

TO BE RESCINDED

901:10-5-03 **Enforcement procedures.**

- (A) Applicability. This rule applies to facilities, major concentrated animal feeding facilities, and facilities operated pursuant to review compliance certificates. The term facility is used to denote all types of facilities.
- (B) An agent or employee of the department shall conduct inspections and determine if there is a violation of Chapter 903. of the Revised Code and the rules adopted thereunder. Violations shall be described in an inspection report.
- (C) Upon observation by an agent or employee of the department during an inspection, through notification by another agency or through a written complaint from a person, the director will initiate an investigation in order to determine if there is a violation of Chapter 903. of the Revised Code and the rules adopted thereunder. Violations shall be described in an inspection report.
- (D) If the inspection report indicates a violation, the director shall do the following:
- (1) Evaluate the facts established by the inspection report.
 - (2) Issue a "notice of deficiencies resulting in noncompliance" in writing and via certified mail to the owner or operator that he or she has a period of time to complete actions to correct the violations. The period of time and the actions required shall be determined and specified by the director in the notice.
 - (3) After the time period specified in the notice has elapsed, the director shall re-inspect the facility. If the director determines that the owner or operator is still not in compliance, the director shall issue a notice of an opportunity for an adjudication hearing.
 - (4) The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the owner or operator is not in compliance, that an order be issued or the permit suspended or revoked and the imposition of the civil penalty.
 - (5) The owner or operator may waive the right to an adjudication hearing.
- (E) Penalties. Penalties assessed by the director shall be commensurate with the nature and degree of the violation. Penalties shall be assessed in accordance with rule 901:10-5-04 of the Administrative Code.

(F) Appeals from an order by the director.

- (1) Civil penalties. Any party adversely affected by an order of the director issued pursuant to an adjudication hearing conducted in accordance with Chapter 119. of the Revised Code may appeal the order in accordance with section 119.12 of the Revised Code.
- (2) Permitting actions. A permit holder adversely affected by an order of the director issued pursuant to an adjudication hearing conducted in accordance with Chapter 119. of the Revised Code suspending, modifying, or revoking a permit may appeal the order to the environmental review appeals commission under sections 3745.04 to 3745.06 of the Revised Code.
- (3) Review compliance certificate. Any party adversely affected by an order of the director issued pursuant to an adjudication hearing conducted in accordance with Chapter 119. of the Revised Code denying a review compliance certificate may appeal the order to the environmental review appeals commission under sections 3745.04 to 3745.06 of the Revised Code.

Effective:

R.C. 119.032 review dates: 04/21/2005

Certification

Date

Promulgated Under: 119.03
Statutory Authority: R.C. 903.01
Rule Amplifies: R.C. 903.04, 903.10
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