

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Natural Resources (ODNR) Division of Wildlife

Regulation/Package Title: Concession lease agreement

Rule Number(s): 1501:31-35-01

Date: January 8, 2016

Rule Type: Amended

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:

The rule regulates the process that ODNR Division of Wildlife will follow to issue concession lease agreements. The proposed change will require the ODNR Division of Wildlife to advertise for a minimum of four consecutive weeks in a newspaper having a general circulation in each county where the facility is situated, and on the Ohio Department of Administrative Service's website when required by the Revised Code or on an electronic media outlet, when there is an opportunity to bid on a concession lease.

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

1531.06

- 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:**

NA

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

NA

- 5. What is the public purpose for this regulation:**

The purpose of this regulation is to provide for a means to advertise for a lease for the operation of concessions at facilities situated on state- owned or leased lands or waters, or other lands under the control of the ODNR, Division of Wildlife. The regulation also provides for an opportunity for advertising bids for a sufficient time period as well as through different means.

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

The success of the regulation will be determined if the Ohio Division of Wildlife receives concession bids from individuals or businesses interested in leasing the advertised facility and if a lease agreement with the person, whose bid, in consideration of public interest, is signed into a contractual agreement with the Ohio Division of Wildlife.

Development of the Regulation

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

David Hatley, concessionaire was provided the proposed rule change by letter.

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

No input was received.

- 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:**

NA

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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:

This regulation complies with current Ohio Department of Administrative Services regulations regarding advertising for lease agreements.

11. Did the Agency specifically consider a performance-based regulation:

NA

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

The ODNR Division of Wildlife is the sole agency with authority under the ORC to regulate lease agreements for the operation of concessions at facilities under the control of the Division of Wildlife. The other laws and rules under the authority of the ODNR Division of Wildlife were reviewed to avoid conflict.

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:

Regulation will be applied consistently across 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:

None

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

None

c. Quantify the expected adverse impact from the regulation:

None

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

NA

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Regulatory Flexibility

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

NA

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:

No fines, penalties or criminal charges are associated with this regulation.

18. What resources are available to assist small businesses with compliance of the regulation:

Businesses may consult the ODNR Division of Wildlife for guidance by personal contact with Division staff that administer contracts, may personally visit or call any one of five district offices, the Lake Erie office in Sandusky or the headquarters. Information is also available on the internet and through email.