



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency, Board, or Commission Name: Division of Real Estate & Professional Licensing

Contact Name and Contact Information: Edward Woodruff 614-466-5042
edward.woodruff@com.state.oh.us

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

Ohio Home Inspector Rules

Rule Number(s): 1301:17-1-07, 1301:17-1-11, 1301:17-1-15, 1301:17-1-16 & 1301:17-1-17

Date of Submission for CSI Review: 11/3/2023

Public Comment Period End Date: 11/20/2023

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 5 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Rescinded/___ rules (FYR?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.

1301:17-1-07 – Proposed amendments - The intent of this regulation is to ensure home inspector applicants are sufficiently educated and competent to complete home inspections.

Paragraphs (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6) & (B)(7) – The proposed amendments eliminate regulatory restrictive language in the rule.

Paragraph (B)(4)(h) – The proposed amendment corrects a spelling mistake.

Paragraph (B)(5)(c) – The proposed amendment includes examples of the types of drains the Board believes should be included in the plumbing section of the pre-licensing course.

Paragraph (B)(6)(h) – The proposed amendment removes the instruction requirement on the topic of swimming pool inspections within the pre-licensing course. The proposed removal is consistent with the Standards of Practice rule which does not require a licensee to inspect a swimming pool.

Paragraph (B)(8)(f) - The proposed amendment includes instruction on the inspection of a refrigerator in the pre-licensing course. The inclusion of this requirement in the rule is

consistent with the proposed amendment to the Standards of Practice rule which requires a licensee to inspect a refrigerator.

Paragraph (D)(1) – The proposed amendment to the rule regarding the definition of a classroom hour makes the requirement more consistent with other state’s requirements which will provide more convenience and uniformity for the education provider and the consumer.

Paragraph (F) – The proposed amendment regarding the percent of attendance during the class is necessary with the proposed amendment to paragraph (D)(1). In addition, the proposed change from offering time to instruction time fosters consistent terminology throughout Ohio Administrative Code 1301:17.

Paragraph (H)(2) - The Division’s proposed amendments to this paragraph clarifies the Superintendent’s standard of review for an instructor applicant.

1301:17-1-11 – **Proposed amendments** - The intent of this regulation is to ensure education providers, who are offering home inspector continuing education, provide effective offerings that increase a licensee’s skill, knowledge, and competency.

Paragraph (E)(1) – The proposed amendment to the rule regarding the definition of a classroom hour makes the requirement more consistent with other state’s requirements which will provide more convenience and uniformity for the education provider and the consumer.

Paragraph (G) – The proposed amendment regarding the percent of attendance during the class is necessary with the proposed amendment to paragraph (D)(1). In addition, the proposed change from offering time to instruction time fosters consistent terminology throughout Ohio Administrative Code 1301:17.

Paragraph (I)(2) - The Division’s proposed amendments to this paragraph clarifies the Superintendent’s standard of review for an instructor applicant.

1301:17-1-15 – **Proposed amendments** - The purpose of this regulation is to comply with the rule-making requirements found in Ohio Revised Code Section 4764.05(A)(15) and establish the requirements for acceptable peer review sessions for home inspector license applicants.

Paragraph (A)(4) – A minor grammatical correction is proposed.

1301:17-1-16 – **Proposed amendments** - The intent of this regulation is to establish the canons of ethics to be followed by Ohio home inspector licensees as required by Ohio Revised

Code Section 4764.05(A)(13).

Paragraphs (A)(5), (A)(6), (A)(7), (D)(3) & (E)(3) – Minor grammatical corrections are proposed.

Paragraph (B)(6) – The Board proposes amendments to clarify this paragraph’s requirement to better reflect current industry practice.

1301:17-1-17 – Proposed amendments - The intent of this regulation is to establish the standards of practice to be followed by Ohio home inspector licensees as required by Ohio Revised Code Section 4764.05(A)(10).

