

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Animal Health – Voluntary Animal Damage Control Plans

Rule Number(s): 901:1-24-(01-03)

Date: June 22, 2017

Rule Type:

☐ New

☒ 5-Year Review

☐ Amended

☐ Rescinded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.

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Regulatory Intent

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

Pursuant to Ohio Revised Code 955.52 individuals may submit claims to the Ohio Department of Agriculture for the value of animals which have been injured or killed by a coyote. The rules in Chapter 901:1-24 of the Ohio Administrative Code regulate voluntary animal damage control plans and establish this claims process. The rules are being proposed as not requiring amendment.

Please note that as outlined in Ohio Revised Code 955.52(B), the Department is required to deny any claims submitted if there are not funds sufficient to pay certified claims. There have been no funds appropriated to the Department for these claims in several years. However, due to the continued existence of Revised Code section 955.51 to 955.53, the Department is required to maintain these administrative rules.

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

ORC 955.52

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?

Pursuant to ORC 955.52, the Department shall adopt rules necessary to administer ORC sections 955.51 to 955.53. When funded by the General Assembly, individuals whose animals are injured and/or killed by coyotes would be able to submit a claim for the value of the lost and/or injured animals.

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

When properly funded, the Agency measures success in the number of claims properly submitted and verified.

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Development of the Regulation

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

On May 19, 2017, via email ODA provided the following stakeholders the rules and provided an opportunity to comment. The stakeholders were notified that no changes were proposed.

The stakeholders were as follows:

Ohio Ecological Food and Farm Association	Amalie Lipstreu
Environmental Law & Policy Center	Madeline Fleisher
Ohio Beef Council/Ohio Cattlemen's Association	Elizabeth Harsh
Ohio Dairy Producers	Scott Higgins
The Ohio State University	Dr. Jeanette O'Quinn
USDA – APHIS	Dr. Roger Crogwold
USDA – APHIS	Dr. Susan Skorupski
Ohio Veterinarian Medical Association	Jack Advent
Ohio Farm Bureau	Jack Irvin
Ohio Farm Bureau	Tony Seegers
Ohio Farm Bureau	Yvonne Lesicko
Ohio Farmers Union	Joe Logan
Ohio Farmers Union	Linda Borton
Ohio Farmers Union	Roger Wise
Ohio Pork Producers Council	Bryan Humphreys
Ohio Poultry Association	Jim Chakeres
Ohio Veterinarian Medical Association	Michelle Holdgreve
ASPCA	Vicki Deisner

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

The stakeholders did not provide any comment.

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 rules are administrative in nature and therefore, no scientific data was used to develop the rules.

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?

The lack of 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 955.52.

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 livestock community. As stated above, the claims process is dependent on funding from the General Assembly. Without such funds, the Department is required to deny any and all claims made.

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;

Any individual who owns an animal which has been injured or killed by a coyote.

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

Individuals wishing to attempt to recoup the value of the lost animal must submit a claim to the Department. There is no cost to submit a claim however, it requires time for compliance.

c. Quantify the expected adverse impact from the regulation.

The quantified adverse impact for submitting a claim is minimal.

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

The Department is required to adopt these rules pursuant to ORC 955.52. However, the regulatory intent of these rules is to compensate individuals who suffer animal losses by a coyote. As the business impact is negligible, the impact is 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 recoup losses for animals injured or killed by a coyote 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?

There are paperwork violations possible under this chapter.

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.