



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Jacquie Keller-Potvin, Ohio Department of Agriculture

FROM: Joseph Baker, Business Advocate

DATE: September 8, 2021

RE: **CSI Review – Regulatory Reform Initiative (OAC 901-5-05, 901:1-4-13, 901:1-5-02, 901:4-6-03, and 901:5-48-04)**

On behalf of Lt. Governor Jon Husted, 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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of five amended new rules proposed by the Ohio Department of Agriculture (Department). This rule package was submitted to the CSI Office on July 16, 2021, and the public comment period was held open through August 2, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 16, 2021.

The rules in this package establish election processes for agricultural societies, application procedures for various wildlife permits, vaccination policies to prevent brucella in bovine or bison animals, the application process to participate in the Ohio Proud agricultural marketing program, and prohibitions related to the transporting of certain hemlock seedlings, trees, or wood. Amendments were made to these rules as a result of research conducted for the CSI regulatory reform project using an artificial intelligence software tool.

OAC 901-5-05 sets forth procedures relevant to the terms of office for agricultural society directors and election processes for societies. The rule is amended to permit election clerks to submit a copy of the poll book electronically to the Department, as well as by mail. OAC 901:1-4-13 states that applicants seeking a wildlife shelter permit, propagation permit, restricted snake possession permit, or restricted snake propagation permit may take a written examination rather

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than establish two years of experience in the care of dangerous wild animals or snakes. The rule is amended to allow the Department to inform applicants regarding the dates and locations of examinations by electronic mail, rather than by regular mail, and to remove fax as one of several methods available for returning registration forms to the Department.

OAC 901:1-5-02 establishes definitions related to the administration of brucella biologics to female bovine or bison animals and has been amended to allow vaccinations to be reported to the Department by means other than telephone. OAC 901:4-6-03 describes the procedures related to the Ohio Proud Program, which is a marketing program managed by the Department to promote food and agriculture made and grown in Ohio. The rule is amended to allow applicants for the program to submit a scanned electronic copy of the logo used by the applicant, which is a required component for participation. Lastly, OAC 901:5-48-04 establishes a prohibition on certain types of hemlock, including seedlings, nursery stock, logs or lumber with bark, and others, but also permits the importing of such products if certain conditions are met. The rule is amended to remove fax as a method for supplying a certificate establishing that the hemlock product has been inspected by an authorized official to the Department (electronic mail and physical mail remain options for the regulated entity).

During the CSI public comment period, the Department sent the proposed rules to affected individuals and entities registered to receive electronic notification regarding proposed rules. No comments were received.

The business communities impacted by the rules include agricultural societies, dangerous wild animal and restricted snake permit holders, cattle and swine owners and producers, manufacturers and producers of agricultural commodities interested in participating in the Ohio Proud agricultural marketing program, and individuals seeking to transport into or produce in Ohio hemlock seedlings, logs, lumber, nursery stock, or chips. The adverse impacts to business include the administrative effort necessary for election clerks to comply with the standards outlined in OAC 901-5-05 related to agricultural society elections, the time and expenses necessary for individuals seeking a wild animal or restricted snake permit to complete an examination regarding the applicant's knowledge and responsibilities connected to the care of such animals, the time and expense necessary to report information related to the administration of brucella biologics for bovine and bison animal farmers as well as potential quarantine if an outbreak of brucellosis is detected and associated veterinarian fees, the time and expense necessary to complete the application and register products to participate in the Ohio Proud marketing program, and the potential loss of business that may be connected with the prohibition on transporting certain iterations of hemlock wood into the state for businesses engaged in the trade. The Department states in the BIA that the adverse impacts to business are necessary to ensure consistent election processes for agricultural societies in Ohio, to promote public safety and animal welfare for registered dangerous wild animals, to assist with the prevention and eradication of brucellosis in Ohio, to provide prospective consumers with a means of identifying Ohio-made agricultural products, and to prevent the spread of Hemlock Woolly Adelgid.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Agriculture should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.