

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

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

Regulation/Package Title: Title Support Section _____

Rule Number(s): 4501:1-13-03, 4501:1-13-04, 4501:1-13-05, 4501:1-13-06 _____

Date: _____

Rule Type:

- | | |
|---|--|
| <input checked="" type="checkbox"/> New | <input type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |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.

This package is being filed in accordance to sections 4505.02, 4505.08 and 4519.51 of the Revised Code. Administrative Code Chapter 4501:1-13 clarifies: the requirements for titling imported motor vehicles; the standards for cancellation of a certificate of title, and notations

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

that may appear on a certificate of title, including notations applied resulting from information that is received from the National Motor Vehicle Title Information System (NMVTIS).

The following rules in this package are being filed as proposed new rules:

4501:1-13-03, “Certificate of title for imported motor vehicles”, clarifies the documentation to satisfy state and federal requirements that must be presented to the Clerk of Courts of Common Pleas for the issuance of a certificate of title for an imported motor vehicle.

4501:1-13-04, “Materials incorporated by reference”, includes the availability of materials incorporated by reference in Chapter 4501:1-13 of the Administrative Code, and as a requirement set forth in 121.72 of the Revised Code.

4501:1-13-05, “Notations on a certificate of title”, describes notations that may appear on a certificate of title or salvage certificate of title based on information that is received from NMVTIS.

4501:1-13-06, “Cancellation of certificates of title”, describes the standards for a cancellation of a certificate of title which is not considered improperly issued.

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

Ohio Revised Code sections 4501.02, 4505.02, 4505.08, and 4519.51.

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?

Yes. Proposed new rule 4501:1-13-03, “Certificate of title for imported motor vehicles”, is to enforce the requirements of the federal regulations in 49 C.F.R. Chapter 591, which mandates the “Importation of Vehicles and Equipment Subject to Federal Safety, Bumper and Theft Prevention Standards”. Additionally, to enforce the federal regulations in 49 C.F.R. Chapter 592, which mandates the provisions of “Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards”.

Proposed new rule 4501:1-13-05, “Notations on a certificate of title”, is to clearly delineate standards in accordance with Ohio title law for title types and notations to be applied for titling all vehicles, including vehicles previously titled in other states. These standards include reciprocal recognitions of notations and/or brands applied by other states, and also supports federal regulations in accordance with the Anti-Car Theft Act of 1992, consequently, 49 U.S.C. 30502, under this section of federal code, the Department of Justice

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

(DOJ) was required to create and maintain a database which states and other entities could report stolen, junk, and salvage vehicles. In response, the American Association of Motor Vehicle Administrators (AAMVA) developed said database known as NMVTIS. Correspondingly, 28 C.F.R. Chapter 25, describes the purpose, procedures, and defines those who must report information to NMVTIS. NMVTIS assists in the protection of consumers from fraud and unsafe vehicles as well as keeping stolen vehicles from being resold.

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 proposed new rules are pursuant to Chapter 4505. of the Revised Code. There are a total of eighty-eight clerks (88) and an estimated one hundred and fifty-eight (158) title offices in the state of Ohio. Therefore, in accordance to section 4505.02 of the Revised Code, the Registrar is to determine the necessary process to ensure uniformity for orderly operations of the issuance of a certificate of title by the Court of Common Pleas, Title Offices. Creating uniformity in the title offices can provide a positive experience for the public. However, each county clerk is responsible for implementing their own processes and procedures for validating the authenticity, accuracy and validity of the documentation presented when issuing the applicable certificate of title.

Proposed rules 4501:1-13-03, “Certificate of title for imported motor vehicles, and 4501:1-13-05 “Notations on a certificate of title”, are pursuant to supporting federal regulations. These rules will assist the county clerks in supporting the federal regulations that have been presented when issuing the applicable certificate of title to a consumer. Both of the proposed rules include information that is germane for the protection and safety of our consumers, from fraud and unsafe vehicles as well as keeping stolen vehicles from being resold.

The Registrar, pursuant to section 4505.08 of the Revised Code, may prescribe additional uses or happenings to a motor vehicle to be noted on the certificate of title. Proposed rule 4501:1-13-05, “Notations on a certificate of title”, includes, for an example, if a motor vehicle has been stolen and has been recovered, the title would be issued with the notation of “Recovered Theft”. That notation would be in place of the current procedure of issuing the consumer a salvage certificate of title. The addition of such notations proposed in the rule allows for the certificate of title to reflect accurate information.

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

The agency, through the Automated Title Processing System (ATPS), would be able to compile statistics that are reflective of the applicable information of the rule.

For proposed new rule 4501:1-13-03, “Certificate of title for imported motor vehicles”, statistics would be able to prove the increase or decrease in the number of motor vehicles being imported into the state of Ohio from other countries.

