

## **R392. Health and Human Services, Population Health, Environmental Health.**

### **R392-106. Microenterprise Home Kitchen Sanitation.**

#### **R392-106-1. Authority and Purpose.**

- (1) This rule is authorized under Sections 26B-1-202, 26B-7-402, and 26B-7-416.
- (2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a microenterprise home kitchen, as defined in Section 26B-7-401, and, to safeguard public health and ensure that food is safe, unadulterated, and honestly presented, provides for the prevention and control of health hazards associated with a microenterprise home kitchen.

#### **R392-106-2. Applicability.**

This rule applies to a microenterprise home kitchen, as defined, and does not apply to any other type of food establishment.

#### **R392-106-3. Definitions.**

As used in this rule:

- (1) "Clean" means the condition of being visibly free from dirt, soil, stain, leftover food particles, or other materials not intended to be a part of the object in question.
- (2) "Department" means the Utah Department of Health and Human Services.
- (3) "Employee" means a person who works in a microenterprise home kitchen, including the operator, whether for monetary compensation or not and regardless of relationship to the operator.
- (4) "FDA Food Code" or "Food Code" means the version of U.S. Public Health Service, Food and Drug Administration, Model Food Code as incorporated by reference with exceptions and amendments in Rule R392-100.
- (5) "Food" has the same meaning as defined in Section 26B-7-401.
- (6) "HACCP Plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.
- (7) "Hot water" means water heated to a temperature of not less than 110 deg F at the outlet.
- (8) "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.
- (9) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury. An imminent health hazard may include an emergency such as a fire, flood, extended interruption of electrical or water service, wastewater backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstances that may endanger public health.
- (10) "Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.
- (11) "Local health department" has the same meaning as defined in Section 26A-1-102.
- (12) "Local health officer" means the director of the jurisdictional local health department or a designated representative.
- (13) "Microenterprise home kitchen" has the same meaning as defined in Section 26B-7-401.
- (14) "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof.
- (15) "Operator" means a person who resides in the private home and who owns, manages, or controls, or who has the duty to manage or control, a microenterprise home kitchen.
- (16) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater or liquid-borne waste materials to the drainage system of the premises.
- (17) "Ready-to-eat" has the same meaning as defined in Section 26B-7-401.
- (18) "Sanitized" means the application of cumulative heat or chemicals on cleaned food, ice, or potable water contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.
- (19) "Time or temperature control food" or "TCS" has the same meaning as defined in Section 26B-7-401.
- (20) "Wastewater" means sewage, industrial waste, or other liquid or waterborne substances causing or capable of causing pollution of waters of the state.

#### **R392-106-4. General Requirements.**

- (1) The operator shall:
  - (a) comply with this rule; and
  - (b) be responsible for the conduct of employees to ensure compliance with this rule.
- (2) Microenterprise home kitchens are exempt from the requirements of Rule R392-100, Food Service Sanitation, unless otherwise stated in this rule.
- (3) An employee who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a microenterprise home kitchen is a food handler and shall meet the requirements of Rule R392-103.
- (4) At least one employee shall:

- (a) be certified in food safety management according to the requirements of Rule R392-101; and
- (b) maintain proof of food safety management certification available for review by the local health officer upon request.

**R392-106-5. Microenterprise Home Kitchen Permit Requirements.**

(1) An operator shall operate a microenterprise home kitchen only after obtaining a valid permit to operate issued by a local health department that has jurisdiction over the geographical area in which the home kitchen is located.

(2) An operator shall only qualify for a microenterprise home kitchen permit if:

(a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations; and

(b) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit.

(3) A local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.

(4) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:

(a) a written application with a statement of consent to enter the premises where food is prepared, cooked, or stored for the microenterprise home kitchen; and

(b) written standard operating procedures that include:

(i) food and food types that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time or temperature control food at the appropriate temperatures for each TCS food.

(5) A local health officer may require local health department approval of the procedures and plans specified in Subsection (5)(b) before issuing a microenterprise home kitchen permit.

(6) In addition to a fee charged under Subsection (3), if the local health department is required to inspect the microenterprise home kitchen as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.

