

**Rule Summary and Fiscal Analysis (Part A)****Department of Agriculture**

Agency Name

**Livestock Care Standards Board**

Division

**Howard Henry**

Contact

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**901:12-9-03**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Management.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB414**General Assembly: **128**Sponsor: **Sayre & Bolon**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **904.03**

5. Statute(s) the rule, as filed, amplifies or implements: **904.03**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule sets the standards for poultry layers as approved by the Livestock Care Standards Board.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rules sets the standards for poultry layers management practices.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

This rule package was refiled in order to clarify the "existing farm" definition in 901:12-9-01 and add an additional section to 901:12-9-03 clarifying the ability of farmers to rebuild poultry housing after a disaster.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.0

The rule is expected to have minimal fiscal impact on the department during the current biennium. Any civil penalties assessed and collected for violations are required by statute to be paid into the general revenue fund; while the department has authority to recover the costs of investigating violations in some circumstances, it is expected that this would be pursued only in the more extreme circumstances and is not anticipated to have significant budgetary impact. Expenditures as a result of these rules will be due to investigation and enforcement actions. It is anticipated that such expenditures will be incorporated into the existing enforcement budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

This rule provides that battery cage housing systems for laying hens must provide a minimum average cage space sixty-seven square inches per hen, which is already the industry-wide standard established by the United Egg Producers. In Ohio, approximately 25 million egg-laying hens are raised in battery-cage systems, and the large majority of those 25 million hens are currently housed in battery cages that already provide the minimum of sixty-seven square inches per hen. As such, this rule will have no impact on the majority of Ohio's egg industry.

For those remaining battery cage systems that were installed prior to the effective date of this rule, and do not yet provide sixty-seven square inches per hen, the producer is provided with five years from the effective date of the rule to phase-in the conversion. It is estimated that approximately 1,000,000 hens in Ohio's total caged-layer flock are raised in systems which provide fifty-eight square inches per bird. The most likely route to meet the new cage space requirements will be to reduce the number of hens per cage, thus increasing the average cage space for each hen. By increasing the average cage space to sixty-seven square inches per bird, the converting barns will have a 13.4% reduction in housing capacity or house 866,000 hens. According to industry estimates, if the number of layers is kept steady, the

increased cost to construct new facilities (cages and barns) to house the 134,000 displaced hens is approximately \$12 per bird, or \$1.6 million

This rule also provides that properties not currently housing hens may not construct battery cage systems. Instead, those properties must install cages with additional provisions for the hens, often referred to as "enriched" systems. Due to the additional provisions required by enriched cage systems and the cage space occupied by the provisions; the cages will either be physically larger to house the same number of hens per cage or the number of hens per cage will be reduced. The estimated cost to construct an enriched system, including barn, is estimated to be approximately \$28 per hen.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**