Unofficial Copy
Effective Date 3/4/2013

Table of Contents

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 15 FOOD

10.15.03 Food Service Facilities

.01 Scope

.02 Definitions

.03 Incorporation by Reference

.04 Food Supplies and Sources: General

.05 Eggs and Egg Products

.06 Food Protection During Storage, Service, and Transportation

.07 Food Protection During Outdoor Preparation and Service

.08 Use of Time-Only with Potentially Hazardous Foods

.09 Food Preparation – Temperature and Cross Contamination Control

.10 Food Preparation – Cooking

.11 Food Preparation – Cooling and Reheating of Potentially Hazardous Foods

.12 Food Labeling

.13 Food Protection from Poisonous or Toxic Materials

.14 Personnel Health and Sanitation

.15Food Equipment and Utensils

.16 Cleaning and Sanitizing Equipment and Utensils

.17 Storage and Handling of Cleaned Equipment and Utensils

UNOFFICIAL COPY

.18 Control of Sanitary Facilities

.19 Garbage and Rubbish Disposal

.20 Vermin Control

.21 Building – Floors, Walls, and Ceilings

.22 Building – Lighting and Ventilation

.23 Building – Cleanliness and Operations

.24 Food Manufacturing in Food Service Facilities

.25 Special Food Service Facilities

.26 Excluded Organizations

.27 Farmer's Market and Bake Sales

.28 Licenses

.29 Food Service Facility Inspections – General

.30 Food Service Facility Inspections – Types and Frequencies

.31 Time Period for Correction of Violations

.32 Choking Posters

.33 Plan Review

.34 HACCP Plan Compliance

.35 Enforcement Procedures

.36 Foodborne Disease Investigation and Control

.37 Sampling, Detention, and Condemnation of Food

.38 Penalties

.39 Federal Compliance

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 15 FOOD

Chapter 03 Food Service Facilities

Authority: Health-General Article, §§18-102, 21-101, 21-102, 21-211, 21-234, 21-304, 21-308, 21-309.1, and 21-309.2; Agriculture Article, §4-311; Annotated Code of Maryland

.01 Scope.

This chapter:

A. Governs food service facilities in Maryland;

B. Along with COMAR 10.15.04, 15.04.01, and 15.11.11, establishes the standards for the control of Salmonella Enteritidis in shell eggs and egg-producing chickens as part of a program jointly administered by the Maryland Department of Health and Mental Hygiene and the Maryland Department of Agriculture; and

C. Is not intended to govern the food service operations in a child care center as defined in Family Law Article, §5-570, Annotated Code of Maryland, or a family day care home as defined in Family Law Article, §5-501, Annotated Code of Maryland, unless the food service operation is conducted in conjunction with another institution that is governed by this chapter.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Acceptable" means agreeable to the use or presence of equipment or a practice when standards are not developed or when developed standards are inappropriate, because the approving authority has determined that the equipment or practice conforms to principles, practices, and generally recognized standards that protect public health.

(2) Adulterated.

(a) "Adulterated" has the meaning stated in Health-General Article, §§21-207, 21-208, and 21-209, Annotated Code of Maryland.

(b) "Adulterated" includes food that:

(i) Contains any poisonous or deleterious substance;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(ii) Is diseased, contaminated, filthy, putrid, or decomposed; or

(iii) Is otherwise unfit as food for human beings.

(3) "Approved source" means a source of food or food ingredients accepted by the Department because the food or food ingredients from the source:

(a) Are not adulterated or misbranded; and

(b) Where required, are regulated by the approving authority.

(4) "Approving authority" means:

(a) Within the State, the Secretary of Health and Mental Hygiene or the Secretary's designee; or

(b) Outside the State, the agency designated in the laws of another state or country to license or permit a food establishment.

(5) "a_w" means water activity, which is:

(a) The ratio of the water vapor pressure of a food to the vapor pressure of pure water at the same temperature; and

(b) An index of the available, free moisture in food.

(6) Bake Sale.

(a) "Bake sale" means a place where only non-potentially hazardous bakery goods, including breads and pastries, are sold in conjunction with a fundraising event.

(b) "Bake sale" does not include a place:

(i) Where a person sells baked goods for individual profit;

(ii) From which food is commercially distributed; or

(iii) Where a potentially hazardous baked good is sold or distributed.

(7) "Barrier" means a physical, biological, or chemical factor that retards or prevents the growth of microorganisms that are infectious or toxigenic.

(8) "Bed and breakfast" means a lodging or rooming house as defined in Public Safety Article, §9-201, Annotated Code of Maryland, that has eight rooms or fewer for rent.

(9) "Bona fide nonprofit" means an organization having official documentation from the United States Internal Revenue Service that the organization has current tax-exempt nonprofit status.

(10) "Caterer" means a food service facility that:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(a) Offers catering services; or

(b) Identifies itself as a caterer.

(11) "Catering services" means the preparation or provision and the serving of food or drink by a food service facility for service at the provider's premises or elsewhere in connection with a:

(a) Specific public event; or

(b) Business or social function or affair.

(12) "Commercially sterile" means the condition achieved by the:

(a) Application of heat, pressure, or other energy or matter that renders a food free of:

(i) Microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution; and

(ii) Viable microorganisms, including spores, that may cause disease; or

(b) Control of water activity and the application of heat, pressure, or other energy or matter that renders the food free of microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution.

(13) Comminuted.

(a) "Comminuted" means reduced in size by methods including:

(i) Chopping;

(ii) Flaking;

(iii) Grinding; or

(iv) Mincing.

(b) "Comminuted" includes fish, meat, or a mixture of products that are reduced in size and restructured or reformulated, such as:

(i) Gefilte fish;

(ii) Formed roast beef;

(iii) The meat used in gyros;

(iv) Ground beef; and

(v) Sausage.

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(14) "Condiment" means a food or seasoning used to enhance the flavor of another food, including:

(a) Mustard;

(b) Ketchup;

(c) Mayonnaise;

(d) Relish;

(e) Salt;

(f) Pepper;

(g) Sugar; or

(h) Chutney.

(15) "Consumer advisory" means a written notification to consumers that:

(a) Identifies food of animal origin that is served or sold as a ready-to-eat food or as an ingredient in a ready-to-eat food that is:

(i) Raw;

(ii) Undercooked; or

(iii) Not otherwise processed to eliminate pathogens; and

(b) Reminds consumers that consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase the risk of foodborne illness, especially if the consumer has certain medical conditions.

(16) Continental Breakfast.

(a) "Continental breakfast" means a meal that does not require major food preparation as specified in Regulation .28G(1) of this chapter.

(b) "Continental breakfast" includes foods such as:

(i) Coffee and tea;

(ii) Juice;

(iii) Cereal;

(iv) Milk and cream;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(v) Whole fresh fruit;

(vi) Pastries;

(vii) Bread;

(viii) Donuts;

(ix) Butter and margarine; and

(x) Jams and jellies.

(c) "Continental breakfast" does not include foods such as:

(i) Eggs cooked outside of the shell;

(ii) Meat; and

(iii) Fruit salad prepared on premises.

(17) "Corrosion resistant" means the property that allows a material to maintain sanitary surface characteristics under the influence of prolonged contact with:

(a) Food;

(b) Cleaning compounds;

(c) Sanitizing solutions; and

(d) Other conditions of the environment.

(17-1) “Cottage food business" means a business that:

(a) Produces or packages cottage food products in a residential kitchen; and

(b) Has annual revenues from the sale of cottage food products in an amount not exceeding $25,000.

(17-2) “Cottage food product" means a non-potentially hazardous food as specified in Regulation .27 of this chapter that is offered for sale only at a farmer's market or public event.

(18) "Critical control point (CCP)" means a point in the preparation or processing of food where there is a reasonable likelihood that improper control may cause, allow, or contribute to a hazard to public health.

(19) Critical Item.

(a) "Critical item" means a food safety requirement that if violated requires:

UNOFFICIAL COPY

(i) Immediate correction;

(ii) The cessation of some or all processing operations; or

(iii) Plant closure.

(b) "Critical item" includes the following requirements:

(i) Obtaining food from an approved source;

(ii) Protecting food from adulteration, spoilage, and contamination;

(iii) Restricting food workers with infection or diarrhea in accordance with COMAR 10.06.01;

(iv) Ensuring that all food workers wash hands thoroughly before touching food and utensils, and as often as needed to prevent food contamination from hand contact;

(v) Cooling potentially hazardous foods in accordance with the requirements of this chapter;

(vi) Holding potentially hazardous foods at the hot and cold temperatures specified in this chapter;

(vii) Cooking and reheating potentially hazardous foods in accordance with the requirements of this chapter;

(viii) Providing potable hot and cold running water; and

(ix) Discharging sewage from the facility in accordance with all applicable State and local codes.

(20) "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that an identified potential food safety hazard may occur.

(21) "Department" means the Department of Health and Mental Hygiene or the Department's designee.

(22) "Detention order" means a written notification by the approving authority to the person-in-charge of a food service facility to detain food that may be adulterated or misbranded, pending a determination of the food's status and disposition in accordance with Health-General Article, §§21-253 and 21-254, Annotated Code of Maryland.

(23) "Easily cleanable" means the property of a surface that allows the surface to:

(a) Be readily accessible; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(b) Have soil and residue removed by routine cleaning methods.

(24) "Egg carton" means a container holding up to 36 shell eggs, including overwrapped cartons and sleeves, that is used to pack shell eggs for distribution or sale to a consumer.

(25) "Egg case" means a container that:

(a) Is not a carton;

(b) Holds either loose shell eggs or cartons of eggs; and

(c) Is used to pack shell eggs for distribution or sale to a consumer.

(26) "Employee" means:

(a) The licensee;

(b) An individual having supervisory or management duties;

(c) An individual on the payroll;

(d) A volunteer;

(e) An individual performing work under contractual agreement; or

(f) Any other individual working in a food service facility.

(27) Equipment.

(a) "Equipment" means an item, other than a utensil, that is used in the operation of a food establishment for:

(i) Storage;

(ii) Preparation;

(iii) Display;

(iv) Washing; or

(v) Transportation.

(b) "Equipment" includes a:

(i) Stove;

(ii) Oven;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(iii) Hood;

(iv) Slicer;

(v) Grinder;

(vi) Mixer;

(vii) Scale;

(viii) Meat block;

(ix) Table;

(x) Food shelf;

(xi) Refrigerator;

(xii) Freezer;

(xiii) Sink;

(xiv) Ice maker; or

(xv) Another item used in the operation of a food service facility.

(c) "Equipment" does not include a:

(i) Forklift truck; or

(ii) Dolly.

(28) "Excluded organization" means a:

(a) Bona fide nonprofit fraternal, civic, war veterans', religious, or charitable organization or corporation that does not serve food to the public more often than 4 days per week, except that once a year an organization may serve food to the public for up to 14 consecutive days; or

(b) Volunteer fire company that does not serve food to the public more often than 4 days per week, except that once a year a volunteer fire company may serve food to the public for up to 30 consecutive days.

(29) Farm.

(a) "Farm" means a place where agricultural commodities are grown, raised, or harvested for commercial purposes.

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(b) "Farm" includes a place where, for commercial purposes:

(i) Crops are grown and harvested;

(ii) Fruit, nuts, or other agricultural commodities are harvested from trees; or

(iii) Animals are raised, fed, and managed for meat or other agricultural commodities.

(30) Farmer's Market.

(a) "Farmer's market" means a place where a person offers or sells one or more of the following food products directly to the public:

(i) Raw agricultural products;

(ii) Products processed in a private home kitchen, as set forth in Regulation .27 of this chapter;

(iii) Products that are not potentially hazardous and do not require refrigeration that are processed in a food processing plant licensed and operated according to COMAR 10.15.04.19; or

(iv) Eggs in compliance with Regulation .05A(8) of this chapter.

(b) "Farmer's market" does not include a food service facility.

(31) "Food" means:

(a) A substance that is used as:

(i) Food or drink for human beings; or

(ii) A component of food or drink for human beings; or

(b) Chewing gum or any substance that is a component of chewing gum.

(32) "Food-contact surface" means a surface:

(a) Of equipment and utensils with which food normally comes in contact; or

(b) From which food may drain, drip, or splash onto a:

(i) Food; or

(ii) Surface normally in contact with food.

(33) "Food processing plant" has the meaning stated in COMAR 10.15.04.02B.

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(34) Food Service Facility.

(a) "Food service facility" means:

(i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or

(ii) An operation where food is served to or provided for the public with or without charge.

(b) "Food service facility" includes:

(i) A restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, retail market, or retail bakery outlet;

(ii) A food operation in an industry, institution, health care facility, club, school, camp, church, catering kitchen, commissary, or a similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and

(iii) An excluded organization either with or without a license that serves potentially hazardous foods.

(c) "Food service facility" does not include a:

(i) Facility that offers only prepackaged foods that are not potentially hazardous as specified in §B(55)(c) of this regulation;

(ii) Kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering that is not a public event, or for service to unemployed, homeless, or another disadvantaged population;

(iii) Food preparation or serving area where only non-potentially hazardous food is prepared or served only by an excluded organization;

(iv) Hotel, lodging, or rooming house that serves only a continental breakfast;

(v) Farmer's market or a public event where food products as specified in §B(30)(a) of this regulation are sold;

(vi) Bake sale where only non-potentially hazardous bakery goods, including breads and pastries, are sold in conjunction with a fundraising event; or

(vii) Cottage food business.

(35) Game Animal.

(a) "Game animal" means an animal:

(i) That is food for human beings; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(ii) That is not classified as cattle, sheep, swine, goat, mule, or other equine.

(b) "Game animal" includes:

(i) Reindeer;

(ii) Elk;

(iii) Deer;

(iv) Antelope;

(v) Water buffalo;

(vi) Bison;

(vii) Rabbit;

(viii) Squirrel;

(ix) Opossum;

(x) Raccoon;

(xi) Nutria;

(xii) Muskrat;

(xiii) Bear; and

(xiv) Nonaquatic reptiles such as land snakes.

(c) "Game animal" does not include ratites such as:

(i) Ostrich;

(ii) Emu; and

(iii) Rhea.

(36) "Hazard" means a biological, chemical, or physical property that may be detrimental to public health.

(37) "Hazard analysis critical control point (HACCP) plan" means a written plan that delineates the procedures for maintaining control of potentially hazardous food at the critical control points of food preparation or processing.

(38) Health Care Facility.

UNOFFICIAL COPY

(a) "Health care facility" means:

(i) A hospital, as defined in Health-General Article, §19-301, Annotated Code of Maryland;

(ii) A related institution, as defined in Health-General Article, §19-301, Annotated Code of Maryland;

(iii) An ambulatory surgical facility or center as defined in Health-General Article, §19-114, Annotated Code of Maryland;

(iv) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;

(v) A home health agency, as defined in Health-General Article, §19-401, Annotated Code of Maryland;

(vi) A hospice facility, as defined in Health-General Article, §19-901, Annotated Code of Maryland; or

(vii) Another health institution, service, or program for which Health-General Article, §19-114(d)(1)(viii), Annotated Code of Maryland, requires a certificate of need.

(b) "Health care facility" does not include the facilities, institutions, and offices set forth in Health-General Article, §19-114(d)(2), Annotated Code of Maryland.

(39) "Hermetically sealed container" means a container that:

(a) Is secure against the entry of microorganisms; and

(b) Maintains the commercial sterility of the contents after processing.

(40) "Juice" means:

(a) The aqueous liquid expressed or extracted from one or more fruits or vegetables;

(b) Purees of the edible portion of one or more fruits or vegetables; or

(c) Any concentrate of the liquid or puree as referenced in §B(40)(a) and (b) of this regulation.

(41) "License" means the authority to operate a food service facility within the State in accordance with this chapter and Health-General Article, Title 21, Subtitles 1, 2, and 3, Annotated Code of Maryland.

(42) "Loose eggs" means shell eggs not contained in a carton.

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(43) "Lot designation" means a method of marking packed or packaged shell eggs to enable the packer and the approving authority to trace the eggs to the flock that produced the eggs.

(44) Major Food Allergen.

(a) "Major food allergen" means:

(i) Milk;

(ii) Egg;

(iii) Fish such as bass, flounder, or cod;

(iv) Crustacea such as crab, lobster, or shrimp;

(v) Tree nuts such as almonds, pecans, or walnuts;

(vi) Wheat;

(vii) Peanuts;

(viii) Soybeans; and

(ix) A food ingredient that contains protein derived from milk, egg, fish, tree nuts, wheat, peanuts, or soybeans.

(b) "Major food allergen" does not include:

(i) A highly refined oil derived from a food specified in §B(44)(a) of this regulation and any ingredient derived from a highly refined oil; or

(ii) An ingredient that is exempt in regard to food allergen labeling requirements under the petition or notification process specified in 21 U.S.C. §343(w)(6) and (7).