Paragraphs (C), (D), (F), (G), (H)(2), (I)(1), (I)(2), (K)(6), (S), (T)(5), (T)(10), (U), (W)(5), (W)(6), (X), (Y), (Z), (AA), (D)(D), (E)(E) & (E)(E)(4) – Minor grammatical corrections are proposed.

Paragraphs (L), (N), (P), (R), (T), (V), (X), (B)(B) – Proposed amendments were made to introductory phrases for each paragraph to ensure consistent language was used throughout the rule and to eliminate any possible ambiguity concerns.

Paragraph (L)(1) – The proposed amendment eliminates an unnecessary word as the degree of description in the home inspection report is contained in the introductory statement found in paragraph (L).

Paragraph (O)(3) – The proposed amendment is to eliminate redundancy and foster requirement clarity.

Paragraphs (R)(3), (V)(4), (X)(3) & (B)(B)(1) – The proposed amendments reflect current industry practice and consumer expectation.

Paragraph (Z)(6) – The proposed amendment was to clarify the requirement and reflect current industry practice and consumer expectation regarding household appliance inspection.

Paragraph (A)(A)(7) – The proposed amendment eliminates unnecessary wording with the proposed amendment to paragraph (Z)(6).

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.**

1301:17-1-07 – Home Inspector Qualifying Education - Authorized by ORC Section

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4764.05(A)(3); Amplified by ORC Section 4764.07

1301:17-1-11 – **Continuing Education Approvals for Education Providers** - Authorized by ORC Section 4764.05(A); Amplified by ORC Section 4764.08 & 4764.09

1301:17-1-15 – **Peer review** - Authorized by ORC Section 4764.05(A)(15); Amplified by ORC Section 4764.05(D) & 4764.07(D)(6)

1301:17-1-16 – **Canons of Ethics** - Authorized by ORC Section 4764.05(A)(13); Amplified by ORC Section 4764.05(A)(13)

1301:17-1-17 – **Standards of Practice** - Authorized by ORC Section 4764.05(A)(10); Amplified by ORC Section 4764.05(A)(10)

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? No**
If yes, please briefly explain the source and substance of the federal requirement.
5. **If the regulation implements a federal requirement, but 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 purpose of the regulation is to comply with rule-making requirements established by the Ohio General Assembly in Ohio Revised Code Chapter 4764 and to ensure Ohio home inspector licensees and applicants are properly trained and educated to complete home inspections. It is also necessary for the stability of our economy for home inspectors to have the required skills and knowledge as their services directly affect real property transactions.
7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Division staff interacts with every applicant and Division staff reviews every application for compliance. Division staff also receives comments from the public at outreach functions and through public inquiries filed with the Division.
8. **Are any of the proposed rules contained in this rule package being submitted pursuant**

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to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? No

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

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.

The Division receives comments from the public, industry participants, professional organizations and education providers concerning these rules. On April 24, 2023 and July 25, 2023, the Ohio Home Inspector Board (Board) discussed proposed amendments to these five rules at two different public meetings where public comments were solicited. Five of the seven current board members are Ohio home inspector licensees. The Board reviewed all proposed changes, listened to public and licensee comments, and instructed the Division to proceed with the remaining rule process for these five rules.

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

Comments provided by interested parties ranged from very specific suggestions affecting the proposed amendments to very general comments about the regulation of the home inspector industry. The Board and the Division considered all comments provided and implemented stakeholder suggestions that were in furtherance of Ohio Revised Code Chapter 4764.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? These five rules are required by Ohio law. How does this data support the regulation being proposed? Not Applicable

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? None If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.* The existing rules are offered to satisfy the requirements established in Ohio law. The intentions of the proposed amendments are to clarify existing requirements in light of market conditions and expectations and are offered to ensure home inspectors are qualified and competent to complete home inspections, which is necessary for the stability of our economy.

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

The Division is the only agency in this state that regulates Ohio home inspector licensees.