For proposed new rule 4501:1-13-05, “Notations on a certificate of title”, statistics would be able to show the increase or decrease in the number of motor vehicles that actually consist of a salvage certificate of title versus a “clean” certificate of title.¹ By state law, a salvage motor vehicle is not to be operated on any roadway. With the additional notations (recovered theft, theft, etc.) and the use of JSI information supplied from NMVTIS when issuing a certificate of title, the agency is assisting law enforcement in reducing motor vehicle thefts and eliminating unsafe motor vehicles from operating on the roadways.

For proposed new rule 4501:1-13-06, “Cancellation of certificates of title”, the agency can measure the number of certificates of title that are cancelled due to being improperly issued. Listing reasons in the rule that are not an improper issuance offers guidance to the clerks, public, and dealerships. With this awareness, the agency may see a decline in the number of title cancellation requests that are received by the Title Support Section, Bureau of Motor Vehicles (BMV). With an anticipation of decreased cancellation requests, the employees will have more time to communicate with consumers via Live Chat or by phone.

Development of the Regulation

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

The agency made its first initial outreach to identified stakeholders with the drafted rules on July 31, 2018. Some identified groups of stakeholders were²: Ohio Independent Auto Dealers Association (OIADA), Ohio Auto Dealers Association(s) (OADA) (includes Cleveland and Cincinnati), Truck Association, RV Association, Members of the Motor Vehicle Dealers Board, Members of the Motor Vehicle Salvage Dealer’s Licensing Board, licensed Salvage Motor Vehicle Dealers, Salvage Motor Vehicle Pools, Salvage Motor Vehicle Auctions, representatives from LKQ Corporation, representatives from Cox

¹ “Clean” is reference to a certificate of title that includes no assigned notations or brands by this state or another state.

² List attached for CSIO reference.

Automotive and their legal counsel(s), Ohio Clerk of Courts Association, representatives of CoPart, representatives of the Insurance Auto Auction (IAA) and their legal counsel(s), a representative of CarFax, a representative of the American Insurance Association, a representative of the Property Casualty Insurers Association and a representative of the Ohio Insurance Institute. The identified stakeholders were encouraged to transmit the rules to other stakeholders of interest.

The exact information included in the e-mail that was transmitted to the above listed stakeholders was also posted on the Dealer Licensing website at www.OhioAutoDealers.com and on the main dashboard of the Dealer Licensing System, which is only accessible by licensed motor vehicle/salvage dealers in this state.

On August 24, 2018, at 10:00 a.m., a phone conference was held with BMV personnel and representatives from LKQ Corporation to discuss the new proposed rule 4501:1-13-05, “Notations on a certificate of title”.

On September 11, 2018, at 2:00 p.m., a meeting was held with BMV personnel and representatives from IAA and Cox Automotive and their legal counsels to discuss the new proposed rule 4501:1-13-05, “Notations on a certificate of title”.

Furthermore, the agency held a Stakeholder Engagement Meeting on September 24, 2018, at 2:00 p.m. There were twenty-four stakeholders that attended the meeting, not to include BMV personnel. The meeting was opened by Registrar Petit, welcoming everyone and encouraging those in attendance to share their thoughts or concerns either verbally or in writing with the BMV. The BMV had all intentions of verbally interacting with its stakeholders when the meeting was initially scheduled. However, due to pending litigation, the BMV was not permitted to participate in such conversation.

Following various meetings (mentioned above) and phone conversations with those stakeholders that were willing to discuss differences of opinion concerning the operation and impact of the rule the agency incorporated edits to try to reach a consensus. As a result of these productive discussions the rule was then sent out on Monday, October 15, 2018, to the following stakeholders: LKQ Corporation, Cox Automotive and their legal counsels, CoPart, and IAA and their legal counsels.

Based on the stakeholders' feedback from the October 15th email, the agency made some minor edits to the rule. With all edits to the rule now complete, the agency sent the rule to all identified stakeholders³ on Thursday, November 1, 2018, for one last comment period.

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

As a preface, this rule package includes four new proposed rules. However, most comments received concerned new proposed rule 4501:1-13-05, "Notations on a certificate of title".

4501:1-13-05 "Notations on a certificate of title"

The agency asked for stakeholders to submit any comments or suggestions on the proposed rules by end of day August 22, 2018. The initial communication was sent/posted on July 31, 2018. That allowed stakeholders three weeks to share their feedback with the agency. In response to the initial outreach, the agency received a total of seventy-seven comments. Sixty-five comments were from one stakeholder's employees and representatives in support of the new proposed rule 4501:1-13-05, "Notations on a certificate of title". The remaining comments were in opposition to the proposed rule.

