

**Effective 5/3/2023**

**Part 4**  
**General Sanitation and Food Safety**

**26B-7-401 Definitions.**

As used in this part:

- (1) "Agritourism" means the same as that term is defined in Section 78B-4-512.
- (2) "Agritourism activity" means the same as that term is defined in Section 78B-4-512.
- (3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agritourism activity.
- (4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.
- (5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:
  - (a) provides food services; and
  - (b) meets department recognized federal or state food service safety regulations for food handlers.
- (6) "Body art facility" means a facility where an individual practices or instructs:
  - (a) body piercing;
  - (b) branding;
  - (c) permanent cosmetics;
  - (d) scarification; or
  - (e) tattooing.
- (7)
  - (a) "Body piercing" means any method of piercing the skin or mucosa to place jewelry through the skin or mucosa.
  - (b) "Body piercing" does not include ear piercing.
- (8) "Branding" means the process in which a mark is burned, with or without heated metal, into human tissue with the intention of leaving a permanent mark.
- (9) "Certified food safety manager" means a manager of a food service establishment who:
  - (a) passes successfully a department-approved examination;
  - (b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and
  - (c) submits to the appropriate local health department the documentation required by Section 26B-7-412.
- (10) "Ear piercing" means the puncturing of the lobe of the ear with piercing equipment to insert stud-and-clasp jewelry according to the directions provided by the piercing equipment's manufacturer.
- (11) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.
- (12) "Food" means:
  - (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or
  - (b) chewing gum.
- (13) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are

prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.

- (14) "Microblading" means a procedure where a hand tool with a blade formed of tiny needles implants permanent or semi-permanent pigment, resembling hair, into the skin of the eyebrow area with fine and short strokes.
- (15)
  - (a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.
  - (b) "Microenterprise home kitchen" does not include:
    - (i) a catering operation;
    - (ii) a cottage food operation;
    - (iii) a food truck;
    - (iv) an agritourism food establishment;
    - (v) a bed and breakfast; or
    - (vi) a residence-based group care facility.
- (16) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.
- (17)
  - (a) "Permanent cosmetics" means a permanent or semi-permanent tattoo:
    - (i) to the eyebrows, eyelids, lips, or other parts of the body for beauty marks, hair imitation, lash enhancement, or areola repigmentation; and
    - (ii) performed by an individual not licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
  - (b) "Permanent cosmetics" includes permanent makeup, micropigmentation, micropigment implantation, microblading, dermagraphics, or cosmetic tattooing.
- (18) "Ready-to-eat" means:
  - (a) raw animal food that is cooked;
  - (b) raw fruits and vegetables that are washed;
  - (c) fruits and vegetables that are cooked for hot holding;
  - (d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
  - (e) a bakery item for which further cooking is not required for food safety.
- (19) "Scarification" means the process in which a mark is cut into human skin tissue with the intent of leaving a permanent mark.
- (20) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Amended by Chapter 30, 2024 General Session  
Amended by Chapter 282, 2024 General Session

**26B-7-402 Minimum rules of sanitation established by department.**

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health, including rules necessary for the design, construction, operation, maintenance, or expansion of:

- (1) a restaurant or a place where food or drink is handled, sold, or served to the public;

- (2) a public swimming pool;
- (3) a public bath, including a sauna, spa, or massage facility;
- (4) a public bathing beach;
- (5) a public or private school;
- (6) a recreational resort, camp, or other vehicle park;
- (7) an amusement park or other center or place used for public gatherings;
- (8) a mobile home park and highway rest stop;
- (9) a construction or labor camp;
- (10) a jail, prison, or other place of incarceration or confinement;
- (11) a hotel or motel;
- (12) a lodging house or boarding house;
- (13) a service station;
- (14) a barber shop or beauty shop, including a facility in which one or more individuals are engaged in:
  - (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or
  - (b) styling hair in accordance with the exemption from licensure described in Subsection 58-11a-304(13);
- (15) an office of a physician, physician assistant, or dentist;
- (16) a public building or ground;
- (17) a public conveyance or terminal;
- (18) a commercial tanning facility; and
- (19) a body art facility.

