

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 16

Rule Number(s): 3769-16-24 Amended Rule; 3769-16-03, 05, 12, 15, 27 No Change

Rules \_\_\_\_\_

Date: September 6, 2018

These rules are one amended rule and five no-change rules and may be found by accessing the Commission's website at [www.racingohio.net](http://www.racingohio.net).

**Rule Type:**

New

5-Year Review

Amended

Rescinded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.

3769-16-24 controls the start of a horse race.

3769-16-03 states the requirements to claim a horse

3769-16-05 states the time to make a claim and where claims are to be placed

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3769-16-12 states the horse can be put into another claiming race for the same price and which claiming race a horse can be placed if the horse is scratched from a previous race.

3769-16-15 No person shall offer or enter into an agreement to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race, or any owners starting horses in a claiming race who make an agreement for the protection of each other's horses.

3769-16-27 states requirements when horses are on the track before the start of a race

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

R.C. 3769.03

**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?**

No, it is not part of any federal program

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

These rules are not part of any federal requirement or program

**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)?**

3769-16-24 there is a need to be procedures to have an orderly start of a horse race. There needs to be a clear point for the start of the race

3769-16-03, 3769-16-05, 3769-16-12, and 3769-16-15 these rules state the requirements and procedures to claim a horse and to race the horse once it is claimed.

3769-16-27 discusses the procedures before a race.

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

3769-16-24 there would be orderly starts to a race and the participants and the public know where the starting point is located

3769-16-03, 3769-16-05, 3769-16-12, 3769-16-15 and 3769-16-27 These regulations have been in place for some time and the Commission believes the success of these regulations has been demonstrated.

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## Development of the Regulation

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

The stakeholders include the seven commercial permit holders and horsemen's racing associations.

- 8. 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.

Regarding 3769-16-24, the stakeholders commented there is no longer a rail at standardbred tracks. The proposed changes would eliminate the rail language. It uses United States Trotting Association (USTA) language regarding a distinctively colored pole which is two feet above the pylons.

The permit holders wanted changes to the claiming rules (3769-16-03, 3769-16-05, 3769-16-12, 3769-16-15). The horsemen did not recommend the change. The Commission believes claiming horses is beneficial to the racing industry.

3769-16-27 is a no change rule that was mistakenly omitted from a previous no change 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?**

No additional scientific data was used to develop this rule.

- 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 commission considered comments from permit holders regarding the claiming rules (3769-16-03, 3769-16-05, 3769-16-12, 3769-16-15) but did not believe their changes would be beneficial to the racing industry.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain.**

No, this regulation requires permit holders and licensees to follow consistent rules.

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

No measures were taken because no other Ohio agency regulates horse racing. Therefore, no duplication will occur.

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**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.**

3769-16-24 The Commission has employees at all the commercial tracks. These employees will make sure the starting pole is a distinctive color and at least two feet above the pylons.

3769-03, 3769-16-05, 3769-16-12, 3769-16-15 and 3769-16-27 The regulation has been implemented for several years at all permit holders. The Commission has employees at all the commercial tracks who can ensure these regulations are applied consistently and predictably for the regulated community

**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;**

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

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

3769-16-24 The adverse impact is the cost to paint a pole and make sure it is two feet above the pylons.

3769-16-03 The adverse impact is the time to fill out the claim forms and to provide a photocopy of your license.

3769-16-05 The adverse impact is the permit holder must provide a locked box. The permit holder must have employees that process the claims.

3769-16-12 The adverse impact is the owner of horse that is scratched from a claiming race is limited as to the next race the horse can enter.

3769-16-15 The adverse impact is a person caught violating this rule can be fined and/or suspended.

3769-16-27 The adverse impact is a person caught violating this rule can be fined and/or suspended.

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**c. Quantify the expected adverse impact from the regulation.**

3769-16-24 Less than one hundred dollars

3769-16-03 Less than five minutes to fill out the claim form

3769-16-05 The box is less than fifty dollars. The permit holders employee has other duties in addition to processing claims

3769-16-12 One thousand dollars or less.

3769-16-15 The person could be fined up to one thousand dollars and be suspended up to fifteen days

3769-16-27 The person could be fined up to one thousand dollars and be suspended up to fifteen days

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

3769-16-24 There needs to be a clear starting point so the race is fair to all participants. The racing public knows the starting point of a horse race.

3769-16-03 There needs to be a clear procedure to claim a horse.

3769-16-05 There needs to be a clear procedure to claim a horse.

3769-16-12 There needs to be a clear procedure to enter a horse that is claimed into its next race.

3769-16-15 All persons who file a claim should have the same chance to claim a horse. No person should have an unfair advantage by agreement with others.

3769-16-27 There needs to be a clear procedure when horses are on the race track and to start a race

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## Regulatory Flexibility

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

No, this regulation applies to seven commercial race track permit holders. It also applies to every licensee to apply these rules to all licensees.

**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?**

R.C. 119.14 is not applicable.

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

The Commission website at [www.racingohio.net](http://www.racingohio.net)

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900

The Deputy Director at [Michael.Rzymek@racing.ohio.gov](mailto:Michael.Rzymek@racing.ohio.gov)