

Section 4.4  
 Repealed by  
 65 CSR 10  
 effect. 5-31-91

**TITLE 64**  
**LEGISLATIVE RULES**  
**DEPARTMENT OF HEALTH**

**SERIES 17**  
**FOOD SERVICE SANITATION RULES**

**§64-17-1. General.**

1.1. Scope. -- These legislative rules establish the minimum requirements of the West Virginia board of health governing the construction and operation of food service establishments.

1.2. Authority. -- W. Va. Code §16-1-7

1.3. Filing Date. -- June 13, 1980

1.4. Effective Date. -- August 1, 1980

**§64-17-2. Application and Enforcement.**

2.1. Application - These legislative rules apply to owners or operators of food service establishment.

2.2. Enforcement - The enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

**§64-17-3. Definitions.**

3.1. Approved - A procedure of operation, installation or construction which is in accordance with the standards, specifications, or instructions established by the Director.

3.2. Commissary - A catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored. The term does not include private homes where food is prepared and served for individual family consumption.

3.3. Construct - The term construct shall be construed to mean and include the terms install, extend, establish, alter and modify.

3.4. Corrosion-Resistant Materials - Those materials that maintain their original surface characteris-

tics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

3.5. Delicatessen - Any establishment where primarily specialty food items, i.e., meats, fish, poultry, salads, cheeses, and other table delicacies, are prepared, sold or offered for sale to the public.

3.6. Director - The chief executive, administrative, and fiscal officer of the State Department of Health or his designee.

3.7. Easily Cleanable - Surfaces that are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

3.8. Employee - The permit holder, individuals having supervisory or management duties and any other person working in a food service establishment

3.9. Equipment - Stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dish-washing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

3.10. Food - Any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

3.11. Food-Contact Surface - Those surfaces of equipment and utensils with which food comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

3.12. Food Service Establishment - Any fixed or mobile restaurant; coffee shop; cafeteria; short-order

cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; delicatessen; nightclub; roadside stand; industrial feeding establishment; private, public, or non-profit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

The term does not include food processing or manufacturing plants.

This definition is not intended to apply to those vending machines that dispense non-potentially hazardous food that has been prepackaged by the manufacturer or processor.

3.13. Health Officer - The executive officer of the local board of health or his duly authorized representative.

3.14. Hermetically Sealed Container - A container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

3.15. Kitchenware - All multi-use utensils other than tableware.

3.16. Law - Federal, state and local statutes, ordinances and regulations.

3.17. Mobile Food Unit - A vehicle-mounted food service establishment designed to be readily movable.

3.18. Operator - A person who is in charge of a food service establishment.

3.19. Packaged - Bottled, canned, cartoned, or securely wrapped.

3.20. Permit - A written document issued by the Director giving a designated person permission to construct a specific food service establishment or to operate a specific food service establishment.

3.21. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division,

bureau, agency or any other entity recognized by law

3.22. Person-In-Charge - The individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person-in-charge.

3.23. Potentially Hazardous Food - Any food that consists in whole or part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odorfree shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.

3.24. Pushcart - A non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperature, limited to the preparation and serving of frankfurters or other sandwiches requiring limited preparation.

3.25. Reconstituted - Dehydrated food products recombined with water or other liquids.

3.26. Safe Materials - Articles manufactured from or composed of materials that may or may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

3.27. Sanitization - Effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

3.28. Sealed - Free of cracks or other openings that permit the entry or passage of moisture.

3.29. Single-Service Articles - Cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddies, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.

3.30. Tableware - Multi-use eating and drinking

utensils.

3.31. Temporary Food Service Establishment - A food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

3.32. Utensil - Any implement used in the storage, preparation, transportation, or service of food.

#### §64-17-4. Permits, Hearings, Notices, Orders and Inspections.

##### 4.1. Construction and Modification

4.1.1. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Director for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.

4.1.2. Whenever plans and specifications are required to be submitted to the Director, the Director shall inspect the food service establishment prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this regulation.

##### 4.2. Permit to Operate

4.2.1. No person shall operate a food service establishment within the State of West Virginia who does not possess a valid permit issued to him by the Director.

4.2.2. An application for a permit to operate a food service establishment shall be made in writing to the Director on a form prescribed by the State Department of Health and signed by the applicant or his authorized representative.

4.2.3. Prior to approving the application for a permit, the Director shall inspect the proposed food service establishment to determine compliance with this regulation. Only persons who comply with the

applicable provisions of these regulations shall be entitled to retain a permit.

4.2.4. Food service establishments in operation at the time these regulations became effective, and meeting all applicable prior regulations, shall be deemed to be eligible for a permit to operate. Provided, that any construction taking place after the effective date of these regulations shall be in compliance with these regulations. Only persons who comply with the applicable provisions of these regulations shall be entitled to retain a permit.

4.2.5. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.2.6. The Director may without warning, notice, or hearing suspend a permit to operate a food service establishment if the holder of the permit does not comply with the requirements of these regulations, or if the operation of the establishment does not comply with the requirements of these regulations, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. When a permit is suspended, the food service operations shall immediately cease.

4.2.7. The Director may revoke a permit to operate for repeated or serious violations of any of the requirements of these regulations or for the interference with the Director in the performance of his duties.

4.2.8. Any person whose permit has been suspended or revoked may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a signed statement by the applicant that in his opinion the conditions causing the suspension of the permit have been corrected, the Director shall make a reinspection. If the applicant complies with the provisions of these regulations, the permit shall be reinstated.

4.2.9. Operational permits shall be posted within the food service establishment and said permit shall be readily available to the Director.

##### 4.3. Hearings, Notices and Orders

4.3.1. Any person whose application for a per-

mit to operate a food service establishment has been denied, or whose permit has been suspended or revoked may petition and shall be granted a hearing date on the matter within ten (10) days after the Director has received a written petition for such hearing.

4.3.2. The filing of a petition for a hearing on a permit denial, suspension, or revocation shall not stay or suspend the execution of the notice or order resulting in such permit denial, suspension, or revocation.

4.3.3. Hearings provided for in these regulations shall be conducted by the Director at a time and place designated by him.

4.3.4. Whenever the Director makes an inspection of a food service establishment and discovers that any of the provisions of these regulations have been violated, he shall notify the operator of such violations by means of an inspection report form or other written notice. Correction of the violations shall be accomplished within the time specified in the notice that is in accordance with the following provisions:

4.3.4.1. Whenever the Director finds at any food service establishment insanitary or other conditions that may constitute a potential threat to public health he may without notice or hearing issue a written order to the operator or person in charge citing the existence of such condition and requiring such action to be taken as he may deem necessary to remedy the condition, including the suspension of the permit to operate. Notwithstanding any other provision of these regulations, such order shall be effective immediately.

Any person for whom such order is directed shall comply therewith immediately, but upon written petition to the Director shall be afforded a hearing on the matter as set forth in Section 4 of these regulations.

4.3.4.2. When the rating score of the establishment is 90 or more, all violations of 1- or 2- point weighted items shall be corrected by the time of the next routine inspection.

4.3.4.3. When the rating score of the establishment is 80 but not more than 89, all violations of 1- or 2-point weighted items shall be corrected within a specific period of time not to exceed thirty (30) days

4.3.4.4. When the rating score of the establishment is at least 70 but not more than 79, all violations of 1- or 2-point weighted items shall be corrected within a specified period of time not to exceed ten (10) days.

4.3.4.5. All violations of 4- or 5-point weighted items shall be corrected within a specified period of time not to exceed ten (10) days following inspection.

4.3.4.6. When the rating score of the establishment is 69 or less, the permit shall be immediately suspended.

4.3.4.7. In the case of temporary food service establishments, all violations must be corrected within a specified period of time not to exceed 24 hours. Failure to comply with such notice shall result in immediate suspension of the permit.

4.3.5. The Director may examine food or collect samples of such food as often as he deems necessary for enforcement of these regulations. The Director may, upon written notice to the operator, place a hold order on any food which he believes in violation of any provision of these regulations. The Director shall tag, label, or otherwise identify any food subject to the hold order. Food subject to a hold order shall not be used, served, or removed from the establishment. The Director shall permit storage of the food under conditions specified in the hold order, unless storage is not without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall specify that a written request for a hearing may be filed with the Director within five (5) working days and that if no hearing is requested the food shall be destroyed under supervision of the Director. On the basis of evidence produced at the hearing, the Director may vacate the hold order or the owner or person in charge of the food may be directed by written order to destroy such food or render it unfit for human consumption.

#### 4.4. Inspection

4.4.1. Each food service establishment shall be inspected at least once each six months. The Director shall also make such additional inspections as he deems necessary to determine satisfactory compliance with the provisions of the regulations, or any orders, notices, instructions, or specifications issued pursuant thereto.

4.4.2. The State Director of Health shall have the authority to inspect or to have inspected any food service establishment in any county in the state, and to act through the county's board of health and prosecuting attorney in the enforcement of these regulations.

4.4.3. The inspection report shall be discussed with the person in charge of the establishment at the time of inspection and the inspection report shall be posted in a place designated by the Director.

#### §64-17-5. Food Supplies.

##### 5.1. Food Supplies

5.1.1. Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

5.1.2. Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the requirements of the West Virginia Board of Health Grade "A" Pasteurized Milk Regulations. Dry milk and dry milk products shall be made from Grade "A" pasteurized milk and milk products.

5.1.3. Fresh and frozen shucked shellfish (oysters, clams, mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, the kind and quality of shellstock, and the interstate certification number issued thereto. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used.

5.1.4. Only clean, whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used, except that commercially prepared and packaged, hard-boiled peeled eggs may be used.

##### 5.2. Food Protection

5.2.1. At all times, including while being stored, prepared, displayed, served or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and uten-

sils, unnecessary handling, coughs and sneezes, flooding and drainage, overhead leakage, and overhead drippage from condensation. The temperature of potentially hazardous food shall be 45 degrees F. or below or 140 degrees F. or above at all times, except as otherwise provided in the regulations.

5.2.2. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the operator or person-in-charge shall immediately contact the Director.

##### 5.3. Food Storage

5.3.1. Food, whether raw or prepared, shall be stored in the original container, or in a clean, covered container except during necessary periods of preparation and service. Containers and covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meats shall be protected by being covered in storage except that quarters or sides of meat may be hung uncovered on clean, sanitized hooks if no food product is stored beneath the meat.

5.3.2. Containers of food shall be stored a minimum of six (6) inches above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area, except that:

5.3.2.1. Metal pressurized pre-mix and post-mix beverage containers need not be elevated when the containers are not exposed to floor moisture.

5.3.2.2. Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.

5.3.3. Food and containers of food shall not be stored under exposed or unprotected sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

5.3.4. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

5.3.5. Packaged food shall not be stored in contact with water or undrained ice.

5.3.6. Unless its identity is unmistakable, bulk foods shall be stored in their original container or package or shall be stored in a container that identifies the food by common name.

5.3.7. Refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Such facilities storing potentially hazardous food shall be provided with a numerically scaled indicating or recording thermometer, accurate to plus or minus 2 degrees F, located so as to be easily readable and to measure the air temperature in the warmest part of the facility.

5.3.8. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45 degrees F. or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container. Potentially hazardous food to be transported shall be prechilled and held at a temperature of 45 degrees F. or below unless maintained at 140 degrees F. or above.

5.3.9. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use.

5.3.10. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head.

5.3.11. Hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, or recording thermometer accurate to plus or minus 2 degrees F, located so as to be easily readable and to measure the air temperature in the coolest part of the facility. Where it is impractical to install thermometers on equipment such as bain maries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal

food temperature.

5.3.12. The internal temperature of potentially hazardous foods requiring hot storage shall be 140 degrees F. or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140 degrees F. or above unless maintained at 45 degrees F. or below

#### 5.4. Food Preparation

5.4.1. Food shall be prepared with the least possible manual contact, with approved utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

5.4.2. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

5.4.3. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140 degrees F, except that:

5.4.3.1. Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 165 degrees F. with no interruption of the cooking process.

5.4.3.2. Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 degrees F. with no interruption of the cooking process.

5.4.4. Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

5.4.5. Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

5.4.6. Potentially hazardous foods that have been cooked and then refrigerated, shall be reheated rapidly to 165 degrees F. or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain maries, warmers, and similar hot food holding facilities are prohibited for use as a means for the rapid reheating of potentially hazardous foods.

5.4.7. Non-dairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered con-

tainers not exceeding one gallon in capacity and rapidly cooled to 45°F or below.