Amended by Chapter 282, 2024 General Session

**26B-7-403 Department to advise regarding the plumbing code.**

- (1) The department shall advise the Division of Professional Licensing and the Uniform Building Code Commission with respect to the adoption of a state construction code under Section 15A-1-204, including providing recommendations as to:
  - (a) a specific edition of a plumbing code issued by a nationally recognized code authority; and
  - (b) any amendments to a nationally recognized code.
- (2) The department may enforce the plumbing code adopted under Section 15A-1-204.
- (3) Section 58-56-9 does not apply to health inspectors acting under this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-404 Rules for wastewater disposal systems.**

The department shall establish rules necessary to protect the public health for the design, and construction, operation and maintenance of individual wastewater disposal systems.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-405 Rules for controlling vector-borne diseases and pests.**

- (1) As used in this section:
  - (a) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well-being of the people within the state.

- (b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.
- (2) The department shall adopt rules to provide for the protection of the public health by controlling or preventing the spread of vector-borne diseases and infections and to control or reduce pests by the elimination of insanitary conditions which may include but not be limited to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-406 Periodic evaluation of local health sanitation programs -- Minimum statewide enforcement standards -- Technical assistance.**

- (1) The department shall periodically evaluate the sanitation programs of local health departments to determine the levels of sanitation being maintained throughout the state.
- (2)
  - (a) The department shall ensure that each local health department's enforcement of the minimum rules of sanitation adopted under Section 26B-7-402 for restaurants and other places where food or drink is handled meets or exceeds minimum statewide enforcement standards established by the department by administrative rule.
  - (b) Administrative rules adopted under Subsection (2)(a) shall include at least:
    - (i) the minimum number of periodic on-site inspections that shall be conducted by each local health department;
    - (ii) criteria for conducting additional inspections; and
    - (iii) standardized methods to be used by local health departments to assess compliance with the minimum rules of sanitation adopted under Section 26B-7-402.
  - (c) The department shall help local health departments comply with the minimum statewide enforcement standards adopted under this Subsection (2) by providing technical assistance.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-407 Regulation of tanning facilities.**

- (1) For purposes of this section:
  - (a) "Minor" means an individual who is younger than 18 years old.
  - (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.
  - (c)
    - (i) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:
      - (A) a sunlamp; and
      - (B) a tanning booth or bed.
    - (ii) "Tanning device" does not include a phototherapy device.
  - (d) "Tanning facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.
- (2) A tanning facility shall:
  - (a) annually obtain a permit to do business as a tanning facility from the local health department with jurisdiction over the location in which the facility is located; and
  - (b) in accordance with Subsection (3) post a warning sign in a conspicuous location that is readily visible to a person about to use a tanning device.

- (3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules and shall include:
  - (a) that there are health risks associated with the use of a tanning device;
  - (b) that the facility may not allow a minor to use a tanning device unless the minor:
    - (i) has a written order from a physician; or
    - (ii) at each time of use is accompanied at the tanning facility by a parent or legal guardian who provides written consent authorizing the minor to use the tanning device.
- (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning device unless:
  - (a) the minor has a written order from a physician as defined in Section 58-67-102, to use a tanning device as a medical treatment; or
  - (b)
    - (i) the minor's parent or legal guardian appears in person at the tanning facility each time that the minor uses a tanning device, except that the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and
    - (ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).
- (5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:
  - (a) information concerning the health risks associated with the use of a tanning device; and
  - (b) a statement that:
    - (i) the parent or legal guardian of the minor has read and understood the warnings given by the tanning facility, and consents to the minor's use of a tanning device; and
    - (ii) the parent or legal guardian agrees that the minor will use protective eye wear.
- (6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:
  - (a) minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection (2);
  - (b) the written information concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5);
  - (c) procedures a tanning facility shall implement to ensure a minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:
    - (i) for a parent or legal guardian to certify and give consent under Subsection (5); and
    - (ii) that clearly identifies the department's seal or other means to indicate that the form is an official form of the department; and
  - (d) the size, placement, and content of the sign a tanning facility must post under Subsection (2).
- (7)
  - (a) A violation of this section:
    - (i) is an infraction; and
    - (ii) may result in the revocation of a permit to do business as a tanning facility.
  - (b) If a person misrepresents to a tanning facility that the person is 18 years old or older, the person is guilty of an infraction.
- (8) This section supersedes any ordinance enacted by the governing body of a political subdivision that:
  - (a) imposes restrictions on access to a tanning device by a person younger than 18 years old that is not essentially identical to the provisions of this section; or
  - (b) that require the posting of warning signs at the tanning facility that are not essentially identical to the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-408 Procurement and use of a blood product is a service and not a sale -- Blood donation by a minor.**

