

6-27

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on upon filing by the
Date prior to or same as filing date

Department of Human Services, Oregon State Public Health Division

333

Agency and Division

Administrative Rules Chapter Number

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to become effective July 1, 2006. Rulemaking Notice was published in the February 2006 *Oregon Bulletin*.**
Date upon filing or later Month and Year

RULE CAPTION

Amendments to the rules relating to food safety in food service establishments.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

333-012-0053, 333-012-0061, 333-012-0070, 333-150-0000, 333-157-0000, 333-157-0010, 333-157-0027,
333-157-0030, 333-157-0045, 333-157-0070, 333-157-0080, 333-158-0000, 333-158-0010, 333-160-0000,
333-162-0020, 333-162-0030, 333-162-0040, 333-162-0280, 333-162-0680, 333-162-0880, 333-162-0890,
333-162-0910, 333-162-0920, 333-162-0940, 333-162-0950, 333-162-1005, 333-170-0060, 333-175-0011,
333-175-0021, 333-175-0031, 333-175-0041, 333-175-0051, 333-175-0061, 333-175-0071, 333-175-0081,
333-175-0091, 333-175-0101

REPEAL:

333-162-0000, 333-162-0010, 333-162-0060, 333-162-0070, 333-162-0080, 333-162-0090, 333-162-0100,
333-162-0110, 333-162-0120, 333-162-0130, 333-162-0140, 333-162-0150, 333-162-0160, 333-162-0170,
333-162-0180, 333-162-0190, 333-162-0200, 333-162-0210, 333-162-0220, 333-162-0230, 333-162-0240,
333-162-0250, 333-162-0260, 333-162-0270, 333-162-0290, 333-162-0300, 333-162-0310, 333-162-0320,
333-162-0330, 333-162-0340, 333-162-0350, 333-162-0360, 333-162-0370, 333-162-0380, 333-162-0390,
333-162-0400, 333-162-0410, 333-162-0420, 333-162-0430, 333-162-0440, 333-162-0450, 333-162-0460,
333-162-0480, 333-162-0490, 333-162-0500, 333-162-0510, 333-162-0520, 333-162-0530, 333-162-0540,
333-162-0550, 333-162-0560, 333-162-0570, 333-162-0580, 333-162-0590, 333-162-0600, 333-162-0610,
333-162-0620, 333-162-0630, 333-162-0640, 333-162-0650, 333-162-0660, 333-162-0670, 333-162-0690,
333-162-0700, 333-162-0710, 333-162-0720, 333-162-0730, 333-162-0740, 333-162-0750, 333-162-0760,
333-162-0770, 333-162-0780, 333-162-0790, 333-162-0800, 333-162-0810, 333-162-0820, 333-162-0830,
333-162-0840, 333-162-0850, 333-162-0860, 333-162-0870, 333-162-0960, 333-162-0970, 333-162-0980,
333-162-0990, 333-162-1000, 333-162-1010, 333-162-1020.

RENUMBER: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND & RENUMBER: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 624.100, 624.390, 624.495, 624.510 and 624.570

Stat. Auth.

Other Authority



PH 14-2006

**DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH
CHAPTER 333**

**DIVISION 12
PROCEDURAL RULES**

333-012-0053

Licensing and Fees

- (1) License applications and licenses issued must be on forms provided or approved by the Department.
- (2) The Local Public Health Authority must establish a single license fee per establishment or facility type. There may not be added fees based on local determination of unique features of an establishment or facility.
- (3) Licensing categories must be based upon those specified in ORS 446.310, 448.035 and 624.490. The Local Public Health Authority may not create additional licensing categories.
- (4)(a) Annual work hours available for a dedicated full time equivalent (FTE) for field staff in the food service program based on a 40-hour week is 1640 hours, of which 25% is allocated for office and administrative duties and consultation, and 75% is for field inspection activities;
- (b) Standards for complete inspection functions, on average, including travel time, relative to facility size are as follows:
 - (A) 0-15 seats, one and one half hours;
 - (B) 16-50 seats, one and three quarter hours;
 - (C) 51-150 seats, two hours;
 - (D) Over 150 seats, two and one half hours.
- (c) An average recheck inspection rate of 40% with an average critical item recheck inspection taking 45 minutes including travel.
- (5) The following standards are established to reflect the levels of effort and resources needed to carry out the delegated functions and provisions of ORS 624:
 - (a) Workload indicators established in section (4) of this rule must be used to determine staffing levels budgeted for field inspection activities;
 - (b) Administrative costs must be limited to 15% of direct costs;
 - (c) A ratio of up to .35 FTE for clerical support and up to .25 FTE for supervision to field staff FTE respectively, must be observed;
 - (d) Charges for services and supplies may not exceed a ratio of .25 of personnel salary for direct program costs;
 - (e) In lieu of the administrative standards outlined in this rule, the Local Public Health Authority may determine staffing standards and actual costs of providing program services. The Local Public Health Authority must document and report to the Department actual time spent and expenses incurred and may be subject to a fiscal audit as specified in OAR 333-012-0070(3).
- (6) The Local Public Health Authority may adopt a fee schedule for facilities that require more than two recheck inspections per year.
- (7) The Local Public Health Authority may set a fee for costs associated with plan review conducted under guidelines established by the Department.
- (8) The Local Public Health Authority may set a reinstatement fee for late license reinstatement.

(9) The Local Public Health Authority may recover the cost of the extra inspections required under OAR 333-157-0027, Increased Inspection Schedule, by charging a fee of up to one-half of the annual licensing fee otherwise assessable to the restaurant for each additional inspection.

(10) A license may be issued only after the Local Public Health Authority has received the fee and determined that the facility meets the requirements of the statutes and rules.

(11) The Local Public Health Authority may pro-rate fees for partial year operation as follows: From January 1 through September 30, a full license fee is required. From October 1 through December 31, half the annual fee must be assessed.

(12) If license fees assessed by the Local Public Health Authority are more than 20% above or below the fees established in ORS 624.490, the Local Public Health Authority must document and report to the Department actual time spent and expenses incurred on program services and may be subject to a fiscal audit as specified in OAR 333-012-0070(3).

(13) All license fees collected by the Local Public Health Authority pursuant to ORS 446.425, 448.100 and 624.510 must be paid into the county treasury and placed in a special revenue fund or the general fund of the county treasury and placed to the credit of the Local Public Health Authority. Such monies must be used only for program services pursuant to ORS 446.425, 448.100 and 624.510. The Local Public Health Authority must assure on an annual basis that all fees collected are used solely for the purposes of administering the programs as described in this section.

(14) If the Local Public Health Authority requests a fiscal audit required in OAR 333-012-0070(3) be conducted by a private auditing agency, the Local Public Health Authority must pay the costs and a copy of audit report must be provided to the Department.

Stat. Auth.: ORS 446.425, 448.100 & 624.510

Stats. Implemented: ORS 446.425, 448.100 & 624.510

333-012-0061

Food Handler Training

The Local Public Health Authority must assure the provision of a food handler training program using minimum criteria developed by the Department. The Local Public Health Authority must secure Department approval before deviating from the criteria of the training program for food handlers, and must document in a manner satisfactory to the Department the training methods used for food handler training.

Stat. Auth.: ORS 624.510

Stats. Implemented: ORS 624.510

333-012-0070

Minimum Standards, Program Review and Penalties

(1)(a) The Local Public Health Authority may request approval to implement alternative inspection or enforcement procedures. The Local Public Health Authority must submit a plan that includes expected performance measures and outcomes and the procedure must be included in the annual Intergovernmental Agreement.

(b) The Local Public Health Authority may adopt ordinances on applicable matters provided they are not less stringent than the Oregon Administrative Rules adopted pursuant to ORS Chapters 183, 446, 448 and 624. Any ordinance proposed for adoption on matters applicable to food service operators more stringent than those set forth in ORS 624 and rules adopted thereunder must be approved by the Department and the cost of implementing any ordinance so adopted

may not be charged to license fees adopted pursuant to ORS 624.510(2). Notwithstanding the provisions of this subsection, when an emergency exists and delay will result in an immediate danger to public health, Local Public Health Authorities may adopt ordinances without prior Department approval. This subsection does not affect ordinances that are required to be adopted as specified in these rules.

(2) The Local Public Health Authority must be subject to a performance review of both office and field activities to determine compliance with these rules. A review of each Local Public Health Authority will be conducted at least once every three years. The Department will submit the results of the review to the Local Public Health Authority. The field review will be conducted using an inspection protocol approved by the Department. The Department may waive the requirement for a field review.

(3) The Local Public Health Authority will be subject to a triennial fiscal audit conducted by the Department. The Local Public Health Authority may also be subject to additional fiscal audits if deemed necessary by the Department.

(4) The Local Public Health Authority will be surveyed at least annually to determine accomplishments and needs. This knowledge will guide the Department in providing assistance, guidance, training, consultation and support as needed.

(5) If a review reveals that the Local Public Health Authority is not complying with the provisions of these rules or the Intergovernmental Agreement, the Local Public Health Authority will be notified. The Local Public Health Authority must correct the deficiencies within the time frames required and report the corrections to the Department.

(a) If the Department determines that the deficiencies result in a serious human health hazard, compliance will be required immediately. If the Department determines that the deficiencies do not result in a serious human health hazard, a longer period of time may be allowed for compliance. However, the maximum time allowed for compliance, after notice is issued by the Department, is as follows:

(A) Up to 90 days to correct administrative deficiencies such as, but not limited to, accounting reports and records;

(B) Up to 180 days to correct program deficiencies such as, but not limited to, inadequate frequency of inspections, scoring, staffing and lack of enforcement action.

(b) Notwithstanding subsection 5(a) of this rule, the Department may allow a longer time frame for compliance if deemed necessary;

(c) If the Department determines that the Local Public Health Authority did not use the proper cost elements in determining the fee or that the amount of the fee is not justified, the Department may order the Local Public Health Authority to adjust any fee, as soon as is possible, to a level supported by the Department's analysis of the fee.

(6) When a Local Public Health Authority has been notified of an emergency health hazard and is either unwilling or unable to administer or enforce delegated standards, the Department may, pursuant to ORS 431.170, immediately take responsibility of the functions and collect the monies necessary to protect public health. When the health hazard has been resolved or is no longer an emergency, the Department may return authority to the Local Public Health Authority and may initiate a review to determine if delegation is to be continued.

(7) The Department may deny or revoke the delegation of a program if the Local Public Health Authority:

(a) Does not have sufficient qualified personnel to conduct the program;

(b) Has failed to perform its delegated duties satisfactorily;

(c) Has engaged in deceit or fraud in the conduct of the program or maintenance of its associated records.

(8) Suspension or rescission of a delegation must be in accordance with ORS Chapter 183 relating to contested cases.

(9) The Department will immediately respond to a request by the Local Public Health Authority for personnel or equipment during an emergency. If the Department is unable to assist as requested, the Department will immediately notify the Local Public Health Authority and provide any possible assistance.

Stat. Auth.: ORS 446.425, 448.100 & 624.510

Stats. Implemented: ORS 446.425, 448.100 & 624.510

DIVISION 150
FOOD SANITATION RULES
Definitions and Administration

333-150-0000

Food Sanitation Rule

(1) Authority and Purpose.

(a) This rule is authorized by ORS 624.100.

(b) This rule establishes definitions, sets standards for management and personnel, food protection, and equipment and facilities, water supply, sewage disposal, provides for food establishment plan review, and employee restriction to safeguard public health and provide consumers food that is safe, unadulterated, and honestly presented.

(2) Incorporation by Reference. The requirements as found in the U.S. Public Health Service, Food and Drug Administration, Food Code 1999, Chapters 1 through 8 is adopted and incorporated by reference.

