

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Opportunities for Ohioans with Disabilities

Regulation/Package Title: Chapter 3304-6 Vehicle Modification

Rule Number(s): 3304-6-1, 3304-6-2, 3304-6-3, 3304-6-4, 3304-6-5, 3304-6-6, 3304-6-7, 3304-6-8, 3304-6-9, 3304-6-10, 3304-6-11, 3304-6-12, 3304-6-13, 3304-6-14, & 3304-6-15

Date: April 4, 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☐ Rescinded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.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

The proposed changes of the vehicle modification rules are intended to bring the rules up to date, resolve past issues there have been with modifying vehicles in accordance with the rules and to further assist the industry and consumers in providing and obtaining vehicle modifications respectively.

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Throughout the rules we have updated the name of the agency from Rehabilitation Services Commission to Opportunities for Ohioans with Disabilities (OOD). We have removed the language referring to the “Rehabilitation Technology Support Unit” (RTSU) as this not a unit at OOD.

The proposed changes allow shops to enter into agreements to provide warranty inspections so an individual with a disability may go to a shop closer to his or her home town to receive a modification inspection as is required to maintain the warranty.

Some of the changes are meant to bringing the rules up to date. We have added language to include pedal extensions and electronic steering. We have also removed language as some types of modifications have become obsolete in the industry (such as exterior control boxes). Concerning wheelchair and scooter handling devices OOD has added some options that may be available for individuals with disabilities. Concerning Lowered floor minivans OOD has changes the ground clearance requirement to comport with modern industry standards. OOD has changed the lowered floor mini and rule to allow modifications to be made to a minivan that is three years and has less than thirty six thousand miles instead of less than two years and twenty thousand miles. This allows individuals to have modifications done to a greater range of minivans. Other changes in the rule were made to comport with industry standards, other areas of the law (such as the definition of “new motor vehicle”).

Below is a list of specific changes and the rationale for each change.

3304-6-1

CHANGE: the ”Incorporation to the “Incorporation

Rationale: punctuation correction

3304-6-3 General Requirements

CHANGE (A): of ”good to of “good

Rationale: punctuation correction

ADD (D) “The retail dealer may enter into an agreement with another retail dealer to conduct the inspection”

Rationale: This allows the consumer to have their vehicle inspected at a shop that is closer to their residence than the shop where the work was done.

ADD (F)(6) if the wiring is custom a wiring diagram must be supplied with the modification.

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Rationale: If the owner of the vehicle need to have repair done the custom wiring diagram will be available to the individual doing the repair.

3304-6-4 General Design Standards

REMOVE (J)(3) “RSC may require the vehicle modification inspector to perform an inspection of rework completed on a consumer’s modified vehicle within the first ninety days following delivery of the completed vehicle to the consumer. If it is determined that the cause of the rework is dealer installation or workmanship, the retail dealer shall be required to pay for the cost of the inspection, including the fee and travel expenses of the inspector and any reasonable costs incurred by the consumer as a result of the rework.”

Rationale: this is redundant and (J)(1) already requires RSC to determine the number of inspections and time when the inspections are needed.

ADD (K) “used”

Rationale: this falls in line with the other rules allowing modification to be done on used vehicles as longs as they meet certain requirements.

3304-6-5 Primary Controls

REMOVE (A) “ identified as meeting VA standards of safety and quality as listed in VHA directive 10-94-070 (dated August 5, 1994 or as subsequently revised as of date of purchase.”

Rationale: This document is no longer published

ADD (B)(3)(a) “A pedal guard for both the accelerator and brake pedal may be installed at the discretion of the evaluator.”

Rationale: There may be cases in which a pedal guard may need to be installed over the brake and accelerator, or just one of these pedals.

ADD (C) “Rock / Push” hand controls

Rationale: This allows another type of control to be available to the consumer.

ADD (C)(1) “Permanently” mounted hand controls.

Rationale: This keep the had controls from being removed and temporary hand controls can be removed then re installed incorrectly posing a safety risk to the drive and the public at large.

