

Report on Activities

Ohio's Common Sense Initiative (CSI)

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Lt. Governor Mary Taylor

77 S. High Street, 30th Floor
Columbus, OH 43215

CSIOhio@governor.ohio.gov

www.governor.ohio.gov/CSI

Introduction

On January 10, 2011, Governor John R. Kasich signed Executive Order 2011-01K establishing the Common Sense Initiative (CSI) Office and assigning this important task to Lt. Governor Mary Taylor. The Common Sense Initiative is a process for independently evaluating the economic impact of state agency regulations on Ohio businesses.

The Executive Order stated explicitly that Ohio's business community is a partner in the state's success. As such, while regulations play an important role in promoting fair competition and protecting the public, regulations should also facilitate economic growth. Ohio's regulatory process should be built on the foundations of transparency, accountability, and performance. Finally, the priority of a strong regulatory system should be *compliance*, not *punishment*.

In implementing the Executive Order, Lt. Governor Taylor has placed a premium on the principles of transparency and accountability. The CSI Office has been designed to function as a partnership between the Administration, state agencies, the business community, and the public to develop a regulatory framework that balances the important need for regulation with the equally important need to promote economic development and job creation. As such, in March of 2011, Lt. Governor Taylor developed a strategic plan to guide the operations of the CSI Office and to serve as the basis for future reporting. Beginning in 2012, the CSI Office will formally report twice each year on its activities and on its progress toward meeting the objectives in the Strategic Plan.

As described in the Strategic Plan, the work of the Common Sense Initiative (CSI) Office has been based on the following four principles:

1. Regulations should facilitate, not hinder, economic growth.
2. Regulations should be transparent and responsive.
3. Compliance should be as easy and inexpensive as possible.
4. Regulations should be enforced fairly and consistently.

The CSI Ohio Strategic Plan outlined several short-term goals related to the initial creation and implementation of the CSI Office and related processes. This section outlines the status of these short-term, administrative goals.

1. Establish legal authority for the CSI Office

Status: Complete

On January 10, 2011, Governor Kasich signed Executive Order 2011-01K, creating the CSI Office under the authority of the Lt. Governor. The executive order outlines the authorities and responsibilities of the Lt. Governor in implementing this initiative. It also requires agencies to comply with the directives of the Lt. Governor and outlines specific principles that should be prioritized in the development and review of agency regulations. On March 4, 2011, Governor Kasich signed into law Senate Bill 2, which codified much of Executive Order 2011-01K.

2. Establish a fully-operational CSI Office

Status: Complete

The CSI Office was established by Executive Order 2011-01K. Throughout 2011, several administrative tasks were completed to make the CSI Office fully operational. These organizational tasks included the following:

- ***Develop a formalized review process*** – An important component of the CSI process is the review of draft rules being proposed by state agencies. Effective January 1, 2012, all proposed state agency rules that would adversely impact Ohio businesses are required to undergo an analysis through the CSI Office. To maximize efficiency and effectiveness, a regular process has been established for agencies to develop draft regulations, conduct an analysis of the regulatory benefits and impacts on businesses, engage the CSI Office, and obtain public input into the regulations.

The process diagram (see **Appendix A**) outlines the process established by the CSI Office for agencies to comply with these requirements. The key components of the process are as follows:

1. **Early Stakeholder Involvement** – at the point an agency determines that a rule (new rule or amendments to existing rules) needs to be proposed, it should identify those business stakeholders that are likely to be impacted by the rule and engage those stakeholders to obtain input into the development of the rule, the potential impacts from the rule, and alternative means of accomplishing the same regulatory objectives.
2. **Business Impact Analysis** – after receiving input from stakeholders and developing draft rule language, the agency is to complete a Business Impact Analysis (BIA). The template

for the BIA was created by the CSI Office and is described in more detail below, but it is intended as an instrument for the agency to delineate the information necessary to weigh the intent of the regulation against the impact to business and determine whether to proceed.

3. Electronic Notification – when the rule draft and BIA are completed, the agency submits an email notification to anyone who is interested in the rules (any interested party can sign up for notifications in a number of regulatory areas of specific interest to them through the Ohio Business Gateway at www.business.ohio.gov/reform). The notifications allow stakeholders to view the draft rule language, BIA, and any other information provided by the agency; and also allows them to comment on the rule. Those comments are received both by the agency and by the CSI Office. The CSI Office is in the final stages of revamping an existing internal software platform for more effective implementation of the electronic notification process.
4. CSI Recommendations – the CSI Office reviews the draft rule, BIA, public comments, and any other relevant information and makes a determination whether the draft rule is justified, or whether the agency should reevaluate all or part of the rule and BIA. The CSI Office submits formal recommendations to the agency, and the agency must formally respond as to how it is addressing the CSI recommendations (or why it may choose not to) before it can file the rule with the legislative Joint Committee on Agency Rule Review (JCARR).

