

**MEMORANDUM**

TO: David Miran, Ohio Department of Agriculture

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: June 20, 2017

RE: **CSI Review – Fertilizer Certification 2017 Update – (OAC 901:5-4-02, 901:5-4-03, and 901:5-4-04)**

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 contains three amended rules proposed by the Ohio Department of Agriculture (ODA). The rule package was submitted to the CSI Office on May 9, 2017 and the public comment period was held open through May 26, 2017. No public comments were received during this time.

Enacted by the 130th General Assembly, Senate Bill 150 established the requirements for a state fertilizer certification program. This program ensures proper training of agricultural producers who seek to apply fertilizer to more than 50 acres of land. Certificate holders are required to keep records regarding the date and conditions for fertilizer use.

The rules have been amended in order to update training and record-keeping requirements. ODA proposes a period of 180 days in which an individual who has completed the renewal education requirements but failed to submit a renewal application may submit their renewal application without having to comply with the training requirements for first-time applicants. The rules also

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provide flexibility by allowing applicants to take a fertilizer examination in place of the three-hour training session. The amendments create two new records to be kept by certificate holders that will account for the number of acres fertilized and total amount of fertilizer used.

As part of its early stakeholder outreach, ODA sent the proposed rules to industry stakeholders. A comment was submitted that recommended the simplification of education requirements for certification applicants. ODA responded and amended the rule to standardize the requirements of training for all initial applicants to require three hours of training. Another comment was submitted that recommended expanding the requirements to more agricultural producers. ODA responded by clarifying that Ohio Revised Code 905:31 dictates that the program applies to agricultural producers with 50 acres of land or more.

The rules impact all agricultural producers seeking to spread fertilizer on more than 50 acres of land. The adverse effects of these rules include the time taken to comply with all education and reporting requirements and a \$30 application fee. The BIA states that these rules allow the Department to implement a responsible training and certification program while minimizing the adverse effects on businesses. The amended rules reduce the adverse impact that the initial certification process placed on agricultural producers by allowing flexibility in the education requirements and promote a standard process of licensing. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

Recommendations

For the reasons described above, the CSI Office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Agriculture should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.