

Rule Summary and Fiscal Analysis (Part A)**Department of Agriculture**

Agency Name

Animal Industry

Division

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901-19-39

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Ownership requirements.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **901.72**5. Statute(s) the rule, as filed, amplifies or implements: **901.74**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

In 2016, this rule was reviewed and amended during its five year rule review period. The rule was amended to allow exhibitors the flexibility to allow households and exhibitors to enter multiple animals into the exhibition. This flexibility allowed junior exhibitors, if permitted by the fair, to have a reserve animal should their primary animal decease prior to the exhibition. In addition, paragraphs (D) and (E) were added to the rule to indicate that the fair has the discretion on whether or not to allow additional animals to be entered into the fair, and the number of additional animals to be added. These paragraphs have been

interpreted by many as allowing the Department to regulate this matter. As stated above, the Department has the authority to regulate food safety and the health, safety, and welfare of livestock exhibited. The Department does not regulate the administrative decisions of the fair such as determining whether additional animals are allowed to be registered. In order to clear up this confusion, paragraphs (D) and (E) are proposed to be rescinded.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rules in Chapter 901-19 of the Ohio Administrative Code outline the regulations for the exhibition of livestock in the state of Ohio. Exhibition of livestock generally occurs at a livestock show held at the Ohio state fair or a fair under the control of a county or independent agricultural society. The rules in this chapter set forth the governance and administration of these exhibitions and standards related to food safety and the health, safety, and welfare of livestock including grooming, commercial, or medical practices that are generally accepted in the community. The rules have been reviewed by the advisory committee on livestock exhibitions which meet annually to discuss these rules as well as other issues that pertain to the exhibition of livestock.

Pursuant to Ohio Revised Code 901.72, the rules adopted under which apply to exhibition-related food safety and the health, safety, and welfare of livestock shall apply to every exhibition. However, exhibitions may choose to adopt rules which do not apply to those issues. The rules as drafted indicate which rules are mandatory and which rules are optional for adoption by the exhibition.

OAC 901-19-39 sets forth the ownership requirements for livestock entered in an exhibition. In 2016, this rule was reviewed and amended during its five year rule review period. The rule was amended to allow exhibitions the flexibility to allow households and exhibitors to enter multiple animals into the exhibition. This flexibility allowed junior exhibitors, if permitted by the fair, to have a reserve animal should their primary animal decease prior to the exhibition. In addition, paragraphs (D) and (E) were added to the rule to indicate that the fair has the discretion on whether or not to allow additional animals to be entered into the fair, and the number of additional animals to be added. These paragraphs have been interpreted by many as allowing the Department to regulate this matter. As stated above, the Department has the authority to regulate food safety and the health, safety, and welfare of livestock exhibited. The Department does not regulate the administrative decisions of the fair such as determining whether additional animals are allowed to be registered. In order to clear up this confusion, paragraphs (D) and (E) are proposed to be rescinded.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

Pursuant to section 121.76 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **3/21/2021**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There is no cost of compliance associated with this rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Individuals who are subject to disciplinary action for a violation of one of the rules of this chapter may be subject to the forfeiture of their prize, disqualification of their animal, or prohibition from showing their animal in future years. The amount of prize won varies dramatically from exhibition to exhibition. Some counties offer prizes and premiums that are lower than \$10 while the Ohio State Fair offers prizes and premiums that are several thousand dollars.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**