

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Industrial Commission

Regulation/Package Title: Accessing Confidential Personal Information

Rule Number(s): 4121-4-01; 4121-4-02; 4121-4-03; 4121-4-04; 4121-4-05

Date: _____

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Rescinded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.

In brief, Rules 4121-4-01 through 4121-4-05 set forth a stringent policy for the access of confidential personal information by Ohio Industrial Commission employees and members. The rules were originally filed pursuant to the requirement of R.C. 1347.15 as enacted by House Bill 648 of the 127th General Assembly, which required agencies to promulgate rules regarding access to confidential personal information (CPI).

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

Rule Number	Authorizing Statute	Draft Action
4121-4-01	R.C. 1347.15; 4121.30; 4121.31	No Change
4121-4-02	R.C. 1347.15; 4121.30; 4121.31	No Change
4121-4-03	R.C. 1347.15; 4121.30; 4121.31	No Change
4121-4-04	R.C. 1347.15	No Change
4121-4-05	R.C. 1347.15; 4121.30; 4121.31	No Change

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?

The regulation implements the federal requirement to maintain the confidentiality of Social Security Numbers under 5 U.S.C. 522a, unless the individual was informed that the number would be disclosed. The regulation does not enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

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

The regulation does not exceed the federal requirement.

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 Agency is acutely aware of the need to protect confidential personal information. Employees and contractors of the agencies have wide access to such information and it is the Agency's goal to create sound policies to limit that access to those on a need-to-know basis in order to protect the public from unnecessary intrusions.

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

The Agency seeks to monitor CPI access as an ongoing effort in order to ensure that no Ohio Industrial Commission employees access information to which they are not authorized to view, inadvertently or otherwise. The Ohio Industrial Commission Information Technology departments also utilizes screening software to detect and prevent the unauthorized access of CPI.

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Development of the Regulation

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

The Industrial Commission has a Rules Advisory Committee consisting of representatives from the Ohio Manufacturers Association, the Ohio Association of Self-Insuring Employers, the Ohio Chamber of Commerce, the Ohio AFL-CIO, the Injured Worker's Bar, members of the Association of Claimants' Counsel, and BWC attorneys. The Commission discussed the rules with the Rules Advisory Committee during meetings on August 6, 2014 and October 9, 2014.

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

The Rules Advisory Committee expressed no concern with the current language and was satisfied with a No Change five-year review on all CPI rules.

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?

Not applicable

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?

No alternative regulations were chosen because the rules were recently enacted to regulate employee and member conduct that had not previously been addressed in an administrative rule. Because of the relative novelty of this rule and the issues it seeks to address, no innovation is required at this time.

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

Not Applicable.

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

The Commission and the BWC are the only state agencies responsible for the adjudication of workers' compensation claims. The agencies each have CPI rules that mirror one another in order to specifically address their respective employees, as well as their distinct duties.

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 Industrial Commission will continue to provide training and guidance to their employees and members regarding CPI access.

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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 is no impacted business community.
- b) There is no adverse impact.
- c) Because there is no adverse impact, it cannot be quantified in dollars, hours to comply, or any other factors.

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

The need to protect Ohio’s Injured Workers and businesses outweighs any conceivable adverse impact that the CPI rules could present.

Regulatory Flexibility

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

Not Applicable.

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?

Not Applicable.

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

Not Applicable.