

NOTICE OF PUBLIC RULES HEARING

DATE: Thursday, August 22, 2019
TIME: 11:00 a.m.
LOCATION: Ohio Department of Health
35 E. Chestnut Street
Columbus, Ohio 43215
ROOM: ODH Basement Training Room A

In accordance with *Chapter 119* of the Revised Code (R.C.), the Director of the Ohio Department of Health announces a Public Hearing at the date and time listed above to hear comments regarding the following action:

Ohio Revised Code (O.A.C.) Chapter 3717-1-08.5 – Dogs in Outdoor Dining Areas of Food Service Operations and retail Food Establishments.

The proposed rule allows for dogs in the outdoor dining areas of retail food establishments (RFE), and food service operations (FSO). ORC 3717.14 requires the adoption of this rule.

Information regarding rule package proposed:

The Ohio Uniform Food Safety Code provides the standards for safe food handling and sanitation in retail food establishments (RFE) and food service operations (FSO) in the state. The purpose of the food code is to prevent and reduce foodborne illnesses. As required by 3717.05 Revised Code, the Ohio Uniform Food Safety Code is based on the most current version of the Federal Food and Drug Administration (FDA) Model Food Code.

As required by ORC 3717.14, OAC 3717-1-08.5 is being proposed to allow dogs in outdoor dining areas of RFE's and FSO's. During the period of early stakeholder outreach, in both January and March of 2019, the Department presented the proposed rule to the Retail Food Safety Advisory Council, which recommended that the rule be filed in March of 2019. The Council consists of members representing Columbus Public Health, the Erie, Stark, and Licking County Health Departments, a representative of the general public, a professor in food science at The Ohio State University, employees from the Ohio Grocers' Association, Giant Eagle, the Ohio Council of Retail Merchants, Wendy's International, the Ohio Restaurant Association, and Figure the Odds, Inc.

This rule package contains one new rule. This rule was submitted to the CSI Office on May 2, 2019, and the public comment period was open through June 1, 2019. During the CSI public comment period, comments were offered by the Hamilton, Allen, Wyandot, Wayne, Delaware, Auglaize, Lake, Erie, Miami, Ross, and Madison County Health Districts, the general public, and the Canton, Marietta, and Galion City Health Departments. The comments included concerns about dog bites and aggressive dogs, cleaning requirements for facilities, vaccination requirements, general points of confusion, and the feeding of animals. The Department offered clarification in response to many comments and made changes in response to others, including the addition of required signage at all entrances to alert potential diners of allergy concerns. The impacted community is any licensed FSO or RFE in Ohio that wishes to permit dogs in an outdoor dining area. The impact to these facilities is the associated time for compliance and the cost of any necessary equipment.

Ohio Revised Code (O.A.C.) Chapter 3701-29-13 – Sewage Treatment Systems Product Renewal Process (3701-29-13).

This rule lays out standards for the review process for pre-treatment components and treatment trains to be approved for use in sewage treatment systems in Ohio. The rule also outlines standards for these systems' operation and maintenance. The

NOTICE OF PUBLIC RULES HEARING

proposed amendments revise the rule language to stagger the time that product approval must be renewed by the Department, based on when the products received original approval.

Information regarding rule package proposed:

The rules being amended cover the definitions set forth the regulations governing private water systems in Ohio. The Department is amending most of the rules for clarity, to correct references and improve rule language. Some of the more substantive changes include changing the pipe length requirement to align with industry standards, adding language to address specific well sealing procedures, and adding language to clarify the exemptions to registration.

During the CSI public comment period, the Department received six comments. Two of the comments submitted were in support of the proposed rules, and two comments required clarification on the Technical Advisory Committee's (TAC) purview, which is the review of sewage treatment systems products or components. One comment, from Sandefur Consulting, suggested language changes in rule 3701-29-13(F), to which the Department replied with clarification that the proposed language was necessary to obtain uniform field testing data for renewals of pretreatment components and system specific diagnostic sampling. The final comment, from the Lake County General Health District prompted the Department to clarify that the purpose of this schedule is to spread the products for review across the 5-year review cycle to allow TAC member time to consider applications.

The impacted community of the proposed rules are sewage treatment system product manufacturers, sewage treatment system designers, installers, and service providers. The impact on these groups is the time required to gather the information required for the application and application submission; however, there is no change in the time required for this process. Manufacturers of products have indicated to the Department that it may take several hours to several days to complete and submit the application information. The cost to comply with this rule will vary by manufacturer, based on the system type, and the level of staff used to complete the application. ORC section 3718.02 requires the Department to prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of sewage treatment systems used in Ohio.

Ohio Revised Code (O.A.C.) Chapter 3701-28 – Private Water Systems.

This rule package consists of nineteen amended rules proposed by the Ohio Department of Health (Department) as part of the statutorily required five-year review. The rule package was submitted to the CSI Office on August 13, 2018, and the comment period remained open until September 12, 2018. Thirty-one comments were received during that time and responses to those comments were provided on December 20, 2018.

Information regarding rule package proposed:

As part of early stakeholder outreach, the Department created an advisory committee to develop the rules. This committee consisted of representatives from relevant stakeholders, and the group held several meetings in 2015, 2016, and 2017. Many of these meetings were public, in an effort to receive as much feedback as possible. As a result of stakeholder discussions, the Department amended additional language, and ensured that the siting and construction standards for wells are both protective of public health and achievable by industry at a reasonable cost to the water system owner. Thirty-one comments were received during the CSI comment period. Several of the comments expressed general support for the rule package, and a majority of comments sought clarification on how to implement various provisions which the Department was able to provide. The Department made additional amendments to the rules based on the remaining comments that pointed out unclear language and other inconsistencies in the rules.

The Ohio Department of Health (ODH) is required to set forth regulations governing private water systems in Ohio. These rules are the result of over a year-long stakeholder process that began looking at the rules holistically to see how Ohio could

NOTICE OF PUBLIC RULES HEARING

better serve residents and industry while attempting to keep changes as cost neutral for private water systems as possible. Based on comments received ODH is proposing substantive changes.

The rules impact approximately 850 registered private water systems contractors. Costs of compliance include fees for registration with the Department, permit acquisition, equipment, and personnel. There are also administrative costs associated with the administrative requirements of completing the required paperwork for submission to various entities. The Department notes that none of the amendments will increase the existing costs, and that the applicable exemptions listed in the rule have not changed. It justifies any adverse impact by noting the benefits to public health. It notes the importance of regulating the design, construction, inspection, installation, development, maintenance, and abandonment of private water systems to ensure public health and safety.

Hearing and Contact Information:

At the hearing, people affected by the proposed action may appear and be heard in person or accompanied by an attorney. They may present their positions, arguments, or contentions orally or in writing; may offer witnesses; and may present evidence showing that the proposed rule, if adopted or effectuated, will be unreasonable or unlawful.

To aid in getting visitors through building security, any persons intending to testify at the hearing or planning to observe are encouraged to pre-register by writing to the Office of the General Counsel, Ohio Department of Health, 246 North High Street, 7th Floor, Columbus, Ohio 43215, or by phone to (614) 466-4882, or send an e-mail to odhrules@odh.ohio.gov.

Copies of the proposed rules will be available on the Register of Ohio website:

<http://www.registerofohio.state.oh.us/rules/search> approximately one day after the rule is filed, or from the Office of the General Counsel, Ohio Department of Health (<https://odh.ohio.gov/wps/portal/gov/odh/about-us/offices-bureaus-and-departments/Office-of-General-Counsel/laws-and-rules/>).

Please e-mail any written comments to ODHrules@odh.ohio.gov by 5:00 p.m. on August 21, 2019.