



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Renee Schmauch. Ohio Department of Agriculture

FROM: Jacob Ritzenthaler, Business Advocate

DATE: August 2, 2023

RE: **CSI Review – Weights and Measures Chapters 2, 3, 4, 5, 7, 8, and 9 (OAC 901:6-2-01, 901:6-3-01 through 901:6-3-12, 901:6-4-01, 901:6-5-01, 901:6-5-02, 901:6-7-01 through 901:6-7-04, 901:6-8-01, and 901:6-9-01)**

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This rule package consists of three new rules, five amended rules, and seventeen rescinded rules proposed by the Ohio Department of Agriculture (Department) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on June 23, 2023, and the public comment period was held open through July 14, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 23, 2023.

The rules in this chapter set forth requirements related to the standardization of weights and measures. Ohio Administrative Code (OAC) 901:6-2-01 establishes requirements related to the National Type Evaluation Program, including relevant definitions, traceability via certificate of conformance, and prohibitions. The rule is amended to align with current U.S. Department of Commerce regulations. OAC 901:6-3-01 adopts the National Institute of Standards and Technology Handbook 130, Chapter IV Uniform Regulations, Section A Uniform Packaging and Labeling Regulation in relation to standards for labeling and packaging. OAC 901:6-3-02 through 901:6-3-12 are proposed for rescission, as the requirements would be duplicative. OAC 901:6-4-01 concerns the registration and permitting of weighing and measuring devices and is amended to revise rule language and remove

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fees for replacement permits and late penalties. OAC 901:6-5-01 lists relevant definitions and includes amendments that update and remove definitions as necessary. OAC 901:6-5-02 concerns the retail sale of fuels, including requirements for metering devices, fuel identification, and types of measurement. The rule is amended to make corrective or clarifying edits and include additional requirements for street signs and advertisements for hydrogen fuel and electric vehicle supply equipment. OAC 901:6-7-01 is a new rule that adopts the National Institute of Standards and Technology Handbook 130, Chapter IV Uniform Regulations, Section B Uniform Regulation for the Method of Sale of Commodities (2023 edition) concerning methods of sale. OAC 901:6-7-02, 901:6-7-03, and 901:6-7-04 previously set forth requirements for packaging and pricing of food and nonfood products and are proposed for rescission. OAC 901:6-8-01 establishes requirements for the voluntary registration of weighing or measuring device servicepersons and service agencies. The rule is amended to provide clarifying edits. OAC 901:6-9-01 sets forth training requirements for weights and measures inspectors and is amended to provide clarification.

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including professional associations, weighing and measuring device manufacturers, and retail businesses. One comment was received during that time, which stated that the stakeholder had no concerns regarding the proposed changes. No comments were received during the CSI public comment period.

The business community impacted by the rules includes state, city, and county weights and measures inspectors, owners of commercial scales and meters, retail establishments, manufacturers, and service persons. The adverse impact created by the rules includes compliance with requirements for weighing and measuring devices, inspector training, packaging, and labeling. The Department states that the adverse impacts created by the rules are necessary to protect the public and ensure that business transactions are conducted accurately.

Recommendations

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

Conclusion

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