



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## Business Impact Analysis

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

Rule Contact Name and Contact Information: Aaron Johnston, Division Counsel-614-644-3297; Aaron.Johnston@com.ohio.gov

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

Boiler Inspection.

Rule Number(s): O.A.C. Chapter 1301:3-5

Date of Submission for CSI Review: 3/24/2025

Public Comment Period End Date: 4/07/2025

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/ 5 rules (FYR? \_\_\_)

Amended/ 5 rules (FYR? Y)

Rescinded/\_\_\_ rules (FYR?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

See Attachment A.

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(B); 4104.18(E); *see also* R.C. 4104.17.

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.

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)?**

Section 4104.06 of the Revised Code requires the Superintendent of Industrial Compliance to “adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and

revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and pressure vessels.” R.C. 4104.06(B). This authority and obligation to adopt rules, however, does not extend to “rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of pressure vessels,” R.C. 4104.06(C), as authority over those matters is granted to the Board of Building Standards under section 4104.02 of the Revised Code.

Chapter 1301:3-5 of the Ohio Administrative Code was promulgated pursuant to, and in accordance with, section 4104.06 of the Revised Code to aid in the enforcement of the requirements of Chapter 4104. of the Revised Code and rules promulgated thereunder. These rules clarify how owners and users of boilers and pressure vessels subject to the requirements of Chapter 4104. of the Revised Code may ensure such boilers and pressure vessels are maintained and operated, as well as how inspections required by that Chapter are to be conducted.

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

The Division will maintain contact with stakeholders and individuals subject to the requirements of Chapter 1301:3-5 of the Ohio Administrative Code and gather feedback on the clarity of the regulations, including any proposed amendments. In addition, the Division will monitor instances in which a violation of the requirements of Chapter 4104. of the Revised Code or rules promulgated thereunder is found and evaluate whether the violation was attributable to a misinterpretation of these regulations or whether these regulations served to minimize the potential for further violations to occur.

**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.*

Five of the ten rules subject to this five-year rule review were submitted as no-change rules. Three of the five rules that had proposed changes only contained grammatical or stylistic changes. Of the two rules with substantive changes being proposed (O.A.C. 1301:3-5-05.1 & 1301:3-5-10), the only substantive change proposed in rule 1301:3-5-10 was a *reduction* in the amount of hours required for an applicant to qualify to obtain a license as a stationary steam engineer (proposing a reduction from one thousand hours to only seven hundred hours for one category of applicant), thereby reducing the potential for an adverse impact to business or the affected regulated community.

As for the final remaining rule with a proposed substantive change (O.A.C. 1301:3-5-05.1), the proposed change included a proposal to increase the amount of fees collected by the Division pursuant to Chapter 4101. of the Revised Code. This rule was the only rule among the ten submitted in this five-year rule review proposing an increase in adverse impact to the affected regulated community. Accordingly, this rule was posted on the Division's website for stakeholder feedback. In addition to posting this rule on the Division's website for general public comment, the Division also notified a list of stakeholders specifically affected by this proposed amendment. (See Attachment B).

**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?**

While no scientific data was specifically relied upon to initially develop and promulgate the rules contained in Chapter 1301:3-5 of the Ohio Administrative Code, or proposed amendments contained in this five-year rule review, the Division did rely on input from staff with expertise in the field of boiler and pressure vessel inspections and the operation of boilers, stationary steam engines, and pressure vessels, as well as expertise in matters concerning enforcement of safety codes and code compliance generally.

**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.***

As previously discussed, only one of the ten rules contained in this five-year rule review included proposed amendments that would result in an increase in adverse impact to the affected regulated community, that being the proposed increase in fees contained in rule 1301:3-5-05.1 of the Ohio Administrative Code. With regard to that rule, and the proposed amendments therein, the Division considered what amount of increase in fees was sufficient to cover the Division's increased costs associated with administering and enforcing the requirements of Chapter 4104. of the Revised Code, while minimizing the potential for adverse impact to the regulated community.

**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 and the Ohio Administrative Code to confirm that no duplication of existing regulations has occurred.

**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.**

Five of the ten rules contained in this five-year rule review contain no proposed changes. Three of the five rules with proposed changes only include grammatical or stylistic changes being proposed. And of the two rules with proposed substantive changes, only one (O.A.C. 1301:3-5-05.1) includes proposed amendments that may result in an adverse impact to the regulated community. With regard to this rule's proposed amendments, the Division will communicate the amount by which fees are increasing to stakeholders prior to the effective date of the proposed amendment both on the Department's website and on the Division's public portal that is used by individuals to whom the increased fees would apply.

