

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Device Registration Permit

Rule Number(s): 901:6-4-01

Date: March 21, 2017

**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☐ Rescinded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 (OAC) 901:6-4-01 outlines the application process for obtaining a permit to operate a commercially used weighing and measuring device in the state of Ohio. The rule is being amended to correct the number of days an applicant may submit his application late before the Department may issue a late fee. Currently, the rule states ninety days while the statute (ORC 1327.501) states sixty days. This revision ensures that the rule and the statute are aligned.

This rule is administered by the Ohio Department of Agriculture, Division of Weights and Measures (Department). The Department is tasked with protecting Ohio businesses and consumers by ensuring products are accurately measured, labeled, and sold. Further, the Department works with county and city weights and measures programs to test devices ranging from fuel meters and retail store scanners to vehicle and livestock scales for consistent measuring standards.

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

O.R.C. 1327.501

**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 obligated to adopt rule outlining how a person can obtain a permit for a weighing and measuring device. As stated above, the Department is tasked with protecting Ohio businesses and consumers by ensuring products are accurately measured and sold. This registration process ensures that the Department is aware of the weighing and measuring devices used in commerce and subjects those devices to testing by the Department. Regular testing ensures that Ohioans are receiving the exact amount of product purchased.

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

These rules are judged as being successful when inspectors find few violations and receive few complaints from consumers.

**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.*

On January 25, 2017, the proposed amended rule was sent to the following stakeholders, *via* email. Stakeholders were given until March 17, 2017 to email their comments to the Department:

**Company Name**

Advanced Composites  
AK Steel  
Amerigas  
Amerigas  
Anderson Propane Service  
Austin Powder Co.  
Baumann-Enterprises  
Bay Metal Inc.  
Berea Landscape Supply  
Buckeye Scale  
Cardinal Operating Co,  
Central Ohio Recycling & Salvage LLC  
Chemtrade Logistics  
CIMCOOL  
Circleville PPG Shipping  
Diller Road Recycling  
Emery Oleo  
Erie County Landfill  
Ferrell Gas  
Ferrell Gas  
Gateway Recycle  
Germantown Oil  
Hanson  
Heiby Oil Co.  
Henderson Oil Co.  
Hook-N-Haul  
Jacob Energy  
Justin Moore  
Kimble Company  
KOST USA

**Individual Name**

Trey Fortner  
Mike Brewer  
Bradley Spearman  
Aaron Noble  
Michael Smith  
David Ferri  
Mike Baumann  
Laura Alford  
James Beverly  
Tracie Russell  
Joel M Milliken  
Clay Korner  
Rober Jakubowski  
Frank Ujvary  
Richard Molinski  
Rob Rosen  
Matthew DeMaison  
Bryan Gill  
Joe Krouse  
Matt Drennen  
Mike Hanhold  
John Lesote  
Tom Roudebush  
Carol Ransbottom  
Ken Henderson  
Bryan Whittenberger  
Phillip House  
Justin Moore  
Kathleen Raber  
Jeff Litzinger

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Lafarge  
Lincoln Moving & Storage  
Lykins Energy  
Madison Co. Airport  
Matheson Gas  
Matheson Gas  
Military Support Services  
Mississippi Lime Co.  
Morton Salt  
NASA Plum Brook  
NGO Propane Co-Operative  
Niagra Worldwide  
Olen Corp.  
Prism Propane  
River Valley Paper Co.  
Savage Services  
Shaker Heights Public Works  
Silverback Energy Services  
Suburbane Propane  
Summit Supply  
Sunrise Co-Operative  
SXCP Partners  
Thrifty Propane  
Timken Steel  
Unique Paving Materials  
Universal Steel  
Universal Well Services  
Valero Bloomingberg  
Victory propane  
Waste Management  
Waste Management Cuyahoga Landfill  
Wilbur Ellis  
Willcrest Corp.  
XL Sand & Gravel Co.  
Zemba Bros.

Nikole Culp  
Chuck Dietrich  
Tom Berger  
Jamie Kemper  
Bill Troyer  
Chuck Beecher  
Jeff Boldman  
Christine Mollison  
Dana Roberto  
Thomas Keating  
Bob Herron  
Steven Garner  
Steve Hollis  
Chris Hovest  
Nick Miller  
Richard Jesko  
Shannon Marlin  
Carl Beranek  
David Leitch  
Richard Hale  
Laura Nold  
Matt Clippinger  
Stephanie Pennington  
Mark Craig  
Lynda Ajoury  
Scott Szabo  
Roy Irwin  
Casey Pringle  
Terence Brose  
Lynn Churchvara  
Evan Jahn  
Jan Lee  
Chris Perchinske  
Kristen Kalis  
Susan Zemba

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

The Department did not receive any comments from the above listed stakeholders.

**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?**

As this rule is administrative in nature, no scientific data was used.

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- 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 Department did not consider any alternative regulations as this rule is required by ORC 1327.50.

- 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.*

This rule outlines the process in which someone obtains a permit. ORC 1327.50 requires the Department to adopt such a rule.

- 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 these fuel devices pursuant to O.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.**

These rules are already implemented within the industry and the Department works with all stakeholders in order to educate and inform them of the regulations.

### **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;**

Individuals who operate a commercially used weighing and measuring device. These devices include livestock scales, vehicle scales, railway scales, vehicle tank meters, bulk rack meter, and a liquefied propane gas meter.

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

Individuals must pay a license fee in order to permit their device. In addition, the application process will require minimal time for employer compliance. Failure to submit an application timely may result in the addition of a late fee.

**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.*

In accordance with ORC 1327.501, the permit fees for the weighing and measuring devices listed in paragraph (a) above are seventy-five dollars. Individuals who are more than 60 days late may be subject to a late fee of twenty dollars.

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

As stated above, the permitting of weighing and measuring devices is a statutory requirement. However, as the intent of this rule is to protect consumers and ensure accuracy in business dealings by establishing minimum standards for these businesses, 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 weighing and measuring devices in conducting business, exemptions for a smaller operator 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?**

Paperwork violations rarely reach the enforcement stage so long as the operator is willing to correct the violation and has no history of prior violations.

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

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