



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Renee Schmauch, Ohio Department of Agriculture

FROM: Michael Bender, Business Advocate

DATE: January 19, 2024

RE: CSI Review – Plant Health Five-Year Review Chapter 7 (OAC 901:5-7-01, 901:5-7-01.1, 901:5-7-02, 901:5-7-03, 901:5-7-04, 901:5-7-05, 901:5-7-06, 901:5-7-07, 901:5-7-08, 901:5-7-09, 901:5-7-10, 901:5-7-12, 901:5-7-13, 901:5-7-14, 901:5-7-15, 901:5-7-16, 901:5-7-17, 901:5-7-18, 901:5-7-19, 901:5-7-20, 901:5-7-21, 901:5-7-22, 901:5-7-23, 901:5-7-24, 901:5-7-25)

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This rule package consists of two new rules, five amended rules, and twenty rescinded rules proposed by the Ohio Department of Agriculture (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on December 4, 2023, and the public comment period was held open through December 26, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on December 4, 2023.

Ohio Administrative Code (OAC) 901:5-7-01 is rescinded and replaced by a new rule with the same number. The new version incorporates by reference chapters four through six of the 2024 edition of the *Official Publication* from the Association of American Feed Control Officials (AAFCO) and the 2020 edition of the AAFCO *Feed Inspector's Manual*. OAC 901:5-7-02 is rescinded and replaced by a new rule with the same number. The new version lists the commodities that are exempt from the

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definitions of commercial feed. Compared to the rescinded version of the rule, the new version is revised to pertain to a different topic.

OAC 901:5-7-05 contains maintenance requirements for the manufacture, distribution, and storage of commercial and customer-formula feeds. The rule is amended to update language and clarify requirements for scales used to manufacture feed. OAC 901:5-7-07 requires information on labels to be legible and visible. The rule is amended to update language and citations. OAC 901:5-7-08 specifies the conditions by which a feed manufacturer can become an exempt buyer. The rule is amended to update language. OAC 901:5-7-10 requires the labeling of bulk feed and feed ingredients prior to distribution. The rule is amended to update language and the rule title, add citations, and clarify that the transportation or storage of feed and feed ingredients is prohibited prior to the labeling of the product(s). OAC 901:5-7-22 specifies labeling requirements for animal feed products containing glucosamine, chondroitin, hyaluronan, and methylsulfonylmethane. The rule is amended to update typography and the rule title, remove unnecessary language, and extend Ohio commercial feed law labeling requirements to animal feeds containing cannabidiol.

OAC 901:5-7-01.1, 901:5-7-03, 901:5-7-04, 901:5-7-06, 901:5-7-09, 901:5-7-12, 901:5-7-13, 901:5-7-14, 901:5-7-15, 901:5-7-16, 901:5-7-17, 901:5-7-18, 901:5-7-19, 901:5-7-20, 902:5-7-21, 901:5-7-23, 901:5-7-24, and 901:5-7-25 are rescinded without replacement. These rules, in addition to the old versions of OAC 901:5-7-01 and 901:5-7-02, are rescinded due to the incorporation by reference of the AAFCO *Official Publication* and the AAFCO *Feed Inspector's Manual*.

During early stakeholder outreach, the Department contacted stakeholders via email on October 27, 2023, to solicit comments on the proposed rules through November 10, 2023. The Department received no feedback from stakeholders. No comments were received during the CSI public comment period, although the Department made technical corrections to the rules.

The business community impacted by the rules includes all commercial animal feed manufacturers and distributors in Ohio. The adverse impacts created by the rules include the costs associated with registration, labeling, and submitting reports. Furthermore, failure to comply with the rules may result in a product being withdrawn from distribution until the manufacturer comes into compliance. According to the Department, there is no monetary cost for the registration, and the application process should not take much time. Manufacturers can satisfy labeling requirements with a computer-generated label which usually costs less than ten cents. For every ton reported sold in the past six months, manufacturers pay twenty-five cents to the Department. With the 100-ton minimum for each report, manufacturers therefore pay a minimum of \$25 to the Department semi-annually. The Department notes that exemptions added to the rules for certain commodities reduce the regulatory burden for businesses. The Department states that the adverse impacts to business are justified to implement statutory requirements and protect the industry by ensuring animal and consumer safety.

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.