

**Departments of Health  
&  
Environmental Protection & Sustainability**

**CODE OF BALTIMORE COUNTY REGULATIONS 1.01.01**

**Food Service Facilities**



2011

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 Baltimore County  
 Departments of Health and Environmental Protection & Sustainability

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**Title 1**  
**1.01.01**  
**Department of Environmental Protection & Sustainability**  
**Subtitle 01**

**Chapter 01 Food Service Facilities**

*Authority: Health-General Article, §§ 18-102, 21-211, 21-234, 21-234, 21-235, and 21-304; Agriculture Article, §4-311; Annotated Code of Maryland. Baltimore County Charter §539; Article 3-2-604, 3-2-605, 13-10-101, 13-1-102, and 13-1-104, Baltimore County Code, 2003.*

**.01 Scope.**

A. Pursuant to the authority conferred upon the Director of the Department of Environmental Protection & Sustainability (DEPS) and the Health Officer of the Department of Health by §539 of the Baltimore County Charter and Article 3-2-604, 3-2-605, 13-10-101, 13-1-102, and 13-1-104, Baltimore County Code, 2003, as amended, the following regulations governing food service facilities in the County are hereby established as minimum requirements of the Director of the Department of Environmental Protection & Sustainability and the Health Officer of the Department of Health, respectively.

B. The regulation, COMAR 10.15.03 along with COMAR 10.15.01, 10.15.04 and 15.11.11, establishes the delegated standards of the Department of Environmental Protection & Sustainability and the Department of Health for the control of Salmonella Enteritidis in shell eggs and egg-producing chickens as part of a program jointly administered by the Department of Health and Mental Hygiene and the Department of Agriculture.

C. This chapter 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.

D. This chapter provides authority for the establishment of minimum requirements for the management and control of the discharge of Fats, Oils and Grease into the public sanitary sewer system and facilities.

**.02 Definitions.**

A. The following words and phrases shall have the meanings respectively ascribed to them by these Regulations.

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

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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) "Acceptable level" means the presence of a hazard, which does not pose the likelihood of causing an unacceptable health risk.
- (3) "Accepted" means the owner/operator has agreed to the use or presence of equipment or a practice, where standards are not developed, as determined by the approving authority.
- (4) 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;
- (ii) Is diseased, contaminated, filthy, putrid, or decomposed; or
- (iii) Is otherwise unfit as food for human beings.

(5) "Annual food service facility" means a food service facility for which an operator has applied for, and has been issued a license that expires on March 31<sup>st</sup>.

(6) "Approved" means conformance with appropriate standards and good public health practice as determined by the approving authority.

(7) "Approved facility" means a food service facility currently licensed in Baltimore County or other jurisdiction in the state of Maryland whose licensing requirements are commensurate.

(8) Approved Program.

(i) "Approved program – level I" means a food protection manager certification program with approved certification examination that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(ii) "Approved program – level II" means an approved abbreviated food protection manager certification program.

(iii) "Approved recertification program – level I" means an abbreviated food protection manager certification program that has been evaluated and

listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(iv) "Approved recertification program – level II" means an approved, abbreviated food protection manager certification program.

(9) "Approved source" means a source of food or food ingredients accepted by the approving authority 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.

(10) "Approving authority" means the Director of the Department of Environmental Protection & Resource and Sustainability and his/her designee having regulatory charge of the food facility.

(11) " $a_w$ " 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.

(12) 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) Where a potentially hazardous baked good is sold or distributed, or

(iii) From which food is commercially distributed;

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

(14) "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.

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(15) "BMP" means "best management practice" which means a schedule of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction or discharge of fats, oils and grease to the public sanitary sewer system and facilities.

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

(17) "Caterer" means a food service facility that offers catering services or identifies itself as a caterer.

(18) "Catering services" means the preparation or provision and the serving of food or drink by a food service facility at the provider's premises or elsewhere in connection with a specific event, a business, social function, or affair.

(19) Certified Food Service Manager.

(a) "Certified food service manager – level I" means an individual who has attended an approved, accredited program, has passed the certification examination, has been issued a program certificate, and has been issued a Certified Food Service Manager – Level I Identification Card by the approving authority.

(b) "Certified food service manager – level II" means an individual who has attended an approved, abbreviated food protection manager certification program and has been issued a Certified Food Service Manager – Level II Identification Card by the approving authority.

(20) "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, pH, 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.

(21) Comminuted.

(a) "Comminuted" means reduced in size by methods including but not limited to chopping, flaking, grinding, or mincing.

(b) "Comminuted" includes:

(i) Fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, formed roast beef, gyros, ground beef, sausage; and

(ii) A mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

(22) "Condiment" means a food or seasoning used to enhance the flavor of another food, including mustard, ketchup, mayonnaise, relish, salt, pepper, sugar and chutney.

(23) "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 raw; undercooked; or 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.

(24) Continental Breakfast.

(a) "Continental breakfast" means a meal that does not require major food preparation as specified in Regulation .30B(7)(b) of this chapter.

(b) "Continental breakfast" includes foods such as: coffee and tea; juice; cereal; milk and cream; whole fresh fruit; pastries; bread; donuts; butter and margarine; and jams and jellies.

(c) "Continental breakfast" does not include foods such as eggs cooked outside of the shell; meats; and fruit salad prepared on premises.

(25) "Corrosion resistant" means the property that allows a material to maintain sanitary surface characteristics under the influence of prolonged contact with food; cleaning compounds; sanitizing solutions; and other conditions of the environment.

(26) "Critical control point" (CCP) means a point in the preparation or processing of food where there is a reasonable likelihood that improper control may

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cause, allow, or contribute to a hazard to public health.

27) Critical Item.

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

- (i) Immediate correction;
- (ii) The cessation of some or all processing operations; or
- (iii) Facility closure.

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

- (i) Obtaining food from approved source;
- (ii) Protecting raw and ready-to-eat food from all adulteration, spoilage, and contamination;
- (iii) Restricting food workers with infection or diarrhea as appropriate, in accordance with COMAR 10.06.01 - Communicable Diseases, and ensuring that all food workers wash hands thoroughly before contact with utensils, raw food and before using gloves;
- (iv) Cooling potentially hazardous foods and providing sufficient refrigeration equipment;
- (v) Holding potentially hazardous foods at the hot and cold temperatures specified in this chapter;
- (vi) Cooking and reheating potentially hazardous foods in accordance with all applicable state and local laws and regulations;
- (vii) Providing potable hot and cold running water; and
- (viii) Discharging sewage properly from the facility in accordance with all applicable state and local laws and regulations.

(28) "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 the identified food safety hazard may occur.

(29) "Cross contamination" means the potential for bacteriological, chemical or physical contaminants contacting food or food contact surfaces; or foods that have a lower cooking temperature being potentially contaminated by products that may require a higher cooking temperature.

(30) "Department" means the Baltimore County Department of Environmental Protection and Sustainability and the Baltimore County Department of Health.

(31) "Depot" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(32) "Detention order" is a written notification by the approving authority to the person in charge of the 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.

(33) "Deviation" means failure to meet a required critical limit for a critical control point.

(34) "Easily cleanable" means that surfaces are readily accessible and constructed in such a way and of a material and finish that any residue can be effectively removed by routine cleaning methods.

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

(36) "Egg case" means a container that is not a carton and that is used to pack shell eggs for distribution or sale to a consumer. An egg case may contain either loose shell eggs or cartons of shell eggs.

(37) "Employee " means the license holder, person having supervisory or management duties, a person on the payroll, a volunteer, a person performing work under contractual agreement, or any other person working in a food service facility.

(38) Equipment.

(a) "Equipment" means an item, other than a utensil, used in the storage, preparation, display, washing, and transportation of food;

(b) "Equipment" includes a stove, oven, hood, slicer, grinder, mixer, scale, meat block, table, food shelf, refrigerator, freezer, sink, ice maker, and any other similar item used in the operation of a food service facility; and

(c) "Equipment" does not include a fork lift truck or a dolly.

(39) “Event sponsor” means a “person” that has legal responsibilities for all components required in connection with a fair, carnival, public exhibition, construction project, or similar gathering of limited duration.

(40) "Excluded organization" means a volunteer fire company or bonafied non-profit fraternal, civic, war veteran’s, religious or charitable organization, which does not serve food to the public more than two days per year except that once a year an organization may serve food to the public for up to 2 consecutive days.

(41) Farm.

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

(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.

(42) Farmer’s Market.

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

(a) Raw agricultural products;

(b) Products processed in a private home kitchen as set forth in Regulation .29 of this chapter;

(c) 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

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

(43) “Farmer’s market food service facility” means a special food service that:

(a) Provide a letter from the organizer(s) of the Farmer’s Market(s) stating the operator is allowed to sell food at that market,

- authority, based on a:
- (b) Serves only those foods approved by the approving authority, 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 for one season which is 12 months or less per one calendar year.

(44) "FOG" means "Fats, Oils, and Grease" which means any substance including but not limited to vegetable, animal or other products, that is used in, or is a by-product of the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

(45) "Food" means all materials, and/or items used by man for nourishment, drink, confection, or condiment, whether simple, mixed or compound.

(46) "Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

(47) "Food-processing establishment" means a place used for, or in connection with, the commercial manufacturing, preparing, processing, packaging, canning, freezing, storing, distributing, labeling, or holding of food for human consumption.

(48) "Food operational plan" means a document written in the English language that delineates the procedures for preparing and selling pre-cooked, ready-to-eat commercially produced, skinned and similar type products and the handling and sale of hot chocolate, coffee and tea beverages.

(49) Food Service Facility.

(a) "Food service facility" means a place or operation where food is prepared, served, or distributed for human consumption, on the premises or elsewhere, with or without charge and is considered to be a permanent or mobile food service facility.

