

**MEMORANDUM**

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

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** August 10, 2018

**RE:** **CSI Review – Asian Longhorned Beetle (OAC 901:5-57-01 through 901:5-57-05)**

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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 amended<sup>1</sup> rules proposed by the Ohio Department of Agriculture (ODA) as part of the statutory five-year rule review requirement. The rule package was originally submitted to the CSI Office on November 9, 2017 and the comment period was held open through December 1, 2017. ODA withdrew the rule package to make changes to the rules. ODA resubmitted the rule package to the CSI Office on April 27, 2018 and the public comment period was held open through May 18, 2018. No comments were received during the CSI public comment period.

The rules in this package establish the Asian longhorned beetle as a plant pest and define a quarantined area in parts of Ohio in order to prevent the spread of the insect to other areas. Ohio Administrative Code (OAC) 901:5-57-01 defines the terms used throughout the Chapter and is

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<sup>1</sup> OAC 901:5-57-02, 901:5-57-03, 901:5-57-04, and 901:5-57-05 are being amended to the extent that the Legislative Service Commission requires the Department to rescind the rules and replace them with new rules of the same rule number.

being amended to include new definitions for “Department” and “Firewood.” OAC 901:5-57-02 and 901:5-57-03 set forth the notice of quarantine and conditions of movement of regulated articles. These rules are being amended to make stylistic changes. OAC 901:5-57-04 describes the types of articles regulated by the rules, including lumber, wood materials, and other items with the potential of spreading the beetle. This rule is being amended to remove hackberry wood products from the regulated articles list and include stylistic changes. OAC 901:5-57-05 outlines the quarantined areas of Clermont County, which include Tate Township, East Fork State Park, parts of East Fork Wildlife Area, and parts of Monroe Township. The rule is being amended to expand the regulated area to include regions regulated under ORC 927.71.

During early stakeholder outreach, ODA sent the rules to relevant industry stakeholders, including professional agriculture associations and organizations, as well as state and federal government agencies. ODA received comments from stakeholders that were supportive of the rules. No comments were received during the CSI public comment period.

The business community impacted by these rules includes any individual or business that produces or transports regulated wood and articles in relation to the quarantined area. These articles cannot be removed from the quarantined area, which prevents the sale of certain products. ODA states in the BIA that these rules protect the larger Ohio forestry industry from the spread of the invasive Asian longhorned beetle. The rules have been in effect since 2011 and enforce state statute. 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.