

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Public Safety, Bureau of Motor Vehicles

Regulation/Package Title: Title Support Services

Rule Number(s): 4501:1-13-01, 4501:1-13-02

Date: October 28, 2014

**Rule Type:**

✓ New

✓ 5-Year Review

✓ Amended

✓ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

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

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

This package is being filed pursuant to a completed periodic rule review of rules 4501:1-13-01 and 4501:1-13-02 of the Administrative Code. . These rules set forth the process and recordkeeping requirements for electronic filings of a certificate of title and the process for issuance of a certificate of title with a motor vehicle dealer's power of attorney from a licensed motor vehicle dealer.

4501:1-13-01, "Process for electronic filing of a certificate of title application on behalf of a purchaser, document retention requirements, and related definitions," sets forth the location and manner in which documents relating to or supporting an electronic title application are to be retained. The proposed amended rule allows for an electronic motor vehicle dealer to retain all documents that were electronically filed with a certificate of title application in either paper or electronic form. The remaining rule in this package is being simultaneously rescinded and proposed as new under the same rule number due to complete reorganization of its content resulting in more than 50% of the rule being changed.

4501:1-13-02, "Certificate of title issued on power of attorney from a licensed motor vehicle dealer," sets forth a prescribed power of attorney to permit an agent of a licensed motor vehicle dealer to apply for the issuance of a certificate of title and the requirements for a clerk of court to issue a certificate of title applied for by an agent of a licensed motor vehicle dealer when that agent has a properly executed power of attorney from the dealer. Under the new rule, the language has been streamlined and the requirement for dealers to use a specific BMV prescribed format for powers of attorney has been deleted. Clerks of court may issue a certificate of title upon a dealer agent's presentation of a valid, current, and properly executed power of attorney from the dealer.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Ohio Revised Code sections 4501.02, 4503.035, and 4505.02.

**3. 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.

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

N/A

**5. 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)?**

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

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

The primary purpose for these rules is to provide clear guidance to motor vehicle dealers and clerks of court for the issuance of electronic motor vehicle titles and motor vehicle titles pursuant to presentation of powers of attorney in accordance with provisions set forth in sections 4503.035, 4505.02, and 4505.08 of the Revised Code, pertaining to the adoption of rules by the Registrar of the Bureau of Motor Vehicles.

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

Success may be measured by the number of consumer complaints filed with the Attorney General's office pertaining to the non-issuance of a certificate of title from a motor vehicle dealer and the number of questions received from motor vehicle dealers and clerks of courts regarding the processes and requirements outlined in the rules.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

On Tuesday, September 16, 2014 an e-mail with the two administrative rules that are being reviewed pursuant to sections 106.3 and 106.031 of the Revised Code were sent to representatives from the dealers associations (OADA, OIADA, GCADA), and to stakeholders who supplied the BMV with their email addresses when they registered to be an Electronic Title Applicants (ETAs). Approximately 106 emails were sent. Stakeholders were asked to review the current rules and provide any comments or suggestions by September 30, 2014.

On Tuesday, October 14, 2014 an e-mail with proposed drafts of the amended administrative rules were sent to the above established stakeholder groups with a request for feedback by October 21, 2014.

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

In response to the initial request for review on September 16, 2014, stakeholders requested the option to retain records electronically (rule 4501:1-13-01) and the option to use blanket powers of attorney for filing with the clerk of courts (4501:1-13-02).

In response to stakeholder recommendations, rule 4501:1-13-01 was amended to provide the option of electronic recordkeeping Rule 4501:1-13-02 was amended to remove the requirement for dealers to use a specific BMV prescribed format for powers of attorney. In

accordance with the amended rule, clerks of court may issue a certificate of title upon a dealer agent's presentation of a valid, current, and properly executed power of attorney.

**9. 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 considered applicable to these rules.

**10. 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 ability to develop alternative means to meet the requirements is limited by provisions as set forth in sections 4505.06 and 4505.08 of the Revised Code.

**11. 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.***

Amended rule 4501:1-13-01 allows for electronic dealers to retain records related to the electronic filing of a certificate of title application in either paper or electronic form, whichever is appropriate to the dealers' business needs.

Amended rule 4501:1-13-02 allows for the clerk to issue a certificate of title to an agent of a licensed motor vehicle dealer provided there is a valid or current properly executed power of attorney from the dealer on file with the clerk. The dealer can choose the most appropriate format for the powers of attorney he executes according to the dealer's business needs.

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

Research was completed by reviewing Chapter 4505. of the Ohio Revised Code and reviewing Chapter 33 of the Ohio Administrative Code.

**13. 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.**

Implementation will include published updates through the BMV's dealer licensing website, which is typically used for communications between the dealers and dealer licensing section. BMV investigations will be notified of the amended rules regarding the changes of the retention of electronic recordkeeping. The clerk of courts will be notified through a broadcast of the amended rule allowing for the clerk to issue a certificate of title to an agent of a licensed motor vehicle dealer provided there is a valid or current properly executed power of attorney from the dealer on file with the clerk.

### **Adverse Impact to Business**

**14. 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;**
- b. Identify the nature of the adverse impact (e.g., license 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.*

- a. There are currently three hundred and ninety four (394) motor vehicle dealers who have been designated to act as electronic motor vehicle dealers and approximately nine thousand and twenty five (9,025) valid licensed dealers who may file application for certificate of title on behalf of the purchaser.
- b. The nature of the adverse impact posed by the proposed regulations is limited to storage space and time needed to comply with electronic recordkeeping requirements set forth in rule 4501:1-13-01. Rule 4501:1-13-02 is not expected to result in any adverse impact.

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

The nature of the adverse impact is regulated by statute in section 4517.44 of the Revised Code.

### **Regulatory Flexibility**

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

The BMV has amended 4501:1-13-01 to allow electronic motor vehicle dealers to retain all documents related to the electronic filing of a certificate of title application in either paper or electronic form depending on the need of each individual business. The BMV has amended 4501:1-13-02 to allow for a clerk to keep on file a valid and current properly executed power of attorney for an agent of a licensed motor vehicle dealer.

**17. 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? N/A**

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

Motor vehicle dealers may call the BMV and speak directly with a title support customer service assistant and view Ohio Revised Code and Ohio Administrative Code requirements on the BMV's website. These small businesses may also contact the local branch of the Ohio Auto Dealers Association, which is a useful resource for all motor vehicle dealers.