(45) "Misbranded" has the meaning stated in Health-General Article, §21-210, Annotated Code of Maryland.

(46) Mobile Food Service Facility.

(a) "Mobile food service facility" means a food service facility that is a mechanically, electrically, manually, or otherwise propelled vehicle operating on land or water that moves as part of its routine operation to:

(i) Change location for sales;

(ii) Obtain food and other supplies;

(iii) Fill potable water supply holding tanks;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(iv) Empty wastewater holding tanks; or

(v) Provide for the cleaning and sanitization of equipment and utensils.

(b) "Mobile food service facility" does not include a food service facility that is able to be moved but does not move routinely for a purpose set forth in §B(46)(a) of this regulation.

(47) "Non-potentially hazardous food" means food named or described in §B(55)(c) of this regulation.

(48) "On-farm food service facility" means a temporary food service facility that:

(a) Is located on a farm;

(b) Serves only those foods approved by the Department, based on a:

(i) Review of the facility, equipment, and processing hazards; and

(ii) Determination that these foods can be prepared safely and in a manner that conforms to applicable laws and regulations; and

(c) Operates during a period of time of not more than 30 consecutive days with up to two renewals in a 1-year period.

(49) "Package" means a bottle, can, carton, bag, or wrapped container.

(50) "Packer" means a person who places shell eggs in the original case, carton, or container that is used to hold eggs for:

(a) Distribution; or

(b) Sale to a consumer.

(51) "Person" has the meaning stated in Health-General Article, §§1-101 and 21-101, including:

(a) An operator of a facility that is owned by the State or local unit of government; or

(b) A State or local unit of government if the State or local unit of government is the operator of the facility.

(52) "Person-in-charge" means:

(a) The licensee; or

(b) Another person responsible for the operation of a food service facility.

(53) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration in gram equivalents per liter of solution where:

UNOFFICIAL COPY

(a) pH values from 0 to 7 indicate acidity;

(b) pH values from 7 to14 indicate alkalinity; and

(c) The pH value for pure distilled water, regarded as neutral, is 7.

(54) "Portable" means that equipment:

(a) Can be easily moved because the equipment is:

(i) Small in size and weighs 80 pounds or less;

(ii) Mounted on casters, gliders, or rollers; or

(iii) Provided with a mechanical means of safely tilting for cleaning; and

(b) Has one of the following:

(i) No utility connection;

(ii) A utility connection that disconnects quickly; or

(iii) A flexible utility connection line long enough to permit the equipment to be moved for thorough cleaning.

(55) Potentially Hazardous Food.

(a) "Potentially hazardous food" means a natural or synthetic food that requires temperature control because the food is in a form capable of supporting:

(i) The rapid and progressive growth of infectious or toxigenic microorganisms;

(ii) The growth and toxin production of Clostridium botulinum; or

(iii) In raw shell eggs, the growth of Salmonella Enteritidis.

(b) "Potentially hazardous food" includes:

(i) A food of animal origin that is raw or heat-treated;

(ii) A food of plant origin that is heat-treated;

(iii) Raw seed sprouts;

(iv) Cut melons;

(v) Cut raw tomatoes;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(vi) Garlic and oil mixtures that support growth as specified in §B(55)(a)(i) and (ii) of this regulation; and

(vii) Cut leafy greens.

(c) "Potentially hazardous food" does not include a:

(i) Hard-boiled shell egg that has been air-cooled with the shell intact;

(ii) Food with an a_w value of 0.85 or less;

(iii) Food with a pH level of 4.6 or below when measured at 75°F;

(iv) Commercially sterile food in a hermetically sealed container; or

(v) Food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of Salmonella Enteritidis in eggs or Clostridium botulinum cannot occur, such as a food that has an a_w or a pH that is above the levels specified in §B(55)(c)(ii)and(iii) of this regulation or that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.

(56) "Poultry" means a:

(a) Domesticated bird whether live or dead including a:

(i) Chicken;

(ii) Turkey;

(iii) Duck;

(iv) Goose;

(v) Guinea;

(vi) Ratite; or

(vii) Squab; and

(b) Migratory waterfowl or game bird whether live or dead, including a:

(i) Pheasant;

(ii) Partridge;

(iii) Quail; or

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(iv) Grouse.

(57) "Premises" means the physical food service facility and the contiguous land or property under the control of the operator or the licensee.

(58) "Principal display panel" means the part of a container that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(59) "Priority assessment" means an evaluation of risk in a food service facility using the parameters established by the Department in Regulation .33C of this chapter.

(60) Public Event.

(a) "Public event" means an event or festival that is a planned gathering that is:

(i) Open to the public; and

(ii) Regulated by the State or local jurisdiction in which the planned gathering takes place.

(b) “Public event” includes an event or festival:

(i) Attended by individuals from the general public whether or not a fee is charged; or

(ii) Advertised with fliers, banners, newspaper articles, radio or television announcements, or on an Internet website as being open to the public.

(c) "Public event" does not include a:

(i) Private party;

(ii) An event restricted to organization members; or

(iii) Another event that restricts the general public from attending.

(61) “Raw agricultural product” means a whole, unprocessed agricultural product supplied directly from the farm on which it was produced, including:

(a) Grains;

(b) Flowers;

(c) Herbs;

(d) Nuts;

(e) Fruits;

UNOFFICIAL COPY

(f) Vegetables; and

(g) Honey.

(62) Ready-to-Eat Food.

(a) "Ready-to-eat food" means food in a form that is edible without washing, cooking, or additional preparation by the food service facility or the consumer.

(b) "Ready-to-eat food" includes:

(i) Potentially hazardous food that is cooked to the temperature and time required for a specific food as set forth in Regulation .10 of this chapter;

(ii) Raw fruits and vegetables that are washed and cut;

(iii) Whole, raw fruits and vegetables that are presented for consumption without need for further washing, such as at a buffet; and

(iv) A food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

(63) "Reconstituted" means water or other liquid has been restored to a food that was previously dehydrated.

(64) Reduced Oxygen Packaged.

(a) "Reduced oxygen packaged" means that a food was packaged so that the amount of oxygen in the package is below that found in the surrounding atmosphere due to the:

(i) Mechanical evacuation of oxygen;

(ii) Displacement of oxygen with one or more gases; or

(iii) Reduction of the oxygen content by other means.

(b) "Reduced oxygen packaged" includes food that is:

(i) Vacuum packaged;

(ii) Modified atmosphere packaged; and

(iii) Controlled atmosphere packaged.

(65) "Refrigerated food" means a food that:

(a) Is not shelf stable;

UNOFFICIAL COPY

(b) Must be refrigerated to:

(i) Retard the growth of spoilage or pathogenic microorganisms; and

(ii) Prevent the production of microbial toxins; or

(c) Is labeled by the manufacturer with a statement indicating that the product is to be kept refrigerated.

(66) "Registration" means the process by which the Maryland Department of Agriculture grants the authority to a packer within the State to provide shell eggs for human consumption.

(67) "Registration number" means the number that the Maryland Department of Agriculture assigns a packer.

(68) "Retail food manufacturing" means the manufacturing of food in a food service facility for wholesale distribution.

(69) "Sanitization" means a heat or chemical treatment on cleaned food contact surfaces that is sufficient to yield a 99.999 percent reduction of the number of representative disease microorganisms of public health significance.

(70) “Seasonal farmer’s market producer sampling food service facility” means a facility that:

(a) Serves only foods that are prepared and offered as samples by a producer of a farm product at a farmer’s market or a public event, such as:

(i) Farm products as specified in §B(30)(a) of this regulation; or

(ii) Farm products that have been inspected, licensed, or certified for food safety by the Maryland Department of Agriculture;

(b) Serves food only produced by the licensee;

(c) Serves only those foods approved by the Department, based on a:

(i) Review of the facility, equipment, and processing hazards; and

(ii) Determination that these foods can be prepared safely and in a manner that conforms to applicable laws and regulations; and

(d) Operates during a period of time of not more than a 1-year period from the date of issuance or renewal of the license.

(71) "Secretary" means the Secretary of Health and Mental Hygiene or the Secretary's designee.

(72) "Semi-permanent food service facility" means a facility that:

(a) Is built at a location other than where it operates;

UNOFFICIAL COPY

(b) Is transported as a complete unit that does not require a building permit to install on the location at which it operates;

(c) Has no indoor seating for patrons;

(d) When serving cooked food, serves only foods cooked for immediate service; and

(e) Is not a mobile food service facility as specified in §B(46) of this regulation.

(73) "Service animal" has the meaning stated in Human Services Article, §7-701, Annotated Code of Maryland.

(74) "Shell eggs" means raw eggs produced by chickens for human consumption.

(75) "Shellfish" means all species of:

(a) Oysters, clams, or mussels, whether:

(i) Shucked or in the shell;

(ii) Raw, including post-harvest processed;

(iii) Frozen or unfrozen; and

(iv) Whole or in part; and

(b) Scallops in any form, except when the final product is the adductor muscle only.

(76) Single Service Article.

(a) "Single service article" means an article designed, fabricated, and intended for one-time consumer use.

(b) "Single service article" includes a:

(i) Utensil;

(ii) Cup;

(iii) Plate;

(iv) Stirrer;

(v) Napkin;

(vi) Straw;

(vii) Toothpick;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(viii) Food container;

(ix) Place mat;

(x) Food package; or

(xi) Similar item.

(77) Single Use Article.

(a) "Single use article" means an article intended by the manufacturer for one-time use by the preparer of the food.

(b) "Single use article" includes a:

(i) Bulk food container;

(ii) Utensil;

(iii) Formed aluminum pie pan;

(iv) Jar;

(v) Plastic bucket; or

(vi) Similar item.

(78) Special Food Service Facility.

(a) "Special food service facility" means a food service facility for which the Department provides exceptions to certain regulations because of the nature of one or more of the following:

(i) Design and operation of the facility;

(ii) Food preparation or service methods; or

(iii) Limited length of time that the facility operates in association with special events.

(b) "Special food service facility" includes:

(i) A bed and breakfast that serves hot meals;

(ii) A mobile unit;

(iii) A temporary food service facility;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(iv) A semi-permanent food service facility;

(v) An on-farm food service facility; or

(vi) A seasonal farmer's market producer sampling food service facility.

(79) Tableware.

(a) "Tableware" means multi-use eating, drinking, and serving utensils.

(b) "Tableware" includes:

(i) Knives;

(ii) Forks;

(iii) Spoons;

(iv) Bowls;

(v) Cups;

(vi) Serving dishes;

(vii) Tumblers; and

(viii) Plates.

(80) "Temporary food service facility" means a food service facility that operates:

(a) In one of the following ways:

(i) Except for a volunteer fire company, at a fixed location for not more than 14 consecutive days; or

(ii) For up to 30 consecutive days if the temporary food service facility is a volunteer fire company; and

(b) In conjunction with a:

(i) Fair;

(ii) Carnival;

(iii) Public exhibition;

(iv) Construction project;

UNOFFICIAL COPY

(v) Recreational facility;

(vi) Fundraising event; or

(vii) Similar gathering.

(81) "Time-only" means using time instead of time in conjunction with temperature as the sole means of food protection for a potentially hazardous food.

(82) "Undercooked" means a potentially hazardous food that is not cooked to the minimum internal temperature and for the specified holding time specified in Regulation .10A of this chapter.

(83) "Utensil" means tableware or a food-contact implement used in the storage, preparation, dispensing, or serving of food.

(84) "Vending machine" means a self-service device that dispenses either packaged or unpackaged food.

(85) "Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment or utensils.

(86) Whole Muscle, Intact Beefsteak.

(a) "Whole muscle, intact beefsteak" means a beefsteak cut from whole muscle beef that has not been penetrated in a way that may allow infectious or toxigenic microorganisms to be introduced into the interior of the meat.

(b) "Whole-muscle, intact beefsteak" does not include meat that has been:

(i) Injected;

(ii) Mechanically tenderized;

(iii) Reconstructed; or

(iv) Scored.

.03 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) 21 CFR, as amended;

(2) 9 CFR, as amended; and

UNOFFICIAL COPY

(3) 21 U.S.C. §343, as amended.

.04 Food Supplies and Sources: General.

The person-in-charge shall ensure that:

A. Food served to the public is:

(1) Wholesome and free from contamination;

(2) Not adulterated;

(3) Safe for human consumption;

(4) Obtained from an approved source; and

(5) If in packaged form, labeled in accordance with:

(a) COMAR 10.15.01;

(b) COMAR 10.15.02;

(c) COMAR 10.15.04; and

(d) This chapter;

B. Eggs and egg products comply with Regulation .05 of this chapter;

C. Milk and milk products are not sold or served unless they are produced, processed, stored, transported, and distributed in accordance with COMAR 10.15.06 and COMAR 10.15.09, including:

(1) Fluid milk;

(2) Other fluid dairy products;

(3) Manufactured milk products; and

(4) Reconstituted dry milk or dry milk products used only for:

(a) Instant desserts;

(b) Whipped products; and

(c) Cooking and baking purposes;

D. Frozen desserts including ice cream, soft frozen desserts, ice milk, sherbets, ices, gelato, and frozen dessert mix are manufactured and sold in accordance with COMAR 10.15.05;

UNOFFICIAL COPY

E. Shellfish:

(1) Are obtained from an approved source;

(2) When received through interstate commerce, are from a firm listed in the "Interstate Certified Shellfish Shippers List";

(3) Are processed, handled, packed, labeled, and identified in accordance with COMAR 10.15.07;

(4) Containers are identified with a tag or label as set forth in COMAR 10.15.07; and

(5) Tags are maintained on the premises for 90 days after a container of unshucked shellfish is emptied to identify readily the source of the shellfish;

F. Crab meat is processed, handled, and packed in accordance with COMAR 10.15.02;

G. Seafood is processed, handled, and packed in accordance with COMAR 10.15.10;

H. Meat and poultry have been inspected for wholesomeness by the approving authority; and

I. Ice is:

(1) Made:

(a) From a potable water supply;

(b) In an ice-making machine that:

(i) Meets the standards in Regulation .15 of this chapter; and

(ii) Is located, installed, operated, and maintained to prevent contamination;

(2) If not manufactured on site, obtained from an approved source;

(3) Handled, transported, and stored in a manner that precludes contamination; and

(4) Not reused.

.05 Eggs and Egg Products.

A. The person-in-charge shall ensure that:

(1) Only clean, whole Grade A or higher grade eggs with shell intact and without cracks, or pasteurized eggs or egg products, are used;

(2) An invoice or other equivalent record is obtained from the supplier for each delivery of shell eggs;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(3) The invoice or equivalent record required in §A(2) of this regulation contains the following information written in English:

(a) Name and address of the seller and buyer;

(b) Date of delivery;

(c) Grade and size of eggs delivered; and

(d) Quantity of eggs sold in number by grade and size;

(4) When loose eggs are distributed, offered for sale, or sold directly to a consumer in Maryland:

(a) A daily record is maintained that shows the lot designation of the shell eggs for each packer;

(b) A placard is displayed that:

(i) Is legible and printed in block letters not less than 3/8 inch in height;

(ii) Is a minimum size of 4-1/4 inches by 6 inches;

(iii) Plainly and conspicuously displays the eggs' grade term, size (weight), and lot designation; and

(iv) Is placed on or near the eggs; and

(c) Egg cartons are labeled in accordance with §A(9), (10), and (12) of this regulation;

(5) All egg invoices, daily records, or other equivalent records are kept on file for a minimum of 90 days;

(6) Upon request, the approving authority is granted access to copy and verify, at any reasonable time, records relating to the sale and purchase of shell eggs;

(7) Except as provided in Regulation .10 of this chapter, only pasteurized eggs and egg products are used when serving eggs or foods prepared with eggs that have not been heated adequately to kill Salmonella Enteritidis;

(8) All shell eggs accepted for delivery, used, or provided to the consumer are:

(a) Produced by flocks that are certified to be in compliance with COMAR 15.11.11;

(b) Supplied by a registered packer as provided in COMAR 15.04.01; and

(c) Pasteurized or otherwise heat-treated to kill Salmonella Enteriditis if Salmonella Enteriditis is isolated from a flock in Maryland as determined by testing procedures contained in COMAR 15.11.11;

UNOFFICIAL COPY

(9) All egg cartons of shell eggs accepted for delivery, used, or provided to the consumer are labeled on the principal display or information panel with:

(a) Legible stamping in permanent ink;

(b) The following information at a minimum type size of 1/16 of an inch:

(i) The packer's or distributor's name and address;

(ii) The packer's registration number;

(iii) The lot designation of the eggs; and

(iv) A safe handling statement with the words "safe handling instructions" in bold capital letters and the statement "To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly." set off in a box by hairlines;

(c) The following information at a minimum type size of 1/4 of an inch:

(i) The identity of the product as eggs; and

(ii) The word "grade" and the grade term (AA or A) and size (weight) of the eggs; and

(d) The net quantity of eggs in weight or numerical count in at least the minimum type size permitted based on the space available for labeling as set forth in §B of this regulation, with the minimum type size measurement determined by:

(i) The height of type of printing by measuring the height of the lower case letter "o" or its equivalent when mixed upper and lower case letters are used; or

(ii) The height of the upper case letters when only upper case letters are used;

(10) If the safe handling statement does not appear on the principal display panel or the front information panel, a separate statement that eggs be kept refrigerated is printed on either the principal display panel or the front of the information panel;

(11) The same information in at least the same minimum type size that is required on an egg carton is printed on the top of an egg case or any side of an egg case; and

(12) The grade term and size (weight) on an egg carton is not abbreviated.

