



## Ohio Administrative Code

### Rule 901:3-4-17 State survey procedures for program evaluation.

Effective: January 1, 2025

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(A) Pursuant to section 3717.11 of the Revised Code the director will survey at least once every three years the retail food establishment program of every licensor for retail food establishments. The licensor will provide the director with all requested information to complete the survey.

(B) The director will provide the survey methodology to all licensors. The methodology shall include:

(1) A review of the administrative aspects of the retail food establishment program including applications and licensing, cost analysis and fee adoption, facility layout and equipment specification review, inspections and reports and enforcement;

(2) A written or electronic assessment pursuant to section 3717.33(H) of the Revised Code to be administered in the following manner:

(a) Except as provided in paragraph (B)(2)(b) of this rule, each individual registered as an environmental health specialist or environmental health specialist in training that has conducted food inspections within the last licensing year will be evaluated by the director using the assessment;

(b) Any individual registered as an environmental health specialist or environmental health specialist in training that previously passed the assessment given by the director of health within the same calendar year in which a survey occurs will not be obligated to be assessed again by the director during a survey conducted in the same calendar year;

(c) The individual is allowed to reference the Ohio uniform food safety code during the assessment;

(d) No smart watches or cellular phones will be permitted during the assessment;

(e) The assessment will consist of not more than fifty questions in length;



- (f) The individual will have one hundred twenty minutes to complete the assessment;
  - (g) In order to pass the assessment, the individual will correctly answer eighty per cent of the assessment questions;
  - (h) In accordance with section 3717.33 (H) of the Revised Code, each licensor will provide the director the most commonly documented violations within the jurisdiction by January thirty-first of each year.
- (3) A review of other performance standards relevant to the conduct of the retail food establishment program. Performance standards are outside the scope of the status of compliance.
- (C) The director will survey the retail food establishment program in accordance with the survey methodology and determine whether the licensor is qualified to administer and enforce Chapter 3717. of the Revised Code, this chapter and Chapter 3717-1 of the Administrative Code. The licensor will be classified as provisional if any subsection of (C)(1), (C)(2), or (C)(3) of this rule is identified as "needs improvement" during the current survey. The licensor will be classified as provisional if all subsections of (C)(4) of this rule are identified as "needs improvement" during the current survey.
- (1) Fee setting:
- (a) Licensing fees exceed the maximum calculated fee; or
  - (b) Licensing categories do not comply with rule 901:3-4-03 of the Administrative Code; or
  - (c) Licensor charges licensing fees that have been disapproved.
- (2) Licensing:
- (a) Licensor charges additional fees to retail foods establishments not specified in paragraph (C) of rule 901:3-4-03 of the Administrative Code; or



(b) Licensor does not remit state fees to the director as specified in section 3717.25(C)(2) of the Revised Code and paragraph (E) of rule 901:3-4-02 of the Administrative Code.

(3) Inspections:

(a) Inspections are not conducted at the frequency specified in rule 901:3-4-06 of the Administrative Code; or

(b) Inspections are not conducted by a registered environmental health specialist or environmental health specialist in training.

(4) Program administration:

(a) Less than fifty per cent of the registered environmental health specialist or environmental health specialist in training pass the written assessment or electronic assessment; and

(b) The licensor does not administer and enforce Chapter 3717. of the Revised Code, this chapter and Chapter 3717-1 of the Administrative Code; and

(c) The licensor does not train and evaluate its food program staff.

(D) After the survey is complete, the director will classify the licensor as approved or provisional and provide a survey report to the licensor within forty-five days of the completion of the survey. The director will transmit the survey report to the licensor by regular U.S. mail or e-mail to the address provided by the licensor on the local health district information form. The survey report will include:

(1) A set time frame for correcting the deficiencies;

(2) Procedures for program disapproval that the department will pursue if the licensor fails to correct the deficiencies identified in paragraphs (C)(1), (C)(2), (C)(3) or (C)(4) of this rule or other deficiencies identified by the director, revealed by the survey; and



(3) An opportunity to request a meeting with a representative of the director to discuss the deficiencies.

(E) The director will re-evaluate a licensor's provisional retail food establishment program in the established time frame to determine if the program is in compliance. If in compliance, the director will classify the licensor as approved. If the deficiencies have not been corrected, the director will propose to disapprove the licensor, or will propose to revoke the approval, whichever is appropriate. The director will transmit the determination to the licensor by regular U.S. mail or e-mail to the address provided by the licensor on the local health district information form.

(F) The licensor may request an informal hearing on the director's proposed determination if a written request is received by the director no later than thirty days after the date the proposed determination is mailed or emailed by the director of agriculture to the licensor. The informal hearing will be conducted before the director or the director's authorized representative no later than thirty days after the director received the request for hearing. At the hearing, a representative of the licensor may present information orally and in writing. The director will transmit by regular U.S. mail or e-mail to the address provided by the licensor on the local health district information form a written decision no later than thirty days after the conclusion of the informal hearing.