(7) The operator shall ensure that a microenterprise home kitchen permit:

(a) is not transferred to a location that is different from the microenterprise home kitchen described in the application and plans submitted as required in Subsection (5);

(b) is renewed on an annual basis until the operator discontinues microenterprise home kitchen operations; and

(c) is restricted to the location and hours listed on the permit application.

(8) Nothing in this rule prevents a local health officer from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of:

(a) the permit

(b) this rule; or

(c) Section 26B-7-416.

(9) If a permit application is denied, or a permit is revoked, the microenterprise home kitchen operator may request information from a local health officer that includes:

(a) the specific reasons and rule citations for permit denial; and

(b) any actions the applicant must take to qualify, or requalify, for a permit.

(10) In accordance with Section 26B-7-416 and this rule, the operator shall comply with the following permit requirements:

(a) time or temperature control food shall be prepared, cooked, and served on the same day;

(b) food that is sold or provided to a consumer may not be consumed onsite at the microenterprise home kitchen operation;

(c) food that is sold or provided to a consumer shall be picked up by or delivered directly to the consumer:

(i) in a manner that protects the food from contamination as required in Section R392-106-10; and

(ii) in accordance with the time and temperature requirements specified in Section R392-106-11;

(d) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;

(e) the operator may only sell or provide food directly to consumers and may not sell or provide food to any wholesaler or retailer;

(f) molluscan shellfish may not be served or sold; and

(g) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.

(11) A local health department issuing a microenterprise home kitchen permit may not require submission of plans and specifications before construction or remodel of a kitchen facility except for the plans and procedures required in Subsection (4);

(12) The local health officer shall ensure that:

(a) a microenterprise home kitchen permit includes a statement that reads, "This location is permitted under modified FDA requirements."; and

(b) the operator is provided the opportunity to update the information required in Subsection (4)(b) without requiring the operator to renew the permit.

#### **R392-106-6. Construction and Maintenance Requirements.**

(1) The operator shall ensure that:

(a) materials for use on indoor floor, wall, and ceiling surfaces of a microenterprise home kitchen are smooth, durable, and easily cleanable for areas where food is stored, prepared, or held under temperature control;

(b) if used, mats and duckboards are designed to be removable and easily cleanable;

(c) physical facilities are maintained in good repair;

(d) physical facilities are cleaned as often as necessary to keep them clean and free of debris;

(e) the interior of a microenterprise home kitchen is well lit by natural or artificial light whenever food is being prepared;

(f) linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment; and

(g) a microenterprise home kitchen has:

(i) at least one handwashing station installed with running hot water and cold water under pressure:

(A) provided with:

(I) hand cleaning liquid, powder, or bar soap; and

(II) individual, disposable hand towels or other hand drying equipment as approved by the local health officer, and;

(B) conveniently located in:

(I) the food preparation area;

(II) the warewashing area; and

(III) the toilet room;

(ii) a properly maintained kitchen sink installed with running hot water and cold water under pressure; and

(iii) a toilet room that is:

(A) available to employees during all hours of operation; and

(B) equipped with proper handwashing facilities as described in Subsection (1)(g)(i).

(2) A toilet room sink and a kitchen sink may be used as a handwashing station when properly equipped, as required in Subsection (1)(g)(i), and the installation of an additional sink is not required.

#### **R392-106-7. Equipment Requirements.**

The operator shall ensure that:

(1) materials that are used in the construction of utensils and food-contact surfaces of equipment are designed to retain their characteristic qualities under normal use conditions;

(2) food contact surfaces are smooth, easily cleanable, and in good repair;

(3) utensils are maintained in a sanitary manner between uses;

(4) non-food contact surfaces are made of materials ordinarily used in residential settings and are kept clean;

(5) fixed floor-mounted and table-mounted equipment are sanitized between uses;

(6) sponges are not used to clean or sanitize utensils or food-contact surfaces;

(7) linens are not used in contact with food;

(8) ventilation in food preparation and warewashing areas is designed and maintained to allow the escape of gases, odors, steam, heat, grease, vapors, and smoke from the kitchen;

(9) plumbing fixtures are kept clean from the accumulation of residue and debris;

(10) except for transport not to exceed four hours, a non-mechanical container such as a cooler is not used for temperature control of TCS foods regardless of whether the container is used with or without ice or reusable ice packs;

(11) an operational non-fixed temperature measuring device is located in each mechanically refrigerated unit or hot food storage unit;

(12) the microenterprise home kitchen is equipped with at least one food temperature measuring device that:

(a) has a small diameter probe;

(b) does not have sensors or stems constructed of glass unless the thermometer with a glass sensor or stem is encased in a shatterproof coating such as a candy thermometer;

(c) is easily readable;

(d) is readily accessible; and

(e) is properly calibrated.