➤ ***Develop a Business Impact Analysis instrument*** – The Business Impact Analysis (BIA) is central to the CSI review process, as it is the mechanism through which agencies explain the intent of their proposed regulations, the degree to which stakeholder input shaped the regulation, and the potential impact of the regulation on Ohio businesses. In short, the BIA is the basis for determining whether the public purpose of the proposed regulation justifies the adverse impact to the regulated businesses. The BIA was developed with considerable input from state agency users and from business stakeholders, and was designed to be as easy as possible to use and to flesh out all relevant information for determining the balance described above. The CSI Office has conducted eight trainings for agency staff on the CSI process and the Business Impact Analysis.

The BIA template (see **Appendix B**) is posted and available for anyone to download from the Register of Ohio (www.registerofohio.state.oh.us). The completed BIA allows the agency, CSI Office, the public, and JCARR to understand the intention and impact of the proposed rule in order to evaluate whether the regulatory intent justifies the adverse impact to business. It is also an opportunity to document the stakeholder outreach the agency underwent in development of the rule package. The BIA consists of questions focusing on four key areas:

1. Regulatory Intent – What is the public protection/purpose of the regulation? How does the proposed rule accomplish this goal?

2. Development of the Regulation – Were stakeholders involved and was their input used to develop the rule? What alternatives were considered?
 3. Adverse Impact to Business – What businesses are impacted and how (financial, permit requirements, etc.)?
 4. Regulatory Flexibility – Is there opportunity for flexibility, particularly for small businesses?
- ***Create a public contact mechanism*** – Another important aspect of the CSI Initiative is the ability to receive information from the business community and the public about existing regulations that don't meet the "Common Sense" test and/or are implemented in a way that is unduly burdensome on businesses. It is also extremely important that the operations of the CSI Office be transparent in order to ensure that the initiative is as effective as possible and that the message of improving Ohio's business climate is communicated to the public. To those ends, the CSI Office has established a web site (www.governor.ohio.gov/CSI) that is a vehicle for communicating with the public about important CSI actions, as well as receiving input from the public about regulatory areas that need to be reviewed. The web site allows anyone to submit ideas directly to the CSI Office, to email the Office, and to view updated examples of CSI's actions and accomplishments, and to sign up for updates from the CSI Office. Beginning in 2012, the CSI Office will begin using social media to communicate with Ohio's business stakeholders and other interested parties even more effectively.
- ***Identify CSI liaisons within the state agencies*** – Throughout its first year, the CSI Office worked extensively with state agencies to establish the rule review process described above and to identify and fix agency regulations that were impacting business in their daily operations. In order to facilitate communication and to ensure cooperation at all levels of the agency, the CSI Office has identified primary liaisons within the agencies that have significant regulatory contact with businesses to help facilitate regulatory issues involving the CSI Office.

3. Consolidate business regulatory reform efforts under the CSI Office

Status: In Progress

Past efforts at regulatory reform in Ohio have created pockets of state government that are dedicated to this function. For example, in the previous administration, 13 "business-facing" agencies were required to designate a regulatory ombudsperson within their offices. While agencies are strongly encouraged to assist businesses with regulatory compliance, the formal ombuds function has been absorbed into the CSI Office.

The Ohio Department of Development (ODOD) has a Small Business Office that had certain functions that overlapped or duplicated functions of the CSI Office. The two offices have

worked closely and collaboratively to not only eliminate duplication, but also to leverage the resources and strengths of each office. For example, the CSI Office was required to establish a Small Business Advisory Council. ODOD had previously engaged a similar council, but it was determined that only one council was necessary, and the new Small Business Advisory Council would also assist and provide direction to ODOD as well as the CSI Office. In addition, the CSI Business Advocate position is assuming the role of coordinating activities with ODOD, including management of business requests for regulatory assistance as well as ensuring that Small Business Development Centers located throughout the state are able to provide businesses with consistent guidance related to CSI.

Although a number of changes have been made to consolidate regulatory reform efforts within the CSI Office, this is an ongoing effort and this office will continue to seek better ways to utilize the resources available to the Office and streamline the process for businesses and the state to pursue regulatory reform. Any additional accomplishments in this area will be highlighted in future CSI reports.

