



# 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:

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

Livestock Care Standards Board – Rule Amendment

Rule Number(s): 901:12-6-02

Date of Submission for CSI Review: January 6, 2021

Public Comment Period End Date: January 29, 2021

Rule Type/Number of Rules:

New/\_\_\_ rules

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

Amended/\_1\_ rules (FYR? \_0\_)

Rescinded/\_\_\_ rules (FYR?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):**

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- 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 901:12-6-02 outlines the livestock management practices of dairy cattle. The rule includes requirements that animals be housed in a clean and safe environment. In addition, the rule outlines the housing structures utilized for dairy cattle.

- 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.**

Revised Code 904.03.

- 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.

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- 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)?**

In November 2009, Ohio voters passed State Issue 2 approving the creation of the Ohio Livestock Care Standards Board. The board was charged with creating state standards for the care and well-being of livestock in Ohio.

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

The Department considers the rule successful 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.*

The following stakeholders were contacted via email on November 27, 2020:

Lynette Arner – Ohio Livestock Care Standards Board Member

Brad Garrison – Ohio Livestock Care Standards Board Member

Bryan Black – Ohio Livestock Care Standards Board Member

Cy Prettyman – Ohio Livestock Care Standards Board Member

Daniel Frobose – Ohio Livestock Care Standards Board Member

Dr. Cathann Kress – Ohio Livestock Care Standards Board Member

James Tomaszeki, Jr. – Ohio Livestock Care Standards Board Member

Jerry Lahmers – Ohio Livestock Care Standards Board Member

Kimberly McConville – Ohio Livestock Care Standards Board Member

Lisa Bielke – Ohio Livestock Care Standards Board Member

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Ron Seitz – Ohio Livestock Care Standards Board Member

William Knapke – Ohio Livestock Care Standards Board Member

Dr. Tony Forshey – Ohio Department of Agriculture

Cheryl Day – Ohio Pork Producer’s Council

Elizabeth Harsh – Ohio Cattlemen’s Association

Jim Chakeres – Ohio Poultry Association

Scott Higgins – Ohio Dairy Association

Roger High – Ohio Farm Bureau Federation

**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, no comments were received on this amended rule.

**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?**

In 2011, the Department, member of the industry, and the public worked to develop the Livestock Care Standards rules from a variety of sources and the end-product reflects the industry’s current best management practices for livestock care.

**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?**

At this time, no alternative regulations were considered by the Department. The amendment to the rule is for clarification purposes.

**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.***

This rule is performance-based as it defines the required outcome but does not dictate the process. An example of this is the housing requirements found in the rule.

**14. 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 to regulate and adopt these standards under Chapter 904 of the Revised Code.

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**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.**

This rule is already implemented within the industry and the Department works with all stakeholders in order to educate and inform them of the regulations.

**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 owners and individuals responsible for the care of dairy cattle in the state of Ohio.

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

There is no license, registration, or permit fee associated with this rule. The rule outlines general standards to provide access to feed and water, provide a clean and safe environment that promotes the health, welfare, and performance of the animals, and to perform management practices in a humane manner.

**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 farmers in Ohio already meet the best management practices of this rule. This rule does not have a cost of compliance associated with it.

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

As stated above, in November 2009, Ohio voters passed State Issue 2 approving the creation of the Ohio Livestock Care Standards Board. The board was charged with creating state standards for the care of well-being of livestock in Ohio.

**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 the state of Ohio, there are no exemptions or alternative means of compliance for small businesses.

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**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 this rule.

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

This rule is already implemented within the industry and the Department works with all stakeholders in order to educate and inform them of the regulations.