



Ohio Administrative Code

Rule 901:2-2-05 Notification, appeals, and actions held in abeyance.

Effective: [March 19, 2016](#)

Pursuant to rule 901:2-2-01 of the AdministrativeCode, 9 C.F.R. 500.5 shall be read as follows:

(A) Whenever the department takes a withholding action or imposes a suspension without prior notification as provided for in paragraph (A) of rule 901:2-2-04 of the Administrative Code, the establishment shall promptly receive a written notice:

- (1) Stating the effective date of the action;
- (2) Describing the reasons for the action;
- (3) Identifying the products or processes affected by the action;
- (4) Provide the establishment an opportunity to present immediate and corrective action and further planned preventive action; and
- (5) Advising the establishment that it may appeal the action in accordance with division (D) of section 918.08 or division (C) of section 918.28 of the Revised Code.

(B) Whenever the department takes a withholding action or imposes a suspension with prior notification as provided for in paragraph (B) of rule 901:2-2-04 of the Administrative Code, the written notice shall:

- (1) State the type of enforcement action the program employee proposes to take;
- (2) Describe the reason for the proposed enforcement action;
- (3) Identify the products or processes affected by the proposed enforcement action;



(4) Advise the establishment of its right to contact the department to contest the basis for the proposed action or to explain how compliance has been or will be achieved through corrective actions; and

(5) Advise the establishment that it has ten business days from the receipt of the written notification to respond to the department, unless otherwise indicated by the department.

(C) The department may defer the proposed withholding action or suspension in accordance with paragraph (B) of this rule, when the establishment has submitted to the department proposed corrective actions which the department believes that the establishment's proposed corrective actions would cure the underlying violation.

(D) The department will initiate the withholding action or impose the suspension in accordance with paragraph (B) of this rule, when any of the following situations occur:

(1) The establishment has failed to respond to the department with their corrective actions within the time allotted in the notice;

(2) The department finds that the establishment's proposed corrective actions would fail to cure the underlying violation; or

(3) The department finds that the establishment's proposed corrective actions, which were accepted by the department pursuant to paragraph (C) of this rule, have either:

(a) Failed to cure the underlying violation; or

(b) Not been properly implemented by the establishment.

(E) If the department takes a withholding action or suspends inspection in accordance with paragraph (A) or (D) of this rule, then all of the following may apply:

(1) The establishment may request a hearing pursuant to Chapter 119. of the Revised Code. Upon receipt of a request, the director department shall schedule an expedited hearing



(2) The establishment may submit corrective actions to the department in order to correct the underlying progressive enforcement action. The department may hold the progressive enforcement action in abeyance if it believes that the establishment's proposed corrective actions would cure the underlying violation. If those actions fail to correct the underlying reason for the progressive enforcement action, the department may immediately reinstate the progressive enforcement action.