

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

SUBCHAPTER 140-20.7

RULES AND REGULATIONS GOVERNING THE MANUFACTURING, PACKING, IMPORTATION, DISTRIBUTION, WAREHOUSING, OR THE HOLDING OF FOOD FOR HUMAN CONSUMPTION

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Subchapter Authority: 3 CMC §§ 2123(a)(2) and (a)(3); 3 CMC § 2716(a); 3 CMC § 2786.

Subchapter History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services (DPHES) within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(a) grants the Department the power and duty to maintain and improve health and sanitary conditions in the CNMI. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the Commission comment to 1 CMC § 2001.

The Pure Food, Drug and Cosmetic Device Act of 1998, Public Law 11-40 codified at 3 CMC §§ 2701-2798, regulates the advertising, sale, and manufacture of foods, drugs, and cosmetics in the Commonwealth. Public Law 11-40 authorizes the Secretary of Public Health to establish by regulation standards necessary “to prevent injury to the health of the consumer or purchaser of food.” 3 CMC § 2716(a).

The Commonwealth Environmental Health and Sanitation Act of 2000, Public Law 12-48 codified at 3 CMC §§ 2121-2147, provides the Secretary of Public Health with the authority to promulgate rules and regulations for the sanitary operation of “food manufacturing, processing, packaging, importation, distribution and warehousing facilities.” 3 CMC § 2123(a)(3). The regulations set forth in this subchapter are intended to “ensure environmental health and sanitation in the manufacturing, packaging, importation, distribution, warehousing or the holding of food for human consumption in the CNMI.” 28 Com. Reg. 25787 (June 19, 2006).

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3

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CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - Introductory Provisions

§ 140-20.7-001 Authority

Pursuant to the authorities of Public Law 11-40 (Pure Food, Drug and Cosmetic Device Act of 1998) [3 CMC §§ 2701-2798] and Public Law 12-48 (Commonwealth Environmental Health and Sanitation Act) [3 CMC §§ 2121-2147] the Secretary of the Department of Public Health is authorized to establish regulations governing food manufacturing, processing, packaging, importation, distribution, and warehouse facilities, and all aspects of food or drink vending services in the Commonwealth of the Northern Mariana Islands. 3 CMC §§ 2123(a)(2) and (a)(3) and 3 CMC § 2786.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission inserted “(a)” before “(2)” and “(3)” in “3 CMC §§ 2123(a)(2) and (a)(3)” to correct a manifest error.

§ 140-20.7-005 Purpose

The regulations in this subchapter shall be known as the “Public Health and Food Regulations” and may be listed as such and will be hereinafter referred to as “the regulations in this subchapter.” The purpose of the regulations in this subchapter is to establish minimum requirements, policies, and procedures pertaining to the manufacturing, packing, importation, distribution, warehousing, or holding of food for human consumption and to assure compliance in order to minimize or eliminate the possible transmission or introduction of diseases that may be injurious to human beings.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission inserted commas after the words “policies” and “warehousing” pursuant to 1 CMC § 3806(g).

§ 140-20.7-010 Binding

The regulations in this subchapter shall be binding upon all persons in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-015 Definitions

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For definitions not found in this chapter, refer to the general provision.* For the purpose of this subchapter, the following definitions apply:

- (a) “Food” shall mean consumable products that contain vitamins, proteins, or nutrients for the human body including water or beverages, beef, poultry, pork, fish, crustaceans, pastries, confectioneries, vegetables and fruits, or any other consumable product or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (b) “Acid foods” or “acidified foods” shall mean foods that have an equilibrium pH of 4.6 or below.
- (c) “Batter” shall mean a semi-fluid substance, usually composed of flour and other ingredients, into which principal components of food are dipped or with which they are coated, or which may be used directly to form bakery foods.
- (d) “Blanching” shall mean, except for tree nuts and peanuts, a prepackaging heat treatment of foodstuffs for a sufficient time and at a sufficient temperature to partially or completely inactivate the naturally occurring enzymes and to effect other physical or biochemical changes in the food.
- (e) “Critical control point” shall mean a point in a food process where there is a high probability that improper control may cause, allow, or contribute to a hazard or to filth in the final food or decomposition of a final food.
- (f) “Lot” shall mean the food produced during a period of time indicated by a specific code.
- (g) “Microorganisms” shall mean yeast, molds, bacteria, and viruses and includes, but is not limited to, species having public health significance. The term “undesirable microorganisms” includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated.
- (h) “Insanitary conditions” shall mean any condition or circumstances that might contaminate with dirt or filth, or render injurious to health, any food.
- (i) “Label” shall mean any legend, word or mark attached to, included in, belonging to, in close proximity to, or accompanying any food product
- (j) “Packaged form food” shall mean foods that are packaged or enclosed in a container or wrapped in any manner in advance of wholesale or retail sale, or whose weight or measure has been determined in advance of wholesale or retail sale, or an individual item or lot of any commodity on which there is marked a selling price based on an established price per unit of weight or of measure but shall not include foods such as vegetables, fruits, meats, and other types of food that are clearly visible through its container or wrapping.

(k) “Plant” shall mean an establishment where food is manufactured, stored, warehoused, processed, prepared, preserved, packaged, imported, sold, distributed, or stored for public consumption.

(l) “Principal display panel” shall mean the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

* So in original; presumably NMIAC, title 140, chapter 20.1, part 001.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: In all subsections, the Commission inserted quotation marks, removed the first period and changed the capitalization of “Shall” to create one sentence. In subsection (a), the Commission made “crustacean” plural. The Commission inserted a comma after the word “meats” in subsection (j) pursuant to 1 CMC § 3806(g). The Commission inserted the period at the end of subsection (k).

Part 100 - General Sanitary Requirements

§ 140-20.7-101 Toilet Facilities

Every establishment shall be equipped with toilet and wash basin, supplied with soap, toilet paper, paper towels, and kept clean at all times. These toilet facilities shall not be used for placing, storing or keeping materials, merchandise, or equipment of any kind.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission made “establishments” singular to correct a manifest error. The Commission inserted a comma after the word “merchandise” pursuant to 1 CMC § 3806(g).

§ 140-20.7-105 Hand Washing Facilities

A thorough washing of the hands is required (and sanitizing if necessary to protect against contamination with undesirable microorganisms), in an adequate hand washing facility, before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-110 Sanitary Practice

All persons working in direct contact with food, food contact surfaces, and food packaging materials shall conform to good hygienic practices while on duty at all times. All food handlers shall exercise good sanitary practices necessary to protect against contamination of food. All food handlers shall wear, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints at all times when handling food.

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History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-115 Food Handling Training

Food handlers and supervisors should receive appropriate training in proper food handling techniques and food protection principles and should be informed of the danger of poor personal hygiene and unsanitary practices.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-120 Lighting

All food facilities shall be provided with adequate lighting in hand washing areas, dressing and locker rooms, toilet rooms, and in all areas where food is examined, processed, or stored and where equipment or utensils are cleaned; and provide safety type light bulbs, fixtures, skylights, or other glass suspended over exposed food.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission inserted a comma after the word “rooms” pursuant to 1 CMC § 3806(g).

