

3717-1-03.4 **Food: limitation of growth of organisms of public health concern.**

(A) Frozen food - temperature and time control.

Stored frozen foods shall be maintained frozen.

(B) Potentially hazardous food - slacking.

Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

- (1) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit (five degrees Celsius) or less, or at forty-five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)~~(3)~~(1)(c) of this rule; or
- (2) At any temperature if the food remains frozen.

(C) Thawing - temperature and time control.

Except as specified in paragraph (C)(4) of this rule, potentially hazardous food shall be thawed:

- (1) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit (five degrees Celsius) or less, or at forty-five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)~~(3)~~(1)(c) of this rule; or
- (2) Completely submerged under running water:
 - (a) At a water temperature of seventy degrees Fahrenheit (twenty-one degrees Celsius) or below,
 - (b) With sufficient water velocity to agitate and float off loose particles in an overflow, and
 - (c) For a period of time that does not allow thawed portions of ready-to-eat food to rise above forty-one degrees Fahrenheit (five degrees Celsius), or forty-five degrees Fahrenheit (seven degrees Celsius) as specified under paragraph (F)~~(3)~~(1)(c) of this rule, or
 - (d) For a period of time that does not allow thawed portions of a raw animal

food requiring cooking as specified under paragraphs (A)(1)(a), (b), (c) and (A)(2) of rule 3717-1-03.3 of the Administrative Code to be above forty-one degrees Fahrenheit (five degrees Celsius), or forty-five degrees Fahrenheit (seven degrees Celsius) as specified under paragraph (F)~~(3)(1)(c)~~ of this rule, for more than four hours including:

- (i) The time the food is exposed to the running water and the time needed for preparation for cooking, or
- (ii) The time it takes under refrigeration to lower the food temperature to forty-one degrees Fahrenheit (five degrees Celsius), or forty-five degrees Fahrenheit (seven degrees Celsius) as specified under paragraph (F)~~(3)(1)(c)~~ of this rule;

(3) As part of a cooking process if the food that is frozen is:

- (a) Cooked as specified under paragraphs (A)(1)(a), (b), (c) and (A)(2) of rule 3717-1-03.3 of the Administrative Code or paragraph (B) of rule 3717-1-03.3 of the Administrative Code, or
- (b) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

(4) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(D) Cooling - temperature and time control.

(1) Cooked potentially hazardous food shall be cooled:

- (a) Within two hours, from one hundred ~~forty~~thirty-five degrees Fahrenheit (~~sixty~~fifty-seven degrees Celsius) to seventy degrees Fahrenheit (twenty-one degrees Celsius); and
- (b) Within a total of four~~four~~six hours, from ~~seventy~~ one hundred thirty-five degrees Fahrenheit (~~twenty-one~~fifty-seven degrees Celsius) to forty-one degrees Fahrenheit (five degrees Celsius) or less, or to forty-five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)~~(3)(1)(c)~~ of this rule.

(2) Potentially hazardous food shall be cooled within four hours to forty-one

degrees Fahrenheit (five degrees Celsius) or less, or to forty-five degrees Fahrenheit (seven degrees Celsius) as specified under paragraph (F)(3)(1)(c) of this rule if prepared from ingredients at ambient temperature, such as reconstituted foods or canned tuna.

- (3) A potentially hazardous food received in compliance with laws allowing a temperature above forty-one degrees Fahrenheit (five degrees Celsius) during shipment from the supplier as specified in paragraph (H)(1) of rule 3717-1-03.1 of the Administrative Code, shall be cooled within four hours to forty-one degrees Fahrenheit (five degrees Celsius) or less, or forty-five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3)(1)(c) of this rule. ~~Shell eggs need not comply with this paragraph if the eggs are placed immediately upon their receipt in refrigerated equipment that is capable of maintaining food at forty one degrees Fahrenheit (five degrees Celsius) or less, or forty five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3) of this rule.~~

(4) Raw shell eggs shall be received as specified under paragraph (H) (1) of rule 3717-1-03.1 of the Administrative Code and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (seven degrees Celsius) or less.

(E) Cooling methods - temperature and time control.

- (1) Cooling shall be accomplished in accordance with the time and temperature criteria specified under paragraph (D) of this rule by using one or more of the following methods based on the type of food being cooled:
- (a) Placing the food in shallow pans;
 - (b) Separating the food into smaller or thinner portions;
 - (c) Using rapid cooling equipment;
 - (d) Stirring the food in a container placed in an ice water bath;
 - (e) Using containers that facilitate heat transfer;
 - (f) Adding ice as an ingredient; or
 - (g) Other effective methods.

