

As Introduced

136th General Assembly

Regular Session

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H. B. No. 11

Representatives Ferguson, Lorenz

Cosponsors: Representatives Lear, Gross, Willis, Workman, Barhorst, Dean, Click, Fischer, Williams, Swearingen, Hall, T., Holmes, Thomas, D., Johnson, McClain, Santucci, Demetriou, Pizzulli, Mathews, T.

A BILL

To amend sections 106.02, 106.023, 106.024, 111.15, 119.03, and 119.04 and to enact sections 106.025, 106.026, 106.033, 106.10, 121.96, and 126.04 of the Revised Code to require legislative approval of administrative rules and other regulatory actions under specified conditions, to allow a JCARR chairperson to request a third-party fiscal analysis of a rule, and to require state agencies to publicly post policy documents.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 106.02, 106.023, 106.024, 111.15, 119.03, and 119.04 be amended and sections 106.025, 106.026, 106.033, 106.10, 121.96, and 126.04 of the Revised Code be enacted to read as follows:

Sec. 106.02. Except as provided in sections 106.025 and 106.026 of the Revised Code, all of the following apply to a proposed rule:

(A) Subject to division (B) of this section, when an agency files a proposed rule and rule summary and fiscal analysis with the joint committee on agency rule review, the joint committee shall review the proposed rule and rule summary and fiscal analysis, and an invalidating concurrent resolution may be adopted, not later than the sixty-fifth day after the day on which the proposed rule was filed with the joint committee. If, after filing the original version of a proposed rule, the agency makes a revision in the proposed rule, the agency shall file the revised proposed rule and a revised rule summary and fiscal analysis with the joint committee. If the revised proposed rule is filed thirty-five or fewer days after the original version of the proposed rule was filed, the joint committee shall review the revised proposed rule and revised rule summary and fiscal analysis, and an invalidating concurrent resolution may be adopted, not later than the sixty-fifth day after the original version of the proposed rule was filed. If, however, the revised proposed rule is filed more than thirty-five days after the original version of the proposed rule was filed, the joint committee shall review the revised proposed rule and revised rule summary and fiscal analysis, and an invalidating concurrent resolution may be adopted, not later than the thirtieth day after the revised proposed rule was filed with the joint committee.

(B) If, after filing a proposed rule and rule summary and fiscal analysis with the joint committee, an agency determines that it needs additional time to consider the proposed rule and possibly file a revised proposed rule, the agency may notify the joint committee of the agency's intention to file a revised proposed rule. When the agency notifies the joint committee of its intention to file a revised proposed rule, the running of

the time within which an invalidating concurrent resolution may 49
be adopted is tolled. 50

If, after notifying the joint committee of the agency's 51
intention to file a revised proposed rule, the agency makes a 52
revision in the proposed rule, the agency shall file the revised 53
proposed rule and a revised rule summary and fiscal analysis 54
with the joint committee. If the revised proposed rule is filed 55
thirty-five or fewer days after the agency filed the original 56
version of the proposed rule, the joint committee shall review 57
the revised proposed rule and revised rule summary and fiscal 58
analysis, and an invalidating concurrent resolution may be 59
adopted, not later than the sixty-fifth day after the agency 60
filed the original version of the proposed rule. If, however, 61
the revised proposed rule is filed more than thirty-five days 62
after the agency filed the original version of the proposed 63
rule, the joint committee shall review the revised proposed rule 64
and revised rule summary and fiscal analysis, and an 65
invalidating concurrent resolution may be adopted, not later 66
than the thirtieth day after the revised proposed rule is filed 67
with the joint committee. 68

(C) When an original or revised version of a proposed rule 69
and rule summary and fiscal analysis is filed with the joint 70
committee in December or in the following January before the 71
first day of the legislative session, the joint committee shall 72
review the proposed rule and rule summary and fiscal analysis, 73
and an invalidating concurrent resolution may be adopted, as if 74
the original version of the proposed rule and rule summary and 75
fiscal analysis had been filed with the joint committee on the 76
first day of the legislative session in the following January. 77
If, however, the original version of a proposed rule and rule 78
summary and fiscal analysis have been pending before the joint 79

committee for more than thirty-five days, and the proposed rule 80
and rule summary and fiscal analysis are revised in December or 81
in the following January before the first day of the legislative 82
session, the joint committee shall review the revised proposed 83
rule and revised rule summary and fiscal analysis, and an 84
invalidating concurrent resolution may be adopted, not later 85
than the thirtieth day after the first day of the legislative 86
session in the following January. 87

(D) A revised proposed rule supersedes each earlier 88
version of the same proposed rule. 89

(E) The joint committee shall endeavor not to hold its 90
public hearing on a proposed rule earlier than the forty-first 91
day after the proposed rule was filed with the joint committee. 92
The chairperson of the joint committee responsible for calling 93
and conducting meetings under section 101.35 of the Revised Code 94
may select a date for the committee's public hearing on a 95
proposed rule that is earlier than the forty-first day after the 96
proposed rule was filed. 97

Sec. 106.023. (A) An agency may not adopt a proposed rule 98
or revised proposed rule or file it in final form unless the 99
proposed rule has been filed with the joint committee on agency 100
rule review under division (D) of section 111.15 or division (C) 101
of section 119.03 of the Revised Code and ~~the one of the~~ 102
following applies: 103

(1) The time for the joint committee to review the 104
proposed rule and for the adoption of an invalidating concurrent 105
resolution has expired without adoption of a concurrent 106
resolution to invalidate the proposed rule; 107

(2) The rule or revised proposed rule is subject to 108

section 106.026 of the Revised Code, and a law authorizing its 109
adoption has been enacted in accordance with Ohio Constitution, 110
Article II, Sections 15 and 16. 111

(B) If, before the time for its review of a proposed rule 112
or revised proposed rule expires, the joint committee recommends 113
adoption of a concurrent resolution invalidating the proposed 114
rule or revised proposed rule, and the senate and house of 115
representatives does not, within the time remaining for adoption 116
of the concurrent resolution, hold five sessions at which its 117
journal records a roll call vote disclosing a sufficient number 118
of members in attendance to pass a bill, the time within which 119
that house may adopt the concurrent resolution is extended until 120
it has held five such sessions. 121

Sec. 106.024. (A) As used in this section: 122

(1) "Agency" has the meaning defined in section 106.01 of 123
the Revised Code. 124

(2) "Rule" includes the adoption, amendment, or rescission 125
of a rule. 126

(3) "Proposed rule" means the original version of a 127
proposed rule, and each revised version of the same proposed 128
rule, that is filed with the joint committee on agency rule 129
review under division (D) of section 111.15 or division (C) of 130
section 119.03 of the Revised Code. 131

(B) An agency shall prepare, on the form designed by the 132
joint committee on agency rule review, a complete and accurate 133
rule summary and fiscal analysis of each proposed rule that it 134
files under division (D) of section 111.15 or division (C) of 135
section 119.03 of the Revised Code. 136