5.4.8. Metal stem-type numerically scaled indicating thermometers, accurate to plus or minus 2 degrees F, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

5.4.9. Potentially hazardous foods shall be thawed only:

5.4.9.1. In refrigerated units at a temperature not to exceed 45 degrees F; or

5.4.9.2. Under potable running water of a temperature of 70 degrees F. or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

5.4.9.3. In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

5.4.9.4. As part of the conventional cooking process.

## 5.5. Food Display and Service

### 5.5.1. Potentially Hazardous Foods

5.5.1.1. Potentially hazardous food shall be kept at an internal temperature of 45 degrees F. or below or 140 degrees F. or above during display and service.

### 5.5.2. Milk and Cream Dispensing

5.5.2.1. Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding 1 pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available, and portions of less than 1/2 pint are required for mixed drinks, cereals, or dessert service, milk and milk products may be poured from a commercially filled container of not more than 1/2 gallon capacity.

5.5.2.2. Cream, half and half or non-dairy creaming or whitening agents shall be provided in an individual service container, approved pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

### 5.5.3. Condiment Dispensing

5.5.3.1. Condiments, seasonings and dressings for self-service, table or counter service shall be provided in individual packages or from approved dispensers. Sugar for consumer use shall be provided in individual packages or in approved pour-type dispensers.

5.5.3.2. Condiments, seasonings and dressings for room service in health care facilities must be provided in individual packages.

### 5.5.4. Ice Dispensing

5.5.4.1. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic self-service ice-dispensing equipment. Ice dispensing utensils and ice transfer receptacles shall be stored clean and in a way that protects them from contamination. Wet storage of ice dispensing utensils is prohibited.

### 5.5.5. Dispensing Utensils

5.5.5.1. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

5.5.5.1.1. Stored in the food with the dispensing utensil handle extended out of the food; or

5.5.5.1.2. Stored clean and dry; or

5.5.5.1.3. Stored in running water; or

5.5.5.1.4. Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

### 5.5.6. Reservice

5.5.6.1. Once served to a consumer, portions

of leftover food shall not be served again except that single-service packaged food, still in unopened packages or sealed containers may be reserved.

#### 5.5.7. Display Equipment

5.5.7.1. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

#### 5.6. Food Transportation

5.6.1. During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original, individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of these regulations.

### §64-17-6. Personnel.

#### 6.1. Employee Health

6.1.1. No person, while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in any area of a food service establishment.

6.1.2. When the Director has cause to suspect possible disease transmission by an employee of a food service establishment, he may secure a morbidity history of that employee or make any other investigations as may be indicated. The Director may require any or all of the following measures:

6.1.2.1. The immediate exclusion of the employee from employment in food service establishments.

6.1.2.2. The immediate closure of the food service establishment concerned until the Director determines that no further danger of disease transmission exists.

6.1.2.3. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.

6.1.2.4. Medical and laboratory examination of the employee and of other employees and of his and their body discharges.

#### 6.2. Personal Cleanliness

6.2.1. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting to work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

#### 6.3. Clothing

6.3.1. The outer clothing of all employees shall be clean.

6.3.2. Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

#### 6.4. Employee Practices

6.4.1. Employees shall consume food only in approved designated dining areas.

6.4.2. Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in or near areas used for equipment or utensil washing or storage or for food preparation. Employees shall use tobacco only in approved, designated areas.

6.4.3. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while on duty.

### §64-17-7. Equipment and Utensils.

#### 7.1. Materials

7.1.1. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and

single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

#### 7.1.2. Solder

7.1.2.1. If solder is used, it shall be composed of safe materials and be corrosion resistant.

#### 7.1.3. Wood

7.1.3.1. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in Section 7.1.1 of these regulations may be used as a food contact surface. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons.

#### 7.1.4. Plastics and Rubber

7.1.4.1. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in Section 7.1.1 of these regulations, are permitted for repeated use.

#### 7.1.5. Mollusk and Crustacea Shells

7.1.5.1. Mollusk and crustacea shells may be used only once as a serving container. Further re-use of such shells for food service is prohibited.

#### 7.1.6. Single Service

7.1.6.1. Re-use of single service articles is prohibited.

### 7.2. Construction

7.2.1. All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping and crazing.

7.2.2. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if

the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.

7.2.3. Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricants cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

7.2.4. Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice. Provided, that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

7.2.5. Sinks and drainboards shall be self-draining.

7.2.6. Unless designed for in-place cleaning, food contact surfaces shall be accessible for cleaning and inspection:

7.2.6.1. Without being disassembled; or

7.2.6.2. By disassembling without the use of tools; or

7.2.6.3. By easily disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

### 7.3. In-Place Cleaning

7.3.1. Equipment intended for in-place cleaning shall be so designed and fabricated that:

7.3.1.1. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

7.3.1.2. Cleaning and sanitizing solutions will contact all interior food contact surfaces; and

7.3.1.3. The system is self-draining or capable of being completely evacuated.

#### 7.4. Pressure Spray Cleaning

7.4.1. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

#### 7.5. Non-Food-Contact Surfaces

7.5.1. Non-food-contact surfaces which are exposed to splash or food debris, or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

#### 7.6. Ventilation Hoods

7.6.1. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

#### 7.7. Existing Equipment

7.7.1. Equipment that was installed in a food service establishment prior to the effective date of these regulations, and that does not fully meet all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are non-toxic. Replacement equipment and new equipment acquired after the effective date of these regulations shall meet the requirements of these regulations.

#### 7.8. Equipment Installation and Location

7.8.1. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required.

#### 7.8.2. Table Mounted Equipment

7.8.2.1. Equipment, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

##### 7.8.2.2. Equipment is portable if:

7.8.2.2.1. It is small and light enough to be moved easily by one person; and

7.8.2.2.2. It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

#### 7.8.3. Floor-Mounted Equipment

7.8.3.1. Floor-mounted equipment, unless readily movable, shall be:

7.8.3.1.1. Sealed to the floor; or

7.8.3.1.2. Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

7.8.3.1.3. Elevated on legs to provide at least a 6-inch clearance between the floor and equipment.

##### 7.8.3.2. Equipment is easily movable if:

7.8.3.2.1. It is mounted on wheels or casters; and

7.8.3.2.2. It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

7.8.3.3. Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

#### 7.8.4. Aisles and Working Spaces

7.8.4.1. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

#### §64-17-8. Cleaning, Sanitization and Storage of Equipment and Utensils.

##### 8.1. Cleaning and Sanitization of Equipment and Utensils

###### 8.1.1. Cleaning and Sanitizing Frequency

8.1.1.1. Tableware shall be washed, rinsed and sanitized after each use.

8.1.1.2. To prevent cross-contamination, kitchen-ware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

8.1.1.3. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

8.1.1.4. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

8.1.1.5. Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

###### 8.1.2. Wiping Cloths

8.1.2.1. Cloths used for wiping food spills on tableware shall be clean, dry and used for no other purpose.

8.1.2.2. Moist cloths or sponges used for cleaning non-food-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

###### 8.1.3. Manual Cleaning and Sanitizing

8.1.3.1. For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

8.1.3.2. Drainboards or easily movable dish tables shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing, and shall be located so as not to interfere with the proper use of the dishwashing facilities.

8.1.3.3. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

8.1.3.4. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

8.1.3.4.1. Sinks shall be cleaned prior to use.

8.1.3.4.2. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

8.1.3.4.3. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

8.1.3.4.4. Equipment and utensils shall be

sanitized in the third compartment according to one of the methods included in Section 8.1.3.5 of these regulations.

8.1.3.5. The food contact surfaces of all equipment and utensils shall be sanitized by:

8.1.3.5.1. Immersion for at least one-half (1/2) minute in clean, hot water at a temperature of at least 170 degrees F; or

8.1.3.5.2. Immersion for at least one (1) minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75 degrees F; or

8.1.3.5.3. Immersion for at least one (1) minute in a clean solution containing at least 12.5 parts per million of available iodine at a temperature of at least 75 degrees F; or

8.1.3.5.4. Immersion in a clean solution containing any other approved chemical sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 degrees F. for one (1) minute; or

8.1.3.5.5. Treatment with culinary steam in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

8.1.3.5.6. Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under Section 8.1.3.5 of these regulations in the case of equipment too large to sanitize by immersion.

8.1.3.6. When hot water is used for sanitizing, the following facilities shall be provided and used:

8.1.3.6.1. An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink and capable of maintaining the water at a temperature of at least 170 degrees F; and

8.1.3.6.2. A numerically scaled indicating thermometer, accurate to plus or minus 2 degrees F, convenient to the sink for frequent checks of water temperature; and

8.1.3.6.3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water.

8.1.3.7. When chemicals are used for sanitization, an approved test kit that accurately measures the parts per million concentration of the solution shall be provided and used.

#### 8.1.4. Mechanical Cleaning and Sanitizing

8.1.4.1. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of approved machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

8.1.4.2. The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4 inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

8.1.4.3. Machine or water line mounted, numerically scaled indicating thermometers, accurate to plus or minus 2 degrees F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

8.1.4.4. Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

8.1.4.5. Drainboards shall be provided for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere

with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

8.1.4.6. Equipment and utensils shall be flushed or scraped and when necessary, soaked to remove food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

8.1.4.7. Single-tank, stationary-rack, door-type machines and spray-type glass washers using chemicals for sanitization may be used. Provided:

8.1.4.7.1. The temperature of the wash water shall not be less than 120 degrees F.

8.1.4.7.2. The wash water shall be kept clean.

8.1.4.7.3. Chemicals added for sanitization purposes shall be automatically dispensed.

8.1.4.7.4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with accepted manufacturers' specifications for time and concentration.

8.1.4.7.5. The chemical sanitizing rinse water temperature shall be not less than 75 degrees F.

8.1.4.7.6. Only approved chemical sanitizers shall be used.

8.1.4.7.7. An approved test kit that accurately measures the parts per million concentration of the solution shall be available and used.

8.1.4.8. Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the following stated temperatures: (Subsections 8.1.4.8.1 through 8.1.4.8.5 are found in Table 64-17A at the end of this regulation.

8.1.4.9. All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

#### 8.1.5. Drying

8.1.5.1. After sanitization, all equipment and utensils shall be air dried.

### 8.2. Equipment and Utensil Storage

#### 8.2.1. Handling

8.2.1.1. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

#### 8.2.2. Storage

8.2.2.1. Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law.

8.2.2.2. Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

#### 8.2.3. Single-Service Articles

8.2.3.1. Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be

required by law.

8.2.3.2. Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

8.2.3.3. Single-service knives, forks, spoons, straws and stirrers shall be individually wrapped or dispensed from an approved dispenser.

#### 8.2.4. Prohibited Storage Area

8.2.4.1. The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

### §64-17-9. Sanitary Facilities and Controls.

#### 9.1. Water Supply

9.1.1. Enough potable water for the needs of the food service establishment shall be provided from an approved source.

9.1.2. All potable water not provided directly by pipe to the food service establishment from the source shall be delivered in an approved bulk-water transport system and shall be delivered to an approved closed water system.

9.1.3. Bottled and packaged potable water shall be obtained from an approved source and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

9.1.4. Water under pressure shall be provided to all applicable fixtures and equipment that use water.

9.1.5. Only culinary steam shall be used in contact with food or food contact surfaces.

#### 9.2. Sewage Disposal

9.2.1. All sewage shall be disposed of in a public sewer system or, in the absence thereof, in a manner approved by the Director.

#### 9.3. Plumbing

9.3.1. Plumbing shall be sized, installed, and maintained in accordance with local plumbing codes

or, in the absence thereof, the National Plumbing Code.

9.3.2. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, and only if the system is properly installed and the non-potable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

9.3.3. Approved backflow prevention devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless an approved backflow prevention device is installed.

9.3.4. If used, grease traps shall be located to be easily accessible for cleaning.

9.3.5. Except for properly trapped open sinks, there shall be no direct connection between the sewer system and any drains originating from equipment which food, portable equipment, or utensils are placed, except that when a dishwashing or other enclosed water-filled machine is located within five (5) feet of a trapped floor drain, the waste outlet may be connected directly on the inlet side of a floor drain trap.

#### 9.4. Toilet Facilities

9.4.1. Each food service establishment shall provide for its employees approved and properly located toilet facilities in the number required by the Director. Toilet facilities shall be accessible to employees at all times.

9.4.2. In all new or extensively remodeled food service establishments having dining areas and/or curb service, approved toilet facilities for the public, for each sex, shall be provided in the number required by the Director, and shall be accessible at all times.

9.4.3. Toilet rooms shall not open to the outside of those establishments that have dining areas.

9.4.4. Toilets and urinals shall be designed to

be easily cleanable.

9.4.5. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors, which shall be closed except during cleaning or maintenance.

