



## Common Sense Initiative

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

**Carrie Kuruc**, Director

### Business Impact Analysis

**Agency, Board, or Commission Name:** [Ohio Department of Public Safety \(ODPS\) - Division of Emergency Medical Services \(EMS\), State Board of Emergency Medical, Fire, and Transportation Services \(EMFTS\)](#)

**Rule Contact Name and Contact Information:**

[Joseph A. Kirk, ODPS Rules Coordinator, jakirk@dps.ohio.gov, 614-466-5605](#)

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

[EMS Grants Five-Year Review](#)

**Rule Number(s):** [4765-5-01, 4765-5-02, 4765-5-03, 4765-5-04, 4765-5-05](#)

**Date of Submission for CSI Review:** [November 13, 2020](#)

**Public Comment Period End Date:** [December 8, 2020](#)

**Rule Type/Number of Rules:**

New/ 1 rules

No Change/ 2 rules (FYR? Yes)

Amended/ 2 rules (FYR? Yes)

Rescinded/ 1 rules (FYR? Yes)

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.

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### **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):

- 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.*

Chapter 4765-5 of the Administrative Code (OAC) includes five rules that describe the grant programs administered by the State Board of Emergency Medical, Fire, and Transportation Services (EMFTS) as authorized by section 4765.07 of the Revised Code (RC) using the trauma and emergency medical services fund established in section 4513.263 of the RC. Two grant programs are available—one to eligible EMS organizations and one to research entities. A supplemental grant award has been established as part of the program available to EMS organizations, in order to use the funds available in a timely manner. The proposed rules include applications, which are incorporated by reference; eligibility criteria; general provisions; and restrictions and requirements for awardees.

A summary of each of the grant rules being filed is provided below:

<b>4765-5-01</b>	<b>Rescind</b>	<b>Incorporated by reference.</b>
Rule 4765-5-01 incorporates two grant applications as reference material related to the EMS grant programs authorized by section 4765.07 of the Revised Code (RC) using the trauma and emergency medical services fund established in section		

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4513.263 of the RC. <b>The rule is proposed to be filed as a rescinded rule and replaced with a new rule based on the 50% guideline.</b>		
<b>4765-5-01</b>	<b>New</b>	<b>Incorporated by reference.</b>
Rule 4765-5-01 incorporates three grant applications as reference material related to the EMS grant programs authorized by section 4765.07 of the Revised Code (RC) using the trauma and emergency medical services fund established in section 4513.263 of the RC. <b>When the rule becomes effective, the revised priority 1 application will be available on-line, as will the new “Supplemental Grant Application.” Both applications and the priority 2-5 application will be available at the EMS Web site as sample applications.</b>		
<b>4765-5-02</b>	<b>No Change</b>	<b>Criteria for eligibility.</b>
Rule 4765-5-02 sets forth the criteria for grantees eligible to receive grants from the Division of EMS trauma and emergency medical services fund. <b>The rule is proposed to be filed as a no change rule.</b>		
<b>4765-5-03</b>	<b>No Change</b>	<b>General provisions.</b>
Rule 4765-5-03 sets forth the general provisions of the grant program funded by the Division of EMS trauma and emergency medical services fund. <b>The rule is proposed to be filed as a no change rule.</b>		
<b>4765-5-04</b>	<b>Amend</b>	<b>Grant applications.</b>
Rule 4765-5-04 sets forth the requirements for submitting grant applications that will be considered for funding. <b>The proposed amendment adds the title of the supplemental grant form.</b>		
<b>4765-5-05</b>	<b>Amend</b>	<b>Grant restrictions and requirements.</b>
Rule 4765-5-05 sets forth the grant restrictions and requirements. <b>The proposed amendment adds references to the supplemental grant form.</b>		

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.

<b>Rule Number</b>	<b>4765-5-01</b>	<b>4765-5-02</b>	<b>4765-5-03</b>	<b>4765-5-04</b>	<b>4765-5-05</b>
<b>Authorized by</b>	4765.07	4765.06, 4765.07, 4765.11, 4766.03	4513.263, 4765.07	4765.11	4765.07, 4765.11
<b>Rule amplifies</b>	4765.11	4765.06, 4765.07	4513.263, 4765.07	4765.07	4765.07

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.*

The regulations do not implement federal requirements, nor are they being adopted to participate in a federal program.