4. Establish Small Business Advisory Council

Status: Complete

Executive Order 2011-01K authorized the Lt. Governor to establish a Small Business Advisory Council to offer the Lt. Governor the perspectives of the small business community and provide guidance into the mission and direction of the CSI Office. Senate Bill 2 codified the Small Business Advisory Council in ORC 107.63. The Council is to consist of nine members who are representative of small businesses and who represent diversity in size, industry, and geography. Five members of the Council are to be appointed by the Lt. Governor, two by the Speaker of the House, and two by the President of the Senate.

The initial nine Small Business Advisory Council members were appointed in July 2011. The members are:

- Orlando Alonso, Columbus Pest Control, Columbus
- Michael Baach, The Philpott Rubber Company, Brunswick
- Michael Canty, Alloy Bellows & Precision Welding, Highland Heights
- Brandon Cohen, Ohio IT Alliance, Toledo
- Thomas Demaline, Willoway Nurseries, Avon
- Crystal Faulkner, Cooney, Faulkner & Stevens LLC, Cincinnati
- Richard Fedorovich, Bober Markey Fedorovich, Akron
- Michael Flowers, KBK Enterprises, Columbus
- Dan Young, Young's Jersey Dairy, Yellow Springs

The first meeting of the Council was held on August 18, 2011. Although required to meet at least quarterly, the Council has decided to meet more frequently and is scheduled for six meetings in 2012. Each meeting of the Council is a public meeting, and minutes are maintained in the CSI Office.

In addition to the short-term goals described above, the CSI Strategic Plan identified a number of ongoing goals to help measure the success of the initiative. The following section outlines those goals and uses the measures described in the Strategic Plan to provide a snapshot of the CSI Office's progress in those areas to date.

However, because the formal administrative rule review track of the CSI process just took effect on January 1, 2012, the specific measures outlined in the Strategic Plan to track the effectiveness of those reviews have not yet been implemented. The semi-annual reports issued after this date will utilize those measures and provide more quantifiable information relative to CSI rule reviews.

Goal 1: Develop a CSI process that is efficient, credible, and effective

Description: The foundation of the Common Sense Initiative is the process for reviewing agency regulations – both new and existing – to determine whether their regulatory intent justifies their adverse impact on Ohio businesses. In the Strategic Plan, the CSI Office outlined a goal of developing a process that is as easy as possible to comply with; ensuring that each requirement placed on agencies serves a purpose toward achieving the goals of the initiative; seeking the input of all stakeholders in the development, implementation, and periodic review of the CSI process; and being transparent and responsive in our dealings with agencies, regulated businesses, and the public.

Specific action steps described in the Strategic Plan – and the CSI Office's progress in implementing these steps – include the following:

Development of a formal process diagram outlining the CSI review process. The process should be developed with input from state agencies, the business community, and the Small Business Advisory Council; and should be tested through pilot projects on specific rules.

- As described previously, a formal process diagram has been developed to guide agencies through the CSI rule review process (see Appendix A). The process built on a previously-existing electronic notification system that was used by a small number of state agencies deemed to have the most direct contact with businesses. The CSI Office modified this process based on feedback from agency users and the business community, and draft versions of the process were shared with those stakeholders and the Small Business Advisory Council to obtain input and clarification. Once finalized, the CSI Office held eight trainings with state agency staff to help ensure understanding of and compliance with the process.

Along with inviting constant feedback, the CSI Office should conduct annual surveys of internal and external stakeholders to determine the effectiveness of the review process and to identify opportunities for improvement.

- Planning for the formal rule review process has involved internal and external stakeholders. Through trainings of state agency staff and presentations, roundtables, and

other discussions with business and other stakeholder groups – as well as through input from the Small Business Advisory Council –the CSI Office has received a good deal of feedback that has refined the process and the Business Impact Analysis, and also highlighted areas of focus that need to be emphasized during CSI reviews. As the process is fully implemented in 2012, the CSI Office does intend to develop a survey instrument specifically related to the rule reviews that can be used to help evaluate the ease and effectiveness of the process.

The CSI Office should track data related to the measurables listed below to report on its performance in achieving this goal and to seek opportunities for improvement of the review process.

- As described above, formal rule reviews only commenced on January 1, 2012. However, in developing the process for these rule reviews and the electronic system to be used for implementing them, each of the measurables below which were outlined in the Strategic Plan will be tracked and quantified in future reports.

