

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 8 New Rule 3769-8-13

Rule Number(s): 3769-8-13

Date: May 2017

This is a new rule that may be found by accessing the Commission's website at www.racingohio.net or through LAWriter at <http://codes.ohio.gov/oac/3769-168>.

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Rescinded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.

3769-8-13 defines the proper conditions, restrictions and use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines at an Ohio State Racing Commission-approved racetrack and/or facility by an Ohio State Racing Commission-approved veterinarian.

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

R.C. 3769.03

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- 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 claiming and the requirement for starting.

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

This is a new rule and the Commission believes the success of this regulation will be demonstrated in the future as a result of this rule.

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 the various horsemen's associations who are required to implement and/or follow rules. As this is a new rule, the Commission voted to submit it 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?**

This rule was provided to the industry and comments were received to create a new rule that applies to Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines.

- 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?**

Scientific data regarding Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines was used to develop the 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?**

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Regulations regarding Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines are in place at several other jurisdictions and the agency considered this when drafting this new rule, as well as considering the comments of stakeholders and an Ohio State Racing Commission consulting veterinarian.

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

No, these regulations require permit holders, owners, trainers, drivers and veterinarians to follow a consistent set of rules for drugs and death of a horse.

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 regulation regarding Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines will pertain to all seven commercial tracks in Ohio.

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 who own the racetracks and licensees who participate in horse racing in Ohio.

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

3769-8-13 Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines that are to be used in the state of Ohio with regards to Thoroughbred and Standardbred racehorses must be registered with the Ohio State Racing Commission and will be limited in use by Ohio State Racing Commission approved-veterinarians. The adverse impact is the cost of the Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines, which range from \$3,000 and upward. As well, other adverse impacts include the cost of the actual therapy to the horse and time involved—typically one treatment is \$300. Another adverse impact is the time for recording all of the treatments by the veterinarians to the Ohio State Racing Commission and providing a list that shall be accessible to all trainers, drivers and owners in the racing office during normal business hours, as well as the time restrictions place on the horse from time of treatment until race day.

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c. Quantify the expected adverse impact from the regulation.

3769-8-13 The expected adverse impact from the regulation will be the added cost, time and paperwork that Ohio State Racing Commission-approved veterinarians will be required to do.

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

3769-18-3 The adverse impact is justified because this rule protects the equine racing community from potential abuse from the Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines, when in the hands of nefarious users who may attempt to gain an advantage via over-use of the machines. Justification is also served by letting the public and horsemen know which horses have been treated when and allows for a level playing field that ensures the integrity of horseracing 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

3769-8-13

Extracorporeal Shock Wave Therapy.

(A) The use of extracorporeal shock wave or radial pulse wave therapy shall be limited to veterinarians licensed by the commission and may only be performed with machines that are registered and approved for use by the commission, before such machine is brought to, or possessed on, any racetrack within the jurisdiction of the commission.

(1) Any horse treated shall not be permitted to race or breeze for a minimum of ten days following treatment.

(2) Any horse treated shall be added to the steward's list of ineligible horses on a commission form completed by the treating veterinarian and trainer on the day of treatment. This list shall be kept in the race office and be accessible to jockeys, and/or their agents, during normal business hours and be made available to the regulatory jurisdictions.

(3) Any horse treated without full compliance within this rule and similar rules in any other jurisdiction in which the horse was treated shall be placed on the steward's list.