- (1) As used in this section:
  - (a) "Blood" means human blood.
  - (b) "Blood product" includes:
    - (i) whole blood;
    - (ii) blood plasma;
    - (iii) a blood derivative;
    - (iv) blood platelets; and
    - (v) blood clotting agents.
- (2) The following are considered to be the rendition of a service by each participant and are not considered to be a sale:
  - (a) the procurement, processing, distribution, or use of a blood product for the purpose of injecting or transfusing the blood product into the human body; and
  - (b) the process of injecting or transfusing a blood product.
- (3) A minor who is at least 16 years old may donate blood to a voluntary, noncompensatory blood donation program if a parent or legal guardian of the minor consents to the donation.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-409 Scientific standards for methamphetamine decontamination -- Public education concerning methamphetamine contamination.**

- (1) The department shall make rules adopting scientifically-based standards for methamphetamine decontamination.
- (2) A local health department, as defined in Title 26A, Local Health Authorities, shall follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.
- (3) The department shall conduct a public education campaign to inform the public about potential health risks of methamphetamine contamination.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-410 Food service establishment requirements -- Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health departments.**

- (1) Each food service establishment in the state shall be managed by at least one full-time certified food safety manager at each establishment site, who need not be present at the establishment site during all its hours of operation.
- (2) Within 60 days of the termination of a certified food safety manager's employment that results in the food service establishment no longer being in compliance with Subsection (1), the food service establishment shall:
  - (a) employ a new certified food safety manager; or
  - (b) designate another employee to become the establishment's certified food safety manager who shall commence a department-approved food safety manager training course.
- (3) Compliance with the 60-day time period provided in Subsection (2) may be extended by the local health department for reasonable cause, as determined by the department by rule.
- (4)

- (a) The local health department may determine whether a food service establishment is in compliance with this section by visiting the establishment during regular business hours and requesting information and documentation about the employment of a certified food safety manager.
- (b) If a violation of this section is identified, the local health department shall propose remedial action to bring the food service establishment into compliance.
- (c)
  - (i) A food service establishment receiving notice of a violation and proposed remedial action from a local health department may appeal the notice of violation and proposed remedial action pursuant to procedures established by the local health department, which shall be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
  - (ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health department decision shall be conducted as an original, independent proceeding, and not as a review of the proceedings conducted by the local health department.
  - (iii) The court shall give no deference to the findings or conclusions of the local health department.
- (5)
  - (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
    - (i) a definition of "potentially hazardous foods" for purposes of this section and Section 26B-7-401; and
    - (ii) any provisions necessary to implement this section.
  - (b) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-411 Exemptions to food service establishment requirements.**