9.4.6. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

## 9.5. Lavatory Facilities

9.5.1. Easily accessible lavatories shall be provided in or within 20 feet of each food preparation, utensil washing, and food dispensing or serving area.

9.5.2. Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

9.5.3. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

9.5.4. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be located adjacent to each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

9.5.5. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

## 9.6. Garbage and Refuse

### 9.6.1. Containers

9.6.1.1. Garbage and refuse shall be kept in durable, leak-proof, non-absorbent, easily cleanable, insect-proof and rodent-proof containers. Plastic bags and wet-strength paper bags may be used to line these

containers, and they may be used for storage inside the food service establishment.

9.6.1.2. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled and during periods the establishment is closed.

9.6.1.3. Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

9.6.1.4. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

9.6.1.5. Soiled containers, dumpsters, compactors and compactor systems shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

### 9.6.2. Storage

9.6.2.1. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or bailed units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

9.6.2.2. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, non-absorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

9.6.2.3. Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and com-

pactor systems located outside shall be stored on metal racks or on a smooth surface of non-absorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

### 9.6.3. Disposal

9.6.3.1. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects or rodents.

9.6.3.2. Where garbage or refuse is burned on the premises, it shall be done by incineration that is approved by the Director and the West Virginia Air Pollution Control Commission. Areas around incineration facilities shall be clean and orderly.

### 9.7. Insect and Rodent Control

9.7.1. Effective measures shall be used to minimize the presence of rodents, flies, cockroaches, and other insects on the premises. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

9.7.2. Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, or other means acceptable to the Director. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.

## §64-17-10. Construction and Maintenance of Physical Facilities.

### 10.1. Floors

10.1.1. Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigeration units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons provided it does not interfere with floor

cleaning.

10.1.2. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing and utensil-washing areas, in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

10.1.3. The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

10.1.4. Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

10.1.5. Mats and duckboards shall be of non-absorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

10.1.6. In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water-flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than 1/32 inch.

10.1.7. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

### 10.2. Walls and Ceilings

10.2.1. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

10.2.2. The walls, including non-supporting partitions, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, equip-

ment- washing and utensil-washing areas, toilet rooms and vestibules shall be light colored, smooth, non-absorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

10.2.3. Studs, joists, and rafters shall not be exposed in walk-in refrigeration units, food preparation areas, and equipment and utensil- washing areas. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

10.2.4. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigeration units, food preparation areas, equipment- washing and utensil-washing areas, toilet rooms and vestibules.

10.2.5. Light fixtures, vent covers, wall- mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be kept clean and in good repair.

10.2.6. Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

### 10.3. Cleaning Physical Facilities

10.3.1. Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after cooking or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of brooms and dust-arresting sweeping compounds.

10.3.2. In new or extensively remodeled establishments, at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools, and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil or equipment washing, or food preparation sinks for this purpose is prohibited.

### 10.4. Lighting

10.4.1. Permanently fixed artificial light sources shall be installed to provide at least 20 footcandles of light on all food preparation surfaces and at equipment or utensil-washing levels.

10.4.2. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:

10.4.2.1. At least 20 footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas; and

10.4.2.2. At least 10 footcandles of light in walk-in refrigeration units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

10.4.3. Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over or within food preparation, service, and display facilities, facilities where utensils and equipment are cleaned and stored, or other areas where food may be open and/or unprotected.

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

### 10.5. Ventilation

10.5.1. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems, when vented to the outside, shall not create a nuisance or public health hazard.

10.5.2. Intake and exhaust air ducts shall be located and maintained to prevent the entrance of dust, dirt and other contaminating materials.

10.5.3. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

### 10.6. Dressing Rooms and Lockers

10.6.1. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated

rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

10.6.2. Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

#### 10.7. Poisonous Materials

10.7.1. There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

10.7.2. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

10.7.3. Poisonous or toxic materials consist of the following categories:

10.7.3.1. Detergents, sanitizers, and related cleaning or drying agents;

10.7.3.2. Caustics, acids, polishes, insecticides, rodenticides, and other similar chemicals.

10.7.4. Each of the two categories set forth in the above section shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

10.7.5. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

10.7.6. Personal medications and first-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

#### 10.8. Premises

10.8.1. Food service establishments and all parts of property used in connection with their operation shall be kept free of litter.

10.8.2. The walking and driving surfaces of all exterior areas of food service establishments shall be graded to prevent pooling of water and be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust.

10.8.3. Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.

10.8.4. The traffic of unauthorized and unnecessary persons through the food-preparation and utensil-washing areas is prohibited.

10.8.5. Food service establishment operations shall not be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

#### 10.9. Laundry Facilities

10.9.1. Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

10.9.2. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

#### 10.10. Linens and Clothes Storage

10.10.1. Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

10.10.2. Soiled clothes and linens shall be stored in non-absorbent containers or washable laundry bags until removed for laundering.

#### 10.11. Cleaning Equipment Storage

10.11.1. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment or linens.

#### 10.12. Animals

10.12.1. Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the operator. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons, may be permitted in dining areas.

### §64-17-11. Mobile Food Units or Pushcarts.

#### 11.1. Mobile Food Service

11.1.1. Mobile food units or pushcarts shall comply with the requirements of this chapter, except as otherwise provided in this paragraph and in Section 11.1.2 of these regulations. The Director may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this chapter relating to physical facilities.

11.1.2. Mobile food units or pushcarts serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of these regulations, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of these regulations pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the commissary.

11.1.3. Mobile food units or pushcarts shall provide only single-service articles for use by the consumer.

11.1.4. A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to

furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing and handwashing, in accordance with the requirements of these regulations. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of these regulations.

11.1.5. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

#### 11.2. Commissary

##### 11.2.1. Base of Operations

11.2.1.1. Mobile food units or pushcarts shall operate from a commissary or other fixed food service establishment and shall be returned at least daily to such location for all supplies and for all cleaning and servicing operations.

11.2.1.2. The commissary or other fixed food service establishment used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of these regulations.

##### 11.2.2. Servicing Area

11.2.2.1. A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be

required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.

11.2.2.2. The surface of the servicing area shall be constructed of a smooth, non-absorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

### 11.2.3. Servicing Operations

11.2.3.1. Approved potable water servicing equipment shall be installed and shall be stored and handled in a way that protects the water and equipment from contamination.

11.2.3.2. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system.

## §64-17-12. Temporary Food Service Establishments.

### 12.1. Unrestricted Establishment (Menu not Restricted)

12.1.1. Must meet all of the requirements of the West Virginia Food Service Sanitation Regulations.

### 12.2. Restricted Establishments

12.2.1. The preparation of cream-filled pastries, custards, and similar products is prohibited.

12.2.2. The preparation of meat, poultry and fish in the form of sandwiches and salads is prohibited. This does not preclude the preparation of hamburgers, frankfurters, and other food which, prior to service, requires only limited preparation.

12.2.3. Potentially hazardous food which is obtained in individual servings and is stored at safe temperatures may be permitted to be served directly to the customer in the original, unopened, individual container in which it was packaged.

### 12.3. Food Supply

12.3.1. Food in the food service establishment must be from approved sources.

12.3.2. All food must be clean, wholesome, free from spoilage, adulteration and misbranding.

12.3.3. Potentially hazardous food, excluding hamburger, frankfurters or food requiring limited preparation, must be purchased and served in the original, individual container.

12.3.4. Pre-packaged individual coffee creamers or individual packets of powdered coffee whiteners that are properly stored and handled are the only types approved for use.

12.3.5. Home-canned or home-processed food is prohibited.

### 12.4. Food Protection

12.4.1. Food must be protected from contamination while being stored, prepared, displayed, served or sold.

12.4.2. Food must be received in such a manner as to prevent any contamination.

12.4.3. Food contact surfaces of equipment must be protected from dust, flies, patrons, coughs and sneezes, overhead leakage, or other forms of contamination.

12.4.4. Approved facilities must be provided for maintaining potentially hazardous food at safe temperatures.

12.4.5. Ice must be obtained from an approved source in chipped, crushed or cubed form.

12.4.6. Ice must be obtained in approved, closed, single-service containers.

12.4.7. Ice used in beverages must be dispensed by use of a scoop or an approved automatic dispensing unit.

12.4.8. Styrofoam or similar type porous containers are not approved for ice storage unless such container is lined with a clean, sanitary food grade plastic liner.

### 12.5. Health

12.5.1. Employees must thoroughly wash their hands before starting work and as often as may be

necessary to remove soil and contamination.

12.5.2. No employee shall resume work after visiting the toilet room without first washing his hands.

12.5.3. Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

12.5.4. Employees must not use tobacco in any form while engaged in food preparation and service or while in any area where food is prepared or utensils are washed and sanitized.

12.5.5. Employees must maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods.

#### 12.6. Equipment and Utensils

12.6.1. Equipment and utensils must be in good repair, free from cracks, chips, pits, open seams and corrosion.

12.6.2. Equipment and utensils must be constructed, located and installed so as to be smooth and easily cleanable.

12.6.3. The use of enamelware and graniteware is prohibited.

12.6.4. Kitchenware and food contact surfaces of equipment must be thoroughly cleaned to sight and touch after each usage.

12.6.5. The cooking surfaces of grills, griddles and similar cooking devices must be cleaned daily or more often if needed.

12.6.6. Non-food contact surfaces of equipment must be cleaned at a necessary frequency to prevent the accumulation of dirt, dust, food particles and other debris.

12.6.7. Kitchenware and food contact surfaces of equipment used for potentially hazardous food must be sanitized prior to such use.

12.6.8. Single-service cups must be dispensed from approved dispensers.

12.6.9. Single-service straws, eating utensils,

and stirrers must be of the individually wrapped type.

#### 12.7. Sanitary Facilities

12.7.1. A potable supply of water, under pressure, must be provided for cleaning and handwashing.

12.7.2. All plastic water lines must bear the National Sanitation Foundation (NSF) seal or be of equivalent standards.

12.7.3. The use of plastic or rubber garden hose for water piping is prohibited.

12.7.4. Hot and cold water, under pressure, must be provided in areas where food is prepared and where equipment and utensils are washed.

12.7.5. Auxiliary heating facilities capable of producing an ample supply of hot water must be provided.

12.7.6. Handwashing facilities must be provided. Such facilities in a restricted establishment may consist of a pan, water, soap and individual paper towels.

12.7.7. The potable water supply piping must not be directly connected with any non-potable water supply system.

12.7.8. Approved and adequate toilet facilities must be provided and conveniently located to the establishment.

#### 12.8. Other Facilities

12.8.1. Walls and ceilings must be so constructed so as to minimize the entrance of vermin, dust and rodents.

12.8.2. Ceilings may be constructed of wood, canvas or other materials which protect the interior of the establishment from the elements.

12.8.3. Walls may be constructed of such materials or of 16 mesh screening or equivalent.

12.8.4. Floors must be of tight wood, asphalt or other cleanable material. Dirt floors are prohibited.

12.8.5. All floors, walls and ceilings must be kept clean.

12.8.6. At least 20 footcandles of natural and/or artificial light must be provided on all working surfaces.

12.8.7. Effective ventilation to the outside air must be provided for rooms and equipment where needed.

12.8.8. The establishment and its surroundings must be kept clean, neat and free of litter and rubbish.

12.8.9. No live animals or birds are permitted in establishments. Provided, that guide dogs accompanying blind persons or police patrol dogs accompanying officers may be permitted in dining area.

## 12.9. Vermin Control

12.9.1. Counter openings must be effectively screened or the openings protected by effective fans.

12.9.2. Where fans are used for this purpose, the size of the openings shall be so limited that the fans employed will effectively prevent the entrance of flies and other insects.

## 12.10. Waste Handling

12.10.1. Liquid waste which is not discharged into a sewage system must be disposed of in such a manner as not to create a public health hazard or nuisance.

12.10.2. All garbage and rubbish must be stored in durable metal or plastic containers not exceeding 30 gallon capacity.

12.10.3. Containers must be covered with tight-fitting lids when not in continuous use.

12.10.4. Single-service plastic or heavy duty paper liners must be used in all garbage and rubbish containers.

12.10.5. Solid waste must be disposed of in a manner approved by the health authority.

## §64-17-13. Vending of Food and Beverages.

### 13.1. Food

13.1.1. Food exposed for sale, offered for sale, sold through vending machines and offered to patrons

of vending machines shall be sound and free from spoilage, filth, or other contamination and shall be safe for human consumption. The food shall be obtained from approved sources. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

13.1.2. At all times, including while being prepared, stored, loaded, displayed, or transported, food intended for sale through vending machines shall be protected from all forms of contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs, sneezes, flooding, draining, and overhead leakage or condensation.

13.1.3. The temperature of potentially hazardous foods shall be 45 degrees F. or below or 140 degrees F. or above at all times.