(b) "Food service facility" includes two levels:

(i) "Food service facility – level I" means, except as provided in .02B(34)(b)(ii) and (c) of this regulation, a food service facility that is operated as a high, moderate, or low facility.

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(ii) "Food service facility – level II" means a volunteer fire company or bona fide non-profit fraternal, civic, war veteran's, religious or charitable organization that operates a high or moderate priority food service facility three (3) days or less per week.

(c) "Food service facility" includes:

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

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

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

(i) Facility that offers only prepackaged foods that are not potentially hazardous as specified in §B(83)(c) of this regulation;

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

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

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

(v) A farmer's market offering or selling to the public raw agricultural products, eggs, and other food products as specified in Regulation .27H of this chapter.

(50) "GAD" means "Grease Abatement Device".

(a) A GAD is any grease interceptor or grease recovery unit mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to collect or treat FOG prior to being discharged into the sanitary sewer system.

(b) Grease abatement device may also include any other proven method to reduce fats, oils and grease subject to the approval of the approving authority.

(c) GAD does not include a simple grease trap requiring disassembly for routine service or maintenance

(51) Game Animal.

(a) "Game animal" means an animal, the products of which are food that is not classified as cattle, sheep, swine, goat, or other equine.

(b) "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, muskrat, or bear and nonaquatic reptiles such as land snakes that have been inspected for wholesomeness under an official regulatory program.

(c) "Game animal" does not include ratites such as ostrich, emu, and rhea.

(52) "GGF" means "Grease Generating Facility" which means a food service facility that produces FOG as a by-product of their operation.

(53) "Hazard" means a biological, chemical, radiological, or physical property that may cause an unacceptable consumer health risk.

(54) "Hazard analysis" means an on-site examination of a food service operation to identify critical control points and to establish control measures that will ensure that the end food product is safe for consumption.

(55) "Hazard analysis critical control point (HACCP) plan" means a written document that delineates the formal procedures for following the hazard analysis critical control point principles which are:

- (a) Perform a hazard analysis;
- (b) Identify the Critical Control Points;
- (c) Determine the Critical Limits;
- (d) Establish procedures to monitor Critical Control Points (CCPs);
- (e) Establish Corrective Actions;
- (f) Establish Verification Procedures; and
- (g) Establish a record keeping system.

(56) Health Care Facility.

- (a) "Health care facility" means:

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(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) Any other 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), of the Annotated Code of Maryland.

(57) "Hermetically sealed container" means a package of food, which is designed and sealed to keep out air and microorganisms.

(58) "Highly susceptible population" means a group of persons who are more likely than other populations to experience foodborne diseases. This may be due to the fact that they are immunocompromised or older adults or in a facility that provides health care or assisted living services, such as a hospital, adult medical daycare, or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

(59) "Hot zone" means an area of sewer line that due to FOG accumulation have experienced an increased frequency of sanitary sewer blockages or that must be cleaned or maintained frequently to avoid blockages of the sewer system.

(60) "Hot dog cart" means a specialized mobile cart used to prepare and sell pre-cooked, ready-to-eat, commercially produced skinned hot dogs and similar type products. No other potentially hazardous products can be sold.

(61) "Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat by processes which may be referred to as "injecting," "pinning," or "stitch pumping."

(62) "Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée.

(63) "Kitchenware" means food preparation and storage utensils.

(64) "License" or "permit" means the document issued by the approving authority that authorizes a person to operate a food service facility or a special food service facility and indicating compliance with this chapter and §13-10-101 of the Baltimore County Code.

(65) "Licensee" means the entity that:

(a) Is legally responsible for the operation of the food facility such as the owner, the owner's agent, or other person; and

(b) Possesses a valid license to operate a food **service** facility.

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

(67) "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.

(68) Major Food Allergen.

(a) "Major food allergen means milk; eggs; fish; crustacean; tree nuts; wheat; peanuts; soybeans; and 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(68)(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).

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

(70) Mobile Food Service Facility.

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

- (i) Change location for sales;
- (ii) Obtain food and other supplies;
- (iii) Fill potable water supply holding tanks;
- (iv) Empty wastewater holding tanks; or
- (v) Provide for the cleaning and sanitization of equipment 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 as set forth in §B(70)(a) of this regulation.

(71) "Monitoring" means a planned sequence of observations or measurements of critical limits designed to produce an accurate record and intended to ensure that the product safety is maintained. Continuous monitoring means an uninterrupted record of data.

(72) "Neatly trimmed" means the nail body or plate at the free edge of the nail does not extend more than 1/2 inch in length beyond the part of the skin under the free edge of the nail.

(73) " Nonpotentially hazardous food" means food named or described in §.B(83)(c) of this regulation.

(74) "Operator" means a person with general authority and supervisory responsibility for the overall conditions and functions of a food service facility.

(75) "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 of Health and Mental Hygiene or the Department's designee, based on a

- hazards; and
- (i) Review of the facility, equipment, and processing
  - (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 30-day renewals in 1 calendar year.

(76) "Package" means a bottle, can, carton, wrapped container

(77) "Packer" means a person who places shell eggs in the original case, carton, or container that is used to hold eggs for distribution or sale to a consumer.

(78) "Permanent facility" means any structure or building used for food service that is built or delivered and placed on a site from which it will not be moved or relocated and must meet applicable all Baltimore County building and plumbing codes.

(79) "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.

(80) "Person-in-charge" means the individual present in a food service facility who is the supervisor of the food service facility at the time of inspection.

(81) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is the degree of acidity or alkalinity of a solution. Values from 0 up to 7 indicate acidity, and values above 7 up to 14 indicate alkalinity. The value for pure distilled water, regarded as neutral, is 7.

(82) "Portable" means:

- (a) Easily moved equipment, which meets at least one of the following criteria:

- (i) Small in size and weighing 80 pounds or less when in use;

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

- (iii) Provided with a mechanical means of safely tilting for cleaning.

- (b) Equipment, which has one of the following:

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- (i) No utility connection;
- (ii) A utility connection that disconnects quickly; and
- (iii) A flexible utility connection line long enough to permit the equipment to be moved for thorough cleaning.

(83) Potentially Hazardous Food.

(a) "Potentially hazardous food" means, except as provided in §.02B(83)(c) of this regulation, a food that is natural or synthetic and that requires time/temperature control for safety (TCS) because it 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 eggs, the growth of *Salmonella Enteritidis*.

(b) "Potentially hazardous food" includes but is not limited to:

- (i) An animal food (a food of animal origin) that is raw or heat-treated;
- (ii) Food of plant origin that is heat-treated or consists of raw seed sprouts;
- (iii) Cut melons;
- (iv) Cut tomatoes or mixtures of cut tomatoes that are not modified in a way so as to prevent pathogenic microorganism growth or toxin formation;
- (v) Cut leafy greens; and
- (vi) Garlic and oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under §B(83)(a)(i) and (ii) of this regulation.

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

- (i) Air-cooled hard-boiled eggs with shell intact;
- (ii) A food with a water activity ( $a_w$ ) value of 0.85 or less;

(iii) A 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 or toxigenic microorganisms or the growth of *Salmonella Enteritidis* in eggs or *Clostridium botulinum* can not occur, such as food that has an  $a_w$  and a pH that are below the levels specified under §B(83)(c) of this regulation or that may contain a preservative, or other barrier to the growth of microorganisms, or a combination of barriers that inhibits the growth of microorganisms;

(84) "Poultry" means:

(a) Any domesticated bird (chickens, turkeys, ducks, geese, ratites, squab, or guineas), whether live or dead, as defined in 9 CFR 381.1 Poultry Products Inspection Regulations Definitions, Poultry; and

(b) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead as defined in 9 CFR 262.1 Voluntary Poultry Inspection Regulations, Definitions.

(85) "ppm" means parts per million.

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

(87) "Preventive measure" means an action to exclude, destroy, eliminate, or reduce a hazard and prevent recontamination through effective means.

(88) "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.

(89) "Priority assessment" means an evaluation of the potential risk for a foodborne illness to occur in a food service facility using a given set of parameters as established by §.36C of this chapter.

(90) "Producer mobile farmer's market food service facility" means an operation that is directly licensed by the Department of Health and Mental Hygiene (DHMH) and said license/permit is valid in all jurisdictions of the State for the operator/licensee to transport in a unit and sell from that unit at a Farmer's Market the following:

(a) Products that were produced by the operator/licensee under an On Farm Processing Plant License;

(b) Products produced by the operator/licensee, as authorized by the Department of Health and Mental Hygiene in regulations; or

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

(91) Producer Mobile Farmer's Market Unit.

(a) "Producer mobile farmer's market unit" means a unit designed to ensure that food is:

(i) Protected from contamination during transportation from farm to farmer's market;

(ii) Kept at temperatures that support the safety and wholesomeness of the food;

(b) "Producer mobile farmer's market unit" does not include a unit used to deliver:

(i) Prepacked foods to fill an order of a customer:

(ii) Raw agricultural products; or

(iii) Non-potentially hazardous on-farm home processed foods.

(92) Public Event.

(a) "Public event" means an event that is:

(i) Open to 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.

(b) "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.

(93) "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;
- (f) Vegetables; and
- (g) Honey

(94) "Raw Egg" means the unpasteurized shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(95) 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 establishment 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 §.08E of this chapter;

(ii) Raw, washed, cut fruits and vegetables;

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

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

(96) "Reconstitute" means restoring water or other liquid to a food product, which has, been dehydrated.

(97) 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:

(i) Vacuum packaged means to remove the air from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;

(ii) Modified atmosphere packaged means that a food was packaged so that its composition is different from air but which may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen; total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and

(iii) Controlled atmosphere packaged means the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of the atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

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

- (a) Is not shelf stable;
- (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.

