

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 9 NO CHANGE RULES 2016

Rule Number(s): 3769-9-01, 02, 03, 04, 05, 06, 07, 08, 09, 99

Date: May 2017

These are no-change rules and may be found by accessing the Commission's website at www.racingohio.net or through LA Writer at <http://codes.ohio.gov/oac/3769-6>.

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Rescinded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.

3769-9-01 defines the rules governing short distance racing in the state of Ohio.

3769-9-02 defines the length of short-distance racing, i.e., quarter-mile and shorter races in Ohio.

3769-9-03 defines the registration requirements for horses to race in short distance races in Ohio.

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3769-9-04 defines the requirement of every horse in a short-distance race to maintain a straight path once the race has started.

3769-9-05 defines whip restrictions in short-distance races in Ohio.

3769-9-06 defines qualifying standards for short-distance racing in Ohio.

3769-9-07 defines the American Quarter Horse chart book in Ohio.

3769-9-08 defines the official stud book for the American Quarter Horse.

3769-9-09 defines the Ohio Quarter Horse Development Fund; the requirements for owners and American Quarter Horse stallions used for breeding in the state of Ohio.

3769-9-99 defines penalties the Ohio State Racing Commission may impose.

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, the commission is the only entity that regulates horse racing in Ohio.

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

The Commission is the only entity that regulates horse racing in Ohio. The Commission is charged with ensuring the integrity of horse racing in this state. Administrative Rules are promulgated pursuant to the Commission's statutory obligation to regulate this industry.

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)?

These regulations protect race participants and the wagering public by outlining the requirements for owners, lessees and jockeys who engage in short-distance racing and the breeding of the American Quarter Horse for racing in the state of Ohio.

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

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These regulations have been in place for some time and the Commission believes the success of the regulation has been demonstrated, as qualifications must be met in order to conduct races on a fair and level playing field.

Development of the Regulation

7. 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 pertaining to starting. As these rules have been in existence, in their current form, for decades, the Commission voted to submit the rules at a public business meeting.

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 and no comments were received for suggested changes. These are rules the commission chose to not change based on no input from stakeholders.

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 these rules, as they have been in place for decades in the horseracing industry in Ohio.

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?

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

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

No, these regulations require permit holders, owners, trainers, and jockeys to follow a consistent set of rules for starting.

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 agency regulate horse racing in Ohio, therefore no duplication will occur.

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.

The regulations have been implemented for several years to all commercial tracks in Ohio and no changes were made since no concerns were voiced by the stakeholders.

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 the seven commercial race track 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

3769-9-01 The adverse impact is the time needed by the stewards to determine if the rules of the American Quarter Horse Association may need to take precedence over the rules of the Ohio State Racing Commission only in extraordinary circumstances.

3769-9-02 The adverse impact is when races are conducted at a distance of less than a quarter of a mile, the jockeys and stewards will have to make a mental note of the difference in the finish line, which would be considerably shorter than in a standard quarter-mile event.

3769-9-03 The adverse impact is the time and money it takes to properly register and license a horse and owners, trainers and jockeys with both the Ohio State Racing Commission and the American Quarter Horse Association.

3769-9-04 The adverse impact is that it behooves every jockey to maintain a straight path once the race has started for safety reasons and as well, the stewards watching the race must be uber-diligent in policing the race in a very short amount of time. This is not an easy task to survey eight, nine or more horses in a very short amount of time.

3769-9-05 The adverse impact for not allowing whips to be carried on 2-year-old horses or a horse making its first start, unless the stewards give permission to do so, is that whips are a tool, and used properly, by a professional, can deter a horse from bolting or shying and causing an accident or harm to itself, its rider and/or bystanders, which can result in monetary loss and possibly thousands of dollars in hospital and/or veterinary services.

3769-9-06 The adverse impact for the two-race qualifying standards for short-distance racing in Ohio is the time it takes to prepare a horse for a short-distance race and the time in between the first and second qualifier and the possibility of a third qualifier being requested by the stewards. During this process, the horse—via its daily training regime—can incur bills costing hundreds to thousands of dollars to the owner.