There are various opinions among stakeholders regarding the use of some of the information included in NMVTIS, particularly what is known as the Junk, Salvage, and Insurance (JSI) information. Some stakeholders feel that this rule is harmful to the consumer and dealerships and, argue they are buying vehicles from auctions or taking vehicles in on trade with clean titles and subsequently are issued a salvage title based the information that has been reported to NMVTIS. Dealers claim to be taking losses when customers return the vehicle. Some stakeholders believe that buying a vehicle report from a provider that offers the NMVTIS information is not only time and cost prohibitive, but do guarantee full and accurate information about the vehicle history report because reporting entities submit erroneous data to NMVTIS.

However, consumers are not aware of the condition or information reported on motor vehicles when they purchase them from a dealer or individual. Dealerships are not aware of such reported information when they are buying vehicles from an auction. It has been stated that Ohio is out of line with other states and their policies/use of the NMVTIS system. There have been comments referring to the proper reporting measures to the NMVTIS system and the erroneous reporting by required entities.

In contrast, those stakeholders in support of the proposed rule feel this is a step in the right direction to close loopholes on titling vehicles that are coming into this state from other states that are actually salvage but are accompanied by a clean title. There is significant concern

³ See attached list for stakeholders.

that purchasers are unaware of the true history of the vehicle. This rule is designated to protect the safety interests of consumers in the state of Ohio.

After the Stakeholder Engagement Meeting held on September 24, 2018, the agency received seventy-four letters from consumers that are in support of the proposed rule. There were two public stakeholders that submitted documentation to the agency regarding their situations in relation to the current policy and the proposed rule. The agency was able to assist one of the stakeholders in getting the correct title and found that the stakeholder's situation was not related to the topic at hand, just merely an error at the time of the transaction. Documentation supplied by the other stakeholder included NMVTIS reports that included a WARNING on the back page of the report with the corresponding Vehicle Identification Number (VIN). The WARNING states that the vehicle was reported as a total-loss vehicle by an insurance company or a junk or salvage reporting entity. The vehicles the stakeholder was purchasing were from CoPart, which is a salvage auction. CoPart had the vehicles online for auction with clean titles from another state. When the stakeholder titled the vehicles in Ohio he was issued a salvage certificate of title due to the vehicle being reported to NMVTIS by CoPart. Stakeholders were warned at the time of purchase that the vehicles were reported with some type of defect by an insurance company, or salvage and junk yard.

After meetings with stakeholders that were interested in figuring out how the industry and the agency could reach consensus, edits were made to the rule. The comments received from the October 19, 2018, email were taken into consideration in order to finalize the language of the rule. While involved in many conversations with the agency, one stakeholder maintained opposition to the rule as a whole, regardless of the edits.

Due to the high profile of this rule, the agency decided to share the rule one last time prior to filing with CSIO. Comments received from the November 1, 2018, email were found to be the same results as the first initial comment period offered. Some stakeholders did not acknowledge additional edits to the rule, while others were still in favor of the 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?

For proposed new rule 4501:1-13-03, "Certificate of title for imported motor vehicles", which lays out the federal requirements and required documentation for titling motor vehicles that have been imported into the states, outcomes can be measured by data from the Automated Title Processing System (ATPS). Motor vehicles that were titled in Ohio and were imported from other countries from January 1, 2017, thru December 31, 2017, totaled forty-two thousand nine hundred and seventeen (42,917); four (4) salvage vehicles were also titled. Of the total number of imported motor vehicles, thirty thousand eight hundred and

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

fifty-five (30,855) were titled in a company's name; eleven thousand one hundred and twenty (11,120) were titled in a dealership's name; eight hundred and fifty-one (851) were titled in an individual's name; ninety (90) were titled with a vendor number; and one (1) was titled into a trust.

Motor vehicles that were titled in Ohio and were imported from other countries from January 1, 2018, thru October 31, 2018, totaled thirty-seven thousand one hundred and eighty-seven (37,187); three (3) salvage vehicles were also titled. Of the total number of imported motor vehicles, twenty-six thousand seven hundred and forty-two (26,742) were titled in a company's name; nine thousand eight hundred and nine (9,809) were titled in a dealership's name; six hundred and thirty-two (632) were titled in an individual's name; one (1) was titled with a vendor number; and three (3) were titled into a trust. This data shows a decrease of motor vehicles being titled in the state via dealerships, companies, individuals, etc. This data dictates that the occurrences of imported vehicles receiving Ohio titles as a pass-through for sales at auctions in other states have been reduced by incorporating the standards included in this rule.

While there are federal requirements for importing motor vehicles into the states, there has also been an increase in the number of motor vehicle VIN cloning cases across various states. Having the proposed rule, contributes to educating the consumers of Ohio and stakeholders. This rule also allows the agency to provide a resource for fraud prevention and consumer protection.

