



ENFORCEMENT GUIDELINES FOR REPEATED FAILURE TO MAINTAIN SUBSTANTIAL COMPLIANCE

Purpose:

Enforcement is the last step of a process to bring an establishment into compliance. In the vast majority of instances, voluntary compliance can be achieved by education and working with the facility management. Decisions to proceed to enforcement activities should always be based on mitigating public health threats, not just achieving compliance with a code. Before enforcement activities can begin, there must be a clear, well documented trail of routine inspections and re-inspections that demonstrates a need for enforcement.

Food Operations with a documented pattern of re-occurring critical violations and/or an amount of noncritical violations that require a re-inspection may be indicative that the operation has no responsible person in charge available. It is essential that sanitarians be diligent in their documentation and enforcement actions to include the person in charge requirement at operations that repeatedly fail to maintain substantial compliance with the Ohio Uniform Food Safety Code. The uniform application of these guidelines can assist the sanitarian in achieving compliant operators and reducing the risk of food borne illness at the facilities they inspect.

Progressive Corrective Steps:

First Occurrence of Failure to Maintain:

Conduct standard and/or critical control point inspections as required by Ohio Administrative Codes (OAC) 901-3-4 and 3701-21 based on the operation's licensed risk classification and at the frequency outlined in Huron County Public Health Environmental Health Administrative Guidelines.

Document all violation(s) of the Ohio Uniform Food Safety Code (OAC 3717), even those that are corrected at the time of the inspection on the appropriate inspection form. Be certain to verify and document whether the operation has a responsible person in charge available as required. Identify and record critical violations and instruct the person in charge to correct these violations immediately. Identify and record other violations, discuss all violations with the person in charge and how to correct and why, offer to provide a training session to their staff on the correct procedures, etc. Issue time limits for correction of the non-critical violations and set a reinspection date.

Complete the reinspection at the scheduled time; if the operation is in substantial compliance at the time of the scheduled re-inspection, no further action is necessary. If the operation is not in substantial compliance at the time of the scheduled re-inspection, follow the procedures outlined in the HCPH Environmental Health Administrative Guidelines [\\hdfiles\SYS\Agency Forms\OPERATING GUIDELINES\fs21 Inspection & Enforcement Guidelines.doc](#).



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Once the operation has successfully reached substantial compliance, subsequent inspections will be conducted according to the operator's licensed risk classification and the HCPH inspection goals.

Second Occurrence of Failure to Maintain:

If in the course of subsequent inspections it becomes apparent to the Sanitarian that the operation has no qualified person in charge or their actions are symptomatic of a pattern of failure to maintain that is represented by the repeated reoccurrence of previously documented critical and non-critical violations that have been corrected before which shows that the operator has knowledge of the hazard of the violation, how to correct it and the consequences of ignoring it, the sanitarian should proceed with the following actions:

Document: record violations on the appropriate inspection report clearly identifying the repeated reoccurrence of previously documented critical and non critical violations that have been corrected before, therefore representing a "failure to maintain violation" as defined by the Ohio Revised Code Section 3717.49. Also be certain to appropriately cite the person in charge requirements of the Ohio Uniform Food Safety Code (OAC 3717) if applicable.

Educate: document that you have reinforced the requirement to have a responsible person in charge available and that person understands the health significance of the problem, how to correct and why. Doing this may clear up any misunderstandings the person in charge may have had regarding the violations. Offer to provide a training session to their staff on the correct procedures, etc.

Inform: tell the operator that should these reoccurring violations be documented again as a "failure to maintain violation" a conference with the Director of Environmental Health and the Health Commissioner will be scheduled. At this meeting the operator will be given an opportunity to either explain their repeated failure to maintain and agree to an appropriate corrective action plan or jeopardize their license to operate.

If, after implementing the above actions and with subsequent inspections it is found the operator is maintaining substantial compliance, no further action is needed and subsequent inspections will be conducted according to the operators licensed risk classification and the HCPH inspection goals.

Third Occurrence of Failure to Maintain:

Should substantial compliance not be maintained and subsequent inspections document the repeated reoccurrence of previously documented critical and/or non critical violations that have been reported before, the sanitarian shall schedule a time with the Director of Environmental Health and the Health Commissioner to meet with the operator. At this meeting the operator will be placed into HCPH's Enhanced Enforcement Program, informed of possible license action, and the inspection history will be discussed. Prior to this meeting the sanitarian and the Director of Environmental Health will develop a corrective action plan to give to the operator.

If, after the Failure to Maintain Meeting, the operator neglects to follow or complete the Corrective Action Plan (this must be monitored by the sanitarian) and subsequent inspections demonstrate that the operation is not in substantial compliance, an immediate Administrative Hearing with the Board of Health shall be scheduled and a recommendation for the suspension or revocation of the license be made. (Reference ORC Section 3717.29 for procedures to suspend or revoke the license.)