The joint committee on agency rule review shall design a 137

form for the rule summary and fiscal analysis. The form may	138
solicit information such as the following information:	139
(1) The name, address, and telephone number of the agency,	140
and the name, telephone number, and electronic mail address of	141
an individual or office within the agency designated by that	142
agency to be responsible for coordinating and making available	143
information in the possession of the agency regarding the	144
proposed rule;	145
(2) The Ohio Administrative Code rule number of the	146
proposed rule;	147
(3) A brief summary of, and the legal basis for, the	148
proposed rule, including citations identifying the statute that	149
prescribes the procedure in accordance with which the agency is	150
required to adopt the proposed rule, the statute that authorizes	151
the agency to adopt the proposed rule, and the statute that the	152
agency intends to amplify or implement by adopting the proposed	153
rule;	154
(4) An estimate, in dollars, of the amount by which the	155
proposed rule would increase or decrease revenues or	156
expenditures during the current biennium;	157
(5) A citation identifying the appropriation that	158
authorizes each expenditure that would be necessitated by the	159
proposed rule;	160
(6) A summary of the estimated cost of compliance with the	161
rule to all directly affected persons;	162
(7) The reasons why the rule is being proposed;	163
(8) If the rule has a fiscal effect on school districts,	164
counties, townships, or municipal corporations, an estimate in	165

dollars of the cost of compliance with the rule, or, if dollar amounts cannot be determined, a written explanation of why it was not possible to ascertain dollar amounts;

(9) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations and is the result of a federal requirement, a clear explanation that the proposed state rule does not exceed the scope and intent of the requirement, or, if the state rule does exceed the minimum necessary federal requirement, a justification of the excess cost, and an estimate of the costs, including those costs for local governments, exceeding the federal requirement;

(10) If the rule has a fiscal effect on school districts, counties, townships, or municipal corporations, a comprehensive cost estimate that includes the procedure and method of calculating the costs of compliance and identifies major cost categories including personnel costs, new equipment or other capital costs, operating costs, and indirect central service costs related to the rule. The fiscal analysis shall also include a written explanation of the agency's and the affected local government's ability to pay for the new requirements and a statement of any impact the rule will have on economic development.

(11) If the rule incorporates a text or other material by reference, and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code on grounds the incorporated text or other material has one or more of the characteristics described in division (B) of section 121.75 of the Revised Code, an explanation of how the incorporated text or other material is exempted under that division;

(12) If the rule imposes a fee, an explanation of how the fee directly relates to the cost actually incurred by the agency in performing the function for which the fee is charged;

(13) A comparison between the proposed rule and the approach, if any, used by the federal government and the states surrounding Ohio to address the same issue the proposed rule seeks to address.

The rule summary and fiscal analysis form, ~~instead shall~~ solicit the information in divisions (B) (4), (6), (8), (9), (10), (12), and (13) of this section, if applicable. Instead of or in addition to the foregoing information in divisions (B) (1) to (3), (5), (7), and (11) of this section, the form may solicit any other information the joint committee on agency rule review considers necessary to make the proposed rule or the fiscal effect of the proposed rule fully understandable.

(C) The agency shall file the rule summary and fiscal analysis in electronic form along with the proposed rule that it files under division (D) of section 111.15 or divisions (B) and (C) of section 119.03 of the Revised Code. The joint committee on agency rule review shall not accept any proposed rule for filing unless a copy of the rule summary and fiscal analysis of the proposed rule, completely and accurately prepared, is filed along with the proposed rule.

(D) The joint committee on agency rule review shall review the fiscal effect of each proposed rule that is filed under division (D) of section 111.15 or division (C) of section 119.03 of the Revised Code.

Sec. 106.025. (A) (1) After an agency files a proposed rule and rule summary and fiscal analysis with the joint committee on

agency rule review, the chairperson appointed by the speaker of 225
the house of representatives or the chairperson appointed by the 226
president of the senate may request in writing that an 227
independent third party prepare an alternative, complete and 228
accurate rule summary and fiscal analysis of the proposed rule. 229
A request by the chairperson appointed by the speaker of the 230
house of representatives requires approval by a resolution 231
adopted by the house of representatives. A request by the 232
chairperson appointed by the president of the senate requires 233
approval by a resolution adopted by the senate. 234

(2) When a chairperson of the joint committee requests an 235
alternative rule summary and fiscal analysis be prepared under 236
division (A) (1) of this section, the running of the time within 237
which an invalidating concurrent resolution may be adopted is 238
tolled. If a resolution approving a request for an alternative 239
rule summary and fiscal analysis is not adopted under this 240
division by the later of the following, the request is denied: 241

(a) Thirty days after the request is made; or 242

(b) The first session after the request of the chamber to 243
which the requesting chairperson belongs at which the chamber's 244
journal records a roll call vote disclosing a sufficient number 245
of members in attendance to pass a bill. 246

(3) If a request for an alternative rule summary and 247
fiscal analysis is denied under division (A) (2) of this section, 248
the joint committee shall review the proposed rule and rule 249
summary and fiscal analysis. An invalidating concurrent 250
resolution may be adopted not later than the thirtieth day after 251
the denial. 252

(B) If a request for an alternative rule summary and 253

fiscal analysis made under division (A) of this section is 254
approved, the chairperson who requested the alternative rule 255
summary and fiscal analysis shall notify the agency that filed 256
the proposed rule and shall contract with a qualified, 257
independent third party that is not an agency to prepare the 258
alternative rule summary and fiscal analysis of the proposed 259
rule. 260

(C) The independent third party contracted to complete the 261
alternative rule summary and fiscal analysis under division (B) 262
of this section shall do so using the same form designed by the 263
joint committee pursuant to section 106.024 of the Revised Code 264
as used by the agency that filed the proposed rule. The 265
independent third party shall complete the alternative rule 266
summary and fiscal analysis not less than sixty days after 267
entering the contract to complete the rule summary and fiscal 268
analysis. 269

(D) On completing the alternative rule summary and fiscal 270
analysis, the independent third party shall transmit it to the 271
chairperson who requested it. The chairperson shall 272
electronically transmit it to the agency that filed the proposed 273
rule, the members of the joint committee, the secretary of 274
state, the director of the legislative service commission, the 275
governor, and the house and senate clerks. The clerks shall make 276
the alternative rule summary and fiscal analysis available to 277
the members of their respective chambers. The director of the 278
legislative service commission shall publish it in the register 279
of Ohio. 280

Except as provided in section 106.026 of the Revised Code, 281
the joint committee shall review the proposed rule and the rule 282
summaries and fiscal analyses prepared under this section and 283

section 106.024 of the Revised Code, and an invalidating 284
concurrent resolution may be adopted not later than the 285
thirtieth day after the director of the legislative service 286
commission publishes the rule summary and fiscal analysis 287
prepared under this section. A failure to request an alternative 288
rule summary and fiscal analysis under division (A) of this 289
section, or the denial of such a request, is not an independent 290
reason to recommend an invalidating concurrent resolution under 291
section 106.021 of the Revised Code. 292

(E) (1) The chairperson who requested the alternative rule 293
summary and fiscal analysis under division (A) of this section 294
may authorize the cost of completing the alternative rule 295
summary and fiscal analysis to be paid from the joint 296
committee's current appropriations for operations. The cost 297
shall be reimbursed in one of the following ways, as applicable: 298