B. Table 1.

Minimum type size	Area of Principal Display Panel
1/16 inch	5 square inches or less

UNOFFICIAL COPY

1/8 inch	More than 5 square inches but not more than 25 square inches
3/16 inch	More than 25 square inches but not more than 100 square inches
1/4 inch	More than 100 square inches but not more than 400 square inches
1/2 inch	Over 400 square inches

.06 Food Protection During Storage, Service, and Transport.

The person-in-charge shall ensure that:

A. At all times:

(1) Food is:

(a) Not adulterated; and

(b) Protected from contamination during storage, preparation, display, service, and transportation;

(2) The internal temperature of a food is maintained according to the requirements of this chapter to preclude the growth of pathogenic bacteria and other microorganisms that could cause spoilage;

(3) Except during necessary periods of preparation and service, a potentially hazardous food is refrigerated or held hot as set forth in §B(7) of this regulation;

B. When storing and holding food:

(1) Facilities used for hot or cold potentially hazardous food are provided a temperature-measuring device that is:

(a) Graduated and accurate to plus or minus 2°F;

(b) Calibrated annually or more frequently;

(c) Located in the:

(i) Coldest area of equipment where hot foods are stored; and

(ii) Warmest area of equipment where cold foods are stored; and

(d) Easily readable;

(2) Except for metal beverage containers and cased food packaged in cans, glass, or other waterproof containers stored as provided in §B(3) of this regulation, containers of food are stored:

(a) Off the floor;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(b) 18 inches above the floor or higher if food is exposed;

(c) On clean racks, dollies, or other clean surfaces; and

(d) In a manner that will protect from splash and other contamination;

(3) When metal beverage containers and cased food in cans, glass, or other waterproof containers are stored on the floor:

(a) The floor is maintained in a clean and sanitary condition;

(b) The storage:

(i) Is temporary such as for floor displays;

(ii) Does not interfere with the flow of food or personnel; and

(iii) Does not afford harborage for rodents or insects;

(4) In refrigeration units, the food is placed to permit free circulation of cold air;

(5) Except where food packaging prevents the entry of water, packaged food is not stored in contact with water or un-drained ice;

(6) Food is not stored in locker rooms, toilet rooms, dressing rooms, garbage rooms, or mechanical rooms;

(7) Except as provided in §B(8)—(14) of this regulation, the internal temperature of a potentially hazardous food is kept at 41°F or less or 135°F or greater;

(8) In existing refrigeration that can cool the food and maintain the food's internal temperature between 42°F and 45°F, the potentially hazardous food's internal temperature, except as provided in §B(9)—(14) of this regulation, is kept at 45°F or less pending equipment upgrade as set forth in Regulation .15A(6) of this chapter;

(9) If pasteurized crab meat, the crab meat's internal temperature is maintained at 38°F or less;

(10) If potentially hazardous reduced oxygen packaged products, the reduced oxygen packaged food's internal temperature is maintained at:

(a) 38°F or less if refrigeration is the only barrier to control the growth of Clostridium botulinum; or

(b) At a lower temperature if a lower temperature is specified by the food manufacturer;

(11) If shell eggs and shellfish, the eggs and shellfish are stored, displayed, and transported under refrigeration at an ambient temperature of 45°F or less;

UNOFFICIAL COPY

(12) Except for the service of foods such as ice cream and frozen desserts, frozen food is received and stored frozen;

(13) If a whole roast cooked and cooled in accordance with Regulations .10 and .11 of this chapter, the roast is held at an internal temperature of 130°F or above; and

(14) Using holding temperatures and times other than those specified in this section, the holding temperatures and times are:

(a) Scientifically proven to be effective in preventing the growth of foodborne pathogens;

(b) Incorporated into an HACCP plan; and

(c) Submitted to and approved by the Department based on a review that indicates compliance with §B(14)(a) and(b) of this regulation;

C. While displaying and serving food:

(1) Except as provided in §§B(8) and C(3) of this regulation, a potentially hazardous cold food that is placed on display is:

(a) Pre-chilled to an internal temperature of 41°F or below;

(b) Rapidly re-chilled to an internal temperature of 41ºF or below if the food has exceeded 41ºF for a verifiable period of not more than 4 hours; or

(c) Discarded if:

(i) The food has exceeded 41°F or more for more than 4 hours; or

(ii) The time the food has been out of temperature is not verifiable;

(2) Except as provided in §§B(13) and (14) and C(3) of this regulation, a potentially hazardous hot food that is placed on display is:

(a) Cooked according to Regulation .10 of this chapter;

(b) Rapidly re-heated to an internal temperature of 165ºF or above if the food was below 135ºF for a verifiable period of not more than 4 hours; and

(c) Discarded if:

(i) The food was below 135°F for more than 4 hours; or

(ii) The time the food has been out of temperature is not verifiable;

(3) A potentially hazardous bakery product that is stored at room temperature:

UNOFFICIAL COPY

(a) Is manufactured, packaged, and labeled with a sell-by date only in an approved food processing plant meeting the requirements set forth in COMAR 10.15.04;

(b) Remains in the original package until sold to a consumer; and

(c) Is not offered for human consumption following expiration of the sell-by date;

(4) Except as provided in §C(5) of this regulation, raw unpackaged food of animal origin is not offered for consumer self-service;

(5) Raw unpackaged foods of animal origin offered for consumer self-service are offered only:

(a) At buffets or salad bars that serve foods of animal origin such as sushi or raw shellfish;

(b) When the foods of animal origin are ready-to-cook individual portions for immediate cooking and consumption on premises, such as for Mongolian barbecue; or

(c) Frozen if shell-on shrimp and lobster;

(6) When uncovered food is placed on display in food operations, including buffets and cafeterias, the ready-to-eat food is protected by:

(a) Physical guards;

(b) Separation from potential contaminants; or

(c) Other effective methods acceptable to the approving authority;

(7) During pauses in food preparation or dispensing, utensils such as scoops, spoons, and dippers are stored:

(a) In a running water dipper well that provides a volume of fresh potable water sufficient to maintain the utensil in a sanitary condition;

(b) In hot water that is maintained at 135°F or above;

(c) With the handles above the top of the food in an open container;

(d) On a clean portion of the food preparation or cooking equipment, which has been cleaned and sanitized as set forth in Regulation .16 of this chapter; or

(e) In a clean, protected location if the utensils are used with a food that is not potentially hazardous;

(8) Sugar, condiments, seasonings, and dressings are provided for self-service in individual packages or dispensed by methods that protect the food;

UNOFFICIAL COPY

(9) Except for packaged non-potentially hazardous foods with the wrapping intact, portions of food once served to a customer are not served again; and

(10) Except for drinking cups reused by self-service consumers in a manner to prevent cross-contamination, employees and self-service customers do not reuse soiled tableware, including single service articles to:

(a) Provide second portions or refills; or

(b) Obtain additional food from display and serving equipment; and

D. During the transportation of food:

(1) Except as provided in §B(8)—(14) of this regulation, the internal temperature of a potentially hazardous food is maintained at 41°F or below or 135°F or above;

(2) From a food service facility to another location, the requirements set forth in §A(2) of this regulation are met;

(3) Frozen food is maintained frozen; and

(4) Food is in covered containers or completely wrapped or packaged to protect against contamination.

.07 Food Protection During Outdoor Preparation and Service.

The person-in-charge shall ensure that:

A. During the use of outdoor cooking equipment, such as a barbeque grill, at a food service facility:

(1) Equipment:

(a) Is used only at the food service facility for immediate service to patrons;

(b) Is located:

(i) On an impermeable surface;

(ii) In close proximity to the food preparation area of the food service facility; and

(iii) Away from parking areas, dumpsters, and patron entrances; and

(c) Meets the requirements set forth in Regulation .15 of this chapter;

(2) Food is:

(a) Prepared for outdoor cooking inside the food service facility; and

UNOFFICIAL COPY

(b) Protected from contamination during cooking and service; and

B. When preparing beverages outdoors:

(1) Overhead protection is provided;

(2) Protection from contamination during storage is provided for ingredients, including:

(a) Ice;

(b) Drink mixes; and

(c) Condiments;

(3) Containers are protected from contamination during storage; and

(4) Other than when only beer, wine, or soda is offered, a hand washing sink is provided in accordance with Regulation .18K and L of this chapter.

.08 Use of Time-Only with Potentially Hazardous Food.

A. The approving authority may approve the use of time-only, rather than time in conjunction with temperature, for food protection as set forth in §B of this regulation.

B. The person-in-charge shall ensure that:

(1) Before using time-only while holding or preparing a potentially hazardous food:

(a) A written request is submitted to and approved by the approving authority for a specific food under specific conditions of preparation and service that includes:

(i) A record-keeping procedure that can verify safety intervention steps; and

(ii) Procedures for marking or otherwise identifying the food with the time by which it is to be either used or discarded; and

(b) The procedures for time-only are included in the food service facility's HACCP plan as a critical control point;

(2) Except as otherwise approved by the approving authority, the maximum time limit under time-only control is 4 hours for a:

(a) Raw, working supply of potentially hazardous food during preparation, after which time the food is cooked or discarded; and

(b) Ready-to-eat potentially hazardous food held for immediate consumption, after which time the food not served is discarded;

UNOFFICIAL COPY

(3) Food has an initial temperature of:

(a) 41°F or less upon removal from refrigeration; or

(b) 135°F or more upon removal from cooking equipment; and

(4) Food that has been protected using time-only control is not served in a health care facility.

.09 Food Preparation — Temperature and Cross-Contamination Control.

The person-in-charge shall ensure that:

A. Food temperature measuring devices are:

(1) Used to monitor the temperature of potentially hazardous foods;

(2) Graduated and accurate within plus or minus 2°F;

(3) Calibrated annually or more frequently; and

(4) Cleaned and sanitized between uses in different foods to prevent cross-contamination;

B. The storage, thawing, cooking, cooling, reheating, and holding of a food:

(1) Are safe; and

(2) Comply with this chapter;

C. When a recipe in which more than one egg is broken and the eggs are combined and not prepared for immediate service:

(1) The mixture is stored under refrigeration at all times before cooking;

(2) The process is included in the food service facility's HACCP plan as a critical control point; and

(3) The mixture containing eggs is cooked to a minimum internal temperature of 155°F for 15 seconds;

D. Potentially hazardous food is thawed:

(1) In refrigerated units so that the temperature of the food does not exceed 41°F except as provided for in Regulation .06B(8);

(2) Under potable running water that is at or below 70°F with sufficient force to agitate and float off loose particles;

UNOFFICIAL COPY

(3) In a microwave oven only when the food will be immediately cooked in the microwave oven or immediately transferred to conventional cooking facilities as part of a continuous cooking process;

(4) If a potentially hazardous reduced oxygen packaged food:

(a) In the food's airtight package; and

(b) At or below 38°F;

(5) As part of a conventional cooking process; or

(6) By another method acceptable to the approving authority that has been scientifically proven to the approving authority to prevent the bacteriological, physical, or chemical contamination of food;

E. Employees prevent contact of exposed, ready-to-eat food with their bare hands by using:

(1) Gloves as specified under Regulation .14J of this chapter;

(2) Utensils such as:

(a) Tongs;

(b) Spatulas;

(c) Deli tissue; or

(d) Automatic dispensing equipment; and

F. Cross-contamination is prevented by:

(1) Not allowing contact between ready-to-eat and raw foods;

(2) Storing and holding food so that:

(a) Ready-to-eat food is located above or otherwise segregated from raw food; and

(b) A food is protected from plumbing leaks and condensate drippage;

(3) Using separate utensils and work surfaces for ready-to-eat food and foods requiring further preparation;

(4) Cleaning and sanitizing utensils and work surfaces between uses;

(5) Excluding sick workers from food handling in accordance with Regulation .14A and B of this chapter; and

UNOFFICIAL COPY

(6) Washing raw fruits and vegetables thoroughly to remove soil and other contaminants before cutting, cooking, or serving, with:

(a) Water; or

(b) Chemicals intended specifically for washing or peeling whole fruits and vegetables as specified in 21 CFR §173.315.

.10 Food Preparation — Cooking.

A. Except as provided in §§B—D of this regulation, the person-in-charge shall ensure that potentially hazardous food is cooked to the minimum internal temperature and for the specified holding time as follows:

(1) Chart 1. Summary of Minimum Cooking and Reheating Food Temperatures and Holding Times.

FOOD	MINIMUM INTERNAL TEMPERATURE °F	°C	HOLDING TIME AT SPECIFIED TEMPERATURE
Shell eggs. Fish, meat, and all other potentially hazardous foods not specified in Chart 1.	145	63	15 seconds
Shell eggs not prepared for immediate service, ratites, comminuted fish and meats, game animals commercially raised for food, and injected meats.	145	63	3 minutes
	or		
	150	66	1 minute
	or		
	155	68	15 seconds
	or		
	158	70	< 1 second
Whole roasts (beef, corned beef, pork and cured pork roasts such as ham). Holding time may include post oven heat rise. Minimum oven temperature for roasts greater than 10 pounds is 250°F for dry heat. For roasts less than 10 pounds, minimum oven temperatures are 350°F for dry heat and 325°F for convection ovens. Oven temperature may be 250°F or less for high humidity cooking (relative humidity greater that 90	130	54.4	112 minutes
		or	
	131	55	89 minutes
	or		
	133	56.1	56 minutes
	or		
	135	57.2	36 minutes
	or		
	136	57.8	28 minutes

UNOFFICIAL COPY

percent for at least 1 hour or in a moisture impermeable bag that provides 100 percent humidity).		or	
	138	58.9	18 minutes
		or	
	140	60	12 minutes
		or	
	142	61.1	8 minutes
		or	
	144	62.2	5 minutes
		or	
	145	62.8	4 minutes
		or	
	147	63.9	134 seconds
		or	
	151	66.1	54 seconds
		or	
	155	68.3	22 seconds
		or	
	158	70	none
Poultry; stuffed meat, pasta, or poultry, and exotic bird species; wild game animals; and stuffing containing fish, meat, or poultry. Reheat of leftovers for hot holding.	165	74	15 seconds
Raw foods of animal origin cooked in a microwave oven.	165	74	Hold for 2 minutes after removing from microwave oven.
Fruits and vegetables and ready-to-eat commercially processed foods cooked for hot holding.	135	57	None
Ready-to-eat commercially processed foods for immediate service.	None		None

(2) A minimum internal temperature of 145°F for 15 seconds for:

(a) Shell eggs prepared for immediate service;

(b) Fish;

(c) Meat; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(d) All other potentially hazardous food not specified in §A(3)—(7) of this regulation;

(3) A minimum internal temperature of 155°F for 15 seconds or as specified in §A(1) of this regulation for:

(a) Shell eggs not prepared for immediate service;

(b) Ratites;

(c) Comminuted fish and meats;

(d) Game animals commercially raised for food; and

(e) Injected meats;

(4) A minimum internal temperature of 130°F for 112 minutes or as specified in §A(1) of this chapter for:

(a) Whole or corned beef; and

(b) Pork and cured pork roasts;

(5) A minimum internal temperature of 165°F for 15 seconds for:

(a) Poultry;

(b) Stuffed meat, pasta, or poultry;

(c) Exotic bird species;

(d) Wild game animals; and

(e) Stuffing containing fish, meat, or poultry;

(6) A minimum internal temperature of 165°F and held for 2 minutes after removing from the oven for raw animal foods that are cooked in a microwave oven; and

(7) A minimum internal temperature of 135°F for fruits and vegetables and ready-to-eat commercially processed foods cooked for hot holding.

B. The Department may approve cooking times and temperatures other than those specified in §A of this regulation, if the cooking times and temperatures are scientifically proven to the Department to be as effective in killing foodborne pathogens as those specified in §A of this regulation.

