

TO BE RESCINDED

3701-12-11

Public informational hearings during the course of certificate of need review and other hearing rights.

(A) The director may conduct a public informational hearing during the course of review of an application for a certificate of need based on the following:

- (1) A public informational hearing may be requested by any affected person, as defined in paragraph (B) of rule 3701-12-01 of the Administrative Code. If an affected person files a timely request for a public informational hearing, the director shall conduct a hearing.
- (2) An affected person may request a public informational hearing during the course of review by filing a written request with the director not later than fifteen days after the date of mailing of the notice of completeness specified in rule 3701-12-08 of the Administrative Code. The informational hearing shall be held in the community in which the reviewable activity would be carried out.
- (3) The director may hold the informational hearing or may contract with an HSA to hold the hearing.
- (4) Between seven and fourteen days prior to the public informational hearing, the director or the HSA, if applicable, shall provide notice of the time, date, and place of the hearing to the affected person who requested the hearing by certified mail and to other affected persons by publication of a notice in a paper of general circulation in the community in which the reviewable activity would be carried out.
- (5) The director may preside over the informational hearing or the director or the HSA, if applicable, may appoint a presiding officer for the hearing.
- (6) The director or the HSA, as applicable, shall maintain a verbatim record of the informational hearing.
- (7) Neither the director nor an HSA may impose fees for a public informational hearing conducted under this rule.

(B) An affected person may file written objections to an application with the director not later than thirty days after the date of the mailing of the notice of completeness specified in rule 3701-12-08 of the Administrative Code. The director shall notify:

- (1) The applicant and assign a hearing examiner who shall conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code, if an affected person objects; or
 - (2) In the case of an application made under a comparative review process, all of the applicants and assign a hearing examiner who shall conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code, if the director receives objections to any of the applications from an affected person not later than thirty days after the director mails the last notice of completeness.
- (C) The applicant, the director, and any affected person who filed an objection to an application shall be parties to a hearing conducted as authorized by division (C)(3) of section 3702.52 of the Revised Code and paragraph (B) of this rule.
- (D) If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing conducted as authorized by division (C)(3) of section 3702.52 of the Revised Code and paragraph (B) of this rule, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for the entire project that is the subject of the application, as long as the project meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections.
- (E) Except as provided in division (C)(5) of section 3702.52 of the Revised Code, when the director issues a decision to grant or deny a certificate of need application for which an adjudication hearing was conducted as authorized by division (C)(3) of section 3702.52 of the Revised Code and paragraph (B) of this rule, the director shall grant or deny the certificate of need application not later than thirty days after the expiration of the time for filing objections to the report and recommendations of the hearing examiner under section 119.09 of the Revised Code.
- (F) When the director issues a decision to grant or deny a certificate of need application for which an adjudication hearing was not conducted as authorized by division (C)(3) of section 3702.52 of the Revised Code and paragraph (B) of this rule, the applicant or another affected person may appeal the decision to the director in accordance with Chapter 119. of the Revised Code. The director shall conduct the hearing in accordance with Chapter 119. of the Revised Code. Each person who appeals to the director shall file with the director, not later than thirty days after the decision of the director is mailed, a notice of appeal that designates the decision the person is appealing.
- (G) The applicant or an affected person that was a party to and participated in an

adjudication hearing as authorized by division (C)(3) of section 3702.52 of the Revised Code and paragraph (B) of this rule may appeal to the tenth district court of appeals the decision issued by the director following the adjudication hearing. Each person who appeals to the tenth district court of appeals shall file with the court, not later than thirty days after the director's adjudication order is mailed, a notice of appeal that designates the order the person is appealing. The appellant also shall file notice with the director not later than thirty days after the date the director mailed the order.

Effective:

R.C. 119.032 review dates: 06/18/2013

Certification

Date

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