

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Animal Exhibition Requirements

Rule Number(s): 901:1-18-(01-11)

Date: October 2, 2017

Rule Type:

New

Amended

5-Year Review

Rescinded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.

Regulatory Intent

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

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

The rules in Chapter 901:1-18 of the Ohio Administrative Code outline the rules and requirements for animals which are imported into or moved within Ohio for exhibition purposes. Pursuant to section 941.02 of the Revised Code, the Department, through the Chief of the Division of Animal Health, shall promote and protect the livestock, poultry, and other animal interests of the state, prevent the spread of dangerously contagious or infectious disease, provide for the control and eradication of such disease, and to cooperate with the United States department of agriculture in such work. The rules of this chapter meet this directive. More specifically, the rules outline the disease testing requirements as well as proof of ownership of all animals coming into Ohio. These rules are necessary in ensuring that all animals in the state of Ohio remain disease free. The rules have been reviewed in accordance with Chapter 119 of the Revised Code and are being proposed as follows:

OAC Rule 901:1-18-01 states that animals when moved within or imported into Ohio solely for exhibition purposes shall comply with the rules of the Chapter.

OAC Rule 901:1-18-02 sets forth the definitions as used in the Chapter. The rule is being amended to alphabetize the defined terms. Further, statutory definitions for “contagious or infectious disease,” licensed and accredited veterinarian,” and “residue” have been added to the rule.

OAC Rule 901:1-18-03 requires that all exhibition sponsors have an approved veterinarian for the duration of the exhibition. Further, the rule requires that the exhibition shall inspect both animals and their required paperwork that enter the exhibition, maintain records, and order the immediate removal of any animal which places other animals at an unacceptable risk of disease. The rule is being amended to make stylistic changes which do not impact the substance of the rule.

OAC Rule 901:1-18-04 requires that no exhibitors shall show an animal which they have reason to suspect is infected with or has been exposed to a contagious or infectious disease. The rule is being amended to make stylistic changes which do not impact the substance of the rule.

OAC Rule 901:1-18-05 outlines the disease testing requirements for poultry animals entering into an exhibition. The rule is being amended to make stylistic changes which do not impact the substance of the rule.

OAC Rule 901:1-18-06 has been rescinded and replaced due to the Legislative Service Commission’s guideline on administrative rule drafting. The rule states that no cattle shall be

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moved within Ohio that show symptoms or evidence of an infectious and contagious disease. Further, all imported cattle for exhibition purposes must comply with OAC 901:1-17-03 of the Administrative Code.

OAC Rule 901:1-18-07 has been rescinded and replaced due to the Legislative Service Commission's guideline on administrative rule drafting. The rule states that no goats shall be moved within Ohio that show symptoms or evidence of an infectious and contagious disease. Further, all imported goats for exhibition purposes must comply with OAC 901:1-17-06 of the Administrative Code.

OAC Rule 901:1-18-08 has been rescinded and replaced due to the Legislative Service Commission's guideline on administrative rule drafting. The rule states that no equidae shall be moved within Ohio that show symptoms or evidence of an infectious and contagious disease. Further, all imported equidae for exhibition purposes must comply with OAC 901:1-17-07 of the Administrative Code.

OAC Rule 901:1-18-09 has been rescinded and replaced due to the Legislative Service Commission's guideline on administrative rule drafting. The rule states that no sheep shall be moved within Ohio that show symptoms or evidence of an infectious and contagious disease. Further, all imported sheep for exhibition purposes must comply with OAC 901:1-17-08 of the Administrative Code.

OAC Rule 901:1-18-10 has been rescinded and replaced due to the Legislative Service Commission's guideline on administrative rule drafting. The rule states that no swine shall be moved within Ohio that show symptoms or evidence of an infectious and contagious disease. Further, all imported swine for exhibition purposes must comply with OAC 901:1-17-09 of the Administrative Code.

OAC Rule 901:1-18-11 has been rescinded and replaced due to the Legislative Service Commission's guideline on administrative rule drafting. The rule states that no camelids shall be moved within Ohio that show symptoms or evidence of an infectious and contagious disease. Further, all imported camelids for exhibition purposes must comply with OAC 901:1-17-15 of the Administrative Code.

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

R.C. 901.19, 941.03, 941.10

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?

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

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The rules in this chapter assist in implementing the United States Department of Agriculture animal disease traceability requirements. Generally, animal disease traceability allows the agency to know where diseased and at-risk animals are and where they have been. This allows the agency to effectively pinpoint where the disease originated and reduces the time needed to respond to the emergency. By doing so it reduces the number of animals and animal owners affected by the disease and the economic costs associated with it.

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

The proposed regulations do not exceed the federal requirements.

5. 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 Director of Agriculture has the authority to use all proper means in the prevention and eradication of infectious and contagious diseases amongst domestic animals. Animal disease traceability, or knowing where diseased and at-risk animals are, where they've been, and when, is very important to ensure a rapid response when animal disease events take place. An efficient and accurate animal disease traceability system helps reduce the number of animals involved in an investigation, reduces the time needed to respond, and decreases the cost to producers and the government.