Measurables:

1. Number of regulations reviewed
2. Number of CSI recommendations issued
3. CSI turnaround times – this will measure the average number of days for the CSI Office to evaluate the draft regulations and business impact analyses prepared by the agencies and to issue any recommendations to the agencies. Some regulations will be more lengthy and more complex than others, so some variance in this measure is expected. Moreover, the CSI Office will generally not issue a response until the completion of the agency’s public comment period, so that time will be factored into the measure as well. However, tracking (and seeking improvement in) turnaround times will help measure the efficiency of the process.
4. Percentage of recommendations implemented – after recommendations are issued by the CSI Office, agencies will be asked to respond and explain which recommendations were implemented and which were not. Tracking the numbers in each category will help the CSI Office measure the effectiveness and utility of its review process, and make changes to ensure that the process is leading to improved regulations.

In addition, during development of the CSI process, it has become more evident that several additional measures will be appropriate in evaluating its effectiveness:

5. Number of comments received through the electronic notification system – this will help the CSI Office understand whether the rule review process is reaching the stakeholders as intended, and whether businesses find enough value in the process to spend some of their valuable time reviewing the rules, the Business Impact Analyses, and to offer input.

6. Number of business-impacting rules rescinded or amended – whether through recommendations of the CSI Office or through determinations made by agencies as part of analyzing their own rules, it is important to measure the actual outcomes of the process. Rules rescinded and amended will demonstrate how much change is occurring through the review process.

7. Number of motions to invalidate by JCARR – the CSI review process is ultimately intended to draw out the information to allow the agency, the CSI Office, and anyone else make a judgment about whether the regulatory purpose of a rule justifies the impact to business. Under Senate Bill 2, the Joint Committee on Agency Rule Review (JCARR) – the legislative body responsible for oversight of state agency rulemaking – is given new authority to move to invalidate rules based on this balance. Tracking the number of motions to invalidate, and the circumstances around those actions, will provide some perspective on how the CSI process is being used. For example, is it forcing agencies to identify business impacts earlier in the process and work to minimize those impacts? Are more issues being resolved before rules get to JCARR? Or is it highlighting business impacts in a way that allows JCARR to take more invalidation actions against rules?

Goal 2: Impact a significant number of regulations based on the Vision statement for the CSI Office

Description: The CSI Office will impact regulations through the review process described in Goal 1, through suggestions from the business community and the public about problematic regulations, and through targeted partnerships with state agencies. Regardless of the process, regulations changed (or eliminated) through the CSI Office should have a positive tangible effect on the effectiveness of the regulation, the adverse impact on the regulated businesses, or both.

Throughout its first year, it has become evident that the CSI Office truly operates along two tracks, and those tracks have different measures and different ways of impacting the business climate in Ohio. The formal rule review track, as described more fully in Goal 1, is much more top-down in terms of looking at the business impact of administrative rules. It is limited in scope in that it focuses only on administrative rules, but is comprehensive in that over time, every single rule that impacts business will undergo this review. This track is highly quantifiable using the measures described in Goal 1, but it is likely to be less quantifiable in terms of the direct impact of any rules changed or eliminated on business operations, financial burden on companies, or jobs retained or created.

The second track is more of a bottom-up approach, where the CSI Office seeks input from businesses about the regulations that most directly impact their ability to operate, grow, and create jobs in Ohio. On this track, CSI activities may focus on assisting a single business (serving an ombuds function to help navigate the state bureaucracy), one industry sector, or a broader swath of the business community. This track focuses on any area where government touches business, including state laws and rules, but also issues such as permit processes, agency policies, and customer service. As such, the second track is less quantifiable in terms of number of regulations impacted, but is more focused on communicating stories of CSI successes to demonstrate change to the business community. The cumulative effect of these “success stories,” if significant, will help change the perception of Ohio’s regulatory climate and show the impact of CSI. However, because the second track often involves direct work with Ohio businesses, CSI’s success over time should be more quantifiable in terms of jobs retained and created, and a priority in 2012 is to follow-up with companies assisted in 2011 to develop numbers in this area.

Given this distinction between the two CSI tracks, it is appropriate to focus Goal 1 more directly on the rule review track, and to focus Goal 2 more directly on the less formal, bottom-up track. As such, the success of Goal 2 will include a discussion of specific regulatory initiatives, as well as revised measurables described below related to those initiatives.

