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.*
To set forth rules pertaining to tampered with and/or compromised video lottery terminals and/or games and to rescind rules that are no longer necessary relating to video lottery tickets under Section 3770:2 of the Administrative Code.

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

Ohio Revised Code, Section 3770.03. Commission- powers and duties.

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.

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 Ohio Constitution, Article XV, Section 6, permits the General Assembly to authorize a state agency to conduct lotteries. The General Assembly has authorized the Ohio Lottery Commission as the state agency to license video lottery sales agents to sell the video lottery games, the net proceeds of which are used for elementary, secondary, vocational and special education in the state. These rules are necessary to ensure the consistent and proper conduct of video lottery sales agents regarding video lottery terminals and the sale of video lottery games and their integrity under the standards set forth in the rule.

The rescission recognizes that there are no video lottery tickets in use by the games of the Ohio Lottery Commission.

Specifically, new Code Section 3770:2-3-11 establishes a uniform procedure for reporting incidents of tampering with, impairment or compromise of the integrity or security of video lottery terminals, games, results, credit vouchers or other records files, documents relating to video lottery.

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

The rescinded rule was not necessary as the Ohio Lottery never utilized video lottery tickets, as it anticipated.
The Lottery will measure the success of the regulation by comparing the information in the video lottery terminal’s software with the concurrently kept records in central monitoring at the Ohio Lottery Commission’s office.

**Development of the Regulation**

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

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

On March 29, 2018 the below stakeholders were notified of the proposed amendment to the rule via email. The stakeholders consist of representatives of all seven Ohio racetracks.

- Chris Corrado, Belterra Park
- Justin Remschneider, Belterra Park
- Vicky Burns, Belterra Park
- Jason Newkirk, Belterra Park
- Henry Graffeo, Belterra Park
- David Frankhouser, Delaware North Companies
- Ron Sulmeteier, Miami Valley Gaming/Delaware North Companies
- Karen Cincione, Delaware North Companies
- Domenic Mancini, Miami Valley Gaming/Delaware North Companies
- Craig Robinson, Miami Valley Gaming/Delaware North Companies
- Austin Miller, Miami Valley Gaming/Delaware North Companies
- John Howard, Miami Valley Gaming/Delaware North Companies
- Rob Swedinovich, Miami Valley Gaming/Delaware North Companies
- Shawn Bailey, Delaware North Companies
- Brock Milstein, Northfield Rocksino
- Carl Sottosanti, Penn National
- Jim Baldacci, Penn National
- Frank Donaghue, Penn National
- John Oberle, Penn National
- Jason Birney, Penn National
- Tony Frabbiele, Penn National
- Vicky Litz, River Downs
- Bill Gustafson, Scoto Downs
- Mike Whitemaine, MTR Gaming
- Anthony Carano, MTR Gaming
- Gary Carano, MTR Gaming
- Kyle Wentz, Northfield Rocksino
- Mark Birtha, Northfield Rocksino
- Dan Reinhard, Jack Entertainment
- Ed Dick, Jack Entertainment
8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

No comments or suggested revisions were 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?

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?

No alternatives would be appropriate because it was determined that the rescinded rule simply was no longer necessary as the Ohio Lottery never utilized “tickets” in a lottery setting.

No alternatives would be appropriate as the new rule recognizes the utilization of the video lottery terminal’s software records cross checking with the records of central monitoring to determine compromise or tampering. This is done at the Ohio Lottery Commission, and these systems are already in place meaning no additional expenditures or personnel to implement this rule to ensure the integrity of the video lottery program as well as the consistent and proper conduct of video lottery sales.

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.

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

Not applicable.

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.

There are no video lottery tickets in use nor have there ever been any in use.
Nothing additional needs to be done, as the video lottery terminal software is in place as is central monitoring and all current and future video lottery sales licensees will be held to these standards.

**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.
      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.
      Not applicable.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?
   Not applicable.

**Regulatory Flexibility**

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.
    Video lottery sales agents are not considered small businesses according to the standards dictated by 13 C.F.R. §121.201, because of their large size.

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?
    All monetary fines and penalties for non-compliance are discretionary. There are no automatic penalties for violations of this rule. All individual facts and the specific circumstances, including experience levels, are taken into account when exercising any discretion.
18. **What resources are available to assist small businesses with compliance of the regulation?**

While video lottery sales agents are not considered small businesses, the VLT Management Department within the Ohio Lottery Commission is available to assist any video lottery sales agent or employee regarding the conditions set forth in the amended rule. The office can be contacted at:

615 West Superior Avenue  
Cleveland, OH 44113-1879  
(800) 686-4208  
vlt@lottery.ohio.gov