



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Agriculture

Rule Contact Name and Contact Information:

Jacquie Keller-Potvin Jacquelyn.keller-potvin@agri.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Commercial Dog Breeding – Health

Rule Number(s): 901:1-6-05

Date of Submission for CSI Review: November 10, 2021

Public Comment Period End Date: November 18, 2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/_1_ rules (FYR? _1_)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. 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

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

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

Please include the key provisions of the regulation as well as any proposed amendments.

The department has drafted the amendments proposed in this rule package to assist with consistency between Administrative Code and Revised Code. Since the last revision of the rules, the Revised Code has been amended by House Bill 506 in 2018 and House Bill 166 in 2019. House Bill 506 revised multiple sections of Chapter 956 of the Revised Code to revise the law governing high volume dog breeders and other dog-related professionals and facilities. House Bill 166, commonly known as the FY 2020-2021 Operating Budget, amended sections 956.01, 956.031, 956.051, and 956.20 of the Revised Code. Both House Bills initiated the large number of changes necessary in this proposed rule package.

Rule 901:1-6-05 establishes health standards for dogs kept by high volume breeders. The rule is being amended further clarify the requirements for the health of adult dogs and puppies kept by high volume breeders. The rule is also amended to remove paragraphs that are no longer necessary.

During the CSI comment period held from May 11, 2021 to June 2, 2021, the department received comments regarding the amended language located in new paragraph (F) of the rule.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The department has reviewed the stakeholder comments and re-visited the language of paragraph (F) in relationship to the corresponding statute.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

956.03 of the Revised Code.

- 4. 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?**

If yes, please briefly explain the source and substance of the federal requirement.

No.

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

Not Applicable.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The department is required to adopt this rule in accordance with Chapter 956 of the Revised Code to promote appropriate animal care. The department is required to maintain standards of care for dogs kept by high volume dog breeders.

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

The department will measure success through adherence to the care standards as measured by both annual inspections and complaint driven inspections.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

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

If applicable, please include the date and medium by which the stakeholders were initially contacted.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The first stakeholder comment period was held from October 9, 2020 to November 9, 2020. The second stakeholder comment period was held from January 14, 2021 to January 28, 2021. The following stakeholders were provided notice via email for both comment periods.

- Anderholm Veterinary Clinic – Constance Anderholm
- Animals Unlimited Veterinary Hospital – Valerie Anderson
- Barnesville-Woodsfield Veterinary Service LLC
- The Batchelder Company – Troy Judy
- Burroughs Veterinary Services – Mark Steven Burroughs
- Byland Animal Hospital
- Capitol Advocates – Rob Eshenbaugh
- Capitol Consulting – Belinda Jones
- Celina Animal Hospital Inc. – Craig Miesse
- Claremont Vet Clinic – Donald Kaeser
- Columbiana County Dog Warden
- Commercial Dog Breeder Advisory Board – Dr. Tony Forshey, Matt Granito, Linda Stickney, Lisa Zimmerman, Lori Carlson, Dr. Michael Frederick, and Dr. Patricia Haynes
- Country Roads Veterinary Services – David Brennan
- Crank and Kirkpatrick Animal Hospital
- Danville Veterinary Clinic – Teresa Hoxworth
- Delaware Equine LLC – James Chase
- Diamond M Veterinary Clinic – Earnest Kearns
- East Holmes Vet Clinic
- Fayette Veterinary Hospital
- Green Camp Vet Clinic – Melissa Forshey
- Greenfield Vet – Michael Sims
- Healthy Pets of Wedgewood
- Heritage Veterinary Care
- Hillsboro Veterinary Hospital
- Hocking Hills Animal Clinic – Shannon Moore
- Holmes County Dog Warden

