

**MEMORANDUM**

**TO:** Ashley Montgomery-Hively, Ohio Department of Natural Resources

**FROM:** Danielle Dillard, Regulatory Policy Advocate

**DATE:** March 21, 2018

**RE:** **CSI Review – Endangered Plant Species (OAC 1501:17-5-06, 1501:18-1-01, 1501:18-2-01, 1501:18-2-04, and 1501:18-2-05)**

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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 no-change rules proposed by the Ohio Department of Natural Resources (ODNR), submitted as part of the statutorily required five-year rule review. The rule package was submitted to the CSI Office on February 5, 2018 and the public comment period was held open through February 26, 2018. No comments were received during this time.

The rules describe legal and appropriate possession of threatened or endangered plants by commercial operations. Commercial activities on nature preserves without prior written permission are prohibited, as is taking or possessing any threatened or endangered plant for commercial purposes. Additionally, the rules require any person in possession of a plant listed as endangered or threatened to provide proof that the plants were legally obtained.

As part of early stakeholder outreach, ODNR contacted members of The Ohio Native Plant Growers. Two groups requested further clarification on the rules, but the Department did not receive any suggestions for revision or concerns about the rules as drafted. The Department notes

that the rules as drafted have been in place for forty years, and are only amended to update the rare plant list, which is done biennially.

The rules impact the nursery industry, specifically native plant nurseries, by restricting the collection of wild native plants. Written permission must be obtained from ODNR before renting or selling, or exposing for rent or sale, any item or service in any nature preserve or natural area under Department supervision. Fines can be assessed for illegally collecting and handling state-listed plant material. ODNR contends that regulations are necessary to protect rare plants from exploitation and possible extirpation. It also notes that permits can be acquired from the Department for collecting and handling, based on circumstance. Limited exceptions are also provided for in the rules. Additionally, ODNR stays connected with all known native plant growers that may have an interest in growing state-listed plants to help ensure compliance.

### **Recommendation**

For the reasons explained above, this office does not have any recommendations regarding this rule package.

### **Conclusion**

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