§ 140-20.7-125 Drainage

All food facilities shall have adequate draining areas to prevent contamination of food by seepage, foot-borne filth, or providing a breeding place for pests.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Part 200 - Foods

§ 140-20.7-201 Food Supplies

(a) General

Food shall be in sound condition, free of spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited. Where the Secretary has prescribed a standard for a food, no person shall label, package, sell, or advertise any article in such a manner that is likely to be mistaken for the prescribed food unless that article complies with the standard so identified.

(b) Special Requirements

(1) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(2) Fresh and frozen shucked, shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor,

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shucker-packer, or repacker, and the interstate certification number issued according to law. Shell and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oyster, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock, and an interstate certification number issued by the country, state, or foreign shellfish control agency.

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

(4) Ice used as cooling medium for food storage shall not be used or sold for human consumption.

(5) Packaged foods must maintain its packaged integrity and food wholesomeness at all times.

(6) Food service establishments must vigorously and regularly inspect for out-dated food items and must be in compliance with Public Law 10-56 [4 CMC §§ 5104-5105].

(c) Reason: To control foodborne illness and prevent food spoilage, which may result from improperly processed, handled, or transported food, food service establishments must be concerned with the sources of the food they use.

(1) The sound condition, proper labeling, and safety of food are basic requirements for the protection of the public health. Accordingly, the provisions of § 140-20.7-201 are intended to ensure that food in general, especially potentially hazardous food, is obtained from sources considered satisfactory by the Secretary or his/her duly authorized representative.

(2) The use of non-hermetically sealed, non-commercially packaged food is prohibited because of the history of such food in causing foodborne illness.

(3) Additional specific requirements for food supplies, such as the pasteurization of milk and milk products or the use of only clean, whole-shell eggs, are included because these products are exceptionally good media for the growth of pathogens.

(4) Labeling requirements, particularly for shellfish, provide assurance that the source of any such food is under the control of a regulatory authority, thus providing for the protection of the public health.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsection (c) and its subparts, which were not designated in the original. The Commission inserted the final period in subsection (b)(6) to correct a manifest error. The Commission inserted commas after the words “sell” in subsection (a) and “state” in subsection (b)(2) pursuant to 1 CMC § 3806(g).

§ 140-20.7-205 Food Protection

(a) General

At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation.

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(b) The temperature of potentially hazardous food shall be 40° F or below or 140° F or above at all times, except as otherwise provided in this subchapter.

(c) Proper food protection measures should include:

- (1) Application of good sanitation practices in the handling of food;
- (2) Strict observation of personal hygiene by all food service employees;
- (3) Keeping potentially hazardous food refrigerated or heated to temperatures that minimize the growth of pathogenic microorganisms;
- (4) Inspecting food products as to their sanitary conditions prior to acceptance at the establishment; and
- (5) Provisions of adequate equipment and facilities for the conduct of sanitary operations.

(d) Emergency Occurrences

In the event of fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the Bureau. Upon receiving notice of this occurrence, the Bureau shall take whatever action that it deems necessary to protect the public health.

(e) Reason:

- (1) Food, if mishandled, can become contaminated with filth, pathogenic microorganisms, and toxic chemicals from a number of sources. Therefore, food protection measures are designed to protect food from being contaminated at all times within the establishment and during transportation.
- (2) These measures are also intended to prevent the rapid and progressive growth of disease-causing organisms that are naturally present in foods as well as those introduced through incidental contamination in the operation of a food service establishment.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (b), (c), (d), and (d)(1)-(2), which were not designated in the original. The Commission made “microorganism” plural in subsection (b)(3) and changed “micro-organism” to “microorganism” in subsection (e)(1) to correct manifest errors.

§ 140-20.7-210 Food Storage

(a) General

- (1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Containers and covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers.
- (2) Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no cooked or raw food product is stored beneath the meat, and shall be stored in the proper temperature.

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- (3) Containers of food shall be stored a minimum of six inches above floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:
 - (i) Food packaged in glass or other non-metallic waterproof containers need not be elevated when the food container is not exposed to floor moisture; and
 - (ii) Containers may be stored on dollies, racks, or pallets, provided such equipment is easily movable.
- (4) Food must be stored in a manner that permits the cleaning of the general area and in a location that does not result in the risk of contamination.
- (5) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.
- (6) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.
- (7) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
- (8) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar, or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.
- (9) Food must be in covered containers in order to provide physical protection of the food. In addition, these containers and covers must be made of impervious and nonabsorbent material to eliminate the possibility of the containers being a vector for contamination. Containers not designed and approved for the proper storage of food are prohibited.
- (10) Whenever food has been repackaged and no longer in its original labeled container, it shall be labeled to indicate the date and time it was repackaged, and the type of food repackaged. This labeling shall be conspicuous so as not to allow the longer-than-necessary storage of food and to prevent spoilage.

(b) Refrigerated Storage

- (1) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to +2° F, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to +2° F, may be used in lieu of indicating thermometers.
- (2) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 40° F or below. Potentially hazardous foods of large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed 4 hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 40° F or below unless maintained in accordance with § 140-20.7-210(c).
- (3) Frozen food shall be kept and should be stored at a temperature of 0° F or below.
- (4) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

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(c) Hot Storage

(1) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to +2 ° F, located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to +2 ° F, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature at regular intervals.

(2) The internal temperature of potentially hazardous foods requiring hot storage shall be 140° F or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140° F or above unless maintained in accordance with § 140-20.7-210(b)(2).

(d) Reason:

(1) Proper storage of food assures that there will be minimal contamination of the food from any source, and that the natural growth of microorganisms in the food will not result in foodborne illness. Therefore, measures to prevent the contamination of food must consider the environmental conditions in which food is stored and the potential for contamination under these conditions.

(2) Proper storage temperature and the availability of facilities to maintain temperatures are the best available means to control the growth of pathogens.

(3) The means for continuously monitoring air (ambient) temperatures is provided by thermometers in or on the storage equipment.

Modified, 1 CMC § 3806(c), (d), (e), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a)(2), (d), (d)(1)-(2), which were not designated in the original.

The Commission changed “do” to “does” in subsection (a)(4) and changed “design” to “designed” in subsection (a)(9) to correct manifest errors. In subsection (a)(10), the Commission changed “re-packaged” to “repackaged.” The Commission inserted “a” before “numerically scaled indicating thermometer” in subsection (b)(1) and removed the comma after “storage temperature” in subsection (d)(2) to correct manifest errors. The Commission inserted commas after the words “sugar” in subsection (a)(8), “chilling” in subsection (b)(2), and “containers” in subsection (b)(4) pursuant to 1 CMC § 3806(g).

§ 140-20.7-215 Food Preparation

(a) General

(1) Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross-contamination. Since any temperature between 40° F and 140° F presents a hazard to public health in terms of microbial growth, food must remain in this critical temperature zone as little as

possible. The parameters defining the cooling period for foods before, during, and following preparation set forth procedures and conditions that minimize the risk to the public health.

(2) The preparation process should include strict observations on personal hygiene; the continuous application of sanitary food handling procedures and the cooking and heating procedures that ensure the destruction of pathogens; the thorough washing of food, utensils, and all others contacts of food; and the minimal handling of food before, during, and following preparation.

(b) **Raw Fruits and Raw Vegetables**

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

(c) **Non-Dairy Products**

Non-dairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 40° F or below within 4 hours after preparation.