(a) If the estimated costs described in division (B) (4), 299
(6), (8), (10), or (12) of section 106.024 of the Revised Code, 300
or the estimated excess cost described in division (B) (9) of 301
section 106.024 of the Revised Code, as calculated in the 302
alternative rule summary and fiscal analysis prepared under this 303
section vary from the estimates in the rule summary and fiscal 304
analysis for the proposed rule prepared by the agency by ten per 305
cent or more, or vary from the agency's determination that there 306
will be no such costs, the agency that filed the proposed rule 307
shall reimburse the cost of preparing the alternative rule 308
summary and fiscal analysis from its regular appropriation out 309
of any fund designated for operating expenses. 310

(b) If the estimated costs described in division (B) (4), 311
(6), (8), (10), or (12) of section 106.024 of the Revised Code, 312
or the estimated excess cost described in division (B) (9) of 313

section 106.024 of the Revised Code, as calculated in the 314
alternative rule summary and fiscal analysis prepared under this 315
section vary from the estimates in the rule summary and fiscal 316
analysis prepared by the agency by less than ten per cent, or 317
agree with the agency's determination that there will be no such 318
costs, the cost of preparing the alternative rule summary and 319
fiscal analysis shall be reimbursed out of the regular 320
appropriation to the chamber of the general assembly of which 321
the chairperson who requested the alternative rule summary and 322
fiscal analysis is a member. 323

(2) The director of budget and management shall make any 324
transfers necessary to carry out the requirements in division 325
(E)(1) of this section. 326

Sec. 106.026. (A) This section applies to a proposed rule 327
if the rule summary and fiscal analysis for the proposed rule 328
prepared by the agency under section 106.024 of the Revised Code 329
or the rule summary and fiscal analysis for the proposed rule 330
prepared by an independent third party under section 106.025 of 331
the Revised Code estimate either of the following: 332

(1) The proposed rule will increase the agency's 333
expenditures during the current biennium by one hundred thousand 334
dollars or more. 335

(2) The cost to comply with the proposed rule for a 336
directly affected person will be one hundred thousand dollars or 337
more. 338

(B) If a proposed rule is subject to this section, the 339
chairperson of the joint committee on agency rule review 340
responsible for calling and conducting meetings under section 341
101.35 of the Revised Code shall immediately transmit the 342

proposed rule and rule summary and fiscal analysis to the clerk 343
of the senate and the clerk of the house of representatives. 344
After the chairperson of the joint committee transmits the rule 345
and rule summary and fiscal analysis under this division, all of 346
the following apply: 347

(1) The joint committee shall take no further action with 348
respect to the proposed rule until after it is adopted or 349
refiled in accordance with division (D) of this section. 350

(2) The agency shall not file a revised proposed version 351
of the rule. 352

(3) The agency shall not adopt the proposed rule unless 353
adoption is authorized by a law enacted in accordance with Ohio 354
Constitution, Article II, Sections 15 and 16 after the 355
chairperson transmits the rule and rule summary and fiscal 356
analysis under this division. 357

(C) As soon as practicable after receiving a proposed rule 358
transmitted under division (B) of this section: 359

(1) The clerk of the senate shall make the proposed rule 360
and rule summary and fiscal analysis available to all members of 361
the senate; and 362

(2) The clerk of the house of representatives shall make 363
the proposed rule and rule summary and fiscal analysis available 364
to all members of the house of representatives. 365

Any member of the general assembly may introduce 366
legislation authorizing the agency to adopt the proposed rule. 367

(D) If a law authorizing the proposed rule is enacted 368
before the general assembly adjourns sine die, legislative 369
review under this chapter ends and the agency may, on or after 370

the law's effective date, file the rule in compliance with 371
section 111.15 or 119.04 of the Revised Code, as applicable. If 372
a law authorizing the rule is not enacted before the general 373
assembly adjourns sine die, the proposed rule is invalidated. 374
The agency may refile the rule and rule summary and fiscal 375
analysis with the joint committee. 376

(E) This section does not apply to any rule that is exempt 377
from legislative review under division (D) of section 111.15 of 378
the Revised Code or division (C) of section 119.03 of the 379
Revised Code. 380

(F) The enactment of a law in accordance with Ohio 381
Constitution, Article II, Sections 15 and 16, authorizing an 382
agency to adopt a proposed rule to which this section applies, 383
does not do either of the following: 384

(1) Grant an agency additional rulemaking authority or 385
modify the agency's existing rulemaking authority; 386

(2) Extinguish or modify any claim against an agency 387
arising from the rule. 388

(G) The enactment of a law in accordance with Ohio 389
Constitution, Article II, Sections 15 and 16, authorizing an 390
agency to adopt a proposed rule to which this section applies, 391
shall not be used as evidence in any proceeding concerning the 392
rule except for the purpose of determining whether the rule is 393
in effect. 394

Sec. 106.033. (A) Except as provided in this section, a 395
rule subject to, and adopted in accordance with, section 106.026 396
of the Revised Code expires on the date that is five years after 397
the effective date of the law authorizing the rule's adoption or 398
five years after the effective date of the most recent law 399

authorizing the rule's renewal. 400

(B) Not less than one hundred eighty days before a rule 401
described in division (A) of this section expires, if the agency 402
that adopted the rule determines that the rule should not 403
expire, the agency shall transmit the rule and a rule summary 404
and fiscal analysis prepared in accordance with section 106.024 405
of the Revised Code to the clerk of the senate and the clerk of 406
the house of representatives. The rule summary shall include the 407
date the rule will expire under division (A) of this section. 408

(C) If the general assembly enacts a law authorizing the 409
rule's extension that takes effect before the rule expires, the 410
agency may renew the rule for an additional five years from the 411
law's effective date. If the general assembly does not enact a 412
law that takes effect before the rule expires, the rule expires. 413
If the rule expires, the rule may not be readopted in 414
substantially the same form, and a new rule that is 415
substantially the same as the rule may not be adopted, unless 416
the readopted or new rule is specifically authorized by a law as 417
described in section 106.026 of the Revised Code. 418

Sec. 106.10. In any adjudication or court proceeding, in 419
which a person has allegedly violated a rule adopted under 420
section 111.15 or 119.03 of the Revised Code, both of the 421
following apply: 422

(A) It is an affirmative defense to the alleged violation 423
that a person of ordinary intelligence could not anticipate from 424
the law purported to be the basis for the rule that the 425
individual's conduct would be unlawful. 426

(B) The person may challenge the rule's validity on the 427
basis that the rule's adoption should have been authorized by a 428

law as described in section 106.026 of the Revised Code, and a 429
law authorizing its adoption was not enacted. 430

Sec. 111.15. (A) As used in this section: 431

(1) "Rule" includes any rule, regulation, bylaw, or 432
standard having a general and uniform operation adopted by an 433
agency under the authority of the laws governing the agency; any 434
appendix to a rule; and any internal management rule. "Rule" 435
does not include any guideline adopted pursuant to section 436
3301.0714 of the Revised Code, any order respecting the duties 437
of employees, any finding, any determination of a question of 438
law or fact in a matter presented to an agency, or any rule 439
promulgated pursuant to Chapter 119. or division (C) (1) or (2) 440
of section 5117.02 of the Revised Code. "Rule" includes any 441
amendment or rescission of a rule. 442