DIVIDE (D)(1)(o) Will be divided in to 2 sections creating a new (D)(1)(p) and the old (D)(1)(p) will now be (D)(1)(q)

Rationale: This makes much more sense as the new (D)(1)(o) concerns liability and the new (D)(1)(p) concerns indemnification.

REMOVE (D)(3)(c) “the following requirements; no exceptions shall be considered, however, a grace period of one calendar year from the effective date of this rule shall be granted for”

Rationale: This was a grace period put in place when the rules were first enacted the standards have been in place longer than the grace period, therefore the grace period is no longer needed.

ADD (F) (This is a new section concerning pedal extensions, the new section reads):

(F) Pedal extensions. Mechanical, non-powered pedal extensions are add-on devices for use with the original vehicle accelerator, brake and clutch pedals. These devices are used by drivers who can operate the foot pedals, but cannot reach them, or, have difficulty operating the original pedals where they are placed. The pedal extensions should be permanently attached to the original pedal with some type of mechanical fastener (i.e. bolt, clamp, screw, etc.). Or, the pedal end bracket of a quick disconnect type pedal extension, which may be removed and re-installed in only one set position, should be permanently attached with a mechanical fastener. The mechanical fastener should be such that the pedal extension remains secured and rigid to the original pedal throughout the range of travel of the pedal during use.

(1) Vehicles equipped with OEM powered, adjustable gas/brake pedals may need to have the powered pedal mechanism disabled by the dealer if adjustment of the powered pedal causes any binding of the pedal extension mechanism, interference of the pedal and/or extensions, or causes either pedal to be applied, or misapplied, during the pedal adjustment.

(2) A separate foot rest may be required for the individual to set their feet on to operate the pedals with the pedal extensions.

(3) Foot pedal surfaces must be of non-skid material.

(4) Installation must meet or exceed the manufacturer’s guidelines.

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(5) Pedal modifications, such as pedal extensions, foot supports, or enlarged pedal surface areas, must be securely attached to the original pedal of the vehicle with a minimum of grade 5 bolt. The type of pedal modification, size and extension shall be determined by the driver rehabilitation specialist. The preference is for a permanently affixed pedal modification, however, the consumer, with full information, may choose a removable device.

Rationale: The rules were absent of language concerning pedal extensions, the addition of the new (F) addresses this need.

CHANGE the old (F) to (G); old (G) to (H); old (H) to (I); old (I) to (J); old (J) to (K)

REMOVE (old J new K) “hydraulic”

Rationale: this steering modification should apply to more than just hydraulic systems

REMOVE (old J new K) “between the end of the steering column shaft and the pitman arm”

Rationale: This allows additional modification to steering systems, consistent with new industry technologies.

REMOVE (old J new K)(1)(a) “Hydraulic”

Rationale: to have the rule in line with SAE standards

CHANGE (old J new K)(1)(a) “has” to “have”

Rationale: proper grammar

ADD (old J new K)(2) “hydraulic”

Rationale: this section concerns hydraulic systems

ADD (old J new K)(2)(a) “hydraulic”

Rationale: these modifications concern hydraulic systems

ADD (old J new K)(3) “hydraulic”

Rationale: this section only addresses hydraulic systems.

ADD (old J new K)(4):

(4) Electric power steering modification performance requirements.

- (a) Steering modifications shall comply with any applicable SAE information report, recommended practice or standard as published, or;
- (b) Manufacturer shall demonstrate component and vehicle compatibility, endurance and capability of the reduced effort electric power steering system and the vehicle(s) it can be installed on. Demonstrations and testing should include (but not limited to) as described in the various SAE publications cited;

(i) Operational test of accelerated general endurance of the test vehicle with reduced effort - electric power steering (SAE J2672).

(ii) Steering torque / torque output test (SAE J2588 & J2672).

(iii) Duty time test (SAE J2672).

(iv) Vehicle test - Offset lane change (SAE J2588).

(v) Vehicle test - OEM steering test (SAE J2588).

(vi) Vehicle test - Reduced effort steering test (SAE J2588).

(vii) Vehicle test - Slalom test (SAE J2588).

(viii) Bench test - Service life test (SAE J2588).

