



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: January 13, 2025

RE: **CSI Review – Fertilizer Storage (OAC 901:5-2-01, 901:5-2-02, 901:5-2-03, 901:5-2-04, 901:5-2-05, 901:5-2-06, 901:5-2-07, 901:5-2-08, 901:5-2-09, 901:5-2-10, and 901:5-2-11)**

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 seven amended rules and 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 December 6, 2024, and the public comment period was held open through December 30, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on December 6, 2024.

Ohio Administrative Code (OAC) Chapter 901:5-2 establishes requirements for the storage and handling of fertilizer. OAC 901:5-2-01 lists definitions used throughout the chapter and is amended to update referenced standards of the American Society for Testing Materials, National Institute of Standards and Technology, and American Petroleum Institute. OAC 901:5-2-02 requires compliance with permanent storage vessel construction requirements and is amended to remove outdated requirements. OAC 901:5-2-03 contains requirements for the design of storage vessels for bulk liquid fertilizer and is amended to remove height requirements for capacity markings and outdated compliance requirements. OAC 901:5-2-04 sets forth requirements for storage vessel inspections, maintenance alteration, and repair, and is amended to remove outdated compliance requirements.

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OAC 901:5-2-05 and 901:5-2-06 establish requirements for the operation of storage vessels and leakage control and recovery. These rules are proposed without changes. OAC 901:5-2-07 and 901:5-2-08 set forth requirements for records and dry fertilizer storage and are both proposed without changes. OAC 901:5-2-09 and 901:5-2-10 establish requirements for existing and new permanent storage vessels and include amendments that remove outdated compliance requirements. OAC 901:5-2-11 sets for requirements for underground piping systems and is amended to remove outdated compliance requirements and update references.

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including AmericanHort, the Buckeye Quality Beef Association, Capitol Advocates, Ice Miller, the National Farmers Association, the Ohio Ag Council, Ohio Aggregates and Industrial Minerals, the Ohio Agribusiness Association, the Ohio Beef Council/Ohio Cattlemen's Association, the Ohio Christmas Tree Association, Ohio Corn and Wheat Growers Association, Ohio Dairy Producers, the Ohio Environmental Council, the Ohio Farm Bureau, 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 Produce Growers & Marketers, the Ohio Seed Improvement Association, the Ohio Soybean Association, the Ohio Soybean Council, the Ohio State Beekeepers Association, the Ohio State University, the Ohio Turfgrass Foundation, the Nature Conservancy, and the Invasive Plant Advisory Board. No comments were received during that time or during the CSI public comment period.

The business community impacted by the rules includes all fertilizer retailers and distributors, as well as farmers operating and distributing in Ohio. The adverse impacts created by the rules include compliance with rule requirements for the construction, placement, and operation of storage vessels, which includes standards for the design and materials. The Department states that the adverse impacts created by the rules are necessary to prevent accidental releases of fertilizer and the dangers of improperly labeled fertilizer.

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.