(2) "Agency" means any governmental entity of the state 443
and includes, but is not limited to, any board, department, 444
division, commission, bureau, society, council, institution, 445
state college or university, community college district, 446
technical college district, or state community college. "Agency" 447
does not include the general assembly, the controlling board, 448
the adjutant general's department, or any court. 449

(3) "Internal management rule" means any rule, regulation, 450
bylaw, or standard governing the day-to-day staff procedures and 451
operations within an agency. 452

(B) (1) Any rule, other than a rule of an emergency nature, 453
adopted by any agency pursuant to this section shall be 454
effective on the tenth day after the day on which the rule in 455
final form and in compliance with division (B) (3) of this 456
section is filed as follows: 457

(a) The rule shall be filed in electronic form with both 458
the secretary of state and the director of the legislative 459
service commission; 460

(b) The rule shall be filed in electronic form with the 461
joint committee on agency rule review. Division (B) (1) (b) of 462
this section does not apply to any rule to which division (D) of 463
this section does not apply. 464

~~An~~ Except as provided in this paragraph, an agency that 465
adopts or amends a rule that is subject to division (D) of this 466
section shall assign a review date to the rule that is not later 467
than five years after its effective date. If a review date 468
assigned to a rule exceeds the five-year maximum, the review 469
date for the rule is five years after its effective date. A rule 470
with a review date is subject to review under section 106.03 of 471
the Revised Code. This paragraph does not apply to a rule of a 472
state college or university, community college district, 473
technical college district, or state community college. A rule 474
subject to section 106.026 of the Revised Code requiring a law 475
authorizing its adoption is not subject to review under section 476
106.03 of the Revised Code and expires in accordance with 477
section 106.033 of the Revised Code. 478

If an agency in adopting a rule designates an effective 479
date that is later than the effective date provided for by 480
division (B) (1) of this section, the rule if filed as required 481
by such division shall become effective on the later date 482
designated by the agency. 483

Any rule that is required to be filed under division (B) 484
(1) of this section is also subject to division (D) of this 485
section if not exempted by that division. 486

If a rule incorporates a text or other material by reference, the agency shall comply with sections 121.71 to 121.75 of the Revised Code.

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. The emergency rule, in final form and in compliance with division (B) (3) of this section, shall be filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. The emergency rule is effective immediately upon completion of the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B) (2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

Except as provided in section 107.43 of the Revised Code, an emergency rule becomes invalid at the end of the one hundred twentieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B) (1) of this section. The agency may not refile the emergency rule in compliance with division (B) (2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another one hundred twenty-day period.

The adoption of an emergency rule under division (B) (2) of this section in response to a state of emergency, as defined under section 107.42 of the Revised Code, may be invalidated by the general assembly, in whole or in part, by adopting a

concurrent resolution in accordance with section 107.43 of the Revised Code. 517
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(3) An agency shall file a rule under division (B) (1) or (2) of this section in compliance with the following standards and procedures: 519
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(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code. 522
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(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission. 525
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(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known. 527
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(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the rule as amended. 529
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If the director of the legislative service commission or the director's designee gives an agency notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice. 532
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(C) All rules filed pursuant to divisions (B) (1) (a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be 539
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transmitted to any law publishing company that wishes to 546
reproduce it. 547

~~(D)~~(D) (1) At least sixty-five days before a board, 548
commission, department, division, or bureau of the government of 549
the state files a rule under division (B) (1) of this section, it 550
shall file the full text of the proposed rule in electronic form 551
with the joint committee on agency rule review, and the proposed 552
rule is subject to legislative review and invalidation under 553
section 106.021 or 106.026 of the Revised Code. If a state 554
board, commission, department, division, or bureau makes a 555
revision in a proposed rule after it is filed with the joint 556
committee, the state board, commission, department, division, or 557
bureau shall promptly file the full text of the proposed rule in 558
its revised form in electronic form with the joint committee. A 559
state board, commission, department, division, or bureau shall 560
also file the rule summary and fiscal analysis prepared under 561
section 106.024 of the Revised Code in electronic form along 562
with a proposed rule, and along with a proposed rule in revised 563
form, that is filed under this division. If a proposed rule has 564
an adverse impact on businesses, the state board, commission, 565
department, division, or bureau also shall file the business 566
impact analysis, any recommendations received from the common 567
sense initiative office, and the associated memorandum of 568
response, if any, in electronic form along with the proposed 569
rule, or the proposed rule in revised form, that is filed under 570
this division. 571

(2) A proposed rule that is subject to legislative review 572
under this division may not be adopted and filed in final form 573
under division (B) (1) of this section unless ~~the~~ one of the 574
following applies: 575

(a) The proposed rule has been filed with the joint 576
committee on agency rule review under this division and the time 577
for the joint committee to review the proposed rule has expired 578
without recommendation of a concurrent resolution to invalidate 579
the proposed rule; 580

(b) The proposed rule is subject to section 106.026 of the 581
Revised Code, and a law authorizing its adoption enacted in 582
accordance with Ohio Constitution, Article II, Sections 15 and 583
16 is in effect. 584

(3) If a proposed rule that is subject to legislative 585
review under this division implements a federal law or rule, the 586
agency shall provide to the joint committee a citation to the 587
federal law or rule the proposed rule implements and a statement 588
as to whether the proposed rule implements the federal law or 589
rule in a manner that is more or less stringent or burdensome 590
than the federal law or rule requires. 591

(4) As used in this division, "commission" includes the 592
public utilities commission when adopting rules under a federal 593
or state statute. 594

(5) This division does not apply to any of the following: 595

~~(1)~~ (a) A proposed rule of an emergency nature; 596

~~(2)~~ (b) A rule proposed under section 1121.05, 1121.06, 597
1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 598
4123.342, 4123.345, 4123.40, 4123.411, 4123.44, or 4123.442 of 599
the Revised Code; 600

~~(3)~~ (c) A rule proposed by an agency other than a board, 601
commission, department, division, or bureau of the government of 602
the state; 603

~~(4)~~(d) A proposed internal management rule of a board, 604
commission, department, division, or bureau of the government of 605
the state; 606

~~(5)~~(e) Any proposed rule that must be adopted verbatim by 607
an agency pursuant to federal law or rule, to become effective 608
within sixty days of adoption, in order to continue the 609
operation of a federally reimbursed program in this state, so 610
long as the proposed rule contains both of the following: 611

~~(a)~~(i) A statement that it is proposed for the purpose of 612
complying with a federal law or rule; 613

~~(b)~~(ii) A citation to the federal law or rule that 614
requires verbatim compliance. 615

~~(6)~~(f) An initial rule proposed by the director of health 616
to impose quality standards on a health care facility as defined 617
in section 3702.30 of the Revised Code; 618

~~(7)~~(g) A rule of the state lottery commission pertaining 619
to instant game rules. 620

If a rule is exempt from legislative review under division 621
~~(D)~~(5)(D) (5) (e) of this section, and if the federal law or rule 622
pursuant to which the rule was adopted expires, is repealed or 623
rescinded, or otherwise terminates, the rule is thereafter 624
subject to legislative review under division (D) of this 625
section. 626