(2) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

(a) Arranged in the equipment to provide maximum heat transfer through the container walls; and

(b) Loosely covered, or uncovered if protected from overhead contamination as specified under paragraph (Q)(2) of rule 3717-1-03.2 of the Administrative Code, during the cooling period to facilitate heat transfer from the surface of the food.

(F) Potentially hazardous food - hot and cold holding.

~~Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under paragraph (I) of this rule, potentially hazardous food shall be maintained:~~

(1) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified in paragraph (I) of this rule, and except as specified in paragraph (F)(2) of this rule, potentially hazardous food shall be maintained at a temperature specified as follows:

~~(1)(a)~~ (a) At one hundred ~~forty~~thirty-five degrees Fahrenheit (~~sixty~~fifty-seven degrees Celsius) or above, except that roasts cooked to a temperature and for a time specified under paragraph (A)(2) of rule 3717-1-03.3 of the Administrative Code or reheated as specified in paragraph (G)(1) of rule 3717-1-03.3 of the Administrative Code may be held at a temperature of one hundred thirty degrees Fahrenheit or above (fifty-four degrees Celsius); or

~~(2)(b)~~ (b) At forty-one degrees Fahrenheit (five degrees Celsius) or less, ~~except as specified under paragraph (F)(3) of this rule, and under paragraphs (G) and (H) of this rule and paragraph (X) of rule 3717-1-04.1 of the Administrative Code;~~ or

~~(3)(c)~~ (c) At forty-five degrees Fahrenheit (seven degrees Celsius) or between forty-five degrees Fahrenheit (seven degrees Celsius) and forty-one degrees Fahrenheit (five degrees Celsius) in existing refrigeration equipment that is not capable of maintaining the food at forty-one degrees Fahrenheit (five degrees Celsius) or less if:

~~(a)(i)~~ (i) The equipment is in place and in use in the food service operation

or retail food establishment; and

~~(b)(ii)~~ Within seven years from March 1, 2001, the equipment is upgraded or replaced to maintain food at a temperature of forty-one degrees Fahrenheit (five degrees Celsius) or less.

(2) Shell eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (seven degrees Celsius) or less.

(G) Ready-to-eat, potentially hazardous food - date marking.

(1) Except for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request, ~~refrigerated~~refrigerated, ready-to-eat, potentially hazardous food prepared and held ~~refrigerated for more than twenty-four hours~~ in a food service operation or a retail food establishment for more than twenty-four hours shall be clearly marked at the time of preparation to indicate the date or day by which the food shall be consumed which is, including the day of preparation: on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as day 1.

(a) ~~Seven calendar days or less from the day that the food is prepared, if the~~ The food is maintained at a temperature of forty-one degrees Fahrenheit (five degrees Celsius) or less for a maximum of seven days; or

(b) ~~Four calendar days or less from the day that the food is prepared, if the~~ The food is maintained at forty-five degrees Fahrenheit (seven degrees Celsius) or less between forty-one degrees Fahrenheit (five degrees Celsius) and forty-five degrees Fahrenheit (seven degrees Celsius) for a maximum of four days in existing refrigerated equipment as specified under paragraph (F)(3)(1)(c) of this rule.

~~(2) Except for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request, a ready to eat, potentially hazardous food prepared in a food service operation or retail food establishment and subsequently frozen, shall be clearly marked:~~

~~(a) When the food is thawed, to indicate that the food shall be consumed within twenty-four hours; or~~

~~(b) When the food is placed into the freezer, to indicate the length of time before freezing that the food is held refrigerated and which is, including the day of preparation:~~

- ~~(i) Seven calendar days or less from the date of preparation, if the food is maintained at forty one degrees Fahrenheit (five degrees Celsius) or less, or~~
 - ~~(ii) Four calendar days or less from the date of preparation, if the food is maintained at forty five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3) of this rule; and~~
- ~~(e) When the food is removed from the freezer, to indicate the date by which the food shall be consumed which is:~~
- ~~(i) Seven calendar days or less after the food is removed from the freezer, minus the time before freezing, that the food is held refrigerated if the food is maintained at forty one degrees Fahrenheit (five degrees Celsius) or less before and after freezing, or~~
 - ~~(ii) Four calendar days or less after the food is removed from the freezer, minus the time before freezing, that the food is held refrigerated if the food is maintained at forty five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3) of this rule before and after freezing.~~
- ~~(3)(2) Except for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request, and for whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing; a container of refrigerated, ready-to-eat potentially hazardous food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food service operation or retail food establishment and if the food is held for more than twenty-four hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in paragraph (G)(1) of this rule and which is, including the day the original container is opened:~~
- ~~(a) Seven calendar days or less after the The day the original container is opened in the food service operation or retail food establishment shall be counted as day 1; and, if the food is maintained at forty one degrees Fahrenheit (five degrees Celsius) or less; or~~
 - ~~(b) Four calendar days or less from the day the original container is opened, if the food is maintained at forty five degrees Fahrenheit (seven degrees~~

Celsius) or less as specified under paragraph (F)(3) of this rule. The day or date marked by the food service operation or retail food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

(3) A refrigerated, ready-to eat potentially hazardous food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be date marked as specified in paragraphs (G)(1) or (G)(2) of this rule, or by an alternative method acceptable to the licenser.