(99) "Refuse" means solid waste, trash, garbage, or rubbish.

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

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

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

(103) "Risk" means an estimate of the likely occurrence of a hazard.

(104) "Sanitization" means a heat or chemical treatment on cleaned food contact surfaces that is sufficient to yield a 99.99 percent reduction of the number of representative disease microorganisms of public health significance.

(105) "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

(106) "Service animal" means an animal such as a dog that is individually trained to provide assistance to an individual with a disability.

(107) "Sewage" means liquid waste containing animal or vegetable matter and includes all human and animal excreta.

(108) "Shellfish" means all edible species of oysters, clams, scallops, and mussels, either shucked, in the shell, fresh or frozen, and whole or in part, except when the scallop product consist only of the shucked adductor muscle.

(109) "Shellstock" means shellfish in the shell.

(110) "Single-service articles" mean tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one-time, one person use after which they are intended for discard.

(111) Single-Use Articles.

(a) "Single-use articles" mean articles intended by the manufacturer for one-time use by the preparer of the food.

(b) "Single-use articles" include items such as:

- (i) Wax paper,
- (ii) Butcher paper,
- (iii) Plastic wrap,
- (iv) Formed aluminum food containers,
- (v) Jars,
- (vi) Plastic tubs or buckets,
- (vii) Bread wrappers,
- (viii) Pickle barrels,
- (ix) Ketchup bottles, and
- (x) Number 10 cans, which are designed, fabricated, and intended by the manufacturer for one-time use and are given to the ultimate consumer.

(112) Special Food Service Facility.

(a) "Special food service facility" means a food service facility for which the Department provides exceptions to certain regulations of this chapter 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 I;
- (iii) A mobile unit II
- (iv) A temporary food service facility;
- (v) A hot dog cart

(vi) A snowball stand

(vii) An on-farm food service facility

(113) "Smooth" means:

(a) A food- contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel:

(b) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(114) "Snowball stand" means a facility operating from a fixed location or mobile unit, which handles and distributes only commercially processed ice and flavored, sugar-based syrup products, condiments, or confections, which are prepared or packaged on the premises.

(115) "SSO" means "sanitary sewer overflow" which means any spill, release, or discharge from the collection system, including all building backups.

(116) " Table-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(117) "Tableware" means multi-use eating, drinking, and serving utensils such as: forks, knives, spoons, bowls, cups, serving dishes, tumblers, and plates.

(118) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(119) "Temporary food facility" means a food service facility which operates during a period of time of not more than 14 consecutive days at a fixed location in conjunction with a fair, carnival, public exhibition, construction project, recreational facility, fundraising events, or similar gathering.

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

(121) "Undercooked" means a potentially hazardous food that is not cooked to the minimum internal temperature and for the specified holding time specified in Regulation .08 of this chapter.

(122) "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use, gloves used in contact with food, food temperature measuring devices, and probe-type price or identification tags used in contact with food.

(123) "Vendable food" means food prepared for dispensing from a vending machine.

(124) "Vending machine" means a self-service machine that, upon insertion of a coin, paper currency, token, card, key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(125) "Verification" means methods, procedures, and tests used to determine if the HACCP system in use is in compliance with the HACCP Plan.

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

(127) "Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

### **.03 Incorporation by Reference.**

- A. In this chapter, the following documents are incorporated by reference.
- B. Documents Incorporated.
  - (1) 21CFR, as amended;
  - (2) 9 CFR as amended; and
  - (3) 21 U.S.C. §343, as amended.

### **.04 Food Supplies and Sources: General**

The operator 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 sources; 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;
  - (d) COMAR 10.15.03; 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 are used only for:
  - (a) Instant desserts;
  - (b) Whipped products; and
  - (c) Cooking and baking purposes.

D. Frozen desserts including but not limited to gelato, are manufactured and sold in accordance with COMAR 10.15. 05.

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 under an official regulatory program however the approving authority may accept other sources, which are satisfactory and are in compliance with applicable State and local laws and regulations.

I. Bakery Products. Bakery products must be prepared in a food service facility or in a food processing establishment however the approving authority may accept other sources, which are satisfactory and are in compliance with applicable State and local laws and regulations.

J. Ice is:

(1) Made:

(a) From a potable water supply;

(b) In an ice-making machine that:

(i) Meets the standards in Regulation .16 of this chapter, and

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

(2) Obtained from an approved source, if not manufactured on site;

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

(4) Not reused.

K. Records, Creation and Retention.

The operator shall ensure that:

(a) All records of food supplies offered for service or sale in the facility shall be retained in the English Language for 90 calendar days after use and/or consumption; and

(b) Except the HACCP Plan as stated in §.37A, all records of food operational processes shall be retained in the English Language for three years.

**.05 Eggs and Egg Products.**

A. The operator shall ensure that:

(1) Only clean, whole Grade A or higher 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;

(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 .08 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 for in COMAR 15.04.01, and

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

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

(a) 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;

(b) The following information at a minimum type size of ¼ 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

(c) 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.**

<i>Minimum type size</i>	<i>Area of Principal Display Panel</i>
<i>1/16 inch</i>	<i>5 square inches or less</i>
<i>1/8 inch</i>	<i>More than 5 square inches but not more than 100 square inches</i>
<i>3/16 inch</i>	<i>More than 25 square inches but not more than 100 square inches</i>
<i>¼ inch</i>	<i>More than 100 square inches but not more than 400 square inches</i>
<i>½ inch</i>	<i>Over 400 square inches</i>

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

The operator 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;
- (c) Located in the:
  - (i) Coldest area of equipment where hot foods are stored,
  - (ii) Warmest area of equipment where cold foods are stored;
- (d) Easily readable;

and

(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;
  - (b) 18 inches or higher above the floor 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) Except as provided in §B(9)-(14) of this regulation,, existing refrigeration shall cools and maintains the food's internal temperature at 41°F or less and:
- (a) All containers of food shall be marked with the date and time of preparation to indicate the date by which the food shall be consumed, which is seven (7) calendar days or less from the day the food is prepared; and
  - (b) When the food is frozen and thawed, it shall be clearly marked to indicate that the food shall be consumed within 24 hours;
- (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, then the product must be transported under refrigeration at an ambient temperature of 41°F or less. If shellfish, then product must be transported, stored, and displayed under refrigeration at an ambient temperature of 41°F.

(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 .08 and .09 of this chapter, the roast is held at an internal temperature of 130°F or above; and

(14) If using holding temperatures and times other than those specified in this section, the holding temperatures and times are to be:

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

(b) Incorporated into a HACCP plan; and

(c) Submitted to and approved by the approving authority 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 41°F or below if the food has exceeded 41°F for a verifiable period of not more than 4 hours; or

(c) Discarded if:

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

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(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 .08 of this chapter;

(b) Rapidly re-heated to an internal temperature of 165°F or above if the food was below 135°F 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:

(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 food of animal origin offered for consumer self-service is 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 .17 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;
- (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.

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 Preparation—Temperature and Cross-Contamination Control.**

The operator 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; 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 is used 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) of this chapter;

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

(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) In the airtight reduced oxygen package at or below 38°F wherein the thawing date and time is recorded on the thawing temperature log;

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

(6) By another method acceptable to the approving authority that has been scientifically proven 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 .15K of this chapter;

(2) Utensils such as:

(a) Tongs,

(b) Spatulas,

(c) Deli tissue, or

(d) Automatic dispensing equipment.

F. Cross-contamination is prevented by:

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

(2) Prohibiting exposed foods from being prepared, stored, and served under open stairs and/or walkways;

(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) Prohibiting sick workers from food handling in accordance with Regulation .15A and B of this chapter; and

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(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.

**.08 Food Preparation – Cooking.**

A. Except as provided in §§B—E of this regulation, the operator 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		HOLDING TIME AT SPECIFIED TEMPERATURE
	°F	°C	
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		
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 than 90 percent for at least 1 hour or in a moisture impermeable bag that provides 100 percent humidity).	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
	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; poultry products; exotic bird species; wild game animals; 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;

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(c) Meat; and

(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.

(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 be as effective in killing foodborne pathogens as those specified

in §A of this regulation.

C. The operator may serve a consumer:

(1) Undercooked seared beefsteak when:

(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;

(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. Freezing for Parasite Destruction.

(1) The operator shall have a written agreement or statement from the supplier or aquaculturist stipulating that the fish supplied for service or sale in Ready-To-Eat, raw, raw-marinated, partially cooked, or marinated-partially cooked form meet the following requirements and these records shall be retained for 90 calendar days beyond the service or sale of the fish.

(a) Frozen to a temperature and for a time specified below:

(i) Frozen and stored at a temperature of -4°F or below for a minimum of 168 hours (7 days) in a freezer;

(ii) Frozen at -31°F or below until solid and stored at -31°F or below for a minimum of 15 hours; or

(iii) Frozen at -31°F or below until solid and stored at -4°F or below for a minimum of 24 hours.

(b) With the exception of frozen temperature and time requirements, a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified below shall be obtained by the operator and retained in the records of the facility for 90 calendar days beyond the time of service or sale of the fish:

(i) Molluscan Shellfish;

(ii) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern); or

(iii) Aquacultured Fish, such as salmon, that:

(aa) If raised in open water, are raised in net-pens, or

(bb) Are raised in land-based operations such as ponds or tanks, and

(cc) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.

F. The operator 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."

**.09 Food Preparation – Cooling and Reheating of Potentially Hazardous Foods.**

The operator shall ensure that:

A. Cooling occurs as stated below:

(1) Potentially hazardous cooked food 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.

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 .08A 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.