Whenever a state board, commission, department, division, 627
or bureau files a proposed rule or a proposed rule in revised 628
form under division (D) of this section, it shall also file the 629
full text of the same proposed rule or proposed rule in revised 630
form in electronic form with the secretary of state and the 631
director of the legislative service commission. A state board, 632

commission, department, division, or bureau shall file the rule 633
summary and fiscal analysis prepared under section 106.024 of 634
the Revised Code in electronic form along with a proposed rule 635
or proposed rule in revised form that is filed with the 636
secretary of state or the director of the legislative service 637
commission. 638

Sec. 119.03. In the adoption, amendment, or rescission of 639
any rule, an agency shall comply with the following procedure: 640

(A) Reasonable public notice shall be given in the 641
register of Ohio at least thirty days prior to the date set for 642
a hearing, in the form the agency determines. The agency shall 643
file copies of the public notice under division (B) of this 644
section. (The agency gives public notice in the register of Ohio 645
when the public notice is published in the register under that 646
division.) 647

The public notice shall include: 648

(1) A statement of the agency's intention to consider 649
adopting, amending, or rescinding a rule; 650

(2) A synopsis of the proposed rule, amendment, or rule to 651
be rescinded or a general statement of the subject matter to 652
which the proposed rule, amendment, or rescission relates; 653

(3) A statement of the reason or purpose for adopting, 654
amending, or rescinding the rule; 655

(4) The date, time, and place of a hearing on the proposed 656
action, which shall be not earlier than the thirty-first nor 657
later than the fortieth day after the proposed rule, amendment, 658
or rescission is filed under division (B) of this section. 659

In addition to public notice given in the register of 660

Ohio, the agency may give whatever other notice it reasonably 661
considers necessary to ensure notice constructively is given to 662
all persons who are subject to or affected by the proposed rule, 663
amendment, or rescission. 664

The agency shall provide a copy of the public notice 665
required under division (A) of this section to any person who 666
requests it and pays a reasonable fee, not to exceed the cost of 667
copying and mailing. 668

(B) The full text of the proposed rule, amendment, or rule 669
to be rescinded, accompanied by the public notice required under 670
division (A) of this section, shall be filed in electronic form 671
with the secretary of state and with the director of the 672
legislative service commission. (If in compliance with this 673
division an agency files more than one proposed rule, amendment, 674
or rescission at the same time, and has prepared a public notice 675
under division (A) of this section that applies to more than one 676
of the proposed rules, amendments, or rescissions, the agency 677
shall file only one notice with the secretary of state and with 678
the director for all of the proposed rules, amendments, or 679
rescissions to which the notice applies.) The proposed rule, 680
amendment, or rescission and public notice shall be filed as 681
required by this division at least sixty-five days prior to the 682
date on which the agency, in accordance with division (E) of 683
this section, issues an order adopting the proposed rule, 684
amendment, or rescission. 685

If the proposed rule, amendment, or rescission 686
incorporates a text or other material by reference, the agency 687
shall comply with sections 121.71 to 121.75 of the Revised Code. 688

The proposed rule, amendment, or rescission shall be 689
available for at least thirty days prior to the date of the 690

hearing at the office of the agency in printed or other legible 691
form without charge to any person affected by the proposal. 692
Failure to furnish such text to any person requesting it shall 693
not invalidate any action of the agency in connection therewith. 694

If the agency files a revision in the text of the proposed 695
rule, amendment, or rescission, it shall also promptly file the 696
full text of the proposed rule, amendment, or rescission in its 697
revised form in electronic form with the secretary of state and 698
with the director of the legislative service commission. 699

The agency shall file the rule summary and fiscal analysis 700
prepared under section 106.024 of the Revised Code in electronic 701
form along with a proposed rule, amendment, or rescission or 702
proposed rule, amendment, or rescission in revised form that is 703
filed with the secretary of state or the director of the 704
legislative service commission. 705

The agency shall file the hearing report relating to a 706
proposed rule, amendment, or rescission in electronic form with 707
the secretary of state and the director of the legislative 708
service commission at the same time the agency files the hearing 709
report with the joint committee on agency rule review. 710

The director of the legislative service commission shall 711
publish in the register of Ohio the full text of the original 712
and each revised version of a proposed rule, amendment, or 713
rescission; the full text of a public notice; the full text of a 714
rule summary and fiscal analysis; and the full text of a hearing 715
report that is filed with the director under this division. 716

~~(C)~~ (1) When an agency files a proposed rule, amendment, 717
or rescission under division (B) of this section, it also shall 718
file in electronic form with the joint committee on agency rule 719

review the full text of the proposed rule, amendment, or rule to 720
be rescinded in the same form and the public notice required 721
under division (A) of this section. (If in compliance with this 722
division an agency files more than one proposed rule, amendment, 723
or rescission at the same time, and has given a public notice 724
under division (A) of this section that applies to more than one 725
of the proposed rules, amendments, or rescissions, the agency 726
shall file only one notice with the joint committee for all of 727
the proposed rules, amendments, or rescissions to which the 728
notice applies.) The proposed rule, amendment, or rescission is 729
subject to legislative review and invalidation under sections 730
106.02, 106.021, ~~and 106.022,~~ and 106.026 of the Revised Code. 731
If the agency makes a revision in a proposed rule, amendment, or 732
rescission after it is filed with the joint committee, the 733
agency promptly shall file the full text of the proposed rule, 734
amendment, or rescission in its revised form in electronic form 735
with the joint committee. 736

An agency shall file the rule summary and fiscal analysis 737
prepared under section 106.024 of the Revised Code in electronic 738
form along with a proposed rule, amendment, or rescission, and 739
along with a proposed rule, amendment, or rescission in revised 740
form, that is filed under this division. 741

(2) If a proposed rule, amendment, or rescission has an 742
adverse impact on businesses, the agency also shall file the 743
business impact analysis, any recommendations received from the 744
common sense initiative office, and the agency's memorandum of 745
response, if any, in electronic form along with the proposed 746
rule, amendment, or rescission, or along with the proposed rule, 747
amendment, or rescission in revised form, that is filed under 748
this division. 749

(3) The agency shall file the hearing report in electronic 750
form with the joint committee before the joint committee holds 751
its public hearing on the proposed rule, amendment, or 752
rescission. The filing of a hearing report does not constitute a 753
revision of the proposed rule, amendment, or rescission to which 754
the hearing report relates. 755

(4) If the proposed rule, amendment, or rescission 756
requires liability insurance, a bond, or any other financial 757
responsibility instrument as a condition of licensure, the 758
agency shall conduct a diligent search to determine if the 759
liability insurance, bond, or other financial responsibility 760
instrument is readily available in the amounts required as a 761
condition of licensure, and shall certify to the joint committee 762
that the search was conducted. 763

(5) If the proposed rule, amendment, or rescission 764
implements a federal law or rule, the agency shall provide to 765
the joint committee a citation to the federal law or rule the 766
proposed rule, amendment, or rescission implements and a 767
statement as to whether the proposed rule implements the federal 768
law or rule in a manner that is more or less stringent or 769
burdensome than the federal law or rule requires. 770

