37.110.204 FOOD SUPPLIES

(1) Food must be free from adulteration or other contamination and must be safe for human consumption. Food must be obtained from sources that comply with all laws relating to food and food labeling which include, but are not limited to, laws of the federal food and drug administration (FDA); environmental protection agency (EPA), United States department of agriculture (USDA), Montana department of livestock; Montana department of agriculture; and the Montana Food, Drug and Cosmetic Act, Title 50, chapter 31, MCA. The use of food in hermetically sealed containers that was not prepared in a licensed food manufacturing establishment is prohibited. Food prepared in a private home may not be used or offered for human consumption in a licensed food service establishment.

(2) Fluid milk and fluid milk products used or served must be pasteurized and must meet grade A quality standards. Dry milk and dry milk products must be made from pasteurized milk and milk products.

(3) Fresh and frozen shucked shellfish (oysters, clams or mussels), must be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number. Shell stock and shucked shellfish must be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams or mussels) must be identified by an attached tag which states the name and address of the original shell stock processor, the kind and quantity of shell stock and the interstate certification number issued by the state or foreign shellfish control agency. Shell stock tags or labels must be retained for 90 days from the date the container is emptied. Molluscan shellfish that are recreationally caught must not be received for sale or service.

(4) Only grade B eggs or better with shell intact without cracks, or pasteurized liquid, frozen, or dry eggs or dry egg products must be used.

(5) Fish, other than molluscan shellfish, that are intended for consumption in their raw form and allowed as specified under ARM 37.110.207(8)(b) must be obtained from a supplier that freezes the fish or must be frozen on the premises as specified in ARM 37.110.207(8)(b).

(6) Fish may not be received for sale or service unless they are commercially and legally caught and harvested.

(7) Game animals and exotic species may be received for sale or service if raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction. The inspection of game animals and exotic species must include an antemortem and postmortem examination by a regulatory authority as provided in 81-9-230, MCA.

(8) Ice for use as a food or a cooling medium must be made from drinking water which complies with the requirements in ARM 37.110.217. After use as a cooling medium, ice may not be used as food.
Receiving temperature of refrigerated, potentially hazardous food must be 41°F (5°C) or below unless otherwise required by law.

Potentially hazardous food that is labeled frozen and shipped frozen by a food processing plant must be received frozen. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

Rule 05 reserved

37.110.206 FOOD STORAGE AND PROTECTION

(1) Food must be stored as follows to prevent potential contamination:

(a) Food must be stored in a clean, dry location where it is not exposed to contamination and is at least 6 inches (15 centimeters) above the floor.

(b) Food in packages and working containers may be stored less than 6 inches (15 centimeters) above the floor if it is stored on case lot handling equipment, such as dollies, racks, or pallets. 

(c) Pressurized beverage containers; food in waterproof containers, such as bottles or cans in cases; and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

(d) Food may not be stored in toilet rooms; dressing rooms; garbage rooms; mechanical rooms; under sewer lines that are not shielded to intercept potential drips; under leaking water lines, including leaking automatic fire sprinkler heads; under lines on which water has condensed; under open stairwells; or under other sources of contamination.

(e) Food packages must be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(f) Working containers holding food or food ingredients that are removed from their original packages, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, must be identified with the common name of the food. The labeling must be on the container or on a nondetachable lid. Those containers holding food that can be readily and unmistakably recognized, such as dry pasta, need not be identified.

(g) Packaged food may not be stored in direct contact with water or undrained ice if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the water or ice.

(h) Whole raw fruits