



Colorado Department
of Public Health
and Environment

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Consumer Protection Division

Attached please find the plan review packet, which includes the Plan Review Form (Appendix C) and the Worksheet For Calculating Minimum Hot Water Requirements (Appendix D). Appendixes C & D are included in the *Colorado Retail Food Establishment Rules and Regulations*.

Please note: Written approval of plans and specifications is necessary prior to starting construction. A minimum of two (2) weeks shall be necessary for the department to review plans. Any revision(s) of plans and specifications shall be submitted to the department for review and approval.

To make the plan review process as quick and simple as possible, please observe the following procedures:

Plans must be complete and must include the following information:

- a. Equipment layout
- b. Equipment list by manufacturer and model number
- c. Manufacturer's specification sheets
- d. Mechanical diagrams including plumbing, kitchen and restroom ventilation and lighting
- e. Interior finish schedule – Include samples of materials, finishes, and colors
- f. Menu

FILL OUT THE PACKET COMPLETELY, INCLUDING THE FINISH SCHEDULE AND EQUIPMENT INSTALLATION LIST (notations on “see plans” will not be accepted) YOUR PLANS WILL BE RETURNED IF THE PROCEDURES LISTED HERE ARE NOT OBSERVED. *Note: Domestic equipment is **NOT** acceptable.

Section 11-401 of the rules and regulations requires detailed plans and specifications be submitted to and approved by the Colorado Department of Public Health and Environment, prior to commencing construction of any newly proposed or proposed extensive remodel of a retail food establishment.

Please note that a required application fee of \$100.00 is due and payable prior to the plans being reviewed. Submit the \$100.00 fee and application; please make check payable to the Colorado Department of Public Health and Environment. Additional cost for the plan review and pre-opening inspection will be billed after the pre-opening inspection is completed. Please contact this office at least three (3) weeks prior to the contemplated opening and arrange for final inspection. All construction and cleaning must be completed prior to opening inspection. In addition, all equipment must be in place and functioning at the time of the opening inspection.

Please submit your plans to:

Colorado Department of Public Health and Environment
Consumer Protection Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

If you have any questions, or need further assistance, please contact Consumer Protection at 303-692-3645.



Colorado Department
of Public Health
and Environment

RETAIL FOOD ESTABLISHMENT REVIEW APPLICATION

This form will be used by the Health Department for various review fees for retail food establishments as provided in statute 25-4-1601 to 1612, C.R.S.

Colorado Department of Public Health and Environment
4300 Cherry Creek Dr. South, CPD-B2
ATTN: Plan Review Section
Denver, CO 80246-1530
Ph: (303) 692-3620

Date: _____

Record # _____

Firm ID # _____

**Do Not Write in This Space
For Office Use Only**

Name of Establishment:

Location Address:

City: _____ State: _____ Zip: _____ County: _____

Mailing Address:

City: _____ State: _____ Zip: _____

Name of Owner/Manager: _____ Phone: (_____) _____

DBA:

Type of Ownership (As indicated on your Colorado Business/State Sales Tax Registration)

- Individual (*If individual or sole proprietor owner, you must complete the enclosed affidavit and provide a notarized copy of an approved identification*)
 General Partnership
 Limited Partnership
 Limited Liability Company
 Limited Liability Partnership
 Limited Liability Limited Partnership
 Corporation
 "S" Corporation
 Association
 Estate
 Government
 Joint Venture
 Trust
 Non-profit 501(c)(3) (please enclose copy of IRS letter of exemption)
 Other Non-profit

NOTICE TO APPLICANT: The type of review requested and associated application fee required is indicated in Section A below. If an application fee is required, please make check payable to the Colorado Department of Public Health & Environment and mail the completed application and check to the address above. Fees for the actual review are explained on the back of this form.

Name & Title of Applicant (Please Print): _____ Signature of Applicant _____

SECTION A – THIS SECTION TO BE COMPLETED BY INSPECTOR

REVIEW TYPE	APPLICATION FEE	REVIEW FEE (NOT TO EXCEED)
<input type="checkbox"/> Plan Review (PR)	\$100.00	\$580.00
<input type="checkbox"/> Equipment Product Review (ER)	\$100.00	\$500.00
<input type="checkbox"/> HACCP Plan Review/Written (HW)	Not Required	\$100.00
<input type="checkbox"/> HACCP Plan Review/Operational (HO)	Not required	\$400.00
<input type="checkbox"/> Services Requested – Real Estate Review (RE)	\$75.00	Cost of Actual Time Spent
<input type="checkbox"/> Special Event (SE)	Not Required	Not Required
<input type="checkbox"/> Special Service (SS) _____	Not Required	Not Required
<input type="checkbox"/> Fee Exempt (EX) _____	Not Required	Not Required

Comments:

Plan Review (PR):

The fee for filing an application for a plan review is \$100.00, and must accompany the application (when required). The application filing fee does not include the cost of plan review activities. An invoice for the actual time spent on review activities will be sent to you at a later date and will not exceed \$580.00.00 [(CRS 25-4-1607(2) (1998)]. There will be a delay in reviewing your plan review if either the application fee or the application form are not submitted with the plans.

Equipment Product Review (ER):

The fee for filing an application for an equipment or product review is \$100.00. This fee must accompany the application. The application filing fee does not include the cost of the review activities. An invoice for the actual time spent on the review activities will be sent to you at a later date and will not exceed \$500.00 [(CRS 25-4-1607(3) (1998))].

HACCP (Written) (HW):

An application filing fee is not required for this review process. Upon completion of the written review, an invoice for actual time spent on the review activities will be sent to you. The invoice will not exceed \$100.00. [(CRS 25-4-1607(4) (1998))].

HACCP (Operational) (HO):

An application filing fee is not required for this review process. Upon completion of the operational review, an invoice for actual time spent on the review activities will be sent to you. The invoice will not exceed \$400.00. [(CRS 25-4-1607(4) (1998))].

Note: If a HACCP plan undergoes significant changes from the original approved plan, the second review may be billed as a new plan. A facility may be required to have separate HACCP plans for food preparation methods that deviate from more than one section of the regulation. A HACCP plan is not considered part of the plan review process. Separate charges can be applied to a HACCP plan that was included with a facility's plan submittal.

Real Estate (RE):

A \$75 pre-paid fee is required with this application, but shall be applied to the actual cost of the services. Additional fees will be added upon completion of the review. An invoice for actual time spent on the review activities will be sent to you. [(CRS 25-4-1607(5) (1998))].

Special Events (SE):

No application filing fee is required. Actual cost of services associated with the oversight of a special event will be billed when services are completed [(CRS 15-4-1607(6) (1998))].

Special Services (SS):

The fee for any other requested service that involves review activities and that are not specifically listed above are chargeable based on the actual cost of such service [(CRS 25-4-1607(7) (1998))].

Fee Exempt (EX):

Parochial, public and private schools, penal institutions, and charitable organizations, benevolent, nonprofit retail food establishments are exempt from the fees associated with plan review activities.

Plan Review (PR):

The fee for filing an application for a plan review is \$100.00, and must accompany the application (when required). The application filing fee does not include the cost of plan review activities. An invoice for the actual time spent on review activities will be sent to you at a later date and will not exceed \$580.00.00 [(CRS 25-4-1607(2) (1998)]. There will be a delay in reviewing your plan review if either the application fee or the application form are not submitted with the plans.

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STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

Subject: Implementation of C.R.S., 24-76.5-101, et. seq., "Restrictions on Public Benefits" (HB 1023)

To Whom It May Concern:

You will find an affidavit included with your renewal registration/application. All licenses, certifications and registrations issued to *individual owners or sole proprietors* by the Colorado Department of Public Health and Environment must be accompanied by verification of citizenship. This requirement does not apply to you if you are not an individual owner or sole proprietor. Verification includes completing the affidavit and providing a **notarized copy** of an approved identification. Approved identification includes:

- A valid Colorado driver's license or a Colorado identification card;
- A United States military card or a military dependent's identification card;
- A United States Coast Guard Merchant Mariner card; or
- A Native American Tribal Document.

You may access a notary in your area by conducting a search through directory assistance for "public notaries." PLEASE DO NOT SEND A COPY OF A SOCIAL SECURITY CARD.

C.R.S., 24-76.5-101, "Restrictions on Public Benefits" became effective August 1, 2006, and requires "each agency or political subdivision of the state" to verify the lawful presence in the United States of every applicant for public benefits. The law requires the verification of citizenship in order for persons eighteen years of age or older to receive certain benefits or obtain a license or certification from the department. If the recipient of the benefit is under eighteen years of age, the law does not apply.

If you need assistance in complying with this law or if there is additional information you feel we need to be aware of, please do not hesitate to contact me at 303-692-3645.

Consumer Protection Division



Colorado Department
of Public Health
and Environment

AFFIDAVIT - RESTRICTIONS ON PUBLIC BENEFITS

I, _____, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

- I am a United States citizen, or
- I am a Permanent Resident of the United States, or
- I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date

Firm's Legal Name: _____

Firm's Site Address: _____
Street Unit City Zip

APPENDIX C - Plan Review

Date: _____

Name of Establishment: _____ Phone: _____

Fax: _____

Address of Establishment: _____ Phone: _____

Fax: _____

Name of Operator (owner): _____ Phone: _____

FAX: _____

Address of Operator (owner): _____ Phone: _____

FAX: _____

Name of Local Contact: _____ Phone: _____

FAX: _____

Name of Contractor: _____ Phone: _____

FAX: _____

Address of Architect: _____ Phone: _____

FAX: _____

Name of Architect: _____ Phone: _____

FAX: _____

Date Construction will begin: _____ Date of Planned Opening: _____

New Establishment: _____ Remodel: _____

Type of Establishment (check all that apply):

Full Service

Coffee Shop

Bar

Market (Grocery)

Convenience Store

Fish Market

Deli

Meat Market

Caterer

Concession

School

Specialty Shop

Fast Food

Mobile Unit

Other (please specify): _____

THE FOLLOWING DOCUMENTS ARE NECESSARY AND MUST BE INCLUDED IN ORDER TO COMPLETE THE PLAN REVIEW. LACK OF COMPLETE INFORMATION MAY DELAY REVIEW AND PLAN APPROVAL.

1. Proposed menu, including a list of foods which will require cooling after cooking and the method that will be used to cool these foods.
2. Facility floor plan. Drawn to scale.
3. Specification sheets of all equipment, including make and model numbers.
4. Shop drawings of all custom fabricated equipment and cabinetry. Drawn to scale.
5. Site plan showing the location of the business in the building, location of the building on site including alleys, streets and the location of any outside facility (dumpsters, walk-in units, grease interceptors etc.).
6. A complete interior finish schedule.
7. Mechanical, plumbing and electrical schedules. Drawn to scale.
8. Water heater specifications, including make and model number.
9. Location of chemical and personal belongings storage.
10. Water supply and wastewater systems.

I. Menu And Food Handling Procedures:

- A. Submit Menu
- B. Is there a Hazard Analysis Critical Control Point (HACCP) Plan/Food Handling Procedure Manual that describes preparation, cooling, reheating, cooking of foods and the handling of leftovers? Yes No If yes, please submit with plans.
- C. List the foods that will be prepared more than 12 hours in advance of service.
- D. List the foods and describe the methods of how hot foods will be cooled to 41°F (5°C) or below.
- E. List the foods and describe the methods of how foods will be rapidly reheated to 165°F (74°C) or above.
- F. List the foods and indicate how hot foods will be held at 135°F (57°C) or above.
- G. How will frozen foods be thawed?
- H. Will raw meats, poultry, and seafood be stored/displayed in the same refrigerator(s) and freezer(s) with cooked, ready-to-eat foods? Yes No
- I. Indicate the total number of refrigeration and freezer units:
- J. Will catering be conducted? Yes No
- K. Will food be transported or delivered to another location? Yes No
If yes, what equipment will be provided to maintain food at proper temperatures during transport?
- L. Will the produce used be washed in the establishment, or will all produce be received pre-washed:
- M. Will vacuum packaging be conducted in the establishment? Yes No
If yes, please provide the required HACCP Plan for each category of food to be vacuum packaged.

II. Facility Floor Plan:

- A. Submit Floor Plan Drawn To Scale.
- B. Floor Plan Must Include Location and Identification of All Equipment and Areas Including:
 - 1. Sinks -
 - a) Handsink(s)
 - b) Vegetable/Food Preparation Sink(s)
 - c) Utility/Mop Sink(s)
 - d) Dump Sink(s)
 - e) Warewashing Sink(s)
 - f) Other
 - 2. Wait Station(s)
 - 3. Toilet Facilities
 - 4. Dry/Food Storage Area(s)
 - 5. Employee Break/Locker Area(s)
 - 6. Chemical Storage Area(s)
 - 7. Water Heater Location
 - 8. Bar Service Area(s)
 - 9. Indoor/Outdoor Seating
 - 10. Outdoor Cooking/Bar Area(s)
 - 11. Location Of Laundry Facility
 - 12. Recycle/Damaged/Returned Goods Location
 - 13. Location Of All Floor Sinks and Floor Drains
 - 14. Grease Interceptor/Grease Trap
 - 15. Ice Bins/Ice Machines
 - 16. Dipper Wells
 - 17. Chemical Dispensing Units

III. Equipment Specifications:

- A. Submit equipment specification sheets, including make and model numbers of the equipment. If the specification sheet lists more than one piece of equipment, identify the specific equipment to be used. If there is no specification sheet available, the equipment will only be accepted upon a field inspection to determine if it meets commercial design criteria.
- B. Submit shop drawings of all ventilation hoods. Drawn to scale.
- C. Submit shop drawings of all custom fabricated equipment and cabinetry. Drawn to scale.
- D. Submit the following water heater information: (See Appendix D for criteria on calculating adequate amounts of hot water)

- 1. Make: _____ Model Number: _____
- 2. BTU/Kilowatt Rating: _____
- 3. Recovery Rate, 100°F rise, at sea level: _____

F. Submit the following warewashing information:

1. MANUAL - Include the following for all warewashing sinks: (Kitchen, Dishroom, Bar, etc.)

a) Size of each sink compartment:

Length: _____ Width: _____ Depth: _____

Length: _____ Width: _____ Depth: _____

Length: _____ Width: _____ Depth: _____

b) Size of all soiled and clean drain board(s)/drying racks:

Length: _____ Width: _____ Depth: _____

Length: _____ Width: _____ Depth: _____

Length: _____ Width: _____ Depth: _____

c) Pre-Rinse / Spray Hose Provided: _____ yes _____ no

2. MECHANICAL:

a) Make and model numbers of warewashing machine(s): _____

b) Heat or chemical sanitization: _____

c) Booster Heater:

1. Make and Model Number: _____

2. Recovery Rate, 40°F Rise, at sea level: _____

3. Distance from the Warewashing Machine: _____

d) Manufacturer's hot water requirement (gallons per hour): _____

e) Size of all drain boards/drying racks (length and width): _____

f) Pre-Rinse / Spray Hose Provided: _____ Yes _____ No

g) Soak Sink Provided: _____ Yes _____ No

G. Garbage Disposals: _____ Yes _____ No If yes, Indicate Location(s) _____

H. Refrigeration/Freezer Capacities - Complete the following table:

TYPE OF UNIT	# OF UNITS PROVIDED	TOTAL CUBIC FEET
Walk-in Refrigeration		
Reach-in Refrigeration		
Walk-in Freezer		
Reach-in Freezer		
Blast Chiller		
Retail Display		

I. Displayed Food Items:

1. Bulk Food Items: _____ Yes _____ No If yes, submit equipment specifications for food bins. Include vendor provided equipment.
2. Food Shields - Submit the type and location (If custom design, please submit shop drawings): _____

IV. PREMISES:

A. Submit site plan which includes the following: Refuse Enclosures, Compactors, Outside Walk-in Cooler(s)/Freezer(s), Location of Water Supply, Sewage Disposal System, Grease Interceptor, Alleys, Streets, Parking and Outside Storage Areas.

B. Water Supply and Wastewater Systems:

1. Water Supply:

a) Community/Public:

Name of District: _____

b) Non-Community/Private: _____ PWSID #: _____

c) Well: _____ Spring: _____

If it is a well, indicate the depth: _____

Method of Disinfection: _____

2. Sewage Disposal:

a) Municipal/Public: _____

Name of District: _____

b) Individual Sewage Disposal System (ISDS): _____

V. Interior Finishes:

Use the following chart to indicate all interior finishes:

ROOM FINISH SCHEDULE:

Room Name and Mark	Floors			Walls (Material and Finish)				Ceilings	
	material	finish	base	North	South	East	West	material	finish
example: Kitchen 101	quarry tile	smooth, sealed	6" quarry tile	FRP smooth	FRP smooth	painted smooth	painted smooth	Vinyl acoustical tile	smooth

VI. Mechanical, Plumbing, and Electrical Schedules:

A. Plumbing:

1. Submit the location of all floor sinks and floor drains.
2. List all the equipment that will be installed with an indirect waste pipe.
3. Submit the location of all hose bibbs.
4. Submit the number and location of all toilet fixtures (Including handsinks, urinals, and water closets).
5. Submit the location of the grease trap or interceptor.
6. Submit the make, model and location of all chemical dispensing unit(s).
7. Use the following chart to list the location of all backflow prevention devices, including all vendor supplied items:

EQUIPMENT	INTERNAL PROTECTION	EXTERNAL PROTECTION
Warewashing Machines		
Water Wash Hoods		
Chemical Injection Towers		
Soda Stations		
Coffee Urns		
Ice Makers		
Dipper Wells		
Commercial Disposal with Pre-rinse		
Tea Dispenser		
Mop Sink		
Hose Bibb(s)		
Reel Lines		
Steam Kettle Faucets		

B. Mechanical:

1. Submit a complete ventilation schedule including exhaust capacities (cubic feet per minute ratings) for all hoods and the location and capacity of all make-up air diffusers.
2. If the ventilation hoods are UL listed for lower air flows, submit the information located on the manufacturer's UL listing card.
3. Include ventilation systems in restrooms.

C. Electrical:

1. Submit the location and type of light fixtures throughout the facility, including the fixtures in walk-in refrigeration/freezer units.
2. Submit the type of bulbs and/or shielding for each type of light fixture, where required.
3. Indicate the location of transformers and electrical panels if located in the food preparation/ food storage areas.

APPENDIX D - Worksheet for Calculating Minimum Hot Water Requirements

The following worksheet is provided to assist operators in calculating hot water usage and sizing of the water heater required for the operation.

I. Calculate Total Water Required By All Fixtures:

A. Three compartment sink calculation of water usage:

1. Measure dimensions, in inches, of each compartment, if compartments are not the same dimensions see note below.

Length = _____ Width = _____ Depth = _____

2. Insert measurements into equation

$$\left(\frac{\text{Length}}{\text{Length}} \times \frac{\text{Width}}{\text{Width}} \times \frac{\text{Depth}}{\text{Depth}} \times 3 \times .375 \right) \div 231 = \frac{\text{Water Usage}}{\text{Water Usage}}$$

Note: If all the compartment sizes of the sink are not the same, then 3 is taken out of the equation, and the above calculation is done for each compartment. The volumes are added to obtain the total gallons per hour of hot water used in the sink.

Enter number into the attached "Table to Calculate Total Water Required By All Fixtures," found on page Appendix D-4.

B. Utensil soak sink

1. Measure dimensions, in inches, of the sink

Length = _____ Width = _____ Depth = _____

2. Insert measurements into equation

$$\left(\frac{\text{Length}}{\text{Length}} \times \frac{\text{Width}}{\text{Width}} \times \frac{\text{Depth}}{\text{Depth}} \times .375 \right) \div 231 = \frac{\text{Water Usage}}{\text{Water Usage}}$$

Enter number into the attached "Table to Calculate Total Water Required By All Fixtures," found on page Appendix D-4.

C. Dishmachine and conveyor pre-rinse water usage:

Use manufacturer's rating in gallons per hour

Enter number into attached "Table to Calculate Total Water Required By All Fixtures."

Clothes washer water usage:

Use manufacturer's rating, or 32 GPH for 9-12 pound washer, or 42 GPH for 16 pound washer.

Enter number into the attached "Table to Calculate Total Water Required By All Fixtures," found on page Appendix D-4.

D. Use the gallon per hour rating for each type of fixture found in the "Table to Calculate Total Water Required By All Fixtures" and the number of fixtures in the operation to determine maximum hourly usage for each type of fixture in the operation.

Total water (gph) required by all fixtures: _____

II. Calculate Maximum Hourly Hot Water Usage

If gas water heater is used go to Step A; if electric, Step B.

A. Gas Water Heater: If a gas water heater is to be used, calculate the maximum hourly hot water usage for the facility by adjusting the total water required by all fixtures for altitude. The altitude adjustment is 4% per 1000 feet of elevation, or 20% at 5000 feet.

Use the following equations to determine the maximum hourly hot water usage when a gas powered water heater is to be used:

$$(.04 \times \frac{\text{elevation of facility}}{1000}) + 1 = \text{adjustment factor}$$

$$\frac{\text{adjustment factor}}{\text{adjustment factor}} \times \frac{\text{total water required by all fixtures}}{\text{total water required by all fixtures}} = \frac{\text{maximum hourly hot water usage}}{\text{maximum hourly hot water usage}}$$

For example, if the total gallon per hour usage for an establishment at an elevation of 5000 feet is 100 GPH, the adjustment factor is 1.2. Therefore, a water heater with 120 GPH recovery rate would be required.

Use this value in the equation to calculate the minimum BTU rating of the water heater.

B. Electric Water Heater: If an electric water heater is to be used, the maximum hourly usage for the operation is the same as the total water required by all fixtures. Use this value in the equation to calculate the minimum Kilowatt rating of the water heater.

C. Insert the value determined in step A or B above in III D (3), Appendix C, Plan Review Form, Page Appendix C-6. This value is the minimum recovery rate of the water heater which should be provided for the facility.

III. Calculate the minimum BTU or Kilowatt rating of water heater:

A. For gas water heater, calculate the minimum BTU rating:

$$\frac{(\text{Max hourly usage as calculated above}) \times (100) \times (8.33)}{.75 \text{ or use manufacturer's thermal efficiency}} = \text{minimum BTU rating}$$

B. For electric water heater, calculate the minimum Kilowatt rating :

$$\frac{(\text{Max hourly usage as calculated above}) \times (100) \times (8.33)}{3412} = \text{minimum Kilowatt rating}$$

C. Select water heater based upon BTU or Kilowatt rating.

Make: _____ ; Model #: _____

BTU or Kilowatt Rating: _____

Recovery rate: _____ gallons per hour at 100°F rise at sea level.

Table to Calculate Total Water Required By All Fixtures.

Plumbing Fixture	Water Usage (gallons per hour)	Number of fixtures	Maximum hourly water usage per type of fixture (gallons per hour)
example: warewashing machine	50	1	50
example: handsink(s)	5	4	(5 x 4 =) 20
3-compartment sink			
3-compartment sink (bar)			
utensils soak sink			
warewashing machine			
warewashing machine conveyor pre-rinse			
clothes washer			
hand operated pre-rinse sprayer	32		
handsink(s), include rest rooms	5		
mop sink	7		
garbage can washer	35		
showers	14		
hose bibb used for cleaning	35		
Total water (gph) required by all fixtures			

PART 16

FOOD PROTECTION ACT

Editor's note: This part 16 was added in 1991. This part 16 was repealed and reenacted in 1998, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 16 prior to 1998, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editors' notes following those sections that were relocated.

25-4-1601. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that it is in the public interest for the department of public health and environment to establish minimum standards and rules for retail food establishments in Colorado and to provide authority for the uniform statewide administration, implementation, interpretation, and enforcement of such minimum standards and rules. Such standards and rules are established to:

(a) Ensure the safety of food prepared, sold, or served in retail food establishments;

(b) Maximize public health protection;

(c) Identify hazards and potential sources of contamination and take measures to prevent, reduce, or eliminate the physical, chemical, or biological agents in food prepared, sold, or served in retail food establishments; and

(d) Improve the sanitary condition of all retail food establishments, reduce food-borne illness outbreaks, and control the spread of food-borne disease from retail food establishments.

(2) This part 16 is deemed an exercise of the police powers of the state for the protection of the health and social welfare of the people of the state of Colorado.

Source: L. 98: Entire part R&RE, p. 1244, § 1, effective July 1. **L. 2009:** IP(1) amended, (SB 09-223), ch. 255, p. 1151, § 1, effective May 15.

Editor's note: This section is similar to former § 25-4-1601 as it existed prior to 1998.

25-4-1602. Definitions.

As used in this part 16, unless the context otherwise requires:

(1) "Automated food merchandising enterprise" means the collective activity of the supplying or preparing of food or drink for automated food merchandising machines.

(2) "Certificate of license" means a grant to operate a retail food establishment without a fee, under the conditions set forth in section 25-4-1607 (9).

(2.5) "County or district public health agency" means a county or district health department, a county or municipal board of health, or a regional public health department established pursuant to part 5 of article 1 of this title.

(3) "Department" means the department of public health and environment, and its authorized employees.

(4) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

(5) "Fund" means the food protection cash fund created in section 25-4-1608.

(6) "HACCP plan" means a written document setting forth the formal procedures for following hazard analysis critical control point principles.

(7) "Inspection" means an inspection of a retail food establishment conducted by the department or a county or district board of health to ensure compliance by such establishment with rules promulgated by the department pursuant to this part 16.

(8) "License" means a grant to a licensee to operate a retail food establishment.

(9) "Licensee" means a person that is licensed or who holds a certificate of license pursuant to this part 16 and is responsible for the lawful operation of a retail food establishment.

(10) (Deleted by amendment, L. 2009, (SB 09-223), ch. 255, p. 1151, § 2, effective May 15, 2009.)

(11) "Modified atmosphere packaging" means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen, displacing the oxygen with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the surrounding atmosphere, which is twenty-one percent oxygen.

(12) "Nonpotentially hazardous" means any food or beverage that, when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms that cause food infections or food intoxications.

(13) "Person" means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee of any of such entities.

(14) "Retail food establishment" means a retail operation that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food. "Retail food establishment" does not

mean:

- (a) Any private home;
- (b) Private boarding houses;
- (c) Hospital and health facility patient feeding operations licensed by the department;
- (d) Child care centers and other child care facilities licensed by the department of human services;
- (e) Hunting camps and other outdoor recreation locations where food is prepared in the field rather than at a fixed base of operation;
- (f) Food or beverage wholesale manufacturing, processing, or packaging plants, or portions thereof, that are subject to regulatory controls under state or federal laws or regulations;
- (g) Motor vehicles used only for the transport of food;
- (h) Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling;
- (i) Establishments that handle only nonpotentially hazardous prepackaged food and operations serving only commercially prepared, prepackaged foods requiring no preparation other than the heating of food within its original container or package;
- (j) Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for sale;
- (k) Automated food merchandising enterprises that supply only prepackaged nonpotentially hazardous food or drink or food or drink in bottles, cans, or cartons only, and operations that dispense only chewing gum or salted nuts in their natural protective covering;
- (l) The donation, preparation, sale, or service of food by a nonprofit or charitable organization in conjunction with an event or celebration if such donation, preparation, sale, or service of food:
 - (I) Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and
 - (II) Takes place in the county in which such nonprofit or charitable organization resides or is principally located.
- (15) "Safe food" means food that does not contain any poisonous, deleterious, or disease-causing substance or microorganisms that may render such food injurious to human health.

(16) "Special event" means an organized event or celebration at which retail food establishments prepare, serve, or otherwise provide food for human consumption.

(17) "Uniform statewide administration, implementation, interpretation, and enforcement" means the application of the rules adopted by the state board of health and the policy guidance of the department by state and county or district public health agencies responsible for implementation of the rules and policies. The uniform application shall not preclude county or district public health agencies from implementing administrative efficiencies or practices if the practices do not conflict with the state board of health rules or department policies.

Source: L. 98: Entire part R&RE, p. 1245, § 1, effective July 1. **L. 2009:** (2.5) and (17) added and (7) and (10) amended, (SB 09-223), ch. 255, p. 1151, § 2, effective May 15.

Editor's note: This section is similar to former § 25-4-1602 as it existed prior to 1998.

25-4-1603. Licensing, certification, and food protection agency.

The department is hereby designated the state licensing, certification, and food protection agency for the purpose of protecting the public health and ensuring a safe food supply in this state. In addition to such designation, the department is hereby authorized to regulate and control retail food establishments, promulgate rules governing the operation of such establishments, and uniformly enforce and administer this part 16.

Source: L. 98: Entire part R&RE, p. 1247, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-223), ch. 255, p. 1152, § 3, effective May 15.

Editor's note: This section is similar to former § 25-4-1603 as it existed prior to 1998.

25-4-1604. Powers and duties of department - rules.

(1) The department shall have the following powers and duties:

(a) To grant or refuse licenses and certificates of license pursuant to section 25-4-1606, or to suspend or revoke licenses and certificates of license pursuant to section 25-4-1609;

(b) (I) To promulgate rules for adoption by the state board of health pursuant to article 4 of title 24, C.R.S., for the uniform statewide administration, implementation, interpretation, and enforcement of this part 16 and, as necessary, to ensure a safe food supply in retail food establishments. Such rules may include provisions for the initial and periodic medical examination by the department or other competent medical authority of all employees of retail food establishments and shall include provisions specifying and regulating the places and conditions under which food shall be prepared for consumption, a uniform code of sanitary rules,

and such other rules as the department deems necessary. Such rules may be modified and changed from time to time.

(II) For purposes of this paragraph (b), a uniform code of sanitary rules means rules for the preparation, sale, and serving of food, including but not be limited to general overall retail food establishment and equipment design and construction; sanitary maintenance of equipment, utensils, and facilities for food preparation, service, and storage; wholesomeness of food and drink; source and protection of food and water; disposal of liquid and solid wastes; and other rules for the effective administration and enforcement of this part 16.

(c) To hear and determine all complaints against licensees or grantees of certificates of license and to administer oaths and issue subpoenas to require the presence of any person necessary to the determination of any such hearing;

(d) To uniformly enforce this part 16 and the rules promulgated pursuant to this section;

(e) To enter retail food establishments during business hours and at other times during which activity is evident to conduct inspections and other interventions related to food safety and the protection of public health;

(f) To develop and enforce uniform statewide standards of program conduct and performance to be followed and adhered to by employees of the department and county or district boards of health;

(g) To provide technical assistance, equipment and product review, training and standardization, program evaluation, and other services necessary to assure the uniform statewide administration, implementation, interpretation, and enforcement of this part 16 and rules promulgated under this part 16;

(h) To review and approve HACCP plans submitted for evaluation to verify and ensure that food handling risks are reduced to prevent food-borne illness outbreaks;

(i) To delegate to any county or district board of health the powers and duties described in paragraphs (a), (c), (d), (e), and (h) of this subsection (1) at the request of such county or district board of health.

(2) Subsection (1) of this section shall not apply to the city and county of Denver, which, by ordinance, may provide for the licensure of retail food establishments.

Source: L. 98: Entire part R&RE, p. 1247, § 1, effective July 1. **L. 2009:** (1)(b)(I), (1)(d), (1)(f), (1)(g), and (1)(i) amended and (2) added, (SB 09-223), ch. 255, p. 1152, § 4, effective May 15.

Editor's note: This section is similar to former § 25-4-1604 as it existed prior to 1998.

25-4-1605. Submission of plans for approval - required.

(1) An owner or operator of a retail food establishment shall submit plans and specifications to the department or a county or district board of health in the jurisdiction in which a retail food establishment is to be constructed or extensively remodeled before such construction or extensive remodeling is begun or any existing structure is converted for use as a retail food establishment. Such plans and specifications shall be submitted for review and approval, in such form as the department requires or approves, to ensure that the retail food establishment layout, equipment, and food handling procedures are conducive to providing a safe food product. Each plan and specification submission shall be accompanied by the fees set forth in section 25-4-1607. The department and a county or district board of health shall treat the plans and specifications as confidential trade secret information. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plants, construction materials of work areas, and the location, type, and model of proposed fixed equipment and facilities.

(2) The construction, extensive remodeling, or conversion of any retail food establishment shall be in accordance with the plans and specifications submitted to and approved by the department or a county or district board of health. The department or a county or district board of health shall conduct reopening inspections of retail food establishments to assure compliance with the approved plans, as circumstances require.

(3) An owner or operator of a retail food establishment shall submit an HACCP plan to the department or a county or district board of health for review and approval before beginning a modified atmosphere packaging process or other food preparation method that does not meet rules promulgated by the department. HACCP plans shall be submitted in such form as the department requires or approves. The submission shall ensure that food handling risks are reduced to prevent food-borne illness and outbreaks. The department and any county or district board of health shall treat HACCP plans as confidential trade secret information.

(4) The department or a county or district board of health shall respond to any plans and specifications submitted pursuant to subsection (1) of this section and to any HACCP plan submitted pursuant to subsection (3) of this section within fourteen working days after receipt. If a submitted HACCP plan or other plan or specification is deemed inadequate, the department or a county or district board of health shall respond in writing to the submitter of the plans or specifications with a statement describing how such deficiencies may be corrected.

Source: L. 98: Entire part R&RE, p. 1248, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-223), ch. 255, p. 1153, § 5, effective May 15.

Editor's note: This section is similar to former § 25-4-1606 as it existed prior to 1998.

25-4-1606. Licensure - exception.

(1) An application for a license or a certificate of license shall be filed with the department or a county or district board of health before any person may operate a retail food establishment in this state. The application shall be on a form supplied by the department and shall include such information as the department may require.

(2) Before granting any license or certificate of license, the department or a county or district board of health may visit and inspect the retail food establishment or property on which the applicant conducts or proposes to conduct business to assess whether the establishment can operate in accordance with the rules promulgated by the department to provide a safe food product. If an applicant complies with the requirements of this subsection (2) and the rules promulgated pursuant to this part 16, the department or a county or district board of health shall approve the application for a license or certificate of license.

(2.5) If a critical violation is documented during an inspection, and the retail food establishment is unable to correct the violation while the inspector is on site, follow-up activities shall be conducted. If the retail food establishment is able to correct the critical violation during the inspection, the critical violation and the resolution demonstrating compliance shall be documented on the inspection report form, with no follow-up inspection required. If more than one follow-up inspection is needed to correct the same critical violation at any type of retail food establishment, the department or a county or district board of health may pursue the civil penalty process outlined in section 25-4-1611 for correction and to recover any associated costs.

(3) Every license and certificate of license granted pursuant to this section shall specify the date granted, the period of coverage, the name of the licensee, and the name and address of the licensed establishment. All licenses shall be conspicuously displayed at all times in the licensed establishment.

(4) Licenses and certificates of license shall be valid for one calendar year or such portion thereof as remains after the granting of a license or certificate. When a license or certificate is valid for only a portion of a calendar year, there shall be no reduction of the fees required by section 25-4-1607. All licenses and certificates of license shall expire December 31 of the year in which they were granted and renewal applications shall be filed with the department during December of each year. Once a license or certificate of license has been granted, the department or a county or district board of health shall not refuse to renew such license or certificate unless the licensee has engaged in an unlawful act set forth in section 25-4-1610 or is in violation of any rules promulgated pursuant to this part 16.

(5) Subsections (1) and (2) of this section shall not apply in the city and county of Denver, which, by ordinance, may provide for the licensure of retail food establishments.

Source: L. 98: Entire part R&RE, p. 1249, § 1, effective July 1. **L. 2009:** (1), (2), and (4) amended and (2.5) added, (SB 09-223), ch. 255, p. 1154, § 6, effective May 15.

25-4-1607. Fees - repeal.

(1) Each retail food establishment in this state shall be assessed an annual license fee in accordance with the following provisions:

(a) A retail food establishment preparing or serving food in individual portions for immediate on- or off-premises consumption shall be assessed an annual fee based on the following schedule:

Seating Capacity Fee

0 to 100 \$255

101 to 200 \$285

Over 200 \$310

(b) A retail food establishment offering food for retail sale to consumers for off-premises consumption shall be assessed an annual fee based on the following schedule:

Square Footage Fee

Less than 3,500 \$ 115

3,501 to 15,000 \$ 180

15,001 to 25,000 \$ 200

25,001 to 45,000 \$ 235

45,001 to 65,000 \$ 290

65,001 to 85,000 \$ 415

over 85,000 \$ 500

(c) A retail food establishment offering food for retail sale to consumers for off-premises consumption and preparing or serving food in individual portions for immediate consumption either on- or off-premises shall be assessed an annual fee based on the following schedule:

Square Footage Fee

Less than 3,500 \$ 207

3,501 to 15,000 \$ 338

15,001 to 25,000 \$ 360

25,001 to 45,000 \$ 395

45,001 to 65,000 \$ 450

65,001 to 85,000 \$ 575

(c.5) (I) A retail food establishment offering food at a temporary living quarter for workers associated with oil and gas shall be assessed an initial licensing fee based on the following schedule:

Seating Capacity Initial License Fee

0-50 \$ 750

Over 50 \$ 1,250

(II) Any future annual license fee or a change in location within the calendar year of the same retail food establishment offering food at a temporary living quarter for workers associated with oil and gas shall be assessed a renewal fee based on the following schedule:

Seating Capacity Renewal License Fee

0-50 \$ 275

Over 50 \$ 500

(d) A retail food establishment shall be subject to only one of the fees established in this subsection (1).

(e) (I) Retail food establishment license fees shall be established pursuant to this subsection (1); except that the city and county of Denver may establish such fees by ordinance.

(II) Notwithstanding subparagraph (I) of this paragraph (e), the fees established in this subsection (1) or by ordinance of the city and county of Denver shall be the only annual license fees charged by the state or any county, district, local, or regional inspection authority and shall cover all inspections of a retail food establishment pursuant to this subsection (1) throughout an annual license period.

(2) At the time a plan is submitted for review, an application fee of one hundred dollars shall be paid to the department or a county or district board of health. The fee for plan review and preopening inspection of a new or remodeled retail food establishment shall be the actual cost of such review, which shall not exceed five hundred eighty dollars. Such costs shall be payable at the time the plan is approved and an inspection is completed to determine compliance.

(3) At the time an equipment review is submitted, an application fee of one hundred dollars

shall be paid to the department. The fee for equipment review by the department to determine compliance with applicable standards shall be the actual cost of such review, which shall not exceed five hundred dollars. Such costs shall be payable when the review is completed.

(4) The fee for an HACCP plan review of a specific written process shall be the actual cost of such review, which shall not exceed one hundred dollars. The review of an HACCP plan for a process already conducted at a facility shall be the actual cost of such review, which shall not exceed four hundred dollars. Costs shall be paid at the time the plan is approved and an inspection is completed.

(5) The fee for services requested by any person seeking department or county or district board of health review of a potential retail food establishment site shall be seventy-five dollars or the actual cost of such review, whichever is greater. Seventy-five dollars of such fee shall be billed at the time the review is requested, and the remainder shall be payable when services are completed.

(6) The fee for food protection services provided to special events shall not exceed the actual cost of such services and shall be paid by the organizer of such special event when services are completed.

(7) The fee for any requested service not specifically set forth in this section shall not exceed the actual cost of such service.

(8) The actual cost of a service shall be established by the department or a county or district board of health, whichever provided the service.

(9) (a) A certificate of license may be issued to and in the name and address of any:

(I) Parochial, public, or private school;

(II) Penal institution;

(III) Charitable organization and benevolent, nonprofit retail food establishment conducted for the purpose of assisting elderly, incapacitated, or disadvantaged persons; and

(IV) Nonprofit or charitable organization that donates, prepares, sells, or serves food in conjunction with an event or celebration if such donation, preparation, sale, or service of food:

(A) Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and

(B) Takes place in the county in which such nonprofit or charitable organization resides or is principally located.

(b) No institution or organization listed in paragraph (a) of this subsection (9) shall pay any fee imposed on a retail food establishment pursuant to this section.

(10) County or district boards of health created in part 5 of article 1 of this title shall collect fees under this section if the county or district boards of health are authorized by the department to enforce this part 16 and any rules promulgated pursuant to this part 16.

(11) (Deleted by amendment, L. 2009, (SB 09-223), ch. 255, p. 1155, § 7, effective May 15, 2009.)

(12) Notwithstanding the amount specified for any fee in this section, the state board of health by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state board of health by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.

Source: L. 98: (12) added, p. 1334, § 46, effective June 1; entire part R&RE, p. 1250, § 1, effective July 1. **L. 2003:** (1)(a), (1)(b), and (1)(c) amended, p. 2050, § 1, effective July 1. **L. 2009:** (1)(a), (1)(b), (1)(c), (1)(e)(II), (2) to (5), (8), (10), and (11) amended and (1)(c.5) added, (SB 09-223), ch. 255, p. 1155, § 7, effective May 15.

Editor's note: (1) This section is similar to former § 25-4-1607 as it existed prior to 1998.

(2) Subsection (12) was enacted as subsection (3) in SB 98-194 and was renumbered in the 1998 Colorado Revised Statutes for ease of location in the section as repealed and reenacted by SB 98-189.

25-4-1608. Food protection cash fund - creation.

(1) Fees collected by the department pursuant to section 25-4-1607 shall be transmitted to the state treasurer who shall credit the same to the food protection cash fund, which fund is hereby created in the state treasury. The general assembly shall appropriate the moneys in the fund to the department for the payment of salaries and expenses necessary for the administration of this part 16.

(2) Forty-three dollars of each fee collected by the department and a county or district board of health pursuant to section 25-4-1607 (1) (a), (1) (b), (1) (c), and (1) (c.5) shall be transmitted to the state treasurer, who shall credit such fee to the food protection cash fund created in subsection (1) of this section. This portion of the fee shall be used by the department to conduct the duties and responsibilities set forth in section 25-4-1604 (1) (a), (1) (b), (1) (c), (1) (f), (1) (g), and (1) (i). The remainder of such fee shall be retained by the county or district board of health for deposit in the appropriate county or district public health agency fund in accordance with section 25-1-511 or, if the fee is collected by the department, it shall be deposited pursuant to subsection (1) of this section, and used to pay a portion of the cost of conducting a retail food establishment protection program.

(3) Any interest derived from the deposit and investment of moneys in the food protection cash fund shall be credited to such fund. Any unexpended or unencumbered moneys remaining in such fund at the end of a fiscal year shall remain in the fund and shall not revert or be transferred to the general fund or any other fund of the state.

Source: L. 98: Entire part R&RE, p. 1244, § 1, effective July 1. **L. 2003:** (2) amended, p. 2051, § 2, effective July 1. **L. 2008:** (2) amended, p. 2053, § 8, effective July 1. **L. 2009:** (2) amended, (SB 09-223), ch. 255, p. 1157, § 8, effective May 15.

Editor's note: This section is similar to former § 25-4-1605 as it existed prior to 1998.

25-4-1609. Disciplinary actions - revocation - suspension - review.

(1) The department or a county or district board of health may, on its own motion or complaint and after an investigation and hearing at which the licensee is afforded an opportunity to be heard, suspend or revoke a license or certificate of license for any violation of this part 16, any rule adopted pursuant to this part 16, or any of the terms, conditions, or provisions of such license or certificate of license. A written notice of suspension or revocation, as well as any required notice of hearing, shall be sent by certified mail to the licensee at the address contained in the license or certificate of license.

(2) The revocation and suspension of a license or certificate of license shall be in addition to any other penalties prescribed by this part 16. No suspension shall be for a period longer than six months. When a license or certificate of license is suspended or revoked, no part of the fees paid for a license shall be returned to the licensee.

(3) Any suspension or revocation of a license or certificate of license may be reviewed by any court of general jurisdiction having jurisdiction over the retail food establishment for which the application for license or certificate of license was made. If such court determines that such suspension or revocation was without good cause, it shall order the department to reinstate such license or certificate of license.

Source: L. 98: Entire part R&RE, p. 1253, § 1, effective July 1. **L. 2009:** (1) amended, (SB 09-223), ch. 255, p. 1157, § 9, effective May 15.

25-4-1609.5. Grievance process.

(1) If a licensee believes that a county or district public health agency is taking regulatory action outside the scope of its authority, the licensee may file a written complaint with the department within thirty days after the licensee's knowledge of the regulatory action.

(2) Within forty-five days after receipt of a written complaint pursuant to subsection (1) of

this section, the department shall convene a dispute resolution panel that consists of one person from the department, one person from the retail food industry, and one person from a county or district public health agency who is not within the jurisdiction of the licensee requesting resolution. The dispute resolution panel shall allow the licensee and the county or district public health agency to provide information related to the grievance. The dispute resolution panel shall make findings concerning the grievance and shall recommend to the county or district public health agency a resolution to the dispute. The county or district public health agency shall implement the recommendations within thirty days after receipt of the findings and recommendations from the dispute resolution panel. If the parties to the grievance resolve the complaint prior to review by the dispute resolution panel, the parties shall notify the department in writing and the grievance shall be dismissed.

(3) If the county or district public health agency fails to implement the recommendations of the dispute resolution panel within thirty days after receipt of the recommendations, the county or district public health agency shall provide the licensee with the opportunity to request an administrative hearing in accordance with section 24-4-105, C.R.S.

Source: L. 2009: Entire section added, (SB 09-223), ch. 255, p. 1157, § 10, effective May 15.

25-4-1610. Unlawful acts.

(1) It is unlawful for:

(a) Any person to begin the construction or extensive remodeling of a retail food establishment unless such person has received department or county or district board of health approval of plans and specifications for such construction or remodeling pursuant to section 25-4-1605;

(b) Any person to operate a retail food establishment without a valid license or certificate of license from the department or a county or district board of health having jurisdiction over such establishment;

(c) Any person to violate this part 16 and any rules promulgated pursuant to this part 16;

(d) Any person or retail food establishment to refuse to permit entry to such establishment in accordance with sections 25-4-1604 (1) (e) and 25-4-1606 (2);

(e) Any retail food establishment to sell or serve food prepared in a private home to any person;

(f) Any person to fail to pay a civil penalty assessed by the department or a county or district board of health.

Source: L. 98: Entire part R&RE, p. 1254, § 1, effective July 1. **L. 2009:** (1)(a), (1)(b), and

(1)(f) amended, (SB 09-223), ch. 255, p. 1158, § 11, effective May 15.

25-4-1611. Violation - penalties.

(1) If the department or a county or district board of health finds that a licensee or other person operating a retail food establishment was provided with written notification of a violation of section 25-4-1610 (1) (a), (1) (b), (1) (d), (1) (e), or (1) (f) and was given a reasonable time to comply but remained in noncompliance, such person shall be subject to a civil penalty of not less than two hundred fifty dollars and not more than one thousand dollars, assessed by the department or a county or district board of health.

(2) (a) Upon a finding by the department or a county or district board of health that a retail food establishment is in violation of this part 16 or the rules promulgated pursuant to this part 16, and that the violation is sufficient to permit the department or a county or district board of health to establish a date and time for correction, the department or county or district board of health shall, in writing, advise the licensee or other person operating the establishment of the violation, provide the person with a reasonable time to comply, and conduct a follow-up inspection. If, at the time of the follow-up inspection, the establishment is found to be in violation of the same provisions, the department or a county or district board of health shall issue the person a written notification of noncompliance, provide the person with a reasonable time to comply, and conduct a second follow-up inspection.

(b) (I) If, at a second follow-up inspection, a retail food establishment is found to be in compliance with the same provisions as were cited in the written notification issued pursuant to paragraph (a) of this subsection (2), the department or a county or district board of health shall advise the licensee or other person operating the establishment that noncompliance with such provisions at the next regular inspection shall result in the issuance of a second written notification of noncompliance.

(II) If, at a second follow-up inspection, a retail food establishment is found to be in violation of the same provisions as were cited in the written notification of noncompliance issued pursuant to paragraph (a) of this subsection (2), the department or a county or district board of health shall issue a second written notification of noncompliance, advising the licensee or other person operating the establishment of the violation and potential civil penalties that may be assessed if the noncompliance continues. The department or a county or district board of health shall conduct a third follow-up inspection.

(c) (I) If, at a third follow-up inspection, a retail food establishment is found to be in compliance with the same provisions as were cited in the second written notification of noncompliance issued pursuant to paragraph (b) of this subsection (2), the department or a county or district board of health may assess a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars and shall advise the person operating the establishment in writing that future noncompliance with the cited provisions in the second

notification of noncompliance shall result in the issuance of a third written notification of noncompliance and subject the establishment to an additional civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars.

(II) If, at a third follow-up inspection, a retail food establishment is found to be in violation of the same provisions as were cited in the second written notification of noncompliance issued pursuant to paragraph (b) of this subsection (2), the department or a county or district board of health may assess a civil penalty of not less than five hundred dollars nor more than one thousand dollars. When compliance with the provisions cited in the second written notification of noncompliance is obtained, the department or a county or district board of health shall notify the licensee or other person operating the establishment in writing that noncompliance with the cited provisions in the second notification of noncompliance at the next regular inspection will result in the issuance of a third written notification of noncompliance and may result in an additional civil penalty of not less than five hundred dollars nor more than one thousand dollars.

(3) A maximum of three civil penalties may be assessed against a licensee or other person operating a retail food establishment in any calendar year. Whenever a third civil penalty is assessed in a calendar year, the department or a county or district board of health shall initiate proceedings to suspend or revoke the license of the licensee pursuant to section 25-4-1609.

(4) Neither the department nor a county or district board of health shall assess a civil penalty pursuant to this section if a disciplinary action is pending against the same licensee under section 25-4-1609.

(5) (a) All penalties collected by the department pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the food protection cash fund created in section 25-4-1608.

(b) Penalties collected by a county or district board of health shall be deposited in the appropriate county or district public health agency fund in accordance with section 25-4-1608, and shall be used to pay expenses related to the inspection of retail food establishments.

(6) To obtain compliance with this part 16, the department or a county or district board of health may allow the owner of a retail food establishment to use any assessed penalty fee to pay for employee training or the cost of needed improvements to the establishment.

(7) In addition to the remedies provided in this part 16 and other remedies provided by law, the department or a county or district board of health is authorized to apply to the county or district court of the county or district where a retail food establishment is located for a temporary or permanent injunction, and such court shall have jurisdiction to issue an injunction restraining any person from violating section 25-4-1610.

Source: L. 98: Entire part R&RE, p. 1254, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-223), ch. 255, p. 1158, § 12, effective May 15.

Editor's note: This section is similar to former § 25-4-1608 as it existed prior to 1998.

25-4-1612. Judicial review.

Any person adversely affected or aggrieved by a department decision to refuse to grant a license or certificate of license may seek judicial review in the district court having jurisdiction over the retail food establishment for which the application for license or certificate of license was made. Any other final order or determination by the department or a county or district board of health pursuant to this part 16 shall be subject to judicial review in accordance with article 4 of title 24, C.R.S.

Source: L. 98: Entire part R&RE, p. 1256, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-223), ch. 255, p. 1160, § 13, effective May 15.

Editor's note: This section is similar to former § 25-4-1609 as it existed prior to 1998.

25-4-1613. General fund moneys - repeal.

(1) For the fiscal years 2009-10 and 2010-11, no general fund moneys shall be used as matching funds to the increase in fees pursuant to sections 25-4-1607 and 25-4-1608. For the fiscal year 2011-12, the department shall request moneys from the general fund.

(2) This section is repealed, effective July 1, 2013.

Source: L. 2009: Entire section added, (SB 09-223), ch. 255, p. 1160, § 14, effective May 15.



Bare Hand Contact with Ready-to-Eat Foods - Questions and Answers

These general guidelines for applying the *Rules and Regulations Governing Retail Food Establishments in the State of Colorado* are provided by the Colorado Department of Public Health and Environment, Consumer Protection Division. Additional information about the rules and regulations may be obtained by calling 303-692-3620, or visiting the Division's web page - www.cdphe.state.co.us/cp

Background

Although handwashing is critical for food safety, recent studies indicate that handwashing alone is not enough to prevent foodborne illnesses. The main reason for not touching ready-to-eat foods with bare hands is to prevent viruses and bacteria, which are present in your body, from contaminating the food. Viruses and bacteria are not visible to the naked eye, but may be present on your hands if you do not wash them thoroughly, particularly after using the bathroom. The *Colorado Retail Food Establishment Rules and Regulations* prohibits bare hand contact with ready-to-eat foods and requires good hand washing by food service workers.

How can we prevent contamination from being passed by the food we prepare or serve?

You can minimize contamination being passed to your customers by washing your hands, being very careful not to cross contaminate food, not contacting ready-to-eat foods with bare hands, and by maintaining a high level of personal hygiene. Simply being aware of the potential dangers, and attempting to minimize them, is a very large step in the right direction.

When am I required to wash my hands?

- When returning to the kitchen after using the toilet room
- After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking
- When switching between working with raw foods of animal origin and working with ready-to-eat foods
- After touching bare human body parts other than clean hands and clean, exposed portions of arms
- During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks
- Before putting on single-use gloves for working with food, and between removing soiled gloves and putting on clean gloves
- After handling soiled equipment or utensils
- After caring for or handling any animals
- After engaging in any activities that contaminate the hands

What is good hand washing?

All employees involved with food preparation must wash their hands and exposed portions of their arms with soap and water. Thorough hand washing is done by vigorously rubbing together the surfaces of lathered hands and arms for at least 20 seconds followed by a thorough rinse with clean water. Use a single-service towel or hot air dryer to dry hands. No special soaps, such as antibacterial soap, are needed. Hand sanitizers may be used following appropriate handwashing, but not in place of handwashing.

Am I required to wear disposable sanitary gloves all the time?

No. The regulation does not require gloves to be worn, but does require that ready-to-eat foods be prepared and served without bare hand contact. Wearing disposable sanitary gloves is one of several acceptable ways to comply with the regulation. Remember that gloves are just an extension of your hand. If the gloves become soiled, they can pass contamination just as easily as unclean hands.

When do I have to replace or change gloves?

Always change gloves if the gloves are ripped, torn, or contaminated. Contamination can occur after using the toilet room, smoking, coughing, sneezing, and preparing raw foods. You should always remove your gloves before you leave your station, and then wash your hands. Food worker hands must be washed and dried thoroughly before putting on new gloves.

What is the "right way" to change gloves?

Remove and throw away the gloves. Thoroughly wash and dry your hands. Put on a clean fresh pair of gloves without touching anything else.

Are there alternatives other than using utensils or gloves?

Yes. Some establishments have obtained an approved Bare Hand Contact Exemption, which allows them to touch ready-to-eat foods with bare hands. The parameters of this exemption typically include, but are not limited to, frequent hand washing and the maintenance of a hand washing record. Failure to comply with the parameters of an exemption could result in a revocation of this exemption by the regulatory agency.

Are there concerns about use of gloves and latex allergy?

Food establishment employees who repeatedly use latex gloves, may be at risk of developing sensitivity to latex. Allergens from the gloves could be transferred to the food, and may cause a reaction in allergic individuals. Good substitutes for latex gloves are available and include, vinyl, nitrile, polyvinyl, chloroprene, or polyethylene gloves, and deli tissues and tongs.

What kinds of foods may not be touched with bare hands?

- prepared fresh fruits and vegetables served raw
- salads and salad ingredients
- cold meats and sandwiches
- shredded cheese
- bread, toast, rolls and baked goods
- garnishes such as lettuce, parsley, lemon wedges, potato chips or pickles
- fruit or vegetables for mixed drinks during preparation activities
- ice
- any food that will not be thoroughly cooked or reheated after it is prepared

Bare hand contact is allowed for foods, which will be cooked, such as pizza toppings, raw meats, and ingredients for recipes prior to cooking.

How can I prepare or serve ready-to-eat food while avoiding contact with my bare hands?

You may use any of the following utensils to prepare or serve foods without bare hand contact:

- tongs
- forks and spoons
- deli paper
- disposable gloves
- waxed paper
- scoops
- spatulas

What should I do with a ready-to-eat food item if it was touched with bare hands?

You can either heat the food thoroughly to the temperature required for cooking or reheating, or discard the food, if it was touched with bare hands.

Is a short order cook required to wear gloves?

The short order cook may not touch ready-to-eat foods with bare hands. Disposable gloves are one possible way to prevent bare hand contact with ready-to-eat foods. Another way is to use utensils such as forks, tongs, spatulas, or splitting tasks between more than one individual where possible.

Where can I learn more about hand washing and bare hand contact with ready-to-eat foods?

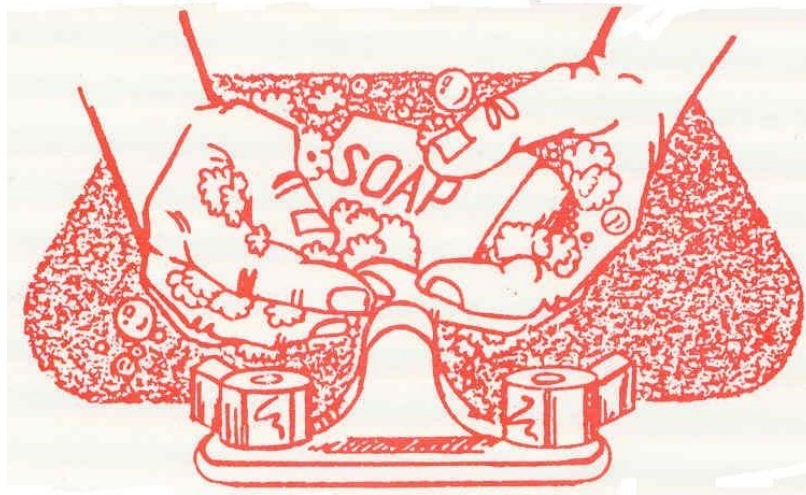
Your local health department can answer questions or give you more information about hand washing, bare hand contact with ready-to-eat foods, and additional important information on preventing foodborne illnesses.

THE



METHOD OF

HAND WASHING



- ① Use **SOAP** and **RUNNING WATER**
- ① **RUB** your hands vigorously
- ① **WASH ALL SURFACES**, including:
 - backs of hands
 - wrists
 - between fingers
 - under fingernails
- ① **RINSE** well
- ① **DRY** hands with a paper towel
- ① Turn off the water using a **PAPER TOWEL** instead of bare hands

