

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Department of Commerce, Division of Industrial Compliance

Regulation/Package Title: Welders and Brazers

Rule Number(s): 1301:3-8-01 to 1301:3-8-03

Date: 4/17/2014

**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Rescinded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.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

Pursuant to Ohio Revised Code Section 4104.44, the rules set forth in Chapter 1301:3-8 et seq. of the Ohio Administrative Code help ensure that all welding and brazing work done on metallic piping systems is performed in accordance with industry standards, by trained and

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certified welders, pursuant to approved procedures and specifications. The rules set forth the certification and reporting requirements for the procedure specifications and procedure qualification records for the welding and brazing work done, as well as the reporting requirements for the performance qualifications of the welders themselves.

These simple rules promote easy, transparent and inexpensive compliance with applicable standards and regulations.

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

R.C. 4104.44.

**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.*

The regulation does not implement a federal requirement.

**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)?**

In the installations of building services piping systems, many plumbing joints are sealed by welding or brazing. Welding involves the application of high heat to fuse joints by melting the metal pipe, whereas brazing involves lower heat application to a sealing metal, which then melts and fuses the joint. Both welding and brazing are hazardous activities, which pose health and safety risks not only for the welders/brazers themselves but also for the surrounding construction team and the eventual building occupants. Welding and brazing accidents can result in fire, explosion, gas leaks, and fume hazards. For these reasons, it is crucial to ensure that the welders/brazers themselves are properly trained and experienced, and that the work is being performed in accordance with industry standards.

To prevent unsafe conditions from occurring, the Ohio Building Code and R.C. 4104.44 sets standards for welding and brazing of metallic piping systems. R.C. 4104.44 mandates the retention of certified performance qualification records for welders/brazers employed at the job site, and mandates the submission of certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records. These

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required records help ensure that the welding and brazing work is being performed in accordance with industry standards, and that the welders and brazers are properly trained and qualified to perform the work. The revised code requires the Division of Industrial Compliance to adopt rules regarding the submission of these records and the applicable fees. These rules effectuate the requirements of R.C. 4104.44 while imposing minimal burdens upon the industry

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

The rules are successful when the plumbing division protects Ohioans from the risks of welding and brazing accidents while maintaining a simple and efficient records submission process for those in the welding and brazing industry.

**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.*

See Attachment D for list of stakeholders. Stakeholders were contacted via e-mail on June 8, 2012 and again on May 9, 2014.

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

Stakeholders are supportive of this entire rule package. No changes were suggested.

**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?**

This rule depends upon the industry standards established by the American Society of Mechanical Engineers (“ASME”), who utilize the latest scientific processes to establish their standards. ASME standards are written by industry experts, who bring with them years of experience and education to create a scientifically accurate method of measurement.

**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?**

R.C. 4104.44 requires the Division of Industrial Compliance to adopt rules regarding the submission of certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records to the superintendent, as well as establishing

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the fee for such submission. The records help ensure that welding/brazing work is performed in accordance with industry standards, and that the people performing the work are properly trained and qualified. There are no regulatory alternatives to be considered.

**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.*

No. These rules are not appropriate for performance based regulations.

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

Pursuant to R.C. 4104.44, the Division of Industrial Compliance has exclusive jurisdiction over plumbing inspection and related fees. The Plumbing section consulted with the Board of Building Standards to ensure no duplication of 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.**

Commerce will notify the stakeholders and industry about this rule package. Given the minor changes to this rule package, there will be little to no impact on stakeholders.

**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 business community consists of brazing and welding industry, and any owner of building services piping systems.

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

The adverse impact consists of personnel time to complete and submit records, as well as the fees for submission.

- 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.*

The procedure specification fee is \$60.00. The procedure qualification records fee is \$15.00. The paperwork time is minimal, and thus the cost cannot be estimated.

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

R.C. 4104.44 mandates that the Superintendent of the Division of Industrial Compliance promulgate rules requiring the submission of certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping to the Superintendent of Industrial Compliance in the Department of Commerce, along with the fee the Superintendent establishes. These expenses are minimal and are outweighed by the important safety interest ensured by the rules.

**Regulatory Flexibility**

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

The rules that apply are uniform across the industry without regard for the size of the business. However, the Division is always available to help the small business owner with any compliance questions.

**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?**

The welding and brazing section has a high compliance rate and in a case where an issue arises, the section works with the plumbing industry to achieve compliance. There are no penalties provided by these rules.

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

The welding and brazing section is easily accessible for questions via internet, phone and e-mail. The section strives to assist small businesses into achieving and maintaining compliance with requirements of R.C. Chapters 4104.44 and O.A.C. Chapters 1301:3-8.