

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Motor Vehicle Salvage Dealers

Rule Number(s): 4501:1-4-01, 4501:1-4-02, 4501:1-4-03, 4501:1-4-04, 4501:1-4-05, 4501:1-4-06, 4501:1-4-07, 4501:1-4-08, 4501:1-4-09, 4501:1-4-10, 4501:1-4-11, 4501:1-4-12, 4501:1-4-13, 4501:1-4-14, 4501:1-4-15, 4501:1-4-16, 4501:1-4-17, 4501:1-4-18, 4501:1-4-21, 4501:1-4-22, 4501:1-4-24

Date: _____

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Rescinded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

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

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

This package is being filed in response to a scheduled periodic rule review of O.A.C. Chapter 4501:1-4 pursuant to section 106.03 of the Revised Code. Chapter 4501:1-4 establishes the licensing and place of business requirements for motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools; record keeping requirements for licensed salvage motor dealers; and the administrative hearing process utilized by the Motor Vehicle Salvage Dealer's Licensing Board when hearing disciplinary cases before the Board.

Within this package is new proposed rule 4501:1-4-03, "Motor vehicle salvage dealer, salvage motor vehicle pool, or salvage motor vehicle auction required to maintain net worth," which requires a dealer to maintain a net worth of at least twenty thousand (\$20,000) dollars in order to be issued a motor vehicle salvage dealer's license. The new proposed rule also states how "net worth" is calculated and defines the terms "assets" and "liabilities."

This package also includes new proposed rule 4501:1-4-24, "Disqualifying offenses," which defines the term "disqualifying offense" and lists the types of disqualifying offenses that can result in the denial of licenses issued under Chapter 4738. of the Revised Code.

The following rules in this package are being proposed as amended rules.

4501:1-4-04, "Facility requirements for motor vehicle salvage dealers, salvage motor vehicle pools, and salvage motor vehicle auctions," sets forth "place of business" requirements for salvage dealers, salvage motor vehicle pools, and salvage motor vehicle auctions, and addresses such issues as minimum square footage, shielding, office, business phone, business hours, and signage requirements. The rule is proposed for amendment to add "clean up" language and create consistency by referring to the place of business as the "facility."

4501:1-4-22, "Nature of and length of time records will be maintained," lists the types of documents that must be retained by salvage dealers licensed under Chapter 4738. of the Revised Code. The rule is proposed for amendment to make minor corrections to current language.

Rule 4501:1-4-02, "Information to accompany application for motor vehicle salvage dealer's license, salvage motor vehicle pool license, and salvage motor vehicle auction license, is being simultaneously rescinded and proposed as a new rule under the same rule number due to reorganization of content and reference to

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incorporated materials. The rule lists the information and documents that must accompany salvage motor vehicle dealer applications. The new proposed rule will clarify the photograph and criminal history record requirements and include other clarifications and grammatical corrections.

The following rule in this package is being rescinded.

4501:1-4-01, "Definitions," which defines such terms as "motor vehicle salvage dealer," "salvage motor vehicle auction," "salvage motor vehicle pool," "salvage motor vehicle auctioneer," "salvage motor vehicle," "motor vehicle salvage facility," "insufficient responsibility," and "suitable photograph." This rule is being rescinded as the terms are defined in Chapter 4738. of the Revised Code or clarified in Chapter 4501:1-4 of the Administrative Code.

The remaining rules in this package are being filed as no-change rules and are as follows:

4501:1-4-05, "Method of instituting complaints," which provides that the board may investigate any license holder for alleged violations of the laws or rules of the board.

4501:1-4-06, "Notice of hearing," which requires the BMV to notify a licensee or applicant of his/her right to request an adjudicatory hearing on the violations that may result in the denial, suspension or revocation of a salvage license.

4501:1-4-07, "Date, time and place of hearing," which requires the Motor Vehicle Salvage Dealer's Licensing Board (or "the Board") to set the date, time and place of the hearing, and immediately notify the license holder.

4501:1-4-08, "Continuances," which summarizes the procedures for obtaining the postponement or continuance of a hearing before the Board.

4501:1-4-09, "Stenographer's records," which mandates that a stenographic record of any hearing before the Board must be taken at the Board's expense.

4501:1-4-10, "Hearing procedure," which summarizes the procedures that must be followed by parties and the Board during administrative hearings before the Board.

4501:1-4-11, "Evidence," which states how evidence will be introduced and testimony elicited during administrative hearings before the Board.

4501:1-4-12, "Briefs," which states how briefs shall be prepared and filed in administrative proceedings before the Board.

4501:1-4-13, "Decision of the board," which states the procedures the Board must follow in rendering decisions on administrative proceedings before the Board.

4501:1-4-14, "Rehearings," which lists the procedures a license holder must follow to seek a post-decision rehearing before the Board and the grounds for such rehearing.

4501:1-4-15, "Appeals from the registrar's order," which provides the process for appealing the registrar's decision not to issue, renew, or transfer a salvage license to the Board and states that the rules of practice and procedure set forth in Chapter 119. of the Revised Code shall apply to hearings on appeals before the Board.

4501:1-4-16, "Docket," which requires the Board's secretary or acting secretary to maintain a docket and enter all cases before the Board. The rule also states that such docket shall be open to public inspection.

