

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety – Office of Criminal Justice Services

Regulation/Package Title: 4501-7

Rule Number(s): 4501-7-01, 4501-7-02, 4501-7-03, 4501-7-04, 4501-7-05, 4501-7-06, 4501-7-07, 4501-7-08, 4501-7-09, 4501-7-10, 4501-7-11, 4501-7-12, 4501-7-13, 4501-7-14, 4501-7-16, 4501-7-17, 4501-7-18, 4501-7-19, 4501-7-20, 4501-7-21, 4501-7-22, 4501-7-23, 4501-7-24, 4501-7-25, 4501-7-26, 4501-7-27, 4501-7-28, 4501-7-29, 4501-7-30, 4501-7-31, 4501-7-32, 4501-7-33, 4501-7-34, 4501-7-35, 4501-7-36, 4501-7-37

Date: July 23, 2014; Update October 24, 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☐ Rescinded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.

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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 rules in this package set forth the requirements for the education and training of beginning drivers and commercial drivers. The rules address the requirements for the licensing of driver training schools and instructors. These rules are proposed for amendment to clarify language, require annual physicals, include professional continuing education for all instructors, require that the brick-and-mortar schools use the department provided final exams, and establish the director of ODPS may take disciplinary action for fees and fines not paid. Additionally, rules -05 and -25 are proposed to implement the provisions of H.B. 488 (130th General Assembly) pertaining to applicants and licensees who are military personnel.

Rules 24 and 28 are being rescinded and proposed as new due to 50% of the content has been changed. Rule 24 is being proposed as new to include incorporated references, clarify the application items to include fire inspections and building use agreements. Rule 28 has been proposed as new to address and *designate a separation of training for class "A" and class "B" commercial drivers* licensing

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

4508.02, 4508.03, 4508.04

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.

No, however, rule 4501-7-31 provides an option for all commercial motor vehicles used for training to comply with the requirements of periodic regulations as set forth in Title 49 of the Code of Federal Regulations in lieu of the state inspection.

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

No federal regulations currently exist implementing or requiring training in the operation of commercial motor vehicles.

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)?

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It is the agency's responsibility and statutory authority to license schools, instructors and set consistent standards for those training the public in the operation of motor vehicles and commercial motor vehicles. The regulation is to protect the safety and welfare of the public by ensuring that all new drivers and CDL drivers receive consistent, quality instruction delivered by enterprises that meet specific standards in program administration and by instructors who meet the character, fitness, education, and experience requirements expected of persons who intend to instruct new drivers in the operation of motor vehicles.

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

The agency will measure the success of the regulations through the reduced number of complaints and investigations resulting in administrative action being imposed upon the licensees. The agency will measure the success of the rules and *regulations pertaining to the Class "B" training through the number of schools providing the training and the number of students electing to take the training*; this can be tracked through the issuance of certificates of completion.

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.

All online, class "D," disability, and CDL driver training schools, were contacted in 2013 through an e-mail. The e-mails requested those interested in sitting on the rule review committee to send notification to the department. The committees were selected through a random drawing from those who volunteered.

Representatives for the class "D" schools included Jeff Baehr (Myers Driving School), Julie Dominik (Mercy's Driver Rehabilitation Program), Al Salyers and John Sawyer (Auto Club Driving Schools, Inc.), Colleen Butch (John Butch Driving School, Inc.), Ruth Diehl (Ruth's Driving Academy), Sue Kaufman (Fort Loramie High School Driving Program), and Daniel Kramer (Top Driver Ohio). Representatives for the online driver education schools included Gary Tsifrin and Chris Flink (DriversEd.com), Paul Zalatoris (Top Driver), and Michael LaPlume and Karl Logan (Costech Technologies Inc.).

Representatives for the CDL schools included Brian MacDonald (International Trucking School of Ohio), Jim Rosen (Apollo Truck Driving Academy), Larry Braham (TDDS Technical Institute), Kreigh Spahr (Capital Transportation and Action in Motion), Eddie Mullins (Southern State Community College), Michael Moscinski (Trainco, Inc.), Michael Lattavo (Big Rig Truck Driving School, Inc.), Tom Hicswa (Clark State Community College), and Charles Thompson (Clark State Community College).

Additionally, the agency reached out to Robert Harmon (Ohio Department of Education), Tom Forbes (Public Utilities Commission of Ohio), Robyn Darden and Nancy McMullen (Bureau of Motor Vehicles), and Nicholas Frost, Sergeant Isaac Saunders, and Jim Feddern (Ohio Highway Patrol Licensing and Commercial Standards office). The agencies met and discussed the proposal for Class B training and vehicle inspection requirements.