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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)?

Division (A)(20) of section 465.11 of the RC required the State Board of EMFTS to establish "Procedures for administering the emergency medical services grant program established under section 4765.07 of the Revised Code."

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

Success of the regulations is based on eligible grantees using the available funds to improve and enhance EMS and trauma patient care in the State of Ohio consistent with the requirements of section 4765.07 of the RC.

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, none of the proposed rules contained in this rule package are being submitted pursuant to RC 101.352, 101.353, 106.032, 121.93, or 121.931.

### **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.*

The Ohio State Board of Emergency Medical, Fire, and Transportation Services (EMFTS) is a twenty-one member board. The director of the Ohio Department of Public Safety designates a member of the Ohio Department of Public Safety as a member of the Board. Twenty members who each have "background or experience in emergency medical services or trauma care" are appointed by the Governor with the advice and consent of the Ohio Senate. The Governor attempts "to include members representing urban and rural areas, various geographical regions of the state, and various schools of training" in making appointments to the Ohio State Board of EMFTS. The appointees to the board represent Ohio's fire and emergency medical services, private medical transportation services, mobile intensive care providers, air medical providers, trauma programs, hospitals, emergency physicians, EMS training institutions, and ODPS. Members of the EMFTS Board

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and individuals with similar backgrounds and experiences make up the committees, subcommittees, and workgroups of the EMFTS Board.

The EMFTS Board meetings are generally scheduled for every other month, with an additional meeting during May. The EMFTS Board meeting schedule and the schedules for its committees and subcommittees are available at the [About Us](#) Website. The meetings, including recent meetings being held on-line in support of Governor DeWine's declared state of emergency (Executive Order 2020-01D) and the ongoing COVID-19 pandemic, are open to the public.

Other stakeholders including EMS organizations; hospitals; research institutions; grant applicants and awardees; EMS agencies, instructors, and students; other state agencies; and members of the general public may participate in EMS's public meetings and may subscribe to receive electronic notifications via [govdelivery.com](http://govdelivery.com) directed to specific topic groups.

Stakeholders are invited to participate when the rules are filed with the Common Sense Initiative (CSI) office during the public comment period, which is open for sixteen business days after the filing date. Stakeholders are also invited to participate when the rules are filed with the Joint Committee on Agency Rule Review (JCARR), including by attending or submitting information for the public hearing that is scheduled during a thirty-one-to-forty-day window after the filing date with JCARR. Information about the proposed rules, public comment period, and the public hearing is posted at the Ohio Department of Public Safety [Administrative Rules](#) Webpage. In addition, subscribers to Ohio EMS [Stay Connected](#) topic groups receive notification of rule filings and opportunities to participate via [govdeliery.com](http://govdeliery.com).

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

Members of the EMS staff and ODPS legal staff discussed and reviewed amendments to be made to OAC Chapter 4765-5 during September and early October 2020. Members of the EMFTS Board received the proposed amendments to OAC Chapter 4765-5 prior to the October 21, 2020 Board meeting and were asked to consider a motion to file the rules with proposed amendments with the Common Sense Initiative (CSI) office and the Joint Committee and Agency Rule Review (JCARR).

The Board approved filing the proposed rules with CSI and JCARR during the October 21, 2020. When the rules are filed with CSI, stakeholders who subscribe to the grants, general information, and EMS agency groups will be notified of the filing and asked to comment. Comments received during the CSI comment period and throughout the JCARR filing process will be considered.

**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?**

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OAC Chapter 4765-5 filed for five-year review in 2016 included a restructuring of the Priority 1 program. Effective January 2017, EMS offered supplemental funds capped at \$30,000 for applicants requesting funds for Board priority training and equipment and also for applicants facing economic hardship. The changes have resulted in directing funding toward equipment determined to be essential by the EMFTS Board and in spending a higher percentage of available grant funds each fiscal year.

EMS staff report to the Board periodically about the use of grant funds and about grantees' requests to add items to the list of eligible training and equipment. The Board discusses and may approve changes to the list of eligible items.

EMS staff monitor the grant fund awarded and report information to the Board throughout the year. In 2018, in an effort to reduce the amount of unspent funds that were lost each year, the EMS staff created a two cycle grant year. Unspent funds from the first cycle were captured and redistributed to other agencies. The two cycle grant year has resulted in a reduction of close to \$250,000 in lost funds per year.