4501:1-4-17, "Notice of public hearing regarding adoption, amendment, or rescission of a rule," which provides requirements for notice of a public hearing regarding the proposed adoption, amendment, or rescission of a rule.

4501:1-4-18, "Notice of meetings," which states the procedures for providing notification of the time, location, and purpose of Board meetings.

4501:1-4-21, "Minutes of meeting," which states that the minutes of regularly scheduled and special Board meetings shall be recorded and available within ten days after their recordation.

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

Ohio Revised Code sections 4501.02, 4738.09 and 4738.10.

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. *If yes, please briefly explain the source and substance of the federal requirement.*

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)?

This chapter pertains to a variety of rules that regulate motor vehicle salvage dealers, salvage motor vehicle auctions and salvage motor vehicle pools including maintaining records, "place of business" and other facility regulations, and maintaining a net worth.

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

The agency may measure success of regulation of this chapter by the outcome of the variety of rules that regulate motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools including licensing, facility regulations, administrative actions, and public meetings.

The outcome for the regulation of maintaining salvage records can be measured based on decrease of complaints filed with law enforcement and BMV investigations. Measurements reflect that two (2) cases were closed in 2014 that were present before the Motor Vehicle Salvage Dealer's Licensing Board in 2013.

Regulation of a salvage dealer maintaining a net worth of twenty thousand dollars (\$20,000) is to assure the salvage dealer has money to invest in the business and retain its capital for the life of the business to ensure the transfer of ownership of property (salvage motor vehicles and parts).

Development of the Regulation

7. 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.

On Friday March 27, 2015, an e-mail with the twenty (20) administrative rules that are being reviewed pursuant to section 106.03 of the Revised Code were sent to representatives from the Ohio Auto/Truck Recyclers Association and forty three (43) industry members that are licensed as a salvage dealer, salvage auction or salvage pool.

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

There was no discussion or feedback provided during the comment period in March 2015.

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? N/A

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?

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The ability to develop alternative means of compliance to meet requirements is limited by provisions as set forth in section 4738.11 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.***

The BMV has not found any regulatory alternatives for section 4738.11 which requires the Board to establish rules as are necessary to carry out and effect sections [4738.01](#) to [4738.12](#) of the Revised Code, and further rules as are necessary relating to the time, place, and manner of conducting hearings on the issuance, suspension, or revocation of licenses.

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

Research was completed by reviewing the Ohio Revised Code and 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 salvage dealer's and dealer licensing section. BMV investigations will be notified of the amended rules with the clean-up language.

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 five hundred seventy two (572) valid motor vehicle salvage dealers, fifteen (15) valid salvage motor vehicle auctions, and twelve (12) valid salvage motor vehicle pools that are impacted by the rules.
- b.) There are initial applications; renewal applications and background check fees (for first time applicants) for motor vehicle salvage dealers, salvage motor vehicle auctions and salvage motor vehicle pools.

Dealers are required to maintain compliance at all times for the duration of the license. Dealers that fail to maintain compliance with these rules are subject to administrative sanction, but have the opportunity to request an administrative hearing with the Motor Vehicle Salvage Dealer's Licensing Board.

- c.) The requirement for all first time salvage applicants to submit a state-wide background web check by the Bureau of Criminal Investigations is estimated to range from thirty five dollars (\$35) to forty five dollars (\$45) with the initial license fees starting at one hundred dollars (\$100) for a motor vehicle salvage dealer, salvage motor vehicle auction, or salvage motor vehicle pool application with a permit only, one hundred fifty four dollars (\$154) for a motor vehicle salvage dealer, salvage motor vehicle auction or salvage motor vehicle pool application that includes special plates, and one hundred dollars (\$100) for motor vehicle salvage dealer in motorcycle/motor scooter/all purpose vehicles application with permit only. For licensed motor vehicle salvage dealers, salvage motor vehicle auctions and salvage motor vehicle pools to maintain their licenses they must renew their permit and dealer plates every two years with renewal fees of one hundred dollars (\$100) for the permit, fifty dollars (\$50) for a master special plate with ten dollars (\$10) for each additional special plate. Special plates for motor vehicle salvage dealer, salvage motor vehicle auction and salvage motor vehicle pool are optional.

Any motor vehicle salvage dealer, salvage motor vehicle auction, or salvage motor vehicle pool that violates the rules may be subject to administrative hearing proceedings, in which they may incur costs in legal representation or travel expenses. Costs are varied with the variety of legal services in fees that are set by the legal business and mileage and travel expenses. Sanctions from denial of applications up to and including revocation of licenses may be imposed for applicants and dealers who fail to comply with these rules.

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

Sections 4738.04 and 4738.05 of the Revised Code specify all salvage applications and renewal fees. Fees for special plates are regulated by section 4503.31 of the Revised Code.

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Section 4738.11 of the Revised Code grants the Motor Vehicle Salvage Dealer's Licensing Board authorization to hold administrative hearings on alleged violations of the Revised Code and Administrative Code by salvage dealers.

Regulatory Flexibility

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

No, there are no exemptions or alternative means of compliance.

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?

The Motor Vehicle Salvage Dealer's Licensing Board currently allows for a corrective action within fifteen (15) days of the first notice of a non-compliance violation.

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 dealer licensing customer service assistant and view Ohio Revised Code and Administrative Code requirements via the BMV's dealer licensing website.