

## Business Impact Analysis

Agency Name: Department of Taxation

Regulation/Package Title: Electronic Filing and Payment of Motor Fuel Tax

Rule Number(s): 5703-11-04

Date: September 27, 2016

Rule Type:

NEW

5-Year Review

X 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Rescinded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.**

Ohio Rev. Code section (R.C.) 5703.059 authorizes the Tax Commissioner to mandate electronic filing of any tax return and to promulgate rules requiring any payment of the tax be made electronically. This rule amends the existing motor fuel electronic filing rule to add terminal operators to the list of those entities required to file electronically. Electronic filing is more cost effective and efficient for filers. Furthermore, electronic filing provides the taxpayer with an electronic repository of return and payment history. Finally, electronic filing promotes an efficient and economical administration of tax laws and reduces the costs associated with tax collection. The rule also allows a filer to request to opt-out of electronic filing for good cause.

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

R.C. 5703.05, 5703.14, 5703.059

**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)?**

The Department of Taxation (“Department”) currently has fifty-seven (57) licensed terminal operators and of those fifty-seven (57), fifty-four (54) are already filing their monthly terminal reports electronically. The Department receives the remaining three reports in paper form. Some of the information from those reports must be manually keyed into the Department’s STARS system. This requires the Department to expend resources to key this information. The purpose of the rule is to require electronic filing of terminal operator reports, which would establish consistency for all terminal operators and other motor fuel filers. Additionally, it will permit the Department to perform cross-checks to ensure accurate reporting throughout the motor fuel supply chain.

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

The success of this rule will be measured by the percentage of the terminal operators that electronically file. The goal is to have all terminal operators file electronically so that there is consistency across all motor fuel filing types to allow the Department to perform necessary cross-checks.

**Development of the Regulation**

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

On September 8, 2016, the Department posted the draft rule in an information release on its website and emailed a link to the draft rule to all subscribers of its Tax Alert email notification system. The Department maintains the Tax Alert email notification system to keep tax professionals, business owners and other interested parties up to date on Ohio’s tax laws. Taxpayers can sign up for Tax Alerts via the Department’s website.

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

The Department received no comments about the proposed rule.

**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?**

The Department did not consider alternative regulations. A rule is the only method available to the Tax Commissioner to implement the electronic filing requirement.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

N/A

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

R.C. 5703.05 vests all powers, duties and functions of the Department in the Tax Commissioner, including tax filings and payments. R.C. 5703.059 authorizes the Tax Commissioner to require the electronic filing of returns and electronic payment of the tax. The existing motor fuel electronic filing rule is simply being amended to include an additional class of filers.

**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.**

The Department plans to implement the electronic filing mandate for terminal operator reports filed on or after the effective date of this rule. This allows plenty of time to notify and educate the affected filers about this requirement. The Department will post advanced notice on its website and mail notices to the affected stakeholders to inform them about the electronic filing requirement. Additionally, the Department's website has a tutorial on how to file electronically.

**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;**

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This rule will impact fifty-seven (57) terminal operators. As mentioned previously, fifty-four (54) of the fifty-seven (57) terminal operators currently file their reports electronically. A terminal operator may, for good cause, be excused from the electronic filing requirement. Filers may request to opt-out of electronic filing by utilizing the form available on the Department’s website. If a taxpayer cannot access the form on the Department’s website, the taxpayer may call the Excise & Energy Tax Division and have the form mailed to them.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The Department anticipates that terminal operators will experience minimal adverse impacts from this regulation, because fifty-four (54) out of the fifty-seven (57) terminal operators are currently filing electronically. This regulation does not require terminal operators to collect any additional information in order to file electronically. The information provided via electronic filing is the same as that currently required by a paper report.

If not already registered with Ohio Business Gateway (“OBG”), terminal operators will have to register and follow the instructions to file the reports through the OBG. Once registered, the process will be easier for each successive report. In addition, if a terminal operator requests to opt-out of electronic filing, the terminal operator can submit the request to the Department in writing.

**c. Quantify the expected adverse impact from the regulation.**

The only adverse impact on taxpayers is the time it will take to register on OBG, if they are not currently registered on the OBG. Filers may contact the Department at 1-855-466-3921 for step-by-step instructions on registration and filing on OBG or may access the Department’s website for a tutorial on electronic filing. The Department estimates that a taxpayer who uses that method will need approximately 15 minutes to register and file. Once registered, the process of filing will be shorter for each successive filing period.

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

The time-savings and cost-effectiveness of electronic filing far outweighs the minimal impact on the taxpayers. Electronic filing allows the Department to more efficiently process reports and provides filers with an electronic history of all filings. The Department has committed significant time and resources to develop the OBG/STARS electronic filing system. The system will make it easier for filers to meet their filing obligations.

## **Regulatory Flexibility**

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

The rule allows a terminal operator to apply to the Tax Commissioner to be excused from the electronic filing requirements.

**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. Neither the rule nor the authorizing statute contains provisions for the imposition of a penalty for non-compliance with the electronic filing and payment requirement.

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

The Department plans to provide information to the filers in a variety of ways in advance of the implementation of the electronic filing mandate. Further, assistance in filing reports is available through contact with Department via telephone by calling 1-855-466-3921.