C. The person-in-charge may serve a consumer:

(1) Undercooked seared beefsteak when:

UNOFFICIAL COPY

(a) Only whole muscle, intact beefsteak, is prepared;

(b) The meat is seared continuously on both top and bottom utilizing a heating environment that:

(i) Imparts a temperature at the surface of the intact steak of at least 145°F for 15 seconds; and

(ii) Achieves a cooked color change on all external surfaces; and

(c) A HACCP plan specifically developed for undercooked seared beefsteak is submitted and approved by the approving authority; and

(2) A food that is cooked, cooled, and then refrigerated in accordance with this chapter, such as roast beef for a sandwich, cold or warmed to any desired temperature for immediate consumption.

D. A health care facility may not serve a raw or undercooked animal food.

E. Repealed.

F. The person-in-charge shall ensure that a consumer advisory is issued when an animal food, such as beef, eggs, fish, lamb, pork, poultry, or shellfish, is served raw or undercooked by:

(1) Providing a written notification on:

(a) A menu or brochure;

(b) A deli case or menu board;

(c) A label statement;

(d) A table tent or placard; or

(e) Another written means that is visible and legible to the consumer;

(2) Identifying food items on the items set forth in §F(1) of this regulation with an asterisk to a footnote that states the item:

(a) Is served raw;

(b) Is served undercooked;

(c) May be cooked to order upon specific consumer request; or

(d) Contains raw or undercooked ingredients; and

(3) Providing this written statement: "Consuming raw or undercooked animal foods may increase your risk of contracting a foodborne illness, especially if you have certain medical conditions."

UNOFFICIAL COPY

.11 Food Preparation — Cooling and Reheating of Potentially Hazardous Foods.

The person-in-charge shall ensure that:

A. Except as specified in Regulation .06B(8) of this chapter, a:

(1) Potentially hazardous cooked food's internal temperature is cooled from 135°F to 70°F within 2 hours and from 70°F to 41°F or less within an additional 4 hours; and

(2) Ready-to-eat potentially hazardous food for cold service, such as reconstituted foods, salads, and canned meat, are cooled to an internal temperature of 41°F within 4 hours;

B. Cooling of potentially hazardous food is accomplished using one or a combination of the following methods:

(1) Refrigerate in shallow pans with food not over 3 inches deep;

(2) Reduce food mass by separating foods into smaller or thinner portions;

(3) Use rapid cooling equipment;

(4) Use ice water baths combined with frequent stirring;

(5) Use containers that facilitate heat transfer;

(6) Add ice made from potable water as an ingredient;

(7) Refrigerate loosely covered or allow the food to remain uncovered until cooled if the food is protected from overhead contamination; or

(8) Another effective method acceptable to the approving authority based on applicable state and local laws, regulations, and ordinances; and

C. Potentially hazardous food is reheated:

(1) Within 2 hours to a minimum internal temperature of 165°F for 15 seconds for food that is cooked, cooled, and refrigerated before being placed into hot food holding equipment;

(2) To a minimum internal temperature of 135°F for 15 seconds for ready-to-eat food taken from a commercially processed, hermetically sealed container or from an intact package from a food processing plant that is inspected by a food regulatory authority for hot holding;

(3) Using the same time and temperature conditions specified in Regulation .10A of this chapter for initial cooking for remaining unsliced portions of roasts for hot holding; and

(4) Within 2 hours or less, to a minimum internal temperature of 165°F for 15 seconds in a microwave oven for hot holding and then stirred, covered, and allowed to stand covered for 2 minutes after reheating.

UNOFFICIAL COPY

.12 Food Labeling.

A. The person-in-charge shall ensure that:

(1) Except as specified in §B of this regulation, each item of packaged food has a label containing the following information:

(a) The common name of the food or a descriptive identity statement;

(b) If made from two or more ingredients:

(i) A list of ingredients in descending order of prominence by weight; and

(ii) A declaration of artificial color or flavor and chemical preservatives;

(c) An accurate declaration of the quantity of the package contents by weight in both metric and English units;

(d) The name and place of business of the manufacturer, packer, or distributor;

(e) Except as exempted in 21 U.S.C. §343(q)(3)—(5), the nutrition labeling specified in 21 CFR Part 101 and 9 CFR Part 317; and

(f) The name of the food source for each major food allergen that is contained in the food unless the food source is already part of the common or usual name of the respective ingredient;

(2) The use of canthaxanthin as a color additive in salmonid fish is disclosed by written means, such as a counter card;

(3) Bulk food available for consumer self-dispensing is prominently labeled with the following information in plain view of the consumer:

(a) The manufacturer's label that was provided with the food; or

(b) A card, sign, or other method of notification that includes the information specified in §A(1)(a), (b), and (f) of this regulation.

B. A food service facility may offer for sale bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification without a label if:

(1) A health, nutrient, or other claim relating to the unpackaged food is not made on a card or sign; and

(2) The food is manufactured or prepared on the premises of the food service facility or at another food service facility owned by the same person.

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

.13 Food Protection from Poisonous or Toxic Materials.

The person-in-charge shall ensure that:

A. Except for packaged poisonous or toxic products offered in their unopened original containers for retail sale, only poisonous or toxic materials needed to maintain sanitary conditions and to sanitize equipment and utensils are located in a food or food utensil area;

B. A container of a poisonous or toxic material is:

(1) Kept in the original bulk container before use;

(2) Prominently and distinctively marked or labeled for easy identification; and

(3) Used according to the manufacturer's directions;

C. When not in use, poisonous or toxic materials are stored in a:

(1) Cabinet used for no other purpose; or

(2) Room not used for food storage, food preparation, or equipment and utensil washing or storage;

D. A bactericide, cleaning compound, or other compound intended for use on food-contact surfaces is not:

(1) Stored in the same cabinet with an insecticide, rodenticide, or other poisonous or toxic material; or

(2) Used or stored in a way that will leave a toxic residue on food-contact surfaces;

E. A poisonous or toxic material is not used or stored in a way that will:

(1) Contaminate:

(a) Food; or

(b) Food equipment; or

(2) Constitute a potential hazard to:

(a) Employees; or

(b) Customers;

F. A medication is not stored in a food storage, preparation, processing, or service area;

G. First aid supplies are stored in a way that prevents contamination of:

UNOFFICIAL COPY

(1) Food; or

(2) Food-contact surfaces; and

H. A container previously used to store poisonous or toxic materials is not used to store, transport, or dispense:

(1) Food; or

(2) Items that will come into contact with food.

.14 Personnel Health and Sanitation.

The person-in-charge shall ensure that:

A. As set forth in COMAR 10.06.01.06E, a food handler does not serve or handle food intended for public consumption if the food handler:

(1) Has any of the following diseases:

(a) Diarrhea caused by Entamoeba histolytica;

(b) Cholera;

(c) Disease causing diarrhea, unless physician-certified as noninfectious;

(d) E. coli O157:H7;

(e) Hepatitis A;

(f) Diarrhea caused by Salmonella;

(g) Shigellosis;

(h) Streptococcal infection caused by group A beta-hemolytic Streptococcus; or

(i) Typhoid fever; or

(2) Is a carrier of Salmonella Typhi;

B. An employee experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth does not work with:

(1) Exposed food;

(2) Clean equipment, utensils, and linens; or

(3) Unwrapped single service or single use articles;

UNOFFICIAL COPY

C. An employee who has a disease that may be transmissible through food reports the condition to the person-in-charge;

D. The approving authority is notified when an employee of a food service facility is known to have or is suspected of having a disease that is transmissible by food;

E. An employee washes hands and exposed arm areas thoroughly with soap and warm water:

(1) Before handling:

(a) Exposed foods; or

(b) Food-contact surfaces;

(2) Before starting work;

(3) As often as required to remove soil and contamination;

(4) After using toilet facilities; and

(5) Before and between glove use;

F. An employee washes hands, exposed portions of the arms, between the fingers, and underneath the fingernails:

(1) With a cleaning compound;

(2) At a hand washing facility that is equipped as specified in Regulation .18K and L of this chapter; and

(3) By:

(a) Vigorously rubbing together the surfaces of lathered hands and arms for at least 20 seconds;

(b) Cleaning under the nails with a brush if needed; and

(c) Thoroughly rinsing the hands and arms with clean water;

G. An employee keeps hands clean while engaged in handling food and food-contact surfaces;

H. An employee who handles exposed food and food-contact surfaces:

(1) Keeps fingernails clean and neatly trimmed;

(2) Unless wearing gloves that are in good repair, does not wear fingernail polish or artificial fingernails;

UNOFFICIAL COPY

(3) Except for a plain, smooth ring such as a wedding band, does not wear jewelry;

(4) Wears outer garments that are clean;

(5) Uses hairnets, caps, or other effective hair restraints in order to keep hair from contacting food and food-contact surfaces;

(6) Maintains personal cleanliness; and

(7) Except as provided in §L of this regulation, does not eat, drink, or use tobacco in any form while working;

I. An employee does not use bare hands for handling ready-to-eat foods, as set forth in Regulation .09E of this chapter;

J. An employee using gloves to protect exposed food:

(1) Uses gloves only for one task;

(2) Does not use the same gloves while working with ready-to-eat food and raw food; and

(3) Discards used gloves when:

(a) The gloves are damaged or soiled;

(b) An interruption occurs in the operation; or

(c) After 2 hours of continuous use;

K. An employee receives training in proper food handling and sanitation as it relates to assigned duties; and

L. When in a food preparation or utensil washing area, an employee:

(1) Drinks only from a covered beverage container; and

(2) Handles the container in a way that prevents contamination of:

(a) The employee's hands;

(b) Exposed food;

(c) Clean equipment;

(d) Utensils;

(e) Linens; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(f) Unwrapped single service and single use articles.

.15 Food Equipment and Utensils.

A. The person-in-charge shall ensure that:

(1) Except as provided in §§A(2), (6), and (15) and B of this regulation, food equipment meets one or more of the following design standards:

(a) National Sanitation Foundation (NSF) or equivalent sanitation certification from:

(i) The Etlsemko division of Intertek Group PLC (Intertek ETL SEMKO);

(ii) Canadian Standards Association (CSA); or

(iii) Underwriters Laboratories (UL);

(b) Baking Industry Sanitation Standards Committee;

(c) National Automation Merchandizing Association;

(d) International Association of Milk and Food Sanitarian's "3-A Sanitary Standards"; or

(e) Another applicable published standard acceptable to the approving authority;

(2) When design standards conflict with State laws, codes, or regulations, the State laws, codes, or regulations are followed;

(3) Equipment and utensils are designed, constructed, and maintained to:

(a) Accomplish the intended and required functions;

(b) Protect food from internal and external contamination;

(c) Be durable under normal conditions and operations;

(d) Be resistant to:

(i) Denting;

(ii) Buckling;

(iii) Pitting;

(iv) Chipping;

(v) Crazing; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(vi) Excessive wear;

(e) Have non-food contact surfaces where exposed to splash, food debris, or other soils that are:

(i) Smooth;

(ii) Washable; and

(iii) Readily accessible;

(f) Withstand repeated scrubbing, scouring, corrosive action of food, cleansers, and sanitizing agents; and

(g) Prevent harboring of soils, bacteria, or pests:

(i) In or on the equipment; and

(ii) Between the equipment and other equipment, floors, walls, or supports;

(4) Materials used as food contact surfaces of equipment are:

(a) Nontoxic;

(b) Unable to contaminate or be absorbed by food under the conditions of use;

(c) Non-porous and nonabsorbent; and

(d) Except for the use of cast iron as a food contact material if the surface is to be heated, corrosion resistant;

(5) Food contact surfaces of equipment and utensils are designed, constructed, and maintained to be:

(a) Smooth;

(b) Easily cleanable;

(c) In good repair;

(d) Free of difficult to clean internal corners and crevices;

(e) Self-emptying or self-draining if an interior surface;

(f) Visible or readily disassembled for inspection; and

(g) Readily:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(i) Accessible for manual cleaning without tools; or

(ii) Disassembled with the use of simple tools kept available near the equipment;

(6) Existing refrigeration equipment used to maintain potentially hazardous foods that is incapable of maintaining the potentially hazardous food at 41°F or less is upgraded or replaced by December 17, 2012;

(7) Equipment designed for pressurized cleaning-in-place is designed, constructed, and maintained to:

(a) Fully circulate cleaning and sanitizing solutions through a fixed system in which the solutions will contact all interior food contact surfaces;

(b) Self-drain or otherwise completely evacuate all cleaning solutions; and

(c) Effectively clean and sanitize all food contact surfaces without disassembly;

(8) Cutting blocks, bakers tables, and similar wood food contact surfaces are made from:

(a) Hard maple; or

(b) Another material that is:

(i) Nontoxic;

(ii) Smooth; and

(iii) Free of cracks, crevices, and open seams;

(9) Lubricants used on bearings and gears of equipment are food-grade;

(10) Except for equipment that is portable, equipment that is placed on tables or counters is:

(a) Sealed in place;

(b) Mounted on legs or feet at least 4 inches high; or

(c) Installed to allow cleaning of the equipment and adjacent areas;

(11) Floor-mounted equipment is:

(a) Elevated:

(i) At least 6 inches above the floor; and

(ii) So that food contact surfaces are at least 18 inches above the floor; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(b) Placed so that there is sufficient space for cleaning between:

(i) Adjoining units; and

ii) A unit and the adjacent walls;

(12) The spaces between adjoining equipment are closed and sealed if exposed to seepage;

(13) Aisles or working spaces between equipment and between equipment and walls are:

(a) Unobstructed and of sufficient width to permit employees to perform duties without contaminating food or food-contact surfaces by clothing or personal contact; and

(b) In a new facility or a facility that is remodeled, a minimum width of:

(i) 3 feet where food preparation occurs on only one side of the aisle;

(ii) 4 feet where food preparation occurs on both sides of the aisle and employees work back to back;

(iii) 5 feet where food preparation occurs on both sides of the aisle, employees work back to back, and other employees must pass through the area; or

(iv) Another width approved by the approving authority based on a review that indicates compliance with §A(13)(a) of this regulation;

(14) Equipment is installed and located to limit the potential for cross-contamination of food;

(15) When an existing piece of equipment ceases to operate:

(a) Equipment intended for temporary use is:

(i) Acceptable to the approving authority; and

(ii) Complies with §A(3)—(9) of this regulation;

(b) Equipment is replaced:

(i) With equipment that meets the requirements of this regulation; and

(ii) Within 30 working days from the date the permanent replacement plan required in §A(15)(c) of this regulation is accepted by the approving authority; and

(c) The approving authority is provided plans for permanent replacement of the failed unit within 10 working days after the failure of the unit; and

(16) A vending machine containing potentially hazardous foods has an automatic control that prevents the machine from vending food:

UNOFFICIAL COPY

(a) If there is a power failure, mechanical failure, or other condition resulting in an internal machine temperature that cannot maintain food temperatures as specified in Regulation .06B(7) of this chapter; and

(b) Until serviced and working properly.

B. The approving authority may allow the use of equipment that meets §A(3)— (11) of this regulation but fails to comply with §A(1) of this regulation if a review indicates the equipment and its use are:

(1) Not harmful to public health; and

(2) Consistent with industry standards and practice.

.16 Cleaning and Sanitizing Equipment and Utensils.

