

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Transportation

Regulation/Package Title: Oversize/Overweight Permit Review

Rule Number(s): 5501:2-1-1 through 5501:2-1-17

Date: 9/30/13

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☐ Rescinded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.

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.

A: In brief, the rules establish the definitions and mechanism through which a hauling company can apply for a permit and the regulations and limitation placed upon such a permit.

Changes to OAC 5501:2-1-01 include:

- Removed obsolete language that denotes an effective date of July 1, 2009

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- Corrected misspellings and punctuation errors
- Added the term “aluminum” to the definitions of “Continuing Permit”, “Continuing Annual Permit”, and “Nondivisible Load”
- Created the “Regional Heavy Haul Permit” and the “Aluminum Coil Permit” category of permits able to be issued.

Changes to OAC 5501:2-1-03 include:

- Removed the interim report and final report requirement for holders of a continuing permit
- Updated the address where an applicant can request a permit by mail

Changes to OAC 5501:2-1-08 include:

- Added the word “aluminum” to the length of time for certain types of permits
- Removed obsolete language that related to July 1, 2009

Changes to OAC 5501:2-1-09 include:

- Removed restriction of oversize permit holders from only traveling in the right-hand lane and advises to use all due caution when passing other vehicles

Changes to OAC 5501:2-1-10 include:

- Modernized the fee structure language. (original language had rate increases for certain dates which have long since expired)
- Added “aluminum” under the fee structure for steel coil permits.

Changes to OAC 5501:2-1-14 include:

- Added the word “aluminum” under the same regulations that affect the transport of steel coils
- Removed the interim report and final report requirement for holders of a continuing permit
- Modernized the fee structure language. (original language had rate increases for certain dates which have long since expired)

Changes to OAC 5501:2-1-15 include:

- Removed the interim report and final report requirement for holders of a continuing permit
- Modernized the fee structure language. (Original language had rate increases for certain dates which have long since expired)
- Removal of the applicable unit of surcharge on oversize/overweight vehicles for a bona fide public construction project.

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Changes to OAC 5501:2-1-16 include:

- Removed the interim report and final report requirement for holders of a continuing permit

Created rule OAC 5501:2-1-17 for creation of the Regional Heavy Haul Permit as follows:

Paragraph (A): establishes the current application procedure for regional heavy hauling permit will follow the existing application procedure in rule 5501:2-1-03

Paragraph (B): establishes the application must be accurate and complete. This is consistent with existing permit applications.

Paragraph (C): establishes a pricing scheme for permitted vehicles and loads of 120,000 pounds or less, overall width of 14 feet or less, or overall height of 14 feet 6 inches or less

- Single trip steel or aluminum coil permit: \$10 plus \$65 and \$65 for each additional destination (4 other destinations maximum)

- Single trip oversize only permit: \$10 plus \$65 and \$65 for each additional destination (4 other destinations maximum)

- Single trip oversize/overweight permit: \$10 plus \$135 and \$135 for each additional destination (4 other destinations maximum)

- 90 day steel or aluminum coil permit: \$10 plus \$125 and \$65 for each additional destination (4 other destinations maximum)

- 90 day oversize permit: \$10 plus \$250 and \$65 for each additional destination (4 other destinations maximum)

- 90 day oversize/overweight permit: \$10 plus \$500 and \$135 for each additional destination (4 other destinations maximum)

Paragraph (D): establishes a pricing scheme for permitted vehicles and loads greater than 120,000 pounds, overall width greater than 14 feet, or overall height greater than 14 feet 6 inches

- Single trip permit: \$10 plus:

- for overweight greater than 120,000 pounds: \$135 and \$.04 per ton, over sixty tons (120,000 pounds), per mile traveled (4 other destinations maximum)

- for overall width in excess of 14 feet or overall height greater than 14 feet 6 inches: \$125 and \$65 for each additional destination (4 other destinations maximum)

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

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A: Ohio Revised Code 4513.34

- 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.**

A: Yes, ODOT is obliged to follow Federal Code (23 USC 127) which establishes the maximum vehicle dimensions and weights on the National Network of Highways, which can only be circumvented by a permit issued by a state.

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

A: ODOT is not exceeding the federal requirement with these rules.

