended/ 5 rules (FYR? yes)

Rescinded/ rules (FYR?)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.

The Ohio Department of Agriculture, Division of Soil and Water Conservation provides resources and support to local soil and water districts across the state of Ohio. Ohio Administrative Code Chapter 901:13-3 is administrative in nature which provides a unified election process for local districts. The rules have been reviewed and amended pursuant to Chapter 119 of the Ohio Revised Code (ORC). The rules and the proposed amendments are as follows:

OAC 901:13-3-01 outlines the nomination process for candidates to local soil and water districts. The statute that authorizes the agency to adopt the rule is being emended to 940.04 from 940.02. The rule is being proposed with no substantive changes made.

OAC 901:13-3-02 sets out the eligibility requirements of both candidates and voters. The statute that authorizes the agency to adopt the rule is being emended to 940.04 from 940.02. The rule is being proposed with no substantive changes made.

OAC 901:13-3-03 establishes the notice requirements for local soil and water district elections. The rule has been amended to remove the language that absentee ballots are to be postmarked and the statute that authorizes the agency to adopt the rule is being emended to 940.04 from 940.02.

OAC 901:13-3-04 outlines the election process for local soil and water district elections. The rule has been amended to remove the language that absentee ballots are to be postmarked,

removes the language that ballots and ballot applications “shall be delivered to the commission” and replaced with “held by the officially-designated agent...” and the statute that authorizes the agency to adopt the rule is being emended to 940.04 from 940.02.

OAC 901:13-3-05 outlines the process of challenging an election. The statute that authorizes the agency to adopt the rule is being emended to 940.04 from 940.02. The rule is being proposed with no substantive changes made.

- 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.**

O.R.C. 940.04,

- 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 rules establish a unified procedure for all local soil and water district elections. This unified process ensures that all are treated equitably.

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

The rules are measured by compliance with the notice requirements and level of complaints regarding the election process.

- 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.

Pursuant to ORC 939.02(E), the Ohio Department of Agriculture is to promulgate rules with the approval of the Ohio Soil & Water Conservation Commission. Further, the Commission is statutorily created to provide support and advice to the Ohio Department of Agriculture and the 88 soil and water conservation districts in the state.

During the Commission meeting held on August 6, 2024, the Department reviewed the rules with the Commission. The Commission approved submitting the draft rules to stakeholders for comments and approved filing the rules with the Common Sense Initiative. The composition of the Commission at the time of the meeting was:

Jennifer Bowman	Represents Rural Interests
Kate Bartter Arnold	Knowledge or Interest
Etta Reed	Knowledge or Interest, Chair
Fran Buchholzer	Knowledge or Interest
David Hanselmann	Represents Urban Interests
Jerry McBride	Designated by OFSWCD, Vice Chair
Director Ann Vogel	Ex Officio, Director of Environmental Protection
Mary Mertz	Ex Officio, Director of Natural Resources
Cathann Kress	Ex Officio, Vice President of Agricultural Administration of OSU
Jeff Duling	Ex Officio, Officer of the Ohio Federation of SWCD
Kirk Hines	Designated Executive Secretary

The following stakeholders were contacted via email on August 14, 2024, for a public comment period which remained open until August 28, 2024.

Alliance for the Great Lakes	Crystal Davis
Alliance for the Great Lakes	Helena Vozer
Black Swamp	Rob Krain
Buckeye Quality Beef Association	David Hyde
Capital Advocates	Kurt Leib
Capitol Advocates	Rob Eshenbaugh
CCAO	Cheryl Subler
Ducks Unlimited	Russ Terry
Lake Improvement Association	Keith Westrick
Lake Improvement Association	Brian Morris
Ice Miller	Samuel Porter
Lake Erie Charter Boat Association	Paul Pacholski
Lake Erie Foundation	Matt Fisher