(3) Deletions. The following sections, paragraphs or subparagraphs of the 1999 FDA Food Code are deleted in their entirety: 1-201.10(B)(36), 2-103.11(H), 2-201.11, 2-201.12 (B), (C) and (D), 2-201.13(C) and (D), 3-201.16, 3-301.11(C), 3-401.11(D)(3), 4-301.12(C)(5), (D) and (E), 4-501.115, 4-603.16(B) and (C), 8-302.11, 8-302.14(E), 8-401.10(B), 8-401.20, 8-402.20(A)(3), 8-402.40, 8-406.11, 8-501.40 and Annex 1 through 8.

(4) Additions and Amendments.

(a) Amend subparagraph 1-201.10(B)(1)(a) to read: "Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals or approved by the Department of Human Services.

(b) Add a new subparagraph 1-201.10(B)(1.1) to read: "Actively cooled" means once the temperature of a potentially hazardous food has fallen below 60 degrees C (140 degrees F), it is placed in cooling or cold holding equipment and cooled according to sections 3-501.14 and 3-501.15.

(c) Add a new subparagraph 1-201.10(B)(4.1) to read: "Assembly" means the act of putting together foods that do not require further preparation. This includes, but is not limited to, placing a hot dog on a bun, or placing beans, lettuce and cheese on a tortilla.

(d) Add a new subparagraph 1-201.10(B)(5.1) to read: "Base of Operation" means the licensed restaurant, commissary or warehouse that services a mobile unit or vending operation.

- (e) Add a new subparagraph 1-201.10(B)(7.1) to read: "Catering" means the preparation of food in an approved food establishment and the transportation of such food for service and consumption at some other site.
- (f) Add a new subparagraph 1-201.10(B)(9.1) to read: "Close" means to summarily stop the operation of a food establishment pursuant to ORS 624.085 and ORS 624.370.
- (g) Add a new subparagraph 1-201.10(B)(10.1) to read: "Code" shall have the same meaning as rule.
- (h) Add a new subparagraph 1-201.10(B)(11.1) to read: "Combination Food Service Establishment" means any food establishment located within a single structure or at a single site, but which is engaged in activities which are subject to licensing or inspecting requirements of both the Department of Human Services and the Oregon Department of Agriculture, and the regulated activities are common to the same operator.
- (i) Add a new subparagraph 1-201.10(B)(11.2) to read: "Commercial warewashing machine" means a warewashing machine designed and manufactured specifically for use in a food service establishment such as a restaurant and not for domestic or light-commercial purposes.
- (j) Add a new subparagraph 1-201.10(B)(12.1) to read: "Commissary" means a commissary catering establishment, restaurant, or any other place in which, food, beverage, ingredients, containers, or supplies are kept, handled, packaged, prepared or stored, and from which vending machines or mobile units are serviced.
- (k) Add a new subparagraph 1-201.10(B)(12.2) to read: "Complete Inspection" means any inspection conducted at the election of the licensing agency evaluating for all items on the inspection form.
- (l) Add a new subparagraph 1-201.10(B)(12.3) to read: "Condiments" means garnishes, toppings, or seasonings that are added to a food to enhance or compliment the flavor, such as diced onions, dice tomatoes, hot sauce, ketchup, mayonnaise, mustard, relish, salt, shredded cheese and sugar.
- (m) Add a new subparagraph 1-201.10(B)(18.1) to read: "Critical violations" means those items weighted zero (0), four (4) or (5) points on the Inspection Report or the Inspectional Guide.
- (n) Add a new subparagraph 1-201.10(B)(18.2) to read: "Critical violations creating an imminent danger to public health" means those critical violations in which at least one of the following conditions exists:
- (a) Food and drink is spoiled, unwholesome, or contaminated with pathogenic or fecal organisms, toxic chemicals, insect or rodent parts or excreta, or other harmful substances or articles;
 - (b) Potentially hazardous foods have been kept at temperatures above 45 degrees F. and below 140 degrees F. for four (4) hours or more;
 - (c) Food employee has a reportable disease or medical condition under section 2-201.11.
- (o) Add a new subparagraph 1-201.10(B)(18.3) to read: "Critical violations creating a potential danger to public health" means all critical violations other than those that create an imminent danger to public health.
- (p) Add a new subparagraph 1-201.10(B)(18.4) to read: "Critical violations creating a significantly increased risk for foodborne illness" include:
- (a) Potentially hazardous foods at improper temperatures.
 - (b) Cross contamination of raw to ready to eat foods.
 - (c) Poor personal hygiene and handwashing.
- (q) Add a new subparagraph 1-201.10(B)(18.5) to read: "Danger to public health" is a condition which is conducive to propagation or transmission of pathogenic organisms or, a chemical or

physical hazard which presents a reasonably clear possibility that the public is exposed to physical suffering or illness.

(r) Add a new subparagraph 1-201.10(B)(18.6) to read: "Department" means the Department of Human Services.

(s) Add a new subparagraph 1-201.10(B)(18.7) to read: "Director" means the Director of the Department of Human Services or authorized representative.

(t) Amend subparagraph 1-201.10(B)(25)(a) to read: "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, meat tenderizer, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

(u) Amend subparagraph 1-201.10(B)(31) to read: Food Establishment

(a) "Food establishment" means an operation that prepares, assembles, packages, serves, stores, vends, or otherwise provides food for human consumption.

(b) "Food establishment" includes but is not limited to:

(i) Bars, bed and breakfast facilities, cafeterias if open to the public, catered feeding locations, caterers, coffee shops, commissaries, conveyance used to transport people, hospitals if open to the public, hotels, microbreweries, motels, private clubs if open to the public, restaurants, satellite sites, senior citizen centers, snack bars, taverns, vending locations, warehouses, or similar food facilities;

(ii) An operation that is conducted in a mobile food unit, temporary food establishments, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food.

(iii) The premises of a fraternal, social, or religious organization where food is prepared for the public.

(iv) Except as specified in 1-201.10(B)(31)(c)(xiv), school food service that is provided by a private person, business, or organization; and that serve persons other than enrolled students, invited guests or staff.

(v) That relinquishes possession of food to a consumer directly through a restaurant takeout order.

(c) "Food establishment" does not include:

(i) An establishment that offers only prepackaged foods that are not potentially hazardous;

(ii) A produce stand that offers only whole, uncut fresh fruits and vegetables;

(iii) A food processing plant;

(iv) A private home where food is prepared or served for family and guests, and where the public is not invited.

(v) A private home that receives catered or home-delivered food.

(vi) An establishment licensed and inspected by the Oregon Department of Agriculture.

(vii) An establishment or organization that prepares or sells the following food items shall be exempt from licensure and the provisions of ORS 624.010 to 624.120, and 624.310 to 430:

(A) Candy, candied apples, cookies and non-potentially hazardous confections;

(B) Commercially prepackaged ice cream and frozen desserts;

(C) Commercially pickled products, commercially processed jerky, nuts, nutmeats, popcorn, and prepackaged foods such as potato chips, pretzels, and crackers;

(D) Unopened bottled and canned non-potentially hazardous beverages to include alcoholic beverages;

(E) Coffee and tea, with non-potentially hazardous ingredients;

- (F) Hot beverages prepared by the customer from individually packaged powdered mixes and water; and
- (G) Other food items as determined by the Department of Human Services.
- (viii) Private vehicles used for home deliveries.
- (ix) Personal chef who prepares food for an individual or private party. The personal chef may purchase food from a grocery store, but shall not store food or prepare food in advance. The personal chef may use his or her own equipment, utensils and spices.
- (x) Continental breakfast served by a traveler's accommodation licensed under ORS 446 and that is limited to the following: individual or bulk dispensed containers of commercially prepared juices; commercially prepared non-potentially hazardous pastries; whole uncut fresh fruit with peel, coffee and tea with non-potentially hazardous ingredients.
- (xi) Except as specified in 1-201.10(B)(31)(b)(i), mobile food units that are operated by a market, are located on the property of the market and are under the jurisdiction of the Oregon Department of Agriculture.
- (xii) Except as specified in 1-201.10(B)(31)(b)(i), outdoor barbecues operated by a market that are located on the property of the market and are under the jurisdiction of the Oregon Department of Agriculture.
- (xiii) Food service that is provided by a state, county, or other governmental entity.
- (xiv) Except as specified in 1-201.10(B)(31)(b)(iv), school food service that is provided by a state, county, or other governmental entity; or is providing food to students, teachers, other school staff, and invited guests.
- (xv) Any person holding a "one-day, special retail beer or special retail wine license" for a private residence; or anyone who possesses a "temporary" license from the Oregon Liquor Control Commission who serves alcoholic beverages to the public, but serves only foods exempted under 1-201.10(B)(31)(c)(vii) and uses single-service articles.
- (xvi) A bed and breakfast facility with two or less rooms for rent on a daily basis.
- (xvii) A home processor licensed by the Oregon Department of Agriculture that serves only prewrapped, non-potentially hazardous food at a farmer's market.
- (v) Amend subparagraph 1-201.10(B)(32)(a) to read: "Food processing plant" means a commercial operation or a domestic kitchen licensed by the Oregon Department of Agriculture that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.
- (w) Amend subparagraph 1-201.10(B)(41) to read: "Imminent health hazard" means the same as 1-201.10(B)(18.1).
- (x) Add subparagraph 1-201.10(B)(42.1) to read: "Integral" means that all equipment associated with a mobile unit must be rigidly and physically attached to the unit without restricting the mobility of the unit while in transit. This does not preclude the use of a barbecue unit in conjunction with a Class IV mobile food unit.
- (y) Add subparagraph 1-201.10(B)(45.1) to read: "License" means the same as permit for the purposes of this rule.
- (z) Add subparagraph 1-201.10(B)(45.2) to read: "License holder" means the same as permit holder for the purposes of this rule.
- (aa) Add subparagraph 1-201.10(B)(46.1) to read: "Maximum Contaminant Level (MCL)" means the maximum allowable level of a contaminant in water for consumption delivered to the users of a system, except in the case of turbidity where the maximum allowable level is measured at the point of entry to the distribution system.

(bb) Add subparagraph 1-201.10(B)(48.1) to read: "Mobile Food Unit" means any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

(cc) Add subparagraph 1-201.10(B)(49.1) to read: "Outdoor Barbecue" means an open-air preparation by a restaurant of food by cooking over an open fire utilizing either a permanent or portable grill, where the purpose of barbecuing is to impart a unique flavor to the food.

(dd) Add subparagraph 1-201.10(B)(63.1) to read: "Preparation" means the process whereby food is transformed into a consumable form. This includes, but is not limited to, slicing or dicing vegetables, grating cheese, portioning foods, slicing sandwiches, blending foods, or cooking or reheating foods.

(ee) Add subparagraph 1-201.10(B)(65.1) to read: "Quarterly Sampling" means a sample is taken and submitted according to the following schedule: 1st Quarter is January 1 through March 31, 2nd Quarter is April 1 through June 30, 3rd Quarter is July 1 through September 30 and the 4th Quarter is October 1 through December 31.

(ff) Add subparagraph 1-201.10(B)(65.2) to read: "Raw-to-Finish" means cooking foods that are potentially hazardous when in a raw state to a finished, edible state. This practice includes, but is not limited to, cooking raw hamburgers or barbecuing raw meats.

(gg) Add subparagraph 1-201.10(B)(66.1) to read: "Recheck Inspection" means:

(a) An inspection to determine whether specified corrections have been made or alternative procedures maintained for violations identified in previous inspections; or

(b) An inspection to determine whether specific corrections have been maintained for critical violations creating a significantly increased risk for foodborne illness. Recheck inspections may be conducted either on pre-announced dates or unannounced.