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

The Department will measure success in the lack of violations and the lack of disease outbreaks in the state.

Development of the Regulation

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

On September 6, 2017, the rules were sent to the following stakeholders:

Ohio Farm Bureau	Adam Sharp
Ohio State University	Adam Ward
Ohio Ecological Food and Farm Association	Amalie Lipstreu
The Nature Conservancy	Anthony Sasson
Capitol Consulting	Belinda Jones
Ohio Pork Producers Council	Bryan Humphreys
Ohio Belgian Breeders Association	Carolyn Piergallini

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Humane Society of the United States	Corey Roscoe
Ohio Percheron Breeders Association	Darlena Chettle
The Ohio State University	Dr. Jeanette O'Quinn
USDA – APHIS	Dr. Roger Crogwold
USDA – APHIS	Dr. Susan Skorupski
Ohio Beef Council/Ohio Cattlemen’s Association	Elizabeth Harsh
Ohio Veterinarian Medical Association	Jack Advent
Ohio Farm Bureau	Jack Irvin
Sierra Club, Ohio Chapter	Jennifer Miller
Ohio Harness Horsemen’s Association	Jerry Knappenberger
Ohio Poultry Association	Jim Chakeres
Ohio Farmers Union	Joe Logan
Environmental Defense Fund	Katie Champan
Ohio Farm Bureau	Larry Antosh
Ohio Farmers Union	Linda Borton
Ohio Haflinger Association	Lucy Workman
Environmental Law & Policy Center	Madeline Fleisher
Ohio Veterinarian Medical Association	Michelle Holdgreve
Ohio Welsh Pony Association	Paul Hurd
Ohio Dairy Producers	Scott Higgins
Ohio Quarter Horse Association	Scott Myers
Ohio Farm Bureau	Tony Seegers
ASPCA	Vicki Deisner
Ohio Farm Bureau	Yvonne Lesicko
Former State Veterinarian	David Glauer
Capitol Advocates	Rob Eshenbaugh
Ohio Farm Bureau	Leah Curtis

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

The Department did not receive any input from the stakeholders. As there were no comments received during the time period allotted, the Department assumes that the stakeholder groups were supportive of this rule package.

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?

Years of scientific research has gone into establishing the regulatory framework of these rules. Further, firsthand experience with wide-spread disease outbreaks furthers the importance of these rules. For example, recent outbreaks of avian influenza and porcine

epidemic diarrhea (PED) virus have caused multi-billion dollar impacts to the national economy. This research and experience justify any adverse impact of these 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 Department is statutorily tasked with the control and eradication of contagious and infectious diseases to protect the livestock interests of the state. The standards that are contained in these rules are based on scientific research and in most cases are nationally accepted. 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. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The rules in this chapter are for the most part procedural in nature, providing the framework for import requirements of all animals. These requirements include testing for and annotating the presence or non-presence of certain diseases on the certificate of veterinary inspection and potential quarantine upon arrival.

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

The Department is given sole regulatory authority over the importation of animals into the state through R.C. 941.03.

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.

These rules are already implemented within the industry and the Department works with all livestock dealers to educate and inform them on the safety regulations. Additional education and outreach will be performed with the affected communities of the changes by the Animal Health Division. The staff members of the Animal Health Division ensure that all livestock dealers in Ohio are treated in a similar manner.

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 wishing to move within or import any animal into the state of Ohio for exhibition purposes.

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

There are no license fees or fines associated with this rule. However, individuals that wish to import any animal into Ohio must have a Certificate of Veterinary Inspection and meet all testing requirements applicable to the animal. Any animal which tests positive for a contagious or infectious disease would be prohibited from importation. Further, should an animal later test positive to such a disease the animal would be subject to removal, quarantine, or destruction.

c. Quantify the expected adverse impact from the regulation.

All costs for testing, paperwork, and treatment, which will vary on the location and the individual veterinarian providing the services.

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

As stated previously, the Department shall promote and protect the livestock, poultry, and other animal interests of the state, prevent the spread of dangerously contagious or infectious disease, provide for the control and eradication of such disease. The potential impact of a large scale animal disease outbreak would be devastating. For example, in 2015 an outbreak of avian influenza was identified throughout the Midwest. In a short period of time, over 30 million birds were lost due to the disease. According to the Iowa Farm Bureau Federation, the state of Iowa suffered an economic hit of \$1.2 billion and lost over 8,000 jobs. These rules hope to achieve a disease free Ohio and ensure that Ohio's number one industry, Agriculture, remains strong, healthy, and viable in the future.

Regulatory Flexibility

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

As these are health and safety regulations involving all livestock in the state of Ohio, exemptions or alternative means of compliance for small businesses are not applicable.

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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?

Due to the serious impact an infected animal may have on Ohio's animal industry, individuals who bring animals into the state in violation of these rules must either remove the animal from the state or have it destroyed. The Department works with these individuals to provide them further education on the rules and requirements for the importation of animals.

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. Training and seminars are also available.