

# CSI - Ohio

## The Common Sense Initiative

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### MEMORANDUM

**TO:** Howard Henry, Ohio Department of Agriculture

**FROM:** Jeffrey R. Kasler, Regulatory Policy Advocate

**DATE:** June 22, 2012

**RE:** CSI Review – Thousand Cankers Quarantine

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

This rule package creates a new quarantine for thousand cankers disease and consists of five new rules.

Rule 901:5-58-01 addresses the intent of the quarantine and outlines the notification procedures to be used by the Director of Agriculture to extend a quarantined area; rule 901:5-58-02 defines all relevant terms relating to the other rules in the package; Rule 901:5-58-03 establishes all the regulated articles subject to the quarantine. Rule 901:5-58-04 sets forth all the regulated areas; and rule 901:5-58-05 establishes the conditions for moving any regulated article.

#### Regulatory intent

The rules were drafted with the intent to protect Ohio walnut tree resources against a newly discovered disease called Thousand Cankers. Specifically, the rules would restrict the importation of walnut materials into Ohio from areas known to house the fungus that causes Thousand Cankers Disease (TCD), as the disease can kill walnut timber.

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### Development of the regulation

The Department modeled the rules in this package after those already established in 14 other states. Further, the Department engaged the following parties in developing the proposed rules: the Ohio Forestry Association; the American Walnut Manufacturers Association, Inc.; and the Ohio Nursery and Landscape Association. These stakeholders provided input that was ultimately incorporated into the rule package.

In addition, the Department relied on data on the pest life cycle, survey data collected by other states and specific to TCD, and publications put forth by Colorado State University, the University of California, and the U.S. Forest Service.

### Adverse impact

There are likely fewer than ten businesses in Ohio that import walnut materials from other states. The adverse impact on the aforementioned businesses that import walnut materials would be a reduction in the areas from which they can choose to import.

However, according to the Department's Business Impact Analysis, Ohio may rank as high as 3<sup>rd</sup> in existing walnut inventory; thus, all landowners with marketable walnut tree resources stand to benefit from the proposed quarantine, as it would preserve their inventory. For those Ohio landowners that currently have walnut resources, the U.S. Forest Service estimates the entire walnut timber inventory in Ohio to be worth over \$500 million.<sup>1</sup> So without the quarantine, it is possible that a significant monetary amount of marketable walnut tree resources in Ohio would be compromised.

### Recommendations

There are no recommended changes to the proposed rule package.

### Conclusion

Based on the above comments, the CSI Office concludes that the Department should proceed in filing the rule package with the Joint Committee on Agency Rule Review.

cc: David T. Daniels, Director, Ohio Department of Agriculture  
Mark Hamlin, Lt. Governor's Office

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<sup>1</sup> This estimate is valid as of Spring 2011.