



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: March 7, 2024

RE: **CSI Review – Animal Exhibition Requirements and Administration (OAC 901:1-18-01 through 901:1-18-11, 901-19-01 through 901-19-07, 901-19-09 through 901-19-13, 901-19-19, 901-19-21, 901-19-31 through 901-19-35, 901-19-38, 901-19-39, and 901-19-40)**

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This rule package consists of twenty-eight amended rules, four rescinded rules, and one no-change rule proposed by the Ohio Department of Agriculture (Department) as part of the statutory five-year review process.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 January 26, 2024, and the public comment period was held open through February 16, 2024. During the public comment period, the Department extended the public comment period through February 23, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 26, 2024.

Ohio Administrative Code (OAC) Chapter 901:1-18 establishes requirements concerning animals that are imported or moved into Ohio for exhibition. OAC 901:1-18-01 necessitates compliance with the requirements of the chapter and is amended to remove requirements stating that animals in compliance are exempt from other rules governing movement or importation of quarantined animals. OAC 901:1-18-02 lists definitions used throughout the chapter and is amended to introduce a definition of "official eartag," change the term "approved veterinarian" to "official veterinarian," and

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update definitions to reference terms already defined in the Code of Federal Regulations or ORC. OAC 901:1-18-03 requires that exhibitions maintain an official veterinarian and sanitary conditions. The rule is amended to update terms and include official identification among the types of records to be maintained. OAC 901:1-18-04 establishes requirements for exhibitors to not exhibit an animal infected with a disease and to submit specific certificates, including veterinary inspections and registrations, upon request. The rule is amended to remove requirements for exhibitors to forward a copy of a veterinary inspection to the Department, allow the Department to issue a notice of violation if an exhibitor fails to comply, and update language. OAC 901:1-18-05 through 901:1-18-11 set forth requirements for various exhibition animals, including poultry, cattle, goats, horses, sheep, swine, and camels. The rules include amendments that classify National Poultry Improvement Plan (NPIP) status last for a period of one year, state that co-mingling poultry flocks voids NPIP status, require cattle and swine imported into Ohio to be identified with an official earring upon entry, and change the term “symptoms” to “clinical signs” throughout.

OAC Chapter 901:1-19 sets forth requirements related to the exhibition of animals. OAC 901:1-19-01 lists definitions used throughout the chapter and is amended to introduce new definitions of “exhibition,” “livestock,” “official eartag,” “official veterinarian,” and “unapproved drug,” as well as updating current definitions and referencing other statutes. OAC 901:1-19-02 requires that all exhibitions be designated as either a terminal, partial terminal, or non-terminal show and is amended to require that all livestock shall be exhibition drug residue legal at the start of the show, as well as change the term “market dairy steer” to “market dairy cattle.” OAC 901:1-19-03 concerns auction sales of exhibited livestock and is amended to update references. OAC 901:1-19-04 prohibits certain conduct during exhibitions, including showing or selling livestock that have been involved with detrimental health practices, allow unapproved drugs or unlawful substances to be present in exhibition livestock, or other violations. The rule is amended to streamline and clarify requirements. OAC 901:1-19-05 lists the responsibilities of an exhibition sponsor, including the appointment of a records official, establishing a method for livestock identification, and providing a premium book which contains exhibition rules. The rule is amended to remove requirements for sponsors to submit information to the Department at least ten days before the start of an exhibition, require that exhibition cattle and swine be identified with an official eartag, and state specific sections and chapters of the ORC and OAC that are to be provided to exhibitors. OAC 901:1-19-06 sets forth requirements for exhibitors to complete the drug use notification form and is amended to update terms and reorganize rule requirements. OAC 901:1-19-07 requires exhibitors to annually complete a quality assurance program, which can include an examination. The rule includes amendments that replaces “lactating dairy cattle and lactating goats” with “lactating dairy animals.” OAC 901:1-19-09 sets forth the conditions for showing an animal that has been administered a drug at a non-terminal exhibition and is proposed for rescission.