(6) A proposed rule, amendment, or rescission that is 771
subject to legislative review under this division may not be 772
adopted under division (E) of this section or filed in final 773
form under section 119.04 of the Revised Code unless ~~the~~one of 774
the following applies: 775

(a) The proposed rule, amendment, or rescission has been 776
filed with the joint committee on agency rule review under this 777
division and the time for legislative review of the proposed 778
rule, amendment, or rescission has expired without adoption of a 779

concurrent resolution to invalidate the proposed rule, 780
amendment, or rescission; 781

(b) The proposed rule, amendment, or rescission is subject 782
to section 106.026 of the Revised Code, and a law authorizing 783
its adoption enacted in accordance with Ohio Constitution, 784
Article II, Sections 15 and 16 is in effect. 785

(7) This division does not apply to: 786

~~(1)~~ (a) An emergency rule, amendment, or rescission; 787

~~(2)~~ (b) A proposed rule, amendment, or rescission that 788
must be adopted verbatim by an agency pursuant to federal law or 789
rule, to become effective within sixty days of adoption, in 790
order to continue the operation of a federally reimbursed 791
program in this state, so long as the proposed rule contains 792
both of the following: 793

~~(a)~~ (i) A statement that it is proposed for the purpose of 794
complying with a federal law or rule; 795

~~(b)~~ (ii) A citation to the federal law or rule that 796
requires verbatim compliance. 797

~~(3)~~ (c) A proposed rule, amendment, or rescission that, as 798
set forth in section 3719.41 of the Revised Code, must be 799
adopted by the state board of pharmacy pursuant to federal law 800
or rule, to become effective within sixty days of adoption, so 801
long as the proposed rule contains a statement that it is 802
proposed for the purpose of complying with federal law or rule. 803

(8) If a rule or amendment is exempt from legislative 804
review under division ~~(C) (2)~~ (C) (7) (b) of this section, and if 805
the federal law or rule pursuant to which the rule or amendment 806
was adopted expires, is repealed or rescinded, or otherwise 807

terminates, the rule or amendment, or its rescission, is 808
thereafter subject to legislative review under division (C) of 809
this section. 810

(D) On the date and at the time and place designated in 811
the notice, the agency shall conduct a public hearing at which 812
any person affected by the proposed action of the agency may 813
appear and be heard in person, by the person's attorney, or 814
both, may present the person's position, arguments, or 815
contentions, orally or in writing, offer and examine witnesses, 816
and present evidence tending to show that the proposed rule, 817
amendment, or rescission, if adopted or effectuated, will be 818
unreasonable or unlawful. An agency may permit persons affected 819
by the proposed rule, amendment, or rescission to present their 820
positions, arguments, or contentions in writing, not only at the 821
hearing, but also for a reasonable period before, after, or both 822
before and after the hearing. A person who presents a position 823
or arguments or contentions in writing before or after the 824
hearing is not required to appear at the hearing. 825

At the hearing, the testimony shall be recorded. Such 826
record shall be made at the expense of the agency. The agency is 827
required to transcribe a record that is not sight readable only 828
if a person requests transcription of all or part of the record 829
and agrees to reimburse the agency for the costs of the 830
transcription. An agency may require the person to pay in 831
advance all or part of the cost of the transcription. 832

In any hearing under this section the agency may 833
administer oaths or affirmations. 834

The agency shall consider the positions, arguments, or 835
contentions presented at, or before or after, the hearing. The 836
agency shall prepare a hearing summary of the positions, 837

arguments, or contentions, and of the issues raised by the 838
positions, arguments, or contentions. The agency then shall 839
prepare a hearing report explaining, with regard to each issue, 840
how it is reflected in the rule, amendment, or rescission. If an 841
issue is not reflected in the rule, amendment, or rescission, 842
the hearing report shall explain why the issue is not reflected. 843
The agency shall include the hearing summary in the hearing 844
report as an appendix thereto. And, in the hearing report, the 845
agency shall identify the proposed rule, amendment, or 846
rescission to which the hearing report relates. 847

~~(E)~~ After (E) (1) Subject to division (E) (2) of this 848
section, after divisions (A), (B), (C), and (D) of this section 849
have been complied with, and when the time for legislative 850
review under sections 106.02, 106.022, and 106.023 of the 851
Revised Code has expired without adoption of a concurrent 852
resolution to invalidate the proposed rule, amendment, or 853
rescission, the agency may issue an order adopting the proposed 854
rule or the proposed amendment or rescission of the rule, 855
consistent with the synopsis or general statement included in 856
the public notice. At that time the agency shall designate the 857
effective date of the rule, amendment, or rescission, which 858
shall not be earlier than the tenth day after the rule, 859
amendment, or rescission has been filed in its final form as 860
provided in section 119.04 of the Revised Code. 861

(2) If a proposed rule, amendment, or rescission is 862
subject to section 106.026 of the Revised Code, the agency may 863
issue an order adopting the proposed rule or the proposed 864
amendment or rescission of the rule on or after the effective 865
date of the law authorizing adoption enacted in accordance with 866
Ohio Constitution, Article II, Sections 15 and 16. 867

(F) Prior to the effective date of a rule, amendment, or 868
rescission, the agency shall make a reasonable effort to inform 869
those affected by the rule, amendment, or rescission and to have 870
available for distribution to those requesting it the full text 871
of the rule as adopted or as amended. 872

(G) (1) If the governor, upon the request of an agency, 873
determines that an emergency requires the immediate adoption, 874
amendment, or rescission of a rule, the governor shall issue an 875
order, the text of which shall be filed in electronic form with 876
the agency, the secretary of state, the director of the 877
legislative service commission, and the joint committee on 878
agency rule review, that the procedure prescribed by this 879
section with respect to the adoption, amendment, or rescission 880
of a specified rule is suspended. The agency may then adopt 881
immediately the emergency rule, amendment, or rescission and it 882
becomes effective on the date the rule, amendment, or 883
rescission, in final form and in compliance with division (A) (2) 884
of section 119.04 of the Revised Code, is filed in electronic 885
form with the secretary of state, the director of the 886
legislative service commission, and the joint committee on 887
agency rule review. The director shall publish the full text of 888
the emergency rule, amendment, or rescission in the register of 889
Ohio. 890

Except as provided in division (G) (2) of this section, or 891
section 107.43 of the Revised Code, the emergency rule, 892
amendment, or rescission shall become invalid at the end of the 893
one hundred twentieth day it is in effect. Prior to that date 894
the agency may adopt the emergency rule, amendment, or 895
rescission as a nonemergency rule, amendment, or rescission by 896
complying with the procedure prescribed by this section for the 897
adoption, amendment, and rescission of nonemergency rules. The 898

agency shall not use the procedure of division (G) (1) of this 899
section to readopt the emergency rule, amendment, or rescission 900
so that, upon the emergency rule, amendment, or rescission 901
becoming invalid under division (G) (1) of this section, the 902
emergency rule, amendment, or rescission will continue in effect 903
without interruption for another one-hundred-twenty-day period, 904
except when section 106.02 of the Revised Code prevents the 905
agency from adopting the emergency rule, amendment, or 906
rescission as a nonemergency rule, amendment, or rescission 907
within the one-hundred-twenty-day period. 908

