

Rule Summary and Fiscal Analysis (Part A)**Department of Health**

Agency Name

Division

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3701-12-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Reviewability determinations and nonreviewability determinations.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HBAm. Sub. 1** General Assembly: **128** Sponsor: **Rep. Sykes**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3702.52**

5. Statute(s) the rule, as filed, amplifies or implements: **5702.52, 3702.57, 3702.59, 3702.592, 3702.593, 3702.594, 3701.60**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

As a result of recent changes to the Certificate of Need (CON) statutes and with approval of the Public Health Council, the Ohio Department of Health is seeking amendments to rule 3701-12-04.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

This rule establishes the requirement for the Director to issue a ruling on the reviewability of a proposed CON project within forty-five (45) days of receipt. The "reviewability/nonreviewability determination" shall be based upon the criteria established in rule 3701-12-05 of the Ohio Administrative Code. Furthermore, the rule establishes an applicant's right to appeal a ruling of nonreviewability within thirty (30) days of the ruling's mailing date. With the approval of the Public Health Council, ODH proposes to amend the rule to incorporate the use of the term "reviewability/nonreviewability determination" and to remove the previously existing "notice of intent" language. If the rule is adopted, requests for a determination must be accompanied by the information necessary to make the determination.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule references sections of the Ohio Revised and Administrative Codes. The O.R.C. and O.A.C. are generally available in libraries and on the internet to persons who reasonably can be expected to be affected by the rule.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Pursuant to O.R.C. 121.75, copies of the referenced texts are exempt from inclusion.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

This rule is being revise filed at the request of JCARR to correct information regarding authorizing statutes, and amplifying/implementing statutes.

12. 119.032 Rule Review Date: **12/10/2009**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

The proposed changes will not impact the agency's budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

N/A

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There is no new cost of compliance.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