(hh) Add subparagraph 1-201.10(B)(69.1) to read: "Repeat violation" means a violation of a rule which is the same specific problem or process as indicated on the Food Service Inspection Report occurring in two consecutive semi-annual inspections.

(ii) Add subparagraph 1-201.10(B)(71.1) to read: "Sample" as it relates to ORS 624.010 means no more than a two to three ounce portion of a food or beverage.

(jj) Add subparagraph 1-201.10(B)(73.1) to read: "Semi-annual inspection" means an unannounced complete inspection conducted twice during the calendar year; one in each half of the year, but not less than 90 days or more than 270 days apart.

(kk) Amend subparagraph 1-201.10(B)(87) to read: "Temporary food establishment" means the same as ORS 624.010(6).

(ll) Add subparagraph 1-201.10(B)(87.1) to read "Transport Vehicle" means a vehicle used to transport foods or utensils from the base of operation to a mobile food unit.

(mm) Amend subparagraph 1-201.10(B)(89) to read: "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; food temperature measuring devices; trays used with highchairs; and probe-type price or identification tags used in contact with food.

(nn) Add subparagraph 1-201.10(B)(90.1) to read: "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and includes vehicles that are propelled or powered by any means. This definition includes watercraft.

(oo) Add subparagraph 1-201.10(B)(92.1) to read: "Violation" means any condition which fails to meet a requirement of ORS Chapters 624 or this rule.

(pp) Add subparagraph 1-201.10(B)(92.2) to read: "Warehouse" means any place where food, utensils, single-service articles, cleaning or servicing supplies for vending machines, mobile units, or commissaries are stored.

(qq) Amend section 2-102.11 to read: Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this Code. The person in charge shall demonstrate this knowledge by compliance with this Code, by being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program, a corporate training program approved by the Department of Human Services, or by responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

(rr) Adopt paragraphs 2-102.11(A) through (O) without changes.

(ss) Amend paragraphs 2-201.12 (A) and (B) to read: The person in charge shall:

(A) Exclude a food employee from a food establishment if the food employee is diagnosed with an illness listed in OAR 333-019-0010.

(B) Restrict a food employee that has a symptoms caused by illness, infection, or other source that is:

(1) Associated with an acute gastrointestinal illness such as:

(a) Diarrhea,

(b) Fever,

(c) Vomiting,

(d) Jaundice, or

(e) Sore throat with fever, or

(2) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(a) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover,

(b) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or

(c) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(3) The food employee is jaundiced.

(tt) Amend paragraphs 2-201.13 (A) and (B) to read: (A) The person in charge may remove an exclusion specified under paragraph 2-201.12(A) if:

(1) The person in charge obtains approval from the local public health authority; and

(2) The person excluded as specified under paragraph 2-201.12(A) provides to the person in charge written documentation that specifies that the excluded person may work in an unrestricted capacity in a food establishment because the person is free of the infectious agent of concern as specified in section 8-501.40.

(B) The person in charge may remove a restriction specified under:

(1) Subparagraph 2-201.12(B)(1) if the restricted person:

(a) Is free of the symptoms specified under paragraph 2-201.11(B).

(uu) Amend section 2-201.14 (A) and (B) to read: A food employee shall:

(A) Report to the person in charge if they have been diagnosed with an illness or are experiencing symptoms specified under section 2-201.12; and

- (B) Comply with exclusions and restrictions specified under paragraphs 2-201.12.
- (vv) Amend section 2-201.15 to read: The person in charge shall notify the regulatory authority that a food employee is diagnosed with an illness listed in OAR 333-019-0010.
- (ww) Amend paragraph 2-301.12(A) to read: Except as specified in paragraph (B) of this section and section 2-301.13, food employees shall clean their hands in a lavatory that is equipped as specified under section 5-202.12 by using a cleaning procedure of approximately 20 seconds that includes:
- (1) Vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms for at least 10 to 15 seconds, followed by;
 - (2) Thorough rinsing under clean, running water.
- (xx) Amend section 2-301.13 to read:
- (A) After defecating, contacting body fluids and discharges, or handling waste containing fecal matter, body fluids, or body discharges, and before beginning or returning to work, food employees shall wash their hands twice using the cleaning procedure specified in section 2-301.12.
- (B) Except when one handwashing lavatory is allowed under paragraph 5-203.11(A), after using the toilet facility food employees shall wash their hands twice, first at a handwashing lavatory in the toilet facility and again at a handwashing lavatory in the food preparation area.
- (yy) Amend section 2-301.16 to read:
- (A) A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall be used according to labeled directions and be applied to hands that are cleaned as specified under section 2-301.12.
- (B) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.
- (zz) Amend paragraph 2-402.11(A) to read: Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.
- (aaa) Amend paragraph 3-201.11(B) to read: Except as specified in paragraphs (I) and (J) of this section, food prepared in a private home may not be used or offered for human consumption in a food establishment.
- (bbb) Add paragraph 3-201.11(G) to read: Game meat which has been donated to a charitable organization and has been inspected and processed as provided in ORS 619.095 may be served for human consumption by that charitable organization.
- (ccc) Add paragraph 3-201.11(H) to read: Except as required in 3-201.11(A) through (G) of this section and in accordance with ORS 624.035, any person, business or volunteer group may donate food to a benevolent organization that meets the requirements in ORS 624.015. The Internal Revenue Service (IRS) will issue a "letter of determination" that should be used as the basis for assessing compliance with benevolent status of ORS 624.015. The person, business or volunteer group making the donation shall inspect the food to ensure its fitness for human consumption and discard all food that is unwholesome. The following donated food items are approved for use by benevolent organizations:
- (A) Commercially prepared foods, canned goods, and milk products, marine and freshwater fishery products or meat animals; i.e., cattle, sheep, goats, equine, swine, poultry or rabbits obtained from facilities licensed by the Oregon Department of Agriculture or the Department of Human Services according to ORS Chapters 603, 616, 621, 622, 624, 625 and 635;
 - (B) Home baked bread, rolls, pies, cakes, doughnuts or pastries not having perishable fillings, icings, toppings or glazes;

- (C) Fresh fruit and produce from private gardens or commercial growers;
- (D) Salvageable food which has lost the label or which has been subjected to possible damage due to accident, fire, flood, adverse weather or similar cause. Reconditioning of salvageable food shall be conducted according to the 1984 Model Food Salvage Code recommended by the Association of Food and Drug Officials and U.S. Department of Health and Human Services;
- (E) Other food as may be approved by the Department of Human Services upon prior notification by the donator or benevolent organization;
- (F) Unless alternative language has been approved by the regulatory authority, a notice shall be posted in public view that says: "NOTICE: Food served at this location may not have been inspected by the health department."
- (ddd) Add paragraph 3-201.11(I) to read: Privately donated breads, rolls, pies, cakes, doughnuts or other pastries not having perishable fillings, icings, toppings or glazes may be used in temporary food establishments operated by benevolent organizations for fund-raising events, provided they meet the requirements under 3-201.11(H)(6).
- (eee) Add paragraph 3-201.11(J) to read: Food prepared in a private home that is licensed as a home processor by the Oregon Department of Agriculture.
- (fff) Add subparagraph 3-201.17(A)(5) to read: Except as specified in (A)(1) through (4) of this section,
 - (a) Game meat donated to a charitable organization shall be inspected by employees of the Oregon Department of Agriculture, Department of Fish and Wildlife, or State Police as provided for in ORS 619.095 may be served for human consumption by that charitable organization.
 - (b) As used in subparagraph (a) of this section:
 - (i) Charitable organization means the State Office for Children, Adults and Families, Youth Authority, Department of Corrections institutions, low-income nutritional centers, public school nutritional centers, senior nutritional centers, state hospitals and other charitable organizations or public institutions approved by the Department of Fish and Wildlife.
 - (ii) Game meat includes antelope, bighorn sheep, deer, elk, moose and mountain goat.
- (ggg) Add section 3-201.18 to read: Outdoor Barbecuing.*
 - (A) Outdoor barbecuing by a food establishment shall be allowed as a part of the operation when conducted on the premise or in the immediate vicinity of the food establishment.
 - (B) Enclosure of an outdoor barbecue shall not be required unless necessary to protect food from contamination.
 - (C) If a handwashing sink is not adjacent to the outdoor barbeque, a handwashing system that meets the requirements of section 5-203.11(C)(1)-(6) must be provided next to the outdoor barbecue.
- (hhh) Amend section 3-301.11 to read:
 - (A) Food employees shall wash their hands as specified under sections 2-301.12 and 2-301.13.
 - (B) Food employees shall minimize bare hand contact with food and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.^S
- (iii) Amend paragraph 3-302.11(A) to read: Food shall be protected from cross contamination by:
 - (1) Separating raw animal foods during storage, preparation, holding, and display from:
 - (a) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables,
 - (b) Cooked ready-to-eat food, and
 - (c) Raw ready-to-eat food shall be stored separately from ready-to-eat food;

- (2) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
- (a) Using separate equipment for each type, or
 - (b) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and
 - (c) Preparing each type of food at different times or in separate areas;
 - (d) If stored vertically, raw animal foods must be stored in ascending order of cooking temperature as specified in section 3-401.11, with the highest required cooking temperature stored at the lowest level;
- (jjj) Amend paragraph 3-304.12(F) to read: In a container of water if the container is cleaned at a frequency specified under subparagraph 4-602.11(D)(7); and
- (A) The water is maintained at a temperature of 60 degrees C (140 degrees F) or above; or
 - (B) At 5 degrees C (41 degrees F) or less.
- (kkk) Add paragraph 3-304.15(E) to read: Effective March 1, 2003, the use of latex gloves in food service establishments is prohibited.
- (lll) Add section 3-306.15 to read: Outdoor Barbecue, Serving Consumers.
- (A) Consumers may not serve themselves from an outdoor barbecue.
 - (B) The food employee may serve:
 - (i) An employee who brings a container or plate from the food establishment to the barbecue and who returns the food to the food establishment for further processing or service; or
 - (ii) The consumer directly.
 - (C) Except for non-potentially hazardous condiments, such as hot sauces, ketchup, mayonnaise, mustard, pepper, relish, salt, and sugar, no other food may be served outside of the food establishment.
- (mmm) Add section 3-307.12 to read: Protection from Contamination, Use of Private Vehicles for Food Deliveries.
- (A) Private vehicles may be used for food deliveries if the food is packaged so that it is protected from contamination under Part 3-3, and adequate means are provided for maintaining proper food temperatures under section 3-501.16.
 - (B) Private vehicles shall not be used in any activity that is incompatible with safe and sanitary transportation of food.
- (nnn) Amend subparagraph 3-401.11(D)(2) to read: The consumer requests that the food be prepared in a raw, rare, or undercooked state.
- (ooo) Amend paragraph 3-402.11(B) to read: If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), or are listed in the FDA Fish and Fisheries Products Hazards and Control Guidance, Potential Species-Related & Process Related Hazards and parasites are not a hazard, the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under paragraph (A) of this section.
- (ppp) Amend section 3-402.12 to read: (A) Except as specified in paragraphs 3-402.11(B) and (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall identify each batch by name and date, measure the freezing temperature once per day, and record the temperature and time to which the fish are subjected and shall retain the records at the food establishment in chronological order for 90 calendar days beyond the time of service or sale of the fish.

(B) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under section 3-402.11 may substitute for the records specified under paragraph (A) of this section.

(1) Each invoice received from the supplier shall state the specific fish by species that have been frozen to meet the requirements for parasite destruction specified under section 3-402.11.

