

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Commerce, Division of Industrial Compliance

Regulation/Package Title: Elevator Inspection

Rule Number(s): 1301:3-6-01 to 1301:3-6-06

Date: 5/1/2014

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☐ Rescinded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.

Please include the key provisions of the regulation as well as any proposed amendments.

Pursuant to Ohio Revised Code Section 4105.12, the rules set forth in Chapter 1301:3-6 et seq. of the Ohio Administrative Code help ensure the safe operation of public elevators by requiring regular inspections in accordance with industry standards, conducted by trained and

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

qualified inspectors. The rules set forth requirements for obtaining a certificate of competency to conduct elevator inspections and the means by which the superintendent of the Division of Industrial Compliance may take administrative action against that certificate. The rules also set forth the procedures by which elevator owners can obtain and maintain a certificate of operation for their elevators, and explain the inspection process, the process for erecting, repairing or removing existing elevators, and the process for taking an elevator out of service. These simple rules promote easy, transparent and inexpensive compliance with applicable standards and regulations.

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

R.C. 4105.12.

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.

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.

N/A.

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 Ohio Revised Code Section 4105.12, the Ohio General Assembly required the superintendent of the division industrial compliance to promulgate rules for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators. These rules are necessary to comply with the requirements of Revised Code Chapter 4105 and to ensure the safety of all Ohio elevators.

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

The rules are successful when the elevator section protects Ohioans from the risks of elevator accidents while maintaining a simple and efficient inspection and certification process for elevator owners and elevator inspectors.

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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.

See Attachment B for list of stakeholders. Stakeholders were contacted via e-mail on June 8, 2012 and again on May 17, 2014.

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

Stakeholders are supportive of this entire rule package. No changes were suggested.

- 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?**

This rule depends upon the industry standards established by the American Society of Mechanical Engineers (“ASME”), who utilize the latest scientific processes to establish their standards. ASME standards are written by industry experts, who bring with them years of experience and education to create a scientifically accurate method of measurement.

- 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?**

R.C. 4105.12 mandates that the superintendent adopt rules for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators. No regulatory alternatives were permissible.

- 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 rules are not appropriate for performance based regulations.

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

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The elevator section consulted with the Board of Building Standards to ensure no duplication of rules, and also consulted with the Bureau of Workers Compensation about their rules regarding elevator certificates of operation. The agency reviewed the Ohio revised code and administrative code to ensure that the regulation does not duplicate any existing code provisions or rules.

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 Department will ensure that all stakeholders have been notified about the minimal changes to the 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;

The impacted business community consists of elevator owners and operators, as well as elevator inspectors.

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

The adverse impact consists of: personnel time for completing applications, operational costs in submitting to inspections, and fees for the certificate of competency for elevator inspectors and for the certificate of operation for elevators.

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 personnel time to complete the application is impossible to estimate, but should be slight as the forms are simple to complete so the paperwork time is minimal. The operational costs for taking an elevator out of service during inspections is similarly impossible to estimate, but should also be minimal as the agency works with elevator owners to schedule an inspection during times that minimize operational loss. The fees referenced in these rules are established by R.C. 4105.17 and set forth therein.

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

R.C. 4105.12 mandates that the Superintendent of the Division of Industrial Compliance promulgate rules for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators. These compliance costs are minimal and are outweighed by the important safety interest ensured by the elevator rules.

Regulatory Flexibility

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

The rules that apply are uniform across the industry without regard for the size of the business because the safety concerns are the same no matter the size of the business.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The elevator section regularly works with elevator owners to correct violations and achieve compliance.

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

The elevator section is easily accessible for questions via internet, phone and e-mail. The section strives to assist small businesses into achieving and maintaining compliance with requirements of R.C. Chapters 4105 and O.A.C. Chapters 1301:3-6.