



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, 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):

Elevator Contractors and Elevator Mechanics (proposed 1301:3-11); Elevator Safety Review
Board (proposed 1301:3-12)

Rule Number(s): 1301:3-11-01 through 1301:3-11-19; 1301:3-12-01 through 1301:3-12-07

Date of Submission for CSI Review: 3/15/24

Public Comment Period End Date: 3/29/24

Rule Type/Number of Rules:

New/ 26 rules

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Rescinded/ rules (FYR?)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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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.

This rule package consists of two groups of rules. The first, proposed Chapter 1301:3-11 of the Ohio Administrative Code, concerns the Division of Industrial Compliance's enforcement of Chapter 4785. of the Revised Code and deals primarily with issuance and renewal of elevator contractor's and elevator mechanic's licenses. Nineteen new rules make up this Chapter and cover a variety of topics, including defining terms relevant to the Division's oversight of elevator mechanic's and elevator contractor's licenses; clarifying when and under what circumstances such licenses are required; the education, training, and experience necessary to obtain a license; the application process for obtaining and renewing a license; establishing a fee schedule relevant to administration of the licensing program; the process for approving testing agencies; continuing education requirements; issuance of emergency elevator mechanic's and temporary elevator mechanic's licenses; insurance requirements; and investigation of complaints filed against elevator mechanics and contractors.

The second, proposed Chapter 1301:3-12 of the Ohio Administrative Code, concerns the Elevator Safety Review Board's responsibilities for oversight of investigations of elevator mechanics and the board's procedures for pursuing disciplinary action against elevator mechanics. Seven new rules are proposed in this Chapter. These rules address topics such as the procedure for providing notice of the board's meetings and special meetings;

investigation of alleged violations of elevator licensing laws; and the administrative process applicable to disciplinary hearings and appeals.

Please note, while Chapter 1301:3-09 is the last chapter of the division-level rules to go into effect, the Division previously filed a package of rules dealing with licensing of out-of-state applicants and has proposed that those rules appear at Chapter 1301:3-10. Assuming those rules are approved and become effective, Chapters 1301:3-11 and 3-12 would be next in numerical order.

- 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.**

Proposed Chapter 1301:3-11 is authorized by section 4785.08 of the Revised Code and proposed Chapter 1301:3-12 is authorized by section 4785.09 of the Revised Code.

- 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.

- 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.**

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)?**

To begin, pursuant to divisions (A)(1) & (2) of section 4785.08 of the Revised Code, the Superintendent is statutorily required to adopt rules pertaining to the issuance and renewal of elevator mechanic's and elevator contractor's licenses, as well as establish a list of disqualifying offenses required under section 9.79 of the Revised Code. In fulfilling that mandate, the Superintendent proposed rules to facilitate effective enforcement of the licensing requirements established by Chapter 4785. of the Revised Code. To the extent the Superintendent had discretion in proposing other rules, the public purpose for these regulations was to promote clarity within the industry as to the administrative process associated with obtaining and renewing an elevator contractor's and elevator mechanic's license.

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

The Division will measure the success of these regulations by gathering feedback from the impacted business community as well as stakeholders within the conveyance services industry as to the clarity of the proposed rules, as well as the ease with which the rules are able to be implemented following initiation of the licensing requirements established in Chapter 4785. of the Revised Code.

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 attached document for stakeholder contact information.

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

TBD

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?

Given the nature of the regulations at issue, scientific data was not used in development of these rules. The Division, however, did rely on input from individuals with experience in occupational licensing generally, as well as experts in the conveyance services industry specifically when developing these 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?

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.

Given the statutory requirements established in Chapter 4785. of the Revised Code, alternative regulations could not be implemented, and, therefore, such alternatives were not considered.

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

The Division reviewed relevant portions of the Revised Code, including Chapter 4105. of the Revised Code, which deals with the Division's responsibilities for inspection of elevators and other conveyances, and related portions of the Administrative Code, to confirm that these proposed regulations do not duplicate existing Ohio regulations.

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.

Elevator contractor and mechanic licensing requirements apply to work on “conveyances” subject to Chapter 4105. of the Revised Code, which deals with the inspection and construction requirements of such conveyances. Given that the Division is responsible for inspection and administrative oversight of Chapter 4105. of the Revised Code, it already has a database of stakeholders who own or operate these conveyances. As such, providing notice to individuals subject to the new licensing requirements will be facilitated by the fact that the Division already maintains a list of conveyances subject to these requirements. Moreover, the Division has already begun the process of communicating the requirements for obtaining elevator contractor and mechanic licenses to parties within the industry. Advanced notice of when applications will be made available and when the licensing requirement goes into effect will help to ensure the regulations are applied consistently and predictably.

