



Ohio Revised Code

Section 121.95 Agency review of rules to identify restrictions.

Effective: October 17, 2019

Legislation: House Bill 166 - 133rd General Assembly

(A) As used in this section, "state agency" means an administrative department created under section 121.02 of the Revised Code, an administrative department head appointed under section 121.03 of the Revised Code, and a state agency organized under an administrative department or administrative department head. "State agency" also includes the department of education, the state lottery commission, the Ohio casino control commission, the state racing commission, and the public utilities commission of Ohio. Rules adopted by an otherwise independent official or entity organized under a state agency shall be attributed to the agency under which the official or entity is organized for the purposes of this section.

(B) Not later than December 31, 2019, a state agency shall review its existing rules to identify rules having one or more regulatory restrictions that require or prohibit an action and prepare a base inventory of the regulatory restrictions in its existing rules. Rules that include the words "shall," "must," "require," "shall not," "may not," and "prohibit" shall be considered to contain regulatory restrictions.

(C) In the base inventory, the state agency shall indicate all of the following concerning each regulatory restriction:

- (1) A description of the regulatory restriction;
- (2) The rule number of the rule in which the regulatory restriction appears;
- (3) The statute under which the regulatory restriction was adopted;
- (4) Whether state or federal law expressly and specifically requires the agency to adopt the regulatory restriction or the agency adopted the regulatory restriction under the agency's general authority;



(5) Whether removing the regulatory restriction would require a change to state or federal law, provided that removing a regulatory restriction adopted under a law granting the agency general authority shall be presumed not to require a change to state or federal law;

(6) Any other information the joint committee on agency rule review considers necessary.

(D) The state agency shall compute and state the total number of regulatory restrictions indicated in the base inventory, shall post the base inventory on its web site, and shall electronically transmit a copy of the inventory to the joint committee. The joint committee shall review the base inventory, then transmit it electronically to the speaker of the house of representatives and the president of the senate.

(E) The following types of rules or regulatory restrictions are not required to be included in a state agency's inventory of regulatory restrictions:

(1) An internal management rule;

(2) An emergency rule;

(3) A rule that state or federal law requires the state agency to adopt verbatim;

(4) A regulatory restriction contained in materials or documents incorporated by reference into a rule pursuant to sections 121.71 to 121.75 of the Revised Code;

(5) A rule adopted pursuant to section 1347.15 of the Revised Code;

(6) A rule concerning instant lottery games;

(7) Any other rule that is not subject to review under Chapter 106. of the Revised Code.

(F) Beginning on the effective date of this section and ending on June 30, 2023, a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions. The state agency may not satisfy this section by merging two or more existing



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regulatory restrictions into a single surviving regulatory restriction.