



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce, Division of Industrial Compliance

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Temporary License Rules for Manufactured Home Inspectors and Installers

Rule Number(s): 4781-7-11 (New); 4781-8-12 (New)

Date of Submission for CSI Review: December 23, 2021

Public Comment Period End Date: January 6, 2022

Rule Type/Number of Rules:

New/ 2 rule

No Change/ rules (FYR?)

Amended/ rules (FYR?)

Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. 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 and in an effort to implement the requirements of section 4743.041 of the Revised Code, proposed new rules 4781-7-11 of the Administrative Code and 4781-8-12 of the Administrative Code set forth the requirements that an individual must meet to be issued a temporary manufactured home inspector certification and a temporary manufactured home installer license, respectively. The proposed rules also establish the length of time that the temporary certificates/licenses are valid for and how application for them must be made.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

R.C. 4740.04, R.C. 4743.041

4. 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. No.

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

Not applicable.

6. **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 133rd General Assembly enacted section 4743.041 of the Revised Code, requiring all agencies to issue a temporary occupational license to members of the military and their spouses if they meet certain qualifications. Division (H) of section 4743.041 of the Revised Code states that all impacted agencies “shall adopt rules under Chapter 119. of the Revised Code as necessary to implement this section.” Accordingly, the public purpose of the proposed new rules is to implement section 4743.041 of the Revised Code, to allow for temporary manufactured home inspector certifications and temporary manufactured home installer licenses.

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

The rules are successful when: 1) Eligible individuals are able to obtain temporary manufactured home inspector certifications and installer licenses in a timely manner, and 2) the Department has clear guidelines that will allow it to efficiently and effectively implement the requirements of section 4743.041 of the Revised Code. The success of the proposed rules will be measured by eliciting feedback from the public, stakeholders, and any interested parties regarding the clarity and impact of the rules.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. **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.

Please see the “BIA Attachment A.”

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

Stakeholders were notified of the proposed rule and provided with an opportunity to give input. The Ohio Department of Commerce did not receive any stakeholder comments or input requesting changes to the proposed rule package.

11. 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?

No scientific data was used to develop the rules.

12. 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 rules were drafted to implement and follow the statutory requirements of section 4743.041 of the Revised Code. Alternative regulations could not be considered to comply with section 4743.041 of the Revised Code.

13. 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.*

The rules were drafted to implement and follow the statutory requirements of section 4743.041 of the Revised Code. As section 4743.041 of the Revised Code does not have performance-based requirements, performance-based regulations could not be considered in proposing these new rules.

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

Section 4781.04 of the Revised Code authorizes and requires the Division of Industrial Compliance to promulgate rules regarding the certification of manufactured home inspectors and the licensing of manufactured home installers. No other entity is required or permitted to adopt rules regarding these subjects. Additionally, the proposed rules could not duplicate an existing Ohio regulation as they were created to implement the requirements of section 4743.041 of the Revised Code, which was just recently enacted. Finally, a thorough review of the Revised Code and Administrative Code was performed to ensure the proposed rules do not duplicate an existing Ohio regulation.

15. 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.

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The Ohio Department of Commerce and the Division of Industrial Compliance will notify the stakeholders and the industry about this rule package, will train its staff on its implementation, and will also be available by telephone, mail, and e-mail to answer any questions from the industry and the public.

Adverse Impact to Business

16. 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; and**
- b. Identify the nature of all adverse impact (e.g., 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.

For rule 4781-7-11:

- The scope of the impacted business community includes manufactured home inspectors.
- The nature and amount of the adverse impact of this rule is:
 - Reporting of information: Prospective temporary manufactured home inspectors must submit an application for a temporary manufactured home inspector certification, proof that the applicant holds a valid inspector certification issued by another state/jurisdiction, proof that the applicant or applicant’s spouse is on military duty in Ohio, and a criminal records check. The estimated time needed to obtain the required information to submit will vary depending on the individual, but could take up to two or three hours.
 - Likely to increase the expenses of the lines of business to which it will apply: Prospective temporary manufactured home inspectors will incur some costs (\$25.00 to \$50.00) to obtain a criminal records check to submit with their applications. Said costs will be paid to another entity, not to the Department.