Division (G) (1) of this section does not apply to the 909
adoption of any emergency rule, amendment, or rescission by the 910
tax commissioner under division (C) (2) of section 5117.02 of the 911
Revised Code. 912

(2) An emergency rule or amendment adding a substance to a 913
controlled substance schedule shall become invalid at the end of 914
the one hundred eightieth day it is in effect. Prior to that 915
date, the state board of pharmacy may adopt the emergency rule 916
or amendment as a nonemergency rule or amendment by complying 917
with the procedure prescribed by this section for adoption and 918
amendment of nonemergency rules. The board shall not use the 919
procedure of division (G) (1) of this section to readopt the 920
emergency rule or amendment so that, upon the emergency rule or 921
amendment becoming invalid under division (G) (2) of this 922
section, the emergency rule or amendment will continue in effect 923
beyond the one-hundred-eighty-day period. 924

(3) The general assembly, by adopting a concurrent 925
resolution, and in accordance with section 107.43 of the Revised 926
Code, may do either of the following: 927

(a) Invalidate, in whole or in part, an emergency rule 928

adopted or amended by an agency in response to a state of emergency, as defined under section 107.42 of the Revised Code, under division (G) (1) of this section;

(b) Authorize an agency to readopt, in whole or in part, a rule that was rescinded in response to a state of emergency under division (G) (1) of this section.

(H) Rules adopted by an authority within the department of job and family services for the administration or enforcement of Chapter 4141. of the Revised Code or of the department of taxation shall be effective without a hearing as provided by this section if the statutes pertaining to such agency specifically give a right of appeal to the board of tax appeals or to a higher authority within the agency or to a court, and also give the appellant a right to a hearing on such appeal. This division does not apply to the adoption of any rule, amendment, or rescission by the tax commissioner under division (C) (1) or (2) of section 5117.02 of the Revised Code, or deny the right to file an action for declaratory judgment as provided in Chapter 2721. of the Revised Code from the decision of the board of tax appeals or of the higher authority within such agency.

Sec. 119.04. (A) (1) Any rule adopted by any agency shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (A) (2) of this section is filed as follows:

(a) The rule shall be filed in electronic form with both the secretary of state and the director of the legislative service commission;

(b) The rule shall be filed in electronic form with the

joint committee on agency rule review. Division (A) (1) (b) of 958
this section does not apply to any rule to which division (C) of 959
section 119.03 of the Revised Code does not apply. 960

If an agency in adopting a rule designates an effective 961
date that is later than the effective date provided for by this 962
division, the rule if filed as required by this division shall 963
become effective on the later date designated by the agency. 964

An agency that adopts or amends a rule that is subject to 965
section 106.03 of the Revised Code shall assign a review date to 966
the rule that is not later than five years after its effective 967
date. If a review date assigned to a rule exceeds the five-year 968
maximum, the review date for the rule is five years after its 969
effective date. A rule with a review date is subject to review 970
under section 106.03 of the Revised Code. A rule subject to 971
section 106.026 of the Revised Code requiring a law authorizing 972
its adoption is not subject to review under section 106.03 of 973
the Revised Code and expires in accordance with section 106.033 974
of the Revised Code. 975

(2) The agency shall file the rule in compliance with the 976
following standards and procedures: 977

(a) The rule shall be numbered in accordance with the 978
numbering system devised by the director for the Ohio 979
administrative code. 980

(b) The rule shall be prepared and submitted in compliance 981
with the rules of the legislative service commission. 982

(c) The rule shall clearly state the date on which it is 983
to be effective and the date on which it will expire, if known. 984

(d) Each rule that amends or rescinds another rule shall 985
clearly refer to the rule that is amended or rescinded. Each 986

amendment shall fully restate the rule as amended. 987

If the director of the legislative service commission or 988
the director's designee gives an agency notice pursuant to 989
section 103.05 of the Revised Code that a rule filed by the 990
agency is not in compliance with the rules of the commission, 991
the agency shall within thirty days after receipt of the notice 992
conform the rule to the rules of the commission as directed in 993
the notice. 994

(3) As used in this section, "rule" includes an amendment 995
or rescission of a rule. 996

(B) The secretary of state and the director shall preserve 997
the rules filed under division (A) (1) (a) of this section in an 998
accessible manner. Each such rule shall be a public record open 999
to public inspection and may be transmitted to any law 1000
publishing company that wishes to reproduce it. 1001

Sec. 121.96. (A) As used in this section: 1002

(1) "Agency" means any agency to which sections 101.352, 1003
101.353, 121.93, and 121.931 of the Revised Code apply. 1004

(2) "Guidance document" means a written principle of law 1005
or policy that has not been stated in a rule and that an agency 1006
is relying on in conducting adjudications or other 1007
determinations of rights and liabilities or in issuing writings 1008
and other materials. "Guidance document" does not include 1009
written principles of law or policy relied on by the agency in 1010
issuing internal management rules as defined in section 111.15 1011
of the Revised Code. 1012

(B) Except as provided in division (E) of this section, an 1013
agency shall do both of the following: 1014

(1) On the date the agency issues a guidance document, 1015
publish the document in accordance with the requirements of 1016
division (C) of this section; 1017

(2) Not later than one hundred eighty days after the 1018
effective date of this section, publish, in accordance with the 1019
requirements of division (C) of this section, any guidance 1020
document issued by the agency that is in effect on the effective 1021
date of this section. 1022

(C) (1) An agency that publishes a guidance document in 1023
accordance with division (B) of this section shall publish the 1024
document to a single location on a web site maintained by the 1025
director of administrative services pursuant to division (D) of 1026
this section. 1027

(2) Each agency shall, for guidance documents published by 1028
the agency under division (B) of this section, post a hyperlink 1029
on the agency's web site that provides access to the guidance 1030
documents at the location described in division (C) (1) of this 1031
section. The hyperlink shall be prominently displayed on the 1032
agency's web site. 1033

(3) An agency shall categorize guidance documents 1034
published by the agency under division (B) of this section into 1035
specific, identifiable topics and shall further divide the 1036
topics and guidance documents into subcategories as appropriate. 1037

(D) Not later than ninety days after the effective date of 1038
this section, the director of administrative services shall 1039
create a web site on which guidance documents shall be published 1040
under division (B) of this section. 1041

(E) If any information in a guidance document issued by an 1042
agency is not a public record under section 149.43 of the 1043

Revised Code, the information is not subject to the requirements 1044
of this section. 1045

(F) (1) If an agency rescinds a guidance document, the 1046
agency shall do both of the following: 1047

(a) Maintain the rescinded guidance document on the web 1048
site maintained by the director of administrative services 1049
pursuant to division (D) of this section; 1050

(b) Indicate that the guidance document was rescinded, the 1051
date on which the guidance document was rescinded, and, if the 1052
guidance document was rescinded pursuant to a court order, the 1053
case number of the case in which the order was entered. 1054