#### **.10 Certification of Food Service Managers.**

A. No food service facility shall operate unless it is under the direct supervision of a certified food service manager whenever food is received, prepared, and/or served on the premises. A Certified Food Service Manager – Level II Identification Card is not valid in a Level I Food Service Facility.

B. The Department in accordance with the criteria for an approved program shall issue the Certified Food Service Manager Identification Card.

C. The approving authority shall provide the application forms that an individual must use to apply for the Certified Food Service Manager Identification Card. The applicant must provide written evidence, acceptable to the approving authority, of successful completion, within three (3) years of the date of the application, of a food service manager certification program and the certification examination.

D. A food service facility license may not be issued by the approving authority until the facility operator complies with §A of this regulation.

E. This Section shall not apply to the following:

(1) Low priority food service facilities, food facilities regulated under COMAR 10.15.04, or temporary food service facilities

(2) Commercial facilities which lease banquet facilities, if the food is not prepared by them; and

(3) Food preparation by organizations or corporations during emergency/crisis situations.

F. The fee for a Certified Food Service Manager Identification Card shall be set by the Baltimore County Administrative Officer in accordance with Baltimore County Code.

G. A certified food service manager must have their Certified Food Service Manager Identification Card in their possession when serving in the capacity of the designated food service manager in charge of operations.

H. The Certified Food Service Manager Identification Card issued by the approving authority will remain valid for three (3) years from the date of certification, unless otherwise specified.

I. Renewal of Certificate.

(1) The approving authority will provide application forms for renewal of the Certified Food Service Manager Identification Card. Once the expiration date on a card has passed, the holder of the card will not be recognized as a certified food service manager. This individual may take the appropriate steps to renew their card with the approving authority within one year of this expiration date. After one year from the date of expiration, the card may not be renewed.

(2) The fee for a Certified Food Service Manager Identification Card renewal shall be set by the Baltimore County Administrative Officer in accordance with the Baltimore County Code.

(3) The applicant must submit the appropriate completed application form, the applicable renewal fee, their existing Certified Food Service Manager Identification Card, written documentation of successfully completing an approved certification program and the certification examination, and:

(a) For Level I:

(i) Proof of having personally provided, over the previous three year period, a minimum of 24 hours of training on food safety and sanitation to food handlers that was pre-approved by the approving authority, or

(ii) Proof of having developed, in conjunction with the approving authority, food preparation flow diagrams (HACCP) for all menu items, and over the previous three year period, conducted 18 bimonthly internal critical control inspections.

(b) For Level II - Proof of having provided over the previous three year period, training in food safety and sanitation to staff or volunteers.

J. Enforcement Procedures.

(1) Any Certified Food Service Manager Identification Card may be suspended or revoked by the approving authority when the certified food service manager or a person under the certified food service manager's supervision repeatedly fails to comply with these regulations which includes the following:

- (a) Repeated violations of food safety requirements;
- (b) Failure to make corrections of documented violations;
- (c) Operating without a permit or while a permit has been suspended;
- (d) Failure to adhere to critical items requirements, as defined in §.02B(27) of this chapter;
- (e) Obtaining such certification under false pretenses; or
- (f) Preventing regulatory personnel from performing their duty.

(2) Prior to such suspension or revocation, the holder of said Certified Food Service Manager Identification Card shall be given the opportunity for a hearing before the approving authority.

(3) The certified food service manager shall surrender their Certified Food Service Manager Identification Card to the approving authority when Certified Food Service Manager Identification Card has been suspended or revoked.

(4) Prior to reinstating the Identification Card, retraining may be required for the food service manager.

K. The fee for the replacement of a lost or damaged Certified Food Service Manager Identification Card shall be set by the Baltimore County Administrative Officer in accordance with the Baltimore County Code.

#### **.11 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 operator 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) Time-only is not used for a:

- (a) Potentially hazardous food that is ready-to-eat following a cook and cool cycle;
- (b) Raw, ready-to-eat potentially hazardous food such as sliced melon and sprouts; or
- (c) Recipe in which more than one egg is broken and the eggs are combined.

(3) 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.

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

## **.12 Food Protection During Outdoor Preparation and Service.**

The operator 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 .16 of this chapter.
- (2) Food is:
- (a) Prepared for outdoor cooking inside the food service facility; and
  - (b) Protected from contamination during cooking and service.

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 Regulations .19K and L of this chapter.

**.13 Food Labeling.**

A. The operator shall ensure that:

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

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

C. All words, statements, and other information required by or under authority of this chapter to appear on the label or labeling shall appear thereon in the English language.

#### **.14 Food Protection from Poisonous or Toxic Materials**

The operator 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

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(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:

(1) Food; or

(2) Food-contact surfaces.

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.

**.15 Personnel Health and Sanitation**

The operator 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;
  - (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.

C. An employee who has a disease that may be transmissible through food reports the condition to the operator.

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. The Director or Health Officer shall take any action or measure necessary to prevent the spread of communicable disease or to control a reportable disease and condition in accordance with provisions of COMAR 10.06.01, Communicable Diseases.

F. 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.

G. 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 §§.19K and L of this chapter; and
- (3) By:
  - (a) Vigorously rubbing together the surfaces of soap lathered hands and arms for at least 20 seconds,
  - (b) Cleaning under nails and between fingers,
  - (c) Thoroughly rinsing the hands and arms with clean water, and
  - (d) Dry hands and arms with a single use paper towel or warm-air hand dryer.

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

I. 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;
- (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 §M of this regulation, does not eat, drink, or use tobacco in any form while working.

J. An employee does not use bare hands for handling ready-to-eat foods, as set forth in Regulation .07E of this chapter.

K. 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.

L. An employee receives training in proper food handling and sanitation as it relates to assigned duties as stated in §.10I(3)(a)(i) or (b) of this chapter; and

M. 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
  - (f) Unwrapped single service and single use articles.

## **.16 Food Equipment and Utensils**

A. The operator shall ensure that:

(1) Except as provided in §§A(2), B(1), (2), (3) and (4) of this regulation, food equipment meets one or more of the following design standards:

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

- ETL SEMKO),
- (i) The Etlsemko division of Intertek Group PLC (Intertek
  - (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
    - (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 non-absorbent; 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:
    - (i) Accessible for manual cleaning without tools, or

(ii) Disassembled without the use of tools;

(6) 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;

(7) 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 durable, and

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

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

(9) Except for equipment that weighs 75 pounds or less, equipment that is placed on tables or counters is:

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

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

(10) 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

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

- (i) Adjoining units; and
- (ii) A unit and the adjacent walls;

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

(12) 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(12)(a) of this regulation;

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

(14) Work tables located at walls must have 4" minimum integral backsplashes.

#### B. Existing Equipment.

(1) Except as specified in §B(2) of this regulation, equipment which was installed in a food service facility before January 1, 1976 and which does not meet fully all of the design and construction requirements of this chapter:

(a) Complies with §§A(3)-(14) and B(2) of this regulation; and

(b) Is located to prevent:

(i) The cross-contamination of food, and

(ii) Insanitary conditions.

(2) Refrigeration equipment used in a licensed food service facility shall be upgraded or replaced as of October 1, 2009 to maintain potentially hazardous food at a temperature of 41°F or below.

(3) The equipment shall be located and installed to enable reasonable compliance with all of the requirements of Regulations .04 - .09, .12 and .16B(2) of this chapter.

(4) 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) - (8) and B(2) of this regulation;

(b) 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 §B(4)(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.

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

(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 §.06B(7) of this chapter; and

(b) Until serviced and working properly.

C. The approving authority may allow the use of equipment that meets §§A(3)—(10) and B(2) 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.

**.17 Cleaning and Sanitizing Equipment and Utensils.**

The operator 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, or
  - (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
    - (iii) A spray or swab with a chemical sanitizing solution as stated in §C(1) of this regulation.

B. Cleaning and sanitization of equipment food-contact surfaces and utensils shall occur:

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- (1) As often as needed to prevent food contamination;
- (2) After each use;
- (3) Throughout the day at least every 4 hours ; and
- (4) Less frequently than every 4 hours if :

(a) In storage, containers of potentially hazardous food and their contents are maintained at temperatures specified under §.06B(7)-(14) of this chapter and the containers are cleaned and sanitized when they are empty; and

(b) Other temperatures and cleaning frequency that are stated in an approved HACCP Plan.

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, depth, and equipped with at least one integral drainboard, to accommodate the largest equipment items and utensils;
- (3) Supplied with hot and cold running water at each sink compartment;  
and
- (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

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

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- (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:
  - (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;
  - 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 must be 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.

**.18 Storage and Handling of Cleaned Equipment and Utensils.**

The operator 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
- (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.

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.

**.19 Control of Sanitary Facilities.**

The operator 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
- (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:

(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 to a floor receptacle 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 and separately drained to a trapped and vented floor plumbing receptor through an air gap that complies with State and local laws, regulations, and ordinances, or through the air gap into a single manifolded branch and into a GAD;

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

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

- (b) Are accessible for cleaning and inspection; and
  - (c) Are flush with or below finished flooring;
- (7) Food waste grinders shall be:
- (a) Constructed and installed so as to comply with applicable state and local plumbing laws, ordinances, and regulations;
  - (b) Provided with physical barriers between the adjacent tubs or work surfaces when disposers are utilized in sinks or tables which may consist of:
    - (i) A trough extending from one side of the equipment to the other, or
    - (ii) A divider that extends above the flood level rim of the equipment;
  - (c) Connected separately from sink drains or work surfaces when used for food or utensils;
  - (d) Installed only in such a manner that does not create the potential for the discharge of FOG into the public sewer system;
- (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;
  - (c) An automatic priming device with a solenoid that complies with State and local laws, regulations, and ordinances; or
  - (d) No differential pressure type priming device.
- (9) No floor drains are allowed in prefabricated walk-in refrigeration units;;
- (10) Hand sinks in food preparation tables and counters shall discharge through an air gap into a floor drain, sink or receptor that is trapped and vented; and
- (11) Except when required by Baltimore County Building Code, waste pipes and fixtures are:
- (a) Not located over food storage, preparation, or serving areas;
- and

(b) When 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, or
- (vi) Installing integral seepage pans or pipe sleeves;

(12) No sub-floor grease trap shall be installed in any food service facility.;

(13) No grease interceptor will be allowed in a Food Service Facility, in food preparation, storage, dishwashing, or display areas or require access through those work spaces;

(14) A grease interceptor may be installed outside, inground with a cleanout/manhole to grade, or in an approved above ground area, readily accessible to commercial scavengers.

