

**MEMORANDUM**

**TO:** David Miran, Ohio Department of Agriculture

**FROM:** Cory Bailey, Regulatory Policy Advocate, Lt. Governor's Office

**DATE:** April 12, 2016

**RE:** **CSI Review – Plant Health – Gypsy Moth Quarantine (OAC § 901:5-52-01 through 901:5-52-08)**

---

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) § 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC § 107.54.

**Analysis**

On March 18, 2016, the Ohio Department of Agriculture (ODA) submitted a draft rule package consisting of eight rules – one new and seven amended – to the CSI Office as a part of the five-year rule review requirement contained in Ohio statute. The official public comment period closed on April 7, 2016 with no comments submitted.

The gypsy moth is a non-native, invasive species introduced in the United States in the 19th century. Still yet expanding its reach, the gypsy moth can cause defoliation on a large scale, resulting in the killing of trees. According to the BIA, the gypsy moth can now be found in 51 of Ohio's 88 counties. In order to prevent or at least slow the spread of the destructive insect, ODA has implemented a quarantine. The draft rule package consists of the regulatory framework for the quarantine and includes a list of regulated products and articles, regulated locations, inspection procedure, treatment standards, and provisions for a suppression program.

The rules are heavily amended, although there are few policy changes. Eight counties have been added to the list of counties under quarantine, and two items have been removed from the list of regulated articles. Due to the Legislative Service Commissions' drafting policy for amending

more than 50% of a rule, ODA is proposing the rescission and replacement of OAC § 901:5-52-01. However, the substance of the rule remains the same.

According to the BIA, the impacted business community includes anyone who produces, transports, or plans to transport any of the regulated articles (e.g., trees, logs, firewood, etc.) in the rules. The adverse impacts are not only the prohibitions on transporting regulated articles, but the cost of a certificate or compliance agreement if regulated articles are shipped to or through non-regulated areas. ODA cites the potential destruction caused by the gypsy moth and the negative impact it could have on Ohio's forestry industry as a justification for the adverse impacts.

Following review of the draft rules, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rules and amendments are justified.

### **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 Ohio Department of Agriculture should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.