

NOTICE OF PUBLIC RULES HEARING

DATE: Thursday, March 10, 2022
TIME: 1:30 p.m.
LOCATION: Via Electronic Teleconference
CALL-IN INFO: **Microsoft Teams meeting**
Join on your computer or mobile app
[Click here to join the meeting](#)
Join with a video conferencing device
682042763@t.plcm.vc
Video Conference ID: 115 759 321 6
[Alternate VTC instructions](#)
Or call in (audio only)
[+1 614-721-2972,,719247244#](#) United States, Columbus
Phone Conference ID: 719 247 244#

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 3701-32-12 Appendix A, B, and C – Lead Hazard Abatement Clearance Examinations

The rules provide a framework by which the Department licenses and monitors lead hazard reduction professionals and processes in Ohio. In addition to general formatting and grammatical changes, the rules have been revised to reflect statutory changes and rescind some citations and language, add the definition of “first draw water sample,” amend the definitions of “lead abatement contractor” and “non-abatement lead activity,” and revise the license renewal and continuing education timeframes.

Information regarding rule package proposed:

This rule package consists of one amended rule regarding Appendices that needed to be added to the rule. The rule package was submitted to the CSI Office on May 10, 2019, and the comment period remained open until June 9, 2019.

Ohio Administrative Code (OAC) Chapter 3701-32 impacts lead clearance technicians, lead inspectors, lead risk assessors, lead abatement workers, lead abatement project designers, and lead abatement contractors providing lead hazard identification and reduction services. These individuals must adhere to the rule in order to prevent public exposure to lead during abatement projects, utilize the proper techniques for collecting samples, follow respiratory protection plans, and perform clearance examinations. Fees for licensure range from \$50 to \$500 depending on professional status and are valid for two years. The Department justifies the rules as necessary to ensure that lead hazard reduction work is carried out by licensed individuals in a manner that protects public health. Additionally, ORC 3742.03 and 3742.45 require the Department to adopt rules to enforce requirements regarding lead abatement and lead poisoning prevention.

NOTICE OF PUBLIC RULES HEARING

Ohio Revised Code (O.A.C.) Chapter 3701-42 – WIC Program

The rules set forth in Chapter 3701-42 of the Ohio Administrative Code (“OAC”) establish definitions, application processes, contractual requirements, program responsibilities, payment policies, disciplinary policies, pharmacy vendor procedures, and technology-based resources for businesses, individuals and other entities participating in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

Information regarding rule package proposed:

This rule package consists of four no change and seven amended rules. The draft rules were submitted to the CSI Office on June 25, 2021, and the public comment period was open through July 25, 2021. There were no comments received during this time period.

Ohio Administrative Code (OAC) Chapter 3701-42 - The business community impacted by the rules includes businesses that elect to become a WIC vendor. The adverse impact created by the rules involves the administrative effort necessary to complete the WIC application, attend training mandated by the federal government, and train staff. Vendors are required to reapply on a triennial basis, per federal regulations. The Department states that the adverse impact to business is necessary to ensure that applicants are treated fairly and consistently when applying for and maintaining WIC retail vendor authorization and to comply with federal requirements that states have policies and procedures in place for the administration of the WIC retail vendor program.

Ohio Revised Code (O.A.C.) Chapter 3701:1-40 – Licensing for Radioactive Materials

The rules set forth in Chapter 3701:1-40 of the Ohio Administrative Code (“OAC”) outline definitions, safety requirements, licensing requirements, reporting responsibilities, records maintenance policies, and other requirements related to industrial radiography operations. The Department states in the BIA that the rules are promulgated as a condition of Ohio maintaining its “Agreement State” under the U.S. Nuclear Regulatory Commission, which allows Ohio to assume regulatory control of the possession and use of radioactive material in Ohio, and that in all substantive aspects, the rules in this chapter are identical to their federal counterparts.

Information regarding rule package proposed:

This rule package consists of twenty-two no change rules and two amended rules. The draft rules were submitted to the CSI Office on December 4, 2018, and the public comment period was open through January 4, 2019. There were no public comments received during that time.