(15) Other approved GADs must be installed in a manner acceptable to the approving authority and in such a way that the individual indirect waste lines of the sink can be maintained.

(16) In Mall Food Courts or shopping centers the approving authority shall require the following:

(a) Food preparation and warewashing areas shall have separate, and indirect waste lines provided for the following:

- (i) Floor sinks,
- (ii) The 3-compartment sink, and
- (iii) Pot wash sink;

(b) An evaluation of the waste lines to determine the potential FOG discharge characteristics of the facility;

(c) Waste lines be discharged into a grease interceptor installed in-ground with a manhole/cleanout to grade and located in an area that is readily accessible to commercial scavengers.

I. Toilet facilities are:

(1) Sufficient in number to serve the facility and/or

(2) Conveniently located;

(3) Accessible to employees at all times;

(4) In a mall, public use toilets may be utilized by food facility employees, if located within 200 linear feet of the food facility entrance, on the same level, unlocked and properly labeled.

(5) 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;;

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

(7) Designed with fixtures that are:

(a) Of sanitary design; and

(b) Readily cleanable;

(8) Kept:

(a) Clean;

(b) In good repair; and

(c) Free of objectionable odor; and

(9) 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:
  - (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) Within 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

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

**.20 FOG - Fats, Oils and Grease Management and Discharge Control.**

A. General.

- (1) The operator of a food service facility shall control the quantity and quality of all wastewater and/or waste discharges into the sewer system containing FOG, which may alone or collectively cause or contribute to FOG accumulation in or interference with the sewer facilities.
- (2) Control equipment may be required by the approving authority if Best Management Practices are determined to be insufficient to adequately control the discharge of fats, oils and grease.
- (3) The nature of the control equipment shall be determined after an evaluation of the potential FOG discharge characteristics of the facility.

B. Best Management Practices (BMP).

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(1) All food service facilities shall implement BMP in their operations that are acceptable to the approving authority.

(2) BMP shall be documented by the food service facility describing procedures necessary to minimize the discharge of FOG into the sewer system.

(3) A copy of the BMP document, approved by the approving authority, shall be available on-site for the employees and for County review.

(4) The BMP document will be evaluated by the approving authority whenever a change of ownership or change in the food service procedures occurs.

### C. Control Equipment.

The operator shall ensure that GAD:

(a) Shall be of a type acceptable to the approving authority.

(b) Shall be installed, operated and maintained as necessary to maintain compliance with the objectives of this regulation.

(c) For new construction of GGF shall be:

(i) Plotted and drawn to scale on plans submitted to the approving authority for approval;

(ii) Installed approved and inspected prior to commencing discharges of wastewater from the food service facility to the sewer system.

(d) Shall be maintained in accordance with the plan submitted and approved by the Approving Authority.

### D. Disposal of Collected Grease

(1) Grease removed from grease interceptors shall be hauled periodically by a licensed scavenger and properly disposed of as part of the operation and maintenance requirements for grease interceptors.

(2) Grease recovered from a grease recovery unit shall be disposed of by a licensed grease scavenger or disposed of in the garbage.

### E. Sewer System Overflows and Interferences, Public Nuisance, and Abatement Orders.

- (1) A sewer blockage, sanitary sewer overflow, hot zone or any other sewer system interference as determined by the County, may result in:
  - (a) GGF operator being ordered to install and maintain a GAD;
  - (b) GGF operator being subject to a plan, approved by the County, to abate the existing nuisance and prevent future FOG discharge;
  - (c) Property owner or operator of the GGF is responsible for sewer line failure or blockage, sanitary sewer overflow or any other sewer system interference;
  - (d) Property owner or operator of GGF is responsible for the County's costs to contain and clean up a sanitary sewer overflow;
  - (e) Property owner or operator of GGF is responsible for any fines or penalties levies against Baltimore County; and
  - (f) Property owner or operator of GGF incurring a debt to the County, shall immediately pay said debt upon the County's request for reimbursement of costs.
- (2) The County may act immediately to contain and clean up a sanitary sewer overflow:
  - (a) Caused by blockage of a private or public sewer lateral serving a GGF;
  - (b) Caused by facility or line failures, blockages, sanitary sewer overflows and other sewer system interferences;
  - (c) At the request of the property owner or operator of the GGF; or
  - (d) Because of the failure of the property owner or operator of GGF to abate the condition causing an immediate threat of injury to the health, safety, welfare, or property of the public.

#### F. Sanitary Sewer Overflow (SSO).

- (1) In the event an operator is unable to comply with any license condition for any reason, if the operator has reasonable opportunity to know that their discharge will violate this regulation or other applicable regulations, or may cause a sanitary sewer overflow, a sewer blockage or other interference with sewer facilities or sewer laterals, the operator shall immediately notify the Department.
- (2) In addition, the operator shall notify the Department in writing, no later than five working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge, interference or SSO, what

steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.

(3) Such notification shall not relieve the operator of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the County or any other public agency or any other damage or loss to person or property; nor shall such notification relieve the operator of any fees or other liability which may be imposed by this regulation or other applicable law.

**.21 Garbage and Rubbish Disposal.**

The operator 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) Damaged, adulterated, recalled, or other products being held for credit, redemption, or return to the distributor shall be stored in designated areas separate from:

- (a) Food;
- (b) Equipment;
- (c) Utensils;
- (d) Linens; and
- (e) Single service and single use articles;

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 constructed, installed and used as stated in §.19H(7) of this chapter:

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.

**.22 Vermin Control.**

The operator shall ensure that:

A. Effective control measures are used to eliminate rodents, flies, roaches, and other vermin from the building;

B. The premises are kept clean and free of debris that will promote the harborage of vermin;

C. Openings into the building are effectively protected against the entrance of insects and rodents by:

(1) Doors that are:

(a) Tight; and

(b) Self-closing;

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

(a) Tight-fitting;

(b) In good repair; and

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

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

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

D. Insect control devices that are used to electrocute or stun flying insects are:

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

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

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

(a) Exposed food;

- (b) Clean equipment;
- (c) Utensils;
- (d) Linens; and
- (e) Unwrapped single service and single use articles.

**.23 Building—Floors, Walls, and Ceilings.**

The operator 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;

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. Doors on the building's exterior are equipped with a self-closing device;

K. Wall, ceiling, door, window, skylight, and similar closure, are kept:

- (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 other areas shall have surfaces that are:

- (1) Smooth;
- (2) Washable; and
- (3) Water and grease resistant.

M. Wall covering materials, such as tile, stainless steel, fiber reinforced plastic, sealed gypsum board, or similar materials, are 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 a 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
  - (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.

**.24 Building—Lighting and Ventilation.**

The operator 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 a minimum of:

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

(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:

(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

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(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 insanitary condition within the facility, and

(ii) Contaminate food;

(b) Provide comfortable working conditions; and

(c) Comply with applicable building codes;

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 and installed:

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

(2) In compliance with NSF Standard 2 and UL-710;

(3) So that the minimum air speed at the edge of the cooking surface must be 50 fpm, 85 fpm, and 125 fpm respectively, for low, medium, and high applications in the direction of the exhaust; and

(4) 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 not approved for use over cooking equipment under a hood.

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:

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(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.

**.25 Building—Cleanliness and Operations.**

The operator shall ensure that:

A. The facility and parts of the property associated with the operation of the facility are kept:

(1) Clean; and

(2) Free of litter and rubbish;

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

C. The facility is not used for living or sleeping quarters;

D. Sufficient space to store all custodial equipment is provided;

E. At least one utility sink or curbed cleaning facility with a floor drain is provided and used for:

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

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

F. A hand sink, utensil washing, equipment washing, or food preparation sink is not used as a mop or utility sink;

G. 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;

H. Cleaning and sanitizing occur in a manner that protects food from contamination;

I. 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:

- (1) Removes dust and soils; and
- (2) Prevents the contamination of food and food-contact surfaces;

J. Linens and clothes are stored:

- (1) Laundered and in a clean place until used; and
- (2) In non-absorbent containers or laundry bags when damp or soiled until removed for laundering;

K. Employee clothing and personal belongings are stored in:

- (1) Dressing rooms or dedicated areas that are;
  - (a) Provided when employees change clothing within the facility;
  - (b) Located outside of food preparation, serving, and utensil washing areas; and
  - (c) Kept clean; and
- (2) Lockers or other facilities within dressing rooms or areas; and

L. Live birds and animals are not present on the premises of a food service facility except for:

- (1) Edible fish, shellfish, crustacea, or decorative fish in aquariums or display tank systems;
- (2) Service animals that are controlled by the disabled individual; and

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

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

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

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

**.26 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 operator 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,

(v) Methods of shipment,

(vi) Procedures for maintaining potentially hazardous food as set forth in §.06B(7)—(14) of this chapter, and

(vii) A HACCP plan in accordance with Regulation .37 of this chapter;

- (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 .32 of this chapter.

