

**MEMORANDUM**

**TO:** Julie Phillips, Assistant Chief Legal Counsel, Ohio Department of Agriculture

**FROM:** Mark Hamlin, Director of Regulatory Policy

**DATE:** September 16, 2013

**RE:** **CSI Review – Walnut Twig Beetle Quarantine Rules (OAC 901:5-58-01, 02, 03, 04, and 05)**

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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 (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of five rules being proposed by the Ohio Department of Agriculture to combat the spread of the walnut twig beetle and the associated disease known as thousand cankers. The rules were originally adopted in 2012 to restrict the importation of walnut materials into Ohio from areas known to house infested materials, as the thousand cankers disease can kill walnut timber. The rules were reviewed by the CSI Office at that time, and the adverse impacts to business were found to be justified, as without the quarantine, it was possible that a significant amount of marketable walnut tree resources in Ohio would be compromised.

The Department is now proposing amendments to these rules due to feedback on the need for clarification in the existing rules, as well as the discovery of the walnut twig beetle in Butler County. This discovery led the Department to add Ohio to the list of states under quarantine in the rule, and the associated prohibitions and mitigation requirements before moving materials could have an additional impact on businesses in Butler County. However, similar to the justification for the 2012 rule package, the quarantine is necessary to protect the economic investment of land owners with healthy walnut timber stands. Moreover, the Department has pledged to offer all

possible assistance to businesses in the quarantined county.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

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