(2) The written agreement or statement from the supplier must be updated at least once per year.

(qqq) Amend paragraph 3-501.14(A) to read: Cooked potentially hazardous food shall be actively cooled:

(1) Within 2 hours, from 60 degrees C (140 degrees F) to 21 degrees C (70 degrees F); and

(2) Within 4 hours, from 21 degrees C (70 degrees F) to 5 degrees C (41 degrees F) or less, or to 7 degrees C (45 degrees F) as specified under paragraph 3-501.16(C).

(rrr) Amend subparagraph 3-501.16(C)(2) to read: No later than January 1, 2007, the equipment is upgraded or replaced to maintain food at a temperature of 5 degrees C (41 degrees F) or less.

(sss) Add subparagraph 3-501.16(C)(3) to read: (3) Mobile food units must upgrade or replace equipment to maintain food at a temperature of 5 degrees C (41 degrees F) or less no later than January 1, 2008.

(ttt) Amend subparagraph 3-501.17(A) to read: (A) Except as specified in paragraph (E) of this section, refrigerated, ready-to-eat, potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation with the preparation date or the date by which the food shall be consumed which is, including the day of preparation:

(1) 7 calendar days or less from the day that the food is prepared, if the food is maintained at 5 degrees C (41 degrees F) or less; or

(2) 4 calendar days or less from the day the food is prepared, if the food is maintained at 7 degrees C (45 degrees F) or less as specified under paragraph 3-501.16(C).

(uuu) Amend paragraph 3-501.17(F) to read: Paragraphs (C) and (D) of this section do not apply to:

(A) Whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing;

(B) Hard cheeses that are manufactured with a moisture content not exceeding 39 percent as specified under 21 CFR 133.150 and meets the temperature requirements specified under paragraph 3-501.16(B). Examples include Asiago medium, Asiago old, Cheddar, Gruyere, Parmesan, Reggiano, Romano, and Sap sago.

(C) Semisoft cheeses containing more than 39 percent but less than 50 percent moisture as specified in 21 CFR 133.187 and meets the temperature requirements specified under paragraph 3-501.16(B). Examples include Asiago fresh and Soft, Blue, Brick, Caciocavallo Siciliano, Colby with not more than 40 percent moisture, Edam, Gorgonzola, Gouda, Limburger, Monterey, Monterey Jack, Muenster, Pasteurized process cheese, Provolone, Swiss and Emmentaler.

(D) Pasteurized process cheese manufactured according to 21 CFR 133.169, labeled as containing an acidifying agent and meets the temperature requirements specified under paragraph 3-501.16(B).

(E) Cheeses that are not exempt for date marking include soft cheeses. Examples include Brie, Camembert, Cottage, Ricotta, and Teleme.

(vvv) Add section 3-502.11 to read: A food establishment shall obtain a variance from the regulatory authority as specified in section 8-103.10 and under section 8-103.11 before smoking

food as a method of food preservation rather than as a method of flavor enhancement; curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; packaging food using a reduced oxygen packaging method except if required under section 3-502.12; custom processing animals that are for personal use as food and not for sale or service in a food establishment; or preparing food by another method that is determined by the regulatory authority to require a variance.

(www) Amend section 3-502.12 to read: (A) A food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under paragraph 8-201.14(D) and that:

(1) Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:

(a) Has a water activity of 0.91 or less,

(b) Has a pH of 4.6 or less,

(c) Is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A. using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or

(d) Is a food with a high level of competing organisms such as raw meat or raw poultry;

(e) Is a food that has been subjected to a process or control that can be supported by scientific data and is approved the Department of Human Services.

(2) Specifies methods for maintaining food at 5 degrees C (41 degrees F) or below;

(3) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(a) Maintain the food at 5 degrees C (41 degrees F) or below, and

(b) Discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

(5) Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(B) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

(C) The Department of Human Services may require the permit holder to obtain a variance as specified in section 8-103.10 and under section 8-103.11 to produce products with reduced oxygen packaging.

(xxx) Amend section 3-603.11 to read: Except as specified in paragraphs 3-401.11(C) and 3-801.11(D), the food establishment may offer or a consumer may request an animal food such as beef, eggs, fish, lamb or shellfish to be served in a ready-to-eat form that is raw, undercooked, or not otherwise processed to eliminate pathogens; or as a raw ingredient in another ready-to-eat food.

(yyy) Amend paragraph 4-101.19(A) to read: (A) Except as specified in paragraphs (B), (C), (D) and (E) of this section, wood and wood wicker may not be used as a food-contact surface.

(zzz) Add paragraph 4-101.19(E) to read: Untreated wood planks, such as cedar, may be used as a cooking surface for grilling or baking.

(aaaa) Amend paragraph 4-301.12 (A) to read: Except as specified in paragraphs (C) and (F) of this section, a sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

(bbbb) Add paragraphs 4-301.12 (F) and (G) to read: (F) A commercial warewashing machine is allowed in lieu of a manual warewashing sink as required in this section.

(G) For mobile food units:

(1) Class I, II and III mobile food units are not required to provide warewashing facilities on the unit, if adequate facilities exist at the commissary.

(2) Multiple or disposable utensils may be used for food handling on the unit. There shall be at the beginning of each day's business a sufficient supply of clean utensils necessary to properly prepare, assemble, or dispense the food. For mobile food units that do not have a warewashing sink on the unit, this supply shall consist of at least one of each type of utensil for every two hours of operation. If the unit operates less than four hours in a day, the unit shall provide a minimum of two sets of each type of utensil. Utensils shall not be used if they become contaminated.

(3) Class IV mobile food units must provide a sink with at least three compartments.

(cccc) Amend section 4-302.12 to read: Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Chapter 3. At a minimum, a metal-stemmed temperature measuring device with a range of 0-220 degrees F shall be provided to take internal food temperatures.

(dddd) Amend paragraph 4-501.16(B) to read:

(B) If a warewashing sink is used to launder wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under section 4-501.14.

(1) If wiping cloths are washed at the warewashing sink, they shall be washed in the wash compartment, and

(2) Sinks used to wash or thaw food shall be washed, rinsed, and sanitized both before and after use.

(eeee) Amend subparagraph 4-602.11(D)(7) to read: The utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues and in-use utensils are intermittently stored in a container of water in which the water is maintained at:

(a) 60 degrees C (140 degrees F) or more, or

(b) 5 degrees C (41 degrees F) or less.

(ffff) Amend section 5-102.11 to read:

(A) Except as specified under section 5-102.12, water from a public water system shall meet 40 CFR 141-National Primary Drinking Water Regulations and OAR 333-061.

(B) The following drinking water standards apply to licensed food establishments that are not regulated under OAR 333-061:

(1) Sampling frequency:

(a) For seasonal facilities, a coliform sample must be taken prior to operational period and each quarterly sampling period while open to public. A minimum of two samples will be required for coliform, regardless of length of operation.

(b) For year round facilities:

(i) Coliform: Monthly for surface water. Quarterly for populations under 1000 on ground water.

(ii) Inorganic Samples: One time sampling required for new facilities before beginning operation.

(2) Maximum Contaminant Level (MCL) Violations: An item is not considered a violation until confirmed by second sample taken within 24 hours. Four repeat samples must be taken within 24 hours of the original positive sample for a sample result above the MCL.

(a) Total coliform: Report positive total coliform samples to the Department within 24 hours of being notified of the positive sample.

(b) Fecal coliform: Any positive fecal coliform sample must be reported to the Department within 24 hours.

(i) Public notification for this potential acute health risk is required.

(ii) An alternative procedure approved by the Department must be in place before serving public.

(c) Inorganic Samples: One time sampling required for new facilities. Not required for facilities that were previously regulated under OAR 333-061 and have tested prior to January 1, 2003.

Inorganics include: antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium and thallium.

(d) Nitrate: Sample annually

(i) Any samples exceeding the MCL for nitrate shall be reported to the Department within at least 24 hours.

(ii) Public notification is required.

(iii) Bottled water must be provided to public upon request.

(e) The Department may require more frequent monitoring than specified or may require confirmation samples for positive and negative results. It is the responsibility of the operator to correct any problems and get a laboratory test result that is less than the MCL.

(3) Sample collection methods:

(a) For the purpose of determining compliance with the MCL and the sampling requirements of these rules, sampling results may be considered only if they have been analyzed by a laboratory certified by the State Drinking Water Program.

(b) Samples submitted to laboratories for analysis shall be clearly identified with the name of the water system, facility license number, sampling date, time, sample location identifying the sample tap, the name of the person collecting the sample and whether it is a routine or a repeat sample.

(i) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are also used to calculate compliance with maximum contaminant levels for inorganics prescribed in OAR 333-061-0030(Table 1);

(ii) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a MCL;

(iii) Test results: Sample results must be submitted to the Local Regulatory Authority by the 10th of the month following the sampling period.

(c) The Department may take additional samples to determine compliance with applicable requirements of these rules.

(4) Public Notice: All public notification must be posted conspicuously on site and must include:

(a) A description of the violation or situation of concern;

(b) Corrective actions taken to improve water quality;

(c) Any potential adverse health effects;

(d) The population at risk;

(e) The alternative measures in place to provide safe drinking water.

(5) Surface Water Sources: New facilities with surface water sources not regulated under OAR 333-061 will not be licensable after January 1, 2005. Facilities existing prior to January 1, 2005 in compliance with OAR 333-061-0032 may continue to operate.

(6) Plan Review: All new facilities that are not regulated by OAR 333-061 must submit plans to the Department for review prior to construction or major modification of system. Systems regulated prior to January 1, 2003 by OAR 333-061 are not required to re-submit plans. Plan review must be conducted in accordance with the procedures outlined in OAR 333-061-0060.

(gggg) Amend paragraph 5-103.11(B) to read: Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. Hot and cold or tempered water must be provided at all handwashing sinks in the establishment.

(hhhh) Amend section 5-104.12 to read:

(A) Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

(i) A supply of containers of commercially bottled drinking water;

(ii) One or more closed portable water containers;

(iii) An enclosed vehicular water tank;

(vi) An on-premises water storage tank; or

(v) Piping, tubing, or hoses connected to an adjacent approved source.

(B) The regulatory authority may grant a temporary variance from requirements of Subparts 5-101, 5-102, and 5-103 by continuing or re-issuing previously issued permits where:

(i) Failure to comply with the code requirements is due to a failure of a community, municipal or public utility water supply system to meet the regulatory authority's requirements;

(ii) The regulatory authority is satisfied that necessary remedial action is ongoing or reasonably imminent in connection with such water supply system; and

(iii) Continuance or re-issuance of the permit is conditional upon the carrying out of such remedial action and the provision of such other measures by the certificate or license holder which will in the judgment of the regulatory authority afford reasonable interim protection to the public health including, but not limited to, adequate warnings to public and personnel as to the safety of the water delivered to the premises from the distribution system and notice of measures to avoid use or consumption of such water or to render it safe for consumption; adequate warnings as to the need for supervision of children and others needing supervision against use of such water; provision of alternative potable water and adequate notification as to its availability; and measures to avoid the use and the availability of water on the premises.

(iiii) Amend paragraph 5-203.11(A) to read: Except as specified in (B) and (C) of this section, at least one handwashing lavatory or the number of handwashing lavatories necessary for their convenient use by employees in areas specified under section 5-204.11 shall be provided. Food establishments opened prior to July 1, 1965 are exempt from this requirement provided that employees can meet the requirements under sections 2-301.12 and 2-301.13.