For proposed new rule 4501:1-13-05, "Notations on a certificate of title", the Title Support Section Customer Service Representatives have developed a protocol for those owners of a motor vehicle who believe that JSI information shown is reported in error. From the date of the ATPS upgrade (January 1, 2017) until October 31, 2018, the number of inquiries that have been received by the Title Support Section regarding the title status of a vehicle due to the Junk, Salvage or Insurance Information (JSI) has been a total of eight hundred and eighty (880). Of the total number of inquiries, two hundred and thirty (230) of those were forwarded through BMV Customer Service research efforts to have been reported in error and corrected by the reporting entity.⁴ However, of the total number of inquiries, two hundred and eighty-eight (288) of those were reported correctly to NMVTIS. The remaining three hundred and sixty-two (362) are in an unresolved status due to at least one of the following reasons: 1) awaiting a call back from the reporting entity in order to verify the information that was reported, 2) remain unsolved due to the reporting entity being closed,⁵ 3) the reporting entity

⁴ JSI information can only be corrected by the reporting agency who initially reported the disposition to NMVTIS.

⁵ AAMVA has a procedure in place to assist consumers when a reporting entity has closed or not familiar with correcting an entry.

refuses to correct their entry or are unable to verify the information, or 4) the reporting entity is not familiar with the process of correcting their entry.

Though, reviewing the data from the upgrade of ATPS (January 1, 2017) thru October 31, 2018, a total of ten million six hundred and twenty-two thousand three hundred and thirty-seven (10,622,337) titles⁶ were issued. Of the total number of issued titles, three hundred and eighty-eight thousand nine hundred and ten (388,910) titles were salvage; thirty-six thousand nine hundred and seventy-three (36,973) were replacement salvage titles; eight million seven hundred and eighty-eight thousand six hundred and forty-six (8,788,646) titles were original (a.k.a. “clean title”); and one million four hundred seven thousand eight hundred and eight (1,407,808) were replacement titles.

As a result of the noted data regarding the number of JSI inquiries that have been received by the Title Support Section and the total number of titles that Ohio has issued since the upgrade of ATPS, the JSI issue has affected 0.003% of vehicle titles.

In ATPS, even prior to the upgrade released in January 2017, the system always retrieved information from NMVTIS. The information received prior to 2017 was limited to brands/notations that were reported by other states. With the system upgrade, additional information, is displayed about a motor vehicle. The additional information which is also available to any consumer or stakeholder via www.vehiclehistory.gov or a link through the BMV website, will reveal the information that has been reported to NMVTIS, and is the same information a county clerk of court accesses to determine which type of certificate of title to issue.

NMVTIS contains information provided, as required by federal law, by all states and other entities who report information to the database regarding a motor vehicle’s theft, junk, salvage, and insurance status. Such information from NMVTIS is accessible by all states and is used at various levels when issuing certificates of title or salvage certificates of title. The popular third party sources of vehicle history information known as CarFAX and Autocheck also bear errors. Even more so, CarFAX, Autocheck, and approximately thirteen other private parties are databases that retrieve data from various companies.

The proposed new rule 4501:1-13-06, “Cancellation of certificates of title”, is measurable by retrieving data from ATPS and/or the Title Support Section, who assists in the requests for cancellations of certificates of title. The total number of title cancellation requests received by the Title Support Section from January 1, 2017, thru October 31, 2018, was seven hundred and seventy-eight (778). Of the total number of requests received, five hundred and

⁶ Total amount includes salvage, salvage replacement, original, and replacement certificate of titles issued.

fifty six (556) of those cancellations were granted, and two hundred and twenty-two (222) of those cancellations were not able to be granted.

Having the proposed rule assists consumers and stakeholders by outlining specific reasons for which a title may/may not be cancelled. This rule also allows the agency to provide a resource for fraud prevention and consumer protection.

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 alternative is to ignore information, which unlike prior to January 2017, is now retrieved with each title transaction by interacting with NMVTIS.

The agency was transparent with their stakeholders, held multiple comment opportunities, and held a Stakeholder Engagement Meeting for additional comments. Despite the fact that there are stakeholders who remain adamant in disagreeing with the rule package, there were those stakeholders who reached out to the agency to discuss coming to a common ground regarding a few of the industries' disagreements.

The agency made several modifications to the rule in response to the industry concerns and in the interests of reaching a consensus. These alternatives include: not using JSI information reported prior to January 1, 2018, in recognition of concerns about reporting accuracy and consistency that were addressed in DOJ updated guidance in late fall of 2017; alleviating concerns about retroactive applications by eliminating the use of JSI information that pre-dates the issuance date of a clean Ohio certificate of title; and eliminating apparent conflicts among provisions within the rule by clarifying language regarding theft recovered and out of state vehicles that were reported as total loss and claims were paid for non-safety related claims. The agency was able to come to a consensus with some of the stakeholders for proposed new rule 4501:1-13-05, "Notations on a certificate of title", in that the agency will recognize the JSI information if it was reported to NMVTIS after January 1, 2018.