E. The operator shall ensure that:

- (1) All manufactured food is labeled in accordance with Regulation .13 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;

- (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.

**.27 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 operator shall ensure that:

(1) Compliance is maintained with Regulations .01—.06, .11, .13—.15, .16A(3) - (5) and B, .21—.25, .27, .30 - .33, and .35—.42 of this chapter; and

(2) When single service articles are used, the single service articles comply with §.18H of this chapter.

B. Except for special exemptions stated in §E of this regulation, 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 operator shall ensure that:

(1) Compliance is maintained with Regulations .01 - .11, .13- .15, .16A(3)—(10) and B, .17 —.25, .27, .30 - .33 and .35 - .42 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 §C(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 §§ .19 K and L of this chapter; or

(b) Another hand washing facility that has:

- (i) Warm water;
- (ii) Soap; and
- (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 I, the operator shall ensure that:

- (1) Compliance is maintained with §A of this regulation as applicable;
- (2) Equipment components of the mobile unit are in compliance with §§.16A(1) and (2) and B of this chapter;
- (3) The HACCP Plan shall be approved prior to operation of this unit;
- (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.
- (6) The facility is required to obtain an annual food service facility permit as required in Regulation .30 of this chapter.
- (7) The mechanical refrigeration unit is operating at all times to maintain the product in a frozen state during transportation and storage.

D. For a special food service facility that is a Mobile Unit II, the operator shall ensure that:

- (1) Compliance is maintained with § B of this regulation as applicable;
- (2) Equipment components of the mobile unit are in compliance with §.16A(1) and (2) and B of this chapter;
- (3) A hand washing sink is provided as set forth in §.19K 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;

(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; and

(6) The facility is required to obtain an annual food service facility permit as required in regulation .30 of this chapter.

E. For a special food service facility that is a hot dog cart or tea and coffee cart, the operator shall ensure that:

(1) Compliance is maintained with § B of this regulation as applicable, except that compliance with Regulation .19 of this chapter is exempted;

(2) The Food Operational Plan shall be submitted in the English language and approved by the approving authority prior to operation;

(3) Equipment components of the mobile unit are in compliance with §.16A(1) and (2) of this chapter;

(4) An agreement with an approved depot, or a licensed food service facility, or any other location acceptable to the approving authority, which serves as the unit's base of operation, and provides one or more of the following as deemed necessary by the approving authority:

- (a) Potable source of water;
- (b) Approved sewage disposal system;
- (c) Covered trash receptacles;
- (d) Refrigerated and dry storage;
- (e) Utensil washing area;
- (f) Mop sink; and
- (g) Bathroom and hand washing facilities;

(5) A hot dog cart is approved for the daily storage and sale of hot held as stated in §.08A(7) of this chapter, pre-cooked, ready to eat, commercially produced skinned hot dog or similar type sausage products;

(6) Raw, whole, fruits and condiments which are of a non-potentially hazardous nature may also be sold from this unit;

- (7) Packaged novelty items such as potato chips and soda may be sold;
- (8) Chili and barbecue type meat toppings are not approved for sale on this unit;
- (9) Disinfectant type disposable hand towels must be carried for use by the operator;
- (10) Handling of food products to prevent cross-contamination as specified in §§.07E and .15J of this chapter;
- (11) Potable water containers are used to provide water for cooking and/or hot holding purposes; and
- (12) Wastewater tanks are used to hold wastewater pending disposal at the approved depot, or licensed food service facility in a manner that conforms with State and local laws, regulations, and ordinances.
- (13) The facility is required to obtain a low priority annual food service facility permit as required in regulation .30 of this chapter.

F. For a special food service facility that is a snowball stand, the operator shall ensure that:

- (1) Compliance is maintained with § B of this regulation as applicable;
- (2) Equipment components of the mobile unit or facility are in compliance with § .16A(1) and (2) of this chapter;
- (3) A hand washing sink is provided as set forth in §.19K 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;
- (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.
- (6) The facility is required to obtain a low priority annual food service facility permit as required in Regulation .30 of this chapter.

G. For a special food service facility that is a temporary food service facility, the operator shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation and Regulation .34 as applicable, except that no compliance with Regulations .23 and .24A, B(2), and E - O of this chapter is required;

(2) Where potable water under pressure is not available, sufficient containerized potable water is provided for hand washing; and

(3) The period of time that the facility operates is limited to the time stated in § .02B(115) of this chapter.

(4) Except as stated in §K(2)(c) of this regulation, the facility is required to obtain a temporary food service facility permit as required in Regulation .30 of this chapter.

(5) Compliance is maintained with §K of this regulation.

H. For a special food service facility that is a farmer's market food service facility, the operator shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation and Regulation .34 as applicable, except that compliance with Regulations .23 and .24A, B(2), and E - O of this chapter is not required;

(2) Where potable water under pressure is not available, sufficient containerized potable water is provided for hand washing;

(3) The period of time that the facility operates is limited to the time stated in §.02B(43) of this chapter.;

(4) The facility is required to obtain a farmer market food service facility permit as required in regulation .30 of this chapter; and

(5) Compliance is maintained with §L of this regulation.

I. For a special food service facility that is a bed and breakfast, the operator 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;

(3) The facility's priority assessment is based on the foods served as stated in §.36C;

(4) The facility is required to obtain an annual food service facility permit as required in Regulation .30 of this chapter.

(5) The facility does not operate as a restaurant or caterer.

J. For a special food service facility that is an on-farm food service facility, the operator shall ensure that:

(1) Compliance is maintained with either §A or B of this regulation as applicable, except that compliance with Regulations .23 and .24A, B(2), and E—O of this chapter is not 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";

(4) The period of time that the facility operates is limited to the time as stated in §.02B(74) of this chapter and

(5) The facility is required to obtain a on - farm food service facility permit as required in Regulation .30 of this chapter.

K. For a special food service facility that is a producer mobile farmer's market food service facility, the operator/licensee shall ensure that:

(a) The foods transport to and sold at the Farmer's Market are in accordance with §.02B(90) ;

(b) The operator/licensee has a valid license/ permit for the producer mobile farmer's market unit with the Department of Health and Mental Hygiene;

(c) The producer mobile farmer's market license shall be displayed on any mobile unit operating under the license; and

(d) Compliance is maintained with §§A and L of this regulation as applicable.

L. Fairs, Festivals and Events of Limited Duration.

(1) The fair, festival or event of limited duration organizer or sponsor is required to complete an Event Organizer/Sponsor Form at least 30 days prior to the event.

(2) Food Operator.

(a) An operator is anyone that sells or serves food either through sampling, donations, or direct sales.

(b) An operator requesting the right to operate at a farmer's market and/or temporary event of limited duration shall meet the following requirements in order to apply for a Baltimore County farmer's market and/or temporary food service facility permit:

(i) Operates from a licensed medium or high priority food service facility,

(ii) Operates from a licensed low priority food service facility that does not exceed the scope of his permit;

(iii) Has proof of a valid food service facility license or processor's permit from the jurisdiction's approving authority,

(iv) Offers catering services and has a food facility identification number,

(v) Separate permit is required for each location at a temporary event or farmer's market,

(vi) Completes a Temporary Event Questionnaire Form, and

(vii) Submits the completed form to the approving authority at least 21 days prior to the date of the event.

(c) The exception to §.27L(2)(b)(v) of this regulation is a food operator that has a valid Baltimore County medium or high priority food service facility permit, and is listed on said permit as a caterer with a food facility identification number or a Department of Health and Mental Hygiene licensed/permitted producer mobile farmer's market food service facility..

(d) The Baltimore County medium or high priority food service facility operator shall complete and submits the Temporary Event Questionnaire Form at least 21 days prior to the event.

(3) A food operator not conforming to the above provisions will be subject to closure on site. It should be noted that an operator operating under a valid annual food service facility permit subjects that permit to suspension or revocation if this chapter is violated.

(4) All food items stored, used, or served at the concession stands must be protected by barrier, wrapping or cover. It is recommended that items be pre-wrapped and ready to serve if possible.

(5) A fixed stand must be constructed so as to protect the public, the merchandise and not create a nuisance.

(6) A tent or canopy must cover the entire operation with the exception of grills that are covered with lids. (Anchors may be necessary for windy days.)

(7) Screening may be required if there is a flying insect problem.

(8) Food contact surfaces and utensils must be clean, sanitized, and in good repair in accordance with Regulations .16, .17 and .18 of this chapter;

(9) Ice must be of commercial origin in chipped, crushed or cubed form and must be treated as a food and protected from contamination and properly drained to a sanitary sewer or portable waste container.

(10) There may be no discharge of liquid waste onto the ground or into storm drains.

(11) Adequate refuse containers must be provided at all stands and the concession area must be kept free of litter.

(12) Cleaning compounds and other toxic items must be stored away from food products.

(13) Food must be from an approved source. Preparation of foods prior to the event must be done in a licensed food service facility. Home preparation of food product is not allowed. No home canned foods may be sold with the exception of jams and jellies.

(14) There can be no preparation of raw poultry or poultry products on site unless that site meets the criteria for an approved facility as defined §.02B(7) of this chapter.

(15) The use of raw eggs is approved if fully cooked to 145°F or above; however, the use of pasteurized eggs or egg products is preferable.

(16) Vendors purveying shellfish must meet all Maryland state shellfish documentation requirements as stated in §.04F of this chapter.

(17) All vendors of potentially hazardous products will be required to maintain their refrigerated food at 41°F or below, food items held in a frozen state and hot food at 135°F or above.

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(18) Drained ice may be utilized for refrigerated holding at one day events only, as long as the product temperature is maintained and there is no cross-contamination between different types of products.

(19) Dry ice may be utilized for holding food products in a frozen state at one day events only.