(ix) Bench test - Vibration test (SAE J2588).

(x) Electro-Magnetic Interference (EMI) test (SAE J2588 & J1113).

(c) Documentation of all demonstrations and/or testing shall be provided to Ohio RSC for review.

(d) Electric power steering backup system requirements.

(i) A redundant power supply, i.e. a backup battery, for the reduced effort - electric power steering system shall be provided in case of the original battery failure.

(ii) The failure mode for the reduced effort - electric power steering system, including any failure of the original electric power steering system, shall be to the reduced

effort steering mode.

(iii) An audible and visual warning device of any failure shall be provided.

Rationale: The rules should encompass electronic steering as it becomes more prevalent in the industry.

CHANGE old (J)(4) to (K)(5)

Rationale: renumbering

3304-6-06 Secondary Controls

REMOVE (Q)(2): If a function is relocated to a secondary control panel, all states of operation that were originally controlled should be available in the relocated control. For example, if three fan speeds were available on the original control panel, three speeds should be selectable on the relocated panel.

Rationale: This is not possible with some digital systems.

3304-6-07 Access Devices

REMOVE (A)(2): A semi-automatic lift is designed to be operated by a person other than the individual being raised or lowered by the lift, for example, an attendant, and is not suitable for drivers who can otherwise drive a vehicle without an attendant. This paragraph is limited to power lift systems manufactured for use by persons with disabilities and retrofitted in vehicles, and that must be operated by an attendant. Semi-automatic wheelchair lifts shall comply with FMVSS 403.

Rationale: These types of lifts are not offered in passenger class vehicles anymore.

CHANGE (A)(3) to (A)(2)

Rationale: Renumbering

ADD (C)(1)(a) “(exterior switch(es))” and “be located so that opened vehicle doors do not interfere with the consumer’s access to the switches.”

Rationale: exterior switches are a more common name, exterior lock boxes are rarely used if at.

REMOVE (C)(1)(a)(i),(ii), and (iii):

(i) Be constructed of fiberglass, aluminum, stainless steel, or other noncorrosive material and be attached with noncorrosive fasteners;

(ii) Have an enclosed back; and

(iii) Be located so that opened vehicle doors do not interfere with the consumer's access to the switches.

Rationale: Exterior lock boxes are rarely used and the language of (iii) is now in (C)(1)(a).

ADD (C)(1)(b) "Exterior switches"

REMOVE (C)(1)(b) "Controls"

ADD (C)(1)(b) "switch"

REMOVE (C)(1)(b) "control panel"

REMOVE (C)(1)(b) "The door of the control box shall have a weather seal to exclude
any rain
or moisture"

ADD (C)(1)(b) "switch(es)"

REMOVE (C)(1)(b) "control box"

Rationale: This section of the rule concerns exterior switches. Control boxes are becoming obsolete.

ADD (C)(1)(c) "Switches"

REMOVE (C)(1)(c) "Exterior control boxes"

Rationale: this brings the language in line with the rest of the rule

REMOVE (D)(2): except doors that are equipped with the wheelchair lifts and that are linked to an alarm system consisting of either a flashing visible signal located in the driver's compartment or an alarm audible to the driver that is activated when the door is open

Rationale: There is no FMVSS for this.

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ADD (E)(2) unless they meet with ADA compliant ramp angles.

Rationale: We should have the option of ramps in full size vans as long as they are ADA compliant

REMOVE (F) “to beand”

Rationale: Grammar, “beand” is not a word.

3304-6-8 Wheelchair / Scooter handling devices.

ADD (B) “that are permanently mounted” “and carry the wheelchair/scooter”

Rationale: These types of carriers may come separated from the vehicle and pose safety concerns, therefore RSC will not fund this type of handling device.

ADD (B)(1) and (2)

(1) Wheelchair/scooter carriers/hoists that temporary attach to a vehicle towing hitch to assist in storing the wheelchair/scooter in the trunk of the car or other interior area of the vehicle may be utilized.