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

Update: 10/24/14

Following the original filing of rule 4501-7-24 with the Joint Committee on Agency Rule Review, OCJS was contacted regarding an error in the rule pertaining to license renewals. Section 4508.05 of the Revised Code provides for annual renewals with no further option for biennial renewals. Therefore, this rule has been revised to require all CDL school licenses to be renewed annually. OCJS submitted the revised rule to stakeholders on October 1, 2014 with an explanation for the change. Stakeholders were asked to provide any additional adverse impact that the change to annual renewal may pose. No additional impact was identified.

The stakeholder committees provided their understanding of the rules' *intent*. The clarifications assisted in adding language to further clarify the language.

The online and class "d" committee and the agency worked together and reached a consensus on the appropriate frequency and length of breaks provided to the students. The online and Class "D" committee members assisted in setting the minimum of ten minutes for the breaks. The online rules were modified to clarify that the required twenty-four hours period was to be based upon the previous day's log in. Additionally, the members of this committee suggested annual physicals for instructors. The concern of the group was for those instructors who failed to identify any changes in medicine or medical history that could possibly affect their ability to instruct. Language was added to rule 4501-7-03 to require an annual physical from all instructors and training managers. The schools would be responsible for maintaining the physicals in the proper files.

The online committee members suggested a more cost efficient option for reasonably authenticating *the parent's or guardian's identity through a signed and notarized affidavit*. Currently the agency requires biometric and/or third-party authentication. The agency was made aware that both current options were costly and the third-party authentication had issues with persons who could not be found. The agency determined the notarized affidavit would be a valid and cost efficient option and added it to rule 4501-7-12.

The CDL committee assisted in developing the hours of training and specific topics *for the class "B" training*. The committee provided the agency with a drafted copy of suggested topic. The agency and the committee discussed in depth the hours and topics required for classroom, range and road training. The standards were developed into rule 4501-7-28. *The separation of class "B" vehicle training from class "A" vehicle training will allow a less expensive course to be provided to those customers only interested in the class "B" license.*

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Additionally, the CDL committee discussed possible solutions to minimize the length of time required to complete and submit an application for a new instructor. The committee reviewed in length and determined the training style and format *of the class “d” and online instructors* would be a solution for reducing the time for filling out the training documentation for a new instructor. The actual difference in length of time is yet to be determined. The new style and format will be implemented once the rules become effective.

The state agencies, who participated with the CDL committee, provided direction and the specific regulations for the vehicle inspections and requirements

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?

The agency reviewed the National Standards for Quality Online Courses (iNACOL) version 2, October 2011. The standards were reviewed and modified to develop and implement the Required Minimum Standards for Online Driver Education Programs. The required minimum standards that were implemented in 2013 set the most stringent standards for online driver education compared with those states that allow online driver education.

The agency reviewed the Novice Teen Driver Education and Training Administrative Standards to revise the Ohio Driver Training Curriculum (ODTC). *All online and class “D” schools are required* to base the instruction on the ODTC. Additionally, the national standards set forth standards for instructor training which was utilized to implement a continuing education requirement for every instructor.

The agency reviewed the SANS Institute’s 20 Critical Security Controls, Version 5, and the National Institute of Standards and Technology (NIST) information security standards special publication 800-53, Rev. 3 and special publication 800-30, Rev 1. These measures were reviewed for consistency and applicability to the security measures implemented and required for online providers. Additionally, these measures were reviewed and modified to develop and implement security standards for those companies maintaining and storing student records, with personally identifiable information, in electronic format.

The agency reviewed the Code of Federal Regulations to ensure all standards were met at a minimum. The regulations included the health screening requirements, vehicle inspection requirements, etc.

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 agency considered a few alternative regulations. The agency considered the possibility of online companies to maintain “home offices” since they do not actually meet with the customers face-to-face. The risk for an environment not conducive to learning is higher in a home atmosphere where

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personal distractions are prevalent. The risk of inappropriate discussions may be higher in a non-professional atmosphere. The agency requires all class “d” schools to operate from a business office to reduce these risks. Therefore, the alternative was determined as not appropriate for maintaining professionalism and was not fair and consistent standards for those impacted by these rules.