(d) **Product Thermometers**

Metal stem-type numerically scaled indicating thermometers, accurate to +2° F, shall be used for all compliance measures required by the regulations in this subchapter to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a)(1)-(2), which were not designated in the original. The Commission removed the apostrophe after “procedures,” inserted “and” before “the cooking” and removed the “s” from “ensures” in subsection (a)(2) to correct manifest errors. The Commission inserted commas after the words “rinsed” and “during” in subsection (a)(1) and “utensils” and “during” in subsection (a)(2) pursuant to 1 CMC § 3806(g).

Part 300 - Minimum Label Requirements

§ 140-20.7-301 Principal Display Panel of Package Form Food

(a) The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon, by the regulations in this subchapter, with clarity and conspicuousness and without obscuring design, vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel.

(b) For the purpose of obtaining uniform type size in declaring the quantity of contents for all packages of substantially the same size, the term “area of the principal display panel” means the area of the side or surface that bears the principal display panel, which area shall be:

(1) In the case of a rectangular package where one entire side properly can be considered to be the principal display panel side, the product of the height times the width of that side;

- (2) In the case of a cylindrical or nearly cylindrical container, 40 percent of the product of the height of the container times the circumference;
- (3) In the case of any otherwise shaped container, 40 percent of the total surface of the container provided, however, that where such container presents an obvious “principal display panel” such as the top of a triangular or circular package of cheese, the area shall consist of the entire top surface.
- (4) In determining the area of the principal display panel, cans, and shoulders and necks of bottles or jars or in the case of cylindrical or nearly cylindrical containers, information required by this part to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (b) and (b)(4), which were not designated in the original.

§ 140-20.7-305 Information Panel of Package Form Food

The term “information panel” as it applies to packaged food means that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel with the following exceptions:

- (a) If the part of the label immediately contiguous and to the right of the principal display panel is too small to accommodate the necessary information or is otherwise unusable label space, e.g., folded flaps or can ends, the panel immediately contiguous and to the right of this part of the label may be used.
- (b) If the package has one or more alternate principal display panels, the information panel is immediately contiguous and to the right of any principal display panel.
- (c) If the top of the container is the principal display panel and the package has no alternate principal display panel, the information panel is any panel adjacent to the principal display panel.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-310 Required Information

- (a) The information on package form food shall be required to appear on the label of any package of food, and shall appear either on the principal display panel or on the information panel, unless otherwise specified by regulations. The label of a food shall bear representation of all required information in the English, Chamorro, or Carolinian languages. If a food label is represented in a foreign language, the label must bear all of the required statements in the foreign language, as well as in English.

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(b) The following is the required information that shall appear on a label of any package form food:

(1) The name, street address, city, state, and zip code of the manufacturer, packer, or distributor. The street address may be omitted by a firm listed in current city or telephone directory. A firm that is outside of the Commonwealth may omit the zip code. If the food is not manufactured by the person or company whose name appears on the label the name must be qualified by “manufactured for,” “distributed by,” or similar expression.

(2) An accurate statement of the net amount of food in the package. The required units of measure are pounds, and U.S. gallon but the metric system measurements may also be used, if desired, in addition to the required declaration in “English, Chamorro, or Carolinian language.”

(3) The common or usual name of a food must appear on the principal display panel, in bold type and in lines generally parallel to the base, as it is displayed. The form of the product must also be included, such as; “sliced,” “whole,” or “chopped,” or other style.

(4) The ingredients in a food must be listed by their common names in order of their predominance by weight unless the food is standardized, in which case the label must include only those ingredients which the standard makes optional. The word “ingredient” does not refer to the chemical composition, but means the individual food components of a mixed food. Food additives and colors are required to be listed as ingredients.

(5) All information appearing on the principal display panel or the information panel pursuant to this section shall appear prominently and conspicuously, but in no case may the letters and/or numbers be less than one sixteenth inch in height unless an exemption pursuant to § 140-20.7-315 is established.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsection (b), which was not designated in the original. The Commission removed “the” before “pounds” in subsection (b)(2) and “a” before “standardized” in subsection (b)(4) to correct manifest errors.

§ 140-20.7-315 Exemption from Type Size Requirements

Packaged food that are, in their design, too small in size to accommodate the type size requirements of § 140-20.7-310 are hereby exempt, provided that:

(a) The package is designed such that it has a surface area that can bear an information panel and/or an alternate principal display panel.

(b) The area of surface available for labeling on the principal display panel of the package is less than 10 square inches.

(c) The information herein required appears on the principal display panel or information panel label is not less than three sixty fourths inch in height.

(d) The package is designed such that it has a single “obvious principal display panel” and has no other available surface area for an information panel or alternate principal display panel.

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- (e) The area of surface available for labeling on the principal display panel of the package is less than 12 square inches and bears all labeling appearing on the package.
- (f) The information required herein appears on the single, obvious principal display panel and is not less than one thirty second inch in height.
- (g) Individual serving size packages of food served with meals in restaurants, institutions, and on board passenger carriers, and not intended for sale at retail, are exempt from type size requirements of this paragraph, provided:
- (1) The package has a total area of 3 square inches or less available to bear labeling.
 - (2) There is insufficient area on the package available to print all required information in a type size of 1/16 inch in height.
 - (3) The label information includes a full list of ingredients in accordance with this subchapter, and*
- (h) Soft drinks packaged in bottles manufactured before October 31, 1975 shall be exempt from these requirements provided that the information is blown, lithographed, or formed onto the surface of the bottle.
- (i) Soft drinks packaged in bottles shall be exempt from the size and placement requirements if all of the following conditions are met:
- (1) If the soft drink is packaged in a bottle bearing a paper, plastic foam jacket, or foil label, or is packaged in a nonreusable bottle bearing a label lithographed onto the surface of the bottle or is packaged in metal cans, the product shall not be exempt from any requirement of this section other than the label shall bear all required information in the specified minimum type size, except the label will not be required to bear the information required if this information appears on the bottle closure or on the lid of the can in a type size not less than one sixteenth inch in height, or if embossed on the lid of the can in a type size not less than one eighth inch in height.
 - (2) If the soft drink is packaged in a bottle which does not bear a paper, plastic foam jacket or foil label, or is packaged in a reusable bottle bearing a label lithographed onto the surface of the bottle:*
 - (3) All other information pursuant to this section shall appear on the top of the bottle closure prominently and conspicuously in letters and/or numbers no less than one thirty second inch in height.
- (j) All packaged food that, in the opinion of the Secretary or his/her duly authorized representative, bears sufficient information in size, net amount, form, and the language bearing such information.

* So in original.

Modified, 1 CMC § 3806(d), (e), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

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Commission Comment: The Commission designated subsection (i)(3), which was not designated in the original. The Commission inserted the “and” in subsection (d). The Commission made “sizes” singular in subsection (j). The Commission inserted a comma after the word “form” in subsection (j) pursuant to 1 CMC § 3806(g).

Part 400 - Importation

§ 140-20.7-401 Importation

The importation of any food which does not comply with the regulations in this subchapter is hereby prohibited.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Part 500 - Processing, Warehousing, and Holding of Food

§ 140-20.7-501 Personnel

The plant management and employees shall take all reasonable measures and precautions to ensure the following [part 500].

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission made “employee” plural to correct a manifest error. The Commission removed the colon from the end of this section and inserted “[part 500]”, which, presumably, the “following” is intended to reference.

