

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3701-12-04

Rule Type: Amendment

Rule Title/Tagline: Reviewability determinations; appeals.

Agency Name: Department of Health

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?** 8/1/2020
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 166 - 133
- Rep. Oelslager
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3702.52
5. **What statute(s) does the rule implement or amplify?** 3702.52, 3702.60, 3702.594, 3702.593, 3702.592, 3702.59, 3702.57
6. **What are the reasons for proposing the rule?**

The rule is being revised to incorporate changes specific to the Certificate of Need program in Chapter 3702. of the Ohio Revised Code that were included in the state budget, HB 166.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule sets forth the requirements pertaining to reviewability determinations. These requirements include, but are not limited to, the director issuing a reviewability determination within specified timeframes and any affected person may appeal a reviewability determination. Additionally, the rule allows for an expedited reviewability determination to be issued within thirty days of receipt by the director and that the date the director signs the reviewability ruling shall be the date of issuance. The rule has been revised to incorporate statutory changes to Chapter 3702. ORC that were included in HB 166 including removing the term affected person and clarifying that the person that requested a reviewability ruling may appeal the ruling to the director.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Ohio Administrative Code and Ohio Revised Code exempted, as the information is readily available online.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

The statutory revisions incorporated into this rule limit appeal rights to the person who requested a reviewability ruling. By removing the term 'affected person', it is possible that there may be a decrease in costs associated with appeal hearings, which ranges from \$3000 to \$4500. Based on appeals history for reviewability rulings, it is unlikely that there will be any actual decrease in expenditures as affected persons have very rarely requested appeals.

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

No new costs. The costs remain as the time necessary to prepare, submit, and provide any necessary follow-up information to the Certificate of Need Program to provide a reviewability ruling is dependent upon the size and complexity of the project

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

III. Common Sense Initiative (CSI) Questions

16. Was this rule filed with the Common Sense Initiative Office? Yes

17. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

If the person that requested a reviewability ruling wishes to appeal the director's ruling, the person must submit the request for an appeal within thirty days of the date the decision is mailed.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding?

Not Applicable

B. How many existing regulatory restrictions do you propose removing?

Not Applicable