- (1) The following are not subject to the provisions of Section 26B-7-410:
  - (a) special events sponsored by municipal or nonprofit civic organizations, including food booths at school sporting events and little league athletic events and church functions;
  - (b) temporary event food services approved by a local health department;
  - (c) vendors and other food service establishments that serve only commercially prepackaged foods and beverages as defined by the department by rule;
  - (d) private homes not used as a commercial food service establishment;
  - (e) health care facilities licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;
  - (f) bed and breakfast establishments at which the only meal served is a continental breakfast as defined by the department by rule;
  - (g) residential child care providers;
  - (h) child care providers and programs licensed under Chapter 2, Part 4, Child Care Licensing;
  - (i) back country food service establishments;
  - (j) an event that is sponsored by a charitable organization, if, at the event, the organization:
    - (i) provides food to a disadvantaged group free of charge; and
    - (ii) complies with rules established by the department under Subsection (3); and

- (k) a lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) Nothing in this section may be construed as exempting a food service establishment described in Subsection (1) from any other applicable food safety laws of this state.
- (3) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing food for free under Subsection (1)(j).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-412 Certified food safety manager.**

- (1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the appropriate local health department indicating a passing score on a department-approved examination.
- (2) To continue to manage a food service establishment, a certified food safety manager shall:
  - (a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and
  - (b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.
- (3) A local health department may deny, revoke, or suspend the authority of a certified food safety manager to manage a food service establishment or require the completion of additional food safety training courses for any one of the following reasons:
  - (a) submitting information required under Subsection (1) or (2) that is false, incomplete, or misleading;
  - (b) repeated violations of department or local health department food safety rules; or
  - (c) operating a food service establishment in a way that causes or creates a health hazard or otherwise threatens the public health, safety, or welfare.
- (4) A determination of a local health department made pursuant to Subsection (3) may be appealed by a certified food safety manager in the same manner provided for in Subsection 26B-7-410(4).
- (5) No person may use the title "certified food safety manager," or any other similar title, unless the person has satisfied the requirements of this section.
- (6) A local health department:
  - (a) may not charge a fee to accept or process the documentation described in Subsections (1) and (2);
  - (b) shall accept photocopies or electronic copies of the documentation described in Subsections (1) and (2); and
  - (c) shall allow an individual to submit the documentation described in Subsections (1) and (2) by mail, email, or in person.
- (7) Certified food safety managers shall:
  - (a) establish and monitor compliance with practices and procedures in the food service establishments where they are employed to maintain compliance with department and local health department food safety rules; and
  - (b) perform such other duties that may be necessary to ensure food safety in the food service establishments where they are employed.
- (8)



- (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (i) statewide, uniform standards for certified food safety managers;
  - (ii) criteria for food safety certification examinations; and
  - (iii) any provisions necessary to implement this section.
- (b) The department shall approve food safety certification examinations in accordance with this section.
- (c) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-413 Requirements for food handlers -- Training program and testing requirements for permit -- Rulemaking -- Exceptions.**

- (1) As used in this section:
  - (a) "Approved food handler training program" means a training program described by this section and approved by the department.
  - (b) "Food handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food service establishment.
  - (c) "Food handler permit" means a permit issued by a local health department to allow a person to work as a food handler.
  - (d) "Instructor" means an individual who is qualified to instruct an approved food handler program on behalf of a provider.
  - (e) "Provider" means a person or entity that provides an approved food handler training program.
- (2) A person may not work as a food handler for a food service establishment unless the person:
  - (a) successfully completes an approved food handler training program within 14 days after the day on which the person begins employment that includes food handler services; and
  - (b) obtains a food handler permit within 30 days after the day on which the person begins employment that includes food handler services.
- (3) An approved food handler training program shall include:
  - (a) at least 75 minutes of training time;
  - (b) an exam, which requires a passing score of 75% and, except as provided in Subsection (11), consists of:
    - (i) 40 multiple-choice questions developed by the department, in consultation with local health departments; and
    - (ii) four content sections designated by rule of the department with 10 randomly selected questions for each content section; and
  - (c) upon completion, the awarding of a certificate of completion that is valid with any local health department in the state for 30 days after the day on which the certificate is issued:
    - (i) to a student who:
      - (A) completes the training; and
      - (B) passes the exam described in this Subsection (3) or an exam approved by the department in accordance with Subsection (11); and
    - (ii) which certificate of completion:
      - (A) includes student identifying information determined by department rule; and
      - (B) is delivered by mail or electronic means.
- (4)
  - (a) A person may obtain a food handler permit by:

- (i) providing a valid certificate of completion of an approved food handler training program and an application, approved by the local health department, to a local health department; and
  - (ii) paying a food handler permit fee to the local health department.
- (b)
- (i) A local health department may charge a food handler permit fee that is reasonable and that reflects the cost of managing the food safety program.
  - (ii) The department shall establish by rule the maximum amount a local health department may charge for the fee described in Subsection (4)(b)(i).
- (5) A person working as a food handler for a food service establishment shall obtain a food handler permit:
- (a) before handling any food;
  - (b) within 30 days of initial employment with a food service establishment; and
  - (c) within seven days of the expiration of an existing food handler permit.
- (6)
- (a) A person who holds a valid food handler permit under this section may serve as a food handler throughout the state without restriction.
  - (b) A food handler permit granted after June 30, 2013, is valid for three years from the date of issuance.
- (7) An individual may not serve as an instructor, unless the provider includes the individual on the provider's list of instructors.
- (8) The department, in consultation with local health departments, shall:
- (a) approve the content of an approved food handler training program required under Subsection (3);
  - (b) approve, as qualified, each provider; and
  - (c) in accordance with applicable rules made under Subsection (12), provide a means to authenticate:
    - (i) documents used in an approved food handler training program;
    - (ii) the identity of an approved instructor; and
    - (iii) an approved provider.
- (9) An approved food handler training program shall:
- (a) provide basic instruction on the Centers for Disease Control and Prevention's top five foodborne illness risk factors, including:
    - (i) improper hot and cold holding temperatures of potentially hazardous food;
    - (ii) improper cooking temperatures of food;
    - (iii) dirty or contaminated utensils and equipment;
    - (iv) poor employee health and hygiene; and
    - (v) food from unsafe sources;
  - (b) be offered through:
    - (i) a trainer-led class;
    - (ii) the Internet; or
    - (iii) a combination of a trainer-led class and the Internet;
  - (c) maintain a system to verify a certificate of completion of an approved food handler training program issued under Subsection (3) to the department, a local health department, and a food service establishment; and
  - (d) provide to the department unrestricted access to classroom training sessions and online course materials at any time for audit purposes.
- (10)

- (a) A provider that provides an approved food handler training program may charge a reasonable fee.
- (b) If a person or an entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name or business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify an individual to work as a food handler in the state.

(11)

- (a) Subject to the approval of the department every three years, a provider may use an exam that consists of questions that do not conform with the provisions of Subsection (3)(b), if:
  - (i) the provider complies with the provisions of this Subsection (11);
  - (ii) the provider pays a fee every three years to the department, which fee shall be determined by the department and shall reflect the cost of the review of the alternative test questions; and
  - (iii) an independent instructional design and testing expert provides a written report to the department containing a positive recommendation based on the expert's analysis as described in Subsection 11(b).

(b)

- (i) A provider may request approval of a different bank of test questions other than the questions developed under Subsection (3) by submitting to the department a proposed bank of at least 200 test questions organized by learning objective in accordance with Subsection (9)(a).
- (ii) A provider proposing a different bank of test questions under this Subsection (11) shall contract with an independent instructional design and testing expert approved by the department at the provider's expense to analyze the provider's bank of test questions to ensure the questions:
  - (A) effectively measure the applicant's knowledge of the required learning objectives; and
  - (B) meet the appropriate testing standards for question structure.
- (c) If the department provides written notice to a provider that any test question of the provider's approved exam under this Subsection (11) inadequately tests the required learning objectives, the provider shall make required changes to the question within 30 days after the day on which written notice is received by the provider.
- (d) A food handler exam offered by a provider may be:
  - (i) a written exam;
  - (ii) an online exam; or
  - (iii) an oral exam, if circumstances require, including when an applicant's language or reading abilities interfere with taking a written or online exam.
- (e) A provider shall routinely rotate test questions from the test question bank, change the order of test questions in tests, and change the order of multiple-choice answers in test questions to discourage cheating.

