



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Brian Becker, Ohio Department of Natural Resources

FROM: Sean McCullough, Director

DATE: February 9, 2022

RE: CSI Review – Ginseng Harvest Season, Reseeding, Collection Records (OAC 1501:31-40-01)

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 Board as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Ohio Department of Natural Resources (Department). This rule package was submitted to the CSI Office on February 2, 2022, and the public comment period was held open through February 9, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 2, 2022.

Ohio Administrative Code (OAC) 1501:31-40-01 specifies the harvest season and size restrictions for wild ginseng, along with planting restrictions for ginseng seeds, and records maintenance requirements for ginseng diggers. Specifically, because ginseng is endangered, diggers must record weight, number of roots, county and date in which plants were harvested. The amendment concerns these records. The amendment permits the ginseng dealer or harvester to refuse record inspection by a law enforcement officer, and further that the officer must acquire a warrant to proceed with the inspection once refused.

During early stakeholder outreach, the Board sent the proposed rule to 44 ginseng dealers and 1556 ginseng harvesters. During the CSI comment period, two comments were received urging the Department to maintain the current language of the rule. The Department decided to proceed with the amendment to comply with the U.S. and Ohio Constitutions and legal precedent.

The business community impacted by the rules includes all Ohio ginseng dealers and harvesters. The adverse impacts created by the rule is the restricting of non-consensual inspections for records required of ginseng harvesters without a warrant, along with requirements to reseed harvested plants, and general restrictions on harvesting. The Board states that the amendments to the rule are justified as they lessen the burden of compliance on the regulated community.

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.