Other requested changes were not able to be made, for Ohio law already regulates the process in Chapter 4505. of the Revised Code. Although all requests were considered by the agency, there is also the factor of safety and protection for our Ohio consumers. If such JSI information is not used or even presented, the agency would not only neglect its responsibility and mission of keeping Ohio consumers safe by withholding important information, but it would also be allowing unsafe motor vehicles to be operated on our roadways.

Ohio is not the only state that uses/considers the NMVTIS information when titling motor vehicles. Currently, the states of Idaho, Maryland, Maine, New Hampshire, Nevada, West Virginia and Wyoming also use the JSI information from NMVTIS when issuing a certificate of title. Arkansas, Illinois, Kentucky, and Mississippi also use the NMVTIS information and require those vehicles with JSI information to be inspected. The state of California actually enacted legislation on July, 21, 2012, which prohibits dealers from selling or displaying a used motor vehicle without obtaining a NMVTIS report and posting a warning sticker on the vehicle notifying the consumers of the JSI information related to the vehicle.

- 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.

N/A

- 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 Chapters 4505. and 4519. of the Ohio Revised Code and Chapter 4501:1-11, 4501:1-13, and 4501:1-14 of the 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.**

Due to the ATPS system upgrade being an internal technical process to the title delivery system, which is mandated by the Revised Code, the implementation had occurred on January 1, 2017.

The county clerks of court, who are the users of ATPS, are consistently active in measures of implementation. Prior to the upgrade of the ATPS release in 2017, the agency reached out to all the dealer associations to offer them participation in the development of the upgrade; no participation materialized.

As a normal course of business, as a means of reaching out to stakeholders information is added and maintained on the BMV website and dealer licensing website. Information is also shared in the DLR (dealer) Licensing System, which is accessible by a licensed new, leasing and used motor vehicle dealer and a licensed salvage motor vehicle dealer, auction, and pool in this state.

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 a total of eighty-eight (88) elected County Clerk of Courts and one hundred and fifty-eight (158) title offices in the state of Ohio. These offices, in a year’s time, issue over approximately 10.5 million certificates of title/salvage certificates of title to consumers of Ohio. Those consumers include the eight thousand eight hundred and thirty- nine (8,839) active motor vehicle dealers, leasing dealers, and salvage dealers, and an active sixty (60) auctions, salvage auctions, and salvage pools throughout Ohio. While these rules affect the county clerks’ title offices, there is an impact on consumers who purchase their motor vehicles from dealerships and/or auctions.
- b. There are fees established in statute for the issuance of a certificate of title or salvage certificate of title, which are not impacted by these rules.

The nature of the adverse impact posed by the proposed regulation is the potential loss of a loved one or family member in a motor vehicle accident because of the lack of due diligence by dealers and auctions who choose not to, prior to selling a motor vehicle, use a vehicle history report from a provider who supplies NMVTIS information. To emphasize, as previously stated, *NMVTIS contains information provided, as required by federal law, by all states and other entities who report information to the database regarding a motor vehicle’s theft, junk, salvage, and insurance status. Such information from NMVTIS is accessible by all states and is used at various levels when issuing certificates of title or salvage certificates of title.* The same adverse impact may be posed by a consumer who fails to do their due diligence when purchasing a motor vehicle from an individual; however, dealer sales exceed that of casual sales.

- c. Fees that are required by consumers for a salvage certificate of title is four dollars (\$4); five dollars (\$5) for a watercraft salvage certificate of title; fifteen dollars (\$15) for original, duplicate, and replacement certificates of title; and fifty-three dollars and fifty cents (\$53.50) for a salvage inspection receipt, with three dollars and fifty cents (\$3.50)

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

for the Deputy Registrar fee. To obtain a NMVTIS vehicle history report from an approved provider of AAMVA is a minimal cost that ranges from forty cents (\$0.40) up to thirteen dollars (\$13.00) per vehicle. Providers also offer specials/package deals for dealers with various rates.

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

According to section 4505.02 of the Revised Code the Registrar, is to determine the necessary process to ensure uniformity for orderly operations of the issuance of a certificate of title by the Court of Common Pleas, Title Offices. Creating uniformity in the titling of motor vehicles through this rule package protects customer safety and provides a consistent and predictable regulatory environment for impacted businesses.

According to 49 C.F.R. Chapter 591, there are requirements for the “Importation of Vehicles and Equipment Subject to Federal Safety, Bumper and Theft Prevention Standards”. These standards in turn enforce the federal regulations in 49 C.F.R. Chapter 592, which mandates the provisions of “Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards”.