§ 140-20.7-505 Infectious or Communicable Disease

Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which there is a reasonable possibility of food, food contact surfaces, or food packaging materials becoming contaminated, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected. Personnel shall be instructed to report such health conditions to their supervisors.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-510 Cleanliness

All persons working in direct contact with food, food contact surfaces, and food packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against contamination of food. The methods for maintaining cleanliness include, but are not limited to:

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- (a) Wearing outer garments suitable to the operation in a manner that protects against the contamination of food, food-contact surfaces, or food-packaging materials.
- (b) Maintaining adequate personal cleanliness.
- (c) Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate hand washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.
- (d) Removing all unsecured jewelry and other objects that might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the food, food-contact surfaces, or food-packaging materials.
- (e) Maintaining gloves, if they are used in food handling, in an intact, clean, and sanitary condition. The gloves should be of an impermeable material.
- (f) Wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints.
- (g) Stored clothing is exposed* to areas where food, foodcontact surfaces, or food-packaging materials are handled or where equipment or utensils are washed.
- (h) Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco.
- (i) Taking any other necessary precautions to protect against contamination of food, food-contact surfaces, or food-packaging materials with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

* So in original.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-515 Education and Training

- (a) Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food handling techniques and food protection principles and should be informed of the danger of poor personal hygiene and unsanitary practices.

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(b) As a condition for retention of the food establishment health permit, the bearer of the permit shall require of each person employed in any activity in which food is manufactured, processed, prepared, and sold for human consumption to have sufficient education, training and experience, or any combination thereof, so that said person can carry out the duties assigned in such a manner that he or she will ensure that the quality, safety, or integrity of the food is maintained at all times, as provided by law.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a) and (b), which were not designated in the original. The Commission inserted a comma after the word “safety” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 140-20.7-520 Supervision

Responsibility for assuring compliance by all personnel with all requirements of this part shall be clearly assigned to competent supervisory personnel.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-525 Plant and Grounds

(a) Grounds. The grounds about a food plant under the control of the operator shall be kept in a condition that will protect against the contamination of food. The methods for adequate maintenance of grounds include, but are not limited to:

(1) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests.

(2) Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed.

(3) Adequately draining areas that may contribute contamination to food by seepage, foot-borne filth, or providing a breeding place for pests.

(4) Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed.

(b) If the plant grounds are bordered by grounds not under the operator’s control and not maintained in the manner described in § 140-20.7-525(a) (1)-(3),* care shall be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of food contamination.

(c) Plant construction and design. Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food manufacturing purposes. The plant and facilities shall:

(1) Provide sufficient space for such placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe food.

(2) Exercise proper precautions to reduce the potential for contamination of food, food contact surfaces, or food packaging materials with microorganisms, chemicals, filth, or other

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extraneous material. The potential for contamination may be reduced by adequate food safety controls and operating practices or effective design, including the separation of operations in which contamination is likely to occur, by one or more of the following means: location, time, partition, air flow, enclosed systems, or other effective means.

(3) Protect food in outdoor bulk fermentation vessels by any effective means, including:

- (i) Using protective coverings;
- (ii) Controlling areas over and around the vessels to eliminate harborage for pests;
- (iii) Checking on a regular basis for pests and pest infestation;
- (iv) Skimming the fermentation vessels, as necessary.

(4) Be constructed in such a manner that floors, walls, and ceilings may be adequately cleaned and kept clean and kept in good repair, that drip or condensation from fixtures, ducts, and pipes does not contaminate food, food-contact surfaces, or food-packaging materials; and that aisles or working spaces are provided between equipment and walls and are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating food or food-contact surfaces with clothing or personal contact.

(5) Provide adequate lighting in hand washing areas, dressing and locker rooms, and toilet rooms and in all areas where food is examined, processed, or stored and where equipment or utensils are cleaned; and provide safety-type light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or otherwise protect against food contamination in case of glass breakage.

(6) Provide adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may contaminate food; and locate and operate fans and other air blowing equipment in a manner that minimizes the potential for contaminating food, food packaging materials, and food contact surfaces.

(7) Provide, where necessary, adequate screening or other protection against pests.

* See Commission comment to this section.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsection (b), which was not designated in the original. The original paragraph of subsection (b) referenced paragraphs “(a)(1)-(3)” that do not exist in the original subsection designations as published in the Commonwealth Register. The Commission changed the reference in subsection (b) to “§ 140-20.7-525(a) (1)-(3)” to correct a manifest error. The Commission inserted a comma after the word “ducts” in subsection (c)(4) pursuant to 1 CMC § 3806(g).

§ 140-20.7-530 Warehousing and Distribution

Storage and transportation of food shall be under conditions that will protect food against physical, chemical, and microbial contamination as well as against deterioration of the food and the container.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-535 Processes and Controls

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- (a) All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of food shall be conducted in accordance with adequate sanitation principles.
- (b) Appropriate quality control operations shall be employed to ensure that food is suitable for human consumption and that food packaging materials are safe and suitable. Overall sanitation of the plant shall be under the supervision of one or more competent individuals assigned responsibility for this function.
- (c) All reasonable precautions shall be taken to ensure that production procedures do not contribute contamination from any source. Chemical, microbial, or extraneous material testing procedures shall be used where necessary to identify sanitation failures or possible food contamination. All food that has become contaminated to the extent that it is adulterated shall be rejected, or if permissible, treated or processed to eliminate the contamination.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a)-(c), which were not designated in the original.

§ 140-20.7-540 Raw Materials and Other Ingredients

- (a) Raw materials and other ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as necessary to remove soil or other contamination.
- (b) Water used for washing, rinsing, or conveying food shall be safe and of adequate sanitary quality. Water may be reused for washing, rinsing, or conveying food if it does not increase the level of contamination of the food.
- (c) Containers and carriers of raw materials should be inspected on receipt to ensure that their condition has not contributed to the contamination or deterioration of food.
- (d) Raw materials and other ingredients shall either not contain levels of microorganisms that may produce food poisoning or other disease in humans, or they shall be pasteurized or otherwise treated during manufacturing operations so that they no longer contain levels that would cause the product to be adulterated. Compliance with this requirement may be verified by any effective means, including purchasing raw materials and other ingredients under a supplier's guarantee or certification.
- (e) Raw materials and other ingredients susceptible to contamination with aflatoxin or other natural toxins shall comply with current Food and Drug Administration regulations, guidelines, and action levels for poisonous or deleterious substances before these materials or ingredients are incorporated into finished food. Compliance with this requirement may be accomplished by purchasing raw materials and other ingredients under a supplier's guarantee or certification, or may be verified by analyzing these materials and ingredients for aflatoxin and other natural

toxins.

(f) Raw materials, other ingredients, and rework susceptible to contamination with pests, undesirable microorganisms, or extraneous material shall comply with applicable Food and Drug Administration regulations, guidelines, and defect action levels for natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing food. Compliance with this requirement may be verified by any effective means, including purchasing the materials under a supplier's guarantee or certification, or examination of these materials for contamination.

(g) Raw materials, other ingredients, and rework shall be held in bulk, or in containers designed and constructed so as to protect against contamination and shall be held at such temperature and relative humidity and in such a manner as to prevent the food from becoming adulterated. Material scheduled for rework shall be identified as such.

(h) Frozen raw materials and other ingredients shall use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated.*

(i) Liquid or dry raw materials and other ingredients received and stored in bulk form shall be held in a manner that protects against contamination.