2011 CSI Initiatives

Alcohol Requirements for Food Manufacturers – CSI Ohio heard in January about a company in northern Ohio that manufactures soups, sauces, and purees for national restaurant chains. The company had the potential to expand, but a quirk in Ohio law was undermining its ability to be

competitive. Some of the company's recipes used alcohol, but Ohio's liquor law required food manufacturers to purchase alcohol in retail containers and at retail prices. One recipe for a Merlot wine sauce called for 140,000 pounds of wine, which they had to purchase, uncork, sterilize, and pour one bottle at a time. CSI Ohio worked with the Department of Commerce and the General Assembly to get the law changed, and now Custom Culinary – as well as companies that produce ice cream and jellies – can purchase alcohol wholesale for their recipes. In December 2011, Custom Culinary announced an expansion of its operations, to include at least 17 new jobs.

Aggregates General Permit – The aggregates industry had been working with the Ohio EPA on a series of general permits – which would outline criteria for businesses to more easily and efficiently get authorization to engage in certain activities and use certain equipment – for approximately 10 years. CSI Ohio heard from the industry that although the substantive terms of the permits had been resolved for a few years, the EPA had never agreed to issue the permits. CSI Ohio pushed the EPA to identify any remaining issues, resolve them, and issue the permits. A representative of the aggregates industry told *Columbus Business First*, “We lacked the ability to get it over the goal line. It just kind of floundered, but when Lt. Gov. Taylor's office got involved, things started moving.”

PUCO Commercial Vehicle Rules – The Public Utilities Commission of Ohio (PUCO) had proposed rules that would have applied to smaller commercial vehicles (10,000-26,000 pounds) the same requirements that apply to big rigs and other vehicles where transportation is a major part of the company's operation. Based on the weight limits, the PUCO rules applied to businesses like landscapers, homebuilders, and party/event coordinators. The rules – covering issues like mileage records, maintenance logs, and driver health inspections – would have been overly burdensome for these businesses. No significant safety issues were ever identified, so CSI Ohio worked with PUCO, which ultimately withdrew the rules, citing the principles of CSI.

Buckeyes Forever – CSI Ohio promoted a law change to open the doors for young people who have left Ohio to return and pursue their educations. The Office heard an example of an Ohio high school graduate who had left the state for college. After working out of state for a few years, he wanted to return to Ohio to pursue a graduate degree, but because he was no longer a resident, he would have been required to pay out-of-state tuition. So instead, he pursued his graduate degree in California and never returned to Ohio. CSI Ohio believed that the state should always leave the door open for Ohio's young people to return to Ohio, raise their families, and contribute to our economy. The Office successfully pursued language in the budget, dubbed “Buckeyes Forever,” which allows an Ohio high school graduate who has left the state to return to Ohio and pay in-state tuition, hopefully creating a boomerang effect where the state's best and brightest will return to lead Ohio in the 21st century economy.

Deputy Registrars/BWC – Ohio Deputy Registrars are independent businesses who compete for contracts from the Ohio Bureau of Motor Vehicles. Despite being classified for years as “clerical” for the purpose of workers' compensation premiums, the Bureau of Workers'

Compensation began reclassifying registrars as “retail” in a series of audits beginning in 2010, leading to increasing premiums for these small business owners of 975 percent over the previous year. CSI Ohio questioned whether deputy registrars were actually equivalent to retail businesses and facilitated a discussion between the Deputy Registrar Association and the BWC. The BWC ultimately decided to adopt a new classification to cover these types of operations. The new classification is based directly on the actual experience ratings of deputy registrars, which will lead to much lower – and more fair – premium amounts

Catering Company – CSI worked with a catering company that was having difficulty obtaining a liquor permit because of the unique layout of the business, and how it interacted with an adjoining art gallery. CSI worked closely with the Department of Commerce to find a practical and common sense solution for the company. This success has been highlighted by the Middletown Chamber of Commerce, and the company recently informed CSI that the efforts helped them maximize their business for the 2011 holiday season.

EPA Permit – The owner of a printing company contacted CSI Ohio through his state legislator about an EPA permit issue. EPA was seven years behind in renewing his permit. In the meantime, new federal requirement meant he needed to either invest in significant new equipment or modify his allowable emissions under the permit. Despite the delay, he was told that time was critical and he needed to make a decision. The business owner felt like he was being boxed in by the state. CSI worked with the business and with EPA, and ultimately bought him a reprieve of six months to evaluate his options and make the best decision for his business.