(12)

- (a) When exercising rulemaking authority under this section the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (b) The department shall, by rule, establish requirements designed to inhibit fraud for an approved food handler training program described in this section.
- (c) The requirements described in Subsection (12)(b) may include requirements to ensure that:
  - (i) an individual does not attempt to complete the program or exam in another individual's place;

- (ii) an individual taking the approved food handler training program is focused on training material and actively engaged throughout the training period;
  - (iii) if the individual is unable to participate online because of technical difficulties, an approved food handler training program provides technical support, such as requiring a telephone number, email, or other method of communication to allow an individual taking the online course or test to receive assistance;
  - (iv) an approved food handler training program provider maintains a system to reduce fraud as to who completes an approved food handler training program, such as requiring a distinct online certificate with information printed on the certificate that identifies a person taking an online course or exam, or requiring measures to inhibit duplication of a certificate of completion or of a food handler permit;
  - (v) the department may audit an approved food handler training program;
  - (vi) an individual taking an online course or certification exam has the opportunity to provide an evaluation of the online course or test;
  - (vii) an approved food handler training program provider track the Internet protocol address or similar electronic location of an individual who takes an online course or certification exam;
  - (viii) an individual who takes an online course or exam uses an electronic signature; or
  - (ix) if the approved food handler training program provider learns that a certificate of completion does not accurately reflect the identity of the individual who took the online course or certification exam, an approved food handler training program provider invalidates the certificate of completion.
- (13) An instructor is not required to satisfy any additional training requirements if the instructor:
- (a) is an educator in a public or private school; and
  - (b) teaches a food program that includes food safety in a public or private school in which the instructor is an educator.
- (14)
- (a) This section does not apply to an individual who handles food:
    - (i) at an event sponsored by a charitable organization where the organization provides food to a disadvantaged group free of charge; and
    - (ii) in compliance with rules established by the department under Subsection (2).
  - (b) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an event sponsored by a charitable organization under Subsection (14)(a).

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-414 Impoundment of adulterated food products authorized.**

The department and local health departments may impound any food products found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five days' notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-415 Agritourism food establishment permits -- Permit requirements -- Inspections.**

- (1) As used in this section, "operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

- (2)
  - (a) A farm may not operate an agritourism food establishment unless the farm obtains a permit from the local health department that has jurisdiction over the area in which the farm is located.
  - (b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, a local health department shall make standards and regulations relating to the permitting of an agritourism food establishment.
  - (c) In accordance with Section 26A-1-114, a local health department shall impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.
- (3)
  - (a) A local health department with jurisdiction over an area in which a farm is located may grant an agritourism food establishment permit to the farm.
  - (b) Nothing in this section prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of the agritourism food establishment violates the terms of the permit or the requirements of this section.
- (4) A farm may qualify for an agritourism food establishment permit if:
  - (a) poultry products that are served at the agritourism food establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;
  - (b) meat not described in Subsection (4)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;
  - (c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements established by the department;
  - (d) the farm operates the agritourism food establishment for no more than 14 consecutive days at a time; and
  - (e) the farm complies with the requirements of this section.
- (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.
- (6) A local health department shall:
  - (a) ensure compliance with the rules described in Subsection (5) when inspecting a kitchen facility;
  - (b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:
    - (i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;
    - (ii) for an unscheduled inspection:
      - (A) of an event scheduled to last no more than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or
      - (B) of an event scheduled to last longer than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation, or conducts the inspection during operating hours of the agritourism food establishment; or
    - (iii) for subsequent inspections if:

- (A) the local health department provides the operator with reasonable advanced notice about an inspection; or
  - (B) the local health department has a valid reason to suspect that the agritourism food establishment is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and
  - (c) document the reason for any inspection after the permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.
- (7) An agritourism food establishment shall:
- (a) take steps to avoid any potential contamination to:
    - (i) food;
    - (ii) equipment;
    - (iii) utensils; or
    - (iv) unwrapped single-service and single-use articles; and
  - (b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:
    - (i) symptoms associated with acute gastrointestinal illness; or
    - (ii) a communicable disease that is transmissible through food.
- (8) When making the rules described in Subsection (5), the department may not make rules regarding:
- (a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located;
  - (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;
  - (c) the individuals allowed access to the food preparation areas, food storage, and washing areas, except during food preparation;
  - (d) display guards, covers, or containers for display foods, except to require that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;
  - (e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;
  - (f) reuse by an individual of drinking cups and tableware for multiple portions;
  - (g) utensils and equipment, except to require that utensils and equipment used in the home kitchen:
    - (i) retain their characteristic qualities under normal use conditions;
    - (ii) are properly sanitized after use; and
    - (iii) are maintained in a sanitary manner between uses;
  - (h) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;
  - (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;
  - (j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;
  - (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

- (l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature controlled food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;
  - (m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
  - (n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;
  - (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;
  - (p) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;
  - (q) lighting, except to require that food preparation areas are well lit by natural or artificial light whenever food is being prepared;
  - (r) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;
  - (s) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas during food service and food preparation;
  - (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
  - (u) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;
  - (v) submission of plans and specifications before construction or remodel of a kitchen facility;
  - (w) the number and type of time or temperature controlled food offered for sale;
  - (x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;
  - (y) the use of an open air barbecue, grill, or outdoor wood-burning oven; or
  - (z) food safety certification, except any individual who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section 26B-7-413.
- (9) An operator applying for an agritourism food establishment permit shall provide to the local health department:
- (a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment; and
  - (b) written standard operating procedures that include:
    - (i) all food that will be stored, handled, and prepared;
    - (ii) the proposed procedures and methods of food preparation and handling;
    - (iii) procedures, methods, and schedules for cleaning utensils and equipment;
    - (iv) procedures and methods for the disposal of refuse; and
    - (v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.
- (10) In addition to a fee charged under Subsection (2), if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.
- (11) An agritourism food establishment permit:
- (a) is nontransferable;

- (b) is renewable on an annual basis;
  - (c) is restricted to the location listed on the permit; and
  - (d) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.
- (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Renumbered and Amended by Chapter 308, 2023 General Session

**26B-7-416 Microenterprise home kitchen permits -- Fees -- Safety and health inspections -- Permit requirements.**

- (1) As used in this section, "operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.
- (2)
- (a) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.
  - (b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, the department shall make standards and regulations relating to the permitting of a microenterprise home kitchen.
  - (c) In accordance with Section 26A-1-114, a local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.
- (3)
- (a) A local health department with jurisdiction over an area in which a microenterprise home kitchen is located may grant a microenterprise home kitchen permit to the operator.
  - (b) Nothing in this section prevents a local health department from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of the permit or this section.
- (4) An operator may qualify for a microenterprise home kitchen permit if:
- (a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations;
  - (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets the requirements established by the department;
  - (c) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit; and
  - (d) the microenterprise home kitchen complies with the requirements of this section.
- (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens.
- (6) A local health department shall:
- (a) ensure compliance with the rules described in Subsection (5) when inspecting a microenterprise home kitchen;
  - (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that requests a microenterprise home kitchen permit only:
    - (i) for an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;
    - (ii) for an unscheduled inspection, if the local health department conducts the inspection:



- (A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or
  - (B) during operating hours of the microenterprise home kitchen; or
  - (iii) for subsequent inspections if:
    - (A) the local health department provides the operator with reasonable advanced notice of the inspection; or
    - (B) the local health department has a valid reason to suspect that the microenterprise home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and
  - (c) document the reason for any inspection after the initial inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.
- (7) A microenterprise home kitchen shall:
- (a) take steps to avoid any potential contamination to:
    - (i) food;
    - (ii) equipment;
    - (iii) utensils; or
    - (iv) unwrapped single-service and single-use articles;
  - (b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:
    - (i) symptoms associated with acute gastrointestinal illness; or
    - (ii) a communicable disease that is transmissible through food; and
  - (c) comply with the following requirements:
    - (i) time or temperature control food shall be prepared, cooked, and served on the same day;
    - (ii) food that is sold or provided to a customer may not be consumed onsite at the microenterprise home kitchen operation;
    - (iii) food that is sold or provided to a customer shall be picked up by the consumer or delivered within a safe time period based on holding equipment capacity;
    - (iv) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;
    - (v) molluscan shellfish may not be served or sold;
    - (vi) the operator may only sell or provide food directly to consumers and may not sell or provide food to any wholesaler or retailer; and
    - (vii) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.
- (8) When making the rules described in Subsection (5), the department may not make rules regarding:
- (a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas;
  - (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;
  - (c) the individuals allowed access to the food preparation areas, food storage areas, and washing areas, except during food preparation;

- (d) display guards, covers, or containers for display foods, except to require that ready-to-eat food is protected from contamination during storage, preparation, handling, transport, and display;
- (e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;
- (f) utensils and equipment, except to require that utensils and equipment used in the home kitchen:
  - (i) retain their characteristic qualities under normal use conditions;
  - (ii) are properly sanitized after use; and
  - (iii) are maintained in a sanitary manner between uses;
- (g) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;
- (h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;
- (i) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;
- (j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;
- (k) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;
- (l) fixed floor-mounted and table-mounted equipment, except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- (m) dedicated laundry facilities, except to require that linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;
- (n) water, plumbing, drainage, and waste, except to require that:
  - (i) sinks be supplied with hot and cold potable water from:
    - (A) an approved public water system as defined in Section 19-4-102;
    - (B) if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water, a source that meets the local health department's regulations regarding the safety of drinking water; or
    - (C) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three year period for lead and copper; and
  - (ii) food preparation and service is discontinued in the event of a disruption of potable water service;
- (o) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;
- (p) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;
- (q) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;
- (r) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas;

- (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
  - (t) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;
  - (u) submission of plans and specifications before construction or remodel of a kitchen facility;
  - (v) the number and type of time or temperature controlled food offered for sale, except:
    - (i) a raw time or temperature controlled food such as raw fish, raw milk, and raw shellfish;
    - (ii) any food requiring special processes that would necessitate a HACCP plan; and
    - (iii) fish from waters of the state;
  - (w) approved food sources, except to require that:
    - (i) food in a hermetically sealed container is obtained from a regulated food processing plant;
    - (ii) liquid milk and milk products are obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
    - (iii) fish for sale or service are commercially and legally caught;
    - (iv) mushrooms picked in the wild are not offered for sale or service; and
    - (v) game animals offered for sale or service are raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (x) the use of items produced under this section; or
  - (y) the use of an open air barbecue, grill, or outdoor wood-burning oven.
- (9) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:
- (a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the microenterprise home kitchen; and
  - (b) written standard operating procedures that include:
    - (i) all food that will be stored, handled, and prepared;
    - (ii) the proposed procedures and methods of food preparation and handling;
    - (iii) procedures, methods, and schedules for cleaning utensils and equipment;
    - (iv) procedures and methods for the disposal of refuse; and
    - (v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.
- (10) In addition to a fee charged under Subsection (2), if the local health department is required to inspect the microenterprise home kitchen as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.
- (11) A microenterprise home kitchen permit:
- (a) is nontransferable;
  - (b) is renewable on an annual basis;
  - (c) is restricted to the location and hours listed on the permit;
  - (d) shall include a statement that reads: "This location is permitted under modified FDA requirements."; and
  - (e) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.
- (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Renumbered and Amended by Chapter 308, 2023 General Session