Ohio Administrative Code (OAC) Chapter 3701:1-40 impact over 600 licensees in Ohio that handle radioactive materials. A specific radioactive material license is required for the possession, use, and storage of radioactive material. The annual cost of a license ranges from \$308 to \$23,944 depending on the scope of the radioactive material program and the proposed use of radioactive material. Licensees must also maintain a decommissioning plan with financial assurances, develop operating procedures, and maintain compliance with radiation safety programs. The Department estimates about forty hours as the time necessary to establish operating procedures at a cost of \$33 per hour. It estimates between ten and forty hours per month will be spent on radiation safety compliance, depending on the scope of the operation. Decommissioning funding plans will vary in cost based on the amount of radioactive material possessed by the licensee, the type of operation, the form of radioactive material possessed, the size of the facility, and the impact to the environment. The Department justifies any adverse impact

NOTICE OF PUBLIC RULES HEARING

by noting the benefits to public health. It notes that radiation standards ensure the safe handling of radioactive material, and are necessary to protect the public and the environment from unnecessary radiation exposure.

Ohio Revised Code (O.A.C.) Chapter 3701:1-48 – Licensing and Safety Requirements for Industrial Radiography

The rules set forth in Chapter 3701:1-48 of the Ohio Administrative Code (“OAC”) outline definitions, safety requirements, licensing requirements, reporting responsibilities, records maintenance policies, and other requirements related to industrial radiography operations. The Department states in the BIA that the rules are promulgated as a condition of Ohio maintaining its “Agreement State” under the U.S. Nuclear Regulatory Commission, which allows Ohio to assume regulatory control of the possession and use of radioactive material in Ohio, and that in all substantive aspects, the rules in this chapter are identical to their federal counterparts.

Information regarding rule package proposed:

This rule package consists of twenty-one no change rules and eighteen amended rules. The draft rules were submitted to the CSI Office on June 30, 2021, and the public comment period was open through July 30, 2021. There were no public comments received during that time.

Ohio Administrative Code (OAC) Chapter 3701:1-40 impact over 600 licensees in Ohio that handle radioactive materials. A specific radioactive material license is required for the possession, use, and storage of radioactive material. The annual cost of a license ranges from \$308 to \$23,944 depending on the scope of the radioactive material program and the proposed use of radioactive material. Licensees must also maintain a decommissioning plan with financial assurances, develop operating procedures, and maintain compliance with radiation safety programs. The Department estimates about forty hours as the time necessary to establish operating procedures at a cost of \$33 per hour. It estimates between ten and forty hours per month will be spent on radiation safety compliance, depending on the scope of the operation. Decommissioning funding plans will vary in cost based on the amount of radioactive material possessed by the licensee, the type of operation, the form of radioactive material possessed, the size of the facility, and the impact to the environment. The Department justifies any adverse impact by noting the benefits to public health. It notes that radiation standards ensure the safe handling of radioactive material, and are necessary to protect the public and the environment from unnecessary radiation exposure.

Ohio Revised Code (O.A.C.) Chapter 3701:1-58 – Licensing and Safety Requirements for Industrial Radiography

The rules set forth in Chapter 3701:1-58 of the Ohio Administrative Code (“OAC”) establishes regulations regarding the medical use of radioactive materials. OAC 3701:1-58-02 through OAC 3701:1-58-14 address the scope of the Chapter, licensing, human research subject provisions, and supervision requirements. OAC 3701:1-58-04 is being amended to update references to federal regulations. OAC 3701:1-58-23 through 3701:1-58-34 set forth regulations regarding the calibration of equipment, labeling material, and the use of unsealed radioactive material. OAC 3701:1-58-38 through 3701:1-58-59 include requirements for safety instructions, patient surveys, and installation. OAC 3701:1-58-60 through 3701:1-58-72 address spot-checks and calibration measurements for equipment, dosimetry equipment, and therapy-related computer systems. OAC 3701:1-58-74 through 3701:1-58-103 address recordkeeping and reporting requirements for the various types of radiation-generating equipment.

Information regarding rule package proposed:

08/09/2021

NOTICE OF PUBLIC RULES HEARING

This rule package consists of sixty-five no change rules and one amended rule. The draft rules were submitted to the CSI Office on October 22, 2019, and the public comment period was open through November 22, 2019. There were no public comments received during that time.

