

3769-5-34

**Veterinarian's, steward's, or starter's list.**

- (A) No horse on the starter's list or on the steward's list or on the veterinarian's list may be entered or started.
- (B) All horses scratched by a veterinarian or excused from starting by the stewards for either lameness or sickness shall be put on the veterinarian's list and shall not be removed for three days from the date of the race from which they were scratched. No entries will be accepted on these horses until the three-day period has expired.
- (C) A horse on the veterinarian's list that is required to successfully meet work requirements established by the veterinarian that placed the horse on the veterinarian's list will submit to a post work blood sample collection for laboratory confirmation of compliance with the commission racing medication rules in order to be released from the veterinarian's list. The owner of the horse is responsible for the cost of the blood test.
- (1) Horses that are entered while waiting on the blood test results are not considered to be betting interests for the purposes of the racing secretary's determination.
- ~~(C)~~(D) The stewards may put any horse on the steward's list if they consider it noncompetitive or unfit to race at the meeting.
- ~~(D)~~(E) No horse shall be admitted to any race track facility in Ohio without having had a negative official test for equine infectious anemia within the past twelve months.



## 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):

3769-5-34 Veterinarian's, Steward's, or starter's list.

Rule Number(s): 3769-5-34

Date of Submission for CSI Review: May 26, 2022.

Public Comment Period End Date: June 25, 2022.

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/\_X\_ rules (FYR? \_N\_)

Rescinded/\_\_\_ rules (FYR?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

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.
3. *3769-5-34 provides for a blood sample to be drawn from a horse prior to being removed from the vets list.*
4. 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*
5. 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?  
*Yes. The Horse Racing Integrity and Safety Authority*
6. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement. *N/A*
7. 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)? *To protect the health and safety of horses.*

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8. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes? *The commission will monitor results of testing to ensure horses are free of prohibited substances.*
9. 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?  
*No.*

### **Development of the Regulation**

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.  
*Veterinarians and horsemen's groups were consulted*
10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? **The rules were provided to the industry for comment. The Commission reviewed and approved this rule change without objections from the stakeholders.**
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? *There were no alternative regulations considered or suggested by stakeholders. There is industry consensus.*
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.*
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:

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- a. Identify the scope of the impacted business community; and
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and
- c. Quantify the expected adverse impact from the regulation.  
*3769-5-34 To ensure the safety of the horse, this involves the owner paying for a blood test to be sure the horse is free of any medications. There are no penalties other than the horse remaining on the vets list if the blood test is not passed.*

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? *3769-5-34 To ensure the safety of horses who race, they need to be free of all medications when the veterinarian observes the horse.*

### **Regulatory Flexibility**

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? *This applies equally to all horses who are placed on the vets list and require a blood sample.*

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 is Racing.Ohio.net The Commission phone number is 614.466.2757. Additionally, there are employees at every commercial track.*