

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Voluntary Registration of Serviceperson & Service Agencies

Rule Number(s): 901:6-8-01

Date: April 24, 2015

**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☐ Rescinded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.

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## **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.**

Ohio Administrative Code § 901:6-8-01 has been reviewed in accordance with R.C. 119.032 and is being amended as follows. The Department is statutorily tasked with the voluntary registration of Ohio's weights and measures servicepersons and service agencies under R.C. 1327.50. OAC § 901:6-8-01 establish the registration and examination process to become registered. This process is voluntary. Interested individuals and agencies must demonstrate a working knowledge of commercial weighing and measuring devices to insure they can properly install, service, repair or recondition the devices.

The rule is being amended to remove duplicative sections, as well as, to comply with incorporation by reference standards. Further, the rule is being amended to clarify certain portions of the rule including the definitions of "registrant" and "Department," changes in the National Institute of Standards and Technology Handbook 105 series, and how to properly complete service forms.

Additionally, changes are being made to the examination fee structure. Interested individuals wishing to become registered will have to pay a non-refundable \$25 examination fee to sign up for the exam. The annual registration was reduced by \$25 from \$100 to \$75 in order to compensate for this change. Finally, a prohibition was added to the rule which forbids servicepersons and service agencies from calibrating their own or any other servicepersons or service agency's commercial standards.

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

R.C. 1327.50

**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.

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

Not applicable.

**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)?**

The Department is statutorily tasked with providing a voluntary registration with the director of private weighing and measuring device servicing agencies, and personnel registering

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under R.C. 1327.50. Through this registration, the Department has ensured that the successful applicants have demonstrated the experience and education necessary to install, service, repair, or recondition commercial weighing devices. This promotes uniformity in Ohio weights and measures laws, regulations, and standards to achieve equity between buyers and sellers in the marketplace, enhances consumer confidence, and enables Ohio businesses to compete fairly at home and abroad.

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

The Department will measure success in the number of registered servicepersons and service agencies and a reduced number of violations.

**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 following stakeholders were contacted in January regarding the proposed changes to the rule. These individuals represent a large percentage of the weights and measures industry in Ohio and have a direct interest in these rules.

Jim Bishop	Remkes
Jeff Gardner	Retalix
Dave Boykin	NCR
Casey Utter	Tolt Service Group
Mike Tallman	Keystone Petroleum
Tim Ries	NCR
Aloyna Berry	Brechbuhler Scales
Terri Yates	A.C.Lister
Vicki Lape	Jungle Jim's Market
Sue Ewald	Jones & Frank
Francyne Klein	Crompco
Joe Bilpuch	Kanawha Scales
Bill Cress	Fairbanks Scales
Tricia Allen	Brechbuhler Scales
Cindy Turner	Tusko Sales & Service
John Kohl	AES Scales
James "Huck" Alderson	Air Transport International, Inc.
John Gasper	Fujitsu America
Darlene Smith	Mid-State Michigan Service
Darlene Scott	CW Meter Service

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Rich Vanaman	LTS Scale
Steve Smith	Buckeye Scale
Fred Gottfried	Ashland Scale
Richard Klecha Jr	Tom Troy Enterprises
Dawn M. Ulatowski	OCS Teechnologies
Stacey Sutherland	Crop Production
Keith Lambert	Giant Eagle
Penni Beall	CompuCom
Mike Nadaud	1 Stop Inc.
Jason Bond	Trillium CNG
David K. Angione	All American Scale
David Fosnight	Hobart Scales
Nancy Alexander	CompuCom
James Urso	Giant Eagle
Anita Bennett	ITRS
Kevin Hamp	Kroger
Stephanie Bass	ITRS
Denny Knott	Ney Oil
Jason Brookbank	CBT Solutions
Scott Yauch	CH Bradshaw
George Coburn	Mettler Toledo
Randy Humbert	Antibus Scales
Lisa Mackey	M&M Service, Inc./Mid-Valley Supply
Jerry Reichelderfer	NCR
Nichole Martin	Musick's Service Station Maintenance, Inc
Jason Swigert	Mettler Toledo
Tom Dick	True North Energy
Mike Scott	Brechbuhler Scales
Tim Powers	Sheetz Inc.
Rory Light	Liquid Meter Services, Inc.
Shirley Gimpel	Franklin Equipment
Thomas Hipwell	TPH Service
Rich Vanaman	Filing Scale
Phillip, Dyreck	Bizerba Inc.
Katherine Wright	Oscar W. Larson
David Kidd	Motorola Solutions
Scott Booher	NCR
John Pfister	Kanawha Scales
Tina Beard	Collins Equipment
David Biro	Biro Sales
Marsha L. King	Kanawha Scales