(20) A metal stem thermometer (graduated in 2° F intervals and properly calibrated) is required for taking food temperatures.

(21) There is no reuse of displayed products not held under approved mechanical refrigeration.

(22) Operators of multi-day events that provide potentially hazardous products for sale or service must have handwashing facilities that have hot and cold running water.

(23) Operators of one day events that provide potentially hazardous products for sale or service must use an approved temporary handsink unit or any other method acceptable to the approving authority. Vendors handling raw meat must have handwashing stations at all times.

(24) A temporary handwashing sink or station shall consist of the following:

(a) A commercial portable handwashing sink with hot and cold water and waste water tank available in the unit, soap, paper towels and a waste container attached to the unit; or

(b) A temporary handwashing station that shall consist of a container with a manual open-and close spout, a catch container to collect the wastewater, soap, paper towels and a waste container.

(25) During all fairs, festivals and events, food on display must be protected from contamination by insects, blowing dust, and dirt.

(26) All opened containers of food and exposed food contact products shall be stored at least 18 inches off the floor and/or ground.

(27) Protected food and food contact surfaces shall be stored at least six (6) inches off the floor and/or ground.

(28) Toilet facilities must be provided within a reasonable distance.

(29) Baltimore County licensed food service facility operators may be required by festival organizers to obtain a Baltimore County temporary food service facility permit.

(30) The use of an outdoor grill in conjunction with a temporary event, shall adhere to the following requirements, in order for approval to be granted by the approving authority:

- (a) The grill must be provided with a hinged or clamshell lid to completely cover the product and cooking surface;
- (b) All parts of the cooking surface must be accessible and easily cleanable;
- (c) The grill must be located on an impervious surface, immediately adjacent to the covered food stand, and away from any refuse storage locations;
- (d) Food items will be limited to the cooking of raw beef, pre-cooked poultry and pork products.
- (e) Other food items to be cooked on the grill must be approved by the approving authority prior to the event;
- (f) Limit preparation and/or handling of the food outside the grill area.
- (g) The meat shall be hot held on the grill after cooking or by any other methods approved by the approving authority.
- (h) The cooked and raw meats shall be placed physically in completely separate areas on the grill's cooking/heated surfaces to eliminate the potential for cross contamination;
- (i) The potential for cross contamination must be eliminated; and
- (j) Foods must be prepared/sliced in the covered food service area.

#### **.28 Excluded Facilities.**

A. For facilities that complies with §.02B(40) of this chapter, the operator shall ensure that compliance is maintained with Regulations .01—.06, .11, .13—.15, .16A(3) - (5) and B, .21—.25, .27, .30 - .33, and .35—.42 of this chapter;

B. The operator of an excluded facility shall make application for an annual food service facility permit as stated in Regulation .30 of this chapter;

C. An operator of an excluded organization shall notify the approving authority by completing and submitting the Temporary Event Questionnaire Form at least 21 days in advance when planning an event that lists any type of potentially hazardous food.

(1) The operator shall provide written notification including the following information at least 21 days prior to the scheduled event:

- (a) Date, place, and time of the event;
- (b) Estimated number of persons to be served at the event;
- (c) Menu or list of foods to be served;
- (d) Source of all potentially hazardous foods to be served;
- (e) List of foods to be prepared more than 12 hours in advance of service; and

(f) List of foods to be prepared off-premises, the name of the facility to be used, and the procedures for transporting food to the premises.

(2) The approving authority may require additional information as necessary.

### **.29 Farmer's Market and Bake Sales.**

The approving authority shall:

A 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 in compliance with COMAR 10.15.01.09A—D and .10A and 10.15.04.09; and

(2) Offered or sold only at a farmer's market.

B. 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 .13 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) Jams, preserves, or jellies 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;
  - (i) Cherries;
  - (j) Cranberries;

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- (k) Strawberries;
- (l) Red currants; or
- (m) Another fruit or fruit mixture that will produce an acid canned food;

(4) Foods manufactured on a farm by a licensed food processor in accordance with COMAR 10.15.04.19;

(5) All other foods produced by a licensed entity as stated in Regulation.34; and

C. Inspect a farmer's market or bake sale to ensure compliance with this chapter; and

D. Take action against a misbranded or adulterated food at a farmer's market or bake sale in accordance with Health-General Article, §§21-211, 21-253, and 21-254, Annotated Code of Maryland.

E. The approving authority requires a permit as stated in Regulation .30 of this chapter if the place of business meets the definition of a Farmer's market as set forth in §.02B(42) of this chapter.

F. The approving authority will exempt an operator from applying for a permit under Regulation .30 of this chapter if foods offered or sold at a farmer's market or bake sale are only:

- (1) Fresh whole fruits and vegetables;
- (2) The foods listed in §A(2) of this regulation.
- (3) Item(s) offered at a bake sale as set forth in Regulation.02B(12) of this chapter; or
- (4) Eggs sold in compliance with §.05A(8) of this chapter.

**.30 Licensure.**

- A. Types of Licenses/Permits.
- (1) Annual food service facility permit
  - (2) Farmer's market food service facility permit
  - (3) On-farm food service facility permit
  - (4) Temporary food service permit
- B. Operational Requirements
- (1) Except as otherwise noted in this chapter, a person may not operate a food service facility unless the person/operator has a current and valid license issued by the approving authority.
  - (2) A separate license is required for each food service facility that a person owns or operates.
  - (3) The provisions of this chapter require a permit for each location where vending machines are operated but may not require a separate permit for each individual vending machine.
  - (4) A separate permit is required for each location at a temporary event or farmer's market.
  - (5) The operator that has a valid Department of Health and Mental Hygiene issued Producer Mobile Farmer's Market License is not required to obtain a separate permit or license to sell products authorized for sale under this license.
  - (6) A Producer Mobile Farmer's Market License is valid in all jurisdictions in the State per §21-309.1(c)(1) of the Health-General Article of the Annotated Code of Maryland.
  - (7) Upon the death of a licensee, the approving authority may transfer a food service facility license if:
    - (a) An application is filed in accordance with §.30C of this regulation; and
    - (b) Written evidence that establishes the applicant's relationship with the deceased was as a:

- (i) Spouse of the deceased licensee,
- (ii) Blood relative to the first degree of consanguinity; or
- (c) Current officer or surviving partner in the business operating the food service facility.

(8) A license is not transferable:

- (a) From person to person; or
- (b) From location to location.

(9) Catering Services.

(a) A food service facility or person that offers catering services or that identifies as a caterer shall include a food facility identification number, including the identity of the issuer of the number on:

(i) All advertising on business cards, published print media, flyers, brochures, any vehicles used in connection with catering services, and in telephone directories, and

(ii) All contracts for catering services;

(b) The approving authority may not require a caterer licensed in Baltimore County to obtain a separate license for a catered event when:

(i) The majority of the food preparation for the event is completed at the caterer's food service facility.

(ii) The preparation includes thawing potentially hazardous food, cooking potentially hazardous food, except at outdoor barbecues when the food will be immediately consumed or discarded; cooling cooked potentially hazardous foods; preparing salads that contain potentially hazardous foods, and other similar activities, and

(iii) The caterer at the event complies with §§.27G and K of this chapter;

(10) Each licensee shall display the license conspicuously in the food service facility.

C. Application for Licensure.

- (1) To apply for a permit, an applicant shall submit an application to the Department on the required form;
- (2) The application form shall include:
  - (a) The applicant's name and address;
  - (b) The location of the food service facility for which application is made;
- (3) The type of food service facility that the applicant proposes to operate;
- (4) The name(s) of and the Baltimore County food manager certification number(s) for the certified food service manager(s) employed by the facility as stated in §.10A and be in full compliance with Regulation .10 of this chapter;
- (5) The HACCP Plan as stated in §§.36D – F of this chapter; and
- (6) Any other information the Department requires.

D. Qualification for Licensure.

- (1) To qualify for a license an applicant shall:
  - (a) Comply with the requirements of this chapter;
  - (b) Agree to permit access to the food service facility at any reasonable time for the purpose of any inspection permitted or required under this chapter.
  - (c) A reasonable time shall include but not be limited to any time the food service facility is open to the public or engaged in food preparation;
  - (d) Pay the license fee assessed in the Inventory of Baltimore County Licenses & Fees book or any other document that authorized the Department to impose fees, unless exempted under §D(3) of this regulation; and
  - (e) Agree to display the license conspicuously in the food service facility;
- (2) Before issuing a license, the approving authority may inspect the food service facility identified in the application to determine if the food service facility meets the requirements for a license;
- (3) Facilities that are owned or operated by Baltimore County agencies are exempted from the license fee; and

(4) A license fee under this article may not exceed \$550.

E. Renewal of Licensure.

(1) Except for facilities stated in §§.27G, H, and J of this chapter, at least one month before the license expires, the Department shall send to the licensee, by first class mail to the last known address of the licensee, a renewal notice that states:

(a) The date on which the current license expires; and

(b) The date by which the completed renewal application must be received by the Department for the renewal to be issued and mailed before the license expires.

(2) The Department may renew a license if the licensee:

(a) Has complied with this chapter;

(b) Submits to the Department a completed renewal application on the required form;

(c) Pay the renewal fee assessed unless exempted under §D(3) of this regulation; and

(d) Agrees to permit access to the food establishment for the purpose of any inspection permitted or required under this chapter.

F. Process For Licensure.

(1) Within 30 days after the Department receives an application for a license, the Department shall issue a license to any applicant who meets the requirements of this chapter.

(2) While in effect, a license authorizes the licensee to operate the food service facility that is identified on the license.

