



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Renee Schmauch, Ohio Department of Agriculture

FROM: Michael Bender, Business Advocate

DATE: November 8, 2024

RE: CSI Review – Livestock Care Standards (OAC 901:12-2-01, 901:12-3-01 through 901:12-3-08, 901:12-4-01 through 901:12-4-04, 901:12-5-01 through 901:12-5-03, 901:12-6-01, 901:12-6-03, 901:12-7-01, 901:12-8-01, 901:12-8-03, 901:12-9-01 through 901:12-9-04, 901:12-10-01 through 901:12-10-04, 901:12-11-01 through 901:12-11-04, 901:12-12-01, 901 12-12-02, 901:12-13-01, 901:12-14-01 through 901:12-14-04, and 901:12-15-01 through 901:12-15-04)

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-five amended rules and nineteen no-change rules 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 September 27, 2024, and the public comment period was held open through September 6, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 6, 2024.

Ohio Administrative Code (OAC) 901:12-2-01 establishes the civil penalties that the Department may enact against an owner of livestock or a person who has custody or responsibility of livestock for violations against the standards created by its Livestock Care Standards Board as found in OAC Division 901:12. The rule is amended to update language and grammar. OAC 901:12-3-01 contains

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definitions pertaining to livestock care. The rule is amended to update language and grammar. OAC 901:12-3-02 requires that livestock receive sufficient feed and water to ensure normal body condition and/or growth. OAC 901:12-3-03 specifies general management standards for handling livestock. The rule is amended to update language and grammar. OAC 901:12-3-04 requires the euthanasia of livestock to be performed pursuant to OAC Chapter 901:12-1. OAC 901:12-3-05 provides for the proper maintenance of livestock health. The rule is amended to update grammar. OAC 901:12-3-06 provides for the proper transportation of livestock. The rule is amended to update language and grammar. OAC 901:12-3-07 declares that nothing in OAC Division 910:12 may be construed to prevent a licensed veterinarian from meeting the standards of ORC 4741 and the rules promulgated thereunder. OAC 901:12-3-08 declares the responsible parties who violate the provisions of OAC Chapter 901:12-3 are subject to the penalties in OAC Chapter 901:12-2.

OAC 901:12-4-01 requires ambulatory disabled, non-ambulatory disabled, and distressed livestock to have access to water and, if maintained for longer than twenty-four hours, feed. The rule is amended to update grammar. OAC 901:12-4-02 sets forth management standards for handling ambulatory disabled, non-ambulatory disabled, and distressed livestock. The rule is amended to update grammar. OAC 901:12-4-03 provides for the proper maintenance of ambulatory disabled, non-ambulatory disabled, and distressed livestock health. The rule is amended to update grammar. OAC 901:12-4-04 prohibits non-ambulatory disabled livestock from being loaded for transport to a non-terminal market or collection facility. OAC 901:12-5-01 contains definitions pertaining to veal. The rule is amended to update language and grammar. OAC 901:12-5-02 requires veal to have access to sufficient feed and water. The rule is amended to update grammar and typography. OAC 901:12-5-03 establishes management standards for handling veal calves. The rule is amended to update language and grammar as well as remove referenced dates that are no longer applicable. OAC 901:12-6-01 requires all newborn dairy cattle calves to be fed colostrum or a colostrum replacement within the first twenty-four hours of life. OAC 901:12-6-03 prohibits calves with navels that have not dried after birth from being loaded for transport to a terminal market, non-terminal market, or collection facility. The rule is amended to update grammar. OAC 901:12-7-01 requires all newborn beef cattle calves to be offered colostrum or colostrum replacement within the first twenty-four hours of life.