(13) receptacles and waste handling units for refuse and recyclables containing materials with food residue are:

(a) durable;

(b) cleanable;

(c) insect and rodent resistant;

(d) leakproof;

(e) nonabsorbent;

- (f) designed and constructed to have tight-fitting lids, doors, or covers; and
- (g) maintained:
  - (i) covered;
  - (ii) in good repair; and
  - (iii) inaccessible to insects and rodents;
- (14) refuse and recyclables are removed from the microenterprise home kitchen premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents; and
- (15) the microenterprise home kitchen is furnished or equipped with adequate electrical power to ensure uninterrupted service during food preparation and food storage, and when storing any time or temperature control food.

**R392-106-8. Requirements for Cleaning Equipment and Utensils.**

The operator shall ensure that:

- (1) the food-contact surfaces of equipment and utensils are:
  - (a) clean to sight and touch;
  - (b) cleaned and sanitized:
    - (i) before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;
    - (ii) each time there is a change from working with raw foods to working with ready-to-eat foods;
    - (iii) between uses with raw fruits and vegetables and with time or temperature control foods;
    - (iv) before using or storing a food temperature measuring device; and
    - (v) at any time during the operation when contamination may have occurred; and
  - (c) cleaned throughout the day at least every four hours if used with time or temperature control foods;
- (2) the food-contact surfaces of cooking equipment and pans are kept free of encrusted grease deposits and other soil accumulations;
- (3) the nonfood-contact surfaces of equipment are kept free of an accumulation of dust, dirt, food residue, and other debris;
- (4) utensils and equipment contacting food that is not a time or temperature control food are cleaned:
  - (a) at any time when contamination may have occurred;
  - (b) at least every 24 hours; and
  - (c) in equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:
    - (i) at a frequency specified by the manufacturer; or
    - (ii) at a frequency necessary to preclude accumulation of soil or mold;
- (5) when employees use a kitchen sink for dishwashing, washed utensils and equipment are rinsed, after cleaning and prior to sanitizing, by using a distinct, separate water rinse;
- (6) after cleaning and sanitizing, equipment and utensils are air-dried or used after adequate draining;
- (7) the wash, rinse, and sanitizer solutions are maintained clean;
- (8) clean and sanitized equipment and utensils are stored:
  - (a) in a self-draining position that allows air drying; and
  - (b) covered or inverted;
- (9) single-service and single-use articles are not reused;
- (10) linens that do not come in direct contact with food are laundered between operations if they become wet, sticky, or visibly soiled;
- (11)(a) cloths in-use for wiping food spills are:
  - (i) maintained dry; and
  - (ii) used for no other purpose;
- (b) cloths in-use for wiping counters and other equipment surfaces are:
  - (i) held between uses in a container of chemical sanitizer solution at a concentration specified under Subsection R392-106-9(3); and
  - (ii) laundered daily when used;
  - (c) cloths in-use for wiping surfaces in contact with raw animal foods are kept separate from cloths used for other purposes;
  - (d) dry wiping cloths and the chemical sanitizing solutions specified in Subsection R392-106-8(13)(b)(i) in which wet wiping cloths are held between uses are free of food debris and visible soil;
  - (e) containers of chemical sanitizing solutions specified in Subsection R392-106-8(13)(b)(i) in which wet wiping cloths are held between uses are stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, and single-service, or single-use articles; and
  - (f) single-use disposable sanitizer wipes are EPA-approved for foodservice and used in accordance with manufacturer's label directions; and
- (12) soiled linens are:
  - (a) stored and laundered separately from household laundry; and
  - (b) stored to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

**R392-106-9. Requirements for Sanitizing Equipment and Utensils.**

The operator shall ensure that:

(1) employees sanitize equipment and utensils in chemical manual or mechanical operations after being cleaned as required in Section R392-106-8, through the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under Subsection R392-106-9(2);

