



**TED STRICKLAND**  
GOVERNOR  
STATE OF OHIO

## **Executive Order 2008 – 04S**

### **Implementing Common Sense Business Regulation**

- 1. Ohio Has A Rich History of Business Innovation and Technological Advancement.** Ohio has long been a state that facilitates and promotes invention and innovation. Consequently, as the State's economic landscape becomes increasingly global and diverse, our state government must respond to that diversity by crafting better methods for appropriately regulating entities that conduct business in the State.
- 2. Ohio Is Committed to Fostering an Environment that Facilitates and Promotes Business Growth.** In order for Ohio to remain an attractive venue for entities doing or seeking to do business in the State, Ohio must ensure that its regulations create an atmosphere in which businesses and individuals affected by those regulations are treated as partners in identifying and achieving regulatory goals. Accessibility, flexibility, respect, timely responsiveness, problem solving, and continuous improvement must be the hallmarks of the State's approach to regulatory activity.
- 3. State Regulations for Entities Doing Business in Ohio Must Meet the Needs of All Interested Stakeholders.** Ohio's citizens, their government, and those doing business in the State have a mutual stake in Ohio's business regulations and regulatory processes. Consequently, all of these parties must act as partners in the administration of State business regulations.
- 4. Developing Common Sense Business Regulation in Ohio.** Regulations for conducting business in the State exist to promote the health, safety, and economic vitality of Ohioans. These objectives can only be achieved when the process by which

regulations are enacted is transparent and accessible to persons outside of government and when those regulations are crafted so that they are easy to understand. Accordingly, I hereby order all cabinet agencies, boards and commissions to implement and adhere to the following Common Sense Business Regulation approach when developing proposed rules for consideration by the Joint Committee on Agency Rule Review (“JCARR”):

- a. As a general matter, business regulations requiring or prohibiting certain conduct should be established through rulemaking. Case-by-case, subjective, or retroactive approaches should be avoided, when possible. When designing or modifying a rule or set of rules, agencies should carefully consider the perspective of those who will be affected by them.
- b. All proposed rules submitted to JCARR should be written so that they are easy to comprehend. Specialized terms that are familiar to and used by specialists in their field must be defined and/or simplified so that they can be understood by a non-specialist reader of the rule. Duplication of rules already in existence is to be avoided.
- c. All proposed rules should be drafted so that they promote transparency and predictability regarding regulatory activity, consistency of business regulation within the State, appropriate flexibility, and a reasonable balance between the underlying regulatory objectives and the burdens imposed by the regulatory activity.
- d. Federally promulgated rules should be implemented as written, unless separate state rules are permitted and appropriate to achieve an Ohio-specific public policy goal.
- e. Proposed rules should focus on achieving outcomes rather than the process used to achieve compliance. They should be based on the best scientific and technical information that can be reasonably obtained and designed so that they can be applied consistently.
- f. Agency rules are expected to impose the least burden and costs to business, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective. This will make Ohio a more attractive place to do business and avoid placing entities doing business in the State at a competitive

disadvantage relative to businesses located in other states or countries.

- g. Agencies should consider whether proposed rules, and the cumulative effect of related rules, make Ohio a more or less attractive place to do business. Where appropriate, proposed rules should be written with a date on which the rules will expire, in order to account for the rapid changes in many sectors of the economy. Furthermore, where authorized and appropriate, agencies should make exceptions to rules and provide exemptions for small businesses.
  - h. Prior to submission to JCARR, each proposed rule must be provided to the chief legal officer of the entity submitting the rule to JCARR, who is responsible for ensuring the clarity of the rule and overall compliance with this Order.
5. **Administering Common Sense Business Regulation in Ohio.** The administration of business regulation in Ohio should be efficient, consistent across state agencies, and accessible and transparent to all interested parties. Accordingly, I also hereby order the following:
- a. Agencies should treat those affected by their rules and regulatory processes as customers and treat them consistently across regions, offices, and departments.
  - b. Agencies should coordinate with each other to combine and minimize regulatory filings and to minimize worksite interruptions necessary to regulatory activity.
  - c. Agencies should strive to reduce the processing time for regulatory approvals, permits, licenses, and other actions requiring agency response. Additionally, agencies should work cooperatively with applicants to expedite processing, when possible, and keep in mind business deadlines and other commercial demands.
  - d. Agencies should require submission of the minimum amount of information necessary to administer their rules. Agencies should avoid requiring submission of intellectual property or other confidential business information and should protect it if it needs to be submitted.

