



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio State Racing Commission

Rule Contact Name and Contact Information:

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

Chapter 15 New and Amended Rules

Rule Number(s): Amended Rules 3769-15-04, 11, 16, 19, 30, 32, 33 New Rule 3769-15-09

Date of Submission for CSI Review: 10/23/20

Public Comment Period End Date: 11/23/20

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR? Yes)

Amended/ rules (FYR?)

Rescinded/ rules (FYR?)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.

Reason for Submission

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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.

3769-15-04 This rule requires the name of all the owners and the judges make require proof of ownership. The amendment allowed for entries by a computerized method approved by the commission. It does not require the name of every owner which is now obsolete

3769-15-09 This rule required approval of entries. The amendment is to eliminate provisions which are no longer relevant.

3769-15-11 This rule states requirements for identification of a horse and when mares are bred. The amendment states the fillies and mares bred list must be in the paddock. Also, the mare certificate can be provided to the permit holder in a computer system.

3769-15-16 This rule states conditions when a horse cannot be entered into a race. The amendment is to correct the name of the list from the Stewards List to the Judges List

3769-15-19 This rule requires certain information in a racing entry. The amendment allows entries to be received by the permit holder through a computer system approved by the Commission.

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3769-15-30 This rule states the criteria to determine which horse can be entered into a race. The amendment allows entries through a computer system. It also allows persons to be present when the entry box is opened. Also, drivers can only be changed by the owner, trainer or authorized agent.

3769-15-32 The rule discusses when a horse is placed on the Judges List and the requirements to have the horse removed from the Judges List. The amendments clarify the requirements when a horse is removed from the Judges List. It also states a horse can only qualify on a permit holder's track.

3769-15-33 The rule requires the permit holder shall designate an employee as a Program Director. It also states what information that must be listed in the race program. The amendment gives the Judges more options for sanctions when a licensee makes a frivolous ownership claim.

- 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.**

3769.03

- 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.**

There are no federal requirements

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

There are no federal requirements

- 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)?**

These regulations are necessary to conduct horse racing in an orderly manner.

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

These rules have been in place for some time and the Commission believes the success of these rules has been demonstrated.

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.

The primary stakeholders are the seven commercial permit holders and members of the horsemen's association who are required to implement and/or follow these rules.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The stakeholders were sent the rules by e-mail on July 29,2019

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

These rules were provided to the industry for comments. The Ohio Harness Horsemen Association recommended most of these rule changes. No other stakeholder objected to these changes.

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?

No additional scientific data was used to develop these rules.

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?

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No alternative regulations were considered as these rules have been in existence for several years and no changes were found to be warranted by stakeholders or the commission.

- 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.***

No, these regulations require permit holders to follow a consistent set of rules to be eligible to enter a race.

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

No other agency regulates horse racing in Ohio; therefore, no duplication will occur.

- 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.**

The Commission has employees at all commercial tracks to ensure compliance with these rules.

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**

The scope of the impacted business community includes the seven-commercial permit holders in Ohio and the licensees associated with horse racing.

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

3769-15-04 The permit holder and a licensee could be fined or suspended for not following this rule.

3769-15-09 A horse may not be able to race if it does not show up at the race track three hours before the race.

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3769-15-11 A horse may not be able to race if an entry does not have all the required information. The permit holder and a licensee could be fined or suspended for not following this rule.

3769-15-16 A horse would not be able to race. The permit holder and a licensee could be fined or suspended for not following this rule.

3769-15-19 A horse may not be able to race if an entry does not have all the required information. The permit holder and a licensee could be fined or suspended for not following this rule.

3769-15-30 The permit holder and a licensee could be fined or suspended for not following this rule.

3769-15-32 The judges and a licensee could be fined or suspended for not following this rule.

3769-15-33 The permit holder and the program director could be fined or suspended for not following this rule.

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.

3769-15-04 If the horse cannot race, it could cost the owner thousands of dollars in prize money. The permit holder could be fined one thousand dollars and could be suspended up to one year for violating this rule.

3769-15-09 If the horse cannot race, it could cost the owner thousands of dollars in prize money.

3769-15-11 If the horse cannot race, it could cost the owner thousands of dollars in prize money. The permit holder could be fined one thousand dollars and could be suspended up to one year.

3769-15-16 If the horse cannot race, it could cost the owner thousands of dollars in prize money. The permit holder could be fined one thousand dollars and could be suspended up to one year.

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3769-15-30 If the horse cannot race, it could cost the owner thousands of dollars in prize money. The permit holder and a licensee could be fined one thousand dollars and could be suspended up to one year.

3769-15-32 If the horse cannot race, it could cost the owner thousands of dollars in prize money. The judges and a licensee could be fined one thousand dollars and could be suspended up to one year.

3769-15-33 The permit holder and a program director could be fined one thousand dollars and could be suspended up to one year.

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

3769-15-04 The Commission needs to know who has an ownership interest in the horse to ensure the owner is licensed by the Commission and to ensure individuals who are ineligible for a license does not own a horse and could make a profit from horse racing

3769-15-09 The horse needs to be at the track three hours before the race to ensure the horse is healthy enough to race by being examined by the track veterinarian. The Commission needs to ensure unhealthy horses do not enter a race in Ohio.

3769-15-11 The betting public needs to know that the horse they are placing a bet on has been properly identified .

3769-15-16 A horse with certain conditions should not be allowed to enter a race.

3769-15-19 There needs to be a person who receives the entries. There needs to be certain information to ensure each horse is properly identified

3769-15-30 There needs to be a system to decide which horse can enter a race. Also, if a horse cannot enter a certain race, it would have preference to enter another race

3769-15-32 There needs to be a system for the Judges to ensure only healthy horses enter a race.

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3769-15-33 The betting public needs certain information to make an informed choice on which horse to make a wager.

Regulatory Flexibility

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

No, this regulation applies to only seven commercial race track permit holders; therefore, an exemption for small businesses is not applicable.

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?

R.C. 119.14 is not applicable.

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

The Commission website at www.racingohio.net

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900