



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## Business Impact Analysis

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

Rule Contact Name and Contact Information: Renee Schmauch

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

Ohio Livestock Care Standards Board – Pain Management Amendments

Rule Number(s): 901:12-1-01, 901:12-1-03, 901:12-1-05, 901:12-6-02, 901:12-7-02, 901:12-8-02, and 901:12-13-02.

Date of Submission for CSI Review: 11/2/2023

Public Comment Period End Date: 11/27/2023

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ 7 rules (FYR? 7)

Rescinded/\_\_\_ rules (FYR?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.

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### **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.***

Rule 901:12-1-01 sets forth the definitions and general considerations that are used in the Chapter. This rule has been amended to change terminology.

Rule 901:12-1-03 states that all injectable euthanasia agents must be used by or under the direct supervision of a licensed veterinarian. This rule has been amended to change terminology.

Rule 901:12-1-05 outlines specific euthanasia methods for specific species. This rule has been amended to change terminology and clarify euthanasia methods for poultry.

Rule 901:12-6-02 outlines the livestock management practices of dairy cattle. The rule includes requirements that the animals be housed in a clean and safe environment. In addition, the rule outlines the housing structures utilized for dairy cattle. This rule has been amended to remove outdated language, require pain management for horn removal and disbudding, and further specify tail docking.

Rule 901:12-7-02 outlines the livestock management practices of beef cattle. The rule includes requirements that the animals be housed in a clean and safe environment. In addition, the rule outlines the housing structures utilized for beef cattle. This rule has been amended to require pain management for horn removal and disbudding.

Rule 901:12-8-02 outlines the livestock management practices of swine animals. The rule includes requirements that the animals be housed in a clean and safe environment. In addition,

the rule outlines the housing system standards for swine animals. This rule has been amended to require pain management for tusk trimming.

Rule 901:12-13-02 outlines the livestock management practices for goats. The rule includes requirements that the animals be housed in a clean and safe environment. This rule has been amended to require pain management for horn removal and disbudding.

- 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.**

Section 904.03 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 implements a federal requirement, but 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 Ohio Livestock Care Standards Board was established in 2009 and is tasked with creating state standards for the care and well-being of livestock in Ohio. The comprehensive livestock care standards developed by the OLCBS are meant to be practical for livestock producers of all sizes, scales and production methods and will not only assure better livestock care, but also supports the state's overarching goals of promoting safe and affordable food and helping to prevent the outbreak of both animal and human diseases.

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

The Department considers the rules successfully implemented when there is no increase in violations of the rules annually.

- 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.*

On June 6, 2023, the following stakeholders were emailed a copy of the proposed rules and the comment period remained open until June 21, 2023. These stakeholders represent statewide organizations and individuals with an interest in the division of Livestock Care Standard rules.

<b>Organization</b>	<b>Contact</b>	<b>Email</b>
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Ohio Belgian Breeders Association	Elizabeth Harsh	<a href="mailto:eharsh@ohiobeef.org">eharsh@ohiobeef.org</a>
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Ohio Harness Horsemen's Association	Renee Mancino	<a href="mailto:rmancino@ohha.com">rmancino@ohha.com</a>
Ohio Percheron Breeders Association	Darlana Chettle	<a href="mailto:darlenachettle@yahoo.com">darlenachettle@yahoo.com</a>
Ohio Pork Producers Council	Cheryl Day	<a href="mailto:cday@ohiopork.org">cday@ohiopork.org</a>
Ohio Poultry Association	Jim Chakeres	<a href="mailto:jchakeres@ohiopoultry.org">jchakeres@ohiopoultry.org</a>
Ohio Quarter Horse Association	Scott Myers	<a href="mailto:smyers@oqha.com">smyers@oqha.com</a>
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**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

During the stakeholder outreach comment period, the Ohio Livestock Care Standards Board received three comments. The first comment asked for consistency throughout the regulations when referring to “injectable euthanasia agents.” The second comment asked for clarification between euthanasia and depopulation methods. Both of these comments have been fully incorporated into the current drafts. The third comment supported the addition to the rule stating that tail docking is required to be deemed medically necessary for the individual animal.

**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?**

The rules have been drafted at the request of the Ohio Livestock Care Standards Board via the formation of a sub-committee of livestock experts in addition to industry members. The standards established are the collective work-product of sub-committee of experts.

**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 may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

The rules are well established in the agriculture community and achieve the statutory goal of protecting and promoting the welfare of all livestock; therefore, no alternative regulations were considered.

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

The Ohio Livestock Care Standards Board and the Department are given sole authority under Chapter 904 of the Revised Code.

**14. 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 rules are already implemented within the industry and the Department works with all stakeholders in order to educate and inform them of regulatory changes.

### **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

All owners and individuals responsible for the care of livestock in the state of Ohio.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*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.*

There is no license, registration, or permit fees associated with the rules. The rules outline general standards for livestock and are currently implemented through industry best management practices.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

No.

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

The Department and the Ohio Livestock Care Standards Board justify the adverse impact to industry due to the protection of the livestock well-being.

### **Regulatory Flexibility**

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

As the primary purpose of the rules is the promotion of the health, welfare, and safety of livestock in Ohio, there are no exemptions 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?**

There are no paperwork violations associated with these rules.

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

The rules are already implemented within the industry and the Department works with all stakeholders in order to educate and inform them on the regulations.