

3701-21-01 **Definitions.**

As used in Chapter 3701-21 of the Administrative Code:

(A) "a_w" means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w.

~~(A)~~(B) "Board of health" means the board of health of any city or general health district, or the authority having the duties of a board of health as authorized by section 3709.05 of the Revised Code.

~~(B)~~(C) "Catering food service operation" means a food service operation, as defined in section 3717.01 of the Revised Code where food is prepared for serving at a function or event held at an off-premise site, for a charge determined on a per-function or per-event basis. The charge is contracted for on the basis of the entire luncheon, banquet, or event and not on the basis of an individual meal or lunch.

~~(C)~~(D) "Critical control point inspection" means an inspection designed to identify and prevent food handling procedures that epidemiological data have shown to lead to outbreaks of foodborne disease.

~~(D)~~ "Department" means the department of health.

(E) "Director" means the director of health or ~~his~~an authorized designee of the director.

(F) "Employee" means ~~any~~the license holder, person who works in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food service operation.

(G) "Equipment" means an article that is used in the operation of a food service operation such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, bulk water machine, or warewashing machine. "Equipment" does not include ~~items~~apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as ~~an~~hand trucks, forklifts, dollies, pallets, racks, or skids.

(H) "Food" means ~~any~~a raw, cooked, or processed edible substance, ice, ~~water~~, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

- (I) "Food service operation" means an operation as defined in section 3717.01 of the Revised Code. Two or more food serving areas, each supplied by separate kitchens, are considered two or more separate food service operations and must be licensed individually even though located in the same building or structure.
- (J) "Health district" means each city and general health district established by section 3709.01 of the Revised Code.
- (K) "Licensor" means one of the following:
- (1) The board of health of any city or general health district, or the authority having the duties of a board of health as authorized by section 3709.05 of the Revised Code, approved under section 3717.11 of the Revised Code;
 - (2) The director of agriculture acting under section 3717.11 of the Revised Code or 3717.111 of the Revised Code with respect to the licensing of retail food establishments; or
 - (3) The director of health acting under section 3717.11 of the Revised Code or 3717.111 of the Revised Code with respect to the licensing of food service operations.
- (L) "Mobile food service operation" means an operation as defined in section 3717.01 of the Revised Code.
- (M) "Noncommercial food service operation" means a food service operation as described in Chapter 3717. of the Revised Code, conducted by any of the following: an agency of the government, a church, school, non-profit youth group whose membership consists primarily of persons aged eighteen or younger, or an organization which is described in subsection 501(c)(3) and are tax exempt under subsection 501(a) of the Internal Revenue Code.
- (N) "Noncommercial temporary food service operation" means a temporary food service operation as described in Chapter 3717. of the Revised Code, conducted by any of the following: an agency of the government, a church, school, fraternal organization, service club organization, veterans' organization, volunteer fire organization, non-profit youth group whose membership consists primarily of persons aged eighteen or younger, volunteer emergency medical service organization, or an organization which is described in subsection 501(c)(3) and are tax exempt under subsection 501(a) of the Internal Revenue Code or any individual or group raising all of its funds for the benefit of one of these organizations if such operation is operated at an event for no more than five consecutive days, except

when operated for more than five consecutive days under division (E)(2) of section 3717.43 of the Revised Code.

(O) "Operator" means the person, firm, association, corporation, or governmental operation that is in responsible charge of conducting a food service operation.

~~(P) "Portion of premises utilized for the food service operation" means and includes those portions of the structure or building and any parts of the property used for food preparation, food serving, food storage, and related purposes, as well as places where meals or lunches or portions thereof are prepared for consumption elsewhere.~~

~~(Q)~~(P) "Potentially hazardous food": means time/temperature controlled for safety food as defined in paragraph (T) of this rule.

~~(1) Means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:~~

~~(a) The rapid and progressive growth of infectious or toxigenic microorganisms;~~

~~(b) The growth and toxin production of *Clostridium botulinum*; or~~

~~(c) In raw shell eggs, the growth of *Salmonella Enteritidis*.~~

~~(2) Includes an animal food (a food of animal origin) that is raw or heat treated; a food of plant origin that is heat treated or consists of raw seed sprouts; cut melons; and garlic in oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under paragraph (Q)(1) of this rule; and~~

~~(3) Does not include:~~

~~(a) An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable salmonellae;~~

~~(b) A food with an a_w value of 0.85 or less;~~

~~(c) A food with a pH level of 4.6 or below when measured at seventy-five degrees Fahrenheit (twenty-four degrees Celsius);~~

~~(d) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;~~

~~(e) A food for which laboratory evidence demonstrates that the rapid and~~

~~progressive growth of infectious or toxigenic microorganisms or the growth of *S. Enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an a_w and a pH that are above the levels specified under paragraphs (Q)(3)(b) and (Q)(3)(c) of this rule and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or~~

~~(f) A food that does not support the growth of microorganisms as specified under paragraph (Q)(1) of this rule even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.~~

(Q) "Premises" means:

(1) The physical facility, its contents, and the contiguous land or property under the control of the license holder; or

(2) The physical facility, its contents, and the land or property not described under paragraph (Q)(1) of this rule if its facilities and contents are under the control of the license holder and may impact food service operation or retail food establishment personnel, facilities, or operations, and a food service operation or retail food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

(R) "Seasonal food service operation" means an operation as defined in section 3717.01 of the Revised Code.