13.1.4. Milk and fluid milk products offered for sale through vending machines shall be pasteurized and shall be dispensed only in individual, original containers.

13.1.5. Milk and fluid milk products and fluid non-dairy products (creaming agents) shall not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

13.1.6. When condiments are provided in conjunction with food dispensed by a vending machine, they shall be:

13.1.6.1. Packaged in individual portions in single-service containers; or

13.1.6.2. Dispensed from approved dispensers which are cleaned, rinsed and sanitized and filled at the commissary or at the machine location if sanitary facilities are provided; or

13.1.6.3. Made available from condiment self-service dispensing equipment at those locations having an on-duty attendant.

13.1.7. Fresh fruits which may be eaten without peeling shall be thoroughly washed in potable water at the packing plant by the processor, or at the commissary before being placed in the vending machines for dispensing. The washed fruit shall be protected from contamination after the washing process.

13.1.8. All food, other than fresh fruit, shall be

stored or packaged in clean protective containers, and all food shall be handled and vended in a sanitary manner.

13.1.9. Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual, original container or wrapper into which it was placed at the commissary or at the manufacturing or processing plant. Potentially hazardous food shall not be dispensed from bulk supplies.

13.1.10. Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units and thermostatic controls which insure the maintenance of safe temperatures at all times. Such vending machines shall have automatic controls which prevent the machine from vending potentially hazardous food until serviced by the operator in the event of power failure, mechanical failure or other condition which results in non-compliance with temperature requirements in the food storage compartment.

13.1.11. Potentially hazardous food which has failed to conform to the time-temperature requirements of these regulations shall be removed from the vending machine, and be destroyed or otherwise rendered unfit for human consumption.

13.1.12. Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to an accuracy of plus or minus 2 degrees F, indicate the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

13.1.13. There shall be no direct contact by multiuse containers or parts of vending machines with potentially hazardous food. All parts of vending machines which come into direct contact with non-potentially hazardous food shall be thoroughly cleaned, rinsed and sanitized at a frequency established by the Director and based upon the type of product being dispensed.

### 13.2. Personnel

13.2.1. No person, while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected

wound, or an acute respiratory infection, shall work in any area of a commissary or vending operation except as specified by the Director.

13.2.2. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while engaged in handling foods or food-contact surfaces of utensils or equipment.

### 13.3. Equipment and Utensils

#### 13.3.1. Interior Construction and Maintenance

13.3.1.1. The non-food-contact surfaces of the interior of vending machines shall be designed and constructed to permit easy cleaning and to facilitate maintenance operations and shall be kept clean and in good repair.

13.3.1.2. All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped places. The design of such surfaces shall preclude routine contact between food and "V" type threaded surfaces except that in equipment where such contact is unavoidable, such as ice makers, such threads shall be minimized. All joints and welds in food-contact surfaces shall be smooth, and all internal angles and corners of the surfaces shall be rounded to facilitate cleaning.

13.3.1.3. If solder is used, it shall be composed of safe materials and be corrosion resistant.

13.3.1.4. All food-contact surfaces of vending machines, including containers, pipes, valves and fittings, shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant, non-absorbent, easily cleanable and durable under conditions of normal use and shall be cleaned, rinsed and sanitized at a frequency established by the Director based upon the type of product being dispensed.

13.3.1.5. All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning, rinsing, sanitizing and inspection:

13.3.1.5.1. Without being disassembled; or

13.3.1.5.2. By disassembly without the use of tools; or

13.3.1.5.3. By easy disassembling with the use of only simple tools such as a screwdriver or an open-end wrench.

13.3.1.6. In machines designed so that food-contact surfaces are not readily removable, all such surfaces intended for in-place cleaning shall be designed and fabricated that:

13.3.1.6.1. Cleaning and sanitizing solutions can be circulated through out a fixed system using an effective cleaning and sanitizing regimen; and

13.3.1.6.2. Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

13.3.1.6.3. The system is self-draining or capable of being completely evacuated; and

13.3.1.6.4. The procedures utilized result in thorough cleaning of the equipment.

13.3.1.7. The openings into all non-pressurized containers used for the storage of vendable food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash is possible. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least 3/16 inch, and shall be provided with an overlapping cover flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment rotary shafts, and other functional parts extending into the food container unless a water-tight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of safe materials, relatively stable, and relatively non-absorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.

13.3.1.8. The delivery tube or chute and orifice of all bulk food vending machines shall be protected from normal manual contact, dust, insects, rodents, and other contamination. The design shall divert condensation or moisture from the normal filling position of the container receiving the food. The vending stage of such machines shall be provided with a

tight-fitting, self-closing door or cover which is kept closed except when food is being removed. The cup filling area or platform of controlled location vending machines shall not require a door or cover if there is no opening into the cabinet interior at that point other than for dispensing tube(s) or trapped waste tubing. The dispensing compartment of prepackaged candy and similar product vending machines shall be equipped with a self-closing lid at vending locations where insect or rodent entry into the machine may occur.

13.3.1.9. The food storage compartment and other compartments in refrigerated vending machines which are subject to condensation or cooling water retention shall be self-draining or equipped with a drain outlet which permits complete draining. In vending machines designed to store cartoned beverages, diversion devices and retention pans shall be easily cleanable.

13.3.1.10. Opening devices which come into contact with the food or the food-contact surfaces of the containers shall be constructed of corrosion resistant, non-absorbent, and safe materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multiuse opening devices which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

### 13.3.2. Exterior Construction and Maintenance

13.3.2.1. The vending machine shall be of sturdy construction and the exterior shall be designed, fabricated, finished and maintained to facilitate its being kept clean, and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.

13.3.2.2. Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting and, if necessary, gasketed to prevent the entrance of dust, moisture, insects and rodents.

13.3.2.3. All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less

than 16 mesh to the inch or equivalent. Screening material for openings into condenser units which are separated from food and container storage spaces shall be not less than 8 mesh to the inch or equivalent.

13.3.2.4. In all vending machines in which the condenser unit is an integral part of the machine, such unit, when located below the food and container storage space, shall be separated from such space by a dust-proof barrier and, when located above, shall be sealed from such space.

13.3.2.5. In order to prevent seepage underneath the machine and to promote cleaning, free-standing vending machines shall have one or more of these elevation or movability features:

13.3.2.5.1. Be light enough to be manually moved with ease by one person; or

13.3.2.5.2. Be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of at least six (6) inches under the machine; or

13.3.2.5.3. Mounted on rollers or casters which permit easy movement; or

13.3.2.5.4. Be sealed to the floor.

13.3.2.6. Kickplates, where used, shall be easily removable or be capable of being rotated. Counter-type machines shall be:

13.3.2.6.1. Sealed to the counter; or

13.3.2.6.2. Mounted on 4-inch legs or the equivalent; or

13.3.2.6.3. Easily moved for cleaning with service connections in place.

13.3.2.7. All service connections through an exterior wall of the machine including water, gas, electrical, and refrigeration connections shall be grommeted, or closed to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food shall be such as to discourage their unauthorized or unintentional disconnection.

### 13.3.3. Equipment Location

13.3.3.1. Vending machines, ovens and other equipment shall be located in a room, area or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from non-potable water, waste or sewer piping. The immediate area in which the equipment is located shall be well lighted and ventilated. Each vending machine shall be located so that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

13.3.3.2. The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

13.3.3.3. Adequate handwashing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to the machine location and shall be available for use by employees servicing or loading bulk food machines.

### 13.4. Single-Service Articles

13.4.1. Single-service articles shall be purchased in sanitary packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be furnished to the customer in the original individual wrapper or from a sanitary bulk dispenser. All single-service articles shall be protected from manual contact, dust, insects, rodents, and other contamination.

### 13.5. Other Equipment

13.5.1. All other equipment at the vending location must be kept clean. Food-contact surfaces, if any, must be cleaned, rinsed and sanitized at a frequency established by the Director based upon the type of product being dispensed.

13.5.2. The cavities and door edges of microwave ovens must be cleaned at least once a day and shall be kept free of encrusted grease deposits and other accumulated soil. All microwave ovens must be in compliance with safety standards of the U. S. Food and Drug Administration's Bureau of Radiological Health.

13.5.3. Food-contact surfaces of all equipment and utensils must be protected from contamination at all times including while being transported from the commissary to the vending location.

13.5.4. A record of cleaning operations shall be maintained by the operator. It shall be located in each machine or shall be made available at the time of inspection and shall be current for at least the past thirty (30) days.

## 13.6. Sanitary Facilities

### 13.6.1. Water Supply

13.6.1.1. All water used in vending machines shall be of a safe and sanitary quality and from an approved source. Water used as a food ingredient shall be piped to the vending machine under pressure.

13.6.1.2. If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.

13.6.1.3. To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines which are designed with an incoming water supply air gap shall have no copper tubing or other potentially toxic water system tubing between the air gap and the downstream, carbonated water dispensing nozzle.

13.6.1.4. To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines which are directly connected to the external water supply system shall be equipped with a double (or two single) check valves and a vented valve or similar backflow preventer immediately upstream from the carbonator, with no copper tubing or other potentially toxic tubing or contact surfaces in or downstream from the check and vented valves.

13.6.1.5. Where check valves are used to prevent the backflow of carbon dioxide into accessible upstream copper or other potentially toxic piping or tubing, a screen of not less than 100 mesh to the inch shall be installed in the water line immediately upstream from the check valves in a location which permits servicing or replacement.

13.6.1.6. In all vending machines in which carbon dioxide is used as a propellant, all food-contact surfaces from the check valves or other protective devices, including the valves or devices, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

### 13.6.2. Waste Disposal

13.6.2.1. All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be properly disposed of.

13.6.2.2. Self-closing, leak-proof, easily cleanable, insect-proof and rodent-proof waste receptacles shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other items. Plastic bags and wet-strength paper bags must be used to line the receptacles. Soiled waste receptacles shall be cleaned at a frequency to prevent insect and rodent attraction.

Waste receptacles shall not be located within the vending machines with the exception of those machines dispensing only packaged food with crown closures. Waste receptacles shall not be located under counters or otherwise enclosed in a manner that will create a nuisance or prevent space around and under the counter or enclosure from being easily cleaned and maintained. Suitable racks or cases shall be provided for multiuse containers or bottles.

13.6.2.3. Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. Such machines shall be equipped with an automatic shut-off device at the waste pail, or other devices or valves which will place the machine out of operation before the waste pail overflows and prevent water or liquid product from continuously running in the event of the failure of any single control, high level control, or other flow control device in the liquid product or water system, except that, controlled location vending machines not connected to water supply system and which generate no internal liquid wastes, may be equipped with easily removable drip pans at the dispensing platform in lieu of internal waste containers and automatic shut-off devices.

Containers or surfaces on which such wastes may accumulate shall be easily removable for clean-

ing, shall be easily cleanable, and shall be corrosion resistant. If liquid wastes from drip, spillage, or overflow, which originate within the machine are discharged into a sewerage system, the connection to the sewer shall be through an air gap.

**§64-17-14. Repeal of Former Regulations.**

14.1. All regulations, previously adopted by the State Board of Health, which are in conflict with the provisions of these regulations are hereby repealed.

**§64-17-15. Severability.**

If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions

or the application of these rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.

**§64-17-16. Penalty for Violating Provisions of Regulations.**

16.1. Any person who violates any provision of these regulations shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than \$200, or by imprisonment for not more than thirty (30) days, or both fine and imprisonment.

16.2. Each day's failure to comply with any applicable provision of these regulations shall constitute a separate offense.

TABLE 64-17A

8.1.4.8.1. Single-tank, stationary-rack,  
dual-temperature machine:

wash temperature-----150 degrees F  
final rinse temperature (rinse manifold)----180 degrees F  
final rinse temperature (utensil surface)---165 degrees F

8.1.4.8.2. Single-tank, stationary-rack,  
single-temperature machine:

wash temperature-----165 degrees F  
final rinse temperature (rinse manifold)----165 degrees F  
final rinse temperature (utensil surface)---165 degrees F

8.1.4.8.3. Single-tank, conveyor machine:

wash temperature-----160 degrees F  
final rinse temperature (rinse manifold)----180 degrees F  
final rinse temperature (utensil surface)---165 degrees F

8.1.4.8.4. Multi-tank, conveyor machine:

wash temperature-----150 degrees F  
pumped rinse temperature-----160 degrees F  
final rinse temperature (rinse manifold)----180 degrees F  
final rinse temperature (utensil surface)---165 degrees F

8.1.4.8.5. Single-tank, pot and pan washer  
(either stationary or moving-rack):

wash temperature-----140 degrees F  
final rinse temperature (rinse manifold)----180 degrees F  
final rinse temperature (utensil surface)---165 degrees F

WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Food Service Sanitation Rules

Chapter 16-1  
Series XVII  
(1983)

WEST VIRGINIA LEGISLATIVE RULES  
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WEST VIRGINIA LEGISLATIVE RULES  
BOARD OF HEALTH

Chapter 16-1  
Series 17  
(1983)

Subject: Food Service Sanitation Rules

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Section 1. General

1.1. Scope - These legislative rules establish the minimum requirements of the West Virginia board of health governing the construction and operation of food service establishments.