(jjjj) Amend paragraph 5-203.11(C) to read: An adequate number of handwashing stations shall be provided for each temporary food establishment to include:

(A) A minimum of one enclosed container that has a minimum water capacity of five gallons;

(B) A spigot that can be opened to provide a constant flow of water;

(C) Soap;

(D) Water;

(E) Paper towels; and

(F) A collection container for wastewater with a minimum capacity of five gallons.

(kkkk) Add paragraph 5-203.11(D) and (E) to read: (D) For mobile food units:

(1) Class II, III and IV mobile food units must provide hot and cold running water for handwashing tempered by means of a mixing valve;

(2) Notwithstanding subparagraph (1) of this paragraph, Class II and III mobile food units may provide a handwashing system as described in ¶ (C) (1)-(6) of this section. There must be a minimum initial volume of five gallons of water available for handwashing at the beginning of the work day.

(E) For outdoor barbecues, if a handwashing sink is not adjacent to the barbecue, a handwashing system that meets the requirements of ¶ (C)(1)-(6) of this section must be provided next to the outdoor barbecue.

(llll) Amend section 5-203.12 to read:

(A) Except as specified in (B) of this section, toilet facilities shall be installed according to ORS 455.010 through 455.895 (1998 Oregon Structure Specialty Code, 2000 Amendments) for the number of toilets.

(B) Food establishments with occupancy of 15 or less to include both employees and patrons may have only one toilet fixture and adjacent lavatory on the premises.

(C) Mobile food units shall provide toilet facilities as provided for in § 6-402.11.

(mmmm) Amend section 5-203.13 to read: (A) At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) For mobile food units, if wet mopping is used as a method for cleaning the floor, then a separate sink must be provided in the unit for cleaning mops and cleaning tools and for the disposal of mop water or similar liquid wastes.

(nnnn) Amend section 5-205.11 to read: Using a Handwashing Facility.*

(A) A handwashing facility shall be maintained so that it is accessible at all times for employee use.^S

(B) A handwashing facility may not be used for purposes other than handwashing.^N

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.^N

(oooo) Amend section 5-302.16 to read: A food grade hose shall be used for conveying drinking water from a water tank and shall be:

(pppp) Adopt paragraphs 5-302.16(A) through (E) as written.

(qqqq) Add section 5-305.11 to read: Water System Requirements

(A) A Class IV mobile food unit must have a potable water system under pressure. The system must be of sufficient capacity to furnish enough hot and cold water for food preparation, warewashing, and handwashing, and the requirements of these rules. This supply must consist of a minimum of five gallons of water for handwashing and 30 gallons of water for warewashing.

(B) Class II and III mobile food units must have a water supply that provides sufficient water for food preparation, handwashing, warewashing or any other requirements as set forth in these rules. If warewashing is conducted on the unit, a minimum of 30 gallons of water must be dedicated for this purpose. A minimum of five gallons of water must be provided for handwashing.

(C) Except relating to handwashing as provided for in subparagraph 5-203.11(D)(2), all mobile food units must be designed with integral potable and waste water tanks on board the unit. A mobile unit may connect to water and sewer if it is available at the operating location, however, the tanks must remain on the unit at all times.

(rrrr) Amend paragraph 5-401.11(A) to read: Sized 10 to 15 percent larger in capacity than the water supply tank; and

(ssss) Add paragraph 5-401.11(C) to read: For a mobile food unit selling only beverages, such as coffee, espresso, or soda, and where most of the potable water supply is used in the product, the waste water retention tank may be at least one half the volume of the potable water storage tank. This determination must be made by the regulatory authority.

(tttt) Amend section 5-402.13 to read: (A) Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

(B) For mobile food units:

(1) Mobile food units that generate only gray water liquid wastes may hand-carry those wastes to a specific disposal location approved by the regulatory authority.

(2) The waste transport container must be designed and intended to hold and transport gray water without leaks or spills. The container must have a capacity no greater than 20 gallons.

(uuuu) Amend section 6-202.19 to read: Exterior walking and driving surfaces shall be graded to drain if required by law and shall be maintained to prevent the accumulation of water.

(vvvv) Amend section 6-202.110 to read: Outdoor Refuse Areas, Drainage.

Outdoor refuse areas shall be constructed in accordance with law and shall be designed and maintained to prevent the accumulation of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

(wwww) Amend section 6-301.11 to read: Handwashing Cleanser, Availability.*

Each handwashing lavatory or group of two adjacent lavatories shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

(xxxx) Amend section 6-301.12 to read: Hand Drying Provision.*

Each handwashing lavatory or group of adjacent lavatories shall be provided with:

(A) Individual, disposable towels;

(B) A continuous towel system that supplies the user with a clean towel; or

(C) A heated-air hand drying device.

(yyyy) Amend section 6-402.11 to read:

(A) Except for paragraphs (B), (C) (D) and (E) of this section, toilet rooms shall be conveniently located and accessible to employees during all hours of operation and shall be an integral part of the building.

(B) A food service establishment may be approved without an integral toilet room under the following conditions:

(1) An integral toilet room is not required by law; and

(2) A toilet room is located within 500 feet of the food establishment; and

(3) A written agreement is in place that allows the use of the toilet room; or

(4) The food service establishment is located in an outdoor mall or shopping center.

(C) Toilet facilities for the customer are required only in establishments constructed or extensively remodeled after May 11, 1974.

(D) Food establishments limited to drive-in or handout service are not required to provide toilet rooms facilities for the customer.

(E) For mobile food units:

(1) On board toilet facilities are not applicable to most mobile food units. If the unit is not so equipped, then the mobile food unit must operate within one-quarter mile or a five-minute walk of an accessible restroom facility. Mobile food units that operate on a designated route, and which do not stop at a fixed location for more than two hours during the workday, shall be exempt from this rule.

(2) Mobile food units that do not provide on board restroom facilities under subparagraph (1) of this rule must have restroom facilities that will be accessible to employees during all hours of operation. The restroom facilities must have a handwashing system that provides potable hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11. Employees may use a restroom located in a private home or a portable toilet to satisfy this requirement.

(zzzz) Add paragraph 8-101.10(C) to read: Plans submitted shall be reviewed and commented on by a sanitarian registered in accordance with ORS 700.

(aaaa) Amend section 8-103.10 to read:

(A) The Department may grant a variance from requirements of this Code as follows:

(i) Where it is demonstrated to the satisfaction of the Department that strict compliance with the rule would be highly burdensome or impractical due to special condition or cause;

(ii) Where the public or private interest in the granting of the variance is found by the Department to clearly outweigh the interest of the application of uniform rules; and

(iii) Where such alternative measures are provided which in the opinion of the Department will provide adequate public health and safety protection.

(B) Such variance authority is not conferred upon any Local Public Health Authority notwithstanding contractual authority in administration and enforcement of the food service statutes and rules;

(C) The applicant must include all necessary information to support the variance request, which may include, but is not limited to, required testing, challenge data and research results;

(D) If a variance is granted, the regulatory authority shall retain the information specified under section 8-103.11 in its records for the food establishment;

(E) The Department will review variances at least triennially;

(F) Revocation or denial of the variance request shall be subject to the appeal process provided under ORS 183.

(bbbb) Amend subparagraph 8-201.13(A)(2) to read: A variance is required as specified under section 3-502.11, paragraph 4-204.110(B), or subparagraph 3-203.12(B)(2)(b); or

(cccc) Amend paragraph 8-302.14(A) to read: The name, mailing address, telephone, number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;

(dddd) Amend paragraph 8-303.30(C) to read: Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided under ORS 183.

(eeee) Amend subparagraph 8-304.11(G)(2) to read: The regulatory authority directs the replacement to meet current code requirements after the food establishment has been closed for a minimum of 12 consecutive months; or

(fffff) Amend paragraph 8-304.11(H) to read: Upgrade or replace refrigeration equipment if the circumstances under subparagraphs (G)(1)-(3) of this section occurs first, or by no later than the time specified under paragraph 3-501.16(C);

(ggggg) Amend paragraph 8-304.11(J) to read: Accept notices issued and served by the regulatory authority as may be authorized under ORS 183 and 624; and

(hhhhh) Amend paragraph 8-304.11(K) to read: Be subject to the administrative, civil, injunctive, and criminal remedies as may be authorized under ORS 183 and 624.

(iiiiii) Amend paragraph 8-401.10(C) to read: For temporary food establishments:

(A) Except for Subparagraph (C)(2) of this section, the regulatory authority shall inspect at least once during the operation of a temporary food establishment.

(B) For benevolent temporary food establishments, the regulatory authority shall either:

(AA) Inspect; or

(BB) Provide a consultation.

(jjjjj) Amend paragraph 8-403.10(A) to read: (A) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 8-302.14(C), inspection date, and employee food safety cards; and

(kkkkk) Amend section 8-403.20 to read: The regulatory authority shall specify on the inspection report form the time frame for correction of the violations as specified under sections 8-404.11, and 8-405.11.

(lllll) Amend paragraph 8-405.11(B) to read: Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed 14 calendar days after the inspection, for the permit holder to correct critical Code violations or HACCP plan deviations.

(mmmmm) Amend paragraph 8-501.20(C) to read: (C) Closing the food establishment by summarily suspending a permit to operate as may be provided under ORS 624.

(nnnnn) Amend paragraph 8-501.30(C) to read: (C) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request as provided under ORS 183.

Stat. Auth.: ORS 624.100, 624.390

Stats. Implemented: ORS 624.100, 624.390

DIVISION 157
INSPECTION AND LICENSING PROCEDURE
RESTAURANTS AND BED AND BREAKFAST FACILITIES

333-157-0000

Inspection Form Procedures

(1)(a) Violations which are observed during any sanitation inspection shall be described in the space provided on a form approved by the Department by: Citing the number of the related item on the Inspection Form, point value associated with the item including penalty additions, Oregon Administrative Rule/Oregon Revised Statute number violated; and by giving a brief statement of the specific problem and required corrections;

(b) One (1) point items shall be given an additional one (1) point weight when a Repeat Violation is observed. Two (2) point items shall be given an additional two (2) point weight when a Repeat Violation is observed. Four (4) point items shall be given an additional four (4) point weight when a Repeat Violation is observed. Five (5) point items shall be given an

additional five (5) point weight when a Repeat Violation is observed. Additional points shall accumulate and be added to the value of uncorrected items which are repeat violations. Each one (1) point item can accumulate to two (2) points. Each two (2) point item can accumulate to four (4) points. Each four (4) point item can accumulate to eight (8) points. Each five (5) point item can accumulate to ten (10) points.

(2) Critical Violations Creating a Potential Danger to Public Health shall be recorded as in section (1) of this rule and shall specify:

(a) Any alternative procedure as may be approved, the time limit for its use, and that the alternative procedure must be implemented immediately; and

(b) The corrections to be made and the time limit by which the corrections shall be made. In the case where an alternative procedure has not been approved, the time limit by which the correction must be made shall be within but not to exceed 14 days.

(3) Critical Violations Creating an Imminent or Present Danger to Public Health shall be recorded as required in sections (1) and (2) of this rule except when no alternative procedure is approved, the correction shall be required immediately.

(4) If a restaurant obtains a sanitation score of less than 70 upon an unannounced Complete Inspection, the operator or person in charge shall be notified by a statement on the Inspection Form that the restaurant will be closed, if the score of another Complete Inspection conducted within 30 days is not 70 or above.

(5) Critical Violations Creating a Significantly Increased Risk for Food Borne Illness shall require a Recheck Inspection if found on consecutive Complete Inspections, and for the purposes of enforcement shall be considered uncorrected.

(6) If a restaurant is ordered Closed, the Closure Order as designated by the Department shall be attached to the Inspection Form and delivered to the operator or person in charge.

