

OHIO DEPARTMENT OF TRANSPORTATION RULE MAKING GUIDEBOOK



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This guide is designed to allow those outside of ODOT to learn more about the Department's rule-making process, per S.B. 11 of the 123rd Ohio General Assembly. This guidebook will outline the Department's mission, its organizational structure, and the opportunities for public involvement in the rule making process. If there are any questions about the Department and its procedures for rule making, please call the ODOT Office of Legislative Services at (614) 387-5186.

OHIO DEPARTMENT OF TRANSPORTATION MISSION

To provide easy movement of people and goods from place to place, we will:

- Take care of what we have;
- Make our system work better;
- Improve safety;
- Enhance capacity.

OHIO DEPARTMENT OF TRANSPORTATION VISION

A long-term, reliable, professional and highly productive organization.

ORGANIZATIONAL STRUCTURE

The organizational structure of ODOT is primarily found in Chapter 121 of the Ohio Revised Code. This chapter states that ODOT will have appointed a director and three assistant directors for business management, field operations, and transportation policy. The director and assistant directors may choose to create divisions within ODOT to assist in carrying out the above stated mission. Several of these divisions are directly involved in ODOT's rule-making process.

REASONS FOR REVIEWING OAC RULES

- Five-Year Rule Review: ORC 119.03 requires rules to be "reviewed" at least once every five years. Reviewing a rule entails determining whether the rule should be amended, rescinded, or remain unchanged and subsequently filing the proposed rule-action with the Joint Committee on Agency Rule Review (JCARR), Legislative Service Commission (LSC), and the Secretary of State in order to maintain a record of rules filed.
- Legislation: Legislation frequently requires the Department to amend, rescind or adopt new rules.
- Program: Changing program policies or practices may also necessitate rule-action.

Joint Committee on Agency Rule Review (JCARR)

JCARR is the legislative oversight committee comprised of five senators and five representatives that reviews administrative rules on behalf of the General Assembly. The purpose of JCARR is to ensure that rules comply with relevant sections of the Revised Code and, colloquially speaking, to prevent agencies from “getting in rule” what they could not “get in law”. JCARR meets about once every three weeks as required by law. JCARR does not approve rules; rather, the only action the committee can take is to recommend invalidation of a rule (or part thereof) to the General Assembly. The vote to recommend invalidation is based on one or more of the following prongs:

- The agency lacks the statutory authority to promulgate the rule;
- The rule violates the intent of the legislation;
- The rule conflicts with an existing rule of the agency or other rule-making entity;
- The rule was filed with an incomplete or inaccurate Rule Summary and Fiscal Analysis (RSFA) form; or
- The rule fails to comply with the requirements of SB 2 (Common Sense Initiative).

Common Sense Initiative (CSI)

CSI was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Codified by Senate Bill 2 of the 129th General Assembly, CSI requires state agencies to balance the critical objectives of administrative rules with the costs of compliance by the regulated parties. Pursuant to the executive order, rules should facilitate economic growth, be as easy and inexpensive to comply with as possible, and be transparent, responsive, fair and consistent. Accordingly, state agencies are required to eliminate, reduce, or justify rule language that could potentially have an “adverse” impact on “business.”

- “Business” includes profit and nonprofit operations (of any size), but does not include public schools or districts.
- “Adverse impact” includes rule language that:
 - Requires a license, permit, or any other prior authorization to engage in or operate a line of business;
 - Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms, or
 - Requires specific expenditures or the report of information as a condition of compliance.

The CSI process applies only to rules containing language that could have an “adverse” impact on “business”. In addition, CSI does not require an agency to eliminate an adverse impact; rather, CSI strictly requires the agency to justify that impact.

PUBLIC INVOLVEMENT

To ensure the Department's mission is achieved, ODOT relies upon appropriate division leaders and staff to properly evaluate rules and regulations. However, an important factor in the overall evaluation process is input from the public. In order to ensure a proper evaluation of the Department's rules, it is important that the affected members of the public make their input known.



Public participation opportunities include:

Step 3: Rules posted for stakeholder and public comment by the Ohio Department of Transportation can be found [here](#).

Step 4: Common Sense Initiative (CSI)

Step 5: Joint Committee on Agency Rule Review (JCARR)

Step 6: Comment during the CH 119 public hearing (hearing not required if filing under ORC Section 111.15). This process allows the public and affected parties to make formal comments for the record and have input into the final evaluation of a rule. These comments may be in the form of written or verbal testimony.