1.2. Authority - These legislative rules are issued under the authority of and are related to Chapter 16, Article 1, Section 7 of the West Virginia Code of 1931, as amended.

1.3. Filing Date - These legislative rules were filed on the 13th day of June 1980 in the Secretary of State's office.

1.4. Effective Date - These legislative rules became effective on the 1st day of August 1980.

1.5. Refiling Date - These legislative rules were refiled pursuant to Chapter 29A, Article 2, Section 5 of the West Virginia Code of 1931, as amended on the 30th day of December 1982, in the Secretary of State's office.

Section 2. Application and Enforcement

2.1. Application - These legislative rules apply to owners or operators of food service establishment.

2.2. Enforcement - The enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 3. Definitions

3.1. Approved - A procedure of operation, installation or construction which is in accordance with the standards, specifications, or instructions established by the Director.

3.2. Commissary - A catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored. The term does not include private homes where food is prepared and served for individual family consumption.

3.3. Construct - The term construct shall be construed to mean and include the terms install, extend, establish, alter and modify.

3.4. Corrosion-Resistant Materials - Those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

3.5. Delicatesses - Any establishment where primarily specialty food items, i.e., meats, fish, poultry, salads, cheeses, and other table delicacies, are prepared, sold or offered for sale to the public.

3.6. Director - The chief executive, administrative, and fiscal officer of the State Department of Health or his designee.

3.7. Easily Cleanable - Surfaces that are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

3.8. Employee - The permit holder, individuals having supervisory or management duties and any other person working in a food service establishment.

3.9. Equipment - Stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dish-washing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

3.10. Food - Any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

3.11. Food-Contact Surface - Those surfaces of equipment and utensils with which food comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

3.12. Food Service Establishment - Any fixed or mobile restaurant; coffee shop; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; delicatessen; nightclub; roadside stand; industrial feeding establishment; private, public, or non-profit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

The term does not include food processing or manufacturing plants.

This definition is not intended to apply to those vending machines that dispense non-potentially hazardous food that has been prepackaged by the manufacturer or processor.

3.13. Health Officer - The executive officer of the local board of

health or his duly authorized representative.

3.14. Hermetically Sealed Container - A container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

3.15. Kitchenware - All multi-use utensils other than tableware.

3.16. Law - Federal, state and local statutes, ordinances and regulations.

3.17. Mobile Food Unit - A vehicle-mounted food service establishment designed to be readily movable.

3.18. Operator - A person who is in charge of a food service establishment.

3.19. Packaged - Bottled, canned, cartoned, or securely wrapped.

3.20. Permit - A written document issued by the Director giving a designated person permission to construct a specific food service establishment or to operate a specific food service establishment.

3.21. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency or any other entity recognized by law.

3.22. Person-In-Charge - The individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person-in-charge.

3.23. Potentially Hazardous Food - Any food that consists in whole or part of milk or milk products, eggs, meat, poultry, fish, shellfish,

edible crustacea, or other ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odorfree shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.

3.24. Pushcart - A non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperature, limited to the preparation and serving of frankfurters or other sandwiches requiring limited preparation.

3.25. Reconstituted - Dehydrated food products recombined with water or other liquids.

3.26. Safe Materials - Articles manufactured from or composed of materials that may or may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

3.27. Sanitization - Effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

3.28. Sealed - Free of cracks or other openings that permit the entry or passage of moisture.

3.29. Single-Service Articles - Cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.

3.30. Tableware - Multi-use eating and drinking utensils.

3.31. Temporary Food Service Establishment - A food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

3.32. Utensil - Any implement used in the storage, preparation, transportation, or service of food.

#### Section 4. Permits, Hearings, Notices, Orders and Inspections

##### 4.1. Construction and Modification

4.1.1. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Director for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.

4.1.2. Whenever plans and specifications are required to be submitted to the Director, the Director shall inspect the food service establishment prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this regulation.

##### 4.2. Permit to Operate

4.2.1. No person shall operate a food service establishment within

the State of West Virginia who does not possess a valid permit issued to him by the Director.

4.2.2. An application for a permit to operate a food service establishment shall be made in writing to the Director on a form prescribed by the State Department of Health and signed by the applicant or his authorized representative.

4.2.3. Prior to approving the application for a permit, the Director shall inspect the proposed food service establishment to determine compliance with this regulation. Only persons who comply with the applicable provisions of these regulations shall be entitled to retain a permit.

4.2.4. Food service establishments in operation at the time these regulations became effective, and meeting all applicable prior regulations, shall be deemed to be eligible for a permit to operate. Provided, that any construction taking place after the effective date of these regulations shall be in compliance with these regulations. Only persons who comply with the applicable provisions of these regulations shall be entitled to retain a permit.

4.2.5. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.2.6. The Director may without warning, notice, or hearing suspend a permit to operate a food service establishment if the holder of the permit does not comply with the requirements of these regulations, or if the operation of the establishment does not comply with the requirements of these regulations, or if the operation of the food service establishment

otherwise constitutes a substantial hazard to public health. When a permit is suspended, the food service operations shall immediately cease.

4.2.7. The Director may revoke a permit to operate for repeated or serious violations of any of the requirements of these regulations or for the interference with the Director in the performance of his duties.

4.2.8. Any person whose permit has been suspended or revoked may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a signed statement by the applicant that in his opinion the conditions causing the suspension of the permit have been corrected, the Director shall make a reinspection. If the applicant complies with the provisions of these regulations, the permit shall be reinstated.

4.2.9. Operational permits shall be posted within the food service establishment and said permit shall be readily available to the Director.

#### 4.3. Hearings, Notices and Orders

4.3.1. Any person whose application for a permit to operate a food service establishment has been denied, or whose permit has been suspended or revoked may petition and shall be granted a hearing date on the matter within ten (10) days after the Director has received a written petition for such hearing.

4.3.2. The filing of a petition for a hearing on a permit denial, suspension, or revocation shall not stay or suspend the execution of the notice or order resulting in such permit denial, suspension, or revocation.

4.3.3. Hearings provided for in these regulations shall be conducted by the Director at a time and place designated by him.

4.3.4. Whenever the Director makes an inspection of a food service establishment and discovers that any of the provisions of these regulations have been violated, he shall notify the operator of such violations by means of an inspection report form or other written notice. Correction of the violations shall be accomplished within the time specified in the notice that is in accordance with the following provisions:

4.3.4.1. Whenever the Director finds at any food service establishment insanitary or other conditions that may constitute a potential threat to public health he may without notice or hearing issue a written order to the operator or person in charge citing the existence of such condition and requiring such action to be taken as he may deem necessary to remedy the condition, including the suspension of the permit to operate. Notwithstanding any other provision of these regulations, such order shall be effective immediately.

Any person for whom such order is directed shall comply therewith immediately, but upon written petition to the Director shall be afforded a hearing on the matter as set forth in Section 4 of these regulations.

4.3.4.2. When the rating score of the establishment is 90 or more, all violations of 1- or 2-point weighted items shall be corrected by the time of the next routine inspection.

4.3.4.3. When the rating score of the establishment is 80 but not more than 89, all violations of 1- or 2-point weighted items shall be corrected within a specific period of time not to exceed thirty (30) days.

4.3.4.4. When the rating score of the establishment is at least 70 but not more than 79, all violations of 1- or 2-point weighted items shall be

corrected within a specified period of time not to exceed ten (10) days.

4.3.4.5. All violations of 4- or 5-point weighted items shall be corrected within a specified period of time not to exceed ten (10) days following inspection.

4.3.4.6. When the rating score of the establishment is 69 or less, the permit shall be immediately suspended.

4.3.4.7. In the case of temporary food service establishments, all violations must be corrected within a specified period of time not to exceed 24 hours. Failure to comply with such notice shall result in immediate suspension of the permit.

4.3.5. The Director may examine food or collect samples of such food as often as he deems necessary for enforcement of these regulations. The Director may, upon written notice to the operator, place a hold order on any food which he believes in violation of any provision of these regulations. The Director shall tag, label, or otherwise identify any food subject to the hold order. Food subject to a hold order shall not be used, served, or removed from the establishment. The Director shall permit storage of the food under conditions specified in the hold order, unless storage is not without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall specify that a written request for a hearing may be filed with the Director within five (5) working days and that if no hearing is requested the food shall be destroyed under supervision of the Director. On the basis of evidence produced at the hearing, the Director may vacate the hold order or the owner or person in charge of the food may be directed by written

order to destroy such food or render it unfit for human consumption.

4.4. Inspection

4.4.1. Each food service establishment shall be inspected at least once each six months. The Director shall also make such additional inspections as he deems necessary to determine satisfactory compliance with the provisions of the regulations, or any orders, notices, instructions, or specifications issued pursuant thereto.

4.4.2. The State Director of Health shall have the authority to inspect or to have inspected any food service establishment in any county in the state, and to act through the county's board of health and prosecuting attorney in the enforcement of these regulations.

4.4.3. The inspection report shall be discussed with the person in charge of the establishment at the time of inspection and the inspection report shall be posted in a place designated by the Director.

Section 5. Food

5.1. Food Supplies

5.1.1. Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

5.1.2. Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the requirements of the West Virginia Board of Health Grade "A" Pasteurized Milk Regulations. Dry milk and dry milk products shall be made from Grade "A" pasteurized milk and milk products.

5.1.3. Fresh and frozen shucked shellfish (oysters, clams, mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, the kind and quality of shellstock, and the interstate certification number issued thereto. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used.

5.1.4. Only clean, whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used, except that commercially prepared and packaged, hard-boiled peeled eggs may be used.

## 5.2. Food Protection

5.2.1. At all times, including while being stored, prepared, displayed, served or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding and drainage, overhead leakage, and overhead drippage from condensation. The temperature of potentially hazardous food shall be 45°F or below or 140°F or above at all times, except as otherwise provided in the regulations.

5.2.2. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the operator or person-in-charge shall immediately contact the Director.

## 5.3. Food Storage

5.3.1. Food, whether raw or prepared, shall be stored in the original container, or in a clean, covered container except during necessary

periods of preparation and service. Containers and covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meats shall be protected by being covered in storage except that quarters or sides of meat may be hung uncovered on clean, sanitized hooks if no food product is stored beneath the meat.

5.3.2. Containers of food shall be stored a minimum of six (6) inches above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area, except that:

5.3.2.1. Metal pressurized pre-mix and post-mix beverage containers need not be elevated when the containers are not exposed to floor moisture.

5.3.2.2. Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.

5.3.3. Food and containers of food shall not be stored under exposed or unprotected sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

5.3.4. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

5.3.5. Packaged food shall not be stored in contact with water or undrained ice.

5.3.6. Unless its identity is unmistakable, bulk foods shall be

stored in their original container or package or shall be stored in a container that identifies the food by common name.

5.3.7. Refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Such facilities storing potentially hazardous food shall be provided with a numerically scaled indicating or recording thermometer, accurate to  $\pm 2^{\circ}\text{F}$ , located so as to be easily readable and to measure the air temperature in the warmest part of the facility.

5.3.8. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of  $45^{\circ}\text{F}$  or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container. Potentially hazardous food to be transported shall be prechilled and held at a temperature of  $45^{\circ}\text{F}$  or below unless maintained at  $140^{\circ}\text{F}$  or above.

5.3.9. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use.

5.3.10. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head.

5.3.11. Hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, or recording thermometer

accurate to  $\pm 2^{\circ}\text{F}$ , located so as to be easily readable and to measure the air temperature in the coolest part of the facility. Where it is impractical to install thermometers on equipment such as bain maries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

5.3.12. The internal temperature of potentially hazardous foods requiring hot storage shall be  $140^{\circ}\text{F}$  or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of  $140^{\circ}\text{F}$  or above unless maintained at  $45^{\circ}\text{F}$  or below.

#### 5.4. Food Preparation

5.4.1. Food shall be prepared with the least possible manual contact, with approved utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

5.4.2. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

5.4.3. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least  $140^{\circ}\text{F}$ , except that:

5.4.3.1. Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least  $165^{\circ}\text{F}$  with no interruption of the cooking process.