### **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**

Regarding the proposed amendment to rule 1301:3-5-05.1 of the Ohio Administrative Code, which seeks to increase the amount of fees collected pursuant to section 4104.17 of the Revised Code, the scope of the impacted business community includes owners and users of boilers subject to the inspection and certificate of operation requirements established in Chapter 4104. of the Revised Code.

**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.*

At present, the adverse impact of rule 1301:3-5-05.1 of the Ohio Administrative Code can be quantified as payment of a sixty-five-dollar fee applicable for each year a certificate of operation is valid, the length of which is determined based upon the interval with which the boiler at issue is required to be inspected as set forth in Chapter 4104. of the Revised Code (varying between once every one, two, three, or five years). The proposed amendment to the rule increases the amount from sixty-five dollars for each year interval to one hundred ten dollars for each year. Accordingly, for boilers subject to annual inspection, a one hundred ten dollar fee would apply; two hundred twenty dollars for boilers subject to biennial inspection; three hundred thirty dollars for boilers subject to triennial inspection; and five hundred fifty dollars for boilers subject to quinquennial inspection.

**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*).**

Yes, rule 1301:3-5-10 of the Ohio Administrative Code establishes the experience requirements applicants must demonstrate in order to obtain a license to operate a low-

pressure boiler, high-pressure boiler, or stationary steam engine. The Division has proposed to reduce the amount of hours of operating experience needed to qualify to obtain a license as a stationary steam engineer from one thousand hours to seven hundred hours for individuals with operating experience associated in the direct care, custody, and control of the fuel, combustion air, water level, steam pressure, system load, and supporting equipment of a steam boiler exceeding fifteen pounds per square inch when the applicant also has successfully completed a one-hundred-twenty-five hour steam boiler and steam turbine operation course approved by the Superintendent.

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

The only rule submitted in this five-year rule review that includes a proposed amendment that may result in an adverse impact to the regulated business community is rule 1301:3-5-05.1 of the Ohio Administrative Code. Pursuant to section 4104.18 of the Revised Code, owners or users of boilers that are subject to the inspection and certificate of operation requirements of Chapter 4104. of the Revised Code are required, at a minimum, to pay a certificate of operation fee equivalent to fifty dollars for each year the certificate of operation is valid. The intent of the general assembly in enacting this statute, however, was to ensure that the amount of this fee was set so as to cover the costs of the Division in administering and enforcing the requirements of Chapter 4104. of the Revised Code, as evidenced by the inclusion of division (E) into the statute, which allows for the amount of this fee to be increased so long as the increased fee bears a reasonable relationship to the costs of administering and enforcing the requirements of Chapter 4104. of the Revised Code. Because these costs have increased, both since the time that section 4104.18 of the Revised Code was enacted and since the time that these fees were previously increased by rule, it is now necessary to increase these fees as set forth in the proposed amended rule.

**Regulatory Flexibility**

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

No, Chapter 1301:3-5 of the Ohio Administrative Code does not provide an exemption or alternative means of compliance for small businesses, as these rules concern enforcement of the inspection and certificate of operation requirements established by Chapter 4104. of the Revised Code, and no such exemption or alternative means of compliance is permitted by that Chapter of the Revised Code. It should be noted, however, that an appeal to the Board of Building Appeals for a variance from these requirements is available if a party can demonstrate that strict compliance with these requirements would result in a unique hardship for the affected party. *See* R.C. 3781.19.

**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?**

Section 4104.18 of the Revised Code authorizes collection of a late fee of twenty-five per cent of the invoiced fee if payment is not made within forty-five days of the invoice date. The Division, however, customarily offers waivers of fines and penalties for first-time offenses and paperwork violations.

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

Guidance on compliance with the requirements of Chapter 4104. of the Revised Code and related matters can be found on the Department's website, and the Division is available by phone, email, and in-person to address any questions that may arise as a result of this proposed rule or other regulations administered by the Division.



## **Ohio Dept. of Commerce, Division of Industrial Compliance**

### **BIA Attachment A**

**O.A.C. 1301:3-5-01 | Definitions. (Amended)**—This rule defines terms used in Chapter 1301:3-5 of the Ohio Administrative Code. Only one grammatical or stylistic change is proposed.