(2) chemical sanitizers, including chemical sanitizing solutions generated onsite, and other chemical antimicrobials applied to food-contact surfaces:

(a) meet requirements specified in 40 CFR 180.940 and 40 CFR 180.2020; and

(b) are used in accordance with the EPA-registered label directions;

(3) the concentration of chemical sanitizer solution is maintained as follows:

(a) chlorine sanitizer solutions has a minimum concentration and temperature of 50 to 100 ppm at 100°F with an associated contact time of 7 seconds; and

(b) quaternary ammonium compound solutions have a minimum temperature of 75°F and a concentration as indicated by the manufacturer's label directions; and

(4) employees are provided with a test kit or other device that accurately measures the concentration in parts per million of chemical sanitizer solution.

**R392-106-10. Food Safety Requirements.**

(1) The operator may not offer for sale:

(a) a raw time or temperature control food such as raw fish, raw milk, or raw shellfish;

(b) any food requiring special processes that would necessitate a HACCP plan, as defined in FDA Food Code;

(c) fish:

(i) that was not commercially and legally caught; or

(ii) that was caught or harvested from waters of Utah;

(d) molluscan shellfish;

(e) food in a hermetically sealed container that was not obtained, either directly or indirectly, from a regulated food processing plant;

(f) liquid milk and milk products that were not obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) mushrooms that were picked in the wild;

(h) game animals that were not raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(i) food containing meat or poultry products that were not inspected under Section 4-32-106 or inspected by the United States Department of Agriculture.

(2) The operator shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation, food storage, and warewashing areas while food is being prepared:

(i) if the individual is known to be suffering from:

(A) symptoms associated with acute gastrointestinal illness; or

(B) a communicable disease that is transmissible through food; or

(ii) if the individual is unnecessary to the microenterprise home kitchen operation while food is being prepared.

(3) The operator shall ensure that:

(a) food is safe, unadulterated, and honestly presented;

(b) food is offered for human consumption in a way that does not mislead or misinform the consumer;

(c) food or color additives, colored overwraps, or lights are not used to misrepresent the true appearance, color, or quality of a food;

(d) food packages are in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants;

(e)(i) raw eggs are received and maintained in a clean and sound condition, and are held in refrigerated equipment that maintains an ambient temperature of 45 degrees or less;

(ii) eggs are stored in a manner that does not allow for contamination;

(iii) eggs are not collected or stored in a previously used egg carton or package that is not designed or intended for reuse;

- (iv) pasteurized eggs or egg products are substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not cooked; and
  - (v) raw, unpasteurized eggs are used in recipes that will not be cooked only if the microenterprise home kitchen has a consumer advisory, as required in Subsection R392-106-11(4);
  - (f) ice for use as a food or a cooling medium is made from potable water;
  - (g) ice is not used in food or beverages after use as a medium for cooling the exterior surfaces of food or food packages;
  - (h) food only contacts surfaces of equipment and utensils that are cleaned and sanitized as specified in Sections R392-106-8 and R392-106-9 or single-service and single-use articles;
  - (i) food is protected from contamination by storing the food in a manner that does not allow for contamination;
  - (j) items not ordinarily found in a home kitchen are placed or stored away from food preparation and food storage areas;
  - (k) food is protected from cross-contamination by:
    - (i) separating raw animal foods during storage, preparation, and holding from:
      - (A) raw ready-to-eat food, and
      - (B) cooked ready-to-eat food;
    - (ii) separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, and holding, except when combined as ingredients, by:
      - (A) using separate equipment for each type of food;
      - (B) arranging each type of food in equipment so that cross-contamination of one type with another is prevented; and
      - (C) preparing each type of food at different times or in separate areas;
    - (iii) cleaning hermetically sealed containers of food of visible soil before opening;
    - (iv) protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
    - (v) storing and segregating damaged, spoiled, or recalled food in designated areas within the microenterprise home kitchen that are separated from food, equipment, utensils, linens, and single-service and single-use articles; and
    - (vi) separating fruits and vegetables before they are washed from ready-to-eat food;
  - (l) raw fruits and vegetables are thoroughly washed in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form;
  - (m) food is prepared, handled, or stored only in kitchen and food storage areas except when cooking in an open-air barbecue, grill, or outdoor wood-burning oven as permitted;
  - (n) except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the microenterprise home kitchen, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar are identified with the common name of the food;
  - (o) animals are kept outside of food preparation and storage areas;
  - (p) food and food contact surfaces are protected from physical hazards such as broken glass, hair or fur, and metal or wood debris;
  - (q) ready-to-eat food is protected from contamination during storage, preparation, handling, and transport;
  - (r) ready-to-eat TCS food sold outside of the microenterprise home kitchen is maintained at the proper holding temperature as required in Subsection R392-106-11(3);
  - (s) prior to consumption, the operator or employee provides written or verbal notification to the consumer if a food contains one or more common food allergens; and
  - (t) food is protected from contamination that may result from a factor or source not specified elsewhere in this rule.
- (5) Nothing in this rule relinquishes the authority of the Utah Department of Agriculture and Food to administer the state meat, poultry, and poultry products inspection program at a level at least equal to the standards imposed under 21 U.S.C. Sections. 451 to 695.

