



Department of
Health

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Mike DeWine, Governor Jon Husted, Lt. Governor Bruce Vanderhoff, MD, Director

April 18, 2024

Notice of Public Rules Hearing

April 18, 2024
1:30PM

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:

3701-21 - Food Service

Ohio Administrative Code (OAC) 3701-21 establishes requirements for food service

operations, which include catering, food delivery, mobile food service, seasonal food service, temporary food service, and vending machines. Lists the definitions used throughout the rule and is amended to introduce definitions for “mobile catering food service operation” and to update existing definitions. Establishes requirements for food service operation licenses, including the timeframe for license application, descriptions of the health district with which a mobile food operation must apply, and fees for license application. The rule is amended to require that the licenser submit a report of all food service operation licenses. Sets forth requirements for the establishment of license fees and categories and is amended to include reference to low-risk mobile food service operations. Requires a cost analysis to be performed by the licensing authority and is amended to remove one method for calculating support costs through the application of a negotiated indirect cost rate and calculation method approved by an agency of the federal government. Provides guidelines for determining the risk level of food service operations. Risk level I operations engage in food handling or preparation activities that can include sanitation, labeling, food source, storage, or expiration risks. Risk level II operations pose a higher potential risk due to hand contact or employee health concerns, and risk level III operations concern additional risks caused by cooking or cooling food, processing raw food, and issues caused by contamination or improper heat treatment. Risk level IV operations include additional preparation, storage, or demographic hazards. The rule is amended to include additional examples of activities associated with each risk level and additional new requirements for determining risk levels for mobile food service operations. Concerns the inspection frequency for food service operations and is amended to update requirements for maximum time between inspections of vending machines, and to establish a definition for “licensing period.” Rescinds and replaces the current rule and establishes the procedures for investigating complaints, including maintaining policies and documenting and reporting results. Lists the procedures for resolving disputes between licensers and license holders and for providing enforcement support. The rules are amended to clarify requirements and to state that ODH is available to provide enforcement support. Requires the approval of a food service operation’s facility layout and equipment specifications and is amended to make minor language edits. Concerns ODH standards for first aid techniques for choking and is amended to remove a requirement for ODH to print these standards for distribution. Lists requirements for food protection certification, including course certification standards and curriculums. The rule is amended to include additional description of manager certification in food protection courses and additional requirements for courses to complete before administering examinations, in addition to removing requirements for instructors in manager certification to have four years’ experience. The rule is also amended to require that licensees maintain one person with person in charge certification per individual event for operations licensed on or after the effective date of the rule, as well as for licensees that have been implicated in a foodborne illness outbreak or have failed to maintain sanitary conditions as documented by the licenser. Lists the appeals procedures for a food service operation license and is amended to include clarifying updates. Also, is amended to remove unnecessary regulatory restrictions.

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.

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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/health-rules-laws-and-forms>)

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