* So in original.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (b) and (c), which were not designated in the original.

§ 140-20.7-545 Manufacturing Operations

(a) Equipment, utensils, and finished food containers shall be maintained in an acceptable condition through appropriate cleaning and sanitizing, as necessary. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

(b) All food manufacturing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms, or for the contamination of food. One way to comply with this requirement is careful monitoring of physical factors such as time, temperature, humidity, aw, pH, pressure, flow rate, and manufacturing operations such as freezing, dehydration, heat processing, acidification, and refrigeration to ensure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of food.

(c) Food that can support the rapid growth of undesirable microorganisms, particularly those of public health significance, shall be held in a manner that prevents the food from becoming adulterated. Compliance with this requirement may be accomplished by any effective means, including:

(1) Maintaining refrigerated foods at 40° F or below as appropriate for the particular food involved;

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- (2) Maintaining frozen foods in a frozen state;
 - (3) Maintaining hot foods at 140° F or above;
 - (4) Heat treating acid or acidified foods to destroy mesophilic microorganisms when those foods are to be held in hermetically sealed containers at ambient temperatures.
- (d) Measures such as sterilizing, irradiating, pasteurizing, freezing, refrigerating, controlling pH, or controlling aw that are taken to destroy or prevent the growth of undesirable microorganisms, particularly those of public health significance, shall be adequate under the conditions of manufacture, handling, and distribution to prevent food from being adulterated.
- (e) Work in process shall be handled in a manner that protects against contamination.
- (f) Effective measures shall be taken to protect finished food from contamination by raw materials, other ingredients, or refuse. When raw materials, other ingredients, or refuse are unprotected, they shall not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in contaminated food. Food transported by conveyor shall be protected against contamination as necessary.
- (g) Equipment, containers, and utensils used to convey, hold, or store raw materials, work in process, rework, or food shall be constructed, handled, and maintained during manufacturing or storage in a manner that protects against contamination.
- (h) Effective measures shall be taken to protect against the inclusion of metal or other extraneous material in food. Compliance with this requirement may be accomplished by using sieves, traps, magnets, electronic metal detectors, or other suitable effective means.
- (i) Food, raw materials, and other ingredients that are adulterated shall be disposed of in a manner that protects against the contamination of other food. If the adulterated food is capable of being reconditioned, it shall be reconditioned using a method that has been proven to be effective or it shall be reexamined and found not to be adulterated before being incorporated into other food.
- (j) Mechanical manufacturing steps such as washing, peeling, trimming, cutting, sorting and inspecting, mashing, de-watering, cooling, shredding, extruding, drying, whipping, de-fatting, and forming shall be performed so as to protect food against contamination. Compliance with this requirement may be accomplished by providing adequate physical protection of food from contaminants that may drip, drain, or be drawn into the food. Protection may be provided by adequate cleaning and sanitizing of all food contact surfaces, and by using time and temperature controls at and between each manufacturing step.
- (k) Heat blanching, when required in the preparation of food, should be affected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent manufacturing without delay. Thermophilic growth and contamination in blanching should be minimized by the use of adequate operating temperatures and by periodic cleaning. Where the blanched food is washed prior to filling, water used shall be safe and of adequate sanitary quality.

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(l) Batters, breadings, sauces, gravies, dressings, and other similar preparations shall be treated or maintained in such a manner that they are protected against contamination. Compliance with this requirement may be accomplished by any effective means, including one or more of the following:

- (1) Using ingredients free of contamination;
- (2) Employing adequate heat processes where applicable;
- (3) Using adequate time and temperature controls;
- (4) Providing adequate physical protection of components from contaminants that may drip, drain, or be drawn into them;
- (5) Cooling to an adequate temperature during manufacturing;
- (6) Disposing of batters at appropriate intervals to protect against the growth of microorganisms.

(m) Filling, assembling, packaging, and other operations shall be performed in such a way that the food is protected against contamination. Compliance with this requirement may be accomplished by any effective means, including:

- (1) Use of a quality control operation in which the critical control points are identified and controlled during manufacturing;
- (2) Adequate cleaning and sanitizing of all food contact surfaces and food containers;
- (3) Using materials for food containers and food packaging materials that are safe and suitable as defined in this subchapter;
- (4) Providing physical protection from contamination, particularly airborne contamination;
- (5) Using sanitary handling procedures.

(n) Food such as, but not limited to, dry mixes, nuts, intermediate moisture food, and dehydrated food, that relies on the control of aw for preventing the growth of undesirable microorganisms shall be processed to and maintained at a safe moisture level. Compliance with this requirement may be accomplished by any effective means, including:

- (1) Monitoring the aw of food;
- (2) Controlling the soluble solids water ratio in finished food;
- (3) Protecting finished food from moisture pickup, by use of a moisture barrier or by other means, so that the aw of the food does not increase to an unsafe level.

(o) Food such as, but not limited to, acid and acidified food, that relies principally on the control of pH for preventing the growth of undesirable microorganisms shall be monitored and maintained at a pH of 4.6 or below. Compliance with this requirement may be accomplished by any effective means, including:

- (1) Monitoring the pH of raw materials, food in process, and finished food;
- (2) Controlling the amount of acid or acidified food added to low acid food.

(p) When ice is used in contact with food, it shall be made from water that is safe and of adequate sanitary quality, and shall be used only if it has been manufactured in accordance with current good manufacturing practice as outlined in this section.

(q) Food manufacturing areas and equipment used for manufacturing human food should not

be used to manufacture non-human food grade animal feed or inedible products, unless there is no reasonable possibility for the contamination of the human food.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission changed the periods to semi-colons, where appropriate, in the subparts of subsections (c), (l), (m), (n), and (o). The Commission changed “effected” to “affected” in subsection (k) to correct a manifest error. The Commission inserted commas after the words “utensils” in subsection (a) and “pH” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 140-20.7-550 Equipment and Utensils

(a) All plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. The design, construction, and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(b) All equipment should be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

(c) Food contact surfaces shall be corrosion resistant when in contact with food. They shall be made of nontoxic materials and designed to withstand the action of food, and, if applicable, cleaning compounds and sanitizing agents. Food contact surfaces shall be maintained to protect food from being contaminated by any source.

(d) Seams on food contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms.

(e) Equipment that is in the manufacturing or food handling area and that does not come into contact with food shall be so constructed that it can be kept in a clean condition.

(f) Holding, conveying, and manufacturing systems, including gravimetric, pneumatic, closed, and automated systems, shall be of a design and construction that enables them to be maintained in an appropriate sanitary condition.

(g) Each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature measuring device, or temperature recording device so installed as to show the temperature accurately within the compartment, and should be fitted with an automatic control for regulating temperature or with an automatic alarm system to indicate a significant temperature change in a manual operation.

(h) Instruments and controls used for measuring, regulating, or recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable

microorganisms in food shall be accurate and adequately maintained, and adequate in number for their designated uses.

(i) Compressed air or other gases mechanically introduced into food or used to clean food contact surfaces or equipment shall be treated in such a way that food is not contaminated.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (b) and (c), which were not designated in the original.

Part 600 - Sanitary Facilities and Controls

§ 140-20.7-601 Sanitary Facilities and Controls

This section shall state all procedures, as mentioned, therein, in Chapter I, Sections VII * [§ 140-20.3-330].