5.4.3.2. Pork and any food containing pork shall be cooked to heat all parts of the food to at least  $150^{\circ}\text{F}$  with no interruption of the cooking process.

5.4.4. Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

5.4.5. Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

5.4.6. Potentially hazardous foods that have been cooked and then refrigerated, shall be reheated rapidly to 165°F or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain maries, warmers, and similar hot food holding facilities are prohibited for use as a means for the rapid reheating of potentially hazardous foods.

5.4.7. Non-dairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and rapidly cooled to 45°F or below.

5.4.8. Metal stem-type numerically scaled indicating thermometers, accurate to  $\pm 2^\circ\text{F}$ , shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

5.4.9. Potentially hazardous foods shall be thawed only:

5.4.9.1. In refrigerated units at a temperature not to exceed 45°F;  
or

5.4.9.2. Under potable running water of a temperature of 70°F or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

5.4.9.3. In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

5.4.9.4. As part of the conventional cooking process.

5.5. Food Display and Service

5.5.1. Potentially Hazardous Foods

5.5.1.1. Potentially hazardous food shall be kept at an internal temperature of 45°F or below or 140°F or above during display and service.

5.5.2. Milk and Cream Dispensing

5.5.2.1. Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding 1 pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available, and portions of less than  $\frac{1}{2}$  pint are required for mixed drinks, cereals, or dessert service, milk and milk products may be poured from a commercially filled container of not more than  $\frac{1}{2}$  gallon capacity.

5.5.2.2. Cream, half and half or non-dairy creaming or whitening agents shall be provided in an individual service container, approved pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

5.5.3. Condiment Dispensing

5.5.3.1. Condiments, seasonings and dressings for self-service, table or counter service shall be provided in individual packages or from

approved dispensers. Sugar for consumer use shall be provided in individual packages or in approved pour-type dispensers.

5.5.3.2. Condiments, seasonings and dressings for room service in health care facilities must be provided in individual packages.

5.5.4. Ice Dispensing

5.5.4.1. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic self-service ice-dispensing equipment. Ice dispensing utensils and ice transfer receptacles shall be stored clean and in a way that protects them from contamination. Wet storage of ice dispensing utensils is prohibited.

5.5.5. Dispensing Utensils

5.5.5.1. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

5.5.5.1.1. Stored in the food with the dispensing utensil handle extended out of the food; or

5.5.5.1.2. Stored clean and dry; or

5.5.5.1.3. Stored in running water; or

5.5.5.1.4. Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

5.5.6. Reservice

5.5.6.1. Once served to a consumer, portions of leftover food shall not be served again except that single-service packaged food, still in

unopened packages or sealed containers may be reserved.

5.5.7. Display Equipment

5.5.7.1. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

5.6. Food Transportation

5.6.1. During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original, individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of these regulations.

Section 6. Personnel

6.1. Employee Health

6.1.1. No person, while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in any area of a food service establishment.

6.1.2. When the Director has cause to suspect possible disease transmission by an employee of a food service establishment, he may secure a morbidity history of that employee or make any other investigations as

may be indicated. The Director may require any or all of the following measures:

6.1.2.1. The immediate exclusion of the employee from employment in food service establishments.

6.1.2.2. The immediate closure of the food service establishment concerned until the Director determines that no further danger of disease transmission exists.

6.1.2.3. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.

6.1.2.4. Medical and laboratory examination of the employee and of other employees and of his and their body discharges.

6.2. Personal Cleanliness

6.2.1. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting to work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

6.3. Clothing

6.3.1. The outer clothing of all employees shall be clean.

6.3.2. Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

6.4. Employee Practices

6.4.1. Employees shall consume food only in approved designated dining areas.

6.4.2. Employees shall not use tobacco in any form while engaged in

food preparation or service, nor while in or near areas used for equipment or utensil washing or storage or for food preparation. Employees shall use tobacco only in approved, designated areas.

6.4.3. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while on duty.

## Section 7. Equipment and Utensils

### 7.1. Materials

7.1.1. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

#### 7.1.2. Solder

7.1.2.1. If solder is used, it shall be composed of safe materials and be corrosion resistant.

#### 7.1.3. Wood

7.1.3.1. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in Section 7.1.1 of these regulations may be used as a food contact surface. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons.

#### 7.1.4. Plastics and Rubber

7.1.4.1. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring,

decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dish-washing methods, and which meet the general requirements set forth in Section 7.1.1 of these regulations, are permitted for repeated use.

7.1.5. Mollusk and Crustacea Shells

7.1.5.1. Mollusk and crustacea shells may be used only once as a serving container. Further re-use of such shells for food service is prohibited.

7.1.6. Single Service

7.1.6.1. Re-use of single service articles is prohibited.

7.2. Construction

7.2.1. All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping and crazing.

7.2.2. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.

7.2.3. Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricants cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe

lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

7.2.4. Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice. Provided, that such tubing is fabricated from safe materials, is grommited at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

7.2.5. Sinks and drainboards shall be self-draining.

7.2.6. Unless designed for in-place cleaning, food contact surfaces shall be accessible for cleaning and inspection:

7.2.6.1. Without being disassembled; or

7.2.6.2. By disassembling without the use of tools; or

7.2.6.3. By easily disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

### 7.3. In-Place Cleaning

7.3.1. Equipment intended for in-place cleaning shall be so designed and fabricated that:

7.3.1.1. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

7.3.1.2. Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

7.3.1.3. The system is self-draining or capable of being completely evacuated.

7.4. Pressure Spray Cleaning

7.4.1. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

7.5. Non-Food-Contact Surfaces

7.5.1. Non-food-contact surfaces which are exposed to splash or food debris, or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

7.6. Ventilation Hoods

7.6.1. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

7.7. Existing Equipment

7.7.1. Equipment that was installed in a food service establishment prior to the effective date of these regulations, and that does not fully meet all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are non-toxic. Replacement equipment and new equipment acquired after the effective date of these regulations shall meet the requirements of these regulations.

7.8. Equipment Installation and Location

7.8.1. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required.

7.8.2. Table Mounted Equipment

7.8.2.1. Equipment, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

7.8.2.2. Equipment is portable if:

7.8.2.2.1. It is small and light enough to be moved easily by one person; and

7.8.2.2.2. It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

7.8.3. Floor-Mounted Equipment

7.8.3.1. Floor-mounted equipment, unless readily movable, shall be:

7.8.3.1.1. Sealed to the floor; or

7.8.3.1.2. Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

7.8.3.1.3. Elevated on legs to provide at least a 6-inch clearance between the floor and equipment.

7.8.3.2. Equipment is easily movable if:

7.8.3.2.1. It is mounted on wheels or casters; and

7.8.3.2.2. It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

7.8.3.3. Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

7.8.4. Aisles and Working Spaces

7.8.4.1. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

Section 8. Cleaning, Sanitization and Storage of Equipment and Utensils

8.1. Cleaning and Sanitization of Equipment and Utensils

8.1.1. Cleaning and Sanitizing Frequency

8.1.1.1. Tableware shall be washed, rinsed and sanitized after each use.

8.1.1.2. To prevent cross-contamination, kitchen-ware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

8.1.1.3. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

8.1.1.4. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

8.1.1.5. Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

#### 8.1.2. Wiping Cloths

8.1.2.1. Cloths used for wiping food spills on tableware shall be clean, dry and used for no other purpose.

8.1.2.2. Moist cloths or sponges used for cleaning non-food-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

#### 8.1.3. Manual Cleaning and Sanitizing

8.1.3.1. For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided

and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

8.1.3.2. Drainboards or easily movable dish tables shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing, and shall be located so as not to interfere with the proper use of the dishwashing facilities.

8.1.3.3. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

8.1.3.4. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

8.1.3.4.1. Sinks shall be cleaned prior to use.

8.1.3.4.2. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

8.1.3.4.3. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

8.1.3.4.4. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in Section 8.1.3.5 of these regulations.

8.1.3.5. The food contact surfaces of all equipment and utensils shall be sanitized by:

8.1.3.5.1. Immersion for at least one-half ( $\frac{1}{2}$ ) minute in clean, hot

water at a temperature of at least 170°F; or

8.1.3.5.2. Immersion for at least one (1) minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F; or

8.1.3.5.3. Immersion for at least one (1) minute in a clean solution containing at least 12.5 parts per million of available iodine at a temperature of at least 75°F; or

8.1.3.5.4. Immersion in a clean solution containing any other approved chemical sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F for one (1) minute; or

8.1.3.5.5. Treatment with culinary steam in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

8.1.3.5.6. Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under Section 8.1.3.5 of these regulations in the case of equipment too large to sanitize by immersion.

8.1.3.6. When hot water is used for sanitizing, the following facilities shall be provided and used:

8.1.3.6.1. An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink and capable of maintaining the water at a temperature of at least 170°F; and

8.1.3.6.2. A numerically scaled indicating thermometer, accurate to  $\pm 2^\circ\text{F}$ , convenient to the sink for frequent checks of water temperature; and

8.1.3.6.3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water.

8.1.3.7. When chemicals are used for sanitization, an approved test kit that accurately measures the parts per million concentration of the solution shall be provided and used.

8.1.4. Mechanical Cleaning and Sanitizing

8.1.4.1. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of approved machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

8.1.4.2. The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A  $\frac{1}{4}$  inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

8.1.4.3. Machine or water line mounted, numerically scaled indicating thermometers, accurate to  $\pm 2^{\circ}\text{F}$ , shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

8.1.4.4. Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

8.1.4.5. Drainboards shall be provided for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

8.1.4.6. Equipment and utensils shall be flushed or scraped and when necessary, soaked to remove food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

8.1.4.7. Single-tank, stationary-rack, door-type machines and spray-type glass washers using chemicals for sanitization may be used.

Provided:

8.1.4.7.1. The temperature of the wash water shall not be less than 120°F.

8.1.4.7.2. The wash water shall be kept clean.

8.1.4.7.3. Chemicals added for sanitization purposes shall be auto-

matically dispensed.

8.1.4.7.4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with accepted manufacturers' specifications for time and concentration.

8.1.4.7.5. The chemical sanitizing rinse water temperature shall be not less than 75°F.

8.1.4.7.6. Only approved chemical sanitizers shall be used.

8.1.4.7.7. An approved test kit that accurately measures the parts per million concentration of the solution shall be available and used.

8.1.4.8. Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the following stated temperatures:

8.1.4.8.1. Single-tank, stationary-rack, dual-temperature machine:

wash temperature-----150°F

final rinse temperature (rinse manifold)----180°F

final rinse temperature (utensil surface)---165°F

8.1.4.8.2. Single-tank, stationary-rack, single-temperature machine:

wash temperature-----165°F

final rinse temperature (rinse manifold)----165°F

final rinse temperature (utensil surface)---165°F

8.1.4.8.3. Single-tank, conveyor machine:

wash temperature-----160°F

final rinse temperature (rinse manifold)----180°F

final rinse temperature (utensil surface)---165°F

8.1.4.8.4. Multi-tank, conveyor machine:

wash temperature-----150°F

pumped rinse temperature-----160°F

final rinse temperature (rinse manifold)----180°F

final rinse temperature (utensil surface)---165°F

8.1.4.8.5. Single-tank, pot and pan washer (either stationary or moving-rack):

wash temperature-----140°F

final rinse temperature (rinse manifold)----180°F

final rinse temperature (utensil surface)---165°F

8.1.4.9. All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

8.1.5. Drying

8.1.5.1. After sanitization, all equipment and utensils shall be air dried.

8.2. Equipment and Utensil Storage

8.2.1. Handling

8.2.1.1. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

8.2.2. Storage

8.2.2.1. Cleaned and sanitized utensils and equipment shall be

stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law.

8.2.2.2. Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

8.2.3. Single-Service Articles

8.2.3.1. Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law.

8.2.3.2. Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

8.2.3.3. Single-service knives, forks, spoons, straws and stirrers shall be individually wrapped or dispensed from an approved dispenser.

8.2.4. Prohibited Storage Area

8.2.4.1. The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

Section 9. Sanitary Facilities and Controls

9.1. Water Supply

9.1.1. Enough potable water for the needs of the food service establishment shall be provided from an approved source.

9.1.2. All potable water not provided directly by pipe to the food service establishment from the source shall be delivered in an approved bulk-water transport system and shall be delivered to an approved closed water system.

9.1.3. Bottled and packaged potable water shall be obtained from an approved source and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

9.1.4. Water under pressure shall be provided to all applicable fixtures and equipment that use water.

9.1.5. Only culinary steam shall be used in contact with food or food contact surfaces.

9.2. Sewage Disposal

9.2.1. All sewage shall be disposed of in a public sewer system or, in the absence thereof, in a manner approved by the Director.

