

**MEMORANDUM**

TO: David Miran, Ohio Department of Agriculture

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 30, 2018

RE: **CSI Review – Dangerous Wildlife and Restricted Snakes (OAC 901:1-4-01 through 901:1-4-19)**

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 contains fourteen no-change rules, six amended rules, and one new rule proposed by the Ohio Department of Agriculture (ODA) as part of the statutory five-year review requirement. The rule package was submitted to the CSI Office on June 11, 2018 and the public comment period was held open through June 29, 2018. No public comments were received during this time.

The rules in this package set forth requirements for the containment and care of dangerous wildlife, including bears, hyenas, wolves, various wild felines and reptiles, elephants, hippopotamuses, rhinoceroses, primates, and restricted snakes. Ohio Administrative Code (OAC) 901:1-4-01.1 sets forth requirements for animal enclosures and is being amended to include new methods of fencing construction and remove requirements for birthing areas. OAC 901:1-4-01.3 details health standards for dangerous animals and is being amended to require the advice of the state veterinarian and the relevant facility veterinarian when making a judgement on the condition of an animal. OAC 901:1-4-05 establishes the requirements specific to feline animals and is being

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amended to remove bobcats from the language, due to their removal as a dangerous wild animal by the Tenth Appellate District Court of Appeals. OAC 901:1-4-06 details requirements specific to elephants, hippopotamuses, rhinoceroses, and cape buffalo and is being amended to state that elephants shall not remain tethered unnecessarily unless directed by a veterinarian. OAC 901:1-4-09 sets forth requirements specific to primates and includes changes that clarify fencing requirements. OAC 901:1-4-10 is being amended to require permit holders to include newly-acquired animals in their renewal application. OAC 901:1-4-19 is a new rule that is proposed to set forth guidelines for restricted snake permits. The remaining rules are being proposed without changes.

During early stakeholder outreach, ODA sent the rules to relevant industry stakeholders, including environmental organizations, professional associations, and government agencies. During this time, ODA received comments from permit holders suggesting the rules be submitted without changes. ODA received comments from the Humane Society of the United States suggesting several changes to the rules. ODA stated that several of the suggested changes were already included in the rules but made changes to OAC 901:1-4-06 regarding the tethering of elephants. No comments were received during the CSI public comment period.

The business community impacted by these rules includes all individuals and entities possessing a permit for wild animals or restricted snakes. The adverse costs created by these rules include fees and the cost of maintaining proper animal enclosures. Wildlife shelter permits cost \$250 for up to three animals, \$500 for four to ten animals, \$1,000 for eleven to fifteen animals, and \$1,000 for sixteen or more animals, with an additional \$125 for each additional animal beyond fifteen. Wildlife propagation permits cost \$1,000 for facilities with fifty or fewer dangerous animals and \$3,000 for facilities with more than fifty animals. Restricted snake possession permits cost \$150 and propagation permits costs \$300, regardless of the number of snakes. ODA states that the cost to maintain animal facilities can vary greatly based on the type and number of animals housed by permit holders. ODA states in the BIA that the rules protect the public by ensuring proper containment of dangerous animals, while also providing for the welfare of animals by requiring standards of health and medical care. 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.