

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: ODNR Division of Wildlife

Regulation/Package Title: 2013 Summer-Fall Package

Rule Number(s): 1501:31-13-04 Bait and bait dealers.

Date: July 8, 2013

**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Rescinded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.

*This rule regulates the species of wild animals that may be taken and sold for bait by persons licensed under ORC 1533.40.*

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*It is proposed to add language that will require bait dealers to keep additional records and to allow for inspections of bait containers, ponds and tanks for detection of invasive species, particularly Asian carp.*

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

*ORC 1531.08*

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?

*N/A*

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

*N/A*

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 incidental or intentional release of Asian carp into the waters of Lake Erie will have a tremendous negative impact on the ten billion dollar tourism industry along Lake Erie, in addition to the sport and commercial fishing industries.*

*Proposed changes to the rule will allow shipments of bait fish, which may potentially hold Asian carp to be inspected, and tracked, to help stop the introduction of this invasive species. Many shipments of bait fish enter Ohio from outside of the state where Asian carp are established and it is a concern that these shipments may contain young, overlooked Asian carp which may then enter the Lake Erie watershed.*

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 difficult to measure, until such a time that Asian carp are discovered, or the environmental DNA are documented. Tracking shipments of bait may help determine where the eDNA came from, allowing biologist to determine what steps are needed to prevent the spread of the Asian carp.*

### **Development of the Regulation**

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

*Approximately 800 licensed bait dealers were notified in writing of the proposed changes and were asked to provide comment over several weeks. Only two email comments were received.*

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

*Two emails were received in opposition to the proposed rule change. No written comments were received. No changes were made based on the two comments.*

- 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?**

*No specific scientific was used to develop the rule. However, water samples from several bait dealers tested positive for eDNA in 2012.*

*With no ability to track the shipments of bait between dealers, there was no way to determine the source of the eDNA. This rule change will allow our biologists to gather more scientific data.*

- 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?**

*The only alternative considered was to not make any changes, it was determined that this was not in the best interest of the agency, the industry or the public.*

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

*A performance-based regulation is not applicable in this situation.*

- 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 take and possession of wild animals. 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.**

*Direction will be provided to Division of Wildlife employees on the application of the rule. Communication has been and will continue to be made with all licensed bait dealers in*

*Ohio and the bait dealers will be reminded of the changes when license renewal letters are sent out prior to the next fishing season.*

### **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;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

*The proposed rule will affect approximately 800 licensed bait dealers in Ohio. The impact will have minimal financial cost, but record will take time to comply. However it is felt that the time requirement will be minimal as most of the records are likely already being kept (receipts for transactions between dealers should show type of bait, source, and quantities as common business practice)*

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

*While it is felt that the impact on the bait dealers will be minimal, if Asian carp are allowed to be introduced and spread through the movement of bait fish, it will be devastating to the economy of the State of Ohio.*

### **Regulatory Flexibility**

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

*There are no exemptions or alternatives for small business.*

**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?**

*A great deal of leniency has been shown and will continue to be shown in the future with a variety of rules requiring record keeping that are enforced by this agency. Law enforcement officers will be reminded of the intent of the proposal is to protect Lake Erie and the economy, not deter business from operation.*

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**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 or the headquarters. Information is also available on the internet and through email.*