

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: ODNR Division of Wildlife

Regulation/Package Title: Possession for purposes of processing, transportation, or storage of migratory game birds.

Rule Number(s): 1501:31-7-04

Date: May 20, 2016

Rule Type:

- | | |
|----------------------------------|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |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.

This rule requires that all persons that leave or transfer migratory game birds for any reason to another person provide documentation regarding the transfer of the animals. The rule further requires that a migratory bird preservation facility keep specific records about the migratory bird that they have received. These records must be maintained by the facility for one year. There are no proposed changes to the rule.

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

ORC 1531.06, 1531.08, 1531.10

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?

Yes, the regulation implements a federal requirement.

No, the proposed no change regulation does not enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

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

This regulation is the same as the federal requirement.

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)?

To establish a regulation to ensure that migratory birds are legally possessed by facilities that process or preserve migratory birds.

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

Success of the rule will be measured through inspections of facilities that process or preserve migratory birds, communication with the industry and comments, concerns, or alleged violations of the rule received from the public.

Development of the Regulation

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

The agency contacted 224 taxidermists that are licensed to preserve migratory game birds and 49 member facilities of the Lake Erie Marsh Owners Association.

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

Fourteen stakeholders responded to the proposal and all supported the proposal.

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.

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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? If none, why didn't the Agency consider regulatory alternatives?

None, there are no alternatives to this regulation that would accomplish the goal of the regulation.

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

Not applicable.

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 the processing, transportation, or storage of migratory game birds. 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.

The current regulation has been in place for over a decade. No changes are proposed and the industry understands the current regulations.

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;

There are 224 licensed taxidermists and 49 bird processing facilities.

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

This rule requires record keeping for migratory game bird preservation facilities.

There will be no new adverse impacts as there are no amendments proposed for this rule.

c. Quantify the expected adverse impact from the regulation.

There is a nominal cost associated with record keeping. There will be no new adverse impacts as there are no new amendments proposed for this rule.

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

The regulatory intent justifies the adverse impact to the regulated business community so that Ohio has a sustainable migratory bird population for future use.

There will be no new adverse impacts as there are no new amendments proposed for this rule.

Regulatory Flexibility

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

There are no exemptions for the existing rules. No changes are proposed.

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?

Enforcement action by law enforcement is reserved for egregious violations and only after consultation with the prosecuting attorney. First time offenders of record keeping requirements will be provided guidance on proper record keeping requirements and warned of the violation.

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 the Wildlife Officer assigned to their county of operation, may personally visit or call any one of five district offices, the Lake Erie office or the headquarters. Information about possession for purposes of processing, transportation, or storage of migratory game birds is also available on the internet, in printed materials and through email.