



Ohio Administrative Code

Rule 3745-49-05 Draft actions and proposed actions.

Effective: April 2, 2012

(A) With respect to all actions of the agency that would require the agency to afford an opportunity for an adjudication hearing in accordance with sections 119.06 and 119.07 of the Revised Code and Chapter 3745-47 of the Administrative Code, the director shall prepare a proposed action.

(1) A proposed action shall be issued to the person who is the subject of the proposed action by certified mail, return receipt requested. Service shall be complete in accordance with section 119.07 of the Revised Code and the "Ohio Rules of Civil Procedure" (2011).

(2) All proposed actions, except amended proposed actions, shall be accompanied by a notice that states when and how a person may request an adjudication hearing in accordance with Chapter 3745-47 of the Administrative Code.

(B) In any instance in which the director is not obligated to afford an opportunity for an adjudication hearing in accordance with sections 119.06 and 119.07 of the Revised Code and Chapter 3745-47 of the Administrative Code, the director may issue a draft action to the person subject thereto. All draft actions shall be sent by certified mail or first class mail to the person subject thereto and shall be accompanied by a statement as to when a final action may be issued.

(C) Draft action or proposed action process determined by effective dates.

(1) A draft action or proposed action may bear a date upon which it will become effective as a final action, or it may be issued with no such date stated. If the draft action or proposed action bears an effective date, the date shall not be prior to the following:

(a) For a proposed action, the deadline for filing an adjudication hearing request and an objection set forth in rule 3745-47-03 of the Administrative Code.

(b) For a draft action, either of the following:



- (i) The deadline for filing comments set forth in paragraph (D) of this rule.

- (ii) The deadline for requesting a public meeting set forth in rule 3745-49-13 of the Administrative Code.

- (2) If a draft action or proposed action is issued with an effective date, amendments thereto are issued, and the amended action is entered in the director's journal, the agency need not, at the time of entry, provide notice or a copy of the amended action to the person subject thereto.

- (3) If a draft action or proposed action is issued without an effective date, amendments thereto are issued, and the agency later assigns an effective date and enters the amended action in the director's journal, the agency shall mail notice to the person subject thereto informing such person of the effective date.

- (D) Public comments.
 - (1) Any person may submit written comments relating to a draft action or proposed action.

 - (2) All comments received by the agency not later than thirty days after public notice in accordance with rule 3745-49-07 of the Administrative Code, or such longer period as the public notice may specify, shall be considered by the director prior to issuance of a final action. This paragraph does not apply to amended draft actions or amended proposed actions unless the agency gives public notice of the amended draft action or amended proposed action pursuant to rule 3745-49-07 of the Administrative Code.

 - (3) All comments or statements presented to the agency at a public meeting held pursuant to rule 3745-49-13 of the Administrative Code shall be considered by the director prior to issuance of a final action.

- (E) Amendment and withdrawal of a draft action or proposed action.
 - (1) If a draft action or proposed action is issued with an effective date, the director may amend the



draft action or proposed action at any time prior to the stated effective date. A draft action or proposed action issued without an effective date may be amended at any time prior to entry in the director's journal as a final action.

(2) The director may withdraw a draft action or proposed action prior to the effective date stated, or if no date is stated, at any time. However, the director may not withdraw a proposed action after the initiation of an adjudication proceeding in accordance with Chapter 3745-47 of the Administrative Code unless objections made in accordance with section 3745.07 of the Revised Code and rule 3745-47-03 of the Administrative Code and all requests for an adjudication hearing have been withdrawn or dismissed.

(F) A draft action or proposed action shall be issued as a final action in accordance with rule 3745-49-06 of the Administrative Code.