28 C.F.R. Chapter 25 describes the purpose, procedures, and defines those who must report information to NMVTIS. NMVTIS assists in the protection of consumers from fraud and unsafe vehicles as well as keeping stolen vehicles from being resold. With the additional notations (recovered theft, theft, etc.) and the use of information JSI information supplied from NMVTIS when issuing a certificate of title, the agency is assisting law enforcement in reducing motor vehicle thefts and eliminating unsafe motor vehicles from operating on the roadways.

Lastly, section 4501.02 of the Revised Code specifies that the Bureau of Motor Vehicles be created in the Department of Public Safety. The Registrar of motor vehicles shall administer the laws of the state relative to the registration and certificates of title for motor vehicles and the licensing of motor vehicle dealers, auction owners, salespersons, salvage dealers, salvage auctions, and salvage pools.

Regulatory Flexibility

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Proposed new rule 4501:1-13-03, “Certificate of title for imported motor vehicles”, allows for evidence presented that confirms a certification of compliance was submitted in a timely manner to NHTSA, and a bond release letter or response referring the certificate of compliance has not yet been received and thirty days has surpassed the receipt of certification by NHTSA, then a title may be issued. This rule appries of the required documents that are mandated by the federal law and limits state law to authorize exemptions or alternatives.

The proposed new rule 4501:1-13-05, “Notations on a certificate of title”, allows for either NMVTIS or the reporting entity to confirm that the motor vehicle has not sustained damage impacting the structural integrity or safety features of the vehicle, and has only sustained minor or cosmetic damage, a certificate of title may be issued in place of a salvage certificate of title. Additionally, the agency has developed a customer service protocol for those owners of a motor vehicle who believe that the JSI information shown is reported in error. The BMV Title Support Section, Customer Service Representatives are available to assist with questions or concerns about JSI information via telephone, e-mail, or by Live Chat, Monday through Friday from 8:00 a.m. to 5:00 p.m.

The proposed new rule 4501:1-13-06, “Cancellation of certificates of title”, allows for alternatives of having to obtain a court order and certificate of title as long as there is just cause to show that the title was issued improperly. However, listed in this rule for clarification are reasons that a certificate of title is not considered to be improperly issued.

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

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

Consumers and stakeholders may obtain detailed information about a vehicle by visiting the NMVTIS website (www.vehiclehistory.gov) to request a Vehicle History Report from an approved NMVTIS Data Provider. A Vehicle History Report will enable a consumer or dealer to make an informed decision regarding the purchase of a motor vehicle. Consumers should expect to pay a fee for each NMVTIS report. **Note:** The Ohio BMV does not endorse any specific NMVTIS Data Provider.

The BMV website (www.bmv.ohio.gov), Vehicle Titles, includes information that advises consumers to visit the NMVTIS website in order to obtain detailed information about a vehicle and its history.

Motor vehicle dealers may access the same information from the Dealer Licensing website (www.OhioAutoDealers.com).

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Stakeholder List for Rule 4501:1-13-05

NAME	COMPANY
Ray Colas	LKQ (SD's)
Joe Cannon	OADA
Sara Bruce	OADA
Matt Chacey	OADA
Zach Doran	OADA
Charlie Howard	Greater Cincinnati
Ellen Mastrangelo	Greater Cleveland
Nick Hanna	Greater Cleveland
Lou Vitantonio	Greater Cleveland
Wendy Rinehart	OIADA
Allison Harrison	OIADA - Legal
Rob Lambert	Truck Association RV Representatives
Delus Johnson	Dealer Association - Dayton
DLR Association	Greater Cleveland
DLR Association	Greater Cincinnati
Brian Younkin	Dealer Board Member
John Guldin	Dealer Board Member
Jessica Germain	Dealer Board Member
Joe Carson	Dealer Board Member
Michelle Primm	Dealer Board Member
Neal Barkan	Dealer Board Member
Rob Mitchell	Dealer Board Member
Roberto Vazquez	Dealer Board Member
Tom Needles	Dealer Board Member
Timothy Staup	Salvage Board Member
Gary Siciliano	Salvage Board Member
Lori Kershner	Salvage Board Member
Cirous Haghnazari	Salvage Board Member
Karyn Wrye	Cox Automotive - Sr. Director
Melissa Hoeffel	Roetzel & Andress (Atty for Cox Automotive)
Madison Whalen	Roetzel & Andress (Atty for Cox Automotive)
Maureen Kelly	Lake County COC - OCCA Title Subcommittee
Cindy Mollenkopf	Van Wert COC - OCCA President
Melissa Perry	CoPart
Greg Adler	CoPart
Steve Tugend	Kegler, Brown, Hill & Ritter
Kevin Park	IAA, Inc. - Legal Dept.
Mike Toman	The Success Group, Ltd.
Chris Neal	CARFAX - Director, Gov't Relations
Stephen Schneider	American Insurance Association

Jessica Andrews

Automotive Recyclers Association - Snr. Director
of Assoc. Operations

Jeffrey Junkas

Property Casualty Insurers Assoc. - Asst. VP
State Gov't Relations

Michael Farley

Ohio Insurance Institute - VP Gov't
Affairs/General Counsel

4501:1-13-03

Certificate of title for imported motor vehicles.