**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?**

The Board has not considered alternative regulations; it does periodically consider adding items to the list of eligible training and equipment and restructuring the program based on grantees' and stakeholders' suggestions.

**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.***

No. RC 4765.07 dictates the grant program as the process for distributing the trauma and emergency medical services fund.

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

The Ohio Division of EMS staff and DPS legal staff reviewed Chapter 4765. of the RC and agency 4765 of the OAC to ensure that these regulation do not duplicate existing regulations. While the Division of EMS is the only entity that can establish regulation by law, there is overlap in the healthcare field. A search using RegExplorer was utilized to ensure there is no duplication in the overlap.

**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.**

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The Division of EMS posts information about the rule review process, including drafts open for public comment, proposed rules, and public hearing notices at its [Laws & Rules Overview](#) Web site. The laws and rules associated with the EMS grant program are provided as links at the [EMS Grant Program Overview](#) Web site, and the amended rules, when they become effective, will be available through that link.

The Division of EMS will use the EMS govdelivery.com notification system and the email addresses of current grantees to distribute the final rules to stakeholders when they become effective. The Webinars are provided for potential grant applicants prior to the application deadlines include information about the rules and changes to the rules. Division of EMS staff receive email notification of the rule changes and attend section briefings regarding the implementation policy and procedures. During its meetings, the EMFTS Board receives regular updates about EMS rules.

### **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 community includes approximately 1,020 EMS organizations located throughout Ohio that are eligible to apply for EMS Priority 1 grants and research entities that are eligible to apply for research grants (Priorities 2-5). RC 4765.07 provides a broad description of the entities eligible to apply for EMS research grants. Historically, the research grant applicants are hospital and/or university affiliated organizations both within and outside of Ohio. Recent examples include: Innovative Emergency Management, Inc. (IEM), Wright State University, and Nationwide Children's Hospital.

*SOURCE: Ohio Division of Emergency Medical Services, November 2020*

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

No fees are associated with rules in OAC Chapter 4765-5. The Priority 1 awards are made on a reimbursement-basis; however, grant recipients who request hardship consideration may receive grant funds in advance of their expenditures.

Applicants will spend time completing the application forms, and grantees will spend time submitting reimbursement requests and project, financial, and expenditure reports as described in the application forms and grant agreements. The applications and required forms are available at the EMS Grant Web site and can be submitted by fax or email, or, in the case of the Priority 1 and supplement applications, are submitted on-line. The EMS staff and DPS IT department have improved the on-line application process so that it is easier and requires less time to apply. The estimated time to complete a Priority 1 application is 15-to-30 minutes, and the estimated time to complete an application for supplemental funds is 30 minutes or less.

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Grantees who fail to meet the requirements in the grant agreements they sign may be subject to sanctions, including termination of the agreement, forfeiture of unexpended grant funds, and being ineligible for future awards. The EMS grant programs are subject to generally accepted accounting principles. Grantees suspected of misappropriating or improperly administering grant funds or those who fail to provide required documentation will be investigated by the Division of EMS and may be referred to the attorney general's office.

**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 Division of EMS estimates that these rules will not result in any undue cost of compliance or adverse impact. The decision to apply for or accept funds from the EMS grant programs is voluntary, and the terms of each grant award are stated and accepted in an agreement signed by the grantee. An applicant who does not receive a Priority 1 grant award may have invested an estimated 60 minutes or less in completing the application, with no financial return on investment. Time spent successfully applying for the grant funds and completing the required documents to draw down the funds will be a positive return on investment for successful applicants.

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

Pursuant to division (A)(20) of section 4765.11 of the RC, the State Board of EMFTS is required to establish "Procedures for administering the emergency medical services grant program established under 4765.07 of the Revised Code." Regulations are implemented to provide accountability for the trauma and emergency medical services fund and to use the funds to improve and enhance EMS and trauma patient care in the state of Ohio.

**Regulatory Flexibility**

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

Applicants for training and equipment grant Priority 1 awards may request hardship consideration to receive grant funds in advance of their expenditures rather than by the established reimbursement basis. Research grant awardees may be granted an extension of up to one year to complete their projects.

