

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: 901:9-1-01, 2012 Five Year Review

Rule Number(s): 901:9-1-01

Date: 9/11/2012

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☐ Rescinded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.

Please include the key provisions of the regulation as well as any proposed amendments.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

R.C. 1711.53 requires a permit issued by the Department of Agriculture in order to operate an amusement ride. OAC 901:9-1-01 is the one of the rules adopted as directed by R.C. 1711.53 governing the permitting of amusement rides and operators. The rule requires that operators submit permit amusement ride permit applications thirty days prior to the expected ride operation; and initial and midseason inspections will be conducted by the Department. Ride operators are required to have liability insurance, follow Ohio building code requirements for permanent rides, and provide an itinerary to the Department for mobile rides. Upon completion of inspection and application, a permit is issued to operators which must be displayed, but no permit will be issued if outstanding fines or penalties are owed to the Department.

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

R.C. 1711.53

- 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?**

If yes, please briefly explain the source and substance of the federal requirement.

No federal requirement.

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

Not applicable.

- 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)?**

The Department is directed by statute to regulate this industry, but in both statute and rule the focus is on operational safety for the public.

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

The rule is a success if the permit and inspection process prevent amusement ride accidents, and while accidents do happen the objective success of the rule can be measured by a long-term stability in the number of accidents or a decrease.

Development of the Regulation

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

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

The Amusement Ride Safety Council provides the Department with counsel on all items regarding the amusement ride industry and regulations. The Council is a statutorily created body, R.C. 1711.51, comprised of members of the amusement ride industry. The current membership of the Council can be found at:

<http://www.agri.ohio.gov/divs/rides/forms/Amusement%20Ride%20Safety%20Advisory%20Council.pdf>

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

The Amusement Ride Safety Council has not recommended any changes to the rule at this time.

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?

Not applicable.

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?

Not applicable, this rule is statutorily required.

11. 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.

Not applicable, this rule pertains to a permitting process.

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

The Department is a the sole regulator of this industry.

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 rule has been unchanged since 2003 and is applied uniformly to any operator applying for a permit.

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;**
All amusement ride operators.
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
Operators must obtain a permit or face enforcement action resulting in fines. Note, the permit fees are statutorily set and not part of this rule, R.C. 1711.53; and ride operators are prohibited from operating without a permit in separate rule, OAC 901:9-1-03.
- 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.*

Operators are required to file a small amount of paperwork and allow Department inspectors to have access to rides. The largest expense as a result of this rule is liability insurance, which will vary greatly depending on the nature of the ride and is statutorily required before a permit can be issued.

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

The Department is required to regulate this industry by statute, however oversight of the safety of this industry is in the industry’s own best interest.

Regulatory Flexibility

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

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?

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The Department works with all ride operators in compliance efforts, and where violations have no safety impact the enforcement focus is on education rather than fine collection.

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

The Ride Safety staff publishes printed materials to assist ride operators and works closely with any operator who requests assistance.