

000. LEGAL AUTHORITY.

The State of Idaho Board of Health and Welfare is authorized under Sections 37-121 and 39-1603, Idaho Code, to adopt rules for the regulation of food establishments to protect public health.

001. TITLE, SCOPE AND APPLICABILITY.

01. Title. The title of this chapter is IDAPA 16.02.19 "Food Safety and Sanitation Standards for Food Establishments" and may also be known as the Idaho Food Code.

02. Scope. The purpose of these rules is to establish standards for the provision of safe, unadulterated and honestly presented food for consumption by the public. These rules provide requirements for licensing, inspections, review of plans, employee restriction, and license suspensions for food establishments and food processing plants. Also included are definitions and standards for management, personnel, food operations, equipment and facilities.

03. These Rules Apply To Food Establishments. Food establishments as defined in Section 39-1602, Idaho Code, must follow these rules. Those facilities include but are not limited to the following:

a. Restaurants, catering facilities, taverns, kiosks, vending facilities, commissaries, cafeterias, mobile food facilities, temporary food facilities; and

b. Schools, senior centers, hospitals, residential care and treatment facilities, nursing homes, correctional facilities, camps, food banks, and church facilities; and

c. Retail markets, meat, fish, delicatessen, bakery and supermarkets, convenience stores, health food stores, and neighborhood markets; and

d. Food, water and beverage processing and bottling facilities that manufacture, process and distribute food, water and beverages within the state of Idaho, and are not inspected for food safety by a federal agency.

04. These Rules Do Not Apply To These Establishments. These rules do not apply to the following establishments as exempted in Idaho Code.

a. Agricultural markets as exempted in Section 39-1602, Idaho Code.

b. Bed-and-breakfast operations that prepare and offer food for breakfast only to guests. The number of guest beds must not exceed ten (10) beds as defined in Section 39-1602, Idaho Code.

c. Day care facilities regulated by Sections 39-1101 through 39-1119, Idaho Code.

d. Licensed outfitters and guides regulated by Sections 36-2101 through 36-2119, Idaho Code.

e. Low-risk food establishments, as exempted in Section 39-1602, Idaho Code, which offer only non-potentially hazardous foods.

f. Non-profit charitable, fraternal, or benevolent organizations that do not prepare or serve food on a regular basis as exempted in Section 39-1602, Idaho Code. Food is not considered to be served on a regular basis if it is not served for more than five (5) consecutive days on no more than three (3) occasions per year for foods which are not potentially hazardous. For all other food, it must not be served more than one (1) meal per week.

g. Private homes where food is prepared or served for family consumption or receives catered or home-delivered food as exempted by Section 39-1602, Idaho Code.

05. How To Use This Chapter of Rules. The rules in this chapter are modifications, additions or deletions made to the federal publication incorporated by reference in Section 004 of these rules. In order to follow these rules, that publication is required. (*Note: that publication is incorporated in this document*). Changes to those standards are listed in this chapter of rules by listing which section of the publication is being modified at the beginning of each section of rule.

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has no written interpretations that apply to rules of this chapter.

003. ADMINISTRATIVE APPEALS AND CONTESTED CASES.

01. Administrative Appeals. Administrative appeals including compliance conferences are handled by the regulatory authority. See Sections 860 and 861 of these rules for compliance and revocation issues.

02. Contested Cases. Department contested cases and appeals are governed by provisions in IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.”

004. INCORPORATION BY REFERENCE.

The Department is adopting by reference the “Food Code, 2001 Recommendations of the United States Public Health Service Food and Drug Administration,” published by National Technical Information Service, Publication PB2002-100819. A certified copy of this publication may be reviewed at the main office of the Department of Health and Welfare. It is also available online at “<http://www.cfsan.fda.gov>.” This publication is being adopted with modifications and additions as follows:

01. Chapter 1, Purpose and Definitions. Additions and modifications have been made to this chapter. See Sections 100 – 199 of these rules.

02. Chapter 2, Management and Personnel. Modifications have been made to this chapter. See Sections 200 - 299 of these rules.

03. Chapter 3, Food. Modifications have been made to this chapter. See Sections 300 - 399 of these rules.

04. Chapter 4, Equipment, Utensils, and Linens. This chapter has been adopted with no modifications.

05. Chapter 5, Water, Plumbing and Waste. This chapter has been adopted with no modifications.

06. Chapter 6, Physical Facilities. This chapter has been adopted with no modifications.

07. Chapter 7, Poisonous or Toxic Materials. Modifications have been made in this chapter. See Sections 700 – 799 of these rules.

08. Chapter 8, Compliance and Enforcement. Modifications have been made in this chapter. See Sections 800 - 899 of these rules.

09. Annexes 1 through 7 are Excluded. These sections have not been adopted.

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho.

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036.

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702.

04. Telephone. (208) 334-5500.

05. Internet Website. The internet website for the Department is found at "<http://www.healthandwelfare.idaho.gov>"

IDAPA 16.02.19.006

006. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions in Title 9, Chapter 3, Idaho Code. Restrictions contained in Section 39-610, Idaho Code, and the Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records," must also be followed.

01. Contested Hearing and Appeal Records. All contested case hearings are open to the public, unless ordered closed at the discretion of the hearing officer based on compelling circumstances. A party to a hearing must maintain confidentiality of discussions that warrant closing the hearing to the public.

02. Inspection Report. A completed inspection report is treated as a public document and is available for public disclosure to any person who requests the report as provided in Idaho's Public Records Law, Title 9, Chapter 3, Idaho Code.

03. Medical Records. Medical information given to the Department or regulatory authority shall be confidential and must follow IDAPA 16.05.01 "Use and Disclosure of Department Records."

04. Plans and Specifications. Plans and specifications submitted to the regulatory authority as required in Chapter 8 of the 2001 Food Code referenced in Rule 006 of these rules, must be treated as confidential or trade secret information under Title 48, Chapter 8, Idaho Code.

007. - 049. (RESERVED)

050. TRAINING AND INFORMATIONAL MATERIALS.

The Department is authorized under Section 56-1007, Idaho Code, to establish a reasonable charge for training and informational materials that are provided to the public.

051. - 099. (RESERVED)