The online committee members requested the ability to send their certificates electronically to their students. The online schools wanted to be able to e-mail the certificates to expedite the process for the students and cut back on mailing costs. The brick-and-mortar schools are not permitted to e-mail the certificates. The certificates are required to be original copies. The agency discussed that all standards need to be fair and consistent and if a change was imposed allowing the certificates to be sent electronically, all schools would be allowed. The agency discussed the probability of sending certificates electronically with the IT security expert. It was then determined there would be a high security risk for outside companies to link with the agency website and also a higher chance of risk for items such as certificates to be transmitted electronically. The agency also considered “electronic signatures” for student records. The agency determined the electronic signatures would create difficulty in determining who actually signed off on the record during an investigation. The agency discussed this issue with a security expert and it was determined there would be specific measures required to ascertain the actual identity of the person signing off on the records. The security measures would place a financial hardship on the schools; therefore, the consideration has been tabled for further research and discussion.

The CDL committee requested age and experience be reduced. The agency would have had to establish more stringent standards to allow someone with less than the current minimum, to become licensed. The agency determined that there was no sufficient evidence to support the reduction in age and experience. The consideration would be addressed at a later date to determine what if anything would be considered other than experience.

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 agency has considered performance based regulation for the training of instructor candidates. The design of the instructor training permits each individual enterprise to determine the delivery and timing of the training based on the instructor candidate’s performance. The design of the training program allows the enterprises to then determine each candidate’s readiness for licensure.

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

The agency reviewed the Ohio Department of Education (R.C. 4511.01 and OAC 3301-83-16) and Ohio Highway Patrol’s (R.C. 4511.76, R.C. 4511.77) school bus standards to implement language for the inspections and exemptions for Commercial CDL schools training students in buses. Additionally, a review of R.C. 4513.50 through 4513.53 and OAC 4501-52 pertaining to motor coaches, was performed to ensure consistency with the signage and inspections.

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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 agency intends to provide an open forum once the rules have been implemented. Additionally, the agency will provide for a timeline for all schools to become compliant with the changes. The agency will provide continuing education classes for instructors throughout the state to ensure accessibility to all instructors.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

Identify the scope of the impacted business community;

- a. There are two hundred ninety-one (291) licensed enterprises with an additional four hundred thirty-one (431) satellite locations and over two-thousand (2000) driving instructors and training managers that may be impacted by these rules.

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

The adverse impact includes license fees, background check fees, driving abstract fees, physical check fees, required continuing education course costs, employer time, training, record retention, equipment and costs for certificates issued to students. Additional impact may be incurred by schools and instructors should sanctions and disciplinary action, including and up to revocation, be imposed.

- 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.

- **4501-7-02** - The estimated cost of compliance for stakeholders includes lease agreements, which average about \$1281.50 per location with multi-year terms or on a month-to-month term.
- **4501-7-03** - The estimated cost of compliance for stakeholders includes the cost of a physical examination at approximately \$80 for each instructor and training manager. Schools may pass the cost onto their individual instructors.
- **4501-7-04** – The estimated costs of compliance include application fees for original applications and every other year for license renewals, background check fees and postage.

Class “D” original school license application

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Driver Training Enterprise application - \$250 per location application fee

Background check - \$30 - \$80 per authorizing official and owner

Postage for mailing application - \$10.50

Total cost for enterprise application - \$290.50 - \$340.50

The estimated time to gather all documents, including the building use agreement, fire inspection, application, and background check is approximately six hours.

Enterprise renewal - \$50 per location application fee (every other year)

Total cost for enterprise renewal - \$50 per location

The estimated time to complete the renewal requirements may take four to five hours depending upon the number of locations a driver training school may have.

Enterprise Fees for online providers

Driver Training Enterprise application - \$250

Review of security assessment and online driver education program - \$600

Background check - \$30 - \$80 per authorizing official and owner

*Postage for mailing application - \$12.05 - \$35.00

Total cost for enterprise application - \$897.05 - \$965

Enterprise renewal - \$50 per location application fee

Total cost for enterprise renewal - \$50 per location

*The postage is difficult to determine since the online providers are required to submit a written version of the online driver education program. The actual cost incurred by the applicant depends upon the curriculum.

The estimated time to gather all documents for the application, including the fire inspection, building use agreement, background check, security assessment and program is approximately one day.