* So in original; see Commission comment to this section.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The reference is not clear. Chapter I was reserved for “Food and Drinking Establishments.” See 23 Com. Reg. 18367 (Sept. 24, 2001). The Commission inserted in brackets § 140-20.3-330, which is the NMIAC section for the original Chapter III, Section VII. See 23 Com. Reg. 18368 (Sept. 24, 2001).

Part 700 - Equipment

§ 140-20.7-701 Sanitary Operations [Reserved]

[Reserved]

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-705 General Maintenance

Buildings, fixtures, and other physical facilities of the plant shall be maintained in a sanitary condition and shall be kept in good repair sufficient to prevent food from becoming contaminated or adulterated. Cleaning and sanitizing of utensils and equipment shall be conducted in a manner that protects against contamination of food, food contact surfaces, or food packaging materials.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-710 Substances Used in Cleaning and Sanitizing; Storage of Toxic Materials

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(a) Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use. Compliance with this requirement may be verified by any effective means including purchase of these substances under a supplier's guarantee or certification, or examination of these substances for contamination. Only the following toxic materials may be used or stored in a plant where food is processed or exposed:

- (1) Those required to maintain clean and sanitary conditions;
- (2) Those necessary for use in laboratory testing procedures;
- (3) Those necessary for plant and equipment maintenance and operation; and
- (4) Those necessary for use in the plant's operations.

(b) Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of food, food contact surfaces, or food packaging materials. All relevant regulations promulgated by other federal, state, and local government agencies for the application, use, or holding of these products should be followed.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-715 Pest and Animal Control

No pests shall be allowed in any area of a food plant. Guard or guide dogs may be allowed in some areas of a plant if the presence of the dogs is unlikely to result in contamination of food, food contact surfaces, or food packaging materials. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of food on the premises by pests. The use of insecticides or rodenticide is permitted only under precautions and restrictions that will protect against the contamination of food, food contact surfaces, and food packaging materials.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-720 Sanitation of Food Contact Surfaces

(a) All food contact surfaces, including utensils and food contact surfaces of equipment, shall be cleaned as frequently as necessary to protect against contamination of food.

(b) Food contact surfaces used for manufacturing or holding low moisture food shall be in a dry, sanitary condition at the time of use. When the surfaces are wet cleaned, they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

(c) In wet processing, when cleaning is necessary to protect against the introduction of microorganisms into food, all food contact surfaces shall be cleaned and sanitized before use and after any interruption during which the food contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the utensils and food contact surfaces of the equipment shall be cleaned and sanitized as necessary.

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- (d) Non-food contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to protect against contamination of food.
- (e) Single service articles (such as utensils intended for one time use, paper cups, and paper towels) should be stored in appropriate containers and shall be handled, dispensed, used, and disposed of in a manner that protects against contamination of food or food contact surfaces.
- (f) Sanitizing agents shall be adequate and safe under conditions of use. Any facility, procedure, or machine is acceptable for cleaning and sanitizing equipment and utensils if it is established that the facility, procedure, or machine will routinely render equipment and utensils clean and provide adequate cleaning and sanitizing treatment.
- (g) Storage and handling of cleaned portable equipment and utensils. Cleaned and sanitized portable equipment with food contact surfaces and utensils should be stored in a location and manner that protects food contact surfaces from contamination.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Part 800 - Compliance

Subpart A Sanitary Permits and Food Handlers' Certificates

§ 140-20.7-801 General

No person shall operate a food service establishment who does not have a valid sanitary permit issued by the Bureau. Only a person who complies with the requirements of the regulations in this subchapter shall be entitled to receive or retain such a sanitary permit. Sanitary permits are not transferable. A valid sanitary permit shall be posted in public view in every food service establishment. The valid sanitary permit shall only be used at the original location of establishment.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission changed “food handlers certificates” to “food handlers’ certificates” in this section and throughout this subchapter.

§ 140-20.7-802 Issuance of Sanitary Permit

(a) Any person desiring to operate a food service establishment shall make written application for a sanitary permit, on forms provided by the Bureau. Such application shall include the name and address of each applicant, the location and type of proposed food service establishment, and the signature of each applicant. Any change in the aforementioned information must be reported to the Bureau in writing within ten days after such change.

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(b) Prior to approval of an application for a sanitary permit, the Bureau shall inspect the proposed food service establishment to determine compliance with the requirements of this subchapter.

(c) The Bureau shall issue a sanitary permit to the applicant when inspection reveals that the proposed food service establishment complies with the requirements of this subchapter.

(d) If the application is for a temporary food service establishment, then it shall also include the inclusive dates of proposed operations which shall not exceed six months.

Modified, 1 CMC § 3806(d), (e), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission removed the comma after the word “permit” from subsection (c).

§ 140-20.7-804 Minimum Qualifications Requirements

Upon reviewing the qualifications of the applicant who requests the issuance or renewal of sanitary permits, the Bureau shall consider the following factors, among others:

(a) Whether the applicant has been convicted under the Commonwealth and federal laws and statutes regarding the manufacturing, processing, warehousing, or the holding of adulterated food.

(b) The applicant’s prior experience in the manufacture, processing, warehousing, or holding of food for human consumption.

(c) Whether the applicant has submitted false or fraudulent material in any application for the manufacture, processing, warehousing, or holding of food for human consumption.

(d) Compliance with any licensing requirements of the CNMI.

(e) Any other factors or criteria which the Department considers relevant and consistent with the public health, safety, and welfare.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission changed “request” to “requests” in the first sentence of this section and made “applicants” singular in subsection (a) to correct manifest errors. The Commission removed “the” before “any licensing requirements” in subsection (d) to correct a manifest error. The Commission inserted a comma after the word “safety” in subsection (e) pursuant to 1 CMC § 3806(g).

§ 140-20.7-806 Denial of Sanitary Permits

The Secretary or his/her duly authorized representative may deny the issuance of sanitary

permits, as long as the requirements established in the regulations in this subchapter are not complied with.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-808 Suspension of a Sanitary Permit

(a) The Secretary may, without prior hearing, suspend any sanitary permit, thereby closing the establishment, if the violation of law or regulation constitutes an imminent hazard to public health.

(1) Suspension is effective immediately upon written notice to the sanitary permit holder or person in charge of the establishment. When a sanitary permit is suspended operations at the establishment shall immediately cease.

(2) Hearings requested following the immediate suspension of a sanitary permit must be scheduled as soon as possible, but not later than five business days from the date of closure.

(b) The Secretary may suspend any sanitary permit if the sanitary permit holder does not comply with the requirements of the Commonwealth Environmental Health and Sanitation Act [3 CMC §§ 2121-2147] or this subchapter, or if the establishment fails to pay fees assessed against it for violations of the Commonwealth Environmental Health and Sanitation Act [3 CMC §§ 2121-2147] or this subchapter.

(1) Suspension may be imposed for such time until the violation is corrected or may be imposed as a penalty for repeated violations, in which case, the suspension shall not exceed six months.

(2) Written notice of intent to suspend a sanitary permit shall be delivered to the sanitary permit holder. The sanitary permit holder shall have ten calendar days to request a hearing.