3769-9-07 The adverse impact for the Quarter Horse chart book is the time it takes for a person to record the data in the chart form/book.

3769-9-08 The adverse impact of having one official stud book for the American Quarter Horse is that it does not allow for another breed of horse to participate in short-distance races in Ohio.

3769-9-09 The adverse impact is the many Ohio-restrictive requirements for owners and American Quarter Horse stallions used for breeding in the state of Ohio. These restrictions thus prevent anyone from outside the state bringing in a horse to race or breed until he/she has fully complied with the restrictions imposed.

3769-9-99 The adverse impact is to the owners, trainers and jockeys in fines and/or suspensions that could be assessed based on the penalty perpetrated and could be thousands of dollars.

c. Quantify the expected adverse impact from the regulation.

3769-9-01 Stewards are generally paid from \$250 to \$400 per program to determine if the rules of the American Quarter Horse Association may need to take precedence over the rules of the Ohio State Racing Commission only in extraordinary circumstances.

3769-9-02 Races contested at a distance of less than a quarter of a mile may or may not offer a purse much less than those conducted at the standard quarter-mile distance, thus the monetary impact to the owner, trainer and jockey will be felt.

3769-9-03 Registering and licensing horses, owners, trainers and jockeys with both the Ohio State Racing Commission and the American Quarter Horse Association can cost up to a few hundred dollars.

3769-9-04 Jockeys who fail to maintain a straight path once the race has started could be assessed fines from hundreds to thousands of dollars. As well, a jockey who causes an accident for failing to maintain a straight path could cause extensive monetary damage to other riders, trainers, and owners.

3769-9-05 Fines could be assessed to a jockey who opts to carry a whip on 2-year-old horse or a horse making its first start, unless the stewards give permission to do so.

3769-9-06 Training costs range from \$75 per day and upwards and the time it takes to prepare a horse to race and the time in between qualifying can cost an owner from hundreds to thousands of dollars.

3769-9-07 The average cost to maintain the Quarter Horse chart/form book is the salary paid to the person who is importing the data into it.

3769-9-08 The average cost to print and maintain one official stud book for the American Quarter Horse could be several thousand dollars.

3769-9-09 Residing in the state of Ohio, registering to vote and providing property tax records are all significant cost for owners of American Quarter Horses wishing to race in Ohio ranging into thousands of dollars. As well, costs for keeping and registering a stallion can cost thousands of dollars.

3769-9-99 Fines in the hundreds and thousands of dollars are imposed on persons not complying with Ohio State Racing Commission and American Quarter Horse Association rules which can several compromise their ability to make a living and maintain their horses/stable for racing purposes.

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

3769-9-01 The adverse impact is justified because Stewards are necessary to ensure that horse racing is carried out with the upmost integrity.

3769-9-02 The adverse impact is justified because of the varying differences in the lengths of races for American Quarter Horses.

3769-9-03 The adverse impact is justified because registering and licensing horses, owners, trainers and jockeys with both the Ohio State Racing Commission and the American Quarter Horse Association ensures that all participants are on a level playing field and are qualified to participate in the sport.

3769-9-04 The adverse impact is justified because to ensure safety of all participants, jockeys must keep their horses on a straight path from start to finish.

3769-9-05 The adverse impact is justified because the public perception of using a whip on a young horse has negative ramifications for the sport.

3769-9-06 The adverse impact is justified because a horse must be of a certain ability in order to participate in races.

3769-9-07 The adverse impact is justified because a chart/form book is necessary to assess the performance of the participating horses.

3769-9-08 The adverse impact is justified because the official stud book for the American Quarter Horse is a necessary informational tool for breeders, trainers, owners and jockeys.

3769-9-09 The adverse impact is justified to ensure that all participants—human and equine—in racing are residents of state of Ohio.

3769-9-99 The adverse impact is justified to ensure the integrity and fairness of all persons and horses engaged in racing in the state of Ohio.

Regulatory Flexibility

16. 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.

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.racing.ohio.gov

The Commission phone number at 614-466-2757

The Commission facsimile number at 614-466-1900

The Executive Director at bill.crawford@rc.state.oh.us