



## OBBS Rule Adoption Process

The Ohio Board of Building Standards (OBBS) has statutory authority to adopt rules pursuant to ORC 3781., 4104, and 4105. Additionally, any interested party may propose a rule change or adoption via ORC 3781.12. The rules are adopted in accordance with ORC 119.

### **Ohio Building Code (OBC), Ohio Mechanical Code (OMC), Ohio Plumbing Code (OPC), Boiler, Elevator, and Certification rule adoption process:**

1. OBBS technical staff prepares draft administrative rules.
2. OBBS Code Committee reviews draft rule and makes recommendation to OBBS to direct staff to start the Common Sense Initiative (CSI) process by scheduling a stakeholder meeting, posting the draft rules on the OBBS website, and notifying stakeholders of the meeting to get feedback on the draft rules. (The CSI office is housed within the Lt. Governor's office and governs the process that is intended to identify any impact the rules may have on small business.)
3. OBBS staff posts the draft rules on the BBS website and sends out a notice of the stakeholder meeting (usually at least 14 days prior to stakeholder meeting).
4. OBBS staff conducts stakeholder meeting to share draft rules with stakeholders and answer any questions and receive feedback.
5. OBBS staff presents stakeholder comments and staff recommendations to the OBBS Code Committee for direction.
6. OBBS directs staff to start E-notification process.
7. OBBS staff makes changes (if necessary) to draft rules in response to stakeholder feedback and posts revised draft rules and a Business Impact Analysis (BIA) on the Commerce website.
8. OBBS staff sends out electronic mail notification of revised draft rules to stakeholders again. Revised draft rules are posted on-line and stakeholders are informed where to view revised draft rules and the BIA on-line and how to provide comments on revised draft rules before E-notification comment period ends (E-notification comment period is established by OBBS staff and is usually at least 14-30 days).
9. E-notification comment period ends.
10. OBBS staff sends E-notification comments to CSI office as they come in. The OBBS has to wait to receive a recommendation from the CSI office before being permitted to electronically file the proposed rules. The time period between starting the E-notification process and receiving a recommendation from the CSI office is unknown. There is no established time period within which the CSI office must complete their review.
11. CSI office sends recommendation to OBBS.
12. OBBS Code Committee reviews E-notification comments received during E-notification comment period, directs staff to make any necessary changes, and makes a recommendation to the OBBS to direct staff to file the rules and schedule a public hearing. If significant objections are received during the comment period or significant changes are necessary to the rules, the OBBS may need to start the CSI process again before directing staff to file.
13. OBBS will schedule a public hearing.
14. Notice of Public Hearing, BIA, CSI recommendations, Agency response to CSI recommendation, and rules proposed by the OBBS are electronically filed with the Legislative Service Commission (LSC) and forwarded to the Secretary of State and the Joint Committee on Agency Rule Review (JCARR) at least thirty-one days prior to the scheduled date of the public hearing. The hearing must be scheduled between day thirty-one and forty after the initial filing.
15. The Board's proposed rules are sometimes transmitted to the Department of Aging so they can review the rules to see if there will be any impact on senior citizens.



16. With each rule, the OBBS is also required to file electronically a “Rule Summary and Fiscal Analysis” information relating to economy impact of compliance. The rules are posted by LSC on the Register of Ohio. The filing of the rules is called the “original filing”.
17. OBBS staff has historically prepared a “Public Hearing Draft” which is a document that contains the text of the proposed rules. The Public Hearing Draft is posted on the OBBS website. This is not a required step.
18. OBBS staff sends out “Notice of Public Hearing” postcards and electronic notification to stakeholders approximately 30 days prior to the public hearing. This is not a required step.
19. OBBS holds a public hearing, which is usually held on a Friday and begins at 10:00 A.M., the OBBS takes testimony on the proposed rules. After witnesses are heard, the chairman then adjourns the hearing.
20. During the business meeting following and on the same day as the public hearing, any OBBS member may propose changes to the rules to reflect the testimony. If any changes are made to the rules more than 35 days after the original filing, the Executive Secretary refiles the rules with the LSC, the Secretary of State, and JCARR which extends JCARR’s jurisdiction.
21. If the proposed rules are refiled, the OBBS must wait an additional thirty-one days before taking action to adopt the rule. If substantive changes are made as a result of the public hearing that are inconsistent with the synopsis of the proposed rule, the rule must be considered at a new public hearing.
22. The JCARR committee will hold a hearing where the OBBS Executive Secretary and OBBS staff will be present to answer any questions JCARR may have. The public may also attend and testify. JCARR’s role in the process is to review 6 prongs (non-technical related):
  1. the rules do not exceed the scope of the rule-making agency's statutory authority;
  2. the rules do not conflict with a rule of that agency or another rule-making agency;
  3. the rules do not conflict with the intent of the legislature in enacting the statute under which the rule is proposed; and,
  4. the rule-making agency has prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission (RC 127.18);
  5. the rule-making agency has met the incorporation by reference standards for a text or other material as stated in ORC sections 121.72, 121.75, or 121.76; and,
  6. if the rule has an adverse impact on business (RC 107.52), that the rule-making agency has demonstrated through the business impact analysis (BIA), the Common Sense Initiative Office (CSI) recommendations and the agency's memorandum of response to the CSI recommendations, that the regulatory intent of the rule justifies its adverse impact on business.
23. While JCARR’s review is non-technical in nature, it can have a direct impact on adoption as their review includes a review of a fiscal analysis and the BIA.
24. The OBBS must wait at least until sixty-six days after the original filing before it adopts an order promulgating the proposed rules (longer if JCARR’s jurisdiction is extended). The order lists all rules which are being adopted and sets an effective date which is at least ten days after the date on which the final filing will be made with the agencies specified in ORC Section 119.04

Public Input

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**Residential Code of Ohio (RCO) rule adoption process:**

1. The RCO (1-, 2-, & 3- family dwellings and their accessory structures) follows the same process as the commercial code except it has a separate committee that must first review and prepares a recommendation to the OBBS to adopt. This committee is the Residential Construction Advisory Committee (RCAC). This committee’s statutory authority comes from ORC 4740.14 (effective 5/27/06)