Building Permits – CSI heard from the City of Van Wert about a number of local businesses who felt that the state’s building department was getting in the way of their ability to expand their businesses. The Lt. Governor, along with appropriate staff from the Department of Commerce, traveled to Van Wert to meet with these business owners, discuss their concerns, identify solutions, and share developments regarding the state’s permitting process. At this meeting, a business owner who had experienced significant delay spoke passionately about the barriers he has run into. Following the meeting, the CSI Office worked closely with Commerce and were able to wrap up his permit in less than two weeks.

Inflatable Amusement Devices – Formerly, both the Ohio Department of Commerce and the Ohio Department of Agriculture had authority to license and inspect businesses who provided inflatable amusement equipment such as bounce houses for use at parties and events. Agriculture regulated the equipment as amusement rides, while Commerce exercised jurisdiction under the Ohio building code. This concern over duplicative regulation was brought to the attention of CSI, which worked with the two agencies to identify a common sense solution. After reviewing state law, it was clear that the equipment should be regulated as amusement rides. CSI worked with Commerce, which agreed to step back from its regulatory role, and the Department of Agriculture is now the sole agency overseeing the inflatables.

Measurables:

1. Number of regulatory suggestions received through CSI contacts

In 2011, the CSI Office received more than 350 email submissions through either the CSI web site or the CSIOhio@governor.ohio.gov email address. Those submissions vary in terms of the opportunity each one presents for actual change, but the CSI Office identified a number of substantive action items from those submissions. Of the 350, 79 were identified as having strong potential for CSI action and follow-up. The remaining emails consisted of repeat or follow-up emails or email suggestions that were deemed to not fall under the scope of the CSI Office. In addition, approximately 80 suggestions were received directly by CSI staff through meetings, events, and other contacts which led to significant opportunities to assist Ohio businesses.

2. Jobs created or retained/Dollars saved

As evidenced in the initiatives described above – specifically in the instance of the law change for food manufacturers that use alcohol in their recipes – there is often a lag time between when CSI is able to initiate change and when specific job creation/retention numbers are able to be measured. In the case of Custom Culinary, the legislative changes achieved through CSI were directly responsible for the expansion which will create at least 17 new jobs in 2012. A priority for the CSI Office in 2012 is to follow up on the initiatives described above and others to determine what actual impact CSI's efforts had on the businesses' employment numbers. These statistics will be reported in future reports.

Goal 3: Change the culture in agencies to be consistent with the CSI principles

Description: Improving regulation is as much about attitude as it is about any specific regulation. A major effort of CSI Ohio has been to incorporate the CSI values within the regulating agencies themselves so that regulators are practicing these values in their daily activities. Just as the regulatory processes will be more effective through compliance than through enforcement, the CSI process will be more effective if it becomes a part of the agency cultures than if it relies on the CSI Office to “fix” regulations.

Measurables:

1. CSI initiatives by agencies independent of CSI Office
The CSI process allows agencies to initiate improvements to their regulations on their own. While the CSI Office does not have to be involved in every CSI initiative, agencies have been asked to report on those initiatives so CSI efforts occurring organically within the agencies can be catalogued. The CSI Office has received information from some agencies already about specific CSI initiatives they have undertaken (see **Appendix C**). In 2012, the CSI Office will initiate a more formal means of tracking independent agency initiatives.

2. Compliance among agencies
As agencies become familiar with the CSI process and the expectations of the CSI Office, draft rules and business impact analyses should address unnecessary business impacts prior to being submitted for review. As such, tracking the number of CSI recommendations will help identify whether this understanding is occurring or not. This data will be tracked as the new CSI review process is implemented in 2012 and beyond.

3. Public comments
Although not a scientific measure, the frequency of public complaints about a specific regulation or a specific agency provides some indication of the agency’s relationship with its stakeholders. Tracking the suggestions and complaints received by the CSI Office will help identify the degree to which each agency is incorporating the CSI principles into its regular operations.

Of the CSI suggestions received through the CSI email address in 2011 (see Goal 2), the following subject matters represented the highest percentage of submissions:

- | | | | |
|-------------------------|----|---------------------------------|----|
| • Liquor Permitting | 8% | • Environmental Regulations | 4% |
| • Taxes | 7% | • Doing business with the State | 4% |
| • Licensing | 6% | • Smoking Ban ¹ | 4% |
| • Workers’ Compensation | 5% | | |

¹ Of the 70 emails received on the statewide smoking ban, 60 were from one individual. The duplicate emails were backed out of the calculation.