OAC 901:12-8-01 contains definitions pertaining to swine. OAC 901:12-8-03 requires the separation of a sow from all other animals and the protection of her litter during transportation. OAC 901:12-9-01 contains definitions pertaining to poultry layers. The rule is amended to update grammar. OAC 901:12-9-02 describes when water may be withheld from poultry layers. The rule is amended to update grammar. OAC 901:12-9-03 specifies management standards for handling poultry layers. The rule is amended to update language, grammar, and effective dates. OAC 901:12-9-04 requires the density in poultry conveyances to allow poultry layers to rest at the same time without being forced to rest on top of each other. OAC 901:12-10-01 contains definitions pertaining to poultry broilers and breeders. OAC 901:12-10-02 describes when water may be withheld from poultry broilers and

breeders. The rule is amended to update grammar. OAC 901:12-10-03 sets forth management standards for handling poultry broilers and breeders. The rule is amended to update language and grammar. OAC 901:12-10-04 requires the density in poultry conveyances to allow poultry broilers and breeders to rest at the same time without being forced to rest on top of each other. OAC 901:12-11-01 contains definitions pertaining to turkeys and turkey breeders. OAC 901:12-11-02 describes when water may be withheld from turkeys and turkey breeders. OAC 901:12-11-03 establishes management standards for handling turkeys and turkey breeders. The rule is amended to update language and grammar. OAC 901:12-11-04 requires the density in poultry conveyances to allow turkeys and turkey breeders to rest at the same time without being forced to rest on top of each other.

OAC 901:12-12-01 requires all newborn sheep lambs to be offered colostrum or a colostrum replacement within the first twenty-four hours of life. OAC 901:12-12-02 specifies management standards for handling sheep. The rule is amended to update language and grammar. OAC 901:12-13-01 requires all newborn goat kids to be offered colostrum or a colostrum replacement within the first twenty-four hours of life. OAC 901:12-14-01 contains definitions pertaining to alpacas and llamas. OAC 901:12-14-02 requires all newborn alpaca and llama crias to be offered colostrum or a colostrum replacement within the first twenty-four hours of life. OAC 901:12-14-03 sets forth management standards for handling alpacas and llamas. The rule is amended to update language and grammar. OAC 901:12-14-04 requires transport conveyances to provide enough space for camelids to be able to stand so their backs do not touch the top and so they can lie down at the same time. The rule is amended to update language. OAC 901:12-15-01 contains definitions pertaining to equine species. The rule is amended to update grammar. OAC 901:12-15-02 requires all newborn equine foals to be offered colostrum or a colostrum replacement within the first twenty-four hours of life. OAC 901:12-15-03 establishes management standards for handling equine species. The rule is amended to update language and grammar. OAC 901:12-15-04 provides for the proper transportation of equine species. The rule is amended to update language and grammar.

During early stakeholder outreach, the Department emailed copies of the proposed rules to stakeholders and solicited comments from February 15, 2024, to February 29, 2024. The stakeholders who were contacted included individuals affiliated with various statewide organizations, county agencies, veterinary clinics, animal hospitals, and other entities with an interest in livestock care standards. The Animal Welfare Institute (AWI) asserted that certain standards were outdated and in need of updates to be consistent with industry standards, best management practices, and generally accepted veterinary medical practices. The Department's Division of Animal Health reviewed the comments but did not believe that any changes were warranted. During the CSI public comment period, the Department received comments from the AWI restating its request from the early stakeholder outreach period for various changes, particularly with respect to protections for non-ambulatory disabled farm animals, fitness for transport standards, and space allowances for birds. Additionally, 199 individuals submitted comments in support of the AWI's proposals. The

Department opted not to accept these suggestions, assuring the AWI that the standards were consistent with the American Veterinary Medical Association's guidelines on euthanasia. However, the Department did determine to make grammatical and technical corrections to the rules.

The business community impacted by the rules includes all owners and individuals responsible for the care of livestock in Ohio. The adverse impacts created by the rules include the standards that must be achieved with respect to feed and water access, best management practices done in a humane manner, species-specific biological needs, and a clean and safe environment that promotes the health, welfare, and performance of the animals. The Department states that the adverse impacts to business are justified to implement statutory requirements, keep Ohio's food and agriculture industry vibrant and strong, and assure the care and wellbeing of the state's livestock.

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.