[Comment: For dates and availability of material incorporated by reference in this rule, see rule 4501:1-13-04 of the Administrative Code.]

(A) A certificate of title for an imported motor vehicle shall not be issued to the following:

(1) A person or entity that does not maintain a permanent address in this state; or

(2) A motor vehicle dealer that is not licensed in this state pursuant to Chapter 4517. of the Revised Code.

(B) A certificate of title shall not be issued for a motor vehicle that is not manufactured for sale or distribution in the United States, without the following:

(1) A manufacturer's certificate of origin issued by the actual motor vehicle manufacturer;

(2) The original documents portraying valid proof of ownership in the country from which the motor vehicle was originally purchased; and

(3) All documentation shall include complete translation in the English language.

(C) For the initial transfer of a motor vehicle that is not manufactured for sale or distribution in the United States, a certificate of title shall not be issued without all of the following documentation:

(1) A bill of sale for the motor vehicle;

(2) A foreign title or registration for the motor vehicle;

(3) A "Department of Homeland Security U.S. and Border Protection Entry Summary" that is stamped or signed;

(4) A "United States Environmental Protection Agency Declaration" form;

(5) An "Importation of Motor Vehicles and Motor Vehicle Equipment Subject to Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards" form which declares one of the following:

(a) If the motor vehicle meets the motor carrier safety standards by either boxes 2A or 2B on the form being checked, then a title may be issued, as applicable;

(b) If box 3 on the form has been checked verifying the motor vehicle has come into compliance with the safety standards, and a copy of a bond release letter from the National Highway Traffic Safety Administration,

hereinafter referred to as "NHTSA", is presented, then a title may be issued, as applicable. Nonetheless, if evidence is presented that indicates a certification of compliance was submitted in a timely manner to NHTSA, and a bond release letter or response referring the certificate of compliance has not yet been received and thirty days has surpassed the receipt of certification by NHTSA, then a title may be issued, as applicable.

- (6) An odometer statement(s) signed and completed by both the seller and purchaser of the motor vehicle;
- (7) An out of state inspection that is completed by a motor vehicle dealer licensed under Chapter 4517, of the Revised Code or a local deputy registrar, as set forth in section 4505.061 of the Revised Code; and
- (8) All documentation shall include complete translation in the English language.

4501:1-13-04

Materials incorporated by reference.

This chapter includes material that has been incorporated by reference. The versions of all federal regulations and other applicable materials incorporated in this Chapter 4501:1-13 of the Administrative Code are as listed in this paragraph, and if such material is subject to change, the date of the version referenced is provided. If incorporated material is amended, such changes are not incorporated within this chapter of the Administrative Code unless this rule has been amended to specify the dates:

(A) "Department of Homeland Security U.S. Customs and Border Protection Entry Summary," "CBP form 7501," (February, 2018), may be accessed via the U.S. Customs and Border Protection website at <https://www.cbp.gov>.

(B) "United States Environmental Protection Agency Declaration Form," "EPA form 3520-1," may be accessed via the Environmental Protection Agency website at <https://www.epa.gov>.

(C) "Importation of Motor Vehicles and Motor Vehicle Equipment Subject to Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards," form "HS-7," (Rev. 07-2014), may be accessed via the National Highway Traffic Safety Administration website at <https://www.nhtsa.gov>.

(D) "Odometer Disclosure Statement", form "BMV 3724," (April, 2017), may be accessed via the Bureau of Motor Vehicles website at <https://www.bmv.ohio.gov>.

4501:1-13-05

Notations on a certificate of title.

(A) As used in this rule:

- (1) "Salvage" means any motor vehicle which is in a wrecked, dismantled, or worn out condition, unfit for operation as a motor vehicle, or is impacted by other events that render it economically impractical to repair.
- (2) "Junk" means any motor vehicle that is incapable of being operated on public streets, roads, and highways and has no value except as a source of parts and scrap metal.
- (3) "Disposition" refers to the condition of a motor vehicle as reported by an individual or entity engaged in the business of operating a junk yard or salvage yard, or an entity engaged in business as an insurance carrier, as defined in 28 C.F.R. Chapter 25.
- (4) "NMVTIS" means the national motor vehicle title information system, as established pursuant to 49 U.S.C. §30502.
- (5) "Notation" means a marking or characterization of a motor vehicle representing the current or past condition that may affect the value or operability of the vehicle, as reflected on a certificate of title.
- (6) "Brand" is a distinctive label applied by another state or jurisdiction that describes a motor vehicle's current or past condition which may affect its value or operability.
- (7) "Replica" means a new vehicle assembled with major component parts licensed by the original manufacturer or other original, new, or reconditioned parts to resemble a specific manufacturer's make and model that is at least twenty-five years old.
- (8) "Stolen" means the taking and removing of personal property with intent to deprive the rightful owner.
- (9) "Recovered Theft" means the recovery of a rightful owner's personal property that was considered stolen.
- (10) "Scrap" means the motor vehicle has been processed into scrap metal by shredding, shearing, fragmenting, bailing, or similar means.
- (11) "Crush" means the vehicle has been rendered in such a condition that would prohibit it from ever being used or rebuilt for use.
- (12) "Sold" means the vehicle has been sold.
- (13) Empty or blank disposition field means the vehicle disposition was not known