Goal 4: Communicate CSI's successes to the public

Description: Perception is reality. As long as the public believes that Ohio's regulatory climate is unfriendly to business, it will be difficult to attract and retain jobs. As a result, it is important that the CSI Office effectively communicate its successes and its failures so that stakeholders have an accurate perception of Ohio's regulations. Communication flowing in both directions is critical to the success of the Initiative.

In 2011, the CSI Office established a web site (www.governor.ohio.gov/CSI) to allow anyone to communicate with the office and to receive periodic updates on CSI activities. In 2012, communication will continue to be a focus, as CSI will begin utilizing social media to more effectively communicate directly with businesses impacted by regulations, and to help change the perception of Ohio's business climate.

Measurables:

1. Survey business owners and business groups about CSI

Goal 1 describes the CSI Office's intention to develop a survey instrument for internal and external stakeholders about the rule review process. In addition, a priority for 2012, to be led by the Small Business Advisory Council, is to develop a broader business survey that can be used to track awareness of and attitudes toward the efforts of CSI, as well as perceptions about doing business in Ohio.

In October 2011, the Council of Smaller Enterprises (COSE) – a small business support organization located in Northwest Ohio – conducted a survey of its members about CSI. It found the following. 205 people took the survey (though not all responded to every question). Of those who responded:

- 42.4 percent had heard of the Common Sense Initiative.
- 84.1 percent felt that the State of Ohio does not effectively communicate what regulations affect their businesses.
- 87.9 percent felt that the State of Ohio could increase their awareness about regulations with either emails or direct mail information from state agencies.
- 81.6 percent cited excessive paperwork requirements as affecting their businesses. 40.8 percent cited purchasing business products at retail versus wholesale prices, and 38.5 percent cited first-time paperwork violation fines.
- 86.3 percent would be willing to receive a monthly email with detailed information on government regulations that could affect their businesses.

The results of this survey confirm that small businesses in Ohio see regulation as having a significant impact on their businesses, and do not feel that the state has done a good job communicating with them about regulations. The survey also highlights an opportunity to

increase awareness of CSI and use the initiative to improve this communication. Similar questions will be incorporated into future CSI surveys to track change.

2. Number of speaking engagements to deliver the message about regulatory reform
In 2011, Lt. Governor Taylor spoke to public groups 58 times about the Common Sense Initiative and regulatory reform, including chambers of commerce, business roundtables, rotary clubs, and other groups. CSI staff spoke to an additional 14 similar public groups.
3. Number of people signed up to receive CSI updates
In 2011, 340 people signed up through the CSI web site to receive updates.

Goal 5: Improve Ohio’s business regulatory climate to promote a true balance between public safety and economic development

Description: This is ultimately the purpose of the CSI Initiative – to fix the perception and the reality that Ohio’s regulatory climate makes the state unwelcoming to business. This goal may also be the most difficult to measure, as regulatory reform is but one piece of the state’s overall economic development efforts, and by itself will not fix Ohio’s economy. However, there are performance indicators that can help identify whether the CSI Initiative is having an impact, and the CSI Office will constantly seek to identify additional measures that can help judge the overall impact of its efforts.

Measurables:

1. Survey results

Utilizing the survey described in Goal 4 – which will be developed through the Small Business Advisory Council to help ensure that it targets the issues of most concern to businesses – the CSI Office will measure and track attitudes about Ohio’s business climate.

2. Improved business climate measures

Although it is unrealistic to expect that CSI by itself will fix Ohio’s economy and rehabilitate Ohio’s reputation in terms of attracting jobs, CSI is a part of this effort. Understanding and tracking where Ohio stands, the role that regulations play in the perception of our state, and any impact of CSI on that perception is an important measure to guide our operations.

In some cases, the data sets that we are using to track Ohio’s economic progress have not yet caught up to the initiation of CSI. In those cases, we will provide the most recent data to use as a baseline until we have data from at least 2011.