National Farmers Organization	Alva Heiss
National Wildlife Federation	Gail Hesse
Ohio Ag Council	Janice Welsheimer
Ohio Agribusiness Association	Aaron Heilers
Ohio Agribusiness Association	Janice Welsheimer
Ohio Agribusiness Association	Lauren Prettyman
Ohio Agribusiness Association	Melinda Witten
Ohio Beef Council/Ohio Cattlemen's Association	Elizabeth Harsh
Ohio Corn & Wheat	Tadd Nicholson
Ohio Corn & Wheat	Kimberly Shriver
Ohio Dairy Producers	Scott Higgins
Ohio Environmental Council	Trent Dougherty
Ohio Environmental Stewardship Alliance	Vickie Askins
Ohio Farm Bureau	Adam Sharp
Ohio Farm Bureau	Jack Irvin
Ohio Farm Bureau	Leah Curtis
Ohio Farm Bureau	Roger High
Ohio Farm Bureau	Tony Seegers
Ohio Farmers Union	Joe Logan
Ohio Federation of Soil and Water Conservation Districts	Janelle Mead
Ohio Municipal League	Kent Scarlett
Ohio Pork Producers Council	Cheryl Day
Ohio Poultry Association	Jim Chakeres
Ohio Seed Improvement Assoc	John Armstrong
Ohio Soil and Water Conservation Commission	Fran Buchholzer
Ohio Soil and Water Conservation Commission	Etta Reed
Ohio Soil and Water Conservation Commission	Jerry McBride
Ohio Soil and Water Conservation Commission	Kate Bartter Arnold
Ohio Soil and Water Conservation Commission	Jen Bowman
Ohio Soil and Water Conservation Commission	David Hanselmann
Ohio Soybean Association	Brandon Kern
Ohio Soybean Council	Kirk Merritt
Ohio State Grange	Mike Russell
Ohio State University	Adam Ward
Ohio Township Association	Heidi Fought
Ohio Turf Association	Brian Laurent

Ohio's Lake Erie Shores and Islands	Larry Fletcher
Ohio Wine Producers	Donniella Winchell
Partners for Clean Streams	Kris Patterson
Pheasants Forever	Jim Inglis
Sierra Club, Ohio Chapter	Adam Rissien
The Nature Conservancy	Jessica D'Ambrosio
The Ohio State University	Peggy Hall
Toledo Metropolitan Area Council of Governments	Sandy Spang
Toledo Metropolitan Area Council of Governments	Kari Gerwin
The Nature Conservancy	Bill Stanley
The Nature Conservancy	Jessica D'Ambrosio

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 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?

These rules are administrative in nature and therefore no scientific data was used.

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.

Lack of stakeholder participation in this rule package has indicated to the Department that this is the best regulatory scheme at this time. For those reasons, no other regulatory alternatives were considered.

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

The Department and the Commission are given the sole regulatory authority over this matter in ORC 939.02 (E) and 940.04.

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.

Education and outreach will be performed with the affected communities of the changes with this rule. The staff members of the Division of Soil and Water ensure that all Ohioans are treated in a similar manner.

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

These rules impact the Ohio Soil and Water Conservation Commission, local soil and water districts, and the members and electorate of these districts.

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.

Local soil and water districts must take time for compliance and post the requisite notices. The quantified impact will depend on the method of notice which the local districts choose to utilize. The notice requirement allows districts to publicize these notices in a newspaper of general circulation or via the district's website. Newspaper advertisements will cost more for publication than posting to their own website. Costs will depend greatly on the newspaper that the district chooses to utilize.

Further, soil and water districts must be available for in-person voting and have the resources necessary to run an election.

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?

The rules establish a unified procedure for all local soil and water district elections. This unified process ensures that all are treated equitably. Therefore, the adverse impact is justified.

Regulatory Flexibility

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

As the regulatory intent of this rule is to ensure a unified process of election and notices, no alternative means for compliance was granted.

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?

There are no fines associated with these rules.

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

The Department has and will continue to provide assistance to the local soil and water districts.