- 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)?**

A: The movement of Oversize/Overweight loads has safety, economic development and congestion implications. Establishing rules strike a balance among the responsibilities to the travelling public, the demands of moving of Oversize/Overweight loads and essentiality of preserving the highway system.

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

A: The number of permits issued will gauge ODOT's impact on economic development, tracking incidents and issues will measure the impact of these permits on other highway users and ODOT can monitor the impact on the highway infrastructure.

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.

A: Stakeholders include: Ohio Trucking Association, Ohio Manufacturers' Association, Specialized Carriers and Rigging Association, Ohio Contractors Association, Ohio Highway Patrol, Ohio State Buckeye Sheriffs' Association, Ohio Association of Chiefs of Police, Ohio Township Association, County Commissioners Association of Ohio, County Engineers

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Association of Ohio, Ohio Manufactured Homes Association of Ohio, Owner-Operator Independent Drivers Association, Ohio Municipal League, and Ohio Railroad Association.

An email was initially sent to these groups on Friday, June 28 to seek input on ODOT's draft changes for these rules. This initial informal comment period was left open for two weeks. The informal comment period was left open another week to allow for those in the railroad industry to comment on the addition of aluminum coils in the rules per the ORC revision.

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

A: Stakeholders that have responded include: The Ohio Highway Patrol, Ohio Municipal League, Ohio Manufactured Homes Association, Ohio Railroad Association, and the Ohio Manufacturers' Association

The majority of stakeholders have indicated that there are no significant issues with ODOT's currently drafted rules while the Ohio Manufacturers' Association is supportive of our rules draft. The Ohio Railroad Association does object to the optional reporting requirements for the holders of certain types of permits. ORA's contention is that a majority of the damage done to Ohio roadways is from heavy trucks and the Department needs an accurate measure of how many heavy trucks utilize the roadway system. However, the reporting requirements found in the permit rules are voluntary and while ODOT's Permits Section has received some reports in recent years, it has been found that ODOT's Planning Section has a much more accurate count of the type and volume of traffic on the roadway network. Therefore the reporting option for certain permit holders is no longer necessary.

ODOT met with the Ohio Trucking Association on August 6, 2013. From this meeting, a better understanding of the price structure and requirements for a regional heavy haul permit was identified and incorporated in to the draft rule 5501:2-1-17.

ODOT currently has emailed all stakeholders as of September 27, 2013 with the current draft rules and will continue to take comments and suggestions on them.

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?

A: In 2009 ODOT submitted a report to the Ohio General Assembly on the impacts of permitted of loads. It was determined that Oversize and Overweight vehicles have a significant effect on the state highway system, while being a usual economic development tool. For example, ODOT charges fees that are based on the findings of this study.

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?

A: ODOT has found that by providing codified guidance and expectations there is better facilitation of the movement of Oversize/Overweight Vehicles.

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.

A: These rules are governed by Federal Code and Ohio Revised Code with stakeholder input.

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

A: ODOT is the only federal and state agency permitted to issue these permits.

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.

A: ODOT will plan to announce to stakeholders and post all relevant information via website and applicable permit forms.

Adverse Impact to Business

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;**
- b. Identify the nature of the adverse impact (e.g., license 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.

A: There are no adverse impacts. Oversize/Overweight permits actually provide a useful and safe mechanism to simplify and aid in the movement of exceptional vehicles which would otherwise be illegal to move. However, the scope of the impacted business community includes all shippers and haulers within and through the state of Ohio that would need to transport Oversize/Overweight items. The hauler would be required to pay a permit fee to allow the travel of an Oversize/Overweight load. The applicant for a permit would need to

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fill out an application on paper, on-line, or in person. The base permit application fee is ten (10) dollars and increases as the weight and/or size of the load is determined.

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

A: As previously stated, permits are a means by which commerce can take place. Oversize/overweight permits ensure that the interests of business are in balance with the public interest of maintaining a safe and robust transportation system.

Regulatory Flexibility

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

A: There is no differentiation between a large or small business. They are all given equal consideration.

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?

A: ODOT takes great effort to assure applicants submit the proper documentation. ODOT does not impose any penalty for paperwork issues.

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

A: ODOT has a web page which provides all necessary information on the process to obtain an Oversize/Overweight permit. Additionally, the application system is web based user friendly software that is made available free-of-charge. There are instructional materials provided on the web page also. The ODOT Office of permits is available during normal working hours to assist applicants with permit processes.