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

The input from these rules was largely positive. David Boykin, Weights & Measures Compliance Manager for the NCR Corporation, commented that he believed the restructuring of the examination fee was a good thing for the industry.

**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?**

These rules were developed using a history of scientific data from the National Institute of Standards and Technology (NIST). Founded in 1901 and now part of the U.S. Department of Commerce, NIST is one of the nation's oldest physical science laboratories. Congress established the agency to remove a major handicap to U.S. industrial competitiveness at the time—a second-rate measurement infrastructure that lagged behind the capabilities of England, Germany, and other economic rivals. Today, NIST measurements support the smallest of technologies—nanoscale devices so tiny that tens of thousands can fit on the end of a single human hair—to the largest and most complex of human-made creations, from earthquake-resistant skyscrapers to wide-body jetliners to global communication networks.

**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?**

Stakeholder participation in this rule package has indicated to the Department that this is the best regulatory scheme at this time. For those reasons, no other regulatory alternatives were considered.

**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.***

901:6-9-01 outlines the administrative process in which an individual becomes registered as a service person or service agency. This rule outlines the process of how to achieve this registration. As such, the Department did not consider a performance based regulation.

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

The Department is given the sole regulatory authority over this voluntary registration through R.C. 1327.50.

**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.**

This rule is already implemented within the industry and the Department works with all current and prospective servicepersons and service agencies to educate and inform them on the requirements of this rule. Additional education and outreach will be performed with the affected communities of the changes made by the Department.

**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;**

All current and prospective servicepersons and service agencies. Servicepersons and service agencies are generally any person, entity, or firm who installs, services, repairs, or reconditions, for hire, award, commission, or any other payment of kind, a commercial weighing or measuring device; also shall have the authority to place devices in service.

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

Registration of servicepersons and service agencies is voluntary. Interested applicants must submit an application to the Department. Additionally, the applicants must have possession of the standards and testing equipment necessary to perform the services in which they are requesting registration. Applicants must pass a qualifying examination for each type of weighing and measuring device they wish to register for.

**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.**

Registration of servicepersons and service agencies is voluntary. Interested applicants must submit an application to the Department which requires minimal time for compliance. The cost of the standards and testing equipment necessary to perform the services in which they are requesting registration varies upon the equipment and the intentions of the applicant. Applicants must pay a \$25 non-refundable examination fee in order to sit for the qualifying exam. If successful, the applicant must pay a \$75 registration fee on a biennial basis.

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

The Department is statutorily tasked with providing a voluntary registration with the director of private weighing and measuring device servicing agencies, and personnel registering under R.C. 1327.50. Through this registration, the Department has ensured that the successful applicants have demonstrated the experience and education necessary to install, service, repair, or recondition commercial weighing devices. This promotes uniformity in Ohio weights and measures laws, regulations, and standards to achieve equity between buyers and sellers in the marketplace, enhances consumer confidence, and enables Ohio businesses to compete fairly at home and abroad. Therefore, the adverse impact is considered to be justified.

**Regulatory Flexibility**

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

As the primary purpose of these rules is ensuring the accuracy of weights and measures devices in conducting business, exemptions would not be applicable.

**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 Department works with all servicepersons and service agencies to ensure that they obtain the necessary training.

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

The Department has online resources and has field staff available through a helpline to provide assistance. Training and seminars are also available.