

3717-1-07.1      **Poisonous or toxic materials: operational supplies and applications.**

[Comment: For publication dates of the C.F.R. referenced in this rule, see paragraph (B) (15)(b) of rule 3717-1-01 of the Administrative Code.]

(A) Storage: separation.

Poisonous or toxic materials shall be stored so they ~~can not~~cannot contaminate food, equipment, utensils, linens, single-service articles, and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service articles, or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, single-service articles, and single-use articles.

(B) Restriction.

Only those poisonous or toxic materials that are required for the operation and maintenance of a food service operation or retail food establishment, such as for ~~the cleaning and sanitizing of equipment and utensils, and the control of licensed application for controlling insects and rodents, or for using as an incidental use pesticide as defined in paragraph (C)(3) of this rule,~~ shall be allowed in a food service operation or retail food establishment. This paragraph does not apply to packaged poisonous or toxic materials that are for retail sale.

(C) Conditions of use.

Poisonous or toxic materials shall be:

- (1) Used according to:
  - (a) Law and this chapter;
  - (b) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food service operation, retail food establishment, or food handling or processing areas;
  - (c) The conditions of licensing, if licensing is required, for use of the pest control materials; and

(d) Additional conditions that may be established by the regulatory authority;  
and

(2) Applied so that:

(a) A hazard to employees or other persons is not constituted; and

(b) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, single-service articles, and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by:

(i) Removing the items;

(ii) Covering the items with impermeable covers; or

(iii) Taking other appropriate preventive actions; and

(iv) Cleaning and sanitizing equipment and utensils after the application.

(3) A general use pesticide, other than for incidental use ~~after July 1, 2004,~~ or a restricted use pesticide shall be applied only by a commercial applicator licensed as specified under section 921.06 of the Revised Code, or a trained service person under the direct supervision of the commercial applicator. "Incidental use" means the application of a general use pesticide on an occasional, isolated, site-specific basis in order to avoid immediate personal harm. "Incidental use" does not mean regular, routine, or maintenance application of a general use pesticide.

(D) Poisonous or toxic material containers.

A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food.

(E) Sanitizers - criteria.

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:

(1) Meet the requirements specified in 40 C.F.R. 180.940; or

(2) Meet the requirements specified in 40 C.F.R. 180.2020.

(F) Chemicals for washing, treatment, storage and processing fruits and vegetables - criteria.

- (1) Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:
  - (a) Be an approved food additive listed for this intended use in 21 C.F.R. 173; or
  - (b) Be generally recognized as safe for this intended use; or
  - (c) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification); and
  - (d) Meet the requirements in 40 C.F.R. 156.
- (2) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food service operation or retail food establishment shall meet the requirements specified in 21 C.F.R. 173.368.

(G) Boiler water additives, criteria.

Chemicals used as boiler water additives shall meet the requirements specified in 21 C.F.R. 173.310.

(H) Drying agents - criteria.

Drying agents used in conjunction with sanitization shall:

- (1) Contain only components that are listed as one of the following:
  - (a) Generally recognized as safe for use in food as specified in 21 C.F.R. 182, or 21 C.F.R. 184;
  - (b) Generally recognized as safe for the intended use as specified in 21 C.F.R. 186;
  - (c) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 C.F.R. 170.30;
  - (d) Subject of an effective "Food Contact Notification" as described in section 409(h) of the Federal Food, Drug, and Cosmetic Act (FFDCA), Section 409(h) (2010) Pub. L. 75-717, 52 Stat. 1040 (as amended August 14, 2018), 21 U.S.C. 348(h);

(e) Approved for use as a drying agent under a prior sanction as described in section 201(s)(4) of the Federal Food, Drug, and Cosmetic Act (FFDCA), subsection 201(s)(4) (2010) Pub. L. 75-717, 52 Stat. 1040 (as amended August 14, 2018), 21 U.S.C. 321(s)(4);

(f) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 C.F.R. 174-178; or

(g) Approved for use as a drying agent under the threshold of regulation process established by 21 C.F.R. 170.39; and

(2) When sanitization is with chemicals, the approval required under paragraph (H)(1)(e) or (H)(1)(g) of this rule or the regulation as an indirect food additive required under paragraph (H)(1)(f) of this rule, shall be specifically for use with chemical sanitizing solutions.

(I) Lubricants - incidental food contact, criteria.

Lubricants shall meet the requirements specified in 21 C.F.R. 178.3570 if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

(J) Restricted use pesticides - criteria.

Restricted use pesticides shall meet the requirements specified in 40 C.F.R. 152 Subpart I and be applied as specified under paragraph (C)(3) of this rule.

(K) Rodent bait stations.

Rodent bait shall be contained in a covered, tamper-resistant bait station.

(L) Tracking powders, pest control and monitoring.

(1) ~~A~~Except as specified in paragraph (L)(2) of this rule, a tracking powder pesticide may not be used in a food service operation or retail food establishment.

(2) ~~A~~If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service ~~articles,~~ and single-use articles.

(M) Medicines - restrictions and storage.

- (1) Only those medicines that are necessary for the health of employees shall be allowed in a food service operation or retail food establishment. This paragraph does not apply to medicines that are stored or displayed for retail sale.
- (2) Medicines that are in a food service operation or retail food establishment for the employees' use shall be labeled as specified under paragraph (A) of rule 3717-1-07 of the Administrative Code and located to prevent the contamination of food, equipment, utensils, linens, single-service articles, and single-use articles.

(N) Refrigerated medicines - storage.

Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

- (1) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and
- (2) Located so they are inaccessible to children.

(O) First aid supplies - storage.

First aid supplies that are in a food service operation or retail food establishment for the employees' use shall be:

- (1) Labeled as specified under paragraph (A) of rule 3717-1-07 of the Administrative Code; and
- (2) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens, single-service articles, and single-use articles.

(P) Other personal care items - storage.

Except as specified under paragraphs (N) and (O) of this rule, employees shall store their personal care items in facilities as specified under paragraph (K)(2) of rule 3717-1-06.2 of the Administrative Code.

Effective: 3/1/2019

Five Year Review (FYR) Dates: 11/13/2018 and 01/28/2024

CERTIFIED ELECTRONICALLY

---

Certification

01/28/2019

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3717.04; 3717.05  
Rule Amplifies: 3717.04; 3717.05  
Prior Effective Dates: 03/01/2001, 03/01/2005, 03/01/2009, 01/01/2013,  
03/01/2016