

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 .~~
- (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.
- (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.
- (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.
- (E) "Director" means the director of health or an authorized designee of the director.
- (F) "Employee" means the license holder, person 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 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 hand trucks, forklifts, dollies, pallets, racks, or skids.
- (H) "Food" means a raw, cooked, or processed edible substance, ice, 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 ~~are to 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 catering food service operation" means an operation that prepares food in a licensed high risk mobile food service operation or prepares food in a risk level IV food service operation or risk level IV retail food establishment for serving at a function or event for a charge determined on a per-function or per-event basis. The charge is contracted for on the basis of the entire function or event and not on the basis of an individual meal or serving.

~~(L)~~(M) "Mobile food service operation" means an operation as defined in section 3717.01 of the Revised Code.

~~(M)~~(N) "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) of the Internal Revenue Code of 1986 (Pub. L. No. 99-514, 100 Stat. 2085, U.S.C. 1, et seq., as amended) and ~~is~~ tax exempt under subsection 501(a) of the ~~Internal Revenue Code (1986).~~

~~(N)~~(O) "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) of the Internal Revenue Code of 1986 (Pub. L. No. 99-514, 100 Stat. 2085, U.S.C. 1, et seq., as amended) and ~~are~~ tax exempt under subsection 501(a) of the ~~Internal Revenue Code (1986)~~, 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.

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

~~(Q)~~(Q) "Person in charge" means the individual present at a food service operation or retail food establishment who is responsible for the operation at ~~the time of inspection~~ any given time.

~~(R)~~(R) "Potentially hazardous food": means time/temperature controlled for safety food as defined in paragraph ~~(U)~~(V) of this rule.

~~(S)~~(S) "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 ~~(S)~~(S)(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.

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

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

~~(V)~~(V) "Time/temperature controlled for safety food" or "TCS food" means a food that ~~requires~~ needs 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 leafy greens, 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 ~~(U)~~(V)(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) needed 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

| | pH of 4.6 or less | pH greater than 4.6 to 5.6 | pH greater than 5.6 |
|----------------------------------|-------------------|----------------------------|---------------------|
| a_w less than or equal to 0.92 | non-TCS food | non-TCS food | non-TCS food |
| a_w greater than 0.92 to 0.95 | non-TCS food | non-TCS food | PA |
| a_w greater than 0.95 | non-TCS food | PA | PA |

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

| | pH less than 4.2 | pH 4.2 to 4.6 | pH greater than 4.6 to 5.0 | pH greater than 5.0 |
|---------------------------------|------------------|---------------|----------------------------|---------------------|
| a_w less than 0.88 | non-TCS food | non-TCS food | non-TCS food | non-TCS food |
| a_w 0.88 to 0.90 | non-TCS food | non-TCS food | non-TCS food | PA |
| a_w greater than 0.90 to 0.92 | non-TCS food | non-TCS food | PA | PA |
| a_w greater than 0.92 | non-TCS food | PA | PA | PA |

(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 ~~(U)~~(V)(1) of this rule;
- (d) A food that is designated as product assessment ~~required~~-(PA) needed in table A or B of paragraph ~~(U)~~(V)(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 paragraph ~~(U)~~(V)(2)(a), ~~(U)~~(V)(2)(b), ~~(U)~~(V)(2)(c) or ~~(U)~~(V)(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.

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

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

Effective: 9/1/2024

Five Year Review (FYR) Dates: 3/11/2024 and 05/16/2029

CERTIFIED ELECTRONICALLY

Certification

05/16/2024

Date

Promulgated Under: 119.03
Statutory Authority: 3717.04, 3717.51
Rule Amplifies: 3717.09
Prior Effective Dates: 12/18/1953, 05/01/1983, 11/01/1986, 07/01/1989,
10/16/1995, 02/23/1996 (Emer.), 04/15/1996,
09/06/1999, 11/27/2000, 12/21/2001 (Emer.),
03/21/2002, 12/01/2004, 03/01/2010, 04/02/2015,
04/01/2019