- **4501-7-05 - Instructor Fees**

Initial Instructor application - \$25

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Background checks – \$105

- state level \$25
- federal level \$80

Driver Abstract - \$8.50

Applicant photos - \$10

Physical - \$80

Instructor's initial training - \$200 - \$500

Total cost for initial licensing of instructor - \$428.50 to \$728.50

Note: Schools will not incur training costs should an instructor applicant have a current and valid teaching degree issued through the Department of Education that includes training in driver education. Additionally, schools will not incur training costs should an instructor have been trained within the previous ten years and is able to provide proof of such training.

The estimated time to put together an instructor application is two to three hours.

Instructor Renewal Fees

Renewal application - \$10

Driver abstract - \$8.50

Instructor photos - \$10

Total cost to renew instructor's license - \$28.50

The estimated time to complete the renewal requirements is four to five hours depending upon the number of instructors employed through the school.

Training Manager Fees

Training manager certification initial training course - \$550

Continuing education course required every three years - \$90

Note: Although the rules do not require schools to pay for costs for wages, travel, and lodging, the school may choose to pay the cost to initially certify a training manager which may

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be as much as \$1500. Likewise, the costs for continuing education may increase, as well, to an estimated total of \$700 to \$1000.

Disability Instructor Fees

Disability certification initial training course - \$350

Continuing education course required every three years - \$50

Note: Disability instructors working for a medically based hospital or rehabilitation facility are required to have a professional license. Additionally, the training required for such professional licenses require continuing education annually. Those courses are approved by the agency for credit.

Although the rules do not require schools to pay for wages, travel and lodging, the schools may choose to pay for the amenities and training to initially certify a disability instructor which may be as much as \$800. Likewise, the costs for continuing education may increase to an estimated total of \$550.

Instructor Continuing Education Fees

Continuing Education course required every three years - \$25 - \$50

Note: The agency will provide credit for the continuing education course if the instructor can provide proof of attendance at a professional conference or if the enterprise requires an in-service for all employees. The agency intends to hold continuing education courses throughout Ohio to assist in reducing the costs incurred by the businesses and individuals. Although the rules do not require schools to pay for amenities, such as meals or lodging, the schools may choose to pay or pass the costs onto the individual.

Sexual Harrassment Training*

The adverse impact for this requirement is only approximately thirty minutes for an instructor to complete the online training. There will be no costs to take the online training.

*The sexual harassment online training course is currently being created for the online environment. The website will require all users to create an account to access the course and for tracking purposes.

- **4501-7-06** The estimated impact of the rule is \$4 per certificate issued to each student. The actual impact depends upon the number of students trained. Rehabilitation hospitals and clinics have historically trained as few as one person in the disability program a year.

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- **4501-7-08** - The costs of compliance for this rule include the requirements for driver training enterprises to maintain acceptable minimum amounts of vehicle insurance and bond/escrow accounts to cover the cost of reimbursing students for training not supplied. The estimated cost of vehicle insurance is approximately \$250 to \$320 annually per vehicle. The full cost of compliance is based upon the number of vehicles the enterprise uses and the amount of coverage in the policy.

Note: Driver training schools may allow their instructors to use personal vehicles for the purposes of training. Therefore, the insurance is maintained and paid by each instructor. Additionally, for medically-based hospitals and rehabilitation clinics, the costs are paid by the hospitals and included in a fleet policy. Therefore, the cost on the program is negligible.

The estimated cost of for the bond ranges from 1% to 30% of the actual cost of the bond. The percentage depends on credit and assets. The amount of coverage required is based upon the number of classroom locations and number of students with whom the school is contractually obligated.

- **4501-7-09** - The estimated costs of compliance include time to implement and maintain the specific *security controls required by the state and set forth in the "Online Driver Education Security Assessment."*

Implementation of Security Measures (new for the company) - \$8,000

Time for implementation – 2 – 3 weeks

Note: These security controls are basic measures that should be utilized by any online company. A few of the online providers already had these measures in place, therefore for some companies the cost and time of implementing the measures was negligible.

- **4501-7-10** - The estimated costs of compliance for driver training schools include the cost for the instructor identification badges. The estimated cost per badge ranges from \$1 to \$3. The cost is determined by materials used and where the badges are produced.
- **4501-7-11** - Certificate of enrollment - \$4 per certificate*
 Certificate of completion for an online driver training program - \$4 per certificate*
 Certificate of completion - \$4
 * The adverse impact on the schools is based on the number of students completed by the business enterprise. The stakeholder group indicated these certificate costs are included in the cost of the course and paid by the student.
- **4501-7-12** - The estimated costs of compliance for driver training schools include the cost for the developing and printing the training agreements. The estimated cost ranges between \$50 and \$500. For online providers the cost is negligible since the cost for printing are placed on the customers. The agency provides a template for the required agreement at no charge to the schools. The template is

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readily available and easily accessible from the department's website. Therefore, if a school uses the agency's agreement, the only cost is printing. If a school opts to create and print its own, it may incur the higher compliance costs. All schools are required to maintain the training agreements for three years from the date of program completion.

