



Ohio Administrative Code

Rule 3701:1-38-06 License or registration adjudication orders; late fees; impoundment; administrative monetary penalty.

Effective: April 15, 2013

(A) The director may suspend or revoke a license or a certificate of registration, or issue adjudication orders for failure by the licensee or registrant to comply with Chapter 3748. of the Revised Code or a rule adopted thereunder. Except as otherwise provided in paragraphs (B), and (D) to (F) of this rule, prior to suspending or revoking a license or certificate of registration, the director shall first give written notice of violation to the licensee or registrant, by certified mail, return-receipt requested, specifying the section of Chapter 3748. of the Revised Code or the rule violated and specifically describing the violation. The notice of violation shall include information concerning the applicable penalties established under sections 3748.19 and 3748.99 of the Revised Code. The director shall provide the licensee or registrant with an informal meeting provided that the licensee or registrant requests the meeting and provided that the meeting is held within thirty days of the date that the licensee or registrant receives the notice of violation or at a later date as determined by the director. If, after thirty days from the date the licensee or registrant received the notice of violation, the facility remains in violation the director may issue an adjudication order. The adjudication order shall specify the section of Chapter 3748. of the Revised Code or the rule violated, specifically describe the violation, specify the action ordered to abate the violation, and order the action to be taken within a specified reasonable time. In the order, the director also may propose to suspend or revoke the license or certificate of registration should the licensee or registrant fail to take the action specified in the order within the specified time.

(B) If the director determines that an emergency exists requiring immediate action to protect the public health or safety, he or she may issue an emergency adjudication order, reciting the existence of an emergency and specifying the necessary action that shall be taken to meet the emergency. The order shall be effective immediately, without notice or hearing, but shall not remain effective for more than ninety days after its issuance. Any facility to which the order is directed shall comply immediately.

(C) In the case of a failure by a licensee or registrant to comply with Chapter 3748. of the Revised Code or the rules adopted thereunder, the director may issue an adjudication order, emergency



adjudication order, or may propose the suspension or revocation of the facility's license or registration. The licensee or registrant shall be notified as soon as practicable that the licensee or registrant may appeal any adjudication order, emergency adjudication order, or proposed license or registration suspension or revocation in accordance with Chapter 119. of the Revised Code, provided that the licensee or registrant requests a hearing within thirty days of the time of mailing the order or proposed suspension or revocation. In the case of an emergency adjudication order, the hearing shall be held within thirty days of the request. The director may continue, modify, suspend or revoke an adjudication order at any time, or withdraw a proposed suspension or revocation prior to a final order. In accordance with Chapter 3748. of the Revised Code and this rule, the director may concurrently assert against a licensee or registrant more than one administrative remedy. In the event the licensee or registrant appeals more than one administrative action, the director may consolidate into one hearing any or all issues to be heard.

(D) Registration, license, and inspection fees shall be paid no later than thirty days after the invoice for the fee is mailed. In accordance with sections 3748.07 and 3748.13 of the Revised Code, any fee that remains unpaid on the ninety-first day after the original invoice date shall be assessed an additional amount equal to ten per cent of the original fee. All invoices issued by the department shall include thereon information regarding the assessment for late payment or nonpayment that is specified in division (B) of section 3748.13 of the Revised Code.

(1) The department shall mail invoices by ordinary United States mail to the most recent address provided by the registrant or licensee on his or her application or current registration.

(2) The department shall maintain a list of the invoices issued and date mailed.

(E) The director may impound or order the impounding of sources of radiation that are not stored, used, or disposed of in accordance with Chapter 3748. of the Revised Code or the rules adopted under it if the source of radiation has been abandoned or if the owner cannot be identified or located. If the director determines that an emergency exists requiring immediate impoundment to protect the public health or safety, the director may issue an emergency adjudication order in accordance with paragraph (B) of this rule. The director may make any disposition of the source of radiation consistent with Chapter 3748. of the Revised Code and the rules adopted thereunder.



(F) If the director determines that a licensee has failed to comply with Chapter 3748. of the Revised Code or the rules adopted thereunder, the director may at any time assess and collect an administrative monetary penalty in accordance with rules adopted pursuant to section 3748.05 of the Revised Code. The director may assess the administrative penalty independent of any and all other remedies that may be asserted by the department but may not assess any administrative monetary penalty until specified by rule in accordance with section 3748.05 of the Revised Code. The licensee may appeal the assessment of an administrative monetary penalty in accordance with Chapter 119. of the Revised Code, provided that the licensee requests a hearing within thirty days of the time of mailing the administrative penalty assessment.