

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Administration – Livestock Exhibition

Rule Number(s): 901-19-07 and 901-19-39

Date: November 1, 2016

Rule Type:

☐ New

☒ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117
CSIOhio@governor.ohio.gov

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

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 meets 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 901-19-07 requires that all exhibition sponsors require exhibitors to attend or complete a quality assurance program or pass an exam which indicates that the exhibitor has the requisite knowledge presented in the quality assurance program. The quality assurance program is a comprehensive educational program which focuses on the proper care and welfare of food animals. The majority of animals entered into livestock exhibitions are eventually sold and placed into the food supply. Due to this eventual entry into the stream of commerce, the knowledge of food safety, nutrition, management, handling, and the environment are critical to the success of producing a safe and wholesome product. Therefore, it is essential that all exhibitors be required to participate in the quality assurance program. The rule has been proposed to be amended to make the failure to participate in the quality assurance program an action in which the disciplinary actions of OAC 901-19-21 is subject to.

OAC 901-19-39 sets forth the ownership requirements for livestock entered in an exhibition. In 2015, 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 become deceased 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.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 901.72

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not Applicable.

5. What is the public purpose for this regulation?

In order to ensure fairness in all livestock exhibitions, and to promote and protect the health, safety, and welfare of all livestock entered into exhibitions, these rules develop a general, uniform guideline for all exhibitions across the state of Ohio. Livestock exhibitions are vital in promoting the interest of young adults to pursue careers in agriculture and livestock management. These exhibitions give young adults a truly educational opportunity to experience a future career. These rules help to encourage these careers by ensuring that these exhibitions are conducted in a fair and equal manner. Further, the rules also are set out to protect the health, safety, and welfare of all animals involved.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

This rule is considered successful when the Department finds few violations of these rules.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

This rule was reviewed by the members of the Advisory Committee on Livestock Exhibitions. This committee meets annually to discuss these rules as well as other administrative matters involving livestock exhibitions. These rules were reviewed by the committee on October 31, 2016.

The members of the advisory committee on livestock exhibitions present at the October 31, 2016 are:

| | |
|----------------------|--|
| David Daniels | Director, Ohio Department of Agriculture |
| Tony M. Forshey, DVM | State Veterinarian, Ohio Department of Agriculture |
| Dave Benson | Fairfield County Fair, At-Large Member |
| Randi Dibert | Ohio Purebred Dairy Cattle Assn |
| Stephanie Sindel | Ohio Cattlemen's Association |
| Jim Heimerl | Hartford Independent Fair |
| Roger High | Ohio Farm Bureau Federation |
| Lisa McCutcheon | OSU Extension, Licking County |
| Lucinda Miller | OSU Extension |
| Nancy Snook | OSU Extension, Noble County |
| Mike Stitzlein | Ohio Sheep Improvement Assn. |
| Virgil Strickler | Ohio Expositions Commission |
| Robert White | Ohio State Grange |
| Matt Winkle | Ohio Department of Education, Agricultural Education Service |

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The board voted unanimously to approve the proposed rule changes. The board expressed its agreement that the Quality Assurance program is a fundamental course in ensuring the health, welfare, and safety of the livestock exhibited.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The amendments proposed are administrative amendments to rules pertaining to the health, welfare, and safety of livestock. While the rules themselves are based on scientific research and principles, the amendments themselves do not rely on scientific data.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

As a general matter, stakeholder participation in this rule package has indicated to the Department that this is the best regulatory scheme at this time. For those reasons, no other regulatory alternatives were considered.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

These rules are performance based as they outline the end result and not the process of achieving that end result.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Department is given the sole regulatory authority over livestock exhibitions in 901.70.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

For the most part, these rules are already well implemented within the exhibition community. The Department works with all livestock exhibitions and their sponsors to educate and inform them on the regulations. Additional education and outreach will be performed with the affected communities by the Department. The Department ensures that all livestock exhibitions in Ohio are treated in a similar manner. Further, the advisory committee on livestock exhibition represents many exhibition interest groups throughout the state. The committee will communicate the changes to the rules to their constituents.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

All livestock exhibitions, exhibitors, and owners of exhibited livestock.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The rules do not impose any sort of licensing fees on exhibitions or exhibitors. Any entrance or licensing fees would be established by the exhibition themselves. The rules do provide guidelines as to permitted and prohibitive practices. Violations of the rules may result in a fine of any proceeds received from an exhibition.

c. Quantify the expected adverse impact from the regulation.

The quantified adverse impact for the recordkeeping requirements is minimal. 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.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The regulatory intent of these rules is to protect the health, welfare, and safety of all livestock animals and to promote future careers in agriculture by ensuring that there is a fair and equitable exhibition of livestock. These rules do so in a manner that is not overly burdensome and only penalizes entrants for unfair and deceptive acts. For those reasons, the adverse impacts are considered justified.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

As the primary purpose of this rule is to protect the health, welfare, and safety of all livestock animals and to promote future careers in agriculture by ensuring that there is a fair and equitable exhibition of livestock exemptions for smaller exhibitors would not be equitable.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Department works with the violators to educate them to correct any potential future violations.

18. What resources are available to assist small businesses with compliance of the regulation?

The Department has online resources and has field staff available to provide assistance. Training and seminars are also available.