

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Division of Public Safety-Divison of EMS

Regulation/Package Title: Fire Instructor Training Programs

Rule Number(s): OAC rules 4765-21-02 through rules 4765-21-11

Date: June 10, 2013

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☐ Rescinded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.

Chapter 4765-21 of the Ohio Administrative Code (OAC) is authorized to be established under section 4765.55 of the Revised Code (RC). This chapter sets forth the following:

- Qualifications for a fire instructor, fire safety inspector instructor, and assistant fire instructor certificate that need to be met in order for the Executive Director of the State Board of EMS (Executive Director) with advice and counsel of the Firefighter, Fire Safety Inspector Training Committee (FFSI Training Committee) to issue, renew, or reinstate an instructor certificate.*
- The certification cycles and renewal requirements, such as continuing education and instructional hours needed for renewal and reinstatement of all instructor certificates are also set forth in this chapter.*
- Terminology was updated throughout the entire chapter.*

Chapter 4765-21 of the OAC is proposed for filing in response to a scheduled RC 119.032 five-year rule review. As the majority of rules in Chapter 4765-21 were reorganized for clarity and consistency, updated to reflect changes in terminology, and revised to more effectively address availability of materials incorporated by reference, the majority of the rules are proposed as new, while simultaneously proposed for rescission. This is due to the fifty percent rule-formatting guideline, which provides for simultaneous adoption/rescission, if it is estimated that changes strike approximately fifty percent of the existing text while adding a comparable amount of new text.

OAC rule 4765-21-02 is being proposed as a rescinded/new rule. This rule sets forth the entrance requirements for both a fire instructor and fire safety inspector course. Requirements include possession of a current firefighter or fire safety inspector certificate and having five in seven years of experience as such. Additionally, a candidate must pass the knowledge examination. Requirements for entrance into an assistant fire instructor course were added to this rule, to include possession of a firefighter certificate, having five in seven years of experience as a firefighter, and passing a knowledge examination. The rule was amended to clarify the entrance requirements each level of instructor by separating the rule into three categories, fire instructor, fire safety inspector instructor, and assistant fire instructor.

OAC rule 4765-21-03 is being proposed as a rescinded/new rule. This rule sets forth the qualifications for an instructor certificate that must be met before the Executive Director can issue an instructor certificate. Applicants for a fire instructor or fire safety inspector instructor certificate, respectively, shall submit a completed application, possess a current firefighter or fire safety inspector certificate, have five in seven years of experience as a firefighter or fire safety inspector, successfully complete an instructor training course, and pass the instructional methods examination. Additionally, this rule requires applicants for fire instructor who wish to participate in the instruction of students during live fire training evolutions, to complete a course approved by the Executive Director on the National Fire Protection Association (NFPA) standard 1403, Standard for Live Fire Training, "Live Fire Training Operations Course." The NFPA is a nationally recognized organization that sets standards for fire training courses across the United States. Live fire training evolution is a critical component of firefighter training. This training can result in significant injuries or fatalities to students and instructors, if not conducted in accordance with NFPA standard 1403. Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-04 is being proposed as a rescinded/new rule. This rule sets forth the renewal requirements for fire instructors, fire safety inspector instructors, and assistant fire instructors to include submission of a completed application prior to expiration date, completion of a stipulated number of hours of instruction related to the fire service and completion of continuing education hours related to fire service instruction. The rule now offers fire instructors and fire safety inspector instructors the option of taking the instructional methods examination in lieu of taking continuing education courses. Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-05 is being proposed as a rescinded/new rule. This rule sets forth the requirements to reinstate a firefighter instructor or fire safety inspector instructor certificate, to include timelines, examination requirements, continuing education requirements and application fees. The rule was amended to make it easier to reinstate an expired fire instructor or fire safety inspector instructor certificate by adding an additional option for reinstatement. The requirement to take the reinstatement examination is eliminated, if the certificate holder has met continuing education and instructional requirements to renew prior to the expiration date of the instructor certificate. The rule incorporates a seventy-five dollar reinstatement fee. Additionally, this rule requires applicants for fire instructor who wish to participate in the instruction of students during live fire training evolutions, to complete a course approved by the Executive Director on the National Fire Protection Association (NFPA) standard 1403, Standard for Live Fire Training, "Live Fire Training Operations Course." Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-06 is being proposed as a rescinded/new rule. This rule sets forth the requirements that a chartered program shall follow in selecting fire instructor trainers. Fire instructor trainers and fire safety inspector instructor trainers were separated out in the rule for clarity sake.

