

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: OFA: Child Care – Type A Homes Building Inspections

Rule Number(s): 5101:2-13-10

Date: Nov. 17, 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Rescinded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.

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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117
CSIOhio@governor.ohio.gov

5101:2-13-10 "Building department inspection for licensed type A homes" has been amended to provide clarity and to remove form JFS 01336 "Type A Home Building Inspection Report" as a requirement of the building inspection process. Instead, the building inspection shall be documented on a form issued by the Board of Building Standards.

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

5101:2-13-10 – 5104.017

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.

This regulation does not exceed federal requirements.

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)?

This rule, promulgated pursuant to the requirements of the Ohio Revised Code, establishes building inspection regulations for minimum health and safety standards for licensed child care environments. When developing the rule, ODJFS also reviewed industry standards and benchmarks like "Caring For Our Children," a publication released by the American Academy of Pediatrics and Child Care Aware, a nationally recognized clearing house of information on child care, as well as the regulations of other states. Additionally, some requests for regulation come from the child care licensing specialists who are in the field on a daily basis and see recurring or misunderstood violations. All are written with the intent to protect children and keep them safe while they are out of the care of their parents.

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

The success of this regulation is determined during licensing inspections, through the monitoring of incident reports submitted by regulated providers, through materials submitted to address noncompliance issues, and through any complaints received by ODJFS. Stakeholders also provide continuous input into the regulation and the effort to comply with the rule.

Development of the Regulation

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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.

Stakeholders involved include the policy committee of the Child Care Advisory Council (CCAC), created under ORC 5104.08. The CCAC membership can be viewed at <http://jfs.ohio.gov/cdc/docs/CCACRepresentationEmails.stm>. On September 10, 2015, ODJFS reviewed the proposed changes with the CCAC policy committee. ODJFS met on September 11, 2015 with the Ohio Department of Commerce Board of Building standards to finalize this policy.

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

The CCAC policy committee was supportive of the language and did not have any changes.

The Ohio Department of Commerce was supportive of the change and assisted in the finalizing of the language.

Stakeholder comments were considered during and immediately following the ODJFS clearance process and public comment period from September 25, 2015 to October 2, 2015. One comment was received regarding implementation and was responded to.

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?

Not applicable.

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?

Alternatives were not considered as the rule was developed to meet the Ohio Revised Code.

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. The rule was developed to implement state mandates under Ohio Revised Code 5104. intended to increase the health, safety, and general wellbeing of children in child care.

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

Rules are reviewed by ODJFS rule specialists and legal staff prior to the Clearance period to ensure there is no duplication of our agency or other agency rules. These rules are promulgated pursuant to the Ohio Revised Code.

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.

ODJFS licensing specialists utilize a software system to inspect licensed Type A Homes. ODJFS help desk staff provides support and assistance to Type A Homes and families regarding the rules. Formal notification of the rule is provided to child care providers, families and others by use of an eManual for child care which is located at <http://emanuals.odjfs.state.oh.us/emanuals/>. Email updates from ODJFS can be received by signing up at <http://www.odjfs.state.oh.us/subscribe/> as well as an RSS feed at <http://www.odjfs.state.oh.us/ccupates/>.

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;

There are upwards of 200 licensed Type A Homes throughout Ohio.

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

No new costs or requirements are being implemented with this rule. The following rule contains the existing requirements and accompanying estimated costs to licensed type A homes.

5101:2-13-10- Building approvals from the Ohio Department of Commerce or from the local certified building department is required. The cost is difficult to determine because fees vary depending on the size of the home and types of inspections needed.

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.

Currently licensed Type A Homes have the standard items required for initial licensure and will not be required to get a new inspection just because of the form

change. The actual cost to each Type A Home cannot be estimated because costs will vary depending on their business model and which services they provide.

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

The regulatory intent justifies the financial impact child care providers may incur because these licensing standards are mandated. The Ohio Revised Code requires child care providers to be licensed and to follow the ORC. ODJFS also uses industry standards and benchmarks like "Caring For Our Children," released by the American Academy of Pediatrics, and "Child Care Aware, the nationally recognized hub of child care information as well as the regulations of other states in setting the regulations for child care programs. All of the rules are written with the intent to protect children and keep them safe while they are out of the care of their parents.

Regulatory Flexibility

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

No. Licensing standards for Type A Homes are mandated by the Ohio Revised Code.

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?

Not applicable.

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

ODJFS enforces the rules set forth by the Ohio Revised Code and the Ohio Administrative Code. ODJFS provides technical assistance through licensing specialists, video conferences, trainings, emails, eblasts, RSS feeds, eManual, help desks and through the Ohio Child Care Resource and Referral Association.

ODJFS provides the following:

Child Care Policy Helpdesk

CHILDCAREPOLICY@jfs.ohio.gov

1-877-302-2347

eManual for child care located at <http://emanuals.odjfs.state.oh.us/emanuals>

Email updates from ODJFS can be reviewed by signing up at:

<http://www.odjfs.state.oh.us/subscribe/>

RSS feeds sign up at: <http://www.odjfs.state.oh.us/ccupdates>