(c) Whenever a sanitary permit is suspended, the holder of the permit, or the person in charge, shall be notified in writing of the sections of this subchapter that were determined to be in non-compliance. Upon compliance, the person-in-charge or permit holder shall contact the Bureau for reinspection. A sanitary permit may be reissued if in compliance, but if rectification has not been fulfilled, extension of suspension and extension for compliance shall be issued in writing.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsection (b)(1), which was not designated in the original. The Commission changed “regulations” to “regulation” in subsection (a) to correct a manifest error. The Commission removed the hyphens in “reinspection” and “re-issued” in subsection (c).

§ 140-20.7-810 Revocation of a Sanitary Permit

(a) The Secretary may revoke a sanitary permit that has been suspended on two separate occasions and continues to violate the requirements of the Commonwealth Environmental Health

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and Sanitation Act [3 CMC §§ 2121-2147] or this subchapter, or if the establishment has resumed operations after being closed by the Secretary.

(b) Prior to revocation, the Secretary shall notify the sanitary permit holder, in writing, of the specific reasons for which the sanitary permit is to be revoked. The sanitary permit holder may submit a request to the Bureau for reinspection during any compliance period. The sanitary permit holder shall have ten calendar days to request a hearing.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission changed “re-inspection” to “reinspection” in subsection (b).

§ 140-20.7-812 Reissuance After Revocation

(a) A sanitary permit is no longer valid and may not be reinstated when it has been revoked, except upon order of the court. No person whose sanitary permit has been revoked shall be eligible to apply for a new sanitary permit for a period of one year.

(b) Records and any relevant history pertaining to the initial revocation shall be considered in the review of any new sanitary permit application. Probationary status may be imposed upon the new sanitary permit holder.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-814 Hearings

Hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act [1 CMC §§ 9101 et seq.].

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-816 Food Handlers’ Certificates

Food handlers’ certificates must be obtained by all food service establishment employees and/or employers. To obtain food handlers’ certificates the employees and/or employers of any food service establishment must have documentation of having completed all of the required health screening, physical examination, training, and all other requirements, as prescribed in Bureau of Environmental Health regulations [NMIAC, title 140, subchapter 20.3].

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission inserted the final period in this section. The Commission changed “food handlers certificates” to “food handlers’ certificates” in this section and throughout this subchapter.

§ 140-20.7-818 Management Food Sanitation Training and Certification

- (a) Effective one year after the effective date of the regulations in this subchapter each food establishment, then or thereafter in operation, must be under the supervision of a resident manager who has successfully completed and/or passed a food handlers sanctioned workshop.
- (b) Certification shall be achieved by successfully completing an examination and/or workshop offered by the Bureau, or other approved entities and/or agency(ies) and as monitored by the Division.
- (c) The awarded certificate shall be posted in the establishment in a place designated by a representative of the Bureau.
- (d) The examination offered to candidates as described above in this section must cause the candidate to demonstrate knowledge and proficiency in food service sanitation.
- (e) Training programs to prepare the candidate will be made available through cooperation with industry, educational institutions, and the Bureau.
- (f) Any certificate awarded may be revoked or suspended by the Bureau when the holder or persons under his/her supervision repeatedly fails to comply with the regulations in this subchapter. Prior to suspension or revocation, the holder of a food service manager's certificate shall be given the opportunity for a hearing before the Secretary or his/her duly authorized representative.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission inserted the comma after "establishment" in subsection (a) and changed "managers" to "manager's" in subsection (f).

Subpart B Inspections

§ 140-20.7-820 Inspections

- (a) The Secretary or his/her duly authorized health inspector, after presenting official credentials and notice of intent to inspect the establishment or premises during the hours of operation or other reasonable time, may inspect an establishment or premises for the purpose of the enforcement of this subchapter. By memorandum of understanding, the Secretary or his/her duly authorized representative, may also, as the need arises, work in conjunction with the Department of Labor and Immigration; the Department of Public Safety; the Department of Finance, Division of Customs; and the Office of the Attorney General, to perform inspections for the purpose of the enforcement of this subchapter.
- (b) The owner or person in charge of a place entered by an inspector for the purpose of

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enforcement of this subchapter, and every person found therein, shall give the inspector all reasonable assistance and furnish the inspector with any information he or she may reasonably require.

(1) If the health inspector is denied access, the health inspector shall inform the person in charge that

(i) The holder of a sanitary permit is required to provide access to health inspectors as specified under 3 CMC § 2128; and

(ii) Access to the establishment or premises is a condition of maintaining a sanitary permit to operate an establishment under 3 CMC § 2122.

(c) No person shall obstruct or hinder, or knowingly make any false or misleading statement either orally or in writing to, an inspector while the inspector is engaged in carrying out his or her duties or functions under the regulations in this subchapter.

(d) An inspector may at any reasonable time of operation enter any place where the inspector believes on reasonable grounds any article to which this subchapter applies is manufactured, prepared, preserved, packaged, imported, sold, distributed, or stored, and may:

(1) Examine any such article and take samples thereof, and examine anything that the inspector believes on reasonable grounds is used or capable of being used for the manufacture, preparation, preservation, packaging or storing;

(2) Enter any conveyance that the inspector believes on reasonable grounds is used to carry any article to which this subchapter applies and examine any such article found therein and take samples thereof;

(3) Open and examine any receptacle or package that the inspector believes on reasonable grounds contains any article to which this subchapter applies;

(4) Examine and make copies of, or extracts from, any books, documents or other records found in any place referred to in this subsection that the inspector believes on reasonable grounds contain any information relevant to the enforcement of this subchapter with respect to any article to which this subchapter applies; and

(5) Seize and detain for such time as may be necessary any article by means of or in relation to which the inspector believes on reasonable grounds contravenes any provision of this subchapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission inserted a comma after the word “documents” in subsection (d)(4) pursuant to 1 CMC § 3806(g).

§ 140-20.7-822 Inspection Frequency

An inspection of a food service establishment shall be performed at least once every six months, unless otherwise provided below:

(a) At such time as an establishment receives a grade “A” on three consecutive inspections, inspections of the establishment shall be reduced to one per year until such time that the

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establishment receives a grade “B” or lower on an inspection. After receiving a grade “B” or lower, the establishment shall be subject to inspections once every six months until such time that the establishment again qualifies for the reduced number of inspections under § 140-20.7-822.

(b) Additional inspections of the food service establishment shall be performed as deemed necessary for re-enforcement of non-complied sections of this subchapter or in response to conditions that may present an unacceptable health risk.

Modified, 1 CMC § 3806(c), (d), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-824 Access

Representatives of the Bureau, after proper presentation of credentials, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this subchapter. The representatives shall also be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-826 Report of Inspections

Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on the Bureau’s Inspection Report Form. The inspection report form shall summarize the requirements of this subchapter and shall set forth a demerit value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the demerit values for all violations. A copy of the completed inspection report shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed report form is a public document that shall be made available for public disclosure to any person who requests it, in accordance with the CNMI’s Open Government Act [1 CMC §§ 9901 et seq.] or to any aggrieved person(s).

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Subpart C Grading of Food Service Establishment

§ 140-20.7-828 Grading

(a) Every food service establishment shall display in a place designated by the Secretary or his/her duly authorized representative, a placard approved by him stating the grade received at

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the time of the most recent inspection of the establishment. Only the Secretary or his/her duly authorized representative may remove such placard.