#### **R392-106-11. Food Temperature Requirements.**

The operator shall ensure that:

- (1) any food requiring cooking, thawing, cooling, freezing, or reheating before sale is cooked, frozen, or reheated as required in Part 3-4 of the FDA Food Code;
- (2)(a) stored frozen foods are maintained frozen, and commercially processed foods which are labeled to be kept frozen are kept frozen until cooked or sold;
- (b) commercially processed foods labeled to be kept frozen that are thawed under refrigeration at 41°F or below in accordance with the manufacturer's directions:
  - (i) have date marking or other record keeping to indicate when the food entered refrigeration; and
  - (ii) are discarded seven days after entering the refrigerator;
- (3) except during preparation, cooking, or cooling, time or temperature control food is maintained:
  - (a) at 135°F or higher, or
  - (b) at 41°F or lower;
- (4) except for whole-muscle intact beef steak, if raw animal-derived food is sold undercooked:
  - (a) the consumer is notified as to which food is being sold undercooked; and

(b) the consumer is informed by way of effective written means that there is a significantly increased risk of consuming such foods;

(5)(a) ready-to-eat, TCS food prepared and held at a temperature as required in Subsection (3) is clearly marked to indicate the date or day on which the food was prepared, which is the same date on which the food shall be consumed, sold, or discarded;

(b) ready-to-eat, TCS food prepared and packaged by a food processing plant, and opened and held for more than 24 hours at a temperature as required in Subsection (3):

(i) is clearly marked at the time the original container is opened in a microenterprise home kitchen to indicate the date or day by which the food shall be consumed, sold, or discarded, with the day the original container is opened being counted as day 1, and the day or date marked by the microenterprise home kitchen not exceeding a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety;

(6) a refrigerated, ready-to-eat, TCS food ingredient or a portion of a refrigerated, ready-to-eat, TCS food that is subsequently combined with additional ingredients or portions of food retains the date marking of the earliest-prepared or first-prepared ingredient; and

(7) a food specified in Subsection R392-106-11(5) is discarded if it:

(a) exceeds the temperature and time combination specified in Section R392-106-11, except time that the product is frozen;

(b) is in a container or package that does not bear a date or day; or

(c) is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Section R392-106-11.

### **R392-106-12. Poisonous or Toxic Materials.**

The operator shall ensure that:

(1) containers of poisonous or toxic materials and personal care items bear a legible manufacturer's label;

(2) working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies are clearly and individually identified with the common name of the material;

(3) poisonous or toxic materials are stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(a) separating the poisonous or toxic materials with spacing or partitioning; and

(b) locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles;

(4) only those poisonous or toxic materials that are required for the operation and maintenance of a microenterprise home kitchen, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, are allowed in a microenterprise home kitchen;

(5) poisonous or toxic materials are:

(a) used according to:

(i) Rule R392-100 and local health department regulations;

(ii) manufacturer's label directions, and, for a pesticide, the manufacturer's label directions specify that use is allowed in a food preparation area;

(iii) the conditions of certification for use of the pest control materials; and

(iv) additional conditions that may be established by the local health officer; and

(b) applied in a manner that prevents:

(i) a hazard to employees or other persons; and

(ii) contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles;

(6) restricted use pesticides are not used in a microenterprise home kitchen unless:

(a) completed by or under the direction of a licensed Utah pesticide applicator; and

(b) pesticide application practices comply with Rule R68-7, Utah Pesticide Control Rule;

(7) a container previously used to store chemical materials is not used to store, transport, or dispense a food or beverage;

(8) rodent bait is contained in a covered, tamper-resistant bait station; and

(9) tracking powder is not be used inside of a microenterprise home kitchen unless the powder is non-toxic, such as flour or talcum powder, and is used in such a manner that it cannot contaminate food, equipment, utensils, linens, and single-service or single-use articles.

### **R392-106-13. Personal Cleanliness and Protection from Contamination.**

The operator shall ensure that:

(1) employees do not contact exposed, ready-to-eat food with their bare hands and use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;

(2) employees minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form;

(3) employees use single-use gloves, as needed, for only one task such as working with ready-to-eat food, for no other purpose, and discard when damaged or soiled, or when interruptions occur in the operation;

- (4) employees keep their hands and exposed portions of their arms clean using the cleaning procedure specified in Subpart 2-301.12 of the FDA Food Code immediately before engaging in handling of food or clean equipment and utensils and:
- (a) after touching bare human body parts other than clean hands and clean, exposed portions of arms;
  - (b) after using the toilet room;
  - (c) after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
  - (d) after handling soiled equipment or utensils;
  - (e) during food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;
  - (f) when switching between working with raw food and working with ready-to-eat food;
  - (g) before donning gloves to initiate a task that involves working with food; and
  - (h) after engaging in other activities that contaminate the hands;
- (5) a sign or poster is placed near each handwashing station in a conspicuous location that notifies employees to wash their hands;
- (6) employees clean their hands in a handwashing station as required in Subsection R392-106-6(7)(a);
- (7) employees keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough;
- (8) employees do not wear fingernail polish or artificial fingernails when working with exposed food unless wearing intact gloves in good repair;
- (9) employees do not wear jewelry including medical information jewelry on their arms and hands except for a plain ring such as a wedding band;
- (10)(a) employees wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles; and
- (b) employees dress or change clothing outside of the kitchen facility;
- (11) employees wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting:
- (a) exposed food;
  - (b) clean equipment, utensils, and linens; and
  - (c) unwrapped single-service and single-use articles;
- (12) employees do not use a utensil more than once to taste food that is to be sold; and
- (13) the microenterprise home kitchen is maintained free of insects, rodents, and other pests, and their presence is controlled and prevented by:
- (a) routinely inspecting incoming shipments of food and supplies;
  - (b) routinely inspecting the microenterprise home kitchen for evidence of pests; and
  - (c) using pest management methods, if pests are found, such as trapping devices, eliminating harborage, or other means of pest control.

**R392-106-14. Supervision, Employee Health, and Contamination Events.**

- (1) The operator or the operator's designee shall be present at the microenterprise home kitchen and in charge of operations during all hours of operation.
- (2) The operator or operator's designee shall ensure that:
- (a) persons unnecessary to the microenterprise home kitchen operation are not allowed in the microenterprise home kitchen during food preparation;
  - (b) employees entering the microenterprise home kitchen comply with this rule;
  - (c) employees are effectively cleaning their hands as specified in Subsection R392-106-13(4);
  - (d) employees are visibly observing foods as they are received to determine that they are delivered at the proper temperatures, protected from contamination, unadulterated, and accurately presented, and are placing foods into appropriate storage locations;
  - (e) employees are properly cooking TCS food;
  - (f) employees are using proper methods to rapidly cool TCS food;
  - (g) consumers who order partially cooked TCS food of animal origin are informed that the food is not cooked sufficiently to ensure its safety, as required in Subsection R392-106-11(4);
  - (h) employees are properly sanitizing cleaned equipment and utensils;
  - (i) employees are preventing cross-contamination of ready-to-eat food with bare hands as specified in Subsection R392-106-13(1);
  - (j) employees are properly trained in food safety, as required in Subsection R392-106-4(3), including food allergy awareness;
  - (k) employees are informed in a verifiable manner of their responsibility to report, to the operator or operator's designee, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Subsection R392-106-14(4); and
  - (l) written procedures, where required in this rule or by the local health officer, are maintained and implemented as required.

(3) The operator or operator's designee, and employees shall abide by Subpart 2-201 of the FDA Food Code in reporting of diseases, symptoms, and the exclusion or restriction of those working in the microenterprise home kitchen.

(4) Microenterprise home kitchen employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(5) A microenterprise home kitchen shall have procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the microenterprise home kitchen. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

#### **R392-106-15. Inspections, Corrective Actions, and Prevention of Foodborne Disease.**

(1) A local health officer shall:

(a) inspect a facility that requests a microenterprise home kitchen permit only for:

(i) an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;

(ii) an unscheduled inspection, if the local health department conducts the inspection:

(A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or

(B) during operating hours of the microenterprise home kitchen; or

(iii) a subsequent inspection if:

(A) the local health department provides the operator with reasonable advanced notice of the inspection; or

(B) the local health department has a valid reason to suspect that the microenterprise home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food;

(b) ensure compliance with this rule when inspecting a microenterprise home kitchen facility; and

(c) document the reason for an inspection on an inspection report form approved by the Department after the permitting inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.

(2) When a local health officer presents proper identification and provides notice of the intent to conduct an inspection, the operator shall allow the local health officer to determine if the microenterprise home kitchen is in compliance with this rule by allowing access to the establishment, allowing inspection, and providing information and records specified in this rule.

(3) If an operator denies access to the local health officer, the local health officer shall:

(a) inform the operator that:

(i) the operator is required to allow access to the local health officer as specified under Subsection R392-106-15(2);

(ii) access is a condition of the acceptance and retention of a permit to operate as specified under Section R392-106-5;

(iii) the permit may be revoked in accordance with Subsection R392-106-5(8); and

(iv) if access is denied, an order issued by an appropriate authority allowing access may be obtained;

(b) make a final request for access; and

(c) if the operator continues to refuse access, provide details of the denial of access on an inspection report form.

(4) The local health officer shall document at least the following on an inspection report form:

(a) specific factual observations of noncompliant conditions or other deviations from this rule that require correction by the operator including:

(i) failure of the operator to demonstrate the knowledge of foodborne illness prevention; and

(ii) failure of employees and the operator to report a disease or medical condition as required in Subsection R392-106-14(3); and

(b) time frame for correction of violations.

(5) At the conclusion of the inspection the local health officer shall provide a copy of the completed inspection report and the notice to correct violations to the operator or the operator's designee, and request a signed acknowledgement of receipt.

(6)(a) The local health officer shall inform a person who declines to sign an acknowledgement of receipt of inspectional findings that:

(i) an acknowledgement of receipt is not an agreement with findings;

(ii) refusal to sign an acknowledgement of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames listed; and

(iii) a refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the historical record for the microenterprise home kitchen; and

(b) the local health officer shall then make a final request that the operator or operator's designee sign an acknowledgement of receipt of inspectional findings.

(7) The local health officer shall treat the inspection report as a public document and shall make it available for disclosure.

(8) Repeat violations may prompt further compliance and enforcement actions, including a subsequent inspection.

(9)(a) An operator shall immediately discontinue operations and notify the local health department if an imminent health hazard exists.

(b) If operations are discontinued as required by the local health officer or in response to an imminent health hazard, the operator shall obtain approval from the local health officer before resuming operations.

(10) A local health officer may conduct subsequent inspections, as needed and in accordance with Subsection R392-106-15(1)(a)(iii), to ensure the timely resolution of inspection findings after providing the operator with reasonable advanced notice about the inspection.

**R392-106-16. Water Supply System.**

The operator shall ensure that:

(1) sinks are supplied with potable hot water and cold water from:

(a) an approved public water system as defined in Section 19-4-102;

(b) a source that meets the local health department's regulations regarding the safety of drinking water if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water; or

(c) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three-year period for lead and copper; and

(2) food preparation and food sales are discontinued in the event of a disruption of potable water service lasting more than ten minutes.

**R392-106-17. Severability.**

If any provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule shall be given effect without the invalidated provision or application.

**KEY: microenterprise, home kitchen, food, public health**

**Date of Last Change: November 8, 2023**

**Authorizing, and Implemented or Interpreted Law: 26B-1-202; 26B-7-402; 26B-7-416**