9.3. Plumbing

9.3.1. Plumbing shall be sized, installed, and maintained in accordance with local plumbing codes or, in the absence thereof, the National Plumbing Code.

9.3.2. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, and only if the system is properly installed and the non-potable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

9.3.3. Approved backflow prevention devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless an approved backflow prevention device is installed.

9.3.4. If used, grease traps shall be located to be easily accessible for cleaning.

9.3.5. Except for properly trapped open sinks, there shall be no direct connection between the sewer system and any drains originating from equipment which food, portable equipment, or utensils are placed, except that when a dishwashing or other enclosed water-filled machine is located within five (5) feet of a trapped floor drain, the waste outlet may be connected directly on the inlet side of a floor drain trap.

#### 9.4. Toilet Facilities

9.4.1. Each food service establishment shall provide for its employees approved and properly located toilet facilities in the number required by the Director. Toilet facilities shall be accessible to employees at all times.

9.4.2. In all new or extensively remodeled food service establishments having dining areas and/or curb service, approved toilet facilities for the public, for each sex, shall be provided in the number required by the Director, and shall be accessible at all times.

9.4.3. Toilet rooms shall not open to the outside of those establishments that have dining areas.

9.4.4. Toilets and urinals shall be designed to be easily cleanable.

9.4.5. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors, which shall be closed except during cleaning or maintenance.

9.4.6. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

#### 9.5. Lavatory Facilities

9.5.1. Easily accessible lavatories shall be provided in or within 20 feet of each food preparation, utensil washing, and food dispensing or serving area.

9.5.2. Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

9.5.3. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

9.5.4. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be located adjacent to each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

9.5.5. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

9.6. Garbage and Refuse

9.6.1. Containers

9.6.1.1. Garbage and refuse shall be kept in durable, leak-proof, non-absorbent, easily cleanable, insect-proof and rodent-proof containers. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.

9.6.1.2. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled and during periods the establishment is closed.

9.6.1.3. Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

9.6.1.4. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

9.6.1.5. Soiled containers, dumpsters, compactors and compactor

systems shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

9.6.2. Storage

9.6.2.1. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or bailed units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

9.6.2.2. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, non-absorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

9.6.2.3. Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on metal racks or on a smooth surface of non-absorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

9.6.3. Disposal

9.6.3.1. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects or rodents.

9.6.3.2. Where garbage or refuse is burned on the premises, it shall be done by incineration that is approved by the Director and the West Virginia Air Pollution Control Commission. Areas around incineration facilities shall be clean and orderly.

#### 9.7. Insect and Rodent Control

9.7.1. Effective measures shall be used to minimize the presence of rodents, flies, cockroaches, and other insects on the premises. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

9.7.2. Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, or other means acceptable to the Director. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.

### Section 10. Construction and Maintenance of Physical Facilities

#### 10.1. Floors

10.1.1. Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigeration units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth, durable material such as sealed concrete,

terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons provided it does not interfere with floor cleaning.

10.1.2. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing and utensil-washing areas, in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

10.1.3. The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

10.1.4. Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

10.1.5. Mats and duckboards shall be of non-absorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

10.1.6. In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water-flush cleaning methods are used, the junctures between walls and

floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than 1/32 inch.

10.1.7. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

## 10.2. Walls and Ceilings

10.2.1. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

10.2.2. The walls, including non-supporting partitions, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be light colored, smooth, non-absorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

10.2.3. Studs, joists, and rafters shall not be exposed in walk-in refrigeration units, food preparation areas, and equipment and utensil-washing areas. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

10.2.4. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigeration units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules.

10.2.5. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be kept clean and in good repair.

10.2.6. Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

### 10.3. Cleaning Physical Facilities

10.3.1. Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after cooking or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of brooms and dust-arresting sweeping compounds.

10.3.2. In new or extensively remodeled establishments, at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools, and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil or equipment washing, or food preparation sinks for this purpose is prohibited.

### 10.4. Lighting

10.4.1. Permanently fixed artificial light sources shall be installed to provide at least 20 footcandles of light on all food preparation surfaces and at equipment or utensil-washing levels.

10.4.2. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches from the floor:

10.4.2.1. At least 20 footcandles of light in utensil and equipment storage areas and in lavatory and toilet areas; and

10.4.2.2. At least 10 footcandles of light in walk-in refrigeration units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

10.4.3. Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over or within food preparation, service, and display facilities, facilities where utensils and equipment are cleaned and stored, or other areas where food may be open and/or unprotected.

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

#### 10.5. Ventilation

10.5.1. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems, when vented to the outside, shall not create a nuisance or public health hazard.

10.5.2. Intake and exhaust air ducts shall be located and maintained to prevent the entrance of dust, dirt and other contaminating materials.

10.5.3. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

#### 10.6. Dressing Rooms and Lockers

10.6.1. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

10.6.2. Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

10.7. Poisonous Materials

10.7.1. There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

10.7.2. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

10.7.3. Poisonous or toxic materials consist of the following categories:

10.7.3.1. Detergents, sanitizers, and related cleaning or drying agents;

10.7.3.2. Caustics, acids, polishes, insecticides, rodenticides, and other similar chemicals.

10.7.4. Each of the two categories set forth in the above section shall be stored and physically located separate from each other. All

poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

10.7.5. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

10.7.6. Personal medications and first-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

10.8. Premises

10.8.1. Food service establishments and all parts of property used in connection with their operation shall be kept free of litter.

10.8.2. The walking and driving surfaces of all exterior areas of food service establishments shall be graded to prevent pooling of water and be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust.

10.8.3. Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.

10.8.4. The traffic of unauthorized and unnecessary persons through the food-preparation and utensil-washing areas is prohibited.

10.8.5. Food service establishment operations shall not be conducted

in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

10.9. Laundry Facilities

10.9.1. Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

10.9.2. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

10.10. Linens and Clothes Storage

10.10.1. Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

10.10.2. Soiled clothes and linens shall be stored in non-absorbent containers or washable laundry bags until removed for laundering.

10.11. Cleaning Equipment Storage

10.11.1. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment or linens.

10.12. Animals

10.12.1. Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the operator. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs

accompanying security or police officers, or guide dogs accompanying blind persons, may be permitted in dining areas.

Section 11. Mobile Food Units or Pushcarts

11.1. Mobile Food Service

11.1.1. Mobile food units or pushcarts shall comply with the requirements of this chapter, except as otherwise provided in this paragraph and in Section 11.1.2 of these regulations. The Director may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this chapter relating to physical facilities.

11.1.2. Mobile food units or pushcarts serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of these regulations, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of these regulations pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the commissary.

11.1.3. Mobile food units or pushcarts shall provide only single-service articles for use by the consumer.

11.1.4. A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient

capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing and handwashing, in accordance with the requirements of these regulations. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of these regulations.

11.1.5. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

11.2. Commissary

11.2.1. Base of Operations

11.2.1.1. Mobile food units or pushcarts shall operate from a commissary or other fixed food service establishment and shall be returned at least daily to such location for all supplies and for all cleaning and servicing operations.

11.2.1.2. The commissary or other fixed food service establishment

used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of these regulations.

11.2.2. Servicing Area

11.2.2.1. A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.

11.2.2.2. The surface of the servicing area shall be constructed of a smooth, non-absorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

11.2.3. Servicing Operations

11.2.3.1. Approved potable water servicing equipment shall be installed and shall be stored and handled in a way that protects the water and equipment from contamination.

11.2.3.2. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system.

Section 12. Temporary Food Service Establishments

12.1. Unrestricted Establishment (Menu not Restricted)

12.1.1. Must meet all of the requirements of the West Virginia Food Service Sanitation Regulations.

12.2. Restricted Establishments

12.2.1. The preparation of cream-filled pastries, custards, and similar products is prohibited.

12.2.2. The preparation of meat, poultry and fish in the form of sandwiches and salads is prohibited. This does not preclude the preparation of hamburgers, frankfurters, and other food which, prior to service, requires only limited preparation.

12.2.3. Potentially hazardous food which is obtained in individual servings and is stored at safe temperatures may be permitted to be served directly to the customer in the original, unopened, individual container in which it was packaged.

12.3. Food Supply

12.3.1. Food in the food service establishment must be from approved sources.

12.3.2. All food must be clean, wholesome, free from spoilage, adulteration and misbranding.

12.3.3. Potentially hazardous food, excluding hamburger, frankfurters or food requiring limited preparation, must be purchased and served in the original, individual container.

12.3.4. Pre-packaged individual coffee creamers or individual packets of powdered coffee whiteners that are properly stored and handled are the only types approved for use.

12.3.5. Home-canned or home-processed food is prohibited.

12.4. Food Protection

12.4.1. Food must be protected from contamination while being stored, prepared, displayed, served or sold.

12.4.2. Food must be received in such a manner as to prevent any contamination.

12.4.3. Food contact surfaces of equipment must be protected from dust, flies, patrons, coughs and sneezes, overhead leakage, or other forms of contamination.

12.4.4. Approved facilities must be provided for maintaining potentially hazardous food at safe temperatures.

12.4.5. Ice must be obtained from an approved source in chipped, crushed or cubed form.

12.4.6. Ice must be obtained in approved, closed, single-service containers.

12.4.7. Ice used in beverages must be dispensed by use of a scoop or an approved automatic dispensing unit.

12.4.8. Styrofoam or similar type porous containers are not approved for ice storage unless such container is lined with a clean, sanitary food grade plastic liner.

12.5. Health

12.5.1. Employees must thoroughly wash their hands before starting work and as often as may be necessary to remove soil and contamination.

12.5.2. No employee shall resume work after visiting the toilet room without first washing his hands.

12.5.3. Employees shall use effective hair restraints to prevent the

contamination of food or food-contact surfaces.

12.5.4. Employees must not use tobacco in any form while engaged in food preparation and service or while in any area where food is prepared or utensils are washed and sanitized.

12.5.5. Employees must maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods.

12.6. Equipment and Utensils

12.6.1. Equipment and utensils must be in good repair, free from cracks, chips, pits, open seams and corrosion.

12.6.2. Equipment and utensils must be constructed, located and installed so as to be smooth and easily cleanable.

12.6.3. The use of enamelware and graniteware is prohibited.

12.6.4. Kitchenware and food contact surfaces of equipment must be thoroughly cleaned to sight and touch after each usage.

12.6.5. The cooking surfaces of grills, griddles and similar cooking devices must be cleaned daily or more often if needed.

12.6.6. Non-food contact surfaces of equipment must be cleaned at a necessary frequency to prevent the accumulation of dirt, dust, food particles and other debris.

12.6.7. Kitchenware and food contact surfaces of equipment used for potentially hazardous food must be sanitized prior to such use.

12.6.8. Single-service cups must be dispensed from approved dispensers.

12.6.9. Single-service straws, eating utensils, and stirrers must be of the individually wrapped type.

12.7. Sanitary Facilities

12.7.1. A potable supply of water, under pressure, must be provided for cleaning and handwashing.

12.7.2. All plastic water lines must bear the National Sanitation Foundation (NSF) seal or be of equivalent standards.

12.7.3. The use of plastic or rubber garden hose for water piping is prohibited.

12.7.4. Hot and cold water, under pressure, must be provided in areas where food is prepared and where equipment and utensils are washed.

12.7.5. Auxiliary heating facilities capable of producing an ample supply of hot water must be provided.

12.7.6. Handwashing facilities must be provided. Such facilities in a restricted establishment may consist of a pan, water, soap and individual paper towels.

12.7.7. The potable water supply piping must not be directly connected with any non-potable water supply system.

12.7.8. Approved and adequate toilet facilities must be provided and conveniently located to the establishment.

12.8. Other Facilities

12.8.1. Walls and ceilings must be so constructed so as to minimize the entrance of vermin, dust and rodents.

12.8.2. Ceilings may be constructed of wood, canvas or other materials which protect the interior of the establishment from the elements.

12.8.3. Walls may be constructed of such materials or of 16 mesh screening or equivalent.

12.8.4. Floors must be of tight wood, asphalt or other cleanable material. Dirt floors are prohibited.

12.8.5. All floors, walls and ceilings must be kept clean.

12.8.6. At least 20 footcandles of natural and/or artificial light must be provided on all working surfaces.

12.8.7. Effective ventilation to the outside air must be provided for rooms and equipment where needed.

12.8.8. The establishment and its surroundings must be kept clean, neat and free of litter and rubbish.

12.8.9. No live animals or birds are permitted in establishments. Provided, that guide dogs accompanying blind persons or police patrol dogs accompanying officers may be permitted in dining area.