The person-in-charge shall ensure that:

A. Food contact surfaces of equipment and utensils are effectively cleaned and sanitized by:

(1) Removing soil and food particles by one or more of the following:

(a) Flushing;

(b) Soaking;

(c) Scraping;

(2) Cleaning with a suitable commercial detergent;

(3) Rinsing with potable water; and

(4) Sanitizing, using:

(a) Immersion in hot water of 170°F or higher temperature for at least 30 seconds;

(b) Immersion in a chemical sanitizer that is proven to kill pathogens effectively:

(i) In accordance with the manufacturer's label use instructions; or

(ii) As set forth in §C(1) of this regulation; or

(c) For equipment that is not sanitized by the methods set forth in §C(1) of this regulation:

(i) Live steam from a hose, provided that the steam can be confined within the equipment;

(ii) A rinse with boiling water; or

UNOFFICIAL COPY

(iii) A spray or swab with a chemical sanitizing solution of at least the minimum strength stated in §C(1) of this regulation;

B. Cleaning and sanitization occur:

(1) As often as needed to prevent food contamination;

(2) After each use;

(3) Between an interruption in food preparation greater than 4 hours; and

(4) Except for food contact surfaces of equipment or utensils within holding units that are maintained at proper temperatures, after a continuous use of 4 hours;

C. When sanitizer is used for the manual sanitization of food contact surfaces of equipment and utensils:

(1) The minimum level of sanitizer provided is:

(a) 50 parts per million chlorine with a minimum water temperature of 75°F and a minimum contact time of 7 seconds;

(b) 12.5—25 parts per million iodine with a minimum water temperature of 75°F and a minimum contact time of 30 seconds; or

(c) The concentration indicated on the manufacturer's label with a minimum contact time of 30 seconds for quaternary ammonium compound; and

(2) A test kit or other device that accurately measures concentration of the sanitizer in parts per million is provided and used to check that the minimum level of sanitizer is accurate;

D. When hot water is used as the sanitizing agent in manual operations, a graduated thermometer is provided that is:

(1) Accurate within plus or minus 2°F;

(2) Calibrated annually or more frequently;

(3) Located near the sink; and

(4) Used frequently to check water temperature;

E. A three-compartment sink is:

(1) Provided and used wherever warewashing is conducted manually;

(2) Adequate in length, width, and depth to accommodate the largest equipment items and utensils;

(3) Supplied with hot and cold running water at each sink compartment; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(4) If used for tasks other than warewashing, such as washing wiping cloths or produce or thawing food:

(a) Is washed and sanitized before and after the sink is used for a different task; and

(b) Does not contain an automatic chemical dispenser;

F. Dish tables or integral drainboards are:

(1) Of adequate size for proper handling of soiled utensils before washing and for cleaned utensils following rinsing or sanitization;

(2) Located and constructed so the tables or drainboards do not interfere with the proper use of the warewashing facilities; and

(3) Not required for cooks' and bakers' rinse sinks;

G. When spray-type warewashing machines are used:

(1) The machines are installed:

(a) According to manufacturer's specifications; and

(b) To provide effective cleaning and sanitization of equipment and utensils;

(2) The manufacturer's specifications are listed on a data plate that is permanently affixed to the machine;

(3) If manufacturer's specifications for wash and rinse water temperature do not exist, the following standards are followed:

(a) For machines using chemical sanitization, the wash and final rinse water temperature is at least 120°F; or

(b) For machines using hot water sanitization, the wash water is at least:

(i) 160°F for single tank conveyor machines; and

(ii) 150°F for other types of machines;

(c) For machines using hot water sanitization, the final or fresh rinse water temperature is at least:

(i) 180°F at the entrance of the manifold; or

(ii) 160°F when a pumped rinse is provided;

(d) Wash water is kept clean and rinse water tanks are protected by:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(i) Distance;

(ii) Baffles; or

(iii) Other means to minimize the entry of wash water into the rinse water;

(e) The flow pressure is not less than 15 or more than 25 pounds per square inch on the water line immediately adjacent to the final rinse control valve;

(f) Except for a pumped or recirculated final rinse, a pressure gauge is provided immediately upstream from the final rinse control valve to check the flow pressure of the final rinse water; and

(g) An easily readable thermometer is provided to measure water temperature with an accuracy of plus or minus 2°F:

(i) In each tank of the warewashing machine; and

(ii) As the final rinse water enters the manifold;

(4) Jets, nozzles, and all other parts of each machine are maintained free of:

(a) Chemical deposits;

(b) Debris; and

(c) Other soil; and

(5) If used, automatic detergent dispensers are maintained and operating;

H. All warewashing machines are thoroughly cleaned as often as needed throughout the day to:

(1) Prevent recontamination of equipment and utensils; and

(2) Ensure that the equipment performs the equipment's intended function;

I. A pre-rinse device is provided for all warewashing machines;

J. Equipment and utensils are placed in racks, trays, baskets, or on conveyors after flushing, scraping, or soaking so that food contact surfaces are:

(1) Subject to unobstructed application of detergent wash;

(2) Rinsed thoroughly with clean rinse water to remove particulate matter and detergent residues; and

(3) Drained;

UNOFFICIAL COPY

K. Warewashing machines using chemicals for sanitization meet the following additional requirements:

(1) Chemicals added for sanitization purposes are automatically dispensed; and

(2) The chemical sanitizer used:

(a) Is listed in 21 CFR §178.1010; and

(b) Provides the equivalent bactericidal effect of a solution containing at least 50 parts per million of chlorine; and

(3) A test kit or other device that accurately measures the concentration of the sanitizing solution is used;

L. Written approval is obtained from the approving authority when any other type of machine, device, or facilities and procedures for warewashing will be used based on a review that indicates compliance with §A of this regulation;

M. Non-food contact surfaces of equipment are cleaned frequently enough to preclude the accumulation of soil residues; and

N. Wiping cloths are:

(1) Used only for wiping food spills;

(2) Free of food debris when used dry for wiping food spills on tableware; and

(3) Rinsed and stored in one of the sanitizing solutions specified in §C(1) of this regulation when used wet for wiping spills from the surfaces of equipment.

.17 Storage and Handling of Cleaned Equipment and Utensils.

The person-in-charge shall ensure that:

A. Contamination of food-contact surfaces of cleaned and sanitized equipment and utensils is prevented by handling:

(1) Cleaned spoons, knives, and forks by the utensil's handles only; and

(2) Cleaned cups, glasses, and bowls so that hands do not contact inside surfaces or mouth-contact surfaces;

B. The food-contact surfaces of equipment are protected from:

(1) Splash;

(2) Dust; and

UNOFFICIAL COPY

(3) Other contamination;

C. Cleaned and sanitized food equipment, portable equipment, and utensils are stored:

(1) A minimum of 18 inches above the floor when not fully protected by an enclosure with doors;

(2) In a clean, dry location; and

(3) In a space that affords protection from splash, dust, and other contamination;

D. Utensils are:

(1) Air dried before being stored; or

(2) Stored in a self-draining position on hooks or racks constructed of a corrosion resistant material;

E. Stored containers and utensils are covered or inverted whenever possible;

F. Flatware is stored in containers designed to present the handle to the employee or customer;

G. Toilet rooms or vestibules are not used to store:

(1) Food equipment;

(2) Utensils; or

(3) Single service articles; and

H. Single service articles are:

(1) Stored in closed cartons or containers to protect the articles from contamination;

(2) Handled and dispensed in a manner that prevents contamination of surfaces that come into contact with food or the mouth of the user; and

(3) Used only once.

.18 Control of Sanitary Facilities.

The person-in-charge shall ensure that:

A. Potable water is:

(1) Obtained from a water supply system that complies with Environment Article, Title 9, Annotated Code of Maryland, and COMAR 26.04.04; and

UNOFFICIAL COPY

(2) Meets the standards of quality specified in Environment Article, Title 9, Annotated Code of Maryland, and COMAR 26.04.01;

B. Non-potable water for non-culinary purposes such as air conditioning or fire protection is used only if the system complies with §H(3) of this regulation;

C. Except for a temporary food service facility where water under pressure is not available, hot and cold running water under pressure is provided:

(1) In all areas where:

(a) Food is prepared; and

(b) Equipment and utensils are washed; and

(2) With sufficient water capacity, pressure, and hot water generation and distribution to meet peak demands throughout the facility;

D. Drinking water, if not dispensed through the water supply system of the food service facility, is potable and stored in a container that meets all applicable laws, ordinances, and regulations;

E. Steam that contacts food is free from deleterious or harmful matter that might adulterate food;

F. All water-carried sewage is disposed of by:

(1) A public sewerage system; or

(2) An approved sewage disposal system constructed and operated in conformance with applicable State and local laws, ordinances, and regulations;

G. Where water-carried disposal methods are not possible, non-water-carried sewage disposal facilities are utilized if:

(1) The method has been approved by the approving authority as meeting State and local requirements; and

(2) The facilities are:

(a) In conformance with applicable State and local laws, ordinances, and regulations; and

(b) Located outside and not attached to the establishment;

H. Plumbing is sized, installed, and maintained so that:

(1) The plumbing complies with applicable State and local plumbing laws, ordinances, and regulations;

(2) The potable water supply system is:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(a) Installed in a manner that prevents backflow or backsiphonage; and

(b) Not connected with a non-potable water system in a manner that would allow non-potable water to be drawn or discharged into the potable water supply system;

(3) The piping of a non-potable water system is:

(a) Marked so that the piping is readily distinguishable from piping that carries potable water, such as with distinctive yellow-colored paint; and

(b) Not connected to equipment or other outlets in the food preparation area;

(4) Indirect waste piping is provided to a:

(a) Food preparation or utensil washing sink;

(b) Refrigerator coil;

(c) Ice making machine;

(d) Steam kettle;

(e) Coffee urn or brewer;

(f) Hot or cold drink machine;

(g) Steam table;

(h) Potato peeler;

(i) Warewashing machine, unless:

(i) The machine is located within 5 feet of a trapped floor drain; and

(ii) The waste piping is connected directly to the inlet side of a floor drain trap vented in conformance with applicable State and local laws, ordinances, and regulations; and

(j) Similar piece of equipment in which food, portable equipment, or utensils are placed;

(5) Each compartment of a multiple compartment sink is indirectly drained to a trapped and vented plumbing receptor through an air gap that complies with State and local laws, regulations, and ordinances:

(a) From a separate pipe through the air gap and into the plumbing receptor; or

(b) Through the air gap into a single manifolded branch and into the plumbing receptor;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(6) Plumbing receptors receiving the discharge of indirect waste pipes:

(a) Have a shape and capacity that will prevent splashing or flooding; and

(b) Are accessible for cleaning and inspection;

(7) Food waste grinders are connected and trapped separately from other fixtures or sink compartments;

(8) Floor drains subject to evaporation have:

(a) A water seal of at least 4 inches;

(b) Water fed from a plumbing fixture that complies with State and local laws, regulations, and ordinances; or

(c) An automatic priming device that complies with State and local laws, regulations, and ordinances;

(9) Floor drains in storerooms, refrigerated rooms, walk-in coolers, or other locations where food is stored, have indirect waste piping;

(10) Hand sinks in food preparation tables and counters discharge through an air gap into a floor sink or receptor that is trapped and vented; and

(11) Except when required by building design, waste pipes and fixtures are:

(a) Not located over food storage, preparation, or serving areas; and

(b) Where installed over food storage, preparation, or serving areas, food is protected by one or more of the following:

(i) Pipe joining methods that will preclude leakage;

(ii) Using wall-mounted fixtures;

(iii) Limiting the number of pipe joints;

(iv) Pressure testing the piping;

(v) Thermally insulating pipes to prevent condensation; and

(vi) Installing integral seepage pans or pipe sleeves;

I. Toilet facilities are:

(1) Sufficient in number to serve the facility;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(2) Conveniently located;

(3) Accessible to employees at all times;

(4) Except as specified in Health-General Article, §21-325(b), Annotated Code of Maryland, for facilities established after January 1, 1979, provided for patrons whenever a food service facility:

(a) Prepares food and provides seating; or

(b) Is a carry-out facility with indoor tables used for dining;

(5) Installed in accordance with applicable State and local laws, ordinances, and regulations;

(6) Designed with fixtures that are:

(a) Of sanitary design; and

(b) Readily cleanable;

(7) Kept:

(a) Clean;

(b) In good repair; and

(c) Free of objectionable odor; and

(8) Supplied with:

(a) Toilet tissue at each toilet at all times; and

(b) Receptacles that are easily cleanable and covered for waste materials in toilet rooms for women;

J. Toilet rooms:

(1) Are completely enclosed;

(2) Are equipped with self-closing doors except when a toilet room without doors is approved by the approving authority based on a review that shows that:

(a) Doors would impede the use of the toilet room; and

(b) The requirements in §J(3)—(6) of this regulation are met;

(3) Provide privacy;

(4) Are provided mechanical ventilation that:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(a) Exhausts air at the rate of 2 cubic feet per minute per square foot of floor area; and

(b) Allows the entrance of an equal amount of makeup air;

(5) Prevent the entry of insects and vermin; and

(6) Do not open directly into the kitchen or food preparation areas;

K. Hand washing facilities are:

(1) Located:

(a) In each food preparation and processing area;

(b) In each utensil washing area; and

(c) Adjacent to all toilet rooms;

(2) Accessible at all times;

(3) Equipped with an adequate supply of hand-cleaning soap or detergent;

(4) Equipped with a means of drying hands, such as:

(a) Individual towels in dispensers; or

(b) An effective hand-drying device;

(5) Equipped with a waste receptacle; and

(6) Kept clean and in good repair;

L. Hand sinks are:

(1) Installed in accordance with applicable State and local laws, ordinances, and regulations;

(2) Able to discharge:

(a) Hot and cold running water; or

(b) Tempered running water at a temperature of at least 100°F through:

(i) A mixing valve;

(ii) A combination faucet; or

(iii) Any slow closing or metering faucet that provides a flow of water for at least 15 seconds before the faucet has to be reactivated; and

UNOFFICIAL COPY

M. Utensil washing vats, food preparation sinks, or mop sinks are not used as hand sinks.

.19 Garbage and Rubbish Disposal.

The person-in-charge shall ensure that:

A. Garbage is stored in the following ways as applicable to the facility:

(1) In containers that:

(a) Are sufficient in number to hold all of the garbage that accumulates between periods of removal from the premises;

(b) Do not leak or absorb liquids;

(c) Are constructed of durable metal or another approved type of material; and

(d) Are provided with tight-fitting lids or covers unless kept in a:

(i) Vermin-proofed room or enclosure; or

(ii) Waste refrigerator;

(2) In storage areas that:

(a) Are clean; and

(b) Do not constitute a nuisance;

(3) In storage rooms or enclosures that:

(a) Are constructed of easily cleanable, grease resistant, washable materials; and

(b) Are vermin-proofed;

(4) In garbage containers outside the establishment that are located on a grease resistant, durable surface; and

(5) For damaged, adulterated, or recalled products, in designated areas separate from:

(a) Food;

(b) Equipment;

(c) Utensils;

(d) Linens; and

UNOFFICIAL COPY

(e) Single service and single use articles that are held for credit, redemption, or return to the distributor;

B. Garbage containers are cleaned as necessary to prevent a buildup of soil:

(1) In a manner that does not contaminate food, equipment, utensils, or food preparation areas;

(2) With:

(a) Brushes for washing that may not be used for any other purpose;

(b) Can-washing machines;

(c) Steam-cleaning devices; or

(d) Similar equipment; and

(3) In an area that enables waste water from cleaning operations to be disposed of as sewage;

C. Food waste grinders are:

(1) Constructed and installed to comply with applicable State and local plumbing laws, ordinances, and regulations; and

(2) Not connected to a sink drain that is used for food or utensils;

D. All garbage and rubbish is disposed of:

(1) Daily, or as often as necessary, to prevent a nuisance or insanitary condition; and

(2) By a method that complies with applicable State and local laws, regulations, and ordinances; and

E. Used cooking grease and oils are stored, recycled, and disposed of in accordance with applicable State and local laws, regulations, and ordinances.

.20 Vermin Control.

The person-in-charge shall ensure that:

A. A food service facility may operate with its outer doors and windows open unless, while the food service facility is operating with the outer doors or outer windows open, the approving authority:

(1) Finds evidence of vermin in food preparation or food storage areas; or

(2) Finds evidence of flying insects in food preparation or food storage areas that pose a significant threat to sanitation or public health.

UNOFFICIAL COPY

B. If the approving authority finds that a food service facility is operating in violation of §A of this regulation, the food service facility shall take immediate action to eliminate the vermin or flying insects.

C. If the approving authority finds that a food service facility is operating in violation of §A of this regulation, the approving authority may:

(1) Close a food service facility;

(2) Order a temporary closure of the outer windows and outer doors, until the vermin or flying insects are eliminated from the food preparation or food storage areas; or

(3) Take another action to eliminate vermin or flying insects.

D. A food service facility found to be operating in violation of §A of this regulation on three or more separate occasions shall keep the outer windows and outer doors closed at all times until:

(1) Modifications approved by the local approving authority are made to the food service facility to effectively protect against the entrance of vermin and flying insects; or

(2) Another action acceptable by the approval authority is taken.

E. The person-in-charge shall ensure that:

(1) Effective control measures are used to eliminate rodents, flies, roaches, and other vermin from the building;

(2) The premises are kept clean and free of debris that will promote the harborage of vermin;

(3) Openings into the building are effectively protected against the entrance of insects and rodents by:

(a) Doors that are:

(i) Tight; and

(ii) Self-closing;

(b) Screening on windows, doors, skylights, transoms, and other openings, which is:

(i) Tight-fitting;

(ii) In good repair; and

(iii) Made of material that is not less than 16-mesh to the inch or equivalent;

(c) Positive air pressure or controlled air currents; and

(d) Other means acceptable to the approving authority; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(4) Insect control devices that are used to electrocute or stun flying insects are:

(a) Designed to retain the insects within the device;

(b) Not located over areas used to prepare food; and

(c) Located so that dead insects and insect fragments are prevented from being impelled or from falling onto:

(i) Exposed food;

(ii) Clean equipment;

(iii) Utensils;

(iv) Linens; and

(v) Unwrapped single service and single use articles.