OAC rule 4765-21-07 is being proposed as a rescinded/new rule. This rule sets forth the certification process for a certified EMS instructor to obtain a fire instructor or fire safety inspector instruction certification. Requirements include submission of a completed application, possession of an EMS instructor certificate, and passing a knowledge examination. This rule allows for credit to be given by the program director for the forty hours in instruction of adult students and basic teaching technique portion of the instructor curriculum. Additionally, this rule requires applicants for fire instructor who wish to participate in the instruction of students during live fire training evolutions, to complete a course approved by the Executive Director on the National Fire Protection Association (NFPA) standard 1403, Standard for Live Fire Training, "Live Fire Training Operations Course." Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-08 is being proposed as a rescinded/new rule. This rule sets forth the requirements for a fire instructor to crossover to a fire safety inspector instructor and vice versa. This rule requires applicants for fire instructor who wish to participate in the instruction of students during live fire training evolutions, shall complete a course approved by the Executive Director on the National Fire Protection Association (NFPA) standard 1403, Standard for Live Fire Training, "Live Fire Training Operations Course." Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-09 is being proposed as a rescinded/new rule. This rule sets forth the requirements for an assistant fire instructor certificate. The assistant fire instructor will be required to complete an eight-hour course on fire service training and an awareness course specific to NFPA standard 1403. This rule requires applicants for assistant fire instructor who wish to participate in the instruction of students during live fire training evolutions, to complete a course approved by the Executive Director on the National Fire Protection Association (NFPA) standard 1403, Standard for Live Fire Training, "Live Fire Training Operations Course." Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-10 is being proposed as a rescinded/new rule. This rule sets forth the parameters for the reinstatement of a revoked fire instructor certificate. This rule requires applicants for fire instructor who wish to participate in the instruction of students during live fire training evolutions, to complete a course approved by the Executive Director on the

National Fire Protection Association (NFPA) standard 1403, Standard for Live Fire Training, "Live Fire Training Operation Course." Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rule 4765-21-11 is being proposed as a new rule. This rule sets forth the process for a holder of an instructor certificate to voluntarily surrender the certificate. Proposed change allows for the Executive Director's discretion to accept surrender even if the certificate is under investigation.

OAC rule 4765-21-12 is being proposed as a new rule. This rule sets forth the requirements for applying for an instructor certification by reciprocity for those individuals who were trained in another state, the District of Columbia, the United States territories, or a branch of the United States military. The rule changes the terminology from equivalency to reciprocity to provide consistency with the terminology used by the EMS Board, other states and the United States military. Additionally, this rule permits the Executive Director to review training in other states, United States territories, the District of Columbia and any branch of the United States military in order to grant credit for that training for an instructor certification in Ohio. Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

OAC rules 4765-21-13 is being proposed as a new rule. This rule sets forth the process for requesting exemption from continuing education or fire service instructional requirements for a certificate to teach. Additionally, language was added to this rule to identify that the dates and availability of materials incorporated by reference are located in rule 4765-11-01 of the OAC.

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

RC sections 4765.04 and 4765.55.

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, the regulation does not implement a federal requirement.

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

The regulation does not implement a federal requirement.

- 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)?**

Pursuant to section 4765.55 of the Revised Code, the Executive Director, with the advice and counsel of the Firefighter and Fire Safety Inspector (FFSI) Training Committee, is statutorily required to adopt rules that establish the requirements and procedures for obtaining and renewing fire service instructor certificates, to include fire instructors, assistant fire instructors and fire safety inspector instructors. Chapter 4765-21 of the OAC sets forth the requirements and qualifications for issuance and renewal of instructor certificates to include continuing education hours and instructional hours needed to renew the fire service instructor certificate. Additionally, the law mandates that credit be given for local training, which has been incorporated into the rules within this chapter.

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

Success will be measured by the number of certificates issued by the Executive Director to firefighters, fire safety inspectors and fire instructors. In 2012, the Division issued initial certifications to 2,727 firefighters, 259 fire safety inspectors, and 238 instructors. Ohio has a grand total of 10,068 certified fire safety inspectors, 8,442 certified instructors, and 41,463 certified firefighters.

Both applicants for initial and renewal of their fire instructor certificates are able to utilize an online application system that can immediately process an application. The Division will monitor this online process for efficiency and ease of process to apply and receive certification by conducting quality assurance reviews of the system through reports and internal audits.

Additionally, success will also be measured by the compliance with the renewal requirements, to include continuing education and instructional hours. The Division conducts random audits on a monthly basis to determine compliance with the renewal requirements. Each audit is reviewed to determine if all continuing education or instructional hours are met for the past certification cycle. If a person is not in compliance, the Executive Director can issue disciplinary sanctions. More individuals in compliance will result in fewer disciplinary sanctions issued by the Executive Director.

