

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Racing Commission

Regulation/Package Title: Chapter 14 Amended Rules

Rule Number(s): 3769-14-12, 14, 17, 18, 19, 23, 41, 44, 51

Date: February 17, 2015

These amended rules may be found by accessing the Commission's website at <http://www.racing.ohio.gov/pdfs/HarRul14.pdf> or through LAWriter at <http://codes.ohio.gov/oac/3769-14>

Rule Type:

☐ New

☒ Amended

☐ 5 –Year Review

☐ Rescinded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.

3769-14-12 The regulation requires permit holders to provide and staff one ambulance for humans during harness races and training, as well as one ambulance for horses during meetings. The amendment requires the ambulance for humans to be staffed with a certified paramedic.

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3769-14-14 The regulation requires permit holders to provide refuse pits for manure and remove the contents daily. The amendment relaxes the requirement that the pits be sprayed daily for insects; instead it requires a timely and routine schedule for spraying.

3769-14-17 The regulation prescribes living conditions for stable employees. The amendment more specifically outlines the requirements for housing personnel. The amendment changes the language to “dorms” and requires one bed for every six horse stabled and no more than three beds per dorm.

3769-14-18 The regulation requires permit holders to provide and staff a temporary hospital during racing hours. The amendment renames the facility required the “first aid room” and allows paramedics and EMTs to be staffed rather than a physician and nurses.

3769-14-19 The regulation requires permit holders to film harness races and outlines the placement of the cameras around the track. The amendment changes the words “video taping” to “recording.”

3769-14-23 The regulation requires permit holders to provide a paddock or receiving barn and outlines the requirements of the paddock including admission to the paddock and equipment required. The amendment allows four owners to enter the paddock with each horse rather than two owners in the original regulation.

3769-14-41 The regulation outlines the duties and responsibilities of judges of the races. The amendment requires the presiding judge to consult with the permit holder before designating a post time for each race.

3769-14-44 The regulation requires trainers to describe the equipment and explains the penalty for discrepancies in equipment. The amendment includes a “freeze brand” as possible identifying information.

3769-14-51 The regulation requires permit holder to staff a charter and identifier. The amendment allows the charter’s duties to be combined with the clerk of course.

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.

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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 rules require a certified paramedic be staffed in the ambulances. This ensures the safety of those who may require medical attention. These rules also relax the requirement that refuse pits be sprayed daily. This requirement meets the needs of the racetrack more efficiently. These rules allow the first-aid room to be staffed by paramedics and EMTs rather than physicians and nurses. This allows the permit holder to have more flexibility in staffing while still ensuring quality medical care. These rules protect stable employees and assure adequate housing. The rules protect the wagering public by requiring video recording of races. The other rules simply follow the racing industry custom such as allowing freeze branding and more owners to enter the paddock. Overall, these regulations are in place to protect the welfare of the public and the participants in racing.

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

The commission will find these regulations successful if they continue to ensure the health and safety of race attendees and participants, as well as, if they protect the wagering public and follow industry custom.

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 who are required to implement and/or follow these rules. The Commission received comments from Penn National Gaming, Jockey Guild, Miami Valley Gaming & Racing, Scioto Downs, and Thistledown.

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

Comments and proposed changes were provided. Many of these changes were voted and approved at the meeting.

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?

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Scientific data was not necessary in developing these rules.

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?

Alternatives were discussed and voted on at the meeting.

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

An option for a performance-based regulation is inapplicable to these types of regulations.

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

The commission is the only agency in Ohio which regulates horse racing; therefore duplication will not 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.

These regulations have been in place for a long time and applied consistently and predictably. For this reason, these minor amendments are expected to be implemented without issue and will allow the racetracks to run more smoothly.

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 horse trainers.

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

3769-14-12 The original rule adversely impacts the permit holders by requiring adequate ambulances to be provided by the permit holders for humans and horses at each race. The amended rule does not change the adverse impact on business.

3769-14-14 This original rule adversely impacts the permit holders by requiring proper storage and removal of manure and other refuse from the race tracks. This is a cost to the permit holders of time and equipment. The amendment relaxes the original requirement that refuse boxes be sprayed daily and instead allows them to be sprayed routinely. Therefore, the adverse impact on business is lessened by the amendment because less time and equipment is involved in following the regulation.

3769-14-17 The original rule adversely impacts the permit holders by requiring sanitary living conditions for stable employees. This cost of providing these facilities is the adverse impact. The amended rule adversely impacts business by requiring a specific number of beds and separate dormitories for stable employees.

3769-14-18 The original rule adversely impacts business by requiring permit holders to provide the staff and equipment for a temporary hospital. The amended rule diminishes the impact on business by relaxing the standard of who can staff the renamed “First Aid Room.”

3769-14-19 The original rule adversely impacts business by requiring permit holders to record and to temporarily retain recordings of every race under its permit. Also, the potential time spent showing the recordings to drivers and providing the recordings to the commission for hearings. The amendment does not affect the adverse impact on business, because it was changed only to reflect the change in technology.

