

901:13-1-17

**Enforcement.****(A) Investigations and inspections.**

- (1) The director or the director's designee may enter at reasonable times on private property, with the consent of the property owner, or on public property to inspect and investigate conditions to determine whether or not there is compliance with the rules of this Chapter or Chapter 939. of the Revised Code.
- (2) Upon reason to believe there is a violation, the director or the director's designee may apply for and a judge of the court of common pleas for the county where the land is located may issue an appropriate search warrant as necessary to achieve the purposes of this chapter.

**(B) Notice of deficiencies.**

- (1) Where the department or district has determined that deficiencies to this Chapter or Chapter 939 of the Revised Code has occurred or is occurring, the department or district shall inform the responsible person of the provisions violated.
- (2) The initial notification may be in person, by telephone, fax, or email.
- (3) If the initial notice is not in writing, the investigating authority shall, within a reasonable time, serve on the responsible party or mail to the responsible party's last known address, a written notification of the findings of the inspection, including the specific provisions violated.
- (4) If the violation can be corrected, the written notice will also include the corrective measures which must be taken to achieve compliance, including the amount of time allowed to take corrective measures.
- (5) In order to assist the owner, operator, or person responsible with the violations identified in the notice, the department or district may:
  - (a) Offer information and technical assistance for developing and evaluating alternative solutions;
  - (b) Provide information on financial assistance available;
  - (c) Offer to develop an operation and management plan which complies with the rules for agricultural pollution abatement; and
  - (d) Secure district or director approval of the operation and management plan to provide assurance that the operation is considered in compliance with the rules for agricultural pollution abatement.

(C) Notice of adjudication hearing.

- (1) If the owner, operator, or responsible person in charge fails to correct or is unable to correct the deficiencies outlined in the notice within the time period offered for compliance which was issued pursuant to paragraph (B) of this rule, the director may issue an notice of adjudication hearing requiring compliance with the rules and assess a civil penalty. The civil penalties proposed must be in accordance with rule 901:13-1-99 of the Administrative Code.
- (2) The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the determination of the director or the director's designee that the owner or operator is not in compliance or the imposition of the civil penalty, or both. However, the owner or operator may waive the right to an adjudication hearing.

(D) Director's order.

If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that noncompliance has occurred or is occurring, the director may issue an order requiring compliance and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

(E) Danger to public health.

- (1) Notwithstanding any other provision in this section, if the director determines that an emergency exists requiring immediate action to protect public health or safety or the environment, the director may issue an order, without notice or adjudication hearing, stating the existence of the emergency and requiring that action be taken that is necessary to address the emergency. The order shall take effect immediately.
- (2) A person to whom the order is issued shall comply immediately, but on application to the director shall be afforded an adjudication hearing in accordance with Chapter 119. of the Revised Code as soon as possible, but not later than thirty days after the director's receipt of the application. Following the hearing, the director shall continue the order in effect, revoke it, or modify it. The order may be appealed in accordance with section 119.12 of the Revised Code.
- (3) If a person to whom an order is issued does not comply with the order within a reasonable period of time as determined by the director, the director or the director's designee may enter on private or public lands to investigate and take

action to mitigate, minimize, remove, or abate the conditions that are the subject of the order.

(4) A person that is responsible for causing or allowing the unauthorized spill, release, or discharge of manure or residual farm products is liable to the director for the costs incurred in investigating, mitigating, minimizing, removing, or abating the spill, release, or discharge.

(5) Upon request of the director, the attorney general shall bring a civil action against the responsible person or persons to recover those costs.

Replaces: 901:13-1-15, 901:13-1-16, 901:13-1-17

Effective:

Five Year Review (FYR) Dates:

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 939.02  
Rule Amplifies: 939.02  
Prior Effective Dates: 11/01/1979, 05/01/1989, 05/07/1992, 12/23/2010,  
12/31/2015 (Emer.), 04/01/2016