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.

The FFSI Training Committee held meetings to discuss the draft rules and requested stakeholder participation in this process from a wide range of representation of the Ohio fire service. On September 20, 2012, an invitation to participate in a rule review forum was e-mailed to a specific list of stakeholders comprised of membership from Ohio fire service organizations. Each organization was invited to send representation to the public forum. Stakeholders invited included, but were not limited to, fire chiefs, firefighters, fire instructors, fire safety inspector instructors, fire safety inspectors, program directors and other personnel. A forum was held at the Ohio Department of Public Safety on November 1, 2012. The stakeholders were provided copies of all draft rules and asked to provide their expertise and opinions regarding the content of these rules. After the forum, the Executive Director and the FFSI Training Committee met on November 13, 2012 and reviewed all of the stakeholder input. Advice and counsel was given to the Executive Director for his consideration on the rules. The FFSI Training Committee reviewed the comments from the stakeholders and the revised rules containing the solicited input were emailed to the stakeholders on December 12, 2012.

The following organizations were represented on the rule forum on November 1, 2012:

The following organizations were represented:

Ohio State Firefighters' Association

Columbus Fire Department

Ohio Association of Professional Fire Fighters

Ohio Fire Chiefs' Association

Ohio Fire Official Association

Violet Township Fire Department/Ohio Society of Fire Service Instructors

Clark State Community College/Ohio Society of Fire Service Instructors

Ohio Fire Charter Collaborative / Ohio Fire Training Academy

State Board of EMS Members

State Fire Marshal /Ohio Fire Academy

Ohio Fire Charter Collaborative

The FFSI Training Committee reviewed the comments from the stakeholders and forwarded the revised rules to the stakeholders.

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

Stakeholders provided professional expertise, professional experiences and feedback to the rule regulation process. The stakeholders' input ensures that regulations were both

reasonable and congruent with statutory requirements in RC section 4765.55. The rule changes and suggestions were discussed at length with the stakeholders.

4765-21-06 Qualification for fire instructor trainers.

A chartered program shall ensure that a fire instructor trainer meets all requirements. (4) Fire instructor has to complete an instructor orientation, consisting of objectives approved by the executive director

Stakeholder Input: *A stakeholder was concerned that this rule was not updated.*

Results: *The executive director, with the advice and counsel of the FFSI training committee, updated the objectives for the orientation course.*

4765-21-07 EMS instructor seeking fire service instructor certification.

The Executive Director may issue a fire instructor certificate to teach to an applicant who holds a valid EMS instructor certificate, issued under OAC, rule 4765-18-05, if the applicant meets all of the requirements. (3) Successfully complete the twenty-four hours of instruction specific to NFPA Standard as outlined in OAC Chapter 4765-11.

Stakeholder Input: *A stakeholder was concerned about changing the hours of instruction from eight to twenty-four hours.*

Results: *The Executive Director, with advice of counsel and the FFSI Training Committee, decided that an EMS instructor will be required to take the four hour awareness course instruction in live fire training. Candidates will only be required to take the twenty-four hour live fire training course if they want to participate in the instruction of live fire training.*

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?

There was no scientific data to be considered.

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 Executive Director along with the FFSI Training Committee considered alternative regulations and provisions that were voiced by stakeholders. The Executive Director approved changes to the rules to include adding the option in the reinstatement rule, to allow a lapsed certificate holder the ability to provide documentation of successful completion of continuing education and instructional hours in lieu of taking the knowledge

examination. Also, additional methods to obtain continuing education were added to the rules, to assist non-affiliated certificate holders or certificate holders who live outside of Ohio comply with the continuing education renewal requirements

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.

No. These regulations do not offer the flexibility for performance-based regulations.

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

The Division has reviewed all applicable Ohio Revised Code and Ohio Administrative Code provisions relating to certification processes for fire instructors, assistant fire instructors, and fire safety inspector instructors. In addition, state administrators, stakeholders, field specialists, and staff members conducted an extensive review of the rules promulgated under RC section 4765.55 to ensure that the regulations were not duplicated in Ohio.

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.

Using the Division's website and EMS listserv, the Division will provide stakeholders with notice of the final filed rules and the effective date. The Division will draft and post summaries of the rule content and changes on both the Division's website and the EMS listserv. Division staff will make presentations regarding the rule changes at both state and local fire training and education conferences. The Division will also use also publications such as the Division's newsletter, "The Siren," the Ohio Fire Chiefs' "In Command" magazine, and the Ohio State Firefighters' Association's "Ohio Firefighters" magazines to notify Ohio's fire service of the rule changes. Status reports will be presented to the FFSI Training Committee. Additionally, a formal report of the rule changes and status are reported during each of the regularly scheduled EMS board meetings. Additionally, annual reports will be compiled and distributed yearly.