- (b) Itinerant food service establishment shall not be subject to grading.
- (c) Grades of establishments shall be as follows:
 - (1) Grade A. An establishment having a demerit score of not more than ten.
 - (2) Grade B. An establishment having a demerit score of more than ten but not more than twenty.
 - (3) Grade C. An establishment having a demerit score of more than twenty but not more than thirty.
 - (4) Grade F. An establishment having a demerit score of more than thirty shall be considered an imminent health hazard and shall not be granted a sanitary permit, or in the case of renewal shall be subject to immediate suspension and closure as specified in 3 CMC § 2135(a). Immediately following such a grading during inspection, the health inspector shall post a closure notice placard in an obvious location at the front door of the establishment to alert the public.
- (d) Notwithstanding the grade criteria establishment in § 140-20.7-828(c), whenever a second consecutive violation of the same item is discovered, the permit may be suspended or in lieu thereof, the establishment shall be downgraded to the next lower grade.
- (e) Immediately following such inspection to cause the closure of an establishment, the Secretary or his/her duly authorized representative shall post the appropriate notice in accordance with § 140-20.7-808 and § 140-20.7-810.*
- (f) The permit holder or operator of any establishment, the grade of which has been lowered, may, at any time, request an inspection for the purpose of re-grading the establishment. Within the compliance period, following the receipt of request which shall include a signed statement that the conditions responsible for the lowering of the grade have been corrected, the Secretary or his/her duly authorized representative shall make an inspection; and thereafter, as many additional inspections as he may deem necessary to assure himself/herself that the applicant is complying with the higher grade requirements; and, if the findings indicate compliance then a higher grade shall be awarded.

* See Commission comment to this section.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (d) and (f), which were not designated in the original. The original subsection (e) referenced the original sections 12.8 and 12.9 (codified as § 140-20.7-812 and § 140-20.7-814 respectively). These references are not accurate. Reference to written notices regarding closure of an establishment are found in § 140-20.7-808 and § 140-20.7-810 although these two sections do not discuss posting of such notices. Posting of closure notices is discussed in § 140-20.7-828(b)(3). See also, 3 CMC § 2141. In subsection (e), the Commission inserted the NMIAC cites, § 140-20.7-808 and § 140-20.7-810, to correct a manifest error.

§ 140-20.7-830 Posting

(a) The original grade placard shall be posted in a place designated by the representative of the Bureau where they will be in full view of the public. Failure to post or unauthorized removal will result in appropriate demerits being given.

(b) The copy of the previous inspection reports (yellow) shall be kept within the establishment premise for reference for a minimum of six period* after each inspection.

* So in original.

Modified, 1 CMC § 3806(e).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a) and (b), which were not designated in the original.

Subpart D Corrections of Violations

§ 140-20.7-832 Corrections of Violations

(a) A permit holder who has received a demerit score of more than ten points shall correct a violation of a critical control point and implement corrective actions within a reasonable time period as specified in the inspection report, or as provided in § 140-20.7-832(b) and (c).

(b) Considering the nature of the potential health risk involved and the complexity of the corrective action needed, a permit holder may avoid suspension of the sanitary permit under 3 CMC § 2135(b) if the permit holder can make corrections or repairs within the following time frames:

(1) Five working days for deficiencies that involve general cleaning and easily resolvable critical control point violations;

(2) Fifteen working days for deficiencies or violations that require more man-hours due to the scope of work, including but not limited to minor building repairs and the purchase of necessary equipment;

(3) Thirty working days for deficiencies requiring the purchase of equipment or materials necessary for remodeling that may not be found on island, but must be requested from an off-island supplier or contractor.

(c) The Secretary may agree to an extension of the compliance period if:

(1) The permit holder provides in writing sufficient evidence that the specified time frame with which to comply is not feasible due to insurmountable circumstances and agrees to an alternative date;

(2) No imminent health hazard would result from the delay; and

(3) The reasons are deemed justified by the Secretary.

However, a second request for an extension will be cause for suspension of the sanitary permit.

(d) The inspection reports shall state that failure to comply with any requirements for

corrections of any violation(s) may result in permit suspension or revocation.

(e) Whenever a food service establishment is required to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

Modified, 1 CMC § 3806(c), (e), (g).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission changed “re-inspection” to “reinspection” in subsection (e).

Subpart E Examination and Condemnation of Food

§ 140-20.7-834 General

(a) Food may be examined or sampled by the Secretary or his/her authorized representative as often as necessary for enforcement of this subchapter. The Secretary or his/her authorized representative may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefore, place a hold order on any food which he or she believes is in violation of the regulations in this subchapter.

(b) The Secretary or his/her authorized representative shall tag, label, or otherwise identify any food subject for destruction, disposal or condemnation. All unwholesome food or drinks shall be immediately condemned and be disposed of in a sanitary manner that will be determined by the Secretary or his/her duly authorized representative.

(c) The following guidelines shall be used in all condemnation of unwholesome foods or drinks.

(1) Permit holder, upon request, shall be given a written notice of condemnation from the Secretary or his/her duly authorized representative of the Bureau stating that such food or drinks were found unwholesome for human consumption, and that therefore, all condemned food or drinks shall be properly disposed of in a sanitary manner, and

(2) Person in charge and the duly authorized representative of the Secretary or his/her duly authorized representative shall be present to witness the disposal and/or destruction of all condemned unwholesome food and drinks; and

(3) A copy of all condemnation records shall be filed with the Bureau and a copy shall be forwarded to the permit holder for their documentation of such condemnation.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a)-(c), which were not designated in the original. The Commission inserted a comma after the word “disposal” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 140-20.7-836 Pre-operational Inspection

The Secretary or his/her duly authorized representative shall inspect all establishments prior to the start of the operation to determine compliance with the requirements of this subchapter and to determine whether a business license and certificate of occupancy have been issued for the establishment.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Subpart F Procedure When Infection is Suspected

§ 140-20.7-838 General

When the Secretary or his/her duly authorized representative has reasonable cause to suspect possible disease transmission by an employee or employer of a food service establishment, he or she may secure a morbidity history of the suspected employee or employer, make any other investigation as necessary and shall take all appropriate action. The Secretary or his/her duly authorized representative may require any or all of the following measures:

- (a) The immediate exclusion of the employee or employer from employment in food service establishment;
- (b) The immediate closing of the food service establishment concerned until, in the opinion of the Secretary or his/her duly authorized representative, no further danger of disease outbreak exists;
- (c) Restriction of the employee's or employer services to some area of the establishment where there would be no danger of transmitting disease;
- (d) Adequate medical and laboratory examination of the employee or employer of other employees and of their body discharges.

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-840 Remedies [Reserved]

[Reserved]

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

§ 140-20.7-842 Penalties

(a) Those permit holders found violating the requirements of the Commonwealth Environmental Health and Sanitation Act or this subchapter, upon issuance of notice to the sanitary permit holder or the person in charge of the establishment, shall be fined and penalized as follows:

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- (1) First Offense: The permit holder shall receive a warning.
 - (2) Second Offense: The permit holder shall receive a fine of up to \$500.00.
 - (3) Subsequent Offenses: The permit holder shall be subject to a fine of \$1,000.00 for each subsequent offense.
- (b) A permit holder who has received notice of imposition of a fine shall have ten calendar days from the date of service of the notice to request a hearing.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26186 (Sept. 27, 2006); Proposed 28 Com. Reg. 25787 (June 19, 2006).

Commission Comment: The Commission designated subsections (a) and (b), which were not designated in the original.