- **4501-7-14** - The estimated costs of compliance include the “student driver” signs and the equipment costs for an instructor brake.

Signs - \$50 total for both front and back

Instructor brake - \$500 per vehicle.

Note: The costs of the instructor brakes depend upon the costs of the installation of the equipment.

- **4501-7-22** - The estimated cost of compliance for stakeholders includes lease agreements, which average about \$1281.50 per location with multi-year terms or on a month-to-month term.
- **4501-7-23** - The estimated cost of compliance for stakeholders includes the cost of a physical examination at approximately \$80 annually for each instructor and training manager. Schools may pass the cost onto their individual instructors.
- **4501-7-24** - The estimated costs of compliance include application fees for original applications and annual license renewals, background check fees and postage.

Driver Training Enterprise application - \$250 per location application fee

Background check - \$30 - \$80 per authorizing official and owner

Postage for mailing application - \$10.50

Total cost for enterprise application - \$290.50 - \$340.50

Enterprise renewal - \$50 per location application fee (annually)

Total cost for enterprise renewal - \$50 per location

The total time for a school to fill out an original application is approximately 30 to 45 minutes and the approximate time to gather and provide the additional requested documents is approximately 20 hours.

The total time for a CDL school to complete the renewal requirements is estimated at 10 hours to gather and provide the renewal requirements.

- **4501-7-25** - The estimated costs of compliance for driver training instructors are outlined below and were provided by the CDL committee.

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Instructor Fees

Initial Instructor application - \$25

Background checks – \$80 (encompasses a state and federal level check)

- state level \$30
- federal level \$80

Driver Abstract - \$8.50

Applicant photos - \$10

Physical - \$50 - \$75

Commercial instructor skills test - \$53.50 - \$85

Instructor's initial training - \$200 - \$500

Total cost for initial licensing of instructor - \$427.00 to \$783.50

Note: Schools will not incur training costs should an instructor have been trained within the previous ten years and is able to provide proof of such training. Additionally, the costs for the commercial instructor skills test depend upon the provider, third-party testing site or highway patrol testing site.

Instructor Renewal Fees

Renewal application - \$10

Driver abstract - \$8.50

Instructor photos - \$10

Total cost to renew instructor's license - \$28.50

The estimated time to complete the renewal requirements is four to five hours depending upon the number of instructors employed through the school.

Training Manager Fees

Training manager certification initial training course - \$550

Continuing education course required every three years - \$90

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Note: Although the rules do not require schools to pay for costs for wages, travel, and lodging, the school may choose to pay the cost to initially certify a disability instructor may be as much as \$800. Likewise, the costs for continuing education may increase to an estimated total of \$700 - \$1000.

Instructor Continuing Education Fees

Continuing Education course required every three years - \$25 - \$50

Note: The agency will provide credit for the continuing education course if the instructor can provide proof of attendance at a professional conference or if the enterprise requires an in-service for all employees. The agency intends to hold continuing education courses throughout Ohio to assist in reducing the costs incurred by the businesses and individuals. Additionally, schools may or may not pay for the amenities, such as meals or lodging.

Sexual Harrassment Training*

The adverse impact for this requirement is only approximately thirty minutes for an instructor to complete the online training. There will be no costs to take the online training.

*The sexual harassment online training course is currently being created for the online environment. The website will require all users to create an account to access the course and for tracking purposes.

- **4501-7-27** - The costs of compliance for this rule include the requirements for driver training enterprises to maintain acceptable minimum amounts of vehicle insurance and bond/escrow accounts to cover the cost of reimbursing students for training not supplied. The cost of vehicle insurance ranges from \$5,000 to \$22,000 annually.

Note: The amounts provided are based upon higher vehicle insurance amounts. The CDL schools in Ohio maintain a much higher insurance liability than what is required. Additionally, the annual rates are based upon the number of vehicles covered.