(4) A refrigerated, ready-to-eat, potentially hazardous food ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

~~(4) Except for individual meal portions served or repackaged for sale from a bulk container upon a consumer's request, and for whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing; a container of refrigerated, ready to eat, potentially hazardous food prepared and packaged by a food processing plant and subsequently opened and frozen in a food service operation or retail food establishment shall be clearly marked:~~

~~(a) When the food is thawed, to indicate that the food shall be consumed within twenty four hours; or~~

~~(b) To indicate the time between the opening of the original container and freezing that the food is held refrigerated and which is, including the day of opening the original container:~~

~~(i) Seven calendar days or less, after opening the original container if the food is maintained at forty one degrees Fahrenheit (five degrees Celsius) or less, or~~

~~(ii) Four calendar days or less after opening the original container if the food is maintained at forty five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3) of this rule; and~~

~~(c) When the food is removed from the freezer, to indicate the date by which the food shall be consumed which is:~~

~~(i) Seven calendar days, minus the time before freezing, that the food is held refrigerated if the food is maintained at forty one degrees~~

~~Fahrenheit (five degrees Celsius) or less before and after freezing,
or~~

~~(ii) Four calendar days, minus the time before freezing, that the food is held refrigerated if the food is maintained at forty five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3) of this rule before and after freezing.~~

(H) Ready-to-eat, potentially hazardous food - disposition.

(1) A food specified under ~~paragraph~~ paragraphs (G)(1) or (G)(2) of this rule shall be discarded if ~~not consumed within it:~~

~~(a) Seven calendar days from the date of preparation if the food is maintained at forty one degrees Fahrenheit (five degrees Celsius) or less~~Exceeds either of the temperature and time combinations specified in paragraph (G)(1) of this rule, except time that the product is frozen; or

~~(b) Four calendar days from the date of preparation if the food is maintained at forty five degrees Fahrenheit (seven degrees Celsius) or less as specified under paragraph (F)(3) of this rule.~~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 paragraph (G)(1) of this rule.~~

~~(2) A food specified under paragraph (G)(2)(a) or (G)(4)(a) of this rule shall be discarded if not consumed within twenty four hours after thawing.~~

~~(3) A food specified under paragraphs (G)(2)(b) and (G)(2)(c) or (G)(4)(b) and (G)(4)(c) of this rule shall be discarded on or before the most recent date marked on the food container or package if the food is not consumed by that date.~~

~~(4) A food specified under paragraph (G)(3) of this rule shall be discarded if not consumed within, including the day of opening the original container:~~

~~(a) Seven calendar days after the date that the original package is opened in a food service operation or retail food establishment if the food is maintained at forty one degrees Fahrenheit (five degrees Celsius) or less; or~~

~~(b) Four calendar days after the date that the original package is opened in a food service operation or retail food establishment if the food is maintained at forty five degrees Fahrenheit (seven degrees Celsius) or~~

~~less as specified under paragraph (F)(3) of this rule.~~

~~(5) A food specified under paragraph (G)(1), (G)(2), (G)(3), or (G)(4) of this rule shall be discarded if the food is:~~

~~(a) Marked with the date specified under paragraph (G)(1), (G)(2), (G)(3), or (G)(4) of this rule and the food is not consumed before the most recent date expires;~~

~~(b) In a container or package which does not bear a date or time; or~~

~~(c) Inappropriately marked with a date or time that exceeds the date or time specified under paragraph (G)(1), (G)(2), (G)(3), or (G)(4) of this rule.~~

~~(6)(2) Refrigerated, ready-to-eat, potentially hazardous food prepared in a food processing plant, food service operation or a retail food establishment and dispensed through a vending machine with an automatic shut-off control ~~that is activated at a temperature of:~~ shall be discarded if it exceeds a temperature and time combination as specified in paragraph (G)(1) of this rule.~~

~~(a) Forty one degrees Fahrenheit (five degrees Celsius) shall be discarded if not sold within seven days; or~~

~~(b) Forty five degrees Fahrenheit (seven degrees Celsius) shall be discarded if not sold within four days.~~

~~(7) A refrigerated, potentially hazardous, ready-to-eat food ingredient or a portion of a refrigerated, potentially hazardous, ready-to-eat food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest of first prepared ingredient or portion and shall be discarded as specified under paragraphs (H)(1) to (H)(6) of this rule.~~

(I) Time as a public health control.

