

**MEMORANDUM**

TO: David Miran, Ohio Department of Agriculture

FROM: Danielle Dillard, Regulatory Policy Advocate

DATE: August 31, 2018

RE: **CSI Review – Chronic Wasting Disease (OAC 901:1-1-01, 901:1-1-02, 901:1-1-03, 901:1-1-04, 901:1-1-05, and 901:1-1-06)**

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 four amended rules and two new rules 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 June 29, 2018 and the comment period closed on July 20, 2018. One comment was received during this time.

The rules in Ohio Administrative Code (OAC) 901:1-1 regulate chronic wasting disease (CWD), which is a fatal, extremely contagious disease that afflicts white-tailed deer and other members of the cervidae family. OAC 901:1-1-01 is the new definition section for the Chapter, and aligns with terms defined in ORC Chapter 943 and CWD federal program standards. OAC 901:1-1-02 outlines the licensing and registration procedures for owners of captive whitetail deer. OAC 901:1-1-04 and 901:1-1-06, outline the identification requirements for all animals inside a facility, and the recordkeeping requirements for captive whitetail deer owners respectively.

OAC 901:1-1-03 establishes guidelines regarding fencing, escapes, and movement. It is being amended to require all owners of captive whitetail deer to inspect their perimeter fences on a

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weekly basis. The inspections must be documented and all escapes must be reported immediately to the Department. Any escaped animal not returned to the premises within 24 hours may not be returned to the facility. OAC 901:1-1-05 outlines the requirements for death and testing. All animals over one year of age must be tested for chronic wasting disease upon death. The rule outlines new quarantine conditions for facilities that submit poor quality, missing, or untimely samples for testing.

As part of early stakeholder outreach, the Department provided the draft rules to the leaders of several farm, animal, and environmental organizations within Ohio and asked for comment. It worked closely with the Whitetail Deer Farmers of Ohio in drafting the regulations to ensure that the rules balance ODA's regulatory mission with the needs of the captive cervid industry. The Ohio Department of Natural Resources requested that OAC 901:1-1-03 be amended to ensure that escapes or breaches in perimeter fencing apply to all cervid species rather than just whitetail deer. ODA made the suggested change. One comment was received during the CSI public comment period in strong support of the proposed rules and amendments.

The rules impact all captive deer owners and producers in Ohio. All owners of captive whitetail deer must obtain a license or register with the Department pursuant to ORC 943.20. These owners must also obtain a permit from the Ohio Department of Natural Resources. Licenses cost \$25. The rules also require owners to have their facilities inspected upon initial registration; thereafter they must have a yearly physical inspection. The inspection must be completed by an accredited veterinarian, and the cost will depend on the size of the facility, the number of animals, and the individual veterinarian. A physical inventory of the facility must be performed once every three years. All owners of captive whitetail deer must inspect perimeter fences on a weekly basis, and document the inspections. Any escapes must be reported to ODA immediately. The Department notes that the cost of perimeter inspections and documentation is minimal.

Animals over one year of age must bear two types of identification, one official and the other a form of unique visible identification. Official identification is limited to a USDA metal ear tag, approved visual or electronic RFID, or a microchip using specified frequencies. ODA provides USDA tags at no cost, and RFID and microchip identification costs less than \$10 per device. In case of death, animals must be tested for chronic wasting disease. CWD testing performed at the Department costs \$30 per test. All samples must be visually inspected and submitted by a veterinarian; the costs for these services will depend on the number of animals sampled and the individual veterinarian. Facilities who do not comply with sampling requirements for testing will be subject to new quarantine conditions as outlined in the new OAC 901:1-1-05. They will all be required to replace the inadequate samples, and as a result pay sampling fees a second time. The Department justifies any adverse impact because the goal of the regulations is to protect the health and safety of Ohio's animals and consumers, because an outbreak of CWD could significantly impact the livestock industry.

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.