

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Commerce, Division of Industrial Compliance

Regulation/Package Title: Bedding and Upholstered Furniture Inspection Rules

Rule Number(s): 1301:3-3-01

Date: 10/5/2015

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Rescinded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.

The draft regulation sets forth the fees for the laboratory inspection bedding and stuffed toys.

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

R.C. 3713.04.

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.

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 public purpose in enacting this bedding rule is to fund the laboratory testing that protects consumers from dangerous bedding and stuffed toy products. Pursuant to R.C. Chapter 3713, the Bedding section in the Division of Industrial is charged with establishing rules pertaining to the definition, name, and description of materials necessary to carry out this chapter, including setting fees for the laboratory testing of bedding and stuffed toys.

The Bedding laboratory conducts approximately 6,000 tests annually on products prior to their availability for retail sale in Ohio. The Bedding section works diligently to ensure the safety of consumers. These regulations protect the health and safety of all Ohioans with minimal affects upon the industry.

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

The Department of Commerce believes that this Bedding regulation is successful when it helps ensure the safety of Ohioans with minimal impact upon the industry. The rule being proposed is the same as the rule that has been in place for many years. Commerce believes that the Bedding regulations continue to demonstrate every year that they are successful because they continue to ensure the safety of 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.

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

See Exhibit B for the list of stakeholders. Stakeholders were contacted on January 23, 2015 about this rule.

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

The stakeholders suggested no changes.

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?

N/A - this rule simply sets forth fees.

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 Bedding rules are governed by R.C. Chapter 3713. The Revised Code mandates that Commerce adopt rules necessary for the implementing the provisions of Chapter 3713. These rules are a product of thorough industry and agency review and the Bedding section received no stakeholder or industry input requesting rule changes or 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.*

The rule is not appropriate for performance-based regulatory review.

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

This rule is authorized by R.C. 3713.04. The Division conducted a thorough review of the Ohio Revised Code and Ohio Administrative Code to ensure there are no other regulations in place pertaining to these specific rules.

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 changes to the rule, so industry will not need to be notified about any changes or new implementation. Information will be provided on the Commerce website, and Commerce employees are always available to respond to questions from the industry.

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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;

The impacted community consists of bedding and stuffed toy manufacturers, wholesalers, and resellers.

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

For manufacturers and wholesalers, the adverse impact consists of a fee that ranges from \$55 to \$150, depending on the type of material being tested by the bedding laboratory. Since these requirements already exist under current regulations, no new adverse impact will result from the proposed rule.

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.

See 14(b).

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

Section 3713.04 of the Revised Code requires the Agency to test bedding materials and to set the fees for that laboratory testing. These tests are in accordance with industry standards and are necessary to ensure bedding and stuffed toy safety. These standards, by necessity, impose a certain level of adverse impact to business. There were no comments or objections from the regulated community.

Regulatory Flexibility

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

There are no exceptions to the payment of fees, but there are several exemptions to the testing requirement itself: 1) Manufacturers who produce 100 or fewer stuffed toys annually; 2) manufacturers who produce five or fewer quilts annually; 3) manufacturers who produce 20 or fewer pillows annually; and 4) organizations described in section 501(c)(3) of the Internal Revenue Code and who are exempt from income tax under section 501(a). See R.C. 3713.05.

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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?

N/A – this rule simply sets forth required fees.

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

The Bedding section is easily accessible for questions via internet, phone and e-mail. Additionally, the section offers “Industry Round-table discussion” in effort to assist small businesses into achieving and maintaining compliance with requirements the Revised Code.

Ex. A - Rules Overview Memorandum

Bedding Rule	Overview of Changes
1301:3-3-01 No change	Definitions – This rule sets forth the fees for bedding laboratory testing, as per R.C. 3713.04.

Exhibit B – Bedding Stakeholders

International Association of Bedding and
Furniture Law Officials (IABFLO)

<http://abflo.info/>

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