In response to the impact of COVID-19 on EMS agencies, the April 1 submission deadline for 2020/2021 Priority 1 applications was extended to May 1, 2020. In addition, the Board

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approved using EMS Priority 1 grant funds for air purifying respirators and powered air purifying respirators with hoods and for disposable items including gowns, shoe covers, surgical facemasks, N-95 respirators, face shields, personal protective equipment and thermometer covers during the April 15, 2020 EMFTS Board meeting.

During the May 20, 2020 EMFTS meeting, the Board approved suspending supplemental grants for the 2020-2021 grant year due to the impact of COVID-19 on Ohio EMS agencies. The supplemental funds (approximately \$400,000) were made available for one-time funding opportunities to Ohio EMS agencies for the reimbursement of PPE costs. Exceptions were permitted for agencies demonstrating significant need and requiring waveform Capnography equipment, which will be required effective January 1, 2021.

**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?**

The Division of EMS and the State Board of EMFTS do regulate some small businesses, such as ambulance, ambulette, and air medical services, and training programs. However, the rules contained in OAC Chapter 4765-5 apply not to small businesses but to: (1) EMS organizations established or operated by a township, municipality, village, city, county, joint fire district, joint ambulance district, or joint township fire district; and (2) research entities. While a grantee may be subject to sanctions for a violation of these rules, a small business would not; therefore the waiver provision contained in RC section 119.14 would not be applicable to a violation of these rules.

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

The State Board of EMFTS provides funds from its Priority 1 Training & Equipment Grant program to EMS agencies and research institutions. As set forth in division (A)(1) of section 4765.07 of the RC, "First priority shall be given to emergency medical service organizations for the training of personnel, for the purchase of equipment and vehicles, and to improve the availability, accessibility, and quality of emergency medical services in this state. In this category, the board shall give priority to grants that fund training and equipping of emergency medical service personnel." A supplemental grant program that distributes remaining funds from the Priority 1 Training & Equipment Grant for each fiscal year was established in 2017.

The "[\*Ohio Emergency Medical Services\*](#)" Web page includes links to the laws and rules associated with emergency medical services, along with an overview section about accredited and approved continuing education institutions, certifications, medical direction, scope of practice, investigations and discipline, and training and education.

The Division of EMS's Web site contains a "[Laws & Rules Overview](#)" section with links to RC 4765. and OAC 4765. A link to "[Draft and Proposed Rules](#)" provides access to proposed rules

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open for public comment, other filing documents, and public hearing notifications, as well as email links for the [Ohio Department of Public Safety rules coordinator](#).

Each unit of the EMS Web page, including the [EMS Grant Program Overview](#) Web pages, includes links to the RC and OAC laws and rules associated with that topic, along with overview sections and a *Frequently Asked Questions* sections. The [Agency Directory](#) at the EMS Web site includes the email addresses; telephone numbers, including a toll free number; and the names of EMS staff, including the EMS grants staff. The EMS grants staff conducts several live Webinars each year prior to the period when grant applications are accepted and posts the Webinar and Webinar questions and answers at the grant program Web page. The EMS grants staff and EMS director conduct site visits with grant applicants and recipients throughout the year and are available by phone and by email to grantees and to potential applicants.

In past years, Ohio Division of EMS staff members attended and presented information at various conferences, seminars, and symposiums throughout the State of Ohio, such as the annual International Trauma Life Support (ITLS) Emergency Care Conference, the Ohio Association of Emergency Medical Services (OAEMS) Summer Conference, Ohio Fire and EMS Expo, Ohio EMS Grant Hospital/Ohio Health Conference, Ohio Ambulance Association Conference, Ohio State Fire Instructors Society, and the Ohio State Fair. The Ohio Division of EMS has presented stakeholder conferences and Webinars for stakeholders, including EMS grant applicants.

The Ohio Division of EMS has adapted its methods of communicating with and assisting stakeholders during the state of emergency declared by the Governor through [Executive Order 2020-01D](#), issued March 9, 2020. The State Board of EMFTS and its committees have been holding on-line meetings open for public participation. EMS staff members will work with stakeholders groups to provide information and participate in conferences, seminars, and symposiums restructured to comply with the executive order and [Responsible RestartOhio](#) protocols.

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