



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: May 10, 2024

RE: **CSI Review – Hemlock Pest (OAC 901:5-48-01, 901:5-48-02, 901:5-48-03, 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 four no-change 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 March 26, 2024, and the public comment period was held open through April 16, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 26, 2024.

Ohio Administrative Code (OAC) 901:5-48-01 establishes a notice of quarantine and specifies the quarantined states for the purpose of preventing the spread of the insect *Adelges tsugae*, also known as the hemlock woolly adelgid (HWA). OAC 901:5-48-02 contains definitions pertaining to the HWA. OAC 901:5-48-03 lists the regulated articles subject to the quarantine established for the HWA. OAC 901:5-48-04 allows for the movement of regulated articles into and through Ohio under certain conditions.

During early stakeholder outreach, the Department contacted several stakeholders via email on

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February 9, 2024, to solicit comments on the rules through February 23, 2024. The stakeholders represented agricultural organizations such as AmericanHort, the Buckeye Quality Beef Association, Capitol Advocates, Ice Miller, the Nation Farmers Organization, the National Pest Management Association, the Ohio Agricultural Council, Ohio Aggregates & Industrial Minerals, the Ohio Agribusiness Association, the Ohio Association of Meat Processors, the Ohio Beef Council, the Ohio Cattlemen's Association, the Ohio Christmas Tree Association, the Ohio Corn & Wheat Growers Association, Ohio Dairy Producers, the Ohio Environmental Council, the Ohio Farm Bureau Federation, the Ohio Farmers Union, the Ohio Forestry Association, the Ohio Green Industry Association, the Ohio Invasive Plants Council, the Ohio Lawn Care Association, Ohio P.L.A.N.T., the Ohio Pest Management Association, the Ohio Pork Producers Council, the Ohio Poultry Association, Ohio Producers & Marketers, the Ohio Seed Improvement Association, the Ohio Soybean Association, the Ohio Soybean Council, the Ohio State Beekeepers Association, Ohio State Grange, Ohio State University, the Ohio Turfgrass Foundation, Pesticide Applicators for Responsible Regulation, the Nature Conservancy, and the Department's Invasive Plants Advisory Committee. No comments were received during this time or during the CSI public comment period.

The business community impacted by the rules includes any person who produces, transports, or plans to transport Hemlock seedlings, nursery stock, logs, lumber, and chips. The adverse impacts created by the rules include the potential loss of profits due to the prohibition on the movement of regulated articles from a regulated area into or within Ohio. Individuals may be exempted from this rule if they ship regulated articles from a non-regulated area within a quarantined state and hold a certificate approved by the Director of the Department. The cost of such a certificate is \$25. Furthermore, individuals may ship for a regulated area within a quarantined state if they enter into a compliance agreement with the Department or its equivalent with another state. The cost of such a compliance agreement is \$40. The Department notes that this quarantine has been in place since 2002 and that marketplace has adjusted accordingly. The Department states that the adverse impacts to business are justified to prevent the spread of HWA, protect Ohio's forests, and maintain Hemlock as a nursery stock species in the horticultural industry in Ohio.

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.