Stat. Auth.: ORS 624.100

Stats. Implemented: ORS 624.100 – 624.130

333-157-0010

Approved Alternative Procedures

(1) An alternative procedure may be approved on a temporary basis for a designated time period, if in the judgment of the Environmental Health Specialist the procedure provides interim health and safety protection equal to that provided by the rule. The Environmental Health Specialist may extend the designated time period if justified by unforeseen circumstances. Such an alternative procedure shall not authorize or condone any Critical Violation.

(2) All alternative procedures which have been approved shall be implemented immediately.

Stat. Auth.: ORS 624.100

Stats. Implemented: ORS 624.100 – 624.130

333-157-0027

Increased Inspection Schedule

(1) Any restaurant that fails to obtain a minimum acceptable sanitation score of 70 or more for two consecutive, unannounced semi-annual inspections shall be subject to an increased inspection schedule.

(2) Except as provided in section (4) of this rule, this schedule will consist of one complete unannounced inspection a quarter (three month period) as well as any re-check inspections

required. This inspection schedule shall begin in the quarter immediately following the second consecutive score of less than 70.

(3) The increased inspection schedule will revert to semi-annual inspections after the facility has obtained four (4) consecutive scores of 70 or above.

(4) At the Assistant Director's option, one of the four required inspections may be an inspection using Hazard Analysis and Critical Control Point (HACCP) principles, as defined in these rules. HACCP based inspections may be announced. Participation by a restaurant in a HACCP-based inspection shall be the equivalent of a score of 70 or above for the purposes of this rule.

(5) The inspecting agency may assess a fee for each quarterly inspection required under this rule of up to one-half of the annual licensing fee otherwise assessable to the restaurant.

Stat. Auth.: ORS 624.100

Stats. Implemented: ORS 624.100 – 624.130

333-157-0030

Closure of Restaurants

(1) If the Assistant Director closes a restaurant, a statement by the Department ordering Closure and specifying the reasons therefore, and signed by the Assistant Director, shall be attached to the Inspection Form and delivered to the operator or person in charge:

(a) When a restaurant is Closed, the Assistant Director shall post the notice of Closure at a customary entrance;

(b) No person except the Assistant Director shall remove or alter this notice;

(c) No person shall operate a restaurant which has been Closed.

(2) If a Critical Violation Which Creates an Imminent or Present Danger to Public Health is not corrected immediately or an approved alternative procedure is not initiated immediately by the operator, the restaurant shall be closed.

(3) If a Critical Violation Which Creates a Potential Danger to Public Health has not been corrected within the designated time limit, the restaurant shall be Closed.

(4) When a restaurant has been Closed because a Critical Violation(s) has not been corrected, it may be reopened after 24 hours if:

(a) A Recheck Inspection by the Assistant Director confirms that all Critical Violations have been corrected; and

(b) A Closure dismissal order designated by the Department is delivered to the operator or person in charge; and

(c) The Closed sign previously posted is removed by the Assistant Director;

(d) A restaurant may be reopened earlier than 24 hours following a voluntary meeting attended by the restaurant operator or person in charge, the Assistant Director, and the inspecting Environmental Health Specialist, at which the provisions of subsections 4(a) through (c) of this rule are demonstrated to be met;

(e) A restaurant Closed and reopened as described in this subsection will be assigned a notice of restaurant sanitation based on the sanitation score of the unannounced Complete Inspection which identified the Critical Violations causing the Closure.

(5) If a restaurant has obtained a sanitation score of less than 70 on two consecutive Complete Inspections conducted within 30 days as described in OAR 333-157-0000(4), it shall be Closed.

(6) When a restaurant has been Closed for failure to obtain a minimum acceptable sanitation score of 70 or more, it may be reopened after 24 hours if:

- (a) The operator submits a written plan of correction, specifying the corrections to be made and time limits for their completion, which would achieve a sanitation score of 80 points by the next Semi-Annual Inspection; and
 - (b) The plan of correction is approved by the Assistant Director; and
 - (c) A Complete Inspection after the restaurant has been Closed produces a sanitation score of 70 or more.
 - (d) A Closure dismissal order designated by the Department is delivered to the operator or person in charge; and
 - (e) The Closed sign previously posted is removed by the Assistant Director;
 - (f) A restaurant may be reopened earlier than 24 hours following a voluntary meeting attended by the restaurant operator or person in charge, the Assistant Director, and the inspecting Environmental Health Specialist, at which the provision of subsections 6(a) through (e) of this rule are demonstrated to be met;
 - (g) A restaurant Closed and reopened as described in this subsection shall be assigned a notice of restaurant sanitation based on the sanitation score of the Complete Inspection performed while the restaurant was Closed.
- (7) Appeals of Closures are contested cases pursuant to ORS Chapter 183.
- (8) Operators whose facilities have been closed for failure to obtain a minimum acceptable sanitation score of 70 or more, or for failure to correct repeat Critical Violations must agree in writing, as part of reopening the restaurant, to:
- (a) Enroll in and successfully complete an approved food manager training course; or
 - (b) In the event that an extraordinary situation exists whereby an approved food manager training course is not available to the operator, the Assistant Director shall make provision for an alternative type of food manager training using criteria approved by the Department.
- Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130

333-157-0045

Civil Penalties

- (1) The Department or a Local Public Health Authority may impose civil penalties on any person for the following willful violations:
- (a) Operation of a restaurant, bed and breakfast facility or vending machine without a current license to do so from the Department or the Local Public Health Authority;
 - (b) Failure to cease operation of a restaurant, bed and breakfast facility or vending machine that has been closed due to uncorrected critical violations. This authority shall be limited to those critical violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 Section 1-201.10(18.2).
- (2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.
- (3) The maximum civil penalty for each of the violations listed in section (1) of this rule is \$500 per day of violation.
- (4) Civil penalties shall be imposed in the manner provided by ORS Chapter 183 or the equivalent.
- Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130

333-157-0070

Licensing

Any license issued by the Department pursuant to ORS 624 shall expire and may be reinstated on December 31 of each year; except for temporary restaurant licenses issued pursuant to ORS 624.025.

Stat. Auth.: ORS 624.100

Stats. Implemented: ORS 624.100 – 624.130

333-157-0080

Fees

Fees for eating and drinking establishments and other food service activities subject to ORS Chapter 624 shall be as specified in ORS Chapter 624 and as follows: Any restaurant providing food or beverage solely to children, elderly persons, indigent or other needy populations shall not be required to pay a restaurant license fee to the Department if such restaurant is:

- (1) Operated by a benevolent organization as defined in ORS 624.015; and
- (2) The patrons or recipients are not required to pay the full cost of the food or beverage. Such restaurants must obtain restaurant licenses and must comply with OAR 333-150-0000.

Stat. Auth.: ORS 624.100

Stats. Implemented: ORS 624.100 – 624.130

DIVISION 158

COMBINATION FOOD SERVICE FACILITIES

Combination Facilities Engaged in Activities Subject to Regulation by the Department of Agriculture and by the Department of Human Services

333-158-0000

Licensing and Inspections

The licensing of combination facilities shall be the responsibility of either the Department of Human Services or the Oregon Department of Agriculture in accordance with the following criteria:

- (1) The establishments subject to these rules are those combination facilities as defined in OAR 333-150-0000 1-201.10(B)(11.1).
- (2) A determination shall be made for each firm covered in OAR 333-150-0000 1-201.10(B)(11.1) as to which agency shall inspect and license. The determination shall be based upon which agency has statutory responsibility and authority for the predominant activities of the firm.
- (3) In those instances where it is determined that either a full or limited service restaurant and/or other activity for which the Department of Human Services has authority, is predominant, the Department of Human Services shall perform the inspectional and licensing responsibilities to the exclusion of the Oregon Department of Agriculture.
- (4) In those instances where it is determined that the bakery, retail grocery, food processing and/or other activities for which the Oregon Department of Agriculture has authority, is predominant, the Oregon Department of Agriculture shall perform the inspectional and licensing responsibilities to the exclusion of the Department of Human Services.
- (5) The determination of the predominant activity at any combination facility subject to this agreement shall be made first by the field Environmental Health Specialists. If agreement is not

reached, then it shall be referred to program supervisors of the Local Public Health Authority and the Oregon Department of Agriculture for a determination of predominant activity. If an agreement is not reached among the Local Public Health Authority and the Oregon Department of Agriculture, or if a licensed facility disagrees with the determination, the matter may be appealed to an arbitration panel composed of the Administrator of the Food and Dairy Division (or appointee), the Administrator of the Office of Environmental Public Health (or appointee), and one representative each from the Conference of Local Health Officials, an association representing the restaurant industry and an association representing the retail grocery industry. The decision of this panel shall be final except as provided in section (6) of this rule.

(6) Any licensee wishing to contest the determination of predominance by agencies may produce records of gross annual sales to support the protest and be heard by the Local Public Health Authority in accordance with ORS Chapter 183.

Stat. Auth.: ORS 624

Stats. Implemented: ORS 624.530

333-158-0010

Applicability of Rules

(1) Any facility licensed and inspected by the Department of Human Services, pursuant to OAR 333-158-0000 through 333-158-0030, shall be subject to the applicable rules under OAR Chapter 333 of the Department of Human Services for all activities subject to ORS Chapter 624. The facility shall also be subject to the applicable statutes and rules under ORS 616 and 625, and OAR 603-021-0010, 603-021-0015, 603-021-0021, 603-021-0022, 603-021-0025, 603-021-0612, 603-025-0010 through 603-025-0040, 603-025-0080 through 603-025-0190 and 603-025-0220 of the Oregon Department of Agriculture, which are hereby adopted by reference.

(2) Any facility licensed and inspected by the Oregon Department of Agriculture, pursuant to OAR 333-158-0000 through 333-158-0030, shall be subject to the applicable rules under OAR Chapter 603 of the Oregon Department of Agriculture for all activities subject to statutes administered by the Oregon Department of Agriculture and ORS Chapter 624.

DIVISION 160

DESTRUCTION OF FOOD UNFIT FOR HUMAN CONSUMPTION

333-160-0000

Destruction and Embargo of Mishandled, Adulterated or Spoiled Food and Beverage

Whenever the Department finds food or beverage for which there is probable cause to believe is adulterated, mishandled, spoiled, or otherwise potentially dangerous to health, the Department shall immediately notify the person in charge that the product is hazardous; and shall request immediate destruction of the product. If the person in charge agrees, the food or beverage shall be destroyed or removed in a manner specified by the Department:

(1) If the person in charge will not agree to destruction, an embargo order shall be placed on the food or beverage. The order shall include:

- (a) A statement of the reasons for the embargo;
- (b) A description of the products, their location and the amount of product embargoed;
- (c) The date and time of day when the order is issued, and the signature of the inspecting Environmental Health Specialist.

