

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Transportation

Regulation/Package Title: Oversize/Overweight Permit Review

Rule Number(s): 5501:2-1-1 through 5501:2-1-17

Date: 5/11/2018

**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☐ Rescinded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.**

A: In brief, the rules establish the definitions and mechanism through which a hauling company can apply for a permit and the regulations and limitation placed upon such a permit.

Changes to OAC 5501:2-1-01 include:

- Removed "Approved facility" definition

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- Corrected misspellings and punctuation errors

Changes to OAC 5501:2-1-03 include:

- Removed the in person option for application submission.
- Corrected misspellings and punctuation errors

Changes to OAC 5501:2-1-09 include:

- Corrected misspellings and punctuation errors

Changes to OAC 5501:2-1-10 include:

- Increased basic processing charge to Twenty dollars.
- Removed continuing permit types for loads that exceed one hundred and twenty thousand pounds and the return trip.

Changes to OAC 5501:2-1-14 include:

- Removed entire section on conditions on approved facility

Changes to OAC 5501:2-1-15 include:

- Increased the basic processing charge to twenty dollars

Changes to OAC 5501:2-1-17 include:

- Increased the basic processing fee to twenty dollars
- Reduced the cost of all overweight permits types by ten dollars so that all permits are charged the same fee regardless of 5501:2-1-10 or 5501:2-1-17

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

A: Ohio Revised Code 4513.34

**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?**

A: Yes, ODOT is obliged to follow Federal Code (23 USC 127) which establishes the maximum vehicle dimensions and weights on the National Network of Highways, which can only be circumvented by a permit issued by a state.

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

A: ODOT is not exceeding the federal requirement with these rules.

**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)?**

A: The movement of Oversize/Overweight loads has safety, economic development and congestion implications. Establishing rules strike a balance among the responsibilities to the travelling public, the demands of moving of Oversize/Overweight loads and essentiality of preserving the highway system.

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

A: The number of permits issued will gauge ODOT's impact on economic development, tracking incidents and issues will measure the impact of these permits on other highway users and ODOT can monitor the impact on the highway infrastructure.

**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.*

A: See attached spreadsheet of stakeholders contacted. Current version of rules were sent to stakeholders for feedback 1/2 - 3/2/2018. ODOT reviewed comments and proposed revisions that were sent out for review 3/21 – 4/6/2018. Additional comment, with BIA attached, was held 4/13 – 4/27.

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

A: Stakeholders submitted comments ranging from round trip permitting, increasing fees, and modifying provisions specific to Pennsylvania routing. All comments were considered. Those not included were either deemed unlawful, outside the scope of administrative code, or an unnecessary impact to the business community.

**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?**

A: In 2009 ODOT submitted a report to the Ohio General Assembly on the impacts of permitted of loads. It was determined that Oversize and Overweight vehicles have a significant effect on the state highway system, while being a usual economic development tool. For example, ODOT charges fees that are based on the findings of this study.

**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?**

A: ODOT has found that by providing codified guidance and expectations there is better facilitation of the movement of Oversize/Overweight Vehicles.

**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.***

A: These rules are governed by Federal Code and Ohio Revised Code with stakeholder input.

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

A: ODOT is the only federal and state agency permitted to issue these permits.

**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.**

A: ODOT will plan to announce to stakeholders and post all relevant information via website and applicable permit forms.

**Adverse Impact to Business**

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

A: There are no adverse impacts. Oversize/Overweight permits actually provide a useful and safe mechanism to simplify and aid in the movement of exceptional vehicles which would otherwise be illegal to move. However, the scope of the impacted business community includes all shippers and haulers within and through the state of Ohio that would need to transport Oversize/Overweight items. The hauler would be required to pay a permit fee to allow the travel of an Oversize/Overweight load. The applicant for a permit would need to fill out an application on paper, on-line, or in person. The base permit application fee is being increased to twenty dollars from ten. This fee has remained the same for the last 8 years and with the change in ORC requiring ODOT to issue two permit types we started charging two different fee structures. Changing this application fee would allow for a system upgrade allowing more permits to be automatically issued by the computer program and create one fee structure for both types of permits making it easier for business to plan. The current computer program automatically approves around 55% of all applications 24 hours a day 7 days a week and with this change we anticipate at least 70% of the 1400 applications processed each day could be system issued. This increase allows business to obtain these permits outside of our normal business hours.

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

A: As previously stated, permits are a means by which commerce can take place. Oversize/overweight permits ensure that the interests of business are in balance with the public interest of maintaining a safe and robust transportation system.

### **Regulatory Flexibility**

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

A: There is no differentiation between a large or small business. They are all given equal consideration.

**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?**

A: ODOT takes great effort to assure applicants submit the proper documentation. ODOT does not impose any penalty for paperwork issues.

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

A: ODOT has a web page which provides all necessary information on the process to obtain an Oversize/Overweight permit. Additionally, the application system is web based user friendly software that is made available free-of-charge. There are instructional materials provided on the web page also. The ODOT Office of permits is available during normal working hours to assist applicants with permit processes.