



Ohio Administrative Code

Rule 901:3-4-04 Cost analysis and license fee calculation.

Effective: February 12, 2024

(A) A cost analysis shall be conducted each fiscal year. The licensor shall 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 shall calculate the actual cost of administration and enforcement attributable to each of the following components on forms prescribed or approved by the director:

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

(B) Except as specified in paragraph (D) of this rule, the licensor shall 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 shall not exceed all reasonable and necessary direct cost and indirect cost. For the purposes of this rule indirect cost means support cost which includes support staff cost plus overhead cost. The licensor shall 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 sanitarians who worked in the component;
- (2) The total hours worked in the component by each inspecting sanitarian;
- (3) The total hours that each inspecting sanitarian worked in the last fiscal year;



- (4) The total annual wages or salary paid to each inspecting sanitarian;
 - (5) The total amount for fringe benefits paid on behalf of each inspecting sanitarian;
 - (6) The total travel costs for each inspecting sanitarian;
 - (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 sanitarians attributable to the component.
 - (8) The sampling and laboratory costs for the component other than those costs specified in paragraph (C) of rule 901:3-4-03 of the Administrative Code;
 - (9) Funding for the component which includes revenues obtained from license fees and penalty fees.
- (C) The licensor shall calculate the license fee for each retail food establishment category listed in rule 901:3-4-03 of the Administrative Code as follows:
- (1) For a temporary retail food establishment:
 - (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 food service operation and temporary retail food establishment 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.

(2) For retail food establishments classified as risk level I, risk level II, risk level III, and risk level IV retail food establishments:

(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 commercial risk level I, risk level II, risk level III, and risk level IV food service operations and retail food establishments plus fifty per cent of the noncommercial operations classified by risk level;

(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 number of standard inspection periods is the minimum number of inspections required 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. 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.

(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 standard inspection period 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.

(3) The mobile retail food establishment and the mobile food service operation category cost divided by the number of mobile retail food establishments and mobile food service operation licenses



issued.

(D) Additional considerations.

(1) The total sanitarian 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 shall not exceed an average of nine hours per risk classified food service operation and retail food establishment.

(2) 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.

(E) The licensor shall provide a proportional 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.

(F) The licensor shall provide for a proportionate reduction in fees to be charged in the next license period if 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.

(G) The licensor shall 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.