- (2) The product shall be marked, sealed, isolated, and otherwise identified as required by the Department to ensure that it remains off sale and is not moved prior to final disposition of the embargo.
 - (3) After placement of an embargo order, samples may be taken for testing by the Department.
 - (4) If the order of embargo does not include a notice of hearing; within 48 hours of the placement of an embargo, the person in charge shall be notified in writing that a hearing on the embargo order will be held if requested in writing within ten (10) days of the delivery of the notice.
 - (5) If a hearing is requested, it shall be held in accordance with ORS 183 and the model rules of the Attorney General for contested cases.
 - (6) If no hearing is requested as provided in section (4) of this rule, a default order for destruction shall be issued to the person in charge.
 - (7) Destruction or removal of embargoed product shall be done only under the direct supervision of the Department. Denaturation may be required where it is necessary to render the product unpalatable or to identify it as unfit for human consumption.
 - (8) Violation of any embargo or destruction order or removal of any product under embargo is grounds for closure of the facility, revocation or denial of license or criminal penalties provided under ORS 624.990.
- Stat. Auth.: ORS 624
Stats. Implemented: ORS 624

DIVISION 162
MOBILE FOOD UNITS, COMMISSARIES AND WAREHOUSES

333-162-0020

Mobile Food Units, General Requirements

- (1) Mobile food units shall comply with the applicable requirements in OAR 333-150-0000 and these rules. The Department of Human Services may impose additional requirements to protect against health hazards related to the conduct of the mobile food unit operation and may prohibit the sale of potentially hazardous food.
- (2) There are four types of mobile food units:
 - (a) Class I. These mobile food units can serve only intact, packaged foods and non-potentially hazardous drinks. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed;
 - (b) Class II. These mobile food units may serve foods allowed under Class I and provide hot and cold holding display areas from which unpackaged foods are displayed. Self-service by customers of unpackaged foods is not allowed. Preparation, assembly or cooking of foods is not allowed on the unit;
 - (c) Class III. These mobile food units may serve any food item allowed under Class I and II mobile food units, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal foods on the unit is not allowed;
 - (d) Class IV. These mobile food units may serve a full menu.
- (3) All operations and/or equipment shall be an integral part of the mobile food unit. This does not preclude the use of a barbecue unit used in conjunction with a Class IV mobile food unit. The barbecue, however, may only be used under the following conditions:
 - (a) It must be used in close proximity to the mobile food unit;

(b) Food shall only be cooked on the barbecue. Processing, portioning, preparation, or assembly of food must be conducted from inside the mobile food unit; and

(c) A handwashing system shall be provided adjacent to the barbecue as specified in 333-150-0000 section 5-203.11(C)(1)-(6).

(4) Mobile food unit operators may provide seating for customers if a readily accessible restroom is provided. The restroom must have a handwashing facility which provides hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11.

(5) Auxiliary storage may be provided if it is limited to impervious, nonabsorbent, covered containers stored in such a manner as to preclude contamination or infestation. Auxiliary storage shall be limited to items necessary for that day's operation. No self-service, assembly or preparation activities may occur from auxiliary storage containers.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0030

Mobile Unit Operation, General

Mobile food units shall remain mobile at all times during operation. The wheels of the unit shall not be removed from the unit at the operating location. A removable tongue may be allowed if the tongue can be removed with the use of only simple tools and the tools are available on the unit at all times.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0040

Base of Operation

(1) Mobile food units shall operate from a licensed restaurant, commissary or warehouse.

(2) If only prepackaged goods are sold, a warehouse may be accepted in lieu of a commissary.

(3) Notwithstanding section (1) of this rule, self-contained mobile food units may not be required to have a base of operation if the unit contains all the equipment and utensils necessary to assure the following:

(a) Maintaining proper hot and cold food temperatures during storage and transit;

(b) Providing adequate facilities for cooling and reheating of foods;

(c) Providing adequate handwashing facilities;

(d) Providing adequate warewashing facilities and assuring proper cleaning and sanitizing of the unit;

(e) Obtaining food and water from approved sources;

(f) Sanitary removal of waste water and garbage at approved locations.

(4) The ability to operate without a base of operation shall be determined by the regulatory authority.

(5) A mobile food unit may not serve as a commissary for another mobile food unit or as the base of operation for a caterer.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0280

Food Transportation, General

- (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 is sealed.
- (2) Food shall be maintained at required temperatures at all times during transport. Mobile food units that do not maintain food at temperatures required in OAR 333-150-0000 section 3-501.16 may be required to provide an on board power source, such as a battery or generator, to assure maintenance of food at proper temperatures during transit.
- (3) Transport vehicles shall not be used in activities incompatible with safe and sanitary food service operations.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0680

Overhead Protection

Overhead protection shall be provided for mobile food units that are operated outdoors and where food is not covered at all times. The overhead protection shall consist of, but not be limited to, roofing, ceilings, awnings, or umbrellas. Overhead protection is not required for barbecue units that have a lid or covering that will protect foods from contamination. The overhead protection must be easily cleanable.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

Inspection and Licensing Procedures Mobile Food Units, Commissaries and Warehouses

333-162-0880

Licensing Procedure

- (1) All procedures shall be in accordance with ORS Chapter 624 in the licensure of mobile food units, commissaries and warehouses. Any license issued by the Department of Human Services pursuant to ORS 624.320 shall expire and may be reinstated on December 31 of each year.
- (2) A permanent license number shall be assigned each operator of mobile food units by the regulatory authority.
- (3) Each mobile food unit shall be clearly marked with the licensee's name or a distinctive identifying symbol. The lettering shall be at least two inches in height and of a color contrasting with the background color. If a symbol is used, it shall be at least 12 inches in diameter or of an equivalent size. An accurate scale drawing or photograph of the symbol shall be filed with the regulatory authority.
- (4) Each mobile food unit shall be clearly marked with a number for purposes of identifying each unit on inspection reports and other communications.
- (5) Stored units are not subject to licensure.
- (6) All vehicles used as mobile food units shall be kept in good repair and in a sanitary condition while in use.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0890

Inspection Form Procedures

(1) Violations which are observed during any sanitation inspection shall be described in the space provided on a form approved by the Department of Human Services by citing the Oregon Revised Statute/Oregon Administrative Rule number violated, and by giving a brief statement of the specific problem and required corrections.

(2) Critical Violations shall result in closure of a mobile food unit, commissary or warehouse if the Assistant Director determines that an imminent danger to public health exists, and that the violation cannot be corrected immediately or an approved alternative procedure has not been implemented. For Critical Violations not resulting in closure, the time limit by which the correction must be made shall be within but not to exceed 14 days.

(3) Violations other than those specified in section (2) of this rule shall be corrected by the next Semi-annual Inspection.

(4) If a mobile food unit, commissary or warehouse is ordered Closed, the reason for closure shall be stated on the Inspection Form and signed by the Assistant Director.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0910

Closure of Mobile Food Units, Commissaries or Warehouses

(1) If the Assistant Director closes a mobile food unit, commissary or warehouse, a statement by the Department of Human Services shall be made on the Inspection Form specifying the reasons for closure. The Inspection Form must be signed and delivered to the operator or person in charge within 24 hours.

(2) When a mobile food unit is Closed, the Assistant Director shall post the inspection report on the unit. When a commissary or warehouse is Closed, the Assistant Director shall post the inspection report inside the facility. No person except the Assistant Director shall remove or alter this inspection report, or operate a mobile food unit that has been Closed.

(3) If a Critical Violation presenting an imminent danger to public health is not corrected immediately or an approved alternative procedure has not been implemented, the mobile food unit, commissary or warehouse shall be Closed.

(4) If a Critical Violation that does not result in immediate closure at the time of the Semi-annual Inspection has not been corrected within the designated time limit, the mobile food unit, commissary or warehouse shall be Closed.

(5) When a mobile food unit, commissary or warehouse has been Closed because a Critical Violation has not been corrected, it may be reopened if a Recheck Inspection by the Assistant Director confirms that all Critical Violations have been corrected.

(6) The Assistant Director shall, if requested, hold a hearing in accordance with ORS 183.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0920

Plan Review

(1) Newly constructed or extensively remodeled mobile food units, commissaries and warehouses must undergo plan review and a pre-operational inspection. Mobile food units

having the sanitary approval of a recognized qualified, independent testing laboratory, or approved by the Department of Human Services will be accepted without the submission of plans.

(2) Approval from the Assistant Director to operate after the plan review process does not preclude obtaining required permits or approvals from other agencies or jurisdictions of concern.

(3) Mobile food unit operators must obtain approval from the Assistant Director to add to or change menu items served from the mobile food unit;

(4) Mobile food units that operate on a fixed route must provide an itinerary to the regulatory authority prior to licensure and at the beginning of each licensing period. Mobile food units operating at a specific or multiple locations shall provide a list of all locations to the regulatory authority.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0940

Warehouses

(1) If only prepackaged goods are sold, a warehouse may be accepted in lieu of a commissary.

(2) Warehouses shall be required to meet only those rules necessary to prevent the contamination of stored foods, single-service articles, utensils and equipment. In general, warehouses shall be exempt from the rules relating to finished walls, ceilings or storage bases, light colored surfaces, restrooms, lavatories and utility facilities, provided foods are protected from contamination from dust, insects, rodents, flooding, drainage, or other contaminants.

(3) Handling of unpackaged foods, dishwashing and ice making are prohibited in a warehouse.

(4) The Assistant Director may impose additional requirements as deemed necessary to prevent the contamination of stored foods, single-service articles, utensils, and equipment.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-0950

Memorandum of Commissary or Warehouse Usage/Verification

A Memorandum of Commissary or Warehouse Usage/Verification shall be on file with the Assistant Director for mobile units using a licensed food service facility as a commissary or warehouse. This memorandum shall be on a form approved by the Department of Human Services, and be updated at least once per year.

Stat. Auth.: ORS 624.390

Stats. Implemented: ORS 624.390

333-162-1005

Civil Penalties

(1) The Department of Human Services or a local public health authority may impose civil penalties on any person for the following willful violations:

(a) Operation of a mobile food unit, commissary, or warehouse without a current license to do so from the Department or local public health authority;

(b) Failure to cease operation of a mobile food unit, commissary, or warehouse that has been closed due to uncorrected critical violations. This authority shall be limited to those critical

violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 Section 1-201.10(B)(18.2).

(2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.

(3) The maximum civil penalty for each of the violations listed in section (1) of this rule is \$500 per day of violation.

(4) Civil penalties shall be imposed in the manner provided by ORS 183 or the equivalent.

Stat. Auth.: ORS 624.992

Stats. Implemented: ORS 624.992

DIVISION 170 BED AND BREAKFAST FACILITIES

333-170-0060

Plumbing

Notwithstanding provisions of OAR 333-150-0000 sections 5-202.11 and 5-402.11, existing food preparation sinks and mechanical dishwashers in Bed and Breakfast Facilities are not required to have indirect sewer connections. However, any new food preparation sinks or dishwashers installed after the effective date of these rules or existing installations in which backflow has been demonstrated may be required to comply with the Oregon State Plumbing Specialty Code. In existing food preparation sinks which are directly plumbed and where food is placed in the sink below the rim then food must be placed in a container where the rim is above the flood rim of the sink. Bed and Breakfast Facilities shall meet OAR 333-150-0000 section 5-203.14, in preventing contamination of the potable water system. New plumbing in a Bed and Breakfast Facility shall be installed and maintained in accordance with the Oregon State Plumbing Specialty Code.

Stat. Auth.: ORS 624

Stats. Implemented: ORS 624.100

DIVISION 175 FOOD HANDLER TRAINING

333-175-0011

Program Description - General

The program is a Department-approved food handler training program provided through mechanisms such as self-training, computer-based training, or instructor-led training. The goal of the food handler training program is to provide food handlers with a basic understanding of food safety that will assist the manager or person in charge to direct the food handler in preparing and serving food safely. A certificate of program completion confirms that the food handler met the learning objectives.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0021

Definitions

(1) "Approved" means approved by the Oregon Department of Human Services.