Unemployment Rate (Ohio): Net Decrease of 1.4% from December 2010 to December 2011

- December 2010 – 9.5%
- December 2011 – 8.1%

(Source: Ohio Labor Market Information - <http://ohiolmi.com>)

Number of Business Loans Under \$100,000 (Ohio)

- 2010 – 111,618 (Most Recent Data)
- (Source: U.S. Small Business Administration)

Business Activity (Openings, Closings, Expansions, Contractions): 2010 (Most Recent Data)

- Openings – 38,852
 - Closings – 38,793
 - Expansions – 209,800 (818,500 jobs created)
 - Contractions – 211,800 (781,500 jobs lost)
- (Source: U.S. Small Business Administration)

Private Investment Projects

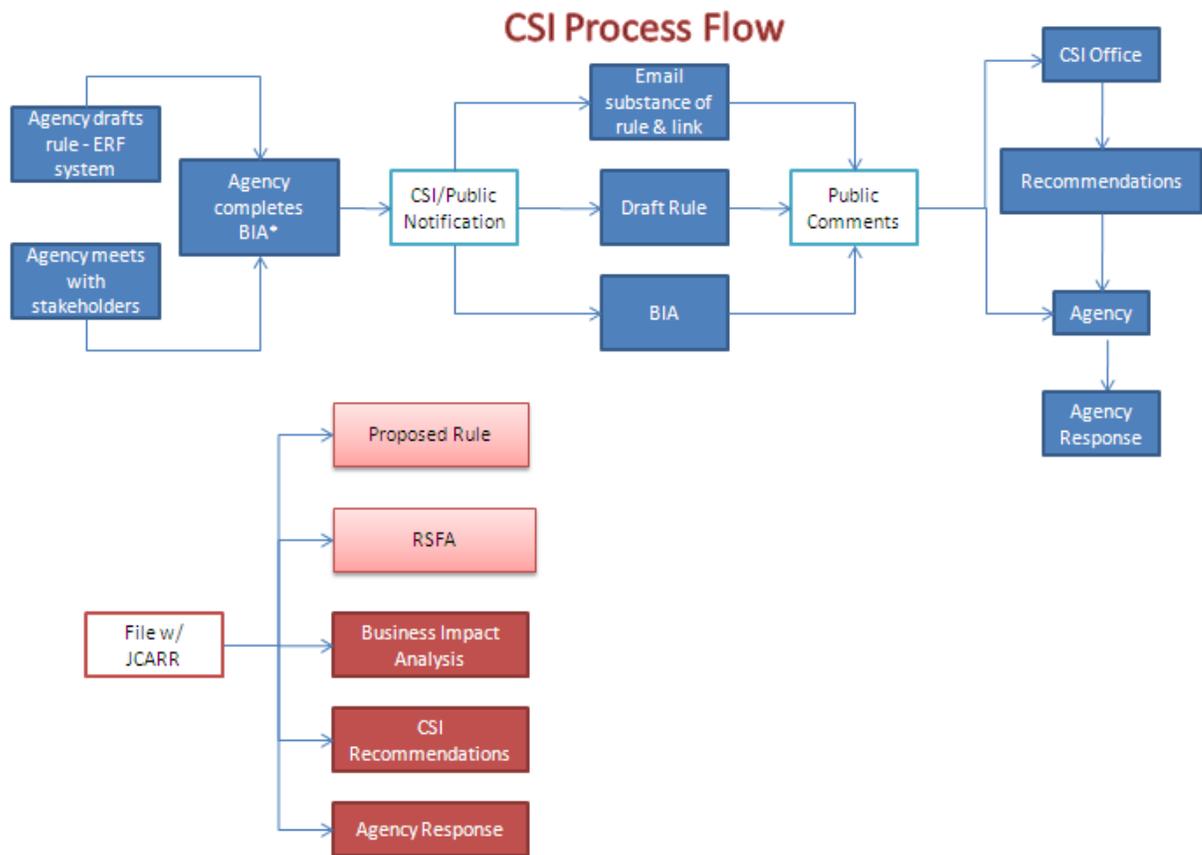
- 2010 – 304 projects totaling approximately \$4.8 billion and 16,341 jobs created (Most Recent Data)

Note: Qualifying projects involve minimum \$1M investment, 0,000 square feet, or 50 jobs)

(Source: Ohio Department of Development)

Forbes *Best States for Business and Careers* (November 2011)

- 2010 Ohio Overall – 38th
- 2011 Ohio Overall – 38th
- 2010 Ohio Regulatory Climate – 12th
- 2011 Ohio Regulatory Climate – 10th



* - Business Impact Analysis Instrument

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: _____

Regulation/Package Title: _____

Rule Number(s): _____

Date: _____

Rule Type:

New

5-Year Review

Amended

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.
Please include the key provisions of the regulation as well as any proposed amendments.
2. Please list the Ohio statute authorizing the Agency to adopt this regulation.
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.

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding 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)?**
6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

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.
8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**
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?**
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?**
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.
12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**
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.**

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

Regulatory Flexibility

- 16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**
- 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?**
- 18. What resources are available to assist small businesses with compliance of the regulation?**