



Yes  No

*If yes, please briefly explain the source and substance of the federal requirement.*

***Not applicable.***

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

***Not applicable.***

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 appointment requirements of the rule would potentially guard against affiliated agents (of any appointed agency) being unable to sell or solicit for the insurer due to lack of appointment—or selling inappropriately without being appointed. The department, however, has determined that this requirement does not provide additional consumer protection capabilities. The relationship most valuable to monitor is ensuring there is an appropriate appointment in place for any agent selling any insurer’s products. Rescinding the rule will not inhibit that monitoring capability, nor would it prohibit an insurer from continuing to appoint additional affiliated agents as a business practice.***

***The additional provision of the rule (paragraph C) may have had more value in prior years when it would have been more prevalent for agents to have responsibility for collecting cash payments of premiums. This provision has “assurance” language that if there is a complaint about discrepancies regarding cash handling, the department will not pursue an agent for illegal activity (such as embezzlement of funds or misappropriation), unless there is material evidence to indicate such actions may have occurred. The department has determined this provision is unnecessary because there would be no actions taken against an agent without material evidence, and the department has internal processes in place to gather such evidence if complaints are made. Rescinding this provision has no known negative or adverse impact on department practices, agents, industry oversight or consumer protection.***

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

***The department measures success of the appointment process overall through the absence of unappointed agents illegally and inappropriately selling or negotiating insurance. Fraud and enforcement staff investigate suspected insurance fraud and crimes; and market conduct staff monitor and examine insurance companies for compliance with insurance law. Rescinding the rule has no impact on any of those oversight activities.***

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### **Development of the Regulation**

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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.*

*Interested stakeholders for these rules include domestic and foreign insurers, Ohio Insurance Institute (OII) and Ohio Insurance Agents Association (OIA). The department posted the rule on its website for public review and made trade associations representing insurance companies and agents aware the rules were due for five year review. In addition, in July 2016, an email requesting comment on the rule and proposed rescission was sent to various stakeholders, interested parties, and trade associations who signed up for updates on the department's rules and bulletins.*

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

*The OIA suggested potential amendments to the rule, providing several options of varying scope--ranging from amending the rule to changing or eliminating the overall appointment process. In making the request for amendments, the agents also proactively sought support from other industry stakeholders. In response, OII indicated it would most support a suggestion that would amend the rule and also change the overall appointment process.*

*Because changes to the overall appointment process deserve a longer-term financial and industry impact review, the department has focused primarily on amendments or changes contained within the scope of the rule. In prior reviews of the appointment process (most recently 2014), industry input has been divided on whether or how to change procedures. These conversations and reviews can continue beyond this rule review, as the rule or its rescission has no impact on facilitating any of those options if they are pursued.*

*The department has, however, evaluated the request to eliminate the rule's requirement to appoint all affiliated agents along with any agency that is appointed. The department focuses its consumer protection and enforcement efforts on ensuring that any agent selling for a company is appointed by that company, and eliminating the rule's appointment requirements will not inhibit those priorities. Therefore, rescission resolves the primary industry concern with the rule, while allowing further discussion of the other suggestions as needed, and has no known negative impact.*

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 recommending rescission and expects little impact. Regardless of the rule, every insurer has a statutory requirement to appoint any and all agents that sell, solicit or negotiate for the insurer. The department monitors and tracks those appointments. Rescinding the rule will not inhibit the ability to track those appointment relationships.*

*To evaluate potential revenue impact, the department reviewed data on appointed agencies and whether all known affiliated agents hold the same appointments as their respective agencies. The data indicates that a vast majority of appointments are occurring between insurers and agencies/agents selling for them, and that most are not appointing all affiliated agents of every agency appointed. There may be some reduction in appointment renewals when the rule is rescinded among insurers who are appointing solely due to the rule. However, it is not anticipated that this impact would be more significant than the benefit of rescinding the rule.*

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?

*The department considered making no change to the rule and evaluating this change in the context of broader changes concerning appointments. However, the enforcement priority of the department continues to be focused on ensuring appointments are in place for any agents selling for insurers, and the rule does not further this priority.*

*Another considered option was to amend the rule to eliminate the requirement to appoint all affiliated agents. However, the outcome of this change is ultimately the same as removing the language. Since the only other remaining provision of the rule is also unnecessary, rescission is the simplest option.*

*The other considerations, as raised by industry, are all options that can be reviewed longer-term beyond the rule. Rescinding the rule does not prevent further evaluation or discussion.*

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.*

*No. The rule pertains primarily to appointment requirements and performance-based regulation would not apply.*

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

*The Ohio department of insurance is the sole agency regulating this insurance and there are no duplicative rules.*

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.

***Rescinding the rule relieves industry of unnecessary administrative and financial burden by removing requirements to appoint additional affiliated agents. For consumer protection, the department's continued priority is to ensure appointments exist when agents are actively selling, soliciting or negotiating insurance for a company. Rescission simplifies insurer appointment requirements but will not change the processes companies use to file appointments and appointment renewals.***

### **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;
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
- c. Quantify the expected adverse impact from the regulation.

*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.*

***All insurers and insurance agencies/agents (except life) are potentially impacted by the rule. Adverse impact of the current rule is a \$15 appointment fee for any agent appointed solely because of the rule's requirement and not otherwise required to be appointed. If, however, the agent is selling for the insurer, the appointment is otherwise required by statute.***

***Rescinding the rule has no adverse impact on the industry, but may instead reduce fee impact if there are any agents appointed solely due to the rule.***

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

***When the rule was implemented it was to ensure insurers appointed all selling agents or potential selling agents that are affiliated with any appointed agency. The department has determined that the regulatory burden of appointing all affiliated agents, regardless of whether they sell for the insurer, may have potential for greater impact to industry than the consumer protection benefit it provides for the department's ability to regulate appointments. Thus the department recommends rescission.***

### **Regulatory Flexibility**

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

***The department is proposing rescission and there is no need for alternative means of compliance.***

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 is proposing rescission and no penalties or fines would result.***

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

***Department staff is available to answer questions and provide assistance as needed.***