12.9. Vermin Control

12.9.1. Counter openings must be effectively screened or the openings protected by effective fans.

12.9.2. Where fans are used for this purpose, the size of the openings shall be so limited that the fans employed will effectively prevent the entrance of flies and other insects.

12.10. Waste Handling

12.10.1. Liquid waste which is not discharged into a sewage system must be disposed of in such a manner as not to create a public health hazard or nuisance.

12.10.2. All garbage and rubbish must be stored in durable metal or plastic containers not exceeding 30 gallon capacity.

12.10.3. Containers must be covered with tight-fitting lids when not in continuous use.

12.10.4. Single-service plastic or heavy duty paper liners must be used in all garbage and rubbish containers.

12.10.5. Solid waste must be disposed of in a manner approved by the health authority.

Section 13. Vending of Food and Beverages

13.1. Food

13.1.1. Food exposed for sale, offered for sale, sold through vending machines and offered to patrons of vending machines shall be sound and free from spoilage, filth, or other contamination and shall be safe for human consumption. The food shall be obtained from approved sources. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

13.1.2. At all times, including while being prepared, stored, loaded, displayed, or transported, food intended for sale through vending machines shall be protected from all forms of contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs, sneezes, flooding, draining, and overhead leakage or condensation.

13.1.3. The temperature of potentially hazardous foods shall be 45°F or below or 140°F or above at all times.

13.1.4. Milk and fluid milk products offered for sale through vending machines shall be pasteurized and shall be dispensed only in individual, original containers.

13.1.5. Milk and fluid milk products and fluid non-dairy products (creaming agents) shall not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

13.1.6. When condiments are provided in conjunction with food dispensed by a vending machine, they shall be:

13.1.6.1. Packaged in individual portions in single-service containers; or

13.1.6.2. Dispensed from approved dispensers which are cleaned, rinsed and sanitized and filled at the commissary or at the machine location if sanitary facilities are provided; or

13.1.6.3. Made available from condiment self-service dispensing equipment at those locations having an on-duty attendant.

13.1.7. Fresh fruits which may be eaten without peeling shall be thoroughly washed in potable water at the packing plant by the processor, or at the commissary before being placed in the vending machines for dispensing. The washed fruit shall be protected from contamination after the washing process.

13.1.8. All food, other than fresh fruit, shall be stored or packaged in clean protective containers, and all food shall be handled and vended in a sanitary manner.

13.1.9. Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual, original container or wrapper into which it was placed at the commissary or at the manufacturing or processing plant. Potentially hazardous food shall not be dispensed from bulk supplies.

13.1.10. Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units and thermostatic controls which insure the maintenance of safe temperatures at all

times. Such vending machines shall have automatic controls which prevent the machine from vending potentially hazardous food until serviced by the operator in the event of power failure, mechanical failure or other condition which results in non-compliance with temperature requirements in the food storage compartment.

13.1.11. Potentially hazardous food which has failed to conform to the time-temperature requirements of these regulations shall be removed from the vending machine, and be destroyed or otherwise rendered unfit for human consumption.

13.1.12. Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to an accuracy of  $\pm 2^{\circ}\text{F}$ , indicate the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

13.1.13. There shall be no direct contact by multiuse containers or parts of vending machines with potentially hazardous food. All parts of vending machines which come into direct contact with non-potentially hazardous food shall be thoroughly cleaned, rinsed and sanitized at a frequency established by the Director and based upon the type of product being dispensed.

## 13.2. Personnel

13.2.1. No person, while infected with a disease in a communicable form that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in any area of a commissary or

vending operation except as specified by the Director.

13.2.2. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while engaged in handling foods or food-contact surfaces of utensils or equipment.

13.3. Equipment and Utensils

13.3.1. Interior Construction and Maintenance

13.3.1.1. The non-food-contact surfaces of the interior of vending machines shall be designed and constructed to permit easy cleaning and to facilitate maintenance operations and shall be kept clean and in good repair.

13.3.1.2. All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped places. The design of such surfaces shall preclude routine contact between food and "V" type threaded surfaces except that in equipment where such contact is unavoidable, such as ice makers, such threads shall be minimized. All joints and welds in food-contact surfaces shall be smooth, and all internal angles and corners of the surfaces shall be rounded to facilitate cleaning.

13.3.1.3. If solder is used, it shall be composed of safe materials and be corrosion resistant.

13.3.1.4. All food-contact surfaces of vending machines, including containers, pipes, valves and fittings, shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant, non-absorbent, easily cleanable and durable under conditions of normal use and shall be cleaned, rinsed and sanitized at a frequency established by the Director based upon the type of product being dispensed.

13.3.1.5. All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning, rinsing, sanitizing and inspection:

13.3.1.5.1. Without being disassembled; or

13.3.1.5.2. By disassembly without the use of tools; or

13.3.1.5.3. By easy disassembling with the use of only simple tools such as a screwdriver or an open-end wrench.

13.3.1.6. In machines designed so that food-contact surfaces are not readily removable, all such surfaces intended for in-place cleaning shall be designed and fabricated that:

13.3.1.6.1. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

13.3.1.6.2. Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

13.3.1.6.3. The system is self-draining or capable of being completely evacuated; and

13.3.1.6.4. The procedures utilized result in thorough cleaning of the equipment.

13.3.1.7. The openings into all non-pressurized containers used for the storage of vendable food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash is possible.

Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least 3/16 inch, and shall be provided with an overlapping cover flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment rotary shafts, and other functional parts extending into the food container unless a water-tight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of safe materials, relatively stable, and relatively non-absorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.

13.3.1.8. The delivery tube or chute and orifice of all bulk food vending machines shall be protected from normal manual contact, dust, insects, rodents, and other contamination. The design shall divert condensation or moisture from the normal filling position of the container receiving the food. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept closed except when food is being removed. The cup filling area or platform of controlled location vending machines shall not require a door or cover if there is no opening into the cabinet interior at that point other than for dispensing tube(s) or trapped waste tubing. The dispensing compartment of prepackaged candy and similar product vending machines shall be equipped with a self-closing lid at vending locations where insect or rodent entry into the machine may occur.

13.3.1.9. The food storage compartment and other compartments in refrigerated vending machines which are subject to condensation or cooling

water retention shall be self-draining or equipped with a drain outlet which permits complete draining. In vending machines designed to store cartoned beverages, diversion devices and retention pans shall be easily cleanable.

13.3.1.10. Opening devices which come into contact with the food or the food-contact surfaces of the containers shall be constructed of corrosion resistant, non-absorbent, and safe materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multiuse opening devices which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

13.3.2. Exterior Construction and Maintenance

13.3.2.1. The vending machine shall be of sturdy construction and the exterior shall be designed, fabricated, finished and maintained to facilitate its being kept clean, and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.

13.3.2.2. Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting and, if necessary, gasketed to prevent the entrance of dust, moisture, insects and rodents.

13.3.2.3. All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less than 16 mesh to the inch or equivalent. Screening material for openings into condenser units which are separated from food and container storage spaces shall be not less than 8 mesh to the inch or equivalent.

13.3.2.4. In all vending machines in which the condenser unit is an integral part of the machine, such unit, when located below the food and container storage space, shall be separated from such space by a dust-proof barrier and, when located above, shall be sealed from such space.

13.3.2.5. In order to prevent seepage underneath the machine and to promote cleaning, freestanding vending machines shall have one or more of these elevation or movability features:

13.3.2.5.1. Be light enough to be manually moved with ease by one person; or

13.3.2.5.2. Be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of at least six (6) inches under the machine; or

13.3.2.5.3. Mounted on rollers or casters which permit easy movement; or

13.3.2.5.4. Be sealed to the floor.

13.3.2.6. Kickplates, where used, shall be easily removable or be capable of being rotated. Counter-type machines shall be:

13.3.2.6.1. Sealed to the counter; or

13.3.2.6.2. Mounted on 4-inch legs or the equivalent; or

13.3.2.6.3. Easily moved for cleaning with service connections in place.

13.3.2.7. All service connections through an exterior wall of the machine including water, gas, electrical, and refrigeration connections shall be grommeted, or closed to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food shall

be such as to discourage their unauthorized or unintentional disconnection.

13.3.3. Equipment Location

13.3.3.1. Vending machines, ovens and other equipment shall be located in a room, area or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from non-potable water, waste or sewer piping. The immediate area in which the equipment is located shall be well lighted and ventilated. Each vending machine shall be located so that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

13.3.3.2. The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

13.3.3.3. Adequate handwashing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to the machine location and shall be available for use by employees servicing or loading bulk food machines.

13.4. Single-Service Articles

13.4.1. Single-service articles shall be purchased in sanitary packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be furnished to the customer in the original individual wrapper or from a sanitary bulk dispenser. All single-service articles shall

be protected from manual contact, dust, insects, rodents, and other contamination.

13.5. Other Equipment

13.5.1. All other equipment at the vending location must be kept clean. Food-contact surfaces, if any, must be cleaned, rinsed and sanitized at a frequency established by the Director based upon the type of product being dispensed.

13.5.2. The cavities and door edges of microwave ovens must be cleaned at least once a day and shall be kept free of encrusted grease deposits and other accumulated soil. All microwave ovens must be in compliance with safety standards of the U. S. Food and Drug Administration's Bureau of Radiological Health.

13.5.3. Food-contact surfaces of all equipment and utensils must be protected from contamination at all times including while being transported from the commissary to the vending location.

13.5.4. A record of cleaning operations shall be maintained by the operator. It shall be located in each machine or shall be made available at the time of inspection and shall be current for at least the past thirty (30) days.

13.6. Sanitary Facilities

13.6.1. Water Supply

13.6.1.1. All water used in vending machines shall be of a safe and sanitary quality and from an approved source. Water used as a food ingredient shall be piped to the vending machine under pressure.

13.6.1.2. If used, water filters or other water conditioning devices

shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.

13.6.1.3. To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines which are designed with an incoming water supply air gap shall have no copper tubing or other potentially toxic water system tubing between the air gap and the downstream, carbonated water dispensing nozzle.

13.6.1.4. To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines which are directly connected to the external water supply system shall be equipped with a double (or two single) check valves and a vented valve or similar backflow preventer immediately upstream from the carbonator, with no copper tubing or other potentially toxic tubing or contact surfaces in or downstream from the check and vented valves.

13.6.1.5. Where check valves are used to prevent the backflow of carbon dioxide into accessible upstream copper or other potentially toxic piping or tubing, a screen of not less than 100 mesh to the inch shall be installed in the water line immediately upstream from the check valves in a location which permits servicing or replacement.

13.6.1.6. In all vending machines in which carbon dioxide is used as a propellant, all food-contact surfaces from the check valves or other protective devices, including the valves or devices, shall be of such material as to preclude the production of toxic substances which might

result from interaction with carbon dioxide or carbonated water.

13.6.2. Waste Disposal

13.6.2.1. All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be properly disposed of.

13.6.2.2. Self-closing, leak-proof, easily cleanable, insect-proof and rodent-proof waste receptacles shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other items. Plastic bags and wet-strength paper bags must be used to line the receptacles. Soiled waste receptacles shall be cleaned at a frequency to prevent insect and rodent attraction.

Waste receptacles shall not be located within the vending machines with the exception of those machines dispensing only packaged food with crown closures. Waste receptacles shall not be located under counters or otherwise enclosed in a manner that will create a nuisance or prevent space around and under the counter or enclosure from being easily cleaned and maintained. Suitable racks or cases shall be provided for multiuse containers or bottles.

13.6.2.3. Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. Such machines shall be equipped with an automatic shut-off device at the waste pail, or other devices or valves which will place the machine out of operation before the waste pail overflows and prevent water or liquid product from continuously running in the event of the failure of any single control, high level control, or other flow control

device in the liquid product or water system, except that, controlled location vending machines not connected to water supply system and which generate no internal liquid wastes, may be equipped with easily removable drip pans at the dispensing platform in lieu of internal waste containers and automatic shut-off devices.

Containers or surfaces on which such wastes may accumulate shall be easily removable for cleaning, shall be easily cleanable, and shall be corrosion resistant. If liquid wastes from drip, spillage, or overflow, which originate within the machine are discharged into a sewerage system, the connection to the sewer shall be through an air gap.

Section 14. Repeal of Former Regulations

14.1. All regulations, previously adopted by the State Board of Health, which are in conflict with the provisions of these regulations are hereby repealed.

Section 15. Severability - If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.

Section 16. Penalty for Violating Provisions of Regulations

16.1. Any person who violates any provision of these regulations shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than \$200, or by imprisonment for not more than thirty (30) days, or both fine and imprisonment.

16.2. Each day's failure to comply with any applicable provision of these regulations shall constitute a separate offense.