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

- Human Society of the United States – Corey Roscoe
- Karr Veterinary Clinic – Paul Karr
- Knox County Dog Warden
- Kolehmainen Veterinary Clinic – William Kolehmainen
- Lisbon Vet Clinic Inc. – Gordon Schmucker
- Little Puppies Online LLC – Nathan Bazler
- Masterson Veterinary Clinic – Rhonda Masterson
- MedVet Columbus
- Mogador Vet Hospital – David Whittington
- Mt. Hope Vet Services / Walnut Creek Veterinary Hospital – Joseph Varga
- Napoleon Veterinary Clinic
- Northgate Animal Hospital – Douglas Gibson
- Ohio Animal Welfare Federation – Colleen Evans
- Ohio Beef Council / Ohio Cattlemen’s Association – Elizabeth Harsh
- Ohio Belgian Breeders Association – Carolyn Piergallini
- Ohio Dairy Producers – Scott Higgins
- Ohio Ecological Food and Farm Association – Amalie Lipstreu
- Ohio Farm Bureau – Adam Sharp, Jack Irvin, Larry Antosh, Leah Curtis, Roger High, and Tony Seegers
- Ohio Farmers Union – Joe Logan
- Ohio Forum for Companion Animals
- Ohio Haflinger Association – Lucy Workman
- Ohio Harness Horsemen’s Association – Renee Mancino
- Ohio Percheron Breeder’s Association – Darlena Chettle
- Ohio Pork Producers Council – Bryan Humphreys
- Ohio Poultry Association – Jim Chakeres
- Ohio Quarter Horse Association – Scott Myers
- Ohio State University – Adam Ward, Dr. Jeanette O’Quinn, Peggy Hall
- Ohio Veterinarian Medical Association – Jack Advent and R. David Frash
- Ohio Welsh Pony Association – Paul Hurd

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

- Paw Patch Veterinary Services – Laurie Hirt
- Petco – Mike Gonidakis
- Pondview Veterinary Clinic
- Premier Pups LLC – Michael Schoeff
- Shawnee Animal Clinic – Angela Sherman
- Shelby Animal Clinic – John Knox
- Sierra Club, Ohio Chapter – Adam Rissien
- Sugarcreek Veterinary Clinic – Rick Daugherty, Shane Donley, and James Honigford
- The Plains Veterinary Hospital LLC – Ericka Ryan
- Tuscarawas County Dog Warden
- Twin Valley Animal Hospital LLC
- Twinsburg Vet Hospital – Stacy Lozanoff
- USDA – APHIS VS– Dr. Roger Krogwold and Dr. Susan Skorupski
- Walnut Hills Vet – Mark Parker
- Wayne County Dog Warden
- Whellersburg Animal Hospital Inc.
- Willard Veterinary Clinic
- Holmes Wayne Veterinary Services – Dr. Dennis Trautwein

Additionally, this rule originally was open for a CSI comment period from May 11, 2021 to June 2, 2021 and notice was provided to stakeholders via the CSI e-Notification system.

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

During the first stakeholder outreach comment period, the Department received comments regarding the changes made to the removal of dewclaws and tail docking and fly mitigation program. In response to received comments, the Department amended the rule to require tail docking to be performed by a licensed veterinarian and all suggested rule language regarding a fly mitigation program were incorporated. During the CSI comment period, the department received comments regarding the requirement for tail docking to be performed by a licensed veterinarian. In response to the received comments, the department has re-visited the requirement and is holding an additional CSI comment period.

11. 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?

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The United States Department of Agriculture regulations regarding the housing of dogs served as the starting point in drafting the original regulations. The proposed amended rules include input from veterinarians, members of the public, humane agents, animal rescue workers, dog breeders, and other interested parties.

12. 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?

Alternative regulations for this industry were not considered due to the prescriptive nature of the Ohio Revised Code. Furthermore, standards for the care of animals and equal opportunity for individuals entering the industry prohibit the use of alternative regulations.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

These rules are not performance-based due to the nature of the regulated industry. This rule package is primarily the standards of care for high volume breeders and by necessity these rules provide minimum standards of how breeders are to conduct their business.

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

The Department has sole regulatory authority over this area of industry.

15. 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.

The Department intends to provide educational outreach programs to educate the industry regarding the changes to the regulations. The Department also provides copies of the Ohio Revised Code and Ohio Administrative Code, as it pertains to the industry, with all new and renewal license applications. The administrative and field staff within the Animal Health division are also available for guidance to all industry members. The Animal Health division meets on a weekly basis to ensure consistency and predictability throughout the state for the regulated community.

Adverse Impact to Business

16. 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; and

All high volume dog breeders operating in the state of Ohio.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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

High volume breeders will have expenses to maintain certain levels of health monitoring and treatment for the dogs. The veterinary expenses will vary depending on the facility and necessary treatment for each animal.

- c. Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The required health monitoring and treatment for the dogs will vary greatly from breeder to breeder. This cost is dependent on the number of animals kept and the form of veterinary care needed.

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

The intention of this regulation is to provide regulatory framework for the standards of care for dogs and equal opportunities to those engaged in the regulated community. The adverse impacts are considered justified based on consistent regulation throughout the state of Ohio for this industry.

Regulatory Flexibility

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

Chapter 956 of the Revised Code does not grant an exemption or alternative means of compliance for small businesses.

- 19. 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 violators to educate them to correct any potential future violations.

- 20. What resources are available to assist small businesses with compliance of the regulation?**

The department has online resources and field staff available to provide assistance.