.21 Building - Floors, Walls, and Ceilings.

The person-in-charge shall ensure that:

A. A floor and floor covering is kept:

(1) Clean; and

(2) In good repair;

B. The floor in a food preparation, food processing, food storage, utensil washing, dressing or locker, toilet, and walk-in refrigerator room or area is constructed of epoxy, sealed concrete, quarry tile, ceramic tile, commercial grade continuous sheet vinyl, or similar material that makes the floor:

(1) Smooth;

(2) Durable;

(3) Nonabsorbent, unless the floor is in a:

(a) Dry-food storage area;

(b) Dining area; or

(c) Mechanical or electrical room;

(4) Easily cleanable; and

(5) Grease resistant in areas subject to grease spillage or drippage;

UNOFFICIAL COPY

C. A floor installed in a food preparation, food processing, food storage, utensil washing, walk-in refrigerator, dressing or locker, and toilet room or area has a juncture between the floor and the wall that is:

(1) Coved; and

(2) Closed;

D. A mat, floor covering, and duckboard is:

(1) Removable;

(2) Easily cleanable; and

(3) Kept clean;

E. When carpeting is used, the carpeting is placed only on the floors of:

(1) Interior dining areas;

(2) Retail areas where liquid products are not displayed; and

(3) Areas not subject to water flushing, spraying, or drippage;

F. When a floor receives water as a result of processing or cleaning, floor drains are provided at a minimum of one floor drain per 400 square feet of floor area;

G. When floor drains are installed, floors are graded at not less than 1/8 inch per foot to direct wastewater to the floor drains;

H. A floor in a room without floor drains that requires the removal of processing or wash-water, is drained by:

(1) Sloping the floor at least 1/8 inch per foot toward a doorway or another opening; and

(2) Directing the wastewater into a floor drain or other discharge point located outside the room in compliance with applicable State and local laws, regulations, and ordinances;

I. The walking and driving surfaces of all exterior areas of food service facilities are:

(1) Kept clean and free of debris; and

(2) Surfaced with concrete, asphalt, gravel, or similar material to facilitate maintenance and minimize dusty or muddy conditions;

J. A door on the building's exterior is equipped with a self-closing device;

K. A wall, ceiling, door, window, skylight, and similar closure, is kept:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(1) Clean; and

(2) In good repair;

L. The walls up to at least the highest level reached by splash or spray in all food preparation, food storage, utensil washing, and toilet rooms or areas have surfaces that are:

(1) Smooth;

(2) Washable; and

(3) Water and grease resistant;

M. A wall covering material, such as tile, stainless steel, fiber reinforced plastic, sealed gypsum board, or a similar material, is attached and sealed to the wall or ceiling so that:

(1) There are no open spaces or cracks to permit accumulation of grease or soil;

(2) The surface is easily cleanable; and

(3) Harborage for vermin is prevented;

N. Ceiling covering materials in food preparation and utensil washing areas:

(1) Have smooth, washable surfaces; and

(2) Do not contain fiberglass backing;

O. Exposed construction, such as exposed floor and ceiling rafters, trusses or beams, utility ducts, and lighting, is:

(1) Used only in:

(a) A dry food storage area;

(b) A dining area; or

(c) Other areas with the approval of the approving authority based on applicable State and local laws, regulations, and ordinances;

(2) Not used in:

(a) A refrigerated food storage area;

(b) A food preparation area;

(c) An equipment and utensil washing area; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(d) A toilet room; and

(3) Cleanable; and

P. Piping, conduit, and similar construction located outside a wall is installed so that there is a minimum of 3/4 inch space between the piping, conduit, and similar construction and the wall.

.22 Building — Lighting and Ventilation.

The person-in-charge shall ensure that:

A. Light fixtures, decorative material, and similar equipment and material attached to walls or ceilings are kept clean;

B. Lighting provides artificial light at:

(1) 50 footcandles at a surface where a food employee is working with food, utensils, or equipment;

(2) 20 footcandles at 30 inches from the floor in a:

(a) Storage area;

(b) Toilet room;

(c) Locker room;

(d) Garbage and rubbish storage area;

(e) Dining area during cleaning;

(f) Utensil washing area;

(g) Bar;

(h) Wait station; and

(i) Service area; or

(3) Another lighting level approved by the approving authority based on a review that indicates the lighting level is sufficient for cleaning, facility maintenance, and employee safety.

C. Light bulbs and tubes are shielded to prevent broken glass from falling onto food and utensils;

D. Infrared or other heat lamps are protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed;

E. The facility is ventilated with ventilation equipment that is maintained and operated so that:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(1) All areas are kept reasonably free from:

(a) Excessive heat;

(b) Steam;

(c) Condensation;

(d) Vapors;

(e) Smoke; and

(f) Fumes;

(2) Outside air is supplied:

(a) Through:

(i) The HVAC system;

(ii) A separate supply fan; or

(iii) A combination of the HVAC system and a separate supply fan;

(b) So that the entry of outdoor contaminants is excluded by:

(i) Maintaining the building under a slight positive pressure; and

(ii) Providing an air filtering system; and

(c) So that it does not reduce the effectiveness of the exhaust system;

(3) Mechanical exhaust and make-up air systems are connected by an interlocking switch in order to provide make-up air whenever the exhaust system is in operation; and

(4) Make-up air is tempered when necessary to:

(a) Prevent the build-up of condensation that could:

(i) Result in an unsanitary condition within the facility; and

(ii) Contaminate food;

(b) Provide comfortable working conditions; and

(c) Comply with applicable building codes;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

F. Rooms, areas, and equipment from which aerosols, odors, fumes, or vapors may originate are effectively vented to the outside air by a system that does not create a harmful or unlawful discharge;

G. A ventilation hood or other ventilation device or fixture is designed:

(1) To prevent grease or condensate from dripping onto food or onto food preparation surfaces;

(2) In compliance with NSF Standard 2; and

(3) So that interior and exterior parts are easily accessible for maintenance and cleaning;

H. Intake air ducts are designed and maintained to prevent the entrance of:

(1) Dust;

(2) Dirt;

(3) Insects; or

(4) Other contaminating materials;

I. A grease removing exhaust hood is provided when needed over commercial cooking equipment that produces grease-laden vapors or smoke, such as:

(1) Griddles;

(2) Fryers;

(3) Charbroilers;

(4) Ovens used to cook fatty foods at a temperature which exceeds the vaporization point of grease; and

(5) Solid fuel cooking equipment;

J. A ventilation hood is provided over equipment where needed, for heat, fumes, and steam removal, including:

(1) High temperature ovens not cooking fatty foods or not emitting grease vapors;

(2) Steam kettles; and

(3) Warewashing machines using hot water sanitization;

K. Overshelves are used over cooking equipment under a hood only if:

(1) Deflectors or the design of the overshelf prevents grease from condensing on the bottom of the overshelf and contaminating the food below;

UNOFFICIAL COPY

(2) Deflectors meet NSF or equivalent standards for food zone materials; and

(3) The ability of the hood to capture grease vapors and smoke is not impaired;

L. Equipment is not added or substituted under a hood that exceeds the capacity of the hood to remove:

(1) Heat;

(2) Steam;

(3) Smoke;

(4) Grease;

(5) Fumes; and

(6) Obnoxious odors;

M. Except as provided in §N of this regulation, ventilation in toilet rooms is provided:

(1) So that 2 cubic feet of air per minute per square foot of floor space is mechanically exhausted to the outside; and

(2) With make-up air;

N. When an existing building is converted for use as a food service facility and there is no feasible method to vent the toilet room to the exterior of the building, a ductless exhaust fan is used that:

(1) Is sized and installed so that it will move 2 cubic feet of air per minute per square foot of floor area; and

(2) Is serviced and maintained according to the manufacturer's specifications; and

O. Required ventilation meets the provisions of this regulation:

(1) Initially; and

(2) For the life of the system.

.23 Building — Cleanliness and Operations.

A. The person-in-charge shall ensure that:

(1) The facility and parts of the property associated with the operation of the facility are kept:

(a) Clean; and

(b) Free of litter and rubbish;

UNOFFICIAL COPY

(2) Traffic through the food operation and utensil washing areas is limited to on-duty personnel conducting pertinent job-related functions;

(3) The facility is not used for living or sleeping quarters;

(4) Sufficient space to store all custodial equipment is provided;

(5) At least one utility sink or curbed cleaning facility with a floor drain is provided and used for:

(a) Cleaning mops or similar wet floor cleaning tools; and

(b) The disposal of mop water or similar liquid wastes;

(6) A hand sink, utensil washing, equipment washing, or food preparation sink is not used as a mop or utility sink;

(7) Except for emergency cleaning due to an accident or spill, all cleaning is done during periods when the least amount of food is exposed, such as after closing to the public;

(8) Cleaning and sanitizing occur in a manner that protects food from contamination;

(9) Vacuum cleaning, wet cleaning, other dustless methods of floor and wall cleaning, or dust-arresting sweeping compounds and brooms are used in a manner that:

(a) Removes dust and soils; and

(b) Prevents the contamination of food and food-contact surfaces;

(10) Linens and clothes are stored:

(a) Laundered and in a clean place until used; and

(b) In non-absorbent containers or laundry bags when damp or soiled until removed for laundering;

(11) Employee clothing and personal belongings are stored in:

(a) Dressing rooms or dedicated areas that are;

(i) Provided when employees change clothing within the facility;

(ii) Located outside of food preparation, serving, and utensil washing areas; and

(iii) Kept clean; and

(b) Lockers or other facilities within dressing rooms or areas; and

(12) Live birds and animals are not present on the premises of a food service facility except for:

UNOFFICIAL COPY

(a) Edible fish, shellfish, crustacea, or decorative fish in aquariums or display tank systems;

(b) Service animals that are controlled by the individual with a disability;

(c) Pets in the common dining areas of health care facilities at times other than during meals if:

(i) Effective partitioning and self-closing doors separate the common dining areas from food storage and food preparation areas;

(ii) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining area when pets are present; and

(iii) Dining areas including tables and countertops are cleaned and sanitized before the next meal service; and

(d) A patron's dog in an outdoor dining area of a food service facility in conformance with applicable State and local laws, ordinances, and regulations.

B. Patrons' Dogs in Outdoor Dining Areas.

(1) Subject to the requirements of §§B(2)—(5) of this regulation, an owner of a restaurant may allow a patron's dog to accompany the patron in the outdoor dining area during the hours designated by the restaurant.

(2) Before an owner may allow a patron's dog to accompany the patron in the outdoor dining area, the owner shall:

(a) Provide written notice to the approving authority or the local health department in the jurisdiction where the restaurant is located that the owner intends to allow patrons' dogs to accompany patrons in the outdoor dining area of the restaurant 30 days prior to the days dogs will be allowed; and

(b) Place on permanent display in the restaurant a written notice that:

(i) States the restaurant's policy of allowing patrons' dogs in an outdoor dining area;

(ii) Is in a typeface that is large enough to be easily legible to the average person from a distance of 8 feet; and

(iii) Is in a location that is plainly visible to the patrons of the restaurant.

(3) In establishing the restaurant's policy concerning patron's dogs in outdoor dining areas, the owner may:

(a) Determine the location and the amount of space designated for a patron accompanied by the patron's dog; and

UNOFFICIAL COPY

(b) Establish a limit on the size and type of dogs and any other limitations relating to a patron's dog.

(4) At the owner's discretion, the owner may deny entry to the restaurant or eject from the restaurant any patron and the patron's dog.

(5) A patron accompanied by a dog:

(a) Shall:

(i) Be an adult who is responsible for the behavior of the dog;

(ii) Keep the dog with the patron on a leash at all times at the table at which the patron is seated; and

(iii) Be liable for any damages caused by the dog to the restaurant or any other patron of the restaurant; and

(b) May not:

(i) Allow the dog to travel through an indoor space of a restaurant to enter or exit an outdoor dining area; or

(ii) Leave the dog unattended at any time.

.24 Food Manufacturing in Food Service Facilities.

A. A person who is licensed to operate a food service facility may manufacture food for sale or distribution as provided in §§B, C, and E of this regulation.

B. The person-in-charge shall ensure that before a food is manufactured in a food service facility:

(1) Plans for the manufacturing:

(a) Are submitted to the Department;

(b) Are approved in writing by the Department based on a review that indicates compliance with this regulation;

(c) Include:

(i) A list of foods proposed for manufacture;

(ii) The proposed processing procedures for a food;

(iii) Specifications for equipment items to be used for manufacture;

(iv) Packaging and labeling information;

UNOFFICIAL COPY

(v) Methods of shipment;

(vi) Procedures for maintaining potentially hazardous food as set forth in Regulation .06B(7)—(14) of this chapter; and

(vii) An HACCP plan in accordance with Regulation .34 of this chapter; and

(2) The facilities and equipment proposed for use in manufacturing are:

(a) Inspected by the Department; and

(b) Approved in writing by the Department based on a review that indicates compliance with this chapter.

C. A person licensed only to operate a food service facility may not manufacture the following foods:

(1) Low-acid canned foods as defined in 21 CFR §113.3(n);

(2) Acidified foods as defined in 21 CFR §114.3(b);

(3) Hermetically sealed and ready-to-eat potentially hazardous foods that a hazard analysis indicates are associated with the outgrowth of Clostridium botulinum or Listeria monocytogenes, such as:

(a) Smoked fish; or

(b) Pasteurized crabmeat;

(4) Bottled water; or

(5) Soft drinks.

D. The approving authority shall routinely inspect the food manufacturing conducted in the food service facility:

(1) During inspections of the retail food service facility; and

(2) At a frequency set forth in Regulation .30 of this chapter.

E. The person-in-charge shall ensure that:

(1) All manufactured food is labeled in accordance with Regulation .12 of this chapter; and

(2) Records are:

(a) Made to allow the trace-back of distributed or sold food to the food service facility that manufactured the food;

UNOFFICIAL COPY

(b) Made to identify the immediate source of the food and food ingredients stored and processed at the facility;

(c) For shell eggs, made to provide the information required in COMAR 15.04.01.03A(2)(a)—(e);

(d) Made to identify the initial distribution of the food to facilitate the segregation of food that may have become adulterated or otherwise unfit for human consumption; and

(e) Maintained at the facility for at least:

(i) 2 years for a shelf stable or preserved food; and

(ii) 1 year for a fresh food.

.25 Special Food Service Facilities.

A. For a special food service facility that handles only potentially hazardous food that remains in the original container or wrapping and that does not prepare, wrap, or package the food at the facility, the person-in-charge shall ensure that:

(1) Compliance is maintained with Regulations .01—.06, .08, .12—.14, .15A(3)—(6), .19—.23, .25, .28—.33, and .35—.39 of this chapter; and

(2) When single service articles are used, the single service articles comply with Regulation .17H of this chapter.

B. For a special food service facility that handles food that is removed from the original package or that prepares, packages, or wraps food at the facility, the person-in-charge shall ensure that:

(1) Compliance is maintained with Regulations .01—.06, .08—.14, .15A(3)—(11), .16—.25, and .28—.39 of this chapter;

(2) The premises are kept clean and free of litter or rubbish;

(3) If permanent toilet facilities are not required, temporary toilet facilities are made available and maintained in a sanitary manner;

(4) Except as provided in §D(2) of this regulation, adequate hand washing facilities are provided by:

(a) Where potable water under pressure is available, a hand sink as set forth in Regulation .18K and L of this chapter; or

(b) Another hand washing facility that has:

(i) Warm water;

(ii) Soap; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(iii) Paper towels; and

(5) Wastewater from hand washing, food preparation, and cleaning is disposed of in accordance with State and local laws, regulations, and ordinances.

C. For a special food service facility that is a mobile unit, the person-in-charge shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation as applicable;

(2) Equipment components of the mobile unit are in compliance with Regulation .15A(1) and (2) or B of this chapter;

(3) A hand washing sink is provided as set forth in Regulation .18K and L of this chapter;

(4) Potable water tanks are used to provide water for hand washing and, where applicable, for food preparation and utensil cleaning; and

(5) Wastewater tanks are used to hold wastewater pending disposal at a facility in a manner that conforms with State and local laws, regulations, and ordinances.

D. For a special food service facility that is a temporary food service facility, the person-in-charge shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation as applicable, except that no compliance with Regulations .21 and .22 of this chapter is required;

(2) Where potable water under pressure is not available, sufficient containerized potable water is provided for:

(a) Hand washing; and

(b) Rinsing utensils; and

(3) The period of time that the facility operates is limited to the time stated in Regulation .02B(80) of this chapter.