(S) "Standard inspection" means an inspection designed to determine compliance with Chapter 3717. of the Revised Code and the rules adopted under it.

(T) "Time/temperature controlled for safety food" or "TCS food" means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

(1) TCS food includes:

(a) An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

(b) Except as specified in paragraph (T)(2)(d) of this rule, a food that because of the interaction of its a_w and pH values is designated as product

assessment required (PA) in table A or B of this rule.

Table A. Interaction of pH and a_w for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged

	<u>pH of 4.6 or less</u>	<u>pH greater than 4.6 to 5.6</u>	<u>pH greater than 5.6</u>
<u>a_w less than or equal to 0.92</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>non-TCS food</u>
<u>a_w greater than 0.92 to 0.95</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>PA</u>
<u>a_w greater than 0.95</u>	<u>non-TCS food</u>	<u>PA</u>	<u>PA</u>

Table B. Interaction of pH and a_w for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged

	<u>pH less than 4.2</u>	<u>pH 4.2 to 4.6</u>	<u>pH greater than 4.6 to 5.0</u>	<u>pH greater than 5.0</u>
<u>a_w less than 0.88</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>non-TCS food</u>
<u>a_w 0.88 to 0.90</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>PA</u>
<u>a_w greater than 0.90 to 0.92</u>	<u>non-TCS food</u>	<u>non-TCS food</u>	<u>PA</u>	<u>PA</u>
<u>a_w greater than 0.92</u>	<u>non-TCS food</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>

(2) TCS food does not include:

- (a) An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;
- (b) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
- (c) A food that because of its pH or a_w value, or interaction of a_w and pH values, is designated as a non-TCS food in table A or B of paragraph (T)(1) of this rule;

(d) A food that is designated as product assessment required (PA) in table A or B of paragraph (T)(1) of this rule and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(i) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(ii) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or

(iii) A combination of intrinsic and extrinsic factors; or

(e) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with paragraphs (T)(2)(a), (T)(2)(b), (T)(2)(c) or (T)(2)(d) of this rule even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

~~(F)~~(U) "Temporary food service operation" means an operation as defined in section 3717.01 of the Revised Code.

~~(U)~~(V) "Variance review" means a determination by the licenser of compliance with a food processing variance issued by the department of health.

In the administration and enforcement of Chapter 3717. of the Revised Code and Chapter 3701-21 of the Administrative Code, all adjectives and adverbs such as adequate, approved, clean, convenient, effectively, good, sanitary, satisfactory, sufficient, safe, or suitable shall be interpreted in a manner consistent with the published interpretation and recommendations in the usage of the words, as they relate to food service operations, by the food and drug administration, public health service, of the United States department of health and human services, or consistent with the usage and understanding of the words by the food service industry and the food service regulatory agencies or other appropriate regulatory agencies, to the extent that these interpretations are not in conflict with the laws of this state.

Effective: 03/01/2010

R.C. 119.032 review dates: 10/15/2009 and 10/15/2014

CERTIFIED ELECTRONICALLY

Certification

01/15/2010

Date

Promulgated Under: 119.03
Statutory Authority: 3717.04
Rule Amplifies: 3717.01, 3717.02, 3717.03, 3717.04, 3717.04.1, 3717.05, 3717.06, 3717.07, 3717.07.1, 3717.08, 3717.09, 3717.11, 3717.111, 3717.12, 3717.13, 3717.21, 3717.22, 3717.221, 3717.23, 3717.24, 3717.25, 3717.26, 3717.27, 3717.28, 3717.29, 3717.30, 3717.31, 3717.32, 3717.33, 3717.41, 3717.42, 3717.43, 3717.44, 3717.45, 3717.46, 3717.47, 3717.48, 3717.49, 3717.50, 3717.51, 3717.52, 3717.53, 3717.99
Prior Effective Dates: 12/18/1953, 5/1/83, 11/1/86, 7/1/89, 10/16/95, 2/23/96 (Emer.), 4/15/96, 9/6/99, 11/27/00, 3/21/02