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14. 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 Division publishes program updates on its website and regularly performs outreach programs for stakeholders. The Division will include an article that will directly inform and explain to stakeholders the proposed amendments to the rules. Division staff responsible for enforcement of these proposed rules will also receive training.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community.

The stakeholders affected by these proposed changes are identified below:

1301:17-1-07 – Home Inspector Qualifying Education - Any education provider offering home inspector qualifying education for persons seeking to obtain an Ohio home inspector license.

1301:17-1-11 – Continuing Education Approvals for Education Providers – Any education provider seeking to offer home inspector continuing education in Ohio in satisfaction of a licensee’s continuing education requirements.

1301:17-1-15 – Peer review – Any person applying for an Ohio home inspector license or an entity sponsoring a home inspection peer review.

1301:17-1-16 – Canons of Ethics – Any Ohio home inspector licensee

1301:17-1-17 – Standards of Practice – Any Ohio home inspector licensee

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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.

1301:17-1-07 – There is no new or additional adverse impact to the stakeholder with the proposed changes. An applicant will be required to spend time and money under the existing requirements.

The impact of the existing rule is an education provider will have to pay an application fee as required in the OAC 1301:17-1-03 and as authorized by Ohio Revised Code Section 4764.05. The amount of time spent completing the application will vary. The Division estimates it will take 30 minutes to complete the application.

1301:17-1-11 – There is no new or additional adverse impact to the stakeholder with the proposed changes. An applicant will be required to spend time and money under the existing requirements.

The impact of the existing rule is an education provider will have to pay an application fee as required in the OAC 1301:17-1-03 and as authorized by Ohio Revised Code Section 4764.05. The amount of time spent completing the application will vary. The Division estimates it will take 30 minutes to complete the application.

1301:17-1-15 – There is no new or additional adverse impact to the stakeholder with the proposed changes. An applicant will be required to spend time and money under the existing requirements.

The impact of the existing rule is an applicant will be required to spend time and may have to pay a fee to the sponsoring entity to have the opportunity to participate in a peer review.

1301:17-1-16 – There is no new or additional adverse impact to the stakeholder with the proposed changes. A home inspector licensee will be required to spend time learning to comply with the rule's existing requirements as required by Ohio Revised Code Section 4764.05(A)(13).

The impact of the existing rule is a licensee will have to spend some time reviewing the rule. The amount of time spent will vary from licensee to licensee, from a few minutes to several hours.

1301:17-1-17 – There is no new or additional adverse impact to the stakeholder with the proposed changes. A home inspector licensee will be required to spend time learning to comply with the rule's existing requirements as required by Ohio Revised Code Section 4764.05(A)(10).

The impact of the existing rule is a licensee will have to spend some time reviewing the rule. The amount of time spent will vary from licensee to licensee, from a few minutes to several hours.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

The proposed amendments generally clarify requirements and improve readability. The proposed amendments pertaining to education provide more consistency with other state's requirements which will provide more convenience and uniformity for education providers and consumers.

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

The existing rules are offered to satisfy the requirements established in Ohio law. The intentions of the proposed amendments are to clarify existing requirements in light of market conditions and expectations and are offered to ensure home inspectors are qualified and competent to complete home inspections, which is necessary for the stability of our economy.

Regulatory Flexibility

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

The Division recognizes that Ohio home inspector licensees can be small businesses. The existing rules are the result of Ohio law. The rules and the amendments are designed with the small business owner in mind.

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?

Division staff regularly works with applicants to ensure they have all the necessary paperwork for their application. If an applicant omits any required documentation, Division staff notifies the applicant of the deficiency; discusses with the applicant his or her options for compliance; and the Division allows the application to remain in a pending status for a reasonable time to avoid forfeiture of any application fee.

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

The Division recognizes that many home inspectors are small businesses and the Division is easily accessible by email and telephone for inquiries. Further, the Division's website has valuable information including forms, helpful facts and answers, newsletters, and links to additional outside resources.