E. For a special food service that is a bed and breakfast, the person-in-charge shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation as applicable;

(2) The facility serves hot meals only to renters; and

(3) The facility does not operate as a restaurant or caterer.

F. For a special food service facility that is a semi-permanent food service facility, the person-in-charge shall ensure that:

(1) Compliance is maintained with either §A or B of this chapter as applicable;

UNOFFICIAL COPY

(2) A connection to potable water is maintained as a critical item, as set forth in Regulation .18A of this chapter;

(3) Hand sinks are provided and maintained as set forth in Regulation .18K and L of this chapter; and

(4) A connection to a sewage disposal system is provided and maintained as a critical item that meets applicable State and local laws, regulations, and ordinances.

G. For a special food service facility that is an on-farm food service facility, the person-in-charge shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation as applicable, except that no compliance with Regulations .21 and .22 of this chapter is required;

(2) Hand washing stations are provided in close proximity to the food service facility for use by customers;

(3) Signs are displayed prominently at the hand washing stations stating "In the interests of public health, please wash your hands thoroughly before entering or handling food."; and

(4) The period of time that the facility operates is limited to the time in Regulation .02B(48) of this chapter.

H. For a special food service facility that is a seasonal farmer's market producer sampling food service facility, the person-in-charge shall ensure that:

(1) Compliance is maintained with §B of this regulation when food is removed from the original package or food is prepared at the facility, except that no compliance with Regulations .21 and .22 of this chapter is required;

(2) Where potable water under pressure is not available, sufficient containerized potable water is provided for:

(a) Hand washing; and

(b) Rinsing utensils; and

(3) The period of time that the facility operates is limited to the time stated in Regulation .02B(70) of this chapter.

.26 Excluded Organizations.

A. Pursuant to Health-General Article, §21-304(a)(2), Annotated Code of Maryland, an excluded organization shall make:

(1) A non-rescindable decision to operate with a license and in full compliance with this chapter; or

UNOFFICIAL COPY

(2) A decision to operate without a license and in compliance with §§B—E of this regulation, which establish the minimum requirements to ensure food safety at a food service facility operated by an excluded organization without a license.

B. The person-in-charge shall ensure that a food service facility operated by an excluded organization without a license:

(1) Complies with Regulations .01 —.15A(3)—(11), .16—.23, .26—.27, and .29—.39 of this chapter; and

(2) When serving potentially hazardous food, serves only potentially hazardous food:

(a) Prepared at the excluded organization; or

(b) In a licensed food establishment.

C. During the operation of a special food service facility, the person-in-charge of an unlicensed excluded organization shall ensure compliance with:

(1) Regulations .01—.06, .08, .12—.14, .15A(3)—(6), .19—.20, .22B—D, .23, .26, .29—.33, and .35—.39 of this chapter, if the unlicensed excluded organization is a special food service facility that:

(a) Handles only potentially hazardous food that remains within the original container or wrapping; and

(b) Does not prepare, wrap, or package food at the facility; or

(2) Regulations .01—.06, .08—.14, .15A(3)—(11), .16—.20, .22B—D, .23, .26, and .29—.39 of this chapter, if the unlicensed excluded organization is a special food service facility that:

(a) Handles food that is removed from the original container or wrapping; or

(b) Prepares, packs, or wraps potentially hazardous food at the facility.

D. The person-in-charge shall ensure that an unlicensed excluded organization does not:

(1) Operate a bed and breakfast;

(2) Operate a semi-permanent food service; or

(3) Except as provided for in §G of this regulation, perform retail food manufacturing.

E. The person-in-charge shall ensure that, when an unlicensed excluded organization plans a single event to prepare or serve potentially hazardous food to 200 or more individuals from the public:

(1) Written notification of the event is submitted to the approving authority not less than 30 days before the scheduled event; and

UNOFFICIAL COPY

(2) The written notification required in §E(1) of this regulation contains:

(a) The date, place, and time of the event;

(b) The estimated number of individuals to be served at the event;

(c) A menu or list of foods to be served;

(d) The source of all potentially hazardous foods to be served;

(e) A list of foods to be prepared more than 12 hours in advance of service;

(f) If food is to be prepared off-premises, the:

(i) Name of the facility to be used; and

(ii) Procedures for transporting food to the premises;

(g) The name, address, and telephone number of a responsible contact individual; and

(h) Any other information requested by the approving authority in order to review the food preparation and service.

F. The person-in-charge shall ensure that when an unlicensed excluded organization that is a volunteer fire company plans to serve food to the public for up to 30 consecutive days, a written notice is provided to the Department that includes the:

(1) Dates on which the food will be prepared;

(2) Methods of storing and serving food; and

(3) Methods or procedures that will be followed to ensure food:

(a) Safety; and

(b) Security.

G. In Carroll County, a religious organization that meets the definition of an excluded organization as set forth in Regulation .02B(28) of this chapter, and complies with COMAR 10.15.01.09A—D and .10A and 10.15.04.08, or a county-owned and county-operated park or facility that is hosting a public festival, may offer for sale directly to the public the following types of homemade style food, only if the food is produced at the kitchen of the excluded organization:

(1) Fruit butter made only from:

(a) Apples;

(b) Apricots;

UNOFFICIAL COPY

(c) Grapes;

(d) Peaches;

(e) Plums; or

(f) Quince;

(2) Jam, preserve, or jelly, made only from:

(a) A fruit listed in §G(1) of this regulation;

(b) Oranges;

(c) Nectarines;

(d) Tangerines;

(e) Blackberries;

(f) Raspberries;

(g) Blueberries;

(h) Boysenberries;

(i) Cherries;

(j) Cranberries;

(k) Strawberries; or

(l) Red currants;

(3) Fruit pies made from a fruit listed in §G(1) and (2) of this regulation; and

(4) Honey.

.27 Farmer's Market, Bake Sales, and Cottage Food Business.

A. The approving authority shall accept as being from an approved source the homemade foods specified in §B of this regulation when the foods are:

(1) Made in a private home kitchen; and

2) Offered or sold only at a farmer's market, bake sale, or public event.

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

B. The approving authority shall allow the preparation and sale of the following foods in accordance with §A of this regulation:

(1) Non-potentially hazardous hot-filled canned acid fruit jellies, jams, preserves, and butters that are:

(a) Unadulterated;

(b) Packaged to maintain food safety and integrity; and

(c) Labeled in accordance with Regulation .12 of this chapter;

(2) Fruit butters made only from:

(a) Apples;

(b) Apricots;

(c) Grapes;

(d) Peaches;

(e) Plums;

(f) Prunes;

(g) Quince; or

(h) Another fruit or fruit mixture that will produce an acid canned food;

(3) Jam, preserve, or jelly made only from:

(a) A fruit listed in §B(2) of this regulation;

(b) Oranges;

(c) Nectarines;

(d) Tangerines;

(e) Blackberries;

(f) Raspberries;

(g) Blueberries;

(h) Boysenberries;

UNOFFICIAL COPY

(i) Cherries;

(j) Cranberries;

(k) Strawberries;

(l) Red currants; or

(m) Another fruit or fruit mixture that will produce an acid canned food;

(4) Non-potentially hazardous baked goods;

(5) Foods manufactured on a farm by a licensed food processor in accordance with COMAR 10.15.04.19;

(6) Non-potentially hazardous candy; and

(7) All other non-potentially hazardous foods produced by a licensed entity.

C. Cottage Food Business.

(1) The approving authority shall allow the owner of a cottage food business to sell only cottage food products that are:

(a) Produced or packaged in a residential kitchen;

(b) Stored on the premises of the cottage food business; and

(c) Prepackaged with a label that contains the following information:

(i) The name and address of the cottage food business;

(ii) The name of the cottage food product;

(iii) The ingredients of the cottage food product in descending order of the amount of each ingredient by weight;

(iv) The net weight or net volume of the cottage food product;

(v) Allergen information as specified by federal labeling requirements;

(vi) Nutritional information as specified by federal labeling requirements, if any nutritional information claim is made; and

(vii) Printed in 10 point or larger type in a color that provides a clear contrast to the background of the label: “Made by a cottage food business that is not subject to Maryland’s food safety regulations.”

UNOFFICIAL COPY

(2) The owner of a cottage food business shall comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products.

(3) Upon receipt of a complaint or outbreak of illness the approving authority may:

(a) Investigate the conditions under which the product was produced and any complaint alleging that a cottage food business has violated this regulation;

(b) Send a representative of the Department, at a reasonable time, to enter and inspect the premises of a cottage food business to determine compliance with this regulation; and

(c) Collect samples of a cottage food product or its ingredients to determine if the cottage food product is misbranded or adulterated.

(4) The owner of a cottage food business may not:

(a) Refuse to grant access to a representative who requests to enter and inspect the premises of the cottage food business in response to a complaint; or

(b) Interfere with any inspection or collection of samples in response to a complaint or outbreak of illness.

D. If the approving authority finds a person to be in violation of any provision of this regulation, the approving authority:

(1) Shall take action against a misbranded or adulterated food at a farmer's market, bake sale, or public event in accordance with Health-General Article, §§21-211, 21-253, and 21-254, Annotated Code of Maryland; and

(2) May determine that homemade food produced by the person is not from an approved source.

.28 Licenses.

A. The approving authority shall require a farmer to obtain a producer mobile farmer's market unit license as specified in COMAR 10.01.17 and 10.15.04 for the sale of a farm product at a farmer's market or at a public event that is not:

(1) A raw agricultural product as defined in Regulation .02B(61) of this chapter; or

(2) A pre-packaged non-potentially hazardous food.

B. A local health department may:

(1) Not require a farmer to obtain a producer mobile farmer's market unit license for that local jurisdiction; and

UNOFFICIAL COPY

(2) Require a farmer to obtain a seasonal farmer's market producer sampling license if the farmer prepares and offers samples of a farm product for human consumption at a farmer's market or at a public event in that local jurisdiction.

C. The approving authority shall issue and renew licenses in accordance with Health-General Article, §§21-309 and 21-310, Annotated Code of Maryland, and this chapter.

D. The approving authority may deny an application for a food service facility license in accordance with Health-General Article, §21-311, Annotated Code of Maryland, and this chapter.

E. A person:

(1) Shall obtain a food service facility license before the person operates a food service facility; and

(2) May not operate a food service facility if the person does not have a current and valid license issued by the approving authority, except:

(a) As provided in:

(i) Health-General Article, §21-305, Annotated Code of Maryland; and

(ii) Regulation .26A(2) of this chapter; or

(b) A caterer:

(i) As provided in §G of this regulation; or

(ii) When from outside the State, that conforms to the provisions of this chapter or to substantially equivalent provisions as indicated by a report from the caterer's licensing agency to the approving authority indicating that the facility is licensed and inspected in the jurisdiction where the food service facility is located.

F. The person-in-charge shall ensure that:

(1) Application for a food service facility license is submitted in accordance with Health-General Article, §§21-306 and 21-307, Annotated Code of Maryland;

(2) A valid license is displayed in a conspicuous place in the food service facility; and

(3) When catering services are offered, the food service facility license number and the identity of the issuer of the number are located:

(a) On advertising and business cards;

(b) In published print media;

(c) On flyers;

UNOFFICIAL COPY

(d) In brochures;

(e) On vehicles used in connection with catering services;

(f) On contracts for catering services;

(g) In telephone directories; and

(h) In or on any other advertising and solicitations.

G. The approving authority may not require a caterer licensed in Maryland to obtain a separate license for each catered event, including events across jurisdictional lines within the State, when the:

(1) Major food preparation for the event is completed at the caterer's food service facility, including:

(a) Thawing potentially hazardous food;

(b) Cooking potentially hazardous food, except at outdoor barbecues when the food will be immediately consumed or discarded;

(c) Cooling potentially hazardous food; or

(d) Preparing salads that contain potentially hazardous foods; and

(2) Event is at a location other than the caterer's food service facility if the caterer and location comply with Regulations .01—.06, .08—.14, .15A(3)—(9), and .18I and L of this chapter.

H. Except as provided in §I of this regulation, a license may not be transferred from one person to another person or from one food service facility to another.

I. Upon the death of a licensee, the approving authority may transfer a food service facility license if:

(1) An application is filed in accordance with Health-General Article, §21-306, Annotated Code of Maryland; and

(2) Written evidence establishes that the applicant's relationship with the deceased was as a:

(a) Spouse of the deceased licensee;

(b) Blood relative to the first degree of consanguinity; or

(c) Current officer or surviving partner in the business operating the food service facility.

.29 Food Service Facility Inspections — General.

A. The person-in-charge shall permit a representative of the approving authority to:

UNOFFICIAL COPY

(1) Enter a food service facility at a reasonable time for the purpose of making inspections to determine compliance with this chapter; and

(2) Examine the records of the facility that pertain to information regarding food and supplies purchased, received, or used.

B. The person-in-charge shall inform the approving authority of, and keep confidential, a food ingredient or a recipe that the person-in-charge considers a trade secret, except as provided in §C of this regulation.

C. The person-in-charge shall furnish information to the approving authority regarding a food ingredient or recipe that the person-in-charge considers a trade secret if:

(1) An immediate and substantial danger to public health exists involving the food ingredient or recipe; or

(2) The approving authority determines that the information about the food ingredient or recipe is necessary to conduct a foodborne disease investigation.

D. The approving authority shall maintain the confidentiality of trade secret information in accordance with State Government Article, §10-617, and Health-General Article, §21-259, Annotated Code of Maryland.

E. When an inspection of a food service facility is made, the approving authority shall:

(1) Document:

(a) The inspection results on an inspection report form provided by the Department; and

(b) On the report:

(i) Conditions found that violate the provisions of this chapter; and

(ii) Critical item violations, noted separately from all other violations;

(2) Furnish one copy of the inspection report to the person-in-charge of the facility; and

(3) Make the completed inspection report form available for public disclosure in accordance with State Government Article, §10-611—10-628, Annotated Code of Maryland.

.30 Food Service Facility Inspections — Types and Frequencies.

The approving authority shall ensure that:

A. The following types of inspections are conducted:

(1) A comprehensive inspection that contains:

(a) A monitoring inspection as set forth in §A(2) of this regulation;

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(b) A HACCP compliance inspection as set forth in §A(3) of this regulation; and

(c) An inspection of the physical facility to ensure compliance with the applicable sections of this chapter, including those governing:

(i) Floors;

(ii) Walls;

(iii) Ceilings;

(iv) Lighting;

(v) Ventilation;

(vi) Hoods;

(vii) Food equipment;

(viii) Toxic substances and cleaning supplies storage and use;

(ix) Cleaning, rinsing, and sanitizing;

(x) Mechanical warewashers;

(xi) Insects, rodents, birds, or other animals;

(xii) Trash disposal;

(xiii) Hand sinks;

(xiv) Bathroom fixtures; and

(xv) Backflow and backsiphonage prevention;

(2) A monitoring inspection that contains:

(a) An inspection for compliance with critical items as:

(i) Defined in Regulation .02B(19) of this chapter; and

(ii) Outlined in §C of this regulation;

(b) A menu review to determine whether the existing priority assessment is correct; and

(c) An evaluation of the physical facility to ensure that food is protected; and

(3) A HACCP compliance inspection that contains:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(a) An inspection for compliance with Regulation .34 of this chapter;

(b) A comparison of the HACCP plan on site to the current menu;

(c) An evaluation of the food preparation in progress to ensure that each CCP:

(i) Is properly identified;

(ii) Is monitored according to the procedures contained in the HACCP plan; and

(iii) Has a corrective action that is implemented according to procedures contained in the HACCP plan;

(d) Verification that the procedures used to monitor each CCP are accurate; and

(e) Action to:

(i) Enforce compliance with the HACCP plan; or

(ii) Have the existing HACCP plan revised to comply with Regulation .33E and F of this chapter;

B. The person-in-charge is in compliance with critical items when the person-in-charge:

(1) Receives food from approved sources;

(2) Protects food from adulteration;

(3) Ensures that an individual who works with food:

(a) Washes hands as necessary to protect food and food contact surfaces from contamination; and

(b) Is excluded if ill as set forth in Regulation .14A and B of this chapter;

(4) Cools potentially hazardous food:

(a) As set forth in Regulation .11A and B of this chapter; and

(b) In equipment that complies with Regulation .15 of this chapter;

(5) Maintains potentially hazardous food:

(a) Hot:

(i) At hot holding temperatures as set forth in Regulation .06B(7) of this chapter; and

UNOFFICIAL COPY

(ii) In equipment that complies with Regulation .15 of this chapter; or

(b) Cold:

(i) At refrigeration temperatures as set forth in Regulation .06B(7) of this chapter; and

(ii) In equipment that complies with Regulation .15 of this chapter;

(6) Cooks and reheats potentially hazardous food:

(a) As set forth in Regulations .10 and .11C of this chapter; and

(b) In equipment that complies with Regulation .15 of this chapter;

(7) Provides an adequate supply of potable water for:

(a) Food preparation;

(b) Hand washing;

(c) Utensil washing;

(d) Toilet facilities; and

(e) Facility sanitation; and

(8) Properly discharges sewage as set forth in Regulation .18F and G of this chapter;

C. A food service facility is inspected:

(1) As needed for the enforcement of this chapter;

(2) When a high priority food service facility:

(a) At a minimum frequency of three times per year, one at every 4-month interval;

(b) Except as provided in §D of this regulation, using:

(i) A comprehensive inspection; and

(ii) Two monitoring inspections; and

(c) That operates fewer than 12 months in a year, using one comprehensive inspection:

(i) Per operating season if the operating season is less than 4 months; or

(ii) During each 4 month interval if the operating season is 4 months or greater;

UNOFFICIAL COPY

(3) When a moderate priority food service facility:

(a) At a minimum of two times per year, one every 6 months;

(b) Except as provided in §D of this regulation, using:

(i) A comprehensive inspection; and

(ii) A monitoring inspection; and

(c) That operates fewer than 12 months a year, using a comprehensive inspection during each period of 6 months or less;

(4) When a low priority food service facility, using a comprehensive inspection at a minimum of once every 2 years except that a HACCP compliance inspection is not required;

(5) When a temporary food service facility, using a monitoring inspection as set forth in Regulation .30A(2) of this chapter during each licensure period; and

(6) When a seasonal farmer's market producer sampling food service facility, using a monitoring inspection:

(a) A minimum of two times per year, once every 6-month interval;

(b) Except as provided in §D of this regulation; and

(c) That operates fewer than 12 months in a year:

(i) Per operating season if the operating season is less than 6 months; or

(ii) During each 6-month interval if the operating season is 6 months or greater; and

D. A food service facility is inspected as soon as possible when the food service facility has been associated with foodborne illness, using a:

(1) HACCP compliance inspection that focuses on the food implicated with illness; and

(2) Upon completion of the HACCP compliance inspection, either a:

(a) Comprehensive inspection; or

(b) Monitoring inspection.