- e. Agencies should, when possible and appropriate, provide those affected by their rules and processes with compliance education and the ability to make compliance inquiries without risk of enforcement. In cases of regulatory noncompliance, an agency's enforcement response should be proportional to the circumstances and should take into consideration whether the agency contributed to the noncompliance. Before undertaking enforcement activity, and absent exceptional circumstances, the agency should discuss the regulatory violation with the noncompliant individual or business in order to explore the possibility of resolving the matter without enforcement proceedings.
  - f. Agencies should, when appropriate, waive penalties for first-time or isolated paperwork or procedural regulatory noncompliance. Each cabinet agency, board and commission shall prepare and publish on its website a policy describing the circumstances in which such waivers will be granted.
  - g. Agencies should engage in continuous regulatory process improvement including, but not limited to, eliciting customer feedback regarding their administration of regulatory responsibilities. Further, agencies should periodically evaluate their regulatory performance using measurable standards, data, or other objective criteria.
  - h. The Ohio Department of Administrative Services and the State Chief Information Officer shall establish a centralized electronic system that will allow interested parties to register and receive notices and communications regarding agencies' proposed development, amendment or rescission of any rule of interest to them.
6. **Providing an Agency Regulatory Ombudsman.** When, despite the best practices and efforts, an agency does not address a concern regarding the implementation of a proposed rule to the satisfaction of a regulated industry, entity or person, an opportunity to address that concern should be provided. Accordingly, I order each of the following cabinet agencies, to the extent that they have not already done so, to designate a staff member to serve as a Regulatory Ombudsman to act as a problem-solving liaison between the agency and those affected by its rules and processes: Administrative Services, Agriculture, Commerce, Development, Environmental Protection, Health, Industrial Commission, Insurance, Job and

Family Services, Natural Resources, Taxation, Transportation, and Workers' Compensation. Each Regulatory Ombudsman shall have direct access to the director of the agency in question.

7. **Reviewing Existing Rules and Regulatory Processes.** I also hereby order each cabinet agency, board and commission to review its existing body of promulgated rules, and the processes implementing them, to ensure that they comply with this Order. Each may do so as part of an existing statutory or other periodic review of rules and processes, but must:
  - a. Determine, as if for the first time, whether each rule is needed to implement the underlying statute.
  - b. Amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, needlessly burdensome, that unnecessarily impede economic growth, or that have had unintended negative consequences.
  - c. Reduce or eliminate areas of state regulation where federal regulation now adequately regulates the subject matter.
  - d. Select for earlier review those rules or processes that, in the agency's judgment, appear to be least consistent with developing and administering Common Sense Business Regulation.
8. **Accountability for Compliance with this Order.** Although this Order is directed to and binding upon all personnel in the cabinet agencies and boards and commissions, the director, administrator, or other head of each such entity shall be accountable for implementing the Common Sense Business Regulation approach to the extent applicable and practicable within that entity.
9. **No Private Right of Action Created by this Order.** This Order is not intended to, and does not, confer any legal rights upon businesses or others regulated by Ohio's cabinet agencies, boards and commissions, and it shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of any governmental entity subject to it.

10. I signed this Executive Order on February 12, 2008 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.

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Ted Strickland, Governor

**ATTEST:**

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Jennifer Brunner, Secretary of State