

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4112-1-07

Rule Type: Amendment

Rule Title/Tagline: Incorporation by reference.

Agency Name: Ohio Civil Rights Commission

Division:

Address: 161 S. High St. Suite 205 Akron OH 44308

Contact: Bradley S Dunn **Phone:** 330-643-3110

Email: bradley.dunn@civ.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 3/6/2023
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4112.04
5. **What statute(s) does the rule implement or amplify?** 4112.04, 4112.05, 4112.051
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

It informs the Commission, where the rules incorporate by reference a provision of a statute, a civil rule, a regulation, or any other standard or guideline, is to incorporate the statute, civil rule, regulation, or other standard or guideline as it exists at the effective date of these rules and as it may from time to time be amended. It has been changed to add it amplifies RC 4112.051.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

It informs the Commission, where the rules incorporate by reference a provision of a statute, a civil rule, a regulation, or any other standard or guideline, is to incorporate the statute, civil rule, regulation, or other standard or guideline as it exists at the effective date of these rules and as it may from time to time be amended. It has been changed to add it amplifies RC 4112.051.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

OAC 4112-1-07 is in conflict with current law regarding incorporation by reference. The rule possessed an incorporation by reference "as it exists at the effective date of these rules and as it may from time to time be amended." This was contra to ORC 121.72 that sated "An agency that incorporates a text or other material by reference into a rule is presumed to have incorporated by reference a version of the text or other material that is in existence at the time of its incorporation by reference. An agency may not incorporate by reference a future version of the text or other material that is not in existence at the time of its incorporation by reference."

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

Not Applicable

Not Applicable

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

III. Common Sense Initiative (CSI) Questions

- 17. Was this rule filed with the Common Sense Initiative Office? No
- 18. Does this rule have an adverse impact on business? No
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
Not Applicable
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
Not Applicable
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
Not Applicable
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No
Not Applicable

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable