

DEPARTMENT OF PUBLIC HEALTH

BUREAU OF ENVIRONMENTAL AND OCCUPATIONAL HEALTH

FOOD SERVICE SANITATION

(By authority conferred on the department of public health by section 9 of Act No. 380 of the Public Acts of 1965, as amended, section 33 of Act No. 306 of the Public Acts of 1969, as amended, and sections 2226, 2233, and 12909 of Act No. 368 of the Public Acts of 1978, as amended, being SS16.109, 24.233, 333.2226, 333.2233, and 333.12909 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 325.25101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Code" means article 1, parts 22 and 24 of article 2, and part 129 of article 12 of Act No. 368 of the Public Acts of 1978, as amended, being SS333.1101 to 333.1299, 333.2201 to 333.2263, 333.2401 to 333.2498, and 333.12901 to 333.12922 of the Michigan Compiled Laws.

(b) "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use at such catering establishment or restaurant.

(c) "Department" means the Michigan department of public health.

(d) "Foodborne illness outbreak" means an incident where 2 or more persons, not of the same household, have ingested a common food and have a similar disease, similar symptoms, or excrete the same pathogens and there is a time, place, or person association between these persons; where there is a single case of suspected botulism, mushroom poisoning, paralytic shellfish poisoning, or other rare disease; or where there is a case of a disease or poisoning that can be definitely related to ingestion of a food.

(e) "Food service sanitation program" means the systematic activity of the department and a local health department for effective administration and enforcement of the code and these rules, including all of the following:

(i) Periodic inspections of food service establishments, temporary food service establishments, vending machines, and vending machine locations for compliance with law.

(ii) Support of recommendations for licensure with appropriate records.

(iii) Review of plans and specifications for new and extensively remodeled establishments.

(iv) Educational activities.

(v) Investigation of reports of foodborne illnesses.

(vi) Other activities which may be necessary to assure proper implementation of the code.

(f) "Imminent or substantial hazard" means a condition at a food service establishment, temporary food service establishment, vending machine, or vending machine location that, in the judgment of the director or a local health officer, requires immediate action to prevent endangering the health of people.

(g) "License limitation" means an action by which a local health department imposes restrictions or conditions, or both, on a license of a food service establishment.

(h) "Mobile food service establishment" means a food service establishment operating from a vehicle or watercraft which returns to a licensed commissary for servicing and maintenance at least once every 24 hours. A mobile food service establishment includes both of the following:

(i) A mobile packaged food unit on which food service is restricted to sealed, prewrapped, or prepackaged foods in original containers and the dispensing of homogeneous soup, coffee, tea, and other similar beverages.

(ii) A mobile food preparation unit in which food is cooked, prepared, packaged, wrapped, handled, and served in other than its original sealed container or wrapping. A mobile food service establishment does not include common carriers regulated by the federal government or delivery vehicles used only for transporting food prepared in licensed food service establishments.

(i) "Owner or operator" means a person who owns or operates or owns and operates a food service establishment, temporary food service establishment, or vending machine location.

(j) "Plans and specifications" means drawings, data, a true description or representation of a food service establishment, or portions thereof, as it exists or is to be constructed, modified, converted, or remodeled, and a statement indicating the nature of the operation, delivery services, menu, number of employees per shift, and hours of operation.

(k) "Weighted item" means the numerical value assigned to each violation observed at a food service establishment during an inspection, based on a 100 total value of all violations.

(2) The terms defined in the code have the same meanings when used in these rules.

History: 1979 ACS 7, Eff. Sept 2, 1981.

R 325.25102 Authorized agents of the director.

Rule 102. The chief of the bureau of environmental and occupational health of the department, the authorized technical staff of the department, and local health departments delegated authority by the director pursuant to section 12908 of the code are authorized agents of the director for the purpose of implementing the code and these rules.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25103 Adoption by reference.

Rule 103. The department incorporates by reference, and adopts as a part of these rules, the following publications or portions of publications:

(a) Chapter 1, except section 1-104, chapters 2, 3, 4, and 5, sections 6-101(c), 6-108, 6-201, and 6-501 of chapter 6, and appendix A of the 1978 recommendations of the United States public health service, entitled "The Vending of Food and Beverages." Copies of the adopted material are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at a cost of \$1.75, or from the Michigan Department of Public Health, Division of Food Service Sanitation, 3500 North Martin Luther King, Jr. Blvd., P.O. Box 30035, Lansing, Michigan 48909, at a cost of \$1.75.

(b) Provisions of the 1976 recommendations of the United States public health service, entitled "Food Service Sanitation Manual," except section 2-302(d) of chapter 2, section 4-201(c) of chapter 4, chapter 8, chapter 9, chapter 10, and any reference to adulteration, misbranding, and advertising. Copies of the adopted material are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at a cost of \$3.50, or from the Michigan Department of Public Health, Division of Food Service Sanitation, 3500 North Martin Luther King, Jr. Blvd., P.O. Box 30035, Lansing, Michigan 48909, at a cost of \$3.50.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25104 Variances and waivers by local health officer.

Rule 104. (1) A local health officer may, upon receipt of sufficient information and documentation from an owner or operator of a food service establishment, grant a written variance to any part of these rules upon a finding by a local health officer that granting of the variance will not adversely affect the public health.

(2) The local health officer may temporarily waive certain requirements of the code and these rules in the event of an emergency when, in his or her opinion, the waiver does not create an imminent or substantial health hazard.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25105 Availability of rules and appendices.

Rule 105. (1) Single copies of these rules and appendices are available at no cost from the Michigan Department of Public Health, 3500 North Martin Luther King, Jr. Blvd., P.O. Box 30035, Lansing, Michigan 48909.

(2) Permission to reproduce these documents in full or in part is granted by the director.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25106 Rescission.

Rule 106. R 325.2501 to R 325.2505 of the Michigan Administrative Code, appearing on pages 1957 and 1958 of the 1979 Michigan Administrative Code, are rescinded.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

#### PART 4. DEPARTMENT AND LOCAL HEALTH DEPARTMENT PROGRAM REQUIREMENTS, PROCEDURES, AND EVALUATIONS

R 325.25401 Local health department inspection procedures and records.

Rule 401. (1) The department or a local health department shall conduct inspections in accordance with subsection (2) of section 12911 of the code and part 9 of these rules.

(2) Records for all of the following shall be maintained by a local health department:

(a) Applications for licensure.

(b) Operation licenses.

(c) Inspection reports.

(d) Pertinent correspondence.

(e) Plans and specifications.

(f) Administrative actions.

(g) Other applicable information relating to the operation of each food service establishment.

(3) A local health department shall maintain a record of all consumer complaints, the ensuing investigation, and result of the complaint.

(4) All department and local health department records shall be retained in accordance with the records retention schedule of the department.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25402 Suspected foodborne illness outbreaks; development and implementation of communications system required; adoption of investigation procedures.

Rule 402. (1) A local health department shall develop and implement a communications system with other applicable governmental agencies, individuals, and organizations, including, but not limited to, hospital emergency rooms and state and local police. The communications system shall provide the means to contact specific local health department employees and the basic information necessary to initiate a foodborne illness outbreak investigation. The information provided shall be updated annually.

(2) Procedures for investigating suspected foodborne illness outbreaks shall be implemented in accordance with the publication entitled "Procedures to Investigate Foodborne Illness," prepared and published by the international association of milk, food, and environmental sanitarians, incorporated, or an alternative local plan submitted to and approved by the department. The publication is adopted by reference in these rules. Copies of this publication are available from the International Association of Milk, Food, and Environmental Sanitarians, Inc., P.O. Box 701, Ames, Iowa 50010 at a cost of \$1.50 each, or from the Michigan Department of Public Health, Division of Food Service Sanitation, 3500 North Martin Luther King, Jr. Blvd., P.O. Box 30035, Lansing, Michigan 48909, at a cost of \$1.50. A complete summary report shall be prepared and submitted to the department.

(3) All information gathered during the investigation which is not exempted from disclosure under section 13 of Act No. 442 of the Public Acts of 1976, as amended, being S15.243 of the Michigan Compiled Laws, shall be made available to the owner, operator, or his or her employees to minimize the possibility of reoccurrence of the foodborne illness and to assure compliance with the code and these rules.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25403 Laboratories; utilization of adequate facilities required.

Rule 403. Laboratories capable of providing the necessary analyses of food samples shall be utilized by a local health department to assist in the conduct of a food service sanitation program.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25404 Local health department programs; evaluation by department required.

Rule 404. The department shall periodically conduct comprehensive evaluations of each local health department's food service sanitation program. The evaluations shall be based on criteria developed by the department with input from local health departments and shall include a review of both of the following:

(a) The adequacy of sanitary conditions in the food service establishment within the local health department jurisdiction.

(b) The competency and training of the food service inspection personnel.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

## PART 5. ICE

R 325.25501 Ice; source.

Rule 501. Ice for use in food service establishments shall be manufactured on the premises with water meeting the state drinking water standards or shall be obtained from an approved source in chipped, crushed, or cubed form in single-service closed containers or bags or multiuse containers and shall be properly stored.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25502 Ice equipment drainage; restrictions.

Rule 502. (1) The waste line from ice storage bins and ice machines shall not be directly connected with another waste line and shall be drained through an air gap.

(2) Water taps or beverage-dispensing heads shall not be installed above an ice storage bin unless a drained drip tray is provided and the ice bin is equipped with a suitable cover.

(3) Drainage or drainage tubes from ice-dispensing units or other equipment shall not pass through the ice machine or the ice storage bin.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25503 Carbonators and cold plates; restrictions and requirements.

Rule 503. (1) Carbonators shall not be located or placed in ice storage bins, ice machines, or other containers of ice.

(2) Cold plates shall not be installed in ice storage bins, ice machines, or other containers of ice, except as provided in subrule (4) of this rule.

(3) In new ice installations, a cold plate or similar beverage-cooling device shall be an integral part of the floor of the ice bin. The floor of the ice bin shall be smooth and easily cleanable with all angles and corners coved.

(4) A cold plate may be installed in an ice bin if the ice in the bin is not intended for human consumption. In this instance, the ice bin shall be designed so that ice is inaccessible for use in food or beverages, and a separate ice storage container for the storage and use of ice shall be available.

(5) Existing cold plates installed before the effective date of these rules shall be acceptable if an ice storage compartment of slightly smaller dimensions than the existing ice bin is inserted into the ice bin in which the cold plate is located. The ice storage compartment shall be constructed of stainless steel or other acceptable material and all internal angles and corners shall be covered. The ice storage compartment shall be removed daily and washed, rinsed, and sanitized. The existing bin shall be drained through an air gap.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25504 Dispensing trough of ice equipment; accessibility; ice bin covers; construction.

Rule 504. (1) The dispensing trough of automatic ice-dispensing equipment shall be readily accessible for cleaning and inspection.

(2) Ice bin covers shall be constructed of easily cleanable materials and shall be designed to effectively protect ice from contamination.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25505 Prohibited uses of ice intended for human consumption; ice protection.

Rule 505. (1) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils. Ice used for cooling food, food containers, or food utensils shall not be used for human consumption.

(2) Tubing conveying beverages or beverage ingredients to dispensing heads shall not be in contact with ice intended for human consumption.

(3) Ice bins shall be covered at all times unless the bin is in use or unless the counter extends horizontally beyond the edge of the ice bin counter and a water tap, beverage dispensing head, or drip tray is not located above the bin.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

## PART 6. TEMPORARY AND MOBILE FOOD SERVICE ESTABLISHMENTS

R 325.25601 Definition.

Rule 601. "Mechanical refrigeration" means a refrigeration unit which extracts heat by means of liquefaction and evaporation through use of a compressor or flame or by a thermoelectric device, air circulation device, or other mechanical device which is capable of maintaining food temperatures at or below 45 degrees Fahrenheit.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25602 Licensure; compliance with rules required; development of design and operational criteria by department required.

Rule 602. (1) A temporary or mobile food service establishment shall comply with applicable provisions of the code and these rules and with the requirements adopted by reference in R 325.25103 as condition of a license to conduct food service operations.

(2) The department shall develop, with input from local health departments, a description of design and operational criteria which, by virtue of previous evaluation, complies with the requirements of this part.

(3) If a temporary or mobile food service establishment, which does not fully comply with the requirements adopted by reference in R 325.25103, is designed and operated in accordance with the description of design and operational criteria published by the department, the department or a local

health department may consider the temporary or mobile food service establishment to be in compliance with subrule (1) of this rule.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25603 Mobile food service establishments; labeling; mechanical refrigeration.

Rule 603. (1) Each package of food which is to be served from a mobile food service establishment shall bear a label clearly indicating all of the following:

- (a) The date of the packaging.
- (b) The name and address of the person who prepared and packaged the food.
- (c) The name and address of the food service establishment where the preparation and packaging was completed, if preparation and packaging was done by someone other than the owner of the mobile food service establishment. This requirement does not apply to mobile food service establishments where food is prepared for immediate consumption.

(2) Mechanical refrigeration is required for all mobile food service establishments licensed after the effective date of these rules. A mobile food service establishment which is licensed and operating before the effective date of these rules, which is using other means of refrigeration, and which cannot maintain potentially hazardous foods at or below 45 degrees Fahrenheit shall provide mechanical refrigeration. A local health department may waive the requirements of this subrule for pushcarts if other satisfactory means of maintaining the temperature of potentially hazardous foods at or below 45 degrees Fahrenheit are provided.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25604 Mobile food service establishments; water supply.

Rule 604. (1) All mobile food preparation units shall provide a supply of water meeting the requirements of Act No. 399 of the Public Acts of 1976, being S325.1001 et seq. of the Michigan Compiled Laws, and handwashing facilities and shall provide for the retention of liquid wastes.

(2) There shall be a provision for the sanitary disposal of liquid waste at each commissary where mobile units with retention tanks are serviced. Locations other than a commissary for the sanitary disposal of liquid waste shall be approved by the local health department.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25605 Mobile food service establishments; items prohibited in driver's compartment; operations prohibited during movement.

Rule 605. (1) Food, food containers, wrappers, packaging materials, or utensils shall not be kept in the driver's compartment of a mobile food service establishment. The driver's compartment shall be separated by a solid partition from the area of food preparation. Doors in the partition shall be tight-fitting and self-closing and shall be kept closed during food service operation and during transit.

(2) Food service preparation shall not be conducted when the mobile food service establishment is being moved from one location to another.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25606 Mobile food service establishments as temporary food service establishments.

Rule 606. A mobile food service establishment which does not return to a commissary or service base after 24 hours, but which continues to operate at a fixed location, may be licensed as a temporary food service establishment pursuant to part 8 of these rules.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25607 Mobile food service establishments; additional requirements.

Rule 607. (1) The name and address of the business operating a mobile food service establishment shall be affixed to each side of the exterior of the vehicle in letters not less than 3 inches high and 3/8 of an inch wide and shall be in contrast to the vehicle background color. When more than 1 mobile food service establishment is operated by 1 person, a number shall be assigned to each establishment.

(2) A copy of limitations attached to the license of a mobile food service establishment shall be carried on the mobile food service establishment at all times.

(3) If a mobile food service establishment is operating on a regularly scheduled route, a copy of the route schedule may be required by the local health department having jurisdiction at the time the license is approved and every time the route schedule is changed.

(4) A representative of the local health department or the operator in the presence of the representative of the local health department shall affix 2 decals provided by the department on the mobile food service establishment at the time the license is issued. The decals shall be conspicuously displayed on each side of the mobile food service establishment so as to be visible when in transit and while serving the public.

(5) Recreational vehicles or motor homes shall not be used as mobile food service establishments.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

#### PART 7. PLAN SUBMITTAL AND REVIEW

R 325.25701 Submission of plans and specifications.

Rule 701. (1) Before a food service establishment, or portion thereof, except for a temporary food service establishment or vending machine location, is constructed, altered, or extensively remodeled, or before an existing structure is converted to use as a food service establishment, the owner, operator, or designated agent shall submit plans and specifications for the food service establishment to the local health department for review and approval.

(2) A transmittal letter shall be submitted with the plans and specifications. The letter shall identify and summarize the plans or projects and shall indicate the owner, operator, or designated agent.

(3) Any required fees, as authorized by sections 2444 and 12906 of the code, shall be submitted in accordance with the local health department requirements.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25702 Contents of plans and specifications; rejection for incompleteness.

Rule 702. (1) Plans and specifications for a food service establishment which are submitted to a local health department pursuant to section 12911 of the code and R 325.25701 shall include all of the following, unless exempted by the local health department:

- (a) The site plan.
- (b) Floor plan.
- (c) Interior construction materials and finish schedules.
- (d) Lighting.
- (e) Kitchen facilities.
- (f) Kitchen equipment design, construction, and installation.
- (g) Handwashing facilities.
- (h) Dishwashing and equipment washing.
- (i) Ventilation.
- (j) Water supply and sewage disposal.
- (k) Water heating equipment.
- (l) Plumbing.
- (m) Toilet facilities.
- (n) Number of employees per shift.
- (o) Dressing rooms and lockers.
- (p) Refuse disposal facilities.

- (q) Vermin and rodent protection.
  - (r) The type and model of proposed equipment and facilities.
  - (s) The proposed menu.
- (2) A local health department may reject the plans for a proposed food service establishment if any of the information required by subrule (1) of this rule is not included, is incomplete, or is inaccurate.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25703 Review of plans and specifications.

Rule 703. (1) Upon receipt of plans and specifications or other pertinent information for the construction, alteration, conversion, or remodeling of a food service establishment, or a portion thereof, the local health department shall review the plans and specifications as soon as practicable to determine their completeness and adequacy. In making its review, the local health department shall not approve the plans and specifications unless it determines that the food service establishment is designed in accordance with the code and these rules.

(2) If the local health department determines that plans and specifications are incomplete or inadequate, it shall notify the owner, operator, or designated agent of the food service establishment in writing and shall request the submission of revised plans and specifications with appropriate corrections or additions. The local health department shall not grant approval until the plans and specifications are complete and judged to be adequate.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25704 Approval of plans and specifications.

Rule 704. (1) Upon a determination by the local health department that the plans and specifications for the construction, conversion, alteration, or remodeling of a food service establishment, or portion thereof, are complete and adequate, the local health department shall mark the plans showing approval and the date thereof, shall notify the owner, operator, or designated agent of the food service establishment, in writing, of the approval, and shall authorize construction, conversion, alteration, or remodeling of the food service establishment.

(2) Approval of plans and specifications by a local health department and authorization for construction pursuant to the code and these rules shall expire if construction, conversion, alteration, or remodeling has not commenced, or has been interrupted for, 1 year from the date of approval. An owner, operator, or designated agent of a food service establishment may apply in writing to the local health department for an extension of the approval and construction authorization before the approval expires. The request shall identify the project for which the approval and construction authorization were originally granted by the local health department and the reason for requesting the extension. The local health department may require modification of the plans and specifications to incorporate updated food service sanitation practices or requirements, where applicable, unless the owner, operator, or authorized agent has entered into binding agreements or contractual obligations which cannot be canceled or modified without substantial loss to the owner, operator, or designated agent.

(3) The approved plans and specifications shall be on-site during construction and shall be available for inspection by a local health department.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25705 Terms and conditions of approval or authorization.

Rule 705. A local health department may attach any condition to an approval or authorization granted, pursuant to the code and R 325.25704, to an owner, operator, or designated agent of a food service establishment which is deemed necessary by the local health department to assure proper construction, conversion, alteration, or remodeling of a food service establishment or portion thereof.

History: 1979 ACS 7, Eff. Sept. 2, 1981.



R 325.25706 Revision of approved plans and specifications.

Rule 706. (1) A change in approved plans and specifications shall be submitted in writing to the local health department, and written approval shall be obtained before construction.

(2) As-built plans, clearly showing the work as constructed, shall be submitted to a local health department upon request.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25707 Rescission of construction authorization; orders to stop construction.

Rule 707. (1) A local health department may rescind its authorization for construction, conversion, alteration, or remodeling of a food service establishment if it determines that the owner or operator is not undertaking construction work in accordance with approved plans and specifications. The local health department shall notify the owner, operator, or designated agent of the food service establishment before rescission of construction authorization and shall afford him or her the opportunity to take any corrective action required.

(2) If an owner, operator, or designated agent of a food service establishment fails to submit plans and specifications for the construction, alteration, extensive remodeling, or conversion to use as a food service establishment, or fails to construct, alter, extensively remodel, or convert a food service establishment in accordance with plans and specifications approved by a local health department, or fails to take corrective action as required pursuant to subrule (1) of this rule, a local health department shall order the owner or operator, in writing, to cease construction, alteration, conversion, or remodeling activities.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25708 Pre-opening inspections.

Rule 708. (1) After completion of the construction, alteration, conversion, or remodeling and before the opening of a food service establishment, the owner, operator, or designated agent shall notify the local health department, shall make application for a license to operate the food service establishment, and shall arrange for a pre-opening inspection. Local health departments may specify when requests for pre-opening inspections are to be submitted.

(2) During the pre-opening inspection, the local health department shall determine whether the food service establishment was constructed, altered, converted, or remodeled in accordance with the approved plans and specifications.

(3) The pre-opening inspection undertaken pursuant to this rule shall constitute the first pre-licensing inspection required pursuant to part 8 of these rules.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

## PART 8. LICENSING AND ENFORCEMENT

R 325.25801 License applications; required information; fees.

Rule 801. (1) Distribution of preprinted applications for renewal of existing licenses shall be provided by the department to all local health departments or shall be provided directly to the owner or operator of record.

(2) An application for a license for a food service establishment or vending machine location shall be made by the owner or operator thereof on forms prepared by the department and shall be completed in full.

(3) The completed application form, together with the fee required, shall be submitted to the local health department in accordance with R 325.25802.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25802 License applications; dates for submittal.

Rule 802. (1) A renewal license application for a food service establishment or vending machine location or a request for a temporary food service establishment license shall be submitted in accordance with the following time requirements:

(a) An application for a fixed or mobile food service establishment or a vending machine location shall be submitted to the local health department in accordance with the time schedule prescribed by section 12904(2) of the code.

(b) A request for a temporary food service establishment license shall be submitted to the local health department not less than 5 working days before the operation of the temporary food service establishment or as otherwise permitted by the local health department.

(2) The owner or operator of a food service establishment which has been newly constructed, converted, or purchased shall make application for a license before the pre-opening inspection required by R 325.25708 or before transfer of ownership.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25803 Review of applications; pre-licensing inspections; issuance of licenses.

Rule 803. (1) A local health department shall promptly review a license application for a food service establishment or vending machine location to determine if the application is complete and accurate. A local health department may return an incomplete or inaccurate application to an owner or operator and request any additional information it deems necessary to assure completeness or accuracy of the application.

(2) After a local health department determines that an application is proper, complete, and accurate, it shall inspect the proposed or existing food service establishment or vending machine location to determine compliance with the code, these rules, and other applicable state laws. The inspection shall be conducted by the local health department before it recommends to the department that the license to operate be issued.

(3) A local health department shall forward its recommendation for approval of the license or approval with limitation of the license to the department. The department shall return the food service establishment or vending machine location license to the local health department for distribution to the owner or operator or shall send the license directly to the owner or operator upon processing of the application and issuance of the license.

(4) An inspection undertaken by a local health department pursuant to part 9 of these rules may be substituted for the license renewal inspection required by subrule (2) of this rule.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25804 Limitation of license.

Rule 804. (1) A license issued by the department to an owner or operator of a new or existing food service establishment, temporary food service establishment, or vending machine location may be limited by the department or a local health department. License limitation may be imposed under either of the following conditions:

(a) The department or local health department determines that the site, facility, sewage disposal system, equipment, or the food supplies, protection, storage, preparation, display, service, or transportation facilities are not adequate to accommodate the proposed or existing menu or otherwise protect the public health.

(b) Food service personnel are not practicing proper food storage, preparation, handling, display, service, or transportation techniques.

(2) License limitation may include appropriate mandatory supervisory food service sanitation training.

(3) Before a license is limited by the department or a local health department, the owner or operator of the food service establishment shall be entitled to an informal conference in accordance with section 92 of Act No. 306 of the Public Acts of 1969, as amended, being S24.292 of the Michigan Compiled Laws.

(4) An owner or operator who is provided a food service establishment license with limitation, temporary food service establishment license with limitation, or vending machine location license with limitation shall be promptly notified by the department or the local health department and shall be provided a hearing.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25805 Removal of license limitations.

Rule 805. A person whose license has been limited by the department or a local health department may, at any time, request a reinspection of the food service establishment, temporary food service establishment, or vending machine location for the purpose of removing the limitation and reinstating the full license. Based upon its reinspection, if the local health department determines that the conditions for removal of the license limitation have been met by the holder of the license, it shall remove the limitation and reinstate the full license.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25806 License denial or revocation; local health department procedures; exception.

Rule 806. (1) A local health department may apply procedures for enforcement of the code and these rules which are equivalent in effectiveness to, and which protect the rights of the applicant or licensee in accordance with, the provisions of chapters 4 and 5 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.292 of the Michigan Compiled Laws.

(2) In accordance with subsection (2) of section 12909 of the code, a local health department may deny or revoke a food service establishment license for just cause if the local health department's procedures for license denial or revocation are equivalent to the provisions of chapters 4 and 5 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.292 of the Michigan Compiled Laws.

(3) Subrules (1) and (2) of this rule do not apply to situations where immediate discontinuance of operation of a food service establishment, temporary food service establishment, vending machine, or vending machine location is ordered by a local health officer pursuant to section 12907(2) of the code because of a substantial hazard to the public health.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25807 Disasters.

Rule 807. If a food service establishment is affected by fire, flooding, accidents, explosions, or other disaster, all food service operations shall cease. The licensee shall immediately report the disaster to the local health department and request an evaluation of the food service establishment to determine the effect of the disaster on the operation of the establishment. Extensive damage, as determined by the department or a local health department, may result in indefinite discontinuance of food service operations until such time that operation of the food service establishment poses no public health hazard. Plans and specifications, as required by part 7 of these rules, shall be submitted to the local health department if reconstruction is necessary.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

## PART 9. SURVEILLANCE AND INSPECTIONS

R 325.25901 "Critical violation" and "critical item" defined.

Rule 901. As used in this part, "critical violation" or "critical item" means a violation of the code or these rules, or an item described in the code or these rules, which, if existing in a food service establishment, may impact on public health or cause foodborne disease or chemical intoxication. The department, with input from local departments, shall develop a list of items which shall be considered "critical items." Appendix A prescribes the list developed by the department. Appendix A may be obtained from the

Michigan Department of Public Health, Division of Food Service Sanitation, 3500 North Martin Luther King, Jr. Blvd., P.O. Box 30035, Lansing, Michigan 48909.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25902 Inspection frequencies.

Rule 902. (1) An unannounced compliance inspection of each food service establishment shall be performed at least once every 6 months.

(2) A food service establishment which operates for 9 or fewer months each year shall be inspected at least once during the period of operation.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25903 Criteria for reducing the frequency of inspection.

Rule 903. (1) A local health department, with approval of the director and based on criteria developed by the department in consultation with local health departments, may reduce the frequency of inspections of individual food service establishments if the local health department determines that a reduced inspection frequency will not adversely affect food service sanitation practices within a food service establishment.

(2) A food service establishment which, upon investigation, is implicated in a foodborne disease outbreak or chemical intoxication shall receive inspections in accordance with R 325.25902(1) for not less than the next 12 months.

(3) A local health department shall not reduce the minimum frequency of inspections of any food service establishment to less than once each 12 months.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25904 Access for food service inspections.

Rule 904. An authorized representative of the department or a local health department, after presenting proper identification, shall be permitted to enter a food service establishment, temporary food service establishment, or vending machine location at any time during normal operating hours for the purpose of making inspections to determine compliance with the code and these rules. The authorized representative shall be permitted to examine the records of the food service establishment, temporary food service establishment, or vending machine location to obtain pertinent information about food, supplies, and equipment purchased, received, or used by, or pertaining to, persons employed by the establishment or location. A food service owner or operator shall not interfere with an authorized representative of the department or local health department in the conduct of his or her responsibilities where performing inspections pursuant to this rule.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25905 Inspection report.

Rule 905. (1) When an inspection of a food service establishment, temporary food service establishment, or vending machine location is conducted by an authorized representative of the department or a local health department, the findings thereof shall be recorded on an inspection report form approved by the director. The form shall identify those items considered to be critical from a public health standpoint.

(2) The inspection report shall summarize findings relative to compliance with the requirements of the code and these rules. The report form shall be signed and dated by the local health department representative.

(3) The rating score of the food service establishment shall be 100 percentage points minus the total of the weighted percentage point values for all violations observed during the inspection.

(4) Upon completion of the inspection, a copy of the completed inspection report form shall be furnished to the person in charge of the food service establishment, who shall sign the report form acknowledging receipt.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25906 Correction of violations.

Rule 906. (1) The completed inspection report form shall specify a period of time for correction of noted violations, and correction of the violations shall be made by the owner, operator, or person in charge of the food service establishment within the time specified and in accordance with the following provisions:

(a) All identified violations which are marked as critical on the inspection report form shall be corrected immediately or in a time period specified in writing by the local health department following inspection of the food service establishment. A follow-up inspection shall be conducted by the local health department to confirm corrections.

(b) All identified violations which are not marked as critical on the inspection report form shall be corrected in a time specified by the local health department.

(c) In the case of temporary food service establishments, all identified violations which are marked as critical on the inspection report form shall be corrected in a time period and manner specified by the local health department. If the violations identified as critical are not corrected as specified, and if the local health department determines that an imminent health hazard exists, the local health officer shall order the temporary food service establishment to immediately cease all food service operations in accordance with the procedures specified in section 12907(2) of the code and R 325.25907, until written authorization to resume operations is received from the local health department.

(2) If identified violations which are marked as critical on the inspection report form are not corrected as ordered by the local health department, a local health officer may issue an order to cease food service operations in accordance with R 325.25907 or may initiate license revocation proceedings as provided by applicable law.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25907 Orders to cease food service operations.

Rule 907. (1) Upon a finding by the department or a local health department that continued operation of a food service establishment, temporary food service establishment, vending machine, or vending machine location would create a substantial hazard to the public health, the department or a local health department may issue a written order to the person in charge of the establishment or vending machine location to immediately cease all food service operations.

(2) When a food service establishment, temporary food service establishment, vending machine, or vending machine location is ordered to cease food service operations pursuant to subrule (1) of this rule, it shall not resume operations until the department or a local health department determines, upon reinspection, that the conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered upon request of the owner or operator of the establishment.

(3) If immediate discontinuance of operation of a food service establishment is ordered by a local health officer, the owner or operator thereof may request a hearing. The hearing shall be promptly commenced before a hearing board. The conduct of a hearing pursuant to this rule shall not suspend the order of the local health officer.

(4) A person who fails to comply with an order to cease food service operations or who interferes with the department or a local health department representative in the proper conduct of his or her responsibilities is subject to the remedies and penalties prescribed by the code.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.25908 Examination and condemnation of food.

Rule 908. (1) A representative of the department or a local health department may, as often as necessary, examine or sample food to assure that it meets the requirements of the code and these rules. The authorized representative may, upon written notice to the owner, operator, or person in charge of a food service establishment, place a hold order on any food. The written notice shall specify the reasons for issuance of the hold order for the food. The representative shall tag, label, or otherwise identify the food subject to the hold order.

(2) All food subject to a hold order issued pursuant to subrule (1) of this rule shall not be altered, relabeled, repacked, destroyed, used, served, or moved from the food service establishment. The local health department may authorize storage of the food under conditions which shall be specified in the hold order. If storage of food is not possible without risk to the public health, immediate destruction of the food shall be ordered by the representative and shall be accomplished without delay by the owner, operator, or person in charge of the food service establishment. Destruction of the food shall be undertaken as specified in the order for destruction.

(3) A person may request a hearing on the issuance of a hold order within 10 calendar days after issuance of the order. Following the hearing, the hold order may be vacated or the owner, operator, or person in charge of the food may be directed by written order to denature or destroy the food or bring it into compliance with the provisions of the code and these rules. If a hearing is not requested within 10 days after issuance of the order, the local health department may order that the food be destroyed.

(4) A representative of the department or a local health department may, upon visual or olfactory examination, issue an order requiring immediate destruction of putrefied foods. Destruction of the putrefied food shall be accomplished as specified in the order by the owner, operator, or person in charge of the food service establishment.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

#### R 325.25909 Suspected communicable diseases.

Rule 909. (1) If the department or a local health department has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee and make any other investigations as may be deemed necessary.

(2) The department or a local health department may order an owner, operator, or person in charge of a food service establishment to do any of the following if a communicable disease is suspected or confirmed:

- (a) Immediately exclude the employee from working in the food service establishment.
- (b) Immediately close the food service establishment until, in the opinion of the department or the local health department, no further danger of disease outbreak exists.
- (c) Restrict the employee's service to some area of the food service establishment, as approved by the department or the local health department, where there is no danger of transmitting disease.
- (d) Require or provide for adequate medical or laboratory examination of the employee and other employees and of their body discharges.

(3) The owner, operator, or person in charge of a food service establishment shall exclude from the food service establishment any employee with a suspected communicable disease.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

#### R 325.25910 Reviews.

Rule 910. If a person is aggrieved by an inspection report, compliance schedule, or order issued by the department or a local health department, he or she shall be granted an opportunity for a review of the matters asserted, upon written request therefor made within 10 calendar days from the date of issuance. Upon receipt of the requests, the department or local health department shall schedule the requested review within 30 working days.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

## PART 10. VENTILATION

R 325.26001 Testing; ventilation requirements.

Rule 1001. (1) Exhaust ventilation systems shall be tested by an independent environmental or air quality testing laboratory, in the presence of a representative of the department and in accordance with the procedures prescribed in this part, to ensure that the capture effectiveness is equal to that specified by R 325.26008.

(2) The department shall publish a description of ventilation systems and their specific uses which, by virtue of previous evaluations, complies with the requirements of this part. Systems designed, installed, and operated in accordance with the ventilation system description may be exempt from the testing requirement prescribed by subrule (1) of this rule.

(3) Exhaust ventilation systems which will be tested as prescribed in subrule (1) of this rule shall be equivalent in materials, cleanability, and installation design to systems described by the department as prescribed in subrule (2) of this rule.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26002 Make-up air; requirements.

Rule 1002. A tempered make-up air system shall be required if more than 1,500 cfm is exhausted or if the total building exhaust exceeds make-up air to the extent that it results in a negative pressure exceeding 0.02 inch water gauge, the reduction of exhaust, or the backdrafting of fuel burning equipment.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26003 Ventilation balance reports.

Rule 1003. A ventilation balance report shall be provided to the department or local health department for all new or remodeled ventilation systems. The ventilation balance report shall agree with the air quantities stipulated on the approved plans and specifications for the installation. The total building exhaust and make-up air, if provided, shall be balanced to within plus or minus 0.02 inch water gauge, according to the approved plans. All cooking equipment shall be as specified on the plans and specifications and shall be installed in accordance with the approved plans and specifications. Exhaust and make-up air temperatures shall be recorded. The exhaust and make-up air quantities shall be corrected to standard air when a variable of more than 30 degrees Fahrenheit exists. The formula used to measure true velocity shall be the formula recommended by the manufacturer of the air velocity measuring instrument or the formula established by the manual entitled "Industrial Ventilation, A Manual of Recommended Practice," which is published by the committee on industrial ventilation of the American conference of governmental industrial hygienists, or its equivalent.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26004 Operating temperatures.

Rule 1004. All cooking equipment and exhaust systems shall be at operating temperature during the ventilation test. Containers of water shall be placed over ignited open flame burners to minimize the jet influence of open burners.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26005 Smoke tests.

Rule 1005. A smoke test shall be performed before the test procedures prescribed by R 325.26007 to determine reasonable performance of the ventilation system. Representatives of the department or a local health department may require additional air flow measurements. If the air quantities are as specified in the balance report required by R 325.26003, the test procedure may begin.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26006 Test chemical.

Rule 1006. A test chemical shall be used as determined by the department. The test chemical shall be boiled under the hood, as prescribed in R 325.26007, to determine the capture effectiveness of the ventilation system.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26007 Test procedures.

Rule 1007. (1) Four hundred milliliters of the test chemical shall be placed in a beaker or other approved container and positioned on the cooking surface. Double boilers may be used if desired. The beakers shall be located 1 foot from the front edge of the cooking surface and not more than 3 feet apart or more than 18 inches from the ends of the cooking equipment line. Enclosed cooking equipment shall be operated with the equipment door or cabinet open and the beaker located in the equipment cavity.

(2) The open canopy face area, including the open ends or back, or both, shall be divided into 24-inch areas using a vertical grid with the start and end points not more than 12 inches from a wall or end panel. Where partial or angled end panels are used, the vertical grid shall continue until the open face area is completely closed by a wall or full end panel. The vertical grid shall be divided horizontally so that 2 equidistant points are established between the lower edge of the hood and the cooking surface of the equipment.

(3) Before boiling the test chemical, a background air bag sample may be obtained to allow for future recalibration of the sample meter utilized.

(4) During the test, all doors and windows shall be kept closed. The presence or traffic of unnecessary persons in the testing area shall be minimized.

(5) The test chemical shall be poured into the beakers while under an exhaust hood or outside the building. The test chemical shall not be poured over hot cooking surfaces. When the test chemical boils in a rapid, uniform, and continuous manner and the concentration of test chemical measured within the exhaust duct is a minimum of 150 parts per million, the test may start. Exhaust duct readings shall also be taken at the conclusion of the grid sampling procedure.

(6) Each point of the grid shall be sampled utilizing sample collection equipment approved by the department and allowing sufficient time to achieve and record an average reading. If gusts are evident, the peak reading of the gust shall also be recorded.

History: 1979 ACS 7, Eff. Sept. 2, 1981.

R 325.26008 Test chemical limits.

Rule 1008. The test chemical escaping shall be less than 2.0 parts per million average with no sample location of more than 4.0 parts per million. Occasional gusts may be permitted at 10% of the total sample locations, except that no gusts shall be higher than 6.0 parts per million.

History: 1979 ACS 7, Eff. Sept. 2, 1981.