G. Denial of Licensure.

(1) The Department may deny an application for a food service facility license issued under this chapter if the Department finds that the applicant:

(a) Does not meet the requirements of this chapter;

(b) Fraudulently or deceptively attempts to obtain a license;

(2) Within 30 days of receipt of the completed application, the Department shall notify the applicant:

- (a) The application has been denied;
- (b) The specific reasons for the denial of the application; and
- (c) If any, the actions that must be taken by the applicant to qualify for a license.

(3) After a notice of denial is issued, the Department may issue a license to an applicant if the applicant:

- (a) Takes all actions specified in the notice of denial; and
- (b) Meets the requirements of this chapter.

(4) An applicant who is denied a license is entitled to a hearing before the approving authority under §.38A(1) of this chapter.

### **.31 Food Service Facility Inspections - General.**

A. The operator shall permit a representative of the approving authority to:

- (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 operator 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 operator 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 operator 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.

### **.32 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;

(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 §.02B(27) 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.
- (3) A HACCP compliance inspection that contains:
- (a) An inspection for compliance with Regulation .37 of this chapter;

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- (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 §§ .36E and F of this chapter.

B. The operator is in compliance with critical items when the operator:

- (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 prohibited from working if ill as set forth in §§ 15A and B of this chapter;
- (4) Cools potentially hazardous food:
  - (a) As set forth in Regulation .09A and B of this chapter; and
  - (b) In equipment that complies with Regulation .16 of this chapter;
- (5) Maintains potentially hazardous food:
  - (a) Hot:

this chapter, and

(i) At hot holding temperatures as set forth in §.06B(7) of

chapter; or

(ii) In equipment that complies with Regulation .16 of this

(b) Cold:

(i) At refrigeration temperatures as set forth in Regulation .06B(8) of this chapter, and

chapter;

(ii) In equipment that complies with Regulation .16 of this

(6) Cooks and reheats potentially hazardous food:

(a) As set forth in Regulations .08 and .09C of this chapter; and

chapter;

(b) In equipment that complies with Regulation .16 of this

(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 §§.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, conduct:
  - (i) A comprehensive inspection, and
  - (ii) Two monitoring inspections; and
- (c) That operates fewer than 12 months a year conduct a 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;
- (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, conduct:
    - (i) A comprehensive inspection, and
    - (ii) A monitoring inspection;
  - (c) That operates fewer than 12 months a year conduct a comprehensive inspection during each period of 6 months or less;
- (4) When a low priority food service facility, conduct a comprehensive inspection at a minimum of once every 2 years except that a HACCP compliance inspection is not required; and
- (5) When a temporary food service facility, conduct a monitoring inspection as set forth in Regulation .32A(2) of this chapter during each licensure period;
- (6) When a farmer's market food service facility, using a monitoring inspection:
  - (a) A minimum of two times per year, once every 6 months; or
  - (b) Except as provided in §E 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 operating season is 6 months or greater.

D. FOG inspection frequency is based on an evaluation of the potential FOG discharge characteristics of the facility.

E. A food service facility is inspected as soon as possible when the food service facility has been associated with foodborne illness, conduct 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.

### **.33 Time Period for Correction of Violations.**

A. The operator shall correct:

(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 operator:

(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.

**.34 Food Service Facilities Outside the Jurisdiction of the Approving Authority.**

A. A food service facility operator may sell within the County, food from a food facility outside the jurisdiction of the approving authority if:

- (1) The food facility is operated in conformance to the regulations of this chapter or to substantially equivalent regulations; and

- (2) Except a Producer Mobile Farmer's Market operator/licensee as stated under §27K of this chapter, the operator conforms to Regulations .27, .30 and .32 of this chapter;

B. To determine the extent of compliance with this chapter or to substantiate equivalent regulations, the approving authority may accept reports from responsible authorities in the jurisdiction where the food service facility is located.

C. A food service facility located outside the jurisdiction of the approving authority that prepares food within the State shall be licensed in accordance with COMAR 10.15.03.28A and C(1).

**.35 Choking Posters.**

The operator 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.

**.36 Plan Review.**

A. The operator shall ensure that plans and specifications are submitted in the English language to and approved by the approving authority before a food establishment is:

- (1) Constructed;
- (2) Remodeled; or
- (3) Materially altered.

B. The operator 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:
  - (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.

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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:
  - (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 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 41°F to 135°F not more than one time before service, such as cooking, hot holding, and 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; or
  - (b) Hand dipped ice cream; or
  - (c) Pre-cooked, ready to eat, commercially produced skinned hot dog or similar type sausage products as stated in §.27E(4) of this chapter.

(d) Non-potentially hazardous food that is cut, assembled, or packaged on the premises, such as candy, popcorn, and baked goods; or

D. The operator shall ensure that a HACCP plan is submitted to the approving authority for each high or moderate priority facility as specified in §E of this regulation.

E. The operator 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:

- (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 operator shall construct the HACCP plan by:

- (1) Listing, for each CCP, the:
  - (a) Menu items controlled by the CCP;
  - (b) Equipment used; and

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- (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.

G. The operator shall ensure compliance with the following prior to any food preparation and/or opening the facility for business:

- (1) All building permits must be applied for and approved through the final phase by inspections;
- (2) Issuance of the “Use and Occupancy Permit” by the Department of Permit and Development Management;
- (3) Permission to apply for a food service permit under Regulations .10, .30, .36, .37, and .38 of this chapter must be granted by the approving authority; and
- (4) A completed application is filed with and fees are paid to the approving authority for a current food service facility permit.

**.37 HACCP Plan Compliance.**

The operator of a high or moderate priority food service facility shall ensure that:

- A. A HACCP plan shall be submitted in the English Language:
  - (1) In compliance with §§.36E 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
    - (b) At least once every 5 years;
- B. An employee involved in food preparation is trained in HACCP procedures; and

C. Changes to the HACCP plan are submitted to the approving authority before implementation of the HACCP plan.

### **.38 Enforcement Procedures.**

#### A. General

(1) If the approving authority denies the food service operator's application for a food service facility license, the applicant shall request a hearing in writing to the approving authority within ten (10) days of written denial of the application.

(2) 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:

(a) Of the specific findings;

(b) Of a specific date by which the licensee shall correct the violations or deficiencies; and

(c) That, if the licensee fails to correct the violation by the date specified, the approving authority may suspend or revoke the license.

(3) If the approving authority finds that the food service operator is violating any regulations of this chapter, the approving authority may have the person served with a written order pursuant to §13-10-101(g) of the Baltimore County Code, which directs the food service operator served to abate the violation within a time specified in the order.

#### B. Hearing.

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.

(3) Upon written request for a hearing, the approving authority shall send the hearing notice to the operator by certified mail, return receipt or hand delivery to the operator or his/her representative.

(4) Within 30 days after the hearing, the approving authority shall render a decision and notify the operator of the ruling by certified mail, returned receipt or by hand delivery to the operator or his representative.

(5) Within thirty (30) days, after the approving authority has issued a ruling, the operator may appeal the decision to the Baltimore County Board of Appeals.

#### C. Suspension or Revocation of a License.

(1) If the operator of a food service facility fails to pay all fees and penalties owed, the approving authority may suspend or revoke the license of the food service facility until all indebtedness are paid in full.

(2) Violation of any one or more critical items shall cause suspension of the food service facility's license, if corrections are not made immediately.

(3) If the operator of a food service facility fails or neglects to correct any violation within the specified time period; fails or neglects to comply with an approved written schedule of compliance; or fails or neglects to correct a critical item immediately, the approving authority may suspend or revoke the license of the food service facility.

(4) If the operator of a temporary food service facility does not correct all violations within 24 hours or by the time frame specifically stated on the inspection report, the approving authority may suspend or revoke the license of the temporary food service facility.

(5) If the approving authority determines upon inspection that an immediate and substantial danger to the public health exists, which imperatively requires emergency action, the approving authority may summarily suspend the license and the food service facility shall immediately cease food service operations;

(6) Whenever the operator of a food service facility is required, under this regulation to cease operations, it may not resume operations until a reinspection shows that conditions responsible for the requirement to cease operations no longer exist and pay the required reinspection fee.

(7) The approving authority shall take appropriate steps to insure that the food operation ceases upon suspension of the license by:

(a) Taking and keeping physical possession of the license until it is reinstated;

(b) Posting signs on the door of the facility stating that the license has been suspended by the approving authority; or

(c) Any other measure within the law that will adequately assure that the operator will not operate the food service facility.

(8) Any person whose license has been suspended shall pay the required reinspection fee and contact the approving authority in person or in writing, at any time, for a reinspection.

(9) Whenever an operator of a food service facility is required to immediately cease food service operations, the approving authority shall promptly give the owner/operator written notice of the suspension or revocation of the license, the reasons for the suspension or revocation, and an opportunity for a hearing.

(10) If the operator fails to correct repeated critical items and/or other violations, the approving authority may suspend or revoke the license.

### **.39 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

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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.

**.40 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;
- (2) Destroying the food; or
- (3) Making the food unusable for consumption.

**.41 Penalties.**

A. Any person who violates any regulations of this chapter is guilty of a misdemeanor and on conviction is subject to:

(1) For first offense, a fine not exceeding \$1,000 or imprisonment not exceeding 90 days, or both; and

(2) For a second offense, a fine not exceeding \$2,500 or imprisonment not exceeding 1 year, or both.

B. In addition to any criminal penalties imposed, a person who violates any regulations of this chapter:

- (1) Is liable for a civil penalty not exceeding \$5,000; and
- (2) May be enjoined from continuing the violation.

C. 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 penalties as set forth in 13-10-101(g) of the Baltimore County Code.

D. Each day on which a violation occurs is a separate offense. Each day on which a violation occurs is a separate violation under this chapter.

**.42 Federal Compliance.**

In addition to the other requirements set forth in this chapter, the operator 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.