- (2) "Assessment" means to determine whether the food worker understood the concepts represented by the learning objectives. The assessment used by the program providers must be provided or approved by the Department.
- (3) "Certificate of Program Completion" confirms that a person has successfully completed the food handler training program.
- (4) "Certified Food Manager" means that a manager has successfully completed a Department-approved food manager program.
- (5) "Computer-Based Training" means self-training through the use of a computer program or the Internet.
- (6) "Designated Agent" means an individual or organization who/that has been authorized by the Department or Local Public Health Authority to provide a food handler training program and issue certificates of program completion.
- (7) "Department" means the Oregon Department of Human Services Foodborne Illness Prevention Program.
- (8) "Food Handler" means those persons involved in the supervision or preparation or service of food in a restaurant or food service facility licensed under ORS 624.020 or 624.320. This includes, but is not limited to, managers, cooks, wait staff, dishwashers, bartenders and bus persons.
- (9) "Local Public Health Authority" means those counties to which the Department has entered into an Intergovernmental Agreement under ORS 624.510.
- (10) "Program" means Department-approved food handler training program.
- (11) "Program Provider" means the Department of Human Services, Local Public Health Authority or a Designated Agent.
- (12) "Self-Training" means a training process wherein the individual learns without the presence or intervention of a trainer or instructor.
- (13) "Trainer" means the person actively delivering food handler training to learners.
- Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570

333-175-0031

Food Handler Training Required

- (1) All food handlers employed in a restaurant, bed and breakfast, mobile unit, commissary, warehouse or vending operation must obtain a certificate of program completion from the Department, Local Public Health Authority or a Designated Agent within 30 days after the date of hire. A food handler must maintain a current certificate of program completion as long as they are employed as a food handler.
- (2) A food handler certificate of program completion expires three years after the date of issuance. When a food handler's certificate of program completion expires, the food handler must successfully complete the program and pay the appropriate fee.
- (3) The Department and Local Public Health Authority may provide food handler training themselves, through a Designated Agent or both.
- (4) At least one person involved in the preparation or service of food in a temporary restaurant who has a valid certificate of program completion must be present at all times during the operation of the facility.
- (5) A facility listed in section (1) of this rule that is operated by a benevolent organization must have at least one person with a valid food handler certificate of program completion present at all

times during the preparation and service of food. This person is responsible for supervising and educating all workers in the sanitary practices used in food service.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0041

Minimum Standards for Program Providers

(1) In order for the Department or Local Public Health Authority to appoint a Designated Agent, the individual or organization must demonstrate that they have sufficient experience in food safety, food science or food service to be knowledgeable in all areas of the food handler training curriculum, and at a minimum are a certified food manager or registered environmental health specialist as defined by ORS 700. This staff member must be reasonably involved in the operation or administration of the training program delivery.

(2) Program providers must also have:

(a) The ability to provide training and an assessment; and

(b) The ability to safeguard the training and assessment materials.

(3) The Local Public Health Authority exercising duties pursuant to ORS 624.510 shall ensure that food handler training programs are provided within their jurisdiction. The Local Public Health Authority or Department who authorized a Designated Agent is responsible for the proper program administration and delivery.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0051

Content of Food Handler Training Programs

The concept of foodborne illness will be introduced. The training will address personal hygiene, contamination, and temperature control to reinforce the notion that the food handler's behaviors can prevent foodborne illness. The following learning objectives must be included in the food handler training program:

(1) Foodborne Illness.

(a) The food handler will be able to describe foodborne illness as an illness resulting from eating contaminated food.

(b) The food handler will know food contaminated with organisms (known to cause illness) does not look, smell or taste different from food not contaminated.

(c) The food handler will know that symptoms vary and may include diarrhea, vomiting, fever, cramping and nausea.

(d) The food handler will know that depending on the cause, symptoms may develop in a few minutes to several days. Symptoms may last several days and can result in death.

(e) The food handler will know that foodborne illness is caused by organisms known to cause illness, or is caused by chemicals.

(2) The Role of the Food Handler in Foodborne Illness.

(a) The food handler will be able to describe the five major mistakes that cause foodborne illness. The five major mistakes are:

(A) Inadequate handwashing;

(B) Employees working while ill;

(C) Cross contamination;

- (D) Inadequate final cooking temperatures; and
- (E) Inadequate temperature control (allowing foods to be in the danger zone).
- (b) The food handler will be able to describe the activities performed by food handlers that prevent foodborne illness from happening. The activities that prevent foodborne illness are:
 - (A) Proper handwashing every time hands may have become contaminated
 - (B) Food handlers working only when healthy;
 - (C) Storing and handling of foods in a manner to prevent contamination;
 - (D) Cook each animal product to its required final cooking temperature; and
 - (E) Maintaining hot and cold temperatures (keeping foods out of the danger zone).
- (3) The Role of Management.
 - (a) The food handler will know that the manager sets the tone of what food safety activities occur or don't occur within the facility.
 - (b) The food handler will know that the food service management is responsible for training and ensuring that food handlers practice the activities that prevent foodborne illness.
- (4) Handwashing
 - (a) The food handler will be able to identify the following as the correct technique for handwashing:
 - (A) Use warm water and soap;
 - (B) Scrub hands thoroughly (approximately 15-20 seconds); and
 - (C) Dry hands with single-use towel, cloth towel roll or air dryer.
 - (b) The food handler will be able to identify the following situations for when food handlers must wash their hands:
 - (A) After handling raw food;
 - (B) After smoking, eating, or drinking;
 - (C) After handling dirty dishes or garbage;
 - (D) After cleaning or using other toxic materials; and
 - (E) Before putting on gloves.
 - (c) The food handler will be able to identify the following situations for when food handlers must wash their hands twice:
 - (A) After using the toilet and again when entering the work area (double handwash);
 - (B) After blowing nose, sneezing, coughing, or touching eyes, nose or mouth (double handwash);
 - (C) Before starting work (double handwash); and
 - (D) Anytime hands come into contact with bodily fluids including cuts and burns (double handwash).
 - (d) The food handler will know that food service gloves are capable of spreading germs and do not substitute for proper handwashing.
 - (e) The food handler will know that smoking, eating, and chewing tobacco is prohibited in food preparation and food and utensil storage areas.
- (5) Employee Illness.
 - (a) The food handler will know to call the person in charge at the food service facility when ill with diarrhea, vomiting, fever, jaundice or sore throat with fever.
 - (b) The food handler will know to not work in the food service facility while ill with these symptoms.

(c) The food handler will know to not handle food with an infected cut or infected burn on the hands and wrists, unless an impermeable cover protects the lesion and a single-use glove is worn over the impermeable cover.

(6) Contamination and Cross Contamination.

(a) The food handler will be able to define and identify physical contamination as foreign objects accidentally introduced into food. Food items may arrive already contaminated with dirt, and pebbles.

(b) The food handler will be able to define and identify cross contamination as happening when microorganisms are transferred from one food or surface to another food.

(c) The food handler will be able to identify methods to prevent cross contamination such as wash, rinse, and sanitize utensils, work surfaces and equipment between uses.

(d) The food handler will be able to identify the following storage conditions that will minimize the potential for cross contamination:

(A) Store raw meats below and completely separate from ready-to-eat food in refrigeration units;

(B) Store chemicals, cleansers and pesticides completely separate from food, utensils, and single service items; and

(C) Properly label all chemicals, cleansers and pesticides.

(7) Final Cooking Temperature. The food handler will be able to identify that cooking to the recommended temperature will kill disease-causing germs.

(8) Temperature Control.

(a) The food handler will be able to identify that potentially hazardous food will support bacterial growth when held at temperatures between 41 degrees F and 140 degrees F. The danger zone is any temperature between 41 degrees F and 140 degrees F.

(b) The food handler will be able to identify that food being cooled or heated must move through the danger zone as rapidly as possible.

(c) The food handler will be able to identify 140 degrees F as the proper temperature for hot holding potentially hazardous food.

(d) The food handler will be able to identify 41 degrees F as the proper temperature for cold holding.

(e) The food handler will know that you cannot make food safe to eat when food has been in the danger zone for four hours or more.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0061

Administration of Food Handler Training Program

(1) Program providers may provide the food handler training program through a trainer-led class and assessment, self-training materials and assessment or other method approved by the Department.

(2) The Department must provide or approve all food handler training program materials, including instructional delivery methods, materials and assessment tools based on criteria established by the Department.

(3) Each food handler training assessment must determine that the food worker met the learning objectives stated in OAR 333-175-0051.

(4) When being assessed, food handlers may refer to the training manual or printed text. Food handlers may also refer to handwritten notes developed onsite during training.

- (5) Upon successful completion of the program, the food handler must be allowed to keep the food handler training materials distributed.
- (6) Workers with special needs may be allowed the option to take the assessment orally on specific job duties or to receive assistance in reading the assessment.
- (7) A restricted certificate of program completion may be issued according to Department guidelines.
 - (a) The certificate must identify the specific duties that may be performed by this individual;
 - (b) Removal of the restrictions can be accomplished by successfully completing the food handler training program. The food handler will then be issued a new certificate of program completion.
- (8) Program providers, if requested, must provide food handlers specific feedback on the assessment questions missed.
- (9) Program providers will ensure that a knowledgeable person is available to answer questions about the assessment and program content. It is not necessary that the knowledgeable person be present at all times to answer questions.
- (10) Program providers will rotate the written assessment versions at least quarterly.
- (11) At least triennially or when deemed necessary, the Department or Local Public Health Authority that approved the Designated Agent will perform an onsite review of the training programs. The review will examine:
 - (a) Written assessment security, including rotation, physical security, and compliance with availability of reference materials during assessment;
 - (b) Instructor qualification and availability of qualified assistance for individuals with questions on the training materials.
- (12) Annually, program providers will submit information to the Department on the number of assessments taken for the year and the number of assessments passed by assessment type (e.g., language, written, oral, and online).
- (13) Failure to follow rules may result in the removal of the ability of a program provider to provide food worker training:
 - (a) Upon failure to follow rules, unless immediately correctable, the program provider will develop a remediation plan. The Local Public Health Authority or the Department that approved the training will follow up within 90 days to ensure that the program provider is in compliance with training requirements. The Local Public Health Authority or the Department may allow for additional time to achieve compliance with the training requirements;
 - (b) Continued failure to achieve compliance with the training requirements will result in the termination of the program provider's training approval.
- (14) Program provider shall take reasonable measures to ensure identity of food worker being assessed.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0071

Requirements for Food Handler Training Program Qualifications

- (1) Any trainer providing food handler training must either be a Registered Environmental Health Specialist, Registered Environmental Health Specialist Trainee or have a current certificate of completion from an approved food manager training course or the equivalent as determined by the Department.

(2) Trainer requirements do not apply when food handlers are trained using self-training materials.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0081

Successful Completion of Food Handler Training Program

(1) In order to receive a certificate of program completion, a food handler must pass the written assessment with a minimum score of 75%.

(2) If a person successfully completes a food handler training program and pays the appropriate fee, the program provider shall issue a certificate of program completion.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0091

Reciprocity and Equivalency

(1) A food handler certificate of program completion is valid statewide.

(2) Any person who has a current certification from a Department-approved food manager training program need not obtain a food handler certificate of program completion.

(3) To be accepted in lieu of a food handler certificate of program completion, a food manager certification must be renewed every five years.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570

333-175-0101

Fees

(1) Program providers may charge a fee up to a maximum of \$10 per person for the administration of the program and the issuance of a certificate of program completion.

(2) Program providers shall not require a fee of any food handler listed in OAR 333-175-0091.

(3) Program providers may charge a fee for food handler materials and deduct the cost from the food handler training and certificate of program completion as long as the total cost does not exceed \$10 to each individual.

(4) Notwithstanding sections (1) and (3) of this rule, program providers may assess a new program fee each time a participant takes or retakes all or part of a program or certification assessment.

(5) Program providers may charge a fee not to exceed \$5 for duplicate certificates of program completion.

Stat. Auth.: ORS 624.570

Stats. Implemented: ORS 624.570