The estimated cost of for the bond ranges from 1% to 30% of the actual cost of the bond. The percentage depends on credit and assets. The amount of coverage required is based upon the number of classroom locations and number of students with whom the school is contractually obligated. Another option for schools is to place the minimum amount, \$50,000 per location, in an escrow account.

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Note: Any CDL schools in Ohio, which are under the authority of the state, are not required to maintain a bond or escrow account.

- **4501-7-29** - The estimated costs of compliance for driver training schools include the cost for the developing and printing the training agreements. The estimated cost ranges between \$50 and \$500. The agency provides a template for the required agreement at no charge to the schools. The template *is readily available and easily accessible from the department's website*. Therefore, if a school uses the agency's agreement, the only cost is printing. If a school opts to create and print its own, it may incur the higher compliance costs.
- **4501-7-31** - *The estimated costs of compliance include the "student driver" signs and the equipment costs for an instructor brake.*

Signs - \$50 total for both front and back

Instructor brake - \$500 - \$1000 per vehicle.

Note: The costs of the instructor brakes depend upon the installation of the equipment. CDL schools with a mechanic on staff will pay the lesser amount.

- **4501-7-36** - The rule requires the CDL school to provide specific documentation and/or items related to the training for the purpose of an inspection and/or investigation. The specific documentation may include student records, instructor records, and other items such as vehicles, and facilities used for training.

The time it takes a school to prepare for an inspection is between four and eight hours. This includes the time it requires to pull records from other sites, if they have more than one site and all vehicles and ensure it is available at the main enterprise office.

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

It is the responsibility of the agency to ensure the protection of the public by setting requirements for proper instructor training and the character and fitness of persons who intend to provide and instruct in the operation of a motor vehicle. The agency, along with the participation of its stakeholders, determined the regulations were balanced between the needs of the community regarding quality driver's training and student safety and the mandates of legislation.

Regulatory Flexibility

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

The regulations provide for a few alternative means of compliance. The requirement for the two photographs for each instructor may be provided electronically. This reduces the cost of purchasing the passport photos for each instructor by a minimum of \$10.

The regulations for instructors and training managers to attend a continuing education workshop every three years provides for the capability of other programs to be pre-approved and credited towards the requirement. For those instructors with educational requirements for their field, such as occupational therapists for the rehabilitative hospitals, the required training they receive through their profession can be credited and approved towards the requirement within these rules. The agency has approved national conferences for driving schools and trucking schools to be credited towards this requirement as well. The agency will consider any other professional means for continuing education such as first aid and CPR courses, driving school in-services, training through remedial courses, etc. The agency will also provide many courses throughout the State of Ohio to ensure accessibility to all instructors.

In rule 4501-7-31 of the OAC, the agency will not require a commercial motor vehicle to be inspected as long as a periodic inspection performed under Title 49 of the Code of Federal Regulations can be provided.

The rules for the bond requirement provide for an exemption for any political subdivision or a business operating under the authority and guidance of the state. These include accredited colleges, career and technical colleges, and school districts.

For the purposes of identification badges, there are alternative possibilities for the production. The business may reduce the size of the license issued by the state, they may use a program on their computer to develop their own badges, or they may go to a printing shop to have the badges created. The costs depend upon the business.

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 agency has implemented a policy in the inspection and investigation process to assist with waiving administrative action for first-time offenders and paperwork violations. The policy implemented includes a biennial program review. The program review allows for the authorizing official and training manager to sit down and review the paperwork with designated personnel. The program review allows for questions and clarifications to be provided as issues arise. If the program review results in any violations, the severity of the violations are reviewed, compared with previous inspections and then determined for course of action. The agency has written warning letters to those schools with minor violations, such as paperwork, or first-time offenders. The warning letters address the violations and provide time for the school to correct or address the violations. If a

violation is so minor, the agency will follow up in an e-mail identifying the discrepancy and allow the school to respond within a given timeframe.

A similar policy is implemented for investigations. If an investigation results in a minor infraction a warning letter is issued. If a severe allegation, such as sexual misconduct, is substantiated, administrative action is immediately taken without a warning even for first-time offenders.

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

The agency provides informational resources for the schools. There are no monetary resources available.

The rules require specific records and forms. These forms and templates for records are available on the agency website at no cost to the schools and instructors. The agency provides a copy of the Ohio Driver Training Curriculum to schools at no cost. The agency also provides a free two-hour information session, New School Orientation, for all new school owners. The New School Orientation is held at least five times throughout the year. The agency provides guidance on the requirements and application process to begin the driver training school.