**O.A.C. 1301:3-5-02 | Inspection of boilers; preparation for inspection; hydrostatic tests. (Amended)**—This rule establishes procedures applicable to inspection of a boiler, including how a boiler is to be prepared for an inspection, as well as grants authority to an inspector to require a hydrostatic test if, in the judgement of the inspector, it is advisable for such a test to be performed. Only grammatical or stylistic changes are being proposed.

**O.A.C. 1301:3-5-03 | Inspection reports. (No Change)**—This rule establishes when and the manner by which reports of inspections performed pursuant to Chapter 4104. of the Revised Code are to be submitted to the Superintendent of Industrial Compliance.

**O.A.C. 1301:3-5-04 | Notification of unsafe working condition; requirements for cover removal; notification of accident. (No Change)**—Chapter 4104. of the Revised Code requires boilers and pressure vessels to be inspected to ensure they can be operated safely. This rule describes the procedures an inspector should follow when, during the course of an inspection, a boiler or pressure vessel is found to not be in a safe working condition, as well as what steps the Superintendent may take thereafter upon being notified of the unsafe condition. The rule also establishes when an inspector may require removal of the covering of a boiler or pressure vessel. Finally, the rule requires an owner or user of a boiler to notify the Superintendent in the event of an accident or explosion, and the process for submitting the notice to the Superintendent.

**O.A.C. 1301:3-5-05 | Certificate of operation. (No Change)**—This rule establishes the procedures for issuance of an initial certificate of operation, renewal of a certificate of operation, replacement of a lost or damaged certificate, and the period a certificate is valid for.

**O.A.C. 1301:3-5-05.1 | Fees. (Amended)**—In order to operate certain categories of boilers, an owner or operator of such boilers must have the boilers inspected and obtain a certificate of operation from the Division of Industrial Compliance. See R.C. 4104.10; 4104.11–4104.13; 4104.15; 4104.20. Depending upon the type of boiler at issue, including power boilers; high pressure, high temperature water boilers; low pressure boilers; and process boilers, such boilers are required to be inspected during construction and installation by section 4104.12 of the Revised Code, and at regular intervals thereafter pursuant to sections 4104.11 and 4104.13 of the Revised Code. And once inspected, a certificate of operation fee must be submitted in accordance with section 4104.18 of the Revised Code. That section, however, provides that the “superintendent of industrial compliance, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the fees required by this section and may establish fees to pay the costs of the division to fulfill its duties established by [Chapter 4104. of the Revised Code]. The fees shall bear some reasonable relationship to the cost of administering and enforcing the provisions of this chapter.” R.C. 4104.20(E). Rule 1301:3-5-05.1 of the Ohio Administrative Code was promulgated for the purpose of increasing the fees established by section 4104.18 of the Revised Code.

At present, the fee is sixty-five dollars for each year a certificate of operation is valid, meaning the fee is sixty-five dollars for boilers inspected annually, one hundred thirty dollars for boilers inspected biennially, one hundred ninety-five dollars for boilers inspected triennially, and three



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### **BIA Attachment A**

hundred twenty-five dollars for boilers inspected quinquennially. This amount went into effect on July 22, 2019.

In this five-year rule review, the Superintendent proposes to amend the rule to increase the amount previously set in this rule by an additional forty-five dollars for each year interval, resulting in the following amounts: one hundred ten dollars for boilers subject to annual inspection; two hundred twenty dollars for boilers subject to biennial inspection; three hundred thirty dollars for boilers subject to triennial inspection; and five hundred fifty dollars for boilers subject to quinquennial inspection. The proposed increases are necessary because the costs borne by the Division in enforcing the requirements of Chapter 4104. of the Revised Code specifically, and in its operations generally, have increased since the time this rule was previously enacted.

**O.A.C. 1301:3-5-06 | Suspension, revocation, or denial of certificate of operation; reduce working pressure, determine repairs, or declare unsafe boiler; lap seam crack. (No Change)**—This rule establishes procedures for suspension, revocation, or denial of a certificate of operation; reduction of the allowable working pressure of a boiler or pressure vessel; declaration of a boiler or pressure vessel as unsafe; and how lap seam cracks are to be repaired.