Division staff is notified and kept up-to-date of all rule changes and the impact involving enforcement of the amended or newly promulgated rules. The Division has policy and procedures that are followed when reviewing an application for a fire charter and conducting on site reviews of the program requirements. Notification of the rule changes to Division staff will be delivered internally through bi-weekly meetings, as well as cross-training of staff on co-workers' job responsibilities that will increase the overall knowledge and efficiency of the Division.

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 64 chartered fire service training programs that offer fire service training courses throughout Ohio. All of these chartered programs utilize instructors and are impacted by these rules. Currently, Ohio has 8,442 instructors that fall under the scope of OAC Chapter 4765-21.*
 - a. Ohio has currently certified 10,068 fire safety inspectors and 41,463 firefighters.*
 - b. Costs include time and tuition costs or fees for continuing education and instructional training hours for renewal of fire instructor certificates. This cost could be incurred by the fire instructor, fire charter, or by the department. For most fire instructors who are affiliated with fire charters or fire departments, no cost is incurred by the instructor because departments provide continuing education via in-service training while the instructor is on scheduled duty time; therefore a cost is not incurred. Additionally, if an instructor allows the certificate to expire, the individual could be faced with a reinstatement fee of \$75.00.*
 - c. Costs for compliance with continuing education can range from zero to \$750 dollars per year depending on whether or not an individual's department provides in-service training or not. This is based on the average wages of a career firefighter at time and a half.*

OAC Chapter 4765-20 incorporates the option to fire instructors who have allowed their certificate to expire, to reinstate their certificates, providing all other continuing education and instructional hour requirements were met prior to the expiration of the current certificate. In lieu of sitting for the reinstatement test, the applicant can submit a \$75.00 application fee and provide proof of continuing education in order to reinstate the certificate. Although this \$75.00 fee is a new cost, it is a reduced cost

to comply with the reinstatement process because it costs an individual at least \$150.00 to take the reinstatement test, which is eliminated in the rule. Additionally, these regulations will bring consistency to the individual EMS and fire certification requirements and was well received by our stakeholders.

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

The community demands a well-trained firefighting force to respond to emergencies. The regulatory intent is to improve emergency response to save lives and properties and reduce fatalities and injuries in the firefighting force. Chapter 4765-21 of the OAC provides instructors for fire training courses, live fire evolutions, and other various fire related courses. Qualifications for instructor trainers are also set forth in this chapter.

Fire inspector continuing education hours improve quality of fire safety inspecting resulting in reduced incidents of fire, which in turn reduces property loss and reduces firefighter and civilian fatalities and injuries; therefore qualified fire safety inspector instructors are needed.

Regulatory Flexibility

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

Chapter 4765-21 of the OAC provides several means of alternative compliance including options for reinstatement without further examinations, certificates issued by reciprocity, exemptions from continuing education and instructional hours due to military deployment, medical reasons, and other unusual circumstances. This chapter is consistent with the rules that regulate EMS instructor certifications.

Additionally, there are many different sources for a fire instructor to obtain continuing education at no or little cost. Seminars, online training, and in-house training may be used to fulfill the continuing education renewal requirements.

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 Executive Director, with advice and counsel of the FFSI training committee, reviews each violation on a case-by-case basis in order to ensure compliance with RC section 119.04. The FFSI Training Committee will counsel and advise the Executive Director on all disciplinary actions and matters regarding waiver of fines or sanctions. The Executive Director is obligated by RC Chapter 119. to afford individuals their due process rights when there are RC

Chapter 4765. and OAC Chapter 4765-20 violations. The Executive Director has full discretion on issuing discipline.

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

Ohio Administrative Code Chapter 4765-20 is supported by the Division's website, which contains a fire section that has the fire training curricula, course objectives, written testing software, practical skill sheets, testing policies and procedures, and a certification verification system, all at no cost to students or fire departments. The Division's website also makes available links to continuing education requirements, Ohio laws and rules, investigative policy and procedures. The Division provides staff assistance via telephone, email, Ask EMS, and site visits to the chartered training programs. The Executive Director issues firefighter, fire safety inspector and instructor certifications and fire charters at no cost to the certificate holder. Fire certificate holders utilize the free online renewal system to renew their certificates. No fees are associated with obtaining these certificates. email, Ask EMS, and site visits to the chartered training programs.