Ohio Administrative Code (OAC) Chapter 3701:1-58 impacts all individuals licensed to handle radioactive material. ODH states that there are 300 licensees currently operating in Ohio. The adverse costs created by the rules include the time and effort spent by licensees to comply with the training and handling requirements of the rules.

Ohio Revised Code (O.A.C.) Chapter 3701:16-03.1 and 3701-17-03.1 – Expedited Inspection of Homes

The rules set forth in Chapter 3701-16-03.1 and 3701-17-03.1 of the Ohio Administrative Code (“OAC”) – 3701-16-03.1 establishes requirements for requesting an expedited licensure inspection for new residential care facility and existing facilities that are increasing or decreasing bed capacity. The rule lists the procedures for completing an application for expedited review and the procedures for inspection. OAC 3701-17-03.1 sets forth similar requirements for nursing homes, including allowing nursing homes to conduct inspections remotely. These rules replace the previous rules of the same rule number.

Information regarding rule package proposed:

This rule package consists of two amended rules and two rescinded rules. The draft rules were submitted to the CSI Office on October 14, 2021, and the public comment period was open through November 13, 2021. There were no public comments received during that time.

Ohio Administrative Code (OAC) Chapter 3701-16-03.1 and 3701-17-03.1 business impact includes nursing homes and residential care facilities that seek initial inspection or an increase or decrease in bed capacity. ODH states that there are approximately 955 nursing homes and there are only three are not subject to other federal inspection guidelines. ODH also estimates that between 25 and 35 residential care facilities are initially licensed annually and 65 to 75 require inspection each year. Expedited licensure surveys cost \$2,250. ODH states in the BIA that the adverse impacts are necessary to ensure the safety of individuals receiving services through nursing homes and residential facilities. ODH also notes that an expedited licensure allows facilities to start operations or increase capacity, which many facilities could benefit from.

Ohio Revised Code (O.A.C.) Chapter 3701-64 – Abuse or Neglect in Long-Term Care Facilities

The rules set forth in Chapter 3701-64 of the Ohio Administrative Code (“OAC”) establishes requirements related to abuse or neglect that occurs in long-term care facilities. OAC 3701-64-01 lists definitions used throughout the chapter and is amended to update the definitions for “neglect” and “physical abuse” to clarify that allowing a resident to be treated through spiritual means, like prayer, does not constitute neglect. OAC 3701-64-02 sets requirements for investigations of abuse and neglect or misappropriation of property. The rule is amended to update the procedure for filing an allegation to reflect that they may be submitted to the ODH Bureau of Survey and Certification or Bureau of Regulatory Operations. OAC 3701-64-03 addresses requests for an abuse or neglect hearing and is amended to extend the timeframe for setting a hearing date from 60 days to 90 days. OAC 3701-64-04 establishes hearing procedures, including the issuance of subpoenas, attorney appointments, and the delivery of reports. The rule is amended to update recording procedures and the amendment date of the Ohio Rules of Evidence. OAC 3701-64-05 concerns findings issued from a hearing and is amended to remove requirements related to the issuance of findings by the ODH Director and to clarify requirements related to the nurse aide registry.

NOTICE OF PUBLIC RULES HEARING

Information regarding rule package proposed:

This rule package consists of five amended rules. The draft rules were submitted to the CSI Office on February 22, 2021, and the public comment period was open through March 21, 2021. There were no public comments received during that time.

Ohio Administrative Code (OAC) Chapter 3701-64 business impact includes 946 licensed nursing homes and 787 licensed residential care facilities. The adverse impacts created by the rules include requirements to notify in instances of abuse or neglect, as well as maintenance of records related to investigations. ODH states in the BIA that the rules are necessary to ensure the health and safety of individuals in long-term care facilities.

Hearing and Contact Information:

Information about the hearing, people affected by the proposed action may appear via teleconference and be heard or in tandem with 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 the call to be organized and go as smooth as possible, any persons intending to testify on the tele-Public Hearing or planning to observe are encouraged to email Alicyn.Carrel@odh.ohio.gov immediately. Please include in the subject of your email – TESTIFYING IN PUBLIC HEARING and the DATE of the Public Hearing in which you are testifying.

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 or RSVP if you are planning on testifying to Alicyn.Carrel@odh.ohio.gov by 5:00 p.m. on Wednesday, March 9, 2022.