**O.A.C. 1301:3-5-07 | Inspection of power boilers and process boilers. (Amended)**—This rule establishes procedures for inspection of power boilers and process boilers, including that such inspections shall be made internally and externally, and under operating conditions, and how often such inspections must be conducted. The rule also prohibits the use of process boilers in excess of the safe working pressure stated in the certificate of operation applicable to the boiler. Finally, the rule establishes the procedure a boiler owner or user may use to request that a boiler be inspected biennially, triennially, or quinquennially, as opposed to the annual inspection interval that would otherwise be required. Only grammatical and stylistic changes are being proposed.

**O.A.C. 1301:3-5-09 | Conduct of hearings. (No Change)**—This rule establishes procedures applicable to the conduct of administrative hearings held under Chapter 4104. of the Revised Code. Additional clarification on how such hearings were to be conducted was necessary to avoid potential confusion associated with enforcement of code requirements established by Chapter 4104. of the Revised Code. For example, the Board of Building Standards is responsible for promulgating safety codes applicable to boilers and pressure vessels subject to the requirements of Chapter 4104. of the Revised Code. The Department of Commerce's Division of Industrial Compliance is responsible for enforcing these code requirements. After the Division's Boiler Section issues an adjudication order for violation of Chapter 4104. of the Revised Code or rules promulgated thereunder, an appeal of that order may be made to the Board of Building Appeals. And the conduct of these hearings involves the application of both Chapter 119. of the Revised Code, as well as Chapter 4104. of the Revised Code and rules promulgated thereunder. Given the various governmental entities involved, as well as the various statutes and regulations applicable to such matters, it was necessary to draft regulations clarifying how hearings involving these matters were to be conducted.

**O.A.C. 1301:3-5-10 | Boiler operator and steam engineer experience requirements. (Amended)**—This rule establishes the experience requirements applicants must demonstrate in order to obtain a license as a low-pressure boiler operator, high-pressure boiler operator, or

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**BIA Attachment A**

stationary steam engineer under section 4104.19 of the Revised Code. In addition to grammatical or stylistic changes, the amount of hours of operating experience needed to qualify to obtain a license as a stationary steam engineer was reduced from one thousand hours to seven hundred hours for individuals with operating experience associated in the direct care, custody, and control of the fuel, combustion air, water level, steam pressure, system load, and supporting equipment of a steam boiler exceeding fifteen pounds per square inch when the applicant also has successfully completed a one-hundred-twenty-five hour steam boiler and steam turbine operation course approved by the superintendent.

# Attachment B

## Design Professional Organizations:

Structural Engineers Association of Ohio

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513-984-1663

American Institute of Architects – Ohio

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Ohio Society of Professional Engineers

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**Ohio Association** of Consulting Engineers

[Info@ace.ohio.org](mailto:Info@ace.ohio.org)

Society of Fire Protection Engineers – Central Ohio Chapter

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**American Council** of Engineering Companies of Ohio

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Ohio Design Professionals & Code Administrators, Inc.

[Dmolnar1@hotmail.com](mailto:Dmolnar1@hotmail.com)

National Institute for Certification and Engineering Technologies (NICET)

[cert@nicet.org](mailto:cert@nicet.org)

## Contractor/Builder Organizations:

Associated Builders and Contractors (ABC)

Bryan Williams

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Associated General Contractors of Ohio (AGC)

[membership@agcoho.com](mailto:membership@agcoho.com)

Mechanical Contractors Association of Central Ohio (MCA)

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# Attachment B

Plumbing Heating Cooling Contractors of Ohio  
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Ohio State Building & Construction Trades Council  
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The Building Industry Association of Central Ohio  
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**National Electrical** Contractors Association (NECA)  
[publicaffairs@necanet.org](mailto:publicaffairs@necanet.org)

## Building Owner Organizations:

Ohio Apartment Association

Building Owners and Managers Association  
[info@bomacolumbus.org](mailto:info@bomacolumbus.org)

## Colleges and Universities:

Wright State University  
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Dyke College

The University of Akron  
330-972-7111

Central State University  
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The University of Toledo  
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Miami University  
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# Attachment B

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## State Agencies:

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Ohio Department of Health  
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Ohio Department of Jobs and Family Services  
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614-466-6282

Ohio Department of Development, Ohio Energy Office  
800-848-1300

Ohio Department of Rehabilitation and Corrections  
[Drc.publicinfo@odrc.state.oh.us](mailto:Drc.publicinfo@odrc.state.oh.us)

Ohio Department of Developmental Disabilities  
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800-617-6733

Ohio Department of Public Safety, Emergency Management Agency  
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