

**OPINION NO. 79-091****Syllabus:**

1. R.C. 4513.181 does not make the use of flashing lights mandatory when a vehicle is used for rural mail delivery.
2. If flashing lights are installed on a rural mail delivery vehicle, such lights must conform to the standards and specifications set by the Director of the Department of Highway Safety in 5 Ohio Admin. Code Chapter 4501-9.

---

**To: Robert M. Chlaramonte, Director, Department of Highway Safety, Columbus, Ohio**

**By: William J. Brown, Attorney General, December 11, 1979**

I have before me your request for my opinion regarding rural mail delivery vehicles. You posed two questions, which I have reworded for ease of analysis, as follows:

1. Does R.C. 4513.181 make the use of flashing lights mandatory when a vehicle is used for rural mail delivery?
2. Must flashing lights used on a rural mail delivery vehicle conform to 5 Ohio Admin. Code Chapter 4501-9, which are the rules of the Department of Highway Safety governing such lights?

The applicable statute, R.C. 4513.181, reads in pertinent part:

The director of highway safety subject to the provisions of sections 119.01 to 119.13, inclusive, of the Revised Code shall adopt standards and specifications applicable to rural mail delivery vehicles. . . . Such standards and specifications shall permit rural mail delivery vehicles. . . the use of flashing lights.

R.C. 4511.01(UU) defines "rural mail delivery vehicle" as "every vehicle used to deliver United States mail on a rural mail delivery route." R.C. 4513.01 makes this definition applicable to R.C. 4513.181.

R.C. 4513.181 specifically states that the "standards and specifications shall permit" the use of flashing lights by rural mail delivery vehicles. "Permit" has been defined as "allowing by tacit consent or by not hindering." State v. Peters, 112 Ohio St. 249, 259 (1924). Thus, R.C. 4513.181 may not fairly be read to mandate either

the use of flashing lights or the adoption of rules which require the use of flashing lights.

Turning to the second question, R.C. 4513.181 states that the Director of Highway Safety ". . . shall adopt standards and specifications applicable to rural mail delivery vehicles. . . ." The Supreme Court of Ohio held, in the first paragraph of the syllabus of Dorian v. Scioto Conservancy District, 27 Ohio St. 2d 102 (1971), that "the word 'shall' shall be construed as mandatory. . . ." See also State ex rel. Ewing v. Without a Stitch, 37 Ohio St. 2d 95 (1974). Therefore, it is clear that the director has the statutory obligation to promulgate "standards and specifications applicable to rural mail delivery vehicles. . . ."

The rules which the director has promulgated pursuant to this duty are found in 5 Ohio Admin. Code Chapter 4501-9. The rules set forth in detail the specifications and standards of any flashing lights used on a rural mail delivery vehicle. Rules validly promulgated according to Chapter 119 have the force and effect of law. See State ex rel. Kildow v. Industrial Commission, 128 Ohio St. 573 (1934); The Kroger Grocery & Baking Co. v. Glander, 149 Ohio St. 120 (1948), and cases cited therein; and 1979 Op. Att'y Gen. No. 79-081. Assuming that the rules of the Director of the Department of Highway Safety regarding the use of flashing lights on rural mail delivery vehicles were validly adopted in accordance with applicable law—including, as required by R.C. 4513.181, R.C. 119.01 through 119.13—any flashing lights installed on rural mail delivery vehicles must meet the standards and specifications of the rules.

Accordingly, it is my opinion, and you are advised, that:

1. R.C. 4513.181 does not make the use of flashing lights mandatory when a vehicle is used for rural mail delivery.
2. If flashing lights are installed on a rural mail delivery vehicle, such lights must conform to the standards and specifications set by the Director of the Department of Highway Safety in 5 Ohio Admin. Code Chapter 4501-9.