(2) An agency shall comply with division (F) (1) of this 1055
section not later than the date on which a guidance document is 1056
rescinded. In the case of a guidance document that is rescinded 1057
pursuant to a court order, the agency shall comply with division 1058
(F) (1) of this section not later than the date on which the 1059
court enters the order. 1060

Sec. 126.04. (A) As used in this section: 1061

(1) "Costs" means opportunity cost to society. 1062

(2) "Cost savings" means the cost imposed by a regulatory 1063
action that is eliminated by the rescission, replacement, or 1064
modification of that regulatory action. 1065

(3) "Deregulatory action" means the rescission, 1066
replacement, or modification of an existing regulatory action. 1067

(4) "Incremental regulatory cost" means the difference 1068
between the estimated cost of issuing a significant regulatory 1069
action and the estimated cost saved by issuing any deregulatory 1070
action. 1071

(5) "Regulatory action" means any rule, regulatory 1072
guidance, statement of policy, information collection request, 1073
form, or reporting, recordkeeping, or disclosure requirement 1074
that imposes a burden on the public or governs a state agency's 1075
operations. 1076

(6) "Significant regulatory action" means any regulatory 1077
action that is likely to do any of the following: 1078

(a) Impose an annual effect on this state's economy of one 1079
million dollars or more; 1080

(b) Adversely affect in a material way this state's 1081
economy, a sector of this state's economy, productivity, 1082
competition, jobs, the environment, public health or safety, or 1083
a specific identifiable community within this state; 1084

(c) Create a serious inconsistency or otherwise interfere 1085
with an action taken or planned by another state agency; 1086

(d) Materially alter the budgetary impact of entitlements, 1087
grants, user fees, or loan programs or the rights and 1088
obligations of recipients thereof; 1089

(e) Raise a novel legal or policy issue. 1090

(B) By the thirty-first day of December and the thirtieth 1091
day of June in each year, the director of budget and management 1092
shall publish a unified regulatory agenda. In the unified 1093
regulatory agenda, the director shall include both of the 1094
following: 1095

(1) A list of regulatory and deregulatory actions under 1096
development or review at each state agency; 1097

(2) A regulatory plan of all significant regulatory 1098
actions and associated deregulatory actions that each state 1099

agency reasonably expects to issue in proposed or final form in 1100
the year in which the agenda is published and the following 1101
fiscal year. 1102

(C) (1) In accordance with guidance issued by the director 1103
under division (F) of this section, and not less than sixty days 1104
before each date of publication for the unified regulatory 1105
agendas under division (B) of this section, the head of each 1106
state agency shall submit to the director an agenda of all 1107
regulatory actions and deregulatory actions under development at 1108
the agency. In the agenda of regulatory actions, the head of 1109
each state agency shall include all of the following: 1110

(a) A regulatory action or deregulatory action identifier 1111
number; 1112

(b) A brief summary of the action; 1113

(c) The legal authority for the action; 1114

(d) Any required deadline for the action and the reason 1115
the deadline is required; 1116

(e) The name and contact information for a knowledgeable 1117
official at the agency who is familiar with the action; 1118

(f) Any other information as required by the director. 1119

(2) The agenda described in division (C) (1) of this 1120
section shall include a list of each significant regulatory 1121
action the agency reasonably expects to issue in proposed or 1122
final form in the current and following fiscal year. For each 1123
significant regulatory action, the head of the agency shall 1124
include all of the following: 1125

(a) A statement of the significant regulatory action's 1126
objectives; 1127

<u>(b) The legal authority for the significant regulatory</u>	1128
<u>action;</u>	1129
<u>(c) A statement of the need for the significant regulatory</u>	1130
<u>action;</u>	1131
<u>(d) The agency's schedule for the significant regulatory</u>	1132
<u>action;</u>	1133
<u>(e) The estimated cost of the significant regulatory</u>	1134
<u>action;</u>	1135
<u>(f) The estimated benefit of the significant regulatory</u>	1136
<u>action;</u>	1137
<u>(g) Any deregulatory action related to the significant</u>	1138
<u>regulatory action;</u>	1139
<u>(h) A best approximation of the total cost or savings of</u>	1140
<u>the significant regulatory action and any cost or savings</u>	1141
<u>associated with the related deregulatory action identified under</u>	1142
<u>division (C) (2) (g) of this section;</u>	1143
<u>(i) An estimate of the economic effects of the significant</u>	1144
<u>regulatory action that were considered in drafting the action,</u>	1145
<u>including any estimate of the net effect the action will have on</u>	1146
<u>the number of jobs in this state, or, if an estimate is not</u>	1147
<u>available, a statement affirming that no information on the</u>	1148
<u>economic effects of the action has been considered.</u>	1149
<u>(D) (1) In the December unified regulatory agenda described</u>	1150
<u>in division (B) of this section, the director shall establish</u>	1151
<u>the annual regulatory budget. In the regulatory budget, the</u>	1152
<u>director shall do both of the following:</u>	1153
<u>(a) Specify the net amount of incremental regulatory costs</u>	1154
<u>allowed at each state agency for the next fiscal year;</u>	1155

(b) At the director's discretion, set an incremental regulatory cost allowance allowing an increase, prohibiting an increase, or requiring a decrease of incremental regulatory costs. 1156
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(2) If the director does not set a net amount of incremental regulatory costs allowed for a state agency under division (D) (1) (b) of this section, the net incremental regulatory cost allowed shall be zero. 1160
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(E) (1) Except as provided in division (E) (2) of this section, a state agency shall not take a significant regulatory action unless all of the following apply: 1164
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(a) The head of the state agency identifies at least one deregulatory action to offset the costs of the significant regulatory action and issues the deregulatory action before or on the same schedule as the significant regulatory action; 1167
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(b) The incremental costs of the significant regulatory action as offset by any deregulatory action issued before or on the same schedule as the significant regulatory action do not cause the state agency to exceed or contribute to the agency exceeding the agency's incremental regulatory cost allowance for that fiscal year as established by the director under division (D) of this section; 1171
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(c) The significant regulatory action was included on the most recent version of the published unified regulatory agenda. 1178
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(2) The general assembly may approve the issuance of a significant regulatory action that is prohibited under division (E) (1) of this section by enacting a law in accordance with Ohio Constitution, Article II, Sections 15 and 16. 1180
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(F) (1) Not later than ninety days after the effective date 1184

of this section, the director shall issue guidance on how a 1185
state agency shall comply with the requirements of division (C) 1186
of this section. In the guidance, the director shall include all 1187
of the following: 1188

(a) A process for standardizing the measurement and 1189
estimation of regulatory costs, including cost savings 1190
associated with deregulatory actions; 1191

(b) Standards for determining what qualifies as a 1192
deregulatory action; 1193

(c) Standards for determining the costs of existing 1194
regulatory actions that are considered for repeal, replacement, 1195
or modification; 1196

(d) Standards under which the director will determine 1197
whether a regulatory action or a collection of regulatory 1198
actions qualifies as a significant regulatory action. 1199

(2) The director shall periodically update the guidance 1200
issued pursuant to division (F)(1) of this section. 1201

Section 2. That existing sections 106.02, 106.023, 1202
106.024, 111.15, 119.03, and 119.04 of the Revised Code are 1203
hereby repealed. 1204