For rule 4781-8-12:

- The scope of the impacted business community includes manufactured home installers.
- The nature and amount of the adverse impact of this rule is:

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- Reporting of information: Prospective temporary manufactured home installers must submit an application for a temporary manufactured home installer license, proof that the applicant holds a valid installer license issued by another state/jurisdiction, proof that the applicant or applicant's spouse is on military duty in Ohio, and a criminal records check. The estimated time needed to obtain the required information to submit will vary depending on the individual, but could take up to two or three hours.
- Likely to increase the expenses of the lines of business to which it will apply: Prospective temporary manufactured home installers will incur some costs (\$25.00 to \$50.00) to obtain a criminal records check to submit with their applications. Said costs will be paid to another entity, not to the Department.

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

All potential adverse impacts to the regulated business communities are mandated by section 4743.041 of the Revised Code and Chapter 4781 of the Revised Code. Section 4743.041 of the Revised Code requires all agencies offer a temporary version of any occupational license an agency may issue, subject to its specific terms, and section 4781.04 of the Revised Code requires the Division of Industrial Compliance to adopt rules that govern the inspection of manufactured housing installations and the licensing of manufactured home installers. Those referenced sections of the Revised Code reflect a determination by the Ohio General Assembly that the need to protect the safety of manufactured housing occupants justifies the adverse impact to the regulated business communities. As the proposed rules require minimal expense and time be incurred to prove eligibility and compliance, the important public interests served by these regulations far outweigh the limited adverse impact.

Regulatory Flexibility

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

No, the proposed rules do not provide any exemptions or alternative means of compliance for small businesses. The proposed rules merely implement the requirements of section 4743.041 of the Revised Code as it applies to manufactured home inspector certifications and installer licenses. As section 4743.041 of the Revised Code does not provide an exemption or alternative means of compliance for small businesses, neither do the proposed rules. Additionally, the proposed rules apply to individuals only. A business entity is not, by itself, eligible for a temporary manufactured home inspector certification or installer license. Accordingly, there is no exemption or alternative means of compliance for small businesses because small businesses are not subject to the proposed rules.

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19. 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 Ohio Department of Commerce and the Division of Industrial Compliance have been and remain committed to working with all regulated parties to ensure that any paperwork offenses are resolved without a negative consequence for first-time offenders. Typically, the Division of Industrial Compliance (and any of the entities involved in the certifying or licensing of inspectors and installers) notifies a party of any paperwork mistakes or violations (regardless of whether it is the party's first paperwork error) and assists the party in making any necessary corrections. All reasonable efforts are made to provide an opportunity to remedy non-compliances before fines or penalties are considered.

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

The Division of Industrial Compliance and the two entities that handle the certification and licensing of manufactured home inspectors and installers (Board of Building Standards ("BBS") and Ohio Construction Industry Licensing Board ("OCILB")) are easily accessible by e-mail, mail, and telephone for questions or requests for assistance, and their websites also provides resources and contact information for inquiring parties. The Ohio Department of Commerce, Division of Industrial Compliance, BBS, and OCILB all strive to provide great customer service, and helping regulated parties achieve compliance has been and remains a priority.

MHP Stakeholder List:

Constant Contact list maintained by Department of Commerce, downtown location.

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Stakeholder	Email Address
Manufactured Homes Program's Constant Contact List	Communications has list
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Ohio Fire Chiefs Association	michelle@fitzgibbongroup.com
Ohio Building Officials Association	jcheatham@safebuilt.com ; nmontan@ecohba.com ; decker@cityofmentor.com
Ohio Township Association (OTA)	myers@ohiotownships.org
Ohio Association of Plumbing Inspectors (OAPI)	fbrykalski@richlandhealth.org
International Code Council	mnoble@orangetwp.org ; croblee@iccsafe.org
Ohio Board of Building Standards (BBS)/Residential Construction Advisory Committee (RCAC)	rhanshaw@com.state.oh.us
Ohio Construction Industry Licensing Board (OCILB)	dic.ocilb@com.state.oh.us
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Ohio Clerk of Courts Association	tdankovic@guernseycounty.org
Ohio Association of Municipal/County Court Clerks	laurie@cambridgemunicipalcourt.com
Ohio Department of Public Safety	rules@dps.ohio.gov ; mjgrilliot@dps.ohio.gov
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Fax Numbers	-
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Ohio Municipal League (OML)	Fax: 614-221-4390
Ohio State Fire Council	Fax: 614-752-7213
Legal Aid Society of Cleveland	Fax: 216-586-3220
Legal Aid Society of Columbus	Fax: 614-224-4514

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