(1) Except as specified under paragraph (I)(2) of this rule, if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for immediate consumption:

(a) The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control,

(b) The food shall be cooked and served, served if ready-to-eat, or discarded,

within four hours from the point in time when the food is removed from temperature control,

(c) The food in unmarked containers or packages or marked to exceed a four hour limit shall be discarded, and

(d) Written procedures shall be maintained in the food service operation or retail food establishment and made available to the licensor upon request, that ensure compliance with:

(i) Paragraphs (I)(1)(a), (I)(1)(b), (I)(1)(c), and (I)(1)(d) of this rule, and

(ii) Paragraph (D) of this rule for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(2) In a food service operation or a retail food establishment that serves a highly susceptible population, time only, rather than time in conjunction with temperature, may not be used as a public health control for raw eggs.

(J) Variance requirement.

The license holder shall obtain a variance from the Ohio department of health if an operation is a food service operation, or from the Ohio department of agriculture if an operation is a retail food establishment before:

(1) Smoking food as a method of food preservation rather than as a method of flavor enhancement;

(2) Curing food;

~~(3) Brewing alcoholic beverages;~~

~~(4)(3) Except as provided in rule 3717-1-08.4 of the Administrative Code, Using~~ using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement, or to render a food so that it is not potentially hazardous;

~~(5)(4) Packaging food using a reduced oxygen packaging method except as specified under paragraph (K) of this rule where a barrier to Clostridium botulinum in addition to refrigeration exists;~~

~~(5) Operating a molluscan shellfish life-support system display tank used to store~~

and display shellfish that are offered for human consumption:

(6) Custom processing of animals that are for personal use as food and not for sale or service in a food service operation or retail food establishment unless the processing is done in compliance with rule 3717-1-08.2 of the Administrative Code;

~~(7) Canning or bottling of a food product;~~

~~(8)~~(7) Pressing or bottling juice unless the processing is done in compliance with rule 3717-1-08 of the Administrative Code;

~~(9)~~(8) Use of a heat treatment dispensing freezer in a manner other than as specified in rule 3717-1-08.1 of the Administrative Code; or

~~(10)~~(9) Preparing food by another method that is determined by the Ohio department of health or Ohio department of agriculture to require a variance.

(K) Reduced oxygen packaging - criteria.

(1) Except for a food service operation or retail food establishment that obtains a variance as specified under paragraph (J) of this rule, a food service operation or retail food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of *Clostridium botulinum*.

(2) A food service operation or retail food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall have a H.A.C.C.P. plan that:

(a) Identifies the food to be packaged;

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

(i) Has an a_w of 0.91 or less,

(ii) Has a pH of 4.6 or less,

- (iii) Is a meat or poultry product cured at a food processing plant regulated by the Ohio department of agriculture under Chapter 918 of the Revised Code or U.S.D.A. using substances specified in 9 C.F.R. 318.7 Approval of substances for use in the preparation of products and 9 C.F.R. 381.147 Restrictions on the use of substances in poultry products~~424.21, use of food ingredients and sources of radiation~~, and is received in an intact package, or
 - (iv) Is a food with a high level of competing organisms such as raw meat or raw poultry;
- (c) Specifies methods for maintaining food at forty-one degrees Fahrenheit (five degrees Celsius) or below;
- (d) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - (i) Maintain the food at forty-one degrees Fahrenheit (five degrees Celsius) or below, and
 - (ii) ~~Discard~~ For food held at refrigeration temperatures, discard the food if within fourteen calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
- (e) Limits the refrigerated shelf life to no more than fourteen calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
- (f) Includes operational procedures that:
 - (i) Prohibit contacting food with bare hands,
 - (ii) Identify a designated area and the method by which:
 - (a) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and

- (b) Access to the processing equipment is ~~restricted~~ limited to responsible trained personnel familiar with the potential hazards of the operation, and
 - (iii) Delineate cleaning and sanitization procedures for food-contact surfaces; and
 - (g) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
 - (i) Concepts required for a safe operation,
 - (ii) Equipment and facilities, and
 - (iii) Procedures specified under paragraph (K)(2)(f) of this rule.
- (3) Except for fish that is frozen before, during, and after packaging, a food service operation or retail food establishment may not package fish using a reduced oxygen packaging method.

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