

**MEMORANDUM**

TO: Howard Henry, Ohio Department of Agriculture
FROM: Mark Hamlin, Director of Regulatory Policy
DATE: April 26, 2013
RE: **CSI Review – Dangerous Wild Animals & Restricted Snakes (OAC 901:1-4-01 through 901:1-4-18)**

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 21 new rules¹ being proposed by the Ohio Department of Agriculture dealing with the issue of dangerous wild animals and restricted snakes. The rules are being proposed as required by recently-enacted Senate Bill 310, and relate to enclosure requirements, care standards, record-keeping and examination requirements for permit holders, transportation, and other requirements related to animals designated under statute as dangerous wild animals or restricted snakes. The rules were submitted to the CSI Office on April 4, 2013, and the comment period was open through April 25, 2013.

¹ Senate Bill 310 established a system of permits related to dangerous wild animals and restricted snakes which takes effect on January 1, 2014. However, the bill also required anyone who owned one or more of these animals on the bill's effective date (September 5, 2012) to register the animals with the Department of Agriculture and to comply with the Department's requirements. The bill imposed two separate rulemaking requirements on the Department – one related to the registration process and one related to the longer-term permitting requirements. The Department adopted the registration rules (OAC 901:1-2-01 through 901:1-2-09) – including care and housing standards – effective February 25, 2013. It intends to rescind these after the new permitting system and associated rules being proposed in the rule package at hand are effective in 2014.

This rule package creates a broad regulatory framework related to dangerous wild animals and restricted snakes. In its BIA, the Department describes extensive outreach to stakeholders and a significant amount of collaboration. Senate Bill 310 created a Dangerous and Restricted Animals Advisory Board, which among other things, was advising the Department on the development of this rule package. The Board formed four subcommittees which engaged in public meetings involving diverse groups of stakeholders. The BIA also describes a number of substantive changes that were made to the rule package in response to suggestions made through this outreach process.

The rules will have an adverse impact on Ohioans who own designated animals and snakes – some for business purposes – and who will have to expend resources to meet the enclosure standards, permitting requirements, and other compliance costs. The costs of the enclosure requirements can vary widely depending on the type and number of animals, as well as several other factors. However, the BIA attempts to quantify some of these costs using the requirements for bear enclosures as an example, and estimates that the costs could reach \$5,000. Annual permitting fees are all outlined in statute and range from \$150 to \$3,000, depending on the number of animals and the type of activity being permitted. Finally, the rules include a number of specific requirements – related to issues such as cleaning enclosures, veterinary care, transportation requirements, signage, etc. – that will have additional direct and indirect costs to comply.

The Department justifies these impacts as being necessary to ensure the safety of the public and the health and safety of the animals. The BIA notes that each requirement was developed using industry standards and experts, and the rules attempt to provide permit holders maximum flexibility to reduce their costs wherever possible without undermining the health and safety objectives. Finally, the rules are closely aligned with the statutory authority and mandates imposed on the Department by the General Assembly in Senate Bill 310.

One comment was received during the CSI comment period, which encouraged the Department to focus on the requirements necessary to protect the public without consideration of the economic impact to animal owners. As noted above, protecting the public and the animals is the principal objective of the rules. However, the Department has appropriately considered cost impacts to animal owners and attempted to reduce these impacts wherever possible without jeopardizing health and safety.

Recommendations

The CSI Office does not have any recommendations for this rule package.

Conclusion

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