



## Ohio Administrative Code

### Rule 3701-21-02.2 Cost analysis and calculation.

Effective: September 1, 2024

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(A) A cost analysis will be conducted each fiscal year. The licensor will use data from the previous fiscal year to calculate the actual cost of administering and enforcing Chapter 3717. of the Revised Code and the rules adopted thereunder for food service operations and retail food establishments licensed by the licensor. The licensor will calculate the actual cost of administration and enforcement attributable to each of the following components on forms prescribed or approved by the director of agriculture and the director of health:

- (1) Risk level I, risk level II, risk level III, and risk level IV food service operations and retail food establishments;
- (2) Mobile food service operations and mobile retail food establishments;
- (3) Temporary food service operations and temporary retail food establishments; and
- (4) Vending machine locations.

(B) Except as specified in paragraph (D) of this rule, the licensor will calculate the cost attributable to each component listed in paragraph (A) of this rule for administering and enforcing Chapter 3717. of the Revised Code and the rules adopted thereunder for operations licensed by the licensor. Cost is not to exceed all reasonable and necessary direct and indirect costs . For the purpose of this rule, indirect cost means support cost which includes support staff cost plus overhead costs. The licensor will use a form prescribed or approved by the director of agriculture and the director of health that includes the following data:

- (1) A list of all inspecting environmental health specialists who worked in the component;
- (2) The total hours worked in the component by each inspecting environmental health specialist;



- (3) The total hours that each inspecting environmental health specialist worked in the last fiscal year;
  - (4) The total annual wages or salary paid to each inspecting environmental health specialist;
  - (5) The total amount for fringe benefits paid on behalf of each inspecting environmental health specialist;
  - (6) The total travel costs for each inspecting environmental health specialist;
  - (7) The support costs for the component as determined by one of the following methods:
    - (a) Use of actual support cost not to exceed thirty per cent of the total program cost for items such as salary and fringe benefits of the health commissioner, the director of environmental health, supervisory staff, clerical staff, utilities, rent, supplies, equipment, liability insurance, and training; or
    - (b) Use of an indirect cost rate of thirty per cent of the wages or salaries and fringe benefits of inspecting environmental health specialists attributable to the component.
  - (8) The sampling and laboratory costs for the component other than those costs specified in paragraph (C)(2) of rule 3701-21-02.1 of the Administrative Code; and
  - (9) Funding for the component which includes revenues obtained from license fees and penalty fees.
- (C) The licensor will calculate the license fee for each food service operation category listed in rule 3701-21-02.1 of the Administrative Code as follows:
- (1) The vending machine location category cost divided by the number of vending machine location licenses issued.
  - (2) The mobile food service operation and the mobile retail food establishment category cost divided by the number of mobile food service operation and the mobile retail food establishment licenses issued.



(3) For a temporary food service operation:

(a) Using fees established on a per event basis, the temporary food service operation and temporary retail food establishment category cost divided by the number of temporary food service operation and temporary retail food establishment licenses issued. If a licensor elects to establish a noncommercial fee for temporary food service operations and temporary retail food establishments, the category cost is divided by the number of licenses issued for commercial temporary food service operations and commercial temporary retail food establishments plus fifty per cent of the number of licenses issued for noncommercial temporary food service operations and noncommercial temporary retail food establishments; or

(b) Using fees established on a per day basis, the temporary food service operation and temporary retail food establishment category cost divided by the total number of days for which temporary licenses were issued. If a licensor elects to establish a noncommercial fee for temporary food service operations and temporary retail food establishments, the category cost is divided by the number of days for which commercial licenses were issued plus fifty per cent of the number of days for which temporary licenses were issued for noncommercial temporary food service operations and noncommercial temporary retail food establishments.

(4) For food service operations classified as risk level I, risk level II, risk level III, and risk level IV food service operations:

(a) Determine support costs in accordance with paragraph (B)(7) of this rule. Equally allocate support costs attributable to the risk level food service operations and retail food establishments component by dividing the support costs of the risk level food service operations and retail food establishments component by the total number of risk level I, risk level II, risk level III, and risk level IV commercial food service operations and retail food establishments plus fifty per cent of noncommercial operations classified by risk;

(b) Determine the total number of food service operations and retail food establishments in each risk level category. If the licensor elects to establish noncommercial categories for risk level food service operations and risk level retail food establishments the total number of food service operations and retail food establishments in each risk level category is the number of commercial risk level food



service operations and commercial risk level retail food establishments plus fifty per cent of the number of noncommercial risk level food service operations and noncommercial risk level retail food establishments.

(c) Determine the number of standard inspection periods for each risk level category using the inspection time factor. The inspection time factor is the ratio of the average amount of time per inspection for all risk levels relative to the average time per inspection for the risk level I less than twenty-five thousand square feet operations. The inspection time factor for:

(i) Risk level I less than twenty-five thousand square feet is 1.00 and twenty-five thousand square feet or above is 1.88;

(ii) Risk level II less than twenty-five thousand square feet is 1.25 and twenty-five thousand square feet or above is 2.03;

(iii) Risk level III less than twenty-five thousand square feet is 1.64 and twenty-five thousand square feet or above is 4.84; and

(iv) Risk level IV less than twenty-five thousand square feet is 2.21, and twenty-five thousand square feet or above is 5.16.

The number of standard inspection periods is the minimum number of inspections mandated for each risk level category multiplied by the inspection time factor, the product of which is multiplied by the total number of food service operations and retail food establishments in each risk level category.

(d) Determine the total number of standard inspection periods by summing the standard inspection periods for all risk level categories.

(e) Determine the non-support cost per standard inspection period: subtract the support cost from the total actual cost of the component and divide this amount by the total number of standard inspection periods.

(f) Determine the non-support cost for each risk level category by using the following formula:



$A \times B \times C$  = The non support cost for each risk level, where A is equal to the non support cost per standard inspection period, B is equal to the minimum number of inspections for the risk level category, and C is equal to the inspection time factor for the risk level category.

(g) Determine the maximum license fee that may be established: Add the non support cost for each risk level category to the support cost per license issued.

(D) The total environmental health specialist hours that may be accounted for in calculating the cost attributable to the food service operations and retail food establishments identified in paragraph (A)(1) of this rule is not to exceed an average of nine hours per risk classified food service operation and retail food establishment.

(E) Anticipated increases in costs that may be attributable to a component are limited to known increases for which official notification or board action has been documented.

(F) The licensor will provide for a proportionate reduction in the fees to be charged in the next license period if a licensor included anticipated costs in the calculation of licensing fees and the total amount of anticipated costs was not incurred.

(G) The licensor will provide for a proportionate reduction in fees to be charged in the next license period if it is discovered through an audit by the auditor of state or any other means that the licensor has charged or is charging a license fee that exceeds the amount that should have been charged.

(H) The licensor will reduce the fees to be charged in the next license period when a reduction is imposed as a penalty under division (C) of section 3717.071 of the Revised Code.