

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Highway Patrol

Regulation/Package Title: Electronic Clearance Device

Rule Number(s): 4501:2-11-01 Ohio Administrative Code

Date: 8/13/2013

**Rule Type:**

New

Amended

5-Year Review

Rescinded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.

*The rule lists the criteria for operators of commercial motor vehicles to utilize authorized electronic clearance devices to bypass a fixed platform scales facility.*

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2. Please list the Ohio statute authorizing the Agency to adopt this regulation. 4549.081
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)? There is a need for authorized electronic clearance devices that communicate with the computers that are installed at each fixed platform scale facility. Without the proper monitoring of commercial motor vehicles that are permitted to bypass the fixed platform scale facilities, the system will fail. The benefits of this regulation for trucking companies includes reduced fuel usage, cost savings and time savings.
6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes? The success of this rule is measured by the statistics provided by participating trucking companies and the cost savings they experience. This is a voluntary program that has proven success in reduced fuel usage and time savings.

### **Development of the Regulation**

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.  
*Alan L. Hess, Angelia K. Roy, Bearcat Xpress Inc., D & M Inc., D & S Road Runner Express Inc., Grayling Enoch Allridge, Haringbone LLC, Logisticize LTD, Michael Barker and Wolfe Transportation LLC were e-mailed June 10, 2013 and asked to respond by June 21, 2013. The Ohio State Highway Patrol, Ohio Department of Transportation and the Ohio Trucking Association are on the steering committee for Ohio.*
8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? None.
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? None.
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

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technology available must be able to communicate with the computers installed at the fixed platform scale facilities and cannot be mitigated by rule. This is the only system currently available to Ohio, is a voluntary program and the electronic clearance device has to be compatible with the system.

11. Did the Agency specifically consider a performance-based regulation? Please explain.  
*No. The signal device installed in a commercial motor vehicle has to communicate with the computer at the fixed platform scale facility.*
12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? A review of the Revised Code and the Administrative Code was conducted. (4511.121 and 4549.081 ORC and 4501:2-11-01 OAC)
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. No changes are recommended.

**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; Approximately 450,000 trucks are currently equipped with an electronic clearance device across the United States.
  - b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); Service fees are assessed to the trucking company on a monthly basis. There is no charge to enroll in the system or for the electronic clearance device. Ohio does not receive any part of the fees that members pay.
  - c. Quantify the expected adverse impact from the regulation.  
*The following costs are related to the service fees for utilizing the electronic clearance devices:*

Fleet Size	PrePass	PrePass Plus	PrePass Plus (Tolls Only)
1-25	\$17.65	\$5.50	\$8.55
26-100	\$16.55	\$5.50	\$8.30
101-200	\$15.45	\$5.50	\$8.00
201-300	\$14.35	\$4.40	\$7.75
301-500	\$13.20	\$4.40	\$7.45
501-3000	\$12.15	\$4.40	\$7.15

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3001-4000	\$11.05	\$4.40	\$6.85
4001+	\$9.95	\$4.40	\$6.60

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? The regulatory impact was justified by the fact that the same requirement applies to all companies that want to use an electronic clearance device. The use of the electronic clearance device is on a voluntary basis and may result in cost savings for the trucking company by reduced fuel usage and time savings.**

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. There are no exemptions, it is a voluntary program.**

**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? There are no penalties or fines for a violation of this rule. If a driver illegally by-passes a platform scales facility they may be ticketed or warned as a first-time offender.**

**18. What resources are available to assist small businesses with compliance of the regulation? The criteria for this rule can be found in the Ohio Administrative Code, which is located at [www.statepatrol.ohio.gov](http://www.statepatrol.ohio.gov). It is a voluntary program and brochures are available at our platform scales facilities.**