



## Common Sense Initiative

**Mike DeWine**, Governor  
+ **Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce

Rule Contact Name and Contact Information:

Aaron Johnston- Division Counsel, (614) 644-3297

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

Boiler Operator and Steam Engineer Experience Requirements

Rule Number(s): 1301:3-5-10

Date of Submission for CSI Review: \_\_\_\_\_

Public Comment Period End Date: \_\_\_\_\_

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ X rules (FYR? No)

Rescinded/\_\_\_ rules (FYR?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.*

The draft regulation establishes the experience criteria applicants must demonstrate in order to sit for the low-pressure boiler operator, high-pressure boiler operator, and stationary steam engineer examinations.

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. 4104.06; 4104.19.

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.

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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.**

N/A

- 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)?**

Section 4104.19 of the Revised Code requires the Superintendent to determine whether an applicant for licensure as a low-pressure boiler operator, high-pressure boiler operator, or stationary steam engineer has the necessary education and experience to be qualified to sit for the licensing examination. This regulation sets the criteria the superintendent uses to determine whether such applicants have the required experience and education required under section 4104.19 of the Revised Code.

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

The agency will measure the success of this regulation by monitoring the number of applications submitted and licenses issued to boiler operators. In addition, the Division will gather feedback from boiler owners as to the availability of the workforce for licensed boiler operators and the ease or difficulty with which boiler owners are able to find qualified individuals to operate their boilers.

- 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.*

N/A

### **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.*

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

No input was received from stakeholders regarding the draft regulation.

- 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?**

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Given the nature of the draft regulation, scientific data was not applicable to the development of the rule. The Division, however, did rely upon input of industry experts in the development of the rule, including the proposed amendment reducing the number of hours required to qualify to sit for the licensing examination.

**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 proposed amendment reduces the number of hours of experience required to qualify to sit for the licensing examination. Alternative regulations, including maintaining the currently higher number of hours required, were considered. However, feedback from the industry indicated that the difficulty in finding qualified operators was increasing. Accordingly, the amendment to reduce the number of hours was considered, while balancing the importance of having sufficient experience to adequately prepare the applicant for the examination and the task of operating such devices.

**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.***

First, section 4104.19 of the Revised Code does not appear to permit implementation of a performance-based regulation. Second, a performance-based regulation was likely not feasible given the fact that this regulation deals with the experience requirements of initial applicants.

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

The Division reviewed relevant provisions of the Ohio Revised Code and Ohio Administrative Code and found that the proposed regulation does not duplicate existing regulations.

**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.**

The agency will communicate the reduction of the required number of hours to qualify to sit for the examination to stakeholders and interested parties. In addition, given the nature of the regulation, discretion is not exercised in enforcement of the regulation and, therefore, the Division has every expectation that the regulation will be applied consistently and predictably across the regulated community.

**Adverse Impact to Business**

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**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**

Most directly, the impacted business community includes applicants for boiler operator (including stationary steam engineer) licensure. Indirectly, the impacted business community also includes owners/operators of low-pressure and high-pressure boilers as well as stationary steam engines who are seeking to hire operators for such devices.

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

The nature of the adverse impact includes the time spent by applicants seeking to qualify to sit for the boiler operator examination.

**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.*

The proposed amendment reduces the number of hours needed to qualify to sit for the licensing examination as follows:

- For low-pressure boiler operators: reduced from six hundred to four hundred hours;
- For high-pressure boiler operators: reduced from one thousand to seven hundred hours; and
- For stationary steam engineers: reduced from one thousand to seven hundred hours.

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

The Division balanced the need to ensure license applicants have sufficient experience to prepare them to operate each category of device competently with the burden borne by the applicant in obtaining those required hours of operating experience. By reducing the number of hours needed to sit for an exam it is believed that the number of applicants will increase potentially alleviated demand in the market for these positions.

**Regulatory Flexibility**

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

Section 4104.19 of the Revised Code does not differentiate between boilers operated by small businesses as compared to those that are not. However, it should be noted that the number of hours required scales with the complexity of the device the applicant is seeking to

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obtain a license to operate for. As such, to the extent small businesses may have a higher likelihood of utilizing smaller devices, such as low-pressure boilers, the number of hours required to sit for that examination are reduced as compared to more complex devices, such as high-pressure boilers and stationary steam engines.

**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 Division often excuses first-time paperwork violations and attempts to obtain compliance with applicable safety codes, as well as the Revised Code and the Ohio Administrative Code, through non-disciplinary means.

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

The Boiler Section is available to answer questions and address concerns posed by small businesses as well as the public generally.

## BIA ATTACHMENT C

### **Boiler Stakeholder List**

National Board of Boiler & Pressure Vessel Inspectors  
[information@nationalboard.org](mailto:information@nationalboard.org)

American Society of Mechanical Engineers  
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