

3701-21-24

**State survey procedures for program evaluation.**

- (A) The director of health ~~shall~~will survey at least once every three years each food service operation program of a licensor pursuant to section 3717.11 of the Revised Code. The licensor ~~shall~~will provide the director of health with all requested information to complete the survey.
- (B) The director of health ~~shall~~will provide the survey methodology, which ~~shall~~is to include:
- (1) A review of the administrative aspects of the food service operation program including application and licensing, certification, cost analysis and fee adoption, facility layout and equipment specification review, inspections and reports, and enforcement;
  - (2) A ~~field review of the application of the requirements written or electronic assessment pursuant to section set forth in Chapter 3717.52 of the Revised Code, Chapter 3717-1 of the Administrative Code and this chapter, and 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 written or electronic 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 agriculture 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 120 minutes to complete the assessment.
    - (g) In order to pass the assessment, the individual will correctly answer 80% of the assessment questions.

(h) In accordance with section 3717.52 (B) of the Revised Code, each licensor will provide the director the most commonly documented violations within the jurisdiction by January 31 of each year.

(3) A review of other performance standards relevant to the conduct of the food service operation program. These performance standards are outside the scope of the status of compliance.

(C) The director of health ~~shall~~ will survey the food service operation program in accordance with the survey methodology and ~~shall~~ determine whether the licensor is qualified to administer and enforce Chapter 3717. of the Revised Code and Chapters 3701-21 and 3717-1 of the Administrative Code. ~~After the survey is complete, the director of health shall classify the~~ The licensor will be classified as approved or provisional if any subsection (C)(1), (C)(2), or (C)(3) of this rule is identified as needs improvement during the current survey and provide a survey report to the licensor. If the licensor is classified as provisional, the director of health shall provide: 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) ~~A set time frame for correcting the deficiencies;~~ Fee setting:

(a) Licensing fees exceed the maximum calculated fee; or

(b) Licensing categories do not comply with rule 3701-21-02.1 of the administrative code; or

(c) Licensor charges licensing fees that have been disapproved.

(2) ~~Procedures for program disapproval that the department of health will pursue if the licensor fails to correct the major deficiencies revealed by the survey; and~~ Licensing:

(a) Licensor charges additional fees to food service operations not specified in section (C) of 3717-1-02.1 of the administrative code; or

(b) Licensor does not remit state fees to the director as specified in section 3717.45(C)(2) of the revised code and section (F) of rule 3701-21-02 of the administrative code.

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

(a) Inspections are not conducted at the frequency specified in rule 3701-21-02.4 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 50% of the registered environmental health specialists or environmental health specialists in training pass the written or electronic assessment; and

(b) The licensor does not administer and enforce Chapter 3717. of the Revised Code and Chapters 3701-21 and 3717-1 of the Administrative Code; and

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

(D) The department of health shall reevaluate a licensor's provisional food service operation program in the established time frame to determine if the program is in compliance. If in compliance, the director of health shall classify the licensor as approved. If the deficiencies have not been corrected, the director of health shall propose to disapprove the licensor, or shall propose to revoke the approval, whichever is appropriate. After the survey is complete, the director will classify the licensor as approved or provisional and provide a survey report to the licensor within 45 days of completion of the survey. The director of health will transmit the survey report to the licensor by email or regular U.S. 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 section (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 reevaluate a licensor's provisional food service operation program in the established time frame to determine if the program is in compliance. If in compliance, the director of health will classify the licensor as approved. If the deficiencies have not been corrected, the director of health will propose to disapprove the licensor, or will propose to revoke the approval, whichever is appropriate. The director of health will transmit the determination to the licensor by email or regular U.S. mail to the address provided by the licensor on the local health district information form.

- ~~(E)~~(F) The licensor may request an informal hearing on the director of health's proposed determination if a written request is received by the director of health no later than ~~fifteen~~thirty days after the date that the proposed determination is emailed or mailed by the director of health to the licensor~~of mailing the proposed determination~~. The informal hearing ~~shall~~will be conducted before the director of health or the director of health's authorized representative no later than thirty days after the director of health received the request for hearing. At the hearing, a representative of the licensor may present information orally and in writing. The director of health ~~shall~~will transmit by email or regular U.S. mail to the address provided by the licensor on the local health district information form ~~issue~~ a written decision no later than thirty days after the conclusion of the informal hearing.
- ~~(F)~~(G) The director of health may reinstate a licensor if all the conditions in division (D) of section 3717.11 of the Revised Code are met. Upon reinstatement, the director of health ~~shall~~will provide the licensor a set time-frame for survey which ~~shall is~~to be no later than one year after reinstatement. The licensor ~~shall~~will be classified as provisional until the licensor has successfully passed the survey. If the director of health determines that the licensor is qualified to administer and enforce Chapter 3717. of the Revised Code and Chapters 3701-21 and 3717-1 of the Administrative Code, the director of health ~~shall~~will classify the licensor as approved. If the director of health determines that the licensor is not qualified, the director of health may propose to revoke the approval in accordance with paragraph (D) of this rule.

Effective: 1/1/2025

Five Year Review (FYR) Dates: 8/16/2024 and 01/01/2030

CERTIFIED ELECTRONICALLY

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Certification

10/22/2024

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Date

Promulgated Under: 119.03

Statutory Authority: 3717.52

Rule Amplifies: 3717.11, 3717.52

Prior Effective Dates: 04/16/1996, 07/11/1996, 03/01/2001, 03/01/2010