at the time the vehicle was reported.

(B) A certificate of title or salvage certificate of title will include applicable notations consistent with any notations, brands, or other equivalent terms under another state's or jurisdiction's law.

(C) For any motor vehicle which NMVTIS displays a disposition designated with a date of January 1, 2018, or thereafter, either no certificate of title will be issued or a salvage certificate of title with any notations or brands as applicable will be issued, consistent with the reported disposition of the vehicle, as follows:

(1) If the NMVTIS record includes a blank or empty disposition field, then a salvage certificate of title will be issued;

(2) If the NMVTIS record includes a disposition of "sold", then a salvage certificate of title will be issued;

(3) If the NMVTIS record includes a disposition of "salvage", then a salvage certificate of title will be issued;

(4) If the NMVTIS record includes a disposition of "scrap", then no certificate of title will be issued;

(5) If the NMVTIS record includes a disposition of "crush", then no certificate of title will be issued;

(6) If the NMVTIS record includes a disposition of "junk", then no certificate of title will be issued.

(D) For any motor vehicle that has a certificate of title issued by this state and a disposition of salvage, sold, blank, or empty was designated in NMVTIS with a date of January 1, 2018, or thereafter, and is subsequent to the issue date of the certificate of title, a salvage certificate of title will be issued upon the transfer of ownership.

(E) Notwithstanding paragraph (C), any motor vehicle that has a certificate of title issued by another state and a disposition of salvage, sold, blank, or empty was designated in NMVTIS with a date of January 1, 2018, or thereafter, and either NMVTIS or the reporting entity can confirm that the motor vehicle has not sustained damage impacting the structural integrity or safety features of the vehicle, and has only sustained minor or cosmetic damage, a certificate of title may be issued in place of a salvage certificate of title.

(F) For any motor vehicle that has been reported stolen:

(1) If unrecovered, regardless of a paid settlement by any insurance company, a certificate of title that displays the notation of "Stolen" will be issued;

(2) If recovered and not declared to be economically impractical to repair in its recovered condition by any insurance company, a certificate of title that displays the notation of "Recovered Theft" will be issued;

(3) If recovered and declared to be economically impractical to repair in its recovered condition by any insurance company, a salvage certificate of title that displays the notation of "Recovered Theft" will be issued.

(G) Notwithstanding the requirements of section 4505.111 of the Revised Code, the owner of a motor vehicle may request that the certificate of title displays the notation of "Replica".

4501:1-13-06

Cancellation of certificates of title.

(A) Pursuant to section 4505.02 of the Revised Code and except as set forth in paragraph (C) of this rule, the registrar of motor vehicles may determine that a certificate of title has been improperly issued for any reason, including, but not limited to, erroneous issuance to the wrong individual, incorrect information on the certificate of title, or the omission of essential information on the certificate of title.

(B) If the registrar determines that a certificate of title has been improperly issued, the registrar shall notify the person to whom it was issued and any lienholders in writing, as applicable. The person who received the certificate of title shall immediately return it to the registrar. Upon receipt of the certificate of title, the registrar shall issue a cancellation notice and record it in the automated title processing system. The clerk of courts shall obtain the digital image of the cancellation notice in the automated title processing system and enter the cancellation in its records. The clerk may, at their discretion, issue a corrected certificate of title after cancellation of the improperly issued one.

(C) A title shall not be considered improperly issued if an individual takes delivery of a motor vehicle and returns the vehicle for, but not limited to, the following reasons:

(1) Denial of a finance or lease agreement;

(2) The individual's dissatisfaction with the vehicle;

(3) Insufficient funds to purchase the vehicle;

(4) A returned check from the individual's bank or financial institution;

(5) A mechanical or warranty issue with respect to the motor vehicle; or

(6) The individual's inability to obtain or maintain financial responsibility insurance with respect to the operation of the vehicle.

(D) Upon the receipt of the improperly issued title and any information requested by the registrar, the clerk of courts of common pleas may issue a corrected title.