3769-14-23 The original rule adversely impact business by requiring the construction of a paddock and fence by the permit holder. The permit holder must also provide extra equipment and a blacksmith at each race. The amendment allows more owners to enter the paddock, which has no adverse impact of business.

3769-14-41 The original rule outlines the judge’s duties. These duties take up the judge’s entire race day and can extend depending on whether there is a hearing requested. The amendment requires the judge to consult with the permit holder when designating the post time of the races. This change requires a few extra minutes of the judge’s time.

3769-14-44 The original rule adversely impacts the permit holders by requiring them to supply uniform cards and spend time keeping the cards on file. The permit holder must hire an identifier and the identifier must take the time to create a report. The rule adversely impacts trainers by requiring them to spend time completing the cards. The trainer is also liable for civil administrative penalties if he completes the card incorrectly. All those with interest in a horse may be adversely impacted if a horse is scratched from a race because of a inaccuracies on the uniform card. The amendment does not affect the adverse impact on business; instead it allows flexibility in how horses are identified.

3769-14-51 The original rule adversely impacts business by requiring the hiring of a charter and an identifier by the permit holder. The amendment diminishes the adverse impact on business by allowing permit holders to assign the clerk of course to complete the duties of the charter, rather than hiring a separate individual for this position.

c. Quantify the expected adverse impact from the regulation.

3769-14-12 The cost of providing an ambulance is varied depending on whether the permit holder owns the ambulance or does not own the ambulance. In general, the cost is estimated at \$300 per race day.

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3769-14-14 Stable employees are paid about \$250 per week. Several hours of their time goes to removing manure and other refuse. For hiring a company to take away refuse, it cost about \$400 each day. The cost of spraying for insects is about \$10 per treatment.

3769-14-17 Under the original rule, stable employees were housed in a room off the stable, therefore the cost was minimal. The impact of requiring separate dormitories for these employees could cost the permit holder hundreds of thousands of dollars depending on what facilities the permit holder already owns.

3769-14-18 The cost of supplying a physician or paramedic and a nurse under the original rule was over \$500 per race day. The amendment will likely cost hundreds of dollars less. The cost of supplies for the first aid room is around \$200. Defibrillators are provided by the Commission.

3769-14-19 Recording equipment is generally leased for about \$1,000 each day. The retention of this equipment and transmission of the recordings requires a few minutes of time each time the recording is shown or requested by the commission.

3769-14-23 Paddocks can cost more than \$100,000 and fences for that area cost about \$15,000. The requirement of providing extra equipment is takes up several minutes of time, but does not cost the Permit Holders significant money because they generally charge the user for the goods. The cost of a blacksmith is about \$125 per race day.

3769-14-41 The two judges paid by the permit holder at each race make about \$200 per day. These duties occupy their entire race day for about 8 hours. Hearings make take up more several more hours. The amendment requires a short consultation with the permit holder which takes a few minutes.

3769-14-44 Identifiers are paid about \$100 per race day. The office supplies cost around \$50 and the time required is several hours. Trainers must spend a few minutes identifying their horse. Fines can vary depending on the severity of the violation.

3769-14-51 Identifiers are paid about \$100 per race day. Charters are paid about \$200 per race day. The amendment reduces the adverse impact by allowing the clerk of course to take on the responsibilities of the charter.

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

Generally, as these rules were voted on after comment from the business community, these rules reflect their needs as well as those of the public. Many of these regulations allow for greater flexibility and money saving for the business community.

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3769-14-12 The adverse impact of this regulation is justified because the regulation concerns the welfare of race participants and their horses. Permit holders have an obligation to these individuals as race track owners. These race participants include owners and jockeys whose own businesses could be adversely impacted if this regulation was not in place and proper medical care was not provided.

3769-14-14 The impact is justified because sanitary conditions at the race track protects everyone involved in racing from illnesses. Also, the amendment lessens the requirement for daily spraying of insects.

3769-14-17 The adverse impact of this regulation is justified because it protects the welfare of stable employees. By providing dormitories instead of allowing stable employees to live in rooms off the barns, this regulation is in compliance with fire codes. Also, the stable employees generally pay a fee for staying in the dormitories.

3769-14-18 The adverse impact is justified because the regulation protects the welfare of race participants and race track customers.

3769-14-19 This rule is justified because it protects businesses from unfair treatment by the judges. This rule allows drivers and the racing commission to view the race and review the judge's decision. This ensures the fairness of the horse racing for the wagering public.

3769-14-23 The adverse impact is justified for this rule because the expenses are normal cost of operating a racetrack. Also, by providing proper equipment the safety of the race participants is assured.

3769-14-41 The adverse impact is justified because the employment of judges is essential for horse racing. This rule protects the wagering public from unfair decision making.

3769-14-44 This regulation also protects the fairness of horse racing and the adverse impact is justified for that reason.

3769-14-51 The charter and identifier allow for an orderly and fair race day. This justifies the adverse impact on business.

Regulatory Flexibility

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

No, these regulations apply 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