



# Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

## Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce, Division of Industrial Compliance

Rule Contact Name and Contact Information:

Aaron Johnston, [aaron.johnston@com.state.oh.us](mailto:aaron.johnston@com.state.oh.us)

Regulation/Package Title (a general description of the rules' substantive content):

Temporary Plumbing Inspector Certificate for Military Members and Spouses

Rule Number(s): 1301:3-2-10 (New)

Date of Submission for CSI Review: July 15, 2020

Public Comment Period End Date: July 29, 2020

Rule Type/Number of Rules:

New/ 1 rule

No Change/     rules (FYR?    )

Amended/     rules (FYR?    )

Rescinded/     rules (FYR?    )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### Reason for Submission

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1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a.  **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b.  **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c.  **Requires specific expenditures or the report of information as a condition of compliance.**
- d.  **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

2. **Please briefly describe the draft regulation in plain language.**

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

Rule 1301:3-2-10 of the Administrative Code is proposed to effectuate division (H) of section 4743.041 of the Revised Code. The proposed new rule sets forth the qualifications under which an individual may be issued a temporary plumbing inspector certificate, the required form in which the application must be made, and the validity period for temporary plumbing inspector certificates.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

R.C. 4743.041, R.C. 3703.01

4. **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. No.

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

Not applicable.

- 6. 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 133<sup>rd</sup> General Assembly enacted Amended Substitute Senate Bill 7, which required all agencies to issue a temporary occupational license to members of the military and their spouses if they met certain qualifications. The provisions of Amended Substitute Senate Bill 7 went into effect on April 28, 2020, and Division (H) of section 4743.041 of the Revised Code states that all impacted agencies “shall adopt rules under Chapter 119. Of the Revised Code as necessary to implement this section.” Accordingly, the public purpose of the proposed new rule is to implement section 4743.041 of the Revised Code, as it applies to plumbing inspector certificates.

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

The rule is successful if: 1) The impacted parties are provided with clear guidelines as to how to apply for and be eligible for a temporary plumbing inspector certificate; and 2) Applications for temporary plumbing inspector certificates are processed in an efficient and compliant manner. The success of the rule will be measured by eliciting feedback from the public, stakeholders, and any interested parties regarding the clarity and impact of the rule.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

- 9. 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.*

Stakeholders were contacted via e-mail on June 18, 2020.

Please see the “BIA Attachment A.”

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

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At present, none has been received.

**11. 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?**

The rule was drafted to implement and follow the language of section 4743.041 of the Revised Code. Accordingly, scientific data was not used to develop the rule or the measurable outcomes of the rule.

**12. 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?**

Alternative regulations were not considered in proposing this rule. The rule was drafted to implement and follow the language of section 4743.041 of the Revised Code. As the rule is being proposed to comply with the statutory mandate of section 4743.041 of the Revised Code, alternative regulations were not appropriate.

**13. 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.***

Performance-based regulations were not considered in proposing this rule. The rule was drafted to implement and follow the language of section 4743.041 of the Revised Code, which does not have performance-based requirements. As the rule is being proposed to comply with the statutory mandate of section 4743.041 of the Revised Code, performance-based regulations were not appropriate.

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

Section 4743.041 of the Revised Code authorizes and requires occupational licensing agencies to promulgate rules to implement its provisions. That statute and its requirements became effective on April 28, 2020, and no other entity is required or permitted to adopt rules regarding plumbing inspector certificates. Accordingly, the proposed rule will not duplicate an existing Ohio regulation.

**15. 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.**

The Ohio Department of Commerce will notify the stakeholders and the industry about this rule package. The Division of Industrial Compliance will train its staff on its implementation and also be available by telephone, mail, and e-mail to answer any questions from the industry and the public.

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## **Adverse Impact to Business**

**16. 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; and**
- b. Identify the nature of all adverse impact (e.g., 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.*

The scope of the impacted business community includes plumbing inspectors and applicant plumbing inspectors, who are members of the military or the spouses of members of the military.

The nature of the adverse impact is the time spent acquiring the information and documentation necessary to prove that an individual is eligible to receive a temporary plumbing inspector certificate and completing the application.

The expected adverse impact from the regulation is estimated to be a half an hour to an hour of time.

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

Any adverse impacts to the regulated business community are mandated by section 4743.041 of the Revised Code, which requires occupational license boards to adopt rules to implement the statutory requirements. The Ohio Department of Commerce is only requiring the report of information necessary to show the applicant meets the statutorily mandated qualifications for a temporary plumbing inspector certificate. Additionally, as the proposed rule imposes no costs and minimal expenditures of time to demonstrate eligibility, the important public interests served by the rule far outweigh any nominal adverse impact.

## **Regulatory Flexibility**

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

No. The proposed rule only implements the requirements of section 4743.041 of the Revised Code, and that statute does not provide any exemptions or alternative means of compliance for small businesses. Accordingly, neither does the proposed rule.

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**19. 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?**

Penalties for non-compliance are set by section 3703.99 of the Revised Code, not by regulation. Notwithstanding this point, the Ohio Department of Commerce and the Division of Industrial Compliance have been and remain committed to working with all regulated parties to ensure that any paperwork offenses are resolved without a negative consequence for first-time offenders. Typically, the Ohio Department of Commerce notifies a party of any paperwork mistakes or violations (regardless of whether it is the party's first paperwork error) and assists the party in making any necessary corrections. All reasonable efforts are made to provide an opportunity to remedy non-compliances before fines or penalties are considered.

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

The plumbing section of the Division of Industrial Compliance is easily accessible by e-mail, mail, and telephone for questions or requests for assistance, and the Division's website also provides resources and contact information for inquiring parties. Both the Ohio Department of Commerce and the Division of Industrial Compliance strive to provide great customer service, and helping regulated parties achieve compliance has been and remains a priority.

## **BIA Attachment A**

### **PLUMBING STAKEHOLDERS**

1. Operator Training Committee of Ohio, Inc.  
3972 Indianola Ave.  
Columbus OH 43214  
[otco@otco.org](mailto:otco@otco.org)
2. Cleveland Plumbing Industry  
950 Keynote Circle #40  
Cleveland, OH 44131  
Attn: Tom Wanner  
Email: [twanner@mapic.org](mailto:twanner@mapic.org)
3. Plumbing-Heating-Cooling Contractors of Ohio  
20040 Carolyn Ave.  
Rocky River, OH 44116  
Attn: Rocco Fana  
Email: [rocco@phccohio.org](mailto:rocco@phccohio.org)
4. Cincinnati Master Plumbers Association  
11020 Southland Road  
Cincinnati, OH 45240  
Attn: Joyce Frank  
Email: [cmpa@cinci.rr.com](mailto:cmpa@cinci.rr.com)
5. Ohio Association of Plumbing Inspectors  
PO Box 156  
Huron, OH 44839  
Attn: Ron Branson  
Email: [oapimail@gmail.com](mailto:oapimail@gmail.com)
6. Association of Plumbing & Heating Contractors  
684 Colony Drive  
Westerville, OH 43081  
Attn: Frank Czako  
Email: [flczako@sbcglobal.net](mailto:flczako@sbcglobal.net)
7. Mechanical Contractors Association  
2077 Embury Park Rd.  
Dayton, OH 45414  
Attn: Megan Miller  
Email: [mmiller@assnsoffice.com](mailto:mmiller@assnsoffice.com)
8. Chris Sinagra, Legislative Consultant  
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