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, and

The scope of the impacted business community primarily effected by these regulations includes individuals working in the installation and repair of conveyances subject to the jurisdiction of Chapter 4105. of the Revised Code, such as elevators, escalators, and moving walks. Secondarily, owners and operators of conveyances will also be affected given that only individuals holding an elevator contractor’s license issued under Chapter 4105. of the Revised Code may provide conveyance services.

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.

When the licensing requirement initially goes into effect, the Division projects that the overwhelming majority, if not all at the beginning, of applicants for elevator mechanic’s licenses will be applying based upon “legacy” status of having previously worked in the industry prior to the licensing requirement going into effect. R.C. 4785.04(D)(2)(a). Individuals that qualify to obtain a license through legacy status will not be required to sit for the licensing examination. The nature of adverse impact to this group will include the time necessary to complete and submit the application, as well as gather the necessary documentation to demonstrate that the individual satisfies the legacy status requirements. The Division projects this will take roughly two hours to complete. In addition, fees applicable to elevator contractor and mechanic licensees are set forth in rule 1301:3-11-07 of the Administrative Code, including the following: \$100 for application for examination and reexamination, when the Division administers the examination; \$1000 for issuance and renewal of elevator contractor’s license; and \$250 for issuance and renewal of elevator mechanic’s license.

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*).

No, this package of new rules likely cannot be changed to reduce a regulatory burden imposed on the business community given the requirements established by statute in Chapter 4785. of the Revised Code.

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

Pursuant to section 4785.03 of the Revised Code, an elevator contractor's license and elevator mechanic's license will be required to provide conveyance services under Chapter 4785. of the Revised Code. The rules proposed by the Division are necessary to establish the procedures and qualifications whereby the Division may administer the licensing program from which individuals will obtain this required license. The proposed rules represent the minimum amount of adverse impact necessary to effectuate effective oversight of this licensing program while minimizing the adverse impact on the regulated business community.

Regarding responses to question 1 above, virtually all of the adverse impacts identified in that question are imposed by statute in Chapter 4785. of the Revised Code. For example, the requirement for a license is established by statute. R.C. 4785.03. Similarly, issuance of a civil penalty by the elevator safety review board is provided for in section 4785.091 of the Revised Code. The report of information is a necessary precondition to demonstrating that one has the education, training, and experience to qualify him or her to obtain an elevator mechanic's license. The minimum standards of qualification are generally set by statute. Finally, a requirement for an occupational license will generally result in the cost of the service provided by holders of that license to rise in response to the cost of providing that service increasing as a result of the need to apply for and obtain the license. Each of these adverse impacts are a result of Chapter 4785. of the Revised Code. These rules generally merely echo the adverse impacts established by statute so far as necessary to provide a holistic framework for administration of the licensing program.

Regulatory Flexibility

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

Under Chapter 4785. of the Revised Code, an elevator contractor's license may be obtained by a sole proprietorship, partnership, or corporation. As such, the information requested by an applicant seeking a contractor's license as a sole proprietorship is different than the information requested by partnerships and corporations. The licensing requirements for an elevator mechanic, however, does not depend upon the size of the business for which the individual is providing conveyance services, only that he or she is affiliated with a licensed elevator contractor.

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 generally seeks to obtain voluntary compliance with applicable standards, including waiving fines and penalties for paperwork violations, especially in instances of first-time offenses. Given that this is the first time a license has been required for this type of occupational activity, the Division will be even more aware of the potential for first-time paperwork errors and the need to help educate the regulated business community on these new requirements.

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

The Division's staff is available by phone or email to respond to questions and help individuals understand the new requirements associated elevator contractor's and elevator mechanic's licenses.

Elevator Stakeholders

National Elevator Industry Incorporated
1677 County Route 64 P.O. Box 838
Salem, New York 12865-0838
518-854-3100 Fax. 518-854-3257
info@neii.org
www.neii.org

National Association of Elevator Safety Authorities
6957 Littlerock Road SW Suite A
Tumwater, WA 98512
360-292-4968
FAX: 360-292-4973
jim@naesai.org
www.naesai.org

National Association on Elevator Contractors
1298 Wellbrook Circle
Conyers, GA 30012
770-760-9660 FAX: 770-760-9714
info@naec.org
www.naec.org

International Union of Elevator Constructors
7154 Columbia Gateway Dr.
Columbia, MD 21046
410-953-6150
contact@iuec.org
www.iuec.org

Amy M. Cole
Stateside
703-525-7466, ext. 201
amc@stateside.com