

**MEMORANDUM**

TO: David Miran, Ohio Department of Agriculture

FROM: Danielle Dillard, Regulatory Policy Advocate

DATE: January 30, 2018

RE: **CSI Review – Handbook 44 (2018 Adoption) (OAC 901:6-1-01)**

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 one amended rule submitted by the Ohio Department of Agriculture (ODA) as part of the statutorily required five-year rule review. The rule package was submitted to the CSI Office on December 28, 2017 and the comment period closed on January 19, 2018. No comments were received during this time.

Ohio Administrative Code 901:6-1-01 is being amended to reflect the revision of the National Institute of Standards in Technology (NIST) Handbook 44, made by the National Conference on Weights and Measures. The rule establishes the adoption of Handbook 44 in its entirety and the amended rule has updated the year to the Handbook's current edition.

The Department notified impacted stakeholders of the proposed amendment via email and provided a link to view the rule package on the ODA website. The Department noted general support among stakeholders for the amendment in the BIA. No comments were received during the CSI public comment period.

The rule impacts all operators of weights and measures scales and devices. Handbook 44

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establishes minimum standards for weights and measures, to ensure accuracy, public safety, and compliance with industry standards and manufacturer requirements. Any adverse impact occurs through noncompliance with the minimum standards, and the BIA explains that violations rarely reach the enforcement stage. So long as the operator is willing to correct the violation and has no history of prior violations, first-time offenders are given fourteen days to correct a problem. Should the issue remain, offenders are routinely offered settlements proportional to the circumstances of the violation. In almost all cases fines are waived or settled for a lesser amount. The Department justifies any adverse impact because the adoption of Handbook 44 is required by state law¹. Additionally, the changes to the Handbook are mostly clerical in nature and are not expected to have any direct fiscal impact.

Recommendation

For the reasons explained 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.

¹ Ohio Revised Code § 1327.49