



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, Elevator Section

Rule Contact Name and Contact Information:

Assistant Division Counsel Chris Bagi, 614-644-3950, cbagi@com.state.oh.us

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

Permits for erection, repair, or removal to a 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 of Submission for CSI Review: 7/16/21

Public Comment Period End Date: 7/30/21

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 1 rules (FYR? 0)

Rescinded/___ rules (FYR?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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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

- 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):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- 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.

The rule establishes what information and materials must be submitted when applying for a permit for erection, repair, or removal to a different location of an elevator; certificates of operation; temporary certificates of operation; as well as the procedure to take an elevator permanently out of service.

The sole amendment concerns removing the requirement that the application for an elevator permit be filed *in duplicate*.

- 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. 4105.12 and 4105.17.**

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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.

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

N/A

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)?**

Section 4105.16 of the Revised Code requires a permit be issued prior to an elevator being installed, repaired, or removed to a different location. Similarly, section 4105.15 of the Revised Code requires certificates of operation for an elevator to be renewed in accordance with rules adopted by the superintendent of industrial compliance. This rule establishes the process to apply for these permits and certificates required by Chapter 4105. of the Revised Code.

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

The Division will measure the success of this regulation by gathering feedback from stakeholders on the clarity of the rule's language as well as the guidance provided by the rule on how to apply for the certificates and permits required by Chapter 4105. of the Revised Code. This rule will be successful when its requirements are clearly understood by those subject to its requirements and additional guidance from the Division's staff on how to comply with the rule's requirements is not needed.

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.

N/A

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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

Given the nature of the proposed amendment, and the fact that it is easing the regulatory requirements, stakeholder feedback was not obtained prior to submission to CSI.

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?

No scientific data was used to develop this rule, given that this rule deals with an administrative or ministerial process.

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?

Sections 4105.15 and 4105.16 of the Revised Code require the superintendent to adopt rules for how permits and certificates required by Chapter 4105. of the Revised Code are to be applied for. As such, discretion could only be exercised regarding what information would be required to submit an application for permit or certificate, not whether the permit or certificate itself would be required. The amount of information required by the rule is appropriate because it enables the Division to adequately evaluate the potential for safety concerns posed by elevators while also not overburdening those subject to the rules' requirements.

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.*

Given the nature of the rule's subject matter, a performance-based regulation was not appropriate.

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

The Division reviewed relevant areas of the Ohio Administrative Code and determined the rule was not duplicative.

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.

Because the Division no longer requires submission of plans in duplicate, and removal of this requirement will ease the administrative burden on those subject to the rule's requirements, there is no concern that the rule will be applied inconsistently.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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

The scope of the impacted business community includes owners and operators of conveyances subject to the jurisdiction of Chapter 4105. of the Revised Code.

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

The nature of adverse impact posed by rule 1301:3-6-03 includes the administrative time needed to gather the required information for submission of the application for elevator permit or certificate of operation (generally 2-3 hours), as well as submission of the required fees established in Chapter 4105. of the Revised Code (*see* R.C. 4105.17).

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.

Roughly 2-3 hours to prepare the application forms and gather necessary information.

The amount of fees is established by statute in section 4105.17 of the Revised Code.

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

The Division balanced the need for information necessary to properly evaluate the potential for safety concerns posed by elevators, escalators, and moving walks with the administrative burden associated with applying for the certificates and permits required by Chapter 4105. of the Revised Code.

Regulatory Flexibility

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

An exemption for small businesses does not appear to be permitted by the Revised Code. Moreover, given the fact that an elevator that is not functioning properly poses a risk to anyone within the vicinity of its operation—not just to small businesses—an exemption for small business was not advisable.

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?

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The Division often excuses first-time paperwork violations and attempts to obtain compliance with applicable safety codes, as well as the Revised Code and the Ohio Administrative Code, through nondisciplinary means.

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

The Elevator Section is available to answer questions and address concerns posed by small businesses as well as the public generally. In addition, the Elevator Section often performs additional inspections, outside of the typical regularly scheduled inspection timeframe, to address specific concerns regarding elevators, escalators, and moving walks throughout the state.