

Business Impact Analysis

Agency Name: Department of Taxation

Regulation/Package Title: Five-year Rule Review for IFTA Rules

Rule Number(s): 5703-13-03, 5703-13-04, 5703-13-05 and 5703-13-06

Date: March 10, 2016

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Rescinded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.

Ohio Adm.Code 5703-13-03: [No Change] Requires taxpayers who are liable for the tax under the International Fuel Tax Agreement to keep accurate records of fuel purchases and miles traveled.

Ohio Adm.Code 5703-13-04: [Amended] Allows operators without an annual motor fuel use permit to get a single-trip permit through the Ohio Business Gateway or through authorized independent permit services.

Ohio Adm.Code 5703-13-05: [Amended] Provides the requirements to become an authorized single-trip permit issuer and the record-keeping requirements.

Ohio Adm.Code 5703-13-06: [Amended] Provides the procedure for completing audits of International Registration Plan registrants and the appeal and review process after an assessment is issued.

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

R.C. 5703.05, 5703.14, 5728.03, 5728.05

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)?

By way of background, the International Fuel Tax Agreement (“IFTA”) is an agreement between forty-eight contiguous states and ten Canadian provinces that facilitates cooperation regarding the reporting and payment of motor carrier fuel use taxes. An IFTA tax return is filed and payment is made to a carrier’s base state, and the tax received by the base state is allocated to each state where the carrier has driven miles. Virtually all the IFTA requirements and procedures are established in the IFTA Articles of Agreement, the IFTA Procedures Manual and the IFTA Audit Manual which have been adopted by all signatories to the IFTA.

Ohio Adm.Code 5703-13-03: This rule merely incorporates the record-keeping requirements for IFTA carriers currently contained in section R700 of the IFTA Articles of Agreement and section P500 of the IFTA Procedures Manual. By requiring carriers to keep the relevant records, the rule permits Ohio to comply with both its statutory and IFTA obligations in an efficient manner.

Ohio Adm.Code 5703-13-04: This rule authorizes the issuance of single-trip permits through the Ohio Business Gateway (“OBG”) or, if the OBG is unavailable, through authorized independent permit services. From time to time, carriers who do not hold an IFTA permit need to travel between states for a single trip. Carriers can get a single trip permit through the OBG. To account for the possibility that the OBG system may be unavailable at the time the single-trip permit is needed, the rule allows third party single-trip services to issue the single trip permits. This rule allows carriers to get a single-trip permit any time of day.

Ohio Adm.Code 5703-13-05: This rule provides the requirements for a permit service wishing to be authorized by the tax commissioner to issue single-trip permits and provides the record-keeping requirements. The rule also establishes the minimum standards for an entity wishing to issue single-trip permits, thereby protecting the integrity of the single-trip program in instances when the Ohio Business Gateway is unavailable.

Ohio Adm.Code 5703-13-06: This rule sets forth the current auditing requirements and appeal rights and processes under the authority of the International Registration Plan (“IRP”). This rule is being amended because the section referenced in division (A) has been changed by the IRP.

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

Ohio Adm.Code 5703-13-03: The success of this rule will be measured by the percentage of IFTA filers that maintain complete and accurate records as required by the rule.

Ohio Adm.Code 5703-13-04: The success of this rule will be measured by whether all operators are able to get a single-trip permit when they need one.

Ohio Adm.Code 5703-13-05: The success of this rule will be measured by how the permit issuing services comply with the requirements of the rule, e.g., maintain a surety bond, file weekly reports with the tax commissioner, maintain records, etc.

Ohio Adm. Code 5703-13-06: There is no need to measure the success of this rule; the change is merely clerical.

Development of the Regulation

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

In January 2016, the Department posted the draft amended rules in an information release on its website and emailed the link to the information release 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?

Even though the draft rules were made available to the stakeholders for comment, the Department received no comments concerning the rules from the stakeholders.

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 rules are the only method available to the Tax Commissioner to implement the requirements under these rules.

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. A complete review of all rules was completed to determine whether any of these rules was duplicative of existing rules. The review revealed no duplication.

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.

Ohio Adm.Code 5703-13-03: This is a five-year rule review. This rule is currently in effect and has been for many years; therefore, there is nothing to implement.

Ohio Adm.Code 5703-13-04: This rule is being changed to require that IFTA single-trip permits be purchased through the Ohio Business Gateway (“OBG”) rather than from the Department of Taxation. The Department has already set up the OBG to issue these permits.

Ohio Adm.Code 5703-13-05: The amendment to this rule is required because the rule is being changed to allow the OBG to issue single-trip permits on behalf of the Department of Taxation. This transfer to the OBG has already taken place.

Ohio Adm.Code 5703-13-06: This rule requires no implementation. The existing rule references an article of the IRP which directed the Ohio tax commissioner to perform IRP audits. IRP changed the referenced section; therefore, there was a need to amend the rule.

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;

Ohio Adm.Code 5703-13-03: IFTA tax return filers.

Ohio Adm.Code 5703-13-04: IFTA single-trip permit purchasers.

Ohio Adm.Code 5703-13-05: Single trip permit issuers.

Ohio Adm.Code 5703-13-06: IRP registrants being audited.

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

Ohio Adm.Code 5703-13-03: This five-year rule review for this rule contains no change to this rule. Therefore, there is no adverse impact.

Ohio Adm.Code 5703-13-04: None. The IFTA single-trip permit purchasers are able to get single-trip permits through OBG rather than having to call the Department to get a single trip permit.

Ohio Adm.Code 5703-13-05: None. The amendment to this rule does nothing but changes the reference to OBG for the department of taxation and has no effect on single trip permit issuers.

Ohio Adm.Code 5703-13-06: None. The amendment to this rule merely removes the reference to the article in the IRP and has no effect on IRP registrants.

c. Quantify the expected adverse impact from the regulation.

Ohio Adm.Code 5703-13-03: None.

Ohio Adm.Code 5703-13-04: None.

Ohio Adm.Code 5703-13-05: None.

Ohio Adm.Code 5703-13-06: None.

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

Since there is no adverse impact on business for any of these rules, there is no need to justify the regulatory intent.

Regulatory Flexibility

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

Ohio Adm.Code 5703-13-03 is a regulatory recitation of the requirements of the IFTA Articles of Agreement. As an IFTA licensee, the affected taxpayers have agreed to be bound by the requirements of the IFTA.

Ohio Adm.Code 5703-13-04: No alternative method is available or necessary for small business.

Ohio Adm.Code 5703-13-05: No alternative method is available or necessary for small business.

Ohio Adm.Code 5703-13-06: No alternative method of compliance is provided, because the rule does not require small business to do anything.

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. None of the rules contain provisions for the imposition of a penalty for non-compliance.

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

Assistance with IFTA or IRP filing questions or single-trip permits through the OBG is available through contact with Department via telephone by calling 1-855-466-3921.