

# Legislative Review of a Provisionally Adopted Major Substantive Rule

**LD 40, Resolve, Regarding Legislative Review of Portions of Chapter 305: Rules and Regulations Pertaining to Traffic Movement Permits, a Major Substantive Rule of the Department of Transportation**

**Committee of Jurisdiction:** Transportation

**Chapter and Title of the Rule:** Chapter 305: Rules and Regulations Pertaining to Traffic Movement Permits

**Agency Given Rulemaking Authority:** Department of Transportation

**Emergency Adopted?** Yes  No

**Date Rule Provisionally Adopted by Agency:** September 26, 2020

**Date Rule Accepted for Legislative Review:** November 2, 2020

- Filed within the rule acceptance period
- Late filed

**New, Amended or Repeal and Replace?** New  Amended  Repeal and Replace

**Rulemaking Authority:** 23 §704-A, sub-§9

**Summary of the Rule or Amendments to the Rule:** This amendment to the rule will repeal and replace the current Chapter 305 rules. The amendment clarifies the developer application and review process, updates key definitions, and adds multi-modal trips as a component of required traffic studies.

**History of the Rule:** This major substantive rule was previously authorized by the Legislature in 2000 by Resolve 1999, c. 94

**Additional Notes about the Rule:**

**Review Criteria:** MRSA Title 5, section 8072, subsection 4, provides the following review criteria for the committee to consider:

- A. Has the agency exceeded the scope of its authority in approving the rule?
- B. Does the rule conform to the legislative intent of the statute it implements?
- C. Does the rule conflict with other rules or laws?
- D. Is the rule necessary to accomplish the objectives of the law?
- E. Is the rule reasonable?
- F. Could the rule be made less complex or easier to understand?
- G. Was the rule proposed in compliance with requirements of Administrative Procedures Act and other law?
- H. If a rule significantly reduces property value, is the reduction necessary or appropriate and does the rule avoid an unconstitutional taking?

**Voting Procedure for a Major Substantive Rule filed within the rule acceptance**

**period:** After reviewing the rule, the committee has the following options for voting on the resolve:

- **OTP** to authorize adoption of the rule with no changes
  - **ONTP** – A *failure to act* on a rule filed within the acceptance period authorizes adoption; killing the resolve is considered a failure to act on the rule; if the committee wishes to authorize the rule, an OTP vote is generally recommended.
- **OTP-A**
  - To authorize adoption of the rule if changes are made to the rule; or
  - Not to authorize adoption of the rule

**Voting Procedure for a Major Substantive Rule that is submitted late:** After

reviewing the rule, the committee has the following options for voting on the resolve:

- **OTP** to authorize adoption of the rule with no changes
- **OTP-A**
  - To authorize adoption of the rule if changes are made to the rule; or
  - Not to authorize adoption of the rule (but note that ONTP has *the same effect* for late-filed rules)
- **ONTP** – for late-filed rules, the legislature must *affirmatively authorize* adoption of the rule or it may not be adopted; killing the resolve provides no authorization; if the committee wishes not to authorize the rule it can either vote ONTP on the resolve or OTP-A to expressly not authorize adoption of the rule.