

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Commerce, Division of Industrial Compliance

Regulation/Package Title: Permits for erection, repair, or removal to different location; certificates of operation; temporary certificates of operation; procedure for registered elevator to be permanently taken out of service.

Rule Number(s): 1301:3-6-03

Date: September 21, 2018

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Rescinded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.

Rule 1301:3-6-03 of the Administrative Code establishes the procedure to apply for a permit for the erection, repair, or removal to a different location of an elevator. The rule also outlines the procedure to apply to obtain and to renew a certificate of operation for an elevator, as well as the procedure for discipline regarding such permits and certificates of operation. The proposed amendment to this rule modifies some of the fee amounts established by section 4105.17 of the Revised Code.

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

Section 4105.17 of the Revised Code.

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.

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 amount of fees that are proposed to be modified section 4105.17 of the Revised Code have not been modified since 2009. This regulation adjusts the fees to account for the increasing costs associated with administering Chapter 4105. of the Revised Code.

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

The Division will measure the success of these regulations by evaluating the costs associated with administering Chapter 4105. of the Revised Code in relationship to the revenue generated by this proposed amended fee structure.

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 attached spreadsheet.

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

TBD

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?

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These rules were developed with reliance upon the training, experience, and expertise of the Department's staff, particularly that of the elevator section, which specializes in overseeing the Department's enforcement efforts and inspection program for elevators, escalators, and related conveyances throughout the state.

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?

Given the increased costs associated with administering Chapter 4105. of the Revised Code, alternative amounts of fee increases were considered. But the amount of the increase represented in the proposed amendment was deemed the appropriate amount to balance both the fiscal needs of the Division while considering the impact fee increases would have on the regulated industry.

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.*

Given that compliance with applicable safety codes and statutory requirements is mandatory, a performance-based regulation was not appropriate.

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

The Department reviewed relevant provisions of the Administrative Code and found it had exclusive jurisdiction over regulation of the inspection of elevators and related conveyances. Furthermore, there were no duplicative sections present within the Division's rules regarding the subject matter of this rule.

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.

The Department will inform interested parties, such as property owners subject to elevator inspections, of the changes to fees associated with the elevator section. Also, the Department publishes a quarterly newsletter as well as disseminates bi-weekly email updates that will help to keep the industry informed of the implementation of these rules. Finally, Department staff working in this area will be available by phone or email to answer questions from the industry.

Adverse Impact to Business

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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 scope of the impacted business community includes those subject to the inspection and certificate requirements found in Chapter 4105. of the Revised Code.

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

The proposed amendment seeks to increase select fees associated with obtaining and renewing certificates of operation as well as permits to build, repair, or modify elevators and related conveyances subject to Chapter 4105. of the Revised Code.

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.

Generally, fee increases were minimal, those that this amendment seeks to increase were all roughly thirty percent increase.

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

Fees collected in this area have not been modified since 2009. Revenue fluctuates annually, seeing some modest growth in recent years due to the economy, but revenue has not kept pace with costs and has not been sufficient to offset Departmental administrative costs driven by rising salaries and increasing technology maintenance services. Overhead costs within the Department of Commerce have increased by as much as 10% in the past 4 years. Factoring in these administrative costs, the program was not self-sustaining in 2017 and 2018. The Department is working to ensure efficient spending, but increasing revenue will ensure program viability and allow for future infrastructure investment as needed.

Regulatory Flexibility

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

No. Given the importance for uniform application of safety requirements, a small business exemption was inappropriate.

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 Department consistently waives late fees for first-time offenders, in accordance with Executive Order 2008-04S.

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

The Department provides instructions and guidance on compliance matters on its website and through forms provided to stakeholders. Additionally, the Department's staff members are available by phone to address any questions an owner or contractor may have regarding how to obtain a permit or certificate of operation. Finally, individuals with questions or an interest in particularized matters will be provided contact information for those sections of the Department with experts best suited to address those unique questions and provide guidance to these individuals and small businesses with compliance.