.31 Time Period for Correction of Violations.

A. The person-in-charge shall correct:

UNOFFICIAL COPY

(1) Critical item violations immediately;

(2) Other violations except as provided in §A(3) of this regulation within:

(a) 30 days of the inspection; or

(b) Another time period specified by the approving authority based on applicable State and local laws, regulations, and ordinances; and

(3) Other violations at a temporary food service facility within:

(a) 24 hours of the inspection; or

(b) Another time period specified by the approving authority based on applicable State and local laws, regulations, and ordinances.

B. The approving authority may modify the specified time period for correcting a violation if the person-in-charge:

(1) Submits a written schedule of compliance within a time frame for correcting a violation that is acceptable to the approving authority; and

(2) There is no immediate or substantial danger to public health.

.32 Choking Posters.

The person-in-charge shall ensure that a food service facility that prepares food and provides seating for patrons posts a diagram on the use of manual maneuvers to prevent asphyxiation due to choking, in accordance with Health-General Article, §21-326, Annotated Code of Maryland.

.33 Plan Review.

A. The person-in-charge shall ensure that plans and specifications are submitted to and approved by the approving authority before a food establishment is:

(1) Constructed;

(2) Remodeled; or

(3) Materially altered.

B. The person-in-charge shall ensure that the information submitted to the approving authority includes:

(1) A scale drawing of the proposed facility that identifies the layout and arrangement of work areas and the location of all equipment;

(2) A description of:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(a) Materials to be used for interior finishes;

(b) The layout and types of lighting to be used;

(c) The proposed ventilation system; and

(d) Methods and facilities for trash storage and disposal;

(3) A plumbing diagram, including specifications of the method of sewage disposal and the source of potable water;

(4) A complete list of specifications for the proposed food equipment;

(5) A menu or other written description of the foods to be prepared or served;

(6) General food handling information and procedures for:

(a) Receiving;

(b) Storage;

(c) Thawing; and

(d) Preparation;

(7) A list of foods that will be:

(a) Prepared in advance of service; or

(b) Distributed off premises;

(8) A description of the food systems that will be used, such as:

(a) Cook-hot hold-serve;

(b) Cook-cool-reheat-hot hold-serve; and

(c) Cook-cool-cold hold-serve; and

(9) Any other information that is required by the approving authority to ascertain compliance of the plans and specifications with all applicable State and local laws, regulations, and ordinances.

C. The approving authority shall:

(1) Conduct a priority assessment of the facility based upon the information obtained in §B of this regulation;

(2) Classify each food service facility as a:

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(a) High priority facility;

(b) Moderate priority facility; or

(c) Low priority facility;

(3) Designate as a high priority facility, a facility that:

(a) Is a health care facility; or

(b) Serves potentially hazardous food that is prepared:

(i) A day or more in advance of service; or

(ii) Using food preparation methods that require the food to pass through the temperature range of 41°F to 135°F two or more times before service, such as cooking, cooling, and then reheating;

(4) Designate as a moderate priority facility, a facility that serves potentially hazardous food:

(a) That is prepared using methods that require the food to pass through the temperature range of 41F to 135F not more than one time before service, such as cooking, hot holding, and then serving; or

(b) That is cut, assembled, or packaged on the premises, such as meats; and

(5) Designate as a low priority facility, a facility that serves:

(a) Commercially packaged potentially hazardous foods directly to the consumer;

(b) Non-potentially hazardous food that is cut, assembled, or packaged on the premises, such as candy, popcorn, and baked goods; or

(c) Hand dipped ice cream.

D. Except for a temporary food service facility, the person-in-charge shall ensure that a HACCP plan is submitted to the approving authority for each high or moderate priority facility as specified in §C of this regulation.

E. The person-in-charge shall ensure that the HACCP plan includes the:

(1) Identification of each CCP;

(2) Critical limits for each CCP;

(3) Monitoring procedures at each CCP;

(4) Corrective action that will be taken if there is a loss of control at a CCP due to:

UNOFFICIAL COPY

(a) Employee error;

(b) Equipment malfunction;

(c) Power failure; or

(d) Any other factor that causes loss of control at a CCP;

(5) Verification procedures that will ensure proper monitoring of each CCP, such as:

(a) Calibration of cooking and holding equipment and thermometers; and

(b) Review of records such as temperature logs;

(6) Written procedures for employee training in HACCP plan procedures; and

(7) A list of the food service equipment that will be used at each CCP.

F. The person-in-charge shall construct the HACCP plan by:

(1) Listing, for each CCP, the:

(a) Menu items controlled by the CCP;

(b) Equipment used; and

(c) Monitoring, corrective action, and verification procedures;

(2) Incorporation of the requirements of §E of this regulation into a recipe or preparation instructions; or

(3) Another way that meets the requirements of §E of this regulation.

.34 HACCP Plan Compliance.

The person-in-charge of a high or moderate priority food service facility shall ensure that:

A. A HACCP plan is:

(1) In compliance with Regulation .33E and F of this chapter;

(2) Within the food preparation area during operation;

(3) Readily accessible to employees at all times; and

(4) Updated as follows:

(a) When a change in food processes or procedures change one or more CCP; and

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

(b) At least once every 5 years;

B. An employee involved in food preparation is trained in the HACCP procedures; and

C. Changes to the HACCP plan are submitted to the approving authority before implementation of the HACCP plan.

.35 Enforcement Procedures.

A. The approving authority shall ensure that when a food service facility is found in violation of any provision of this chapter, the licensee is notified:

(1) Of the specific findings;

(2) Of a specific date by which the licensee shall correct the violations or deficiencies; and

(3) That, if the licensee fails to correct the violation by the date specified, the approving authority may suspend or revoke the license.

B. When a person is violating any provision of this chapter, the approving authority may serve the person with a written order pursuant to Health-General Article, §21-318 or 21-261, Annotated Code of Maryland, directing the person to abate the violation within a specified time period.

C. When an inspection indicates that an immediate and substantial danger to public health exists and requires emergency action at a facility operated by an excluded organization, the approving authority may seek injunctive relief as provided in Health-General Article, §§21-1214 and 21-1215, Annotated Code of Maryland.

D. The approving authority shall ensure that an opportunity for a hearing is provided to a person served with an order, pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

E. In order to preserve a right to a hearing under any provision of this regulation, a person shall:

(1) Make a request for a hearing in writing; and

(2) Submit the request to the approving authority that issued the order or inspection report:

(a) Within 10 days of receipt of the order;

(b) Sooner if specified in the order; or

(c) Within 24 hours if:

(i) The violation requires immediate correction or correction within 24 hours; or

(ii) The facility is a temporary food service facility.

UNOFFICIAL COPY

F. The approving authority shall suspend or revoke the license of a food service facility if the licensee fails or neglects to:

(1) Correct a violation within the specified time period;

(2) Comply with an approved written schedule of compliance;

(3) Correct a critical item immediately; or

(4) Correct a violation in a temporary food service facility within 24 hours.

G. The approving authority shall ensure that an action to suspend or revoke a license:

(1) Complies with the provisions of:

(a) State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; and

(b) Health-General Article, §21-315, Annotated Code of Maryland; and

(2) The person against whom the action is contemplated is given an opportunity for a hearing in accordance with Health-General Article, §21-316, Annotated Code of Maryland.

H. When an immediate and substantial danger is found to exist to public health, safety, or welfare that imperatively requires emergency action, pursuant to State Government Article, §10-226(c)(2), Annotated Code of Maryland, the:

(1) Approving authority shall:

(a) Summarily suspend the license at a food service facility;

(b) Order the food service facility to cease operation immediately; and

(c) Promptly provide the licensee with:

(i) A written notice of suspension of the license;

(ii) The reasons for the suspension; and

(iii) An opportunity to be heard; and

(2) Person-in-charge shall immediately cease the operation of the food service facility.

I. The person-in-charge shall ensure that a food service facility that has been required under the provisions of this regulation to cease operations does not resume operations until a reinspection by the approving authority shows that the condition or conditions responsible for the requirement to cease operations no longer exists.

J. The approving authority shall ensure that appropriate steps are taken to ensure that the licensee ceases operation of the food service facility upon suspension or revocation of the license, including:

UNOFFICIAL COPY

(1) Taking and keeping physical possession of the license until the license is reinstated;

(2) Posting a sign on the facility door stating that the license has been suspended or revoked by the approving authority; or

(3) Taking another measure within the law that will ensure that the facility does not operate.

K. A person whose food service facility license has been suspended or revoked may apply for reinspection and reinstatement of the license by submitting to the approving authority a written request that details the actions taken by the person to correct each violation of a food statute or regulation that caused the suspension or revocation.

.36 Foodborne Disease Investigation and Control.

The approving authority shall ensure that:

A. When there is reasonable cause to suspect foodborne disease transmission from a food service facility employee:

(1) A morbidity history of the suspected employee is taken;

(2) An investigation is conducted; and

(3) The appropriate follow-up action is taken that may include:

(a) Immediate exclusion of the employee from all food handling positions within the facility; and

(b) Immediate closing of the food service facility until medical and epidemiological evidence shows that the likelihood of further foodborne disease transmission is low; and

B. An investigation, a report, and the control of a foodborne disease outbreak is conducted in accordance with the provisions of COMAR 10.06.01.

.37 Sampling, Detention, and Condemnation of Food.

The approving authority shall:

A. Sample and examine food as often as necessary for enforcement of this chapter;

B. Sample food in accordance with Health-General Article, §§21-249 and 21-251, Annotated Code of Maryland; and

C. Take action on a food in accordance with Health-General Article, §§21-211, 21-253, and 21-254, Annotated Code of Maryland, by:

(1) Issuing a detention order;

UNOFFICIAL COPY

(2) Destroying the food; or

(3) Making the food unusable for consumption.

.38 Penalties.

A person who violates any of the provisions of this chapter or refuses, neglects, or fails to comply with the provisions and requirements of this chapter is subject to:

A. Penalties, fines, and imprisonment as set forth in Health-General Article, §§21-1214 and 21-1215, Annotated Code of Maryland; and

B. Penalties and fines as provided by local law, ordinance, or regulation in accordance with Health-General Article, §21-309.2(e)(3), Annotated Code of Maryland.

.39 Federal Compliance.

In addition to the other requirements set forth in this chapter, the person in charge shall ensure that the food service facility meets all of the requirements applicable to food sources, storage, preparation, and service that are set forth at:

A. 21 CFR, as amended;

B. 9 CFR, as amended; and

C. 21 U.S.C. §343, as amended.

Administrative History

Effective date: January 1, 1976 (2:28 Md. R. 1669)

Regulations .01; .02K, N, X; .03A, B; .05B; .06D, G; .07A—C; .08B amended and .02Q-1 adopted effective December 19, 1983 (10:25 Md. R. 2268)

Regulation .02X adopted effective September 21, 1979 (6:19 Md. R. 1518)

Regulations .03B, .05B, .07E, and .09B, C amended effective September 21, 1979 (6:19 Md. R. 1518)

———————

Chapter revised as an emergency provision effective August 2, 1989 (16:17 Md. R. 1882); adopted permanently effective December 25, 1989 (16:25 Md. R. 2710)

Regulation .01B amended effective February 15, 1993 (20:3 Md. R. 259)

Regulation .01C adopted effective March 4, 1991 (18:4 Md. R. 447)

Regulation .02 repealed and new Regulation .02 adopted effective March 4, 1991 (18:4 Md. R. 447)

UNOFFICIAL COPY

Regulation .02B amended effective February 15, 1993 (20:3 Md. R. 259); October 6, 1997 (24:20 Md. R. 1403); July 27, 1998 (25:15 Md. R. 1191)

Regulation .03G amended effective March 4, 1991 (18:4 Md. R. 447); February 15, 1993 (20:3 Md. R. 259); October 6, 1997 (24:20 Md. R. 1403)

Regulation .04B and F amended effective February 15, 1993 (20:3 Md. R. 259)

Regulation .04C amended effective October 6, 1997 (24:20 Md. R. 1403)

Regulation .06A amended effective March 4, 1991 (18:4 Md. R. 447)

Regulation .09A, B, and D amended effective March 4, 1991 (18:4 Md. R. 447)

Regulation .10 amended effective March 4, 1991 (18:4 Md. R. 447); February 15, 1993 (20:3 Md. R. 259); October 6, 1997 (24:20 Md. R. 1403)

Regulation .11 repealed and new Regulation .11 adopted effective March 4, 1991 (18:4 Md. R. 447)

Regulation .11B and C amended effective February 15, 1993 (20:3 Md. R. 259)

Regulation .12 recodified to Regulation .25 effective March 4, 1991

Regulations .12—.24 adopted effective March 4, 1991 (18:4 Md. R. 447)

Regulation .18A amended effective February 15, 1993 (20:3 Md. R. 259)

Form DHMH 205 repealed effective March 4, 1991 (18:4 Md. R. 447)

——————

Regulations .01—.25 repealed and new Regulations .01—.39 adopted effective December 17, 2007 (34:25 Md. R. 2211)

Regulation .02B amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .02B amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

Regulation .02B amended effective February 3, 2012 (39:1 Md. R. 17); March 4, 2013 (40:4 Md. R. 346)

Regulation .04 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .06 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .06C amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

UNOFFICIAL COPY

Regulation .07B amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .08B amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .09 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .10 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .12A amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .14F amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .14I amended effective February 3, 2012 (39:1 Md. R. 17)

Regulation .15 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .15A amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

Regulation .16 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .17G amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .18H, I amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .19A amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .20 amended effective March 4, 2013 (40:4 Md. R. 346)

Regulation .21 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .22B, I amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .23 amended effective February 3, 2012 (39:1 Md. R. 17)

Regulation .23L amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .25 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .25 amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

Regulation .26 amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .26G amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

UNOFFICIAL COPY

Unofficial Copy
Effective Date 3/4/2013

Regulation .27 amended effective March 19, 2010 (37:4 Md. R. 341); February 3, 2012 (39:1 Md. R. 17); March 4, 2013 (40:4 Md. R. 346)

Regulation .28 amended effective February 3, 2012 (39:1 Md. R. 17)

Regulation .28C, E amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .28 amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

Regulation .30B, C amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .30C amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

Regulation .33A, C amended effective March 19, 2010 (37:4 Md. R. 341)

Regulation .33C, D amended effective February 3, 2012 (39:1 Md. R. 17)

Regulation .38 amended as an emergency provision effective October 1, 2010 (37:23 Md. R. 1607); amended permanently effective January 24, 2011 (38:2 Md. R. 83)

UNOFFICIAL COPY