OAC 901:1-19-10 concerns the requirements for testing and is amended to clarify the role of the

official veterinarian in collecting test samples. OAC 901:1-19-11 requires livestock to be treated humanely and is proposed for rescission. OAC 901:1-19-12 contains a list of acceptable practices, including practices for hoof trimming, encouraging water and food consumption, ear notching and tagging, and other procedures. The rule is amended to remove drenching as an acceptable practice, include the conditions under which an exhibition's official veterinarian may administer approved drugs, and to reorganize current rule content. OAC 901:1-19-13 lists unacceptable practices and is amended to specify that an official veterinarian may prescribe the use of cooling devices and drenching, include the criteria for castration of livestock during an exhibition, prohibit the showing of animals in cases where approved drug conceals, enhances, transforms, or changes the natural conformation or condition of the animal, and prohibit any natural occurrence or surgical process which results in testicular tissue remaining in the animal's body, excepting rabbits and poultry. OAC 901:1-19-19 establishes that exhibitors and owners are liable for the presence of unlawful substances in an exhibition animal and is amended to include unapproved drugs, drug residue, and approved drugs that exceed tolerance levels. OAC 901:1-19-21 lists the disciplinary actions that may be imposed for violations of the rules, including disqualification, required continuing education, letters of reprimand, forfeiture of awards or prizes, or pre-exhibition drug testing. Disqualification may include any number of shows or years. The rule is amended to state that failure to comply may result in actions pursuant to ORC 941.07, the issuance of a quarantine order, or notice of violation until the violation is remedied.

OAC 901:1-19-31 and 901:1-19-32 establish requirements concerning the responsibilities of junior fair exhibitors and breed shows. The rules are amended to update terms. OAC 901:1-19-33 lists prohibited grooming practices and is proposed without changes. OAC 901:1-19-34 is an optional rule that allows exhibitions to provide an outstanding market project competition and is proposed for rescission. OAC 901:1-19-35 allows an exhibition to honor disciplinary actions that were assigned by another exhibition and prohibits a person convicted of violating ORC 901.70 to 901.76 from participating in any exhibition for a minimum period of three years. The rule is amended to update rule language. OAC 901:1-19-38 provides a list of false, deceptive, or unacceptable practices and is proposed for rescission. OAC 901:1-19-39 lists requirements for ownership of exhibition livestock, including time periods for ownership, and is amended to include leasing an animal under ownership time period requirements and to state that no exhibitor will be considered to own livestock that has been leased after the applicable possession date or exhibited in an exhibition by an individual other than an immediate family member after the applicable possession date. OAC 901:1-19-40 concerns meetings of the Department's Advisory Committee on Livestock Exhibitions and is amended to remove the option to use Hannah News Service or Gongwer to post meeting notices.

During early stakeholder outreach, the Department reviewed the rules during a meeting of the Advisory Committee on Livestock Exhibitions and sent the rules to industry stakeholders for feedback, including the Ohio Poultry Association, Ohio Cattlemen's Association, Ohio Farm Bureau

Federation, Ohio Pork Council, Ohio Dairy Producers Association, Ohio Sheep Improvement Association, Ohio Sheep and Wool Program, Ohio dairy veterinarians, Ohio 4-H Extension Educators, and the United States Department of Agriculture. In response to stakeholder feedback received during that time, the Department amended the rules to update definitions, specify prohibited practices, include the duties of a records official, reorganize rule content concerning drug use notifications, increase the weight limit for swine castration to one hundred fifty pounds, and remove certain statements on loss of livestock ownership. During the CSI public comment period, the Department received comments from several stakeholders. The Cleveland State University College of Law, David Braff Animal Law Center expressed concern regarding the rescission of OAC 901:1-19-11, which requires the humane treatment of animals. The Department responded that the rule's rescission is in response to language that has been added to OAC Division 901:12 that requires humane treatment of animals. Other stakeholders submitted comments concerning eartag adoption, National Poultry Improvement Plan implementation, electronic recordkeeping requirements, and drug use notifications, to which the Department provided clarification or response as appropriate.

The business community impacted by the rules includes livestock exhibition sponsors, exhibitors, owners, and any individual seeking to move or import livestock for exhibition purposes. The adverse impacts created by the rules include requirements for testing livestock for contagious or infectious diseases, as well as testing for drugs or prohibited substances. The cost of testing lies with the exhibitor and can vary based on the location and veterinarian chosen to conduct the test. Exhibition sponsors must maintain the drug testing records. Animals found to be infected with a disease could be prohibited from importation or subject to removal, quarantine, or destruction. Violation of the rule requirements could result in penalties, including forfeiture of any prize winnings. The Department states that the adverse impacts are necessary to promote and protect the interests of livestock and other animals and to prevent the spread of dangerously contagious or infectious diseases.

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.