(2) Specialty trailers that are designed to carry only wheelchair/scooters in a secure, weather tight enclosure will be considered on a case by case basis and shall be documented by the RTSU of RSC before the approval process begins. At the discretion of the RTSU of RSC, the specialty trailers will be considered if it complies with the performance requirements of paragraph (A)(1) of this section.

Rationale: This allows for hoists and enclosed trailers which may be a viable option for some consumers. Trailers must be enclosed to prevent salt and dirt from wearing on the wheelchair or scooter.

3304-6-10 Vehicle Structural Modifications

DIVIDE: (B)(1)(b)(v) will be divided into two sections, adding (B)(1)(c)(vi)

Rationale: This separates the liability and indemnification sections

REMOVE (D)(2)(a)(iv) “The bars shall be welded together and welded to a one-and-one-half inch by one-and-one-half inch eleven-gauge steel header installed along the top interior sides of the van to which reinforcement is attached.”

ADD (D)(2)(a)(iv) “(iv)The bars shall be welded together and welded to (1) a steel header composed of tubing (1.5 inch by 1.5 inch by 11 gage thick), or (2) a steel attachment plate as described by the NMEDA Raised Roof Guidelines Manual (75 mm by 100 mm by 4 mm thick), or (3) a steel base plate as described by SAE J1725, ‘Structural modification for personally licensed vehicles to meet the transportation needs of persons with disabilities’, which ever option is compatible with the original vehicle design and/or the raised roof design.”

Rationale: This is in line with NMEDA standards

ADD (D)(2)(a)(v) “compatible with NMEDA and SAE”

REMOVE (D)(2)(a)(v) “gusseted to the side header”

Rationale: This brings the rules in line with NMEDA and SAE standards.

ADD (F): unless (1) directed to by the original equipment manufacturer (OEM) during vehicle structural modification and, (2) the new bumper height configuration has been tested as directed by OEM or to a 30 mph frontal impact as described in FMVSS 208 and a 5 mph frontal impact no airbag deployment test. At no time shall the raised bumper violate the Ohio Motor Vehicle Code.

Rationale: This adds clarification to the rule and is a needed exception.

3304-6-14 Used vehicles and transferred equipment

ADD (A)(1) “left foot accelerator, wheelchair hoists, and wheelchair carriers”

Rationale: Clarification on what is a simple modification.

ADD (A)(2)(a) “not covered by a manufacturer’s warranty”

REMOVE (A)(2)(a) “older than one year”

REMOVE (A)(2)(a) “The cost of such repairs specified in the in the report may be considered part of the overall modification project and included in each retail dealer’s bid for the work”

Rationale: There is no practical way to have the repairs required part of the bid for the dealer’s work.

3304-6-15 Lowered-floor minivan and specialty vehicles

CHANGE (B) “new vehicle. . .New means dropped-shipped or from a converter’s pool, and not previously titled” to now read “new motor vehicle(s)” as defined under Ohio Revised Code section 4517.01 (C)

Rationale: This brings the definition in line with another section of the Ohio Revised code and resolves a conflict in legal interpretation.

ADD (B)(2)(a) “currently” “or is planning to purchase”

Rationale: this opens up modifications for LFMV to consumers who plan to purchase a minivan.

REMOVE (B)(2)(a) “twenty- four”

ADD (B)(2)(a) “thirty – six”

ADD (B)(2)(a) “three years”

REMOVE (B)(2)(a) “twenty - four”

Rationale: This extends the age and mileage of a minivan that to which RSC is willing to make modifications.

REMOVE (C)(3) A qualified L-FM retail dealer shall also be a manufacturer approved dealer for at least one make of manually operated hand controls; one make of servo assisted hand controls; one make of low effort steering; and one make of WTORS and shall have trained experienced technicians to install, adjust, and repair this equipment.

Rationale: This is not consistent with industry standard. The rule is dated.

REMOVE (D)(1)(b) “to twelve inch”

ADD (D)(1)(b) “or greater”

REMOVE (D)(1)(b) “(nominal)”

Rationale: This is current with industry standards

REMOVE (D)(3)(c) “The vehicle shall be a minimum of six inches ground clearance at all points under the body with the following exceptions”

REMOVE (D)(3)(c)(i) “the area under the vehicle, from twenty inches forward and aft of both the front and rear wheel centerlines, shall have a ground clearance of four inches or greater.

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ADD (D)(3)(c) The vehicle shall have a minimum ground, running clearance of 4 inches. Ground Clearance, or 'running clearance' (as defined per 49 CFR 523.2), means the distance from the surface on which an automobile (vehicle) is standing to the lowest point on the vehicle, excluding unsprung weight.

ADD (D)(3)(c)(i) The unsprung mass consists of the combined equivalent mass which is sprung between the tire and the suspension springs, and includes; wheel, tire, brakes, suspension linkage and suspension spring.

ADD (D)(3)(c)(ii) Front and rear wheel centerlines, shall have a ground clearance of four inches or greater.

CHANGE (D)(3)(c)(ii) to (D)(3)(c)(iii)

CHANGE (D)(3)(c)(iii) to (D)(3)(c)(iv)

Rationale: This brings the portion of the rule in line with industry standards. The ground clearance issue has been a problem for RSC for some time as the Toyota Sienna 2011 and 2012 LFMV did not meet the prior requirement. There is no safety issue with lowering the ground clearance. This rule change is in line with a safe standard of practice.

ADD (D)(3)(e) (e) LFV shall be equipped with a spare tire.

Rationale: Requirement of a spare tire added for safety.

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

3304.15(C)1

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?

No

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

These regulations are necessary to provide individuals with disabilities assistance in transportation as needed to achieve their job goal as listed in their individualized plan for employment.

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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These regulations are necessary to provide individuals with disabilities assistance in transportation as needed to achieve their job goal as listed in their individualized plan for employment.

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

The measurement of success of the regulation is measured in terms of compliance with the rules and outcomes for the individuals OOD serves.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

OOD sought input from vehicle modification retail dealers and individuals who receive vehicle modifications. Two meetings were held to gather stake holder input. The first meeting was held on May 1, 2013 in which all retail dealers who do business with OOD were invited to attend. The only stakeholder to attend this meeting was Columbus Mobility. The second meeting was held on May 30, 2013 in which consumers who have received vehicle modifications within the past 2 years were invited to attend. No stakeholders attended this meeting. Both meetings had a telephone conference line in which the stakeholders were invited to call.

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

Yes, Columbus Mobility provided input on changing OAC 3304-6-15(B) to change the definition of “new vehicles” to include the definition as cited in 4517.01. This change was made

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?

Assistance in drafting the rule changes was provided by industry consultants George Hicks and Jurgen Babirad.

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?

Several alternatives were considered by the agency including reformulating the scope and structure of the rules. These options were not appropriate at this time

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and more development of these and other alternatives are necessary before they are implemented in rule form.

If none, why didn't the Agency consider regulatory alternatives?

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance based regulation is currently in OAC 3304-6 as retail dealers who perform vehicle modifications must maintain good standing with OOD in order to place bids on vehicle modification requests for bids.

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

OOD is the only provider of vehicle modifications to individuals with disabilities who require modifications to their vehicles in order to maintain an employment outcome as listed in their individualized plan for employment which is developed by OOD.

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 Standards listed in the administrative rules have been applied consistently since the rules were adopted. The proposed changes do not affect the consistency of the application of the vehicle modification rules.

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;

Retail Dealers who provide vehicle modifications and individuals who receive services from OOD.

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

The rules do not require a licensure or fee. The rules do require compliance with industry standards. The cost of retail dealers to comply with OOD's vehicle modification rules do not greatly exceed the normal cost of doing business as a retail dealer of vehicle modifications.

c. Quantify the expected adverse impact from the regulation.

The adverse impact is the cost to maintain the standards to insure the modifications of vehicles are done safely and correctly

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

In order to insure the safety of the individual using the modified vehicle and the general public, it is imperative that vehicle modifications are done in a manner that uphold the industry standards.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? No

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?

These rules do not call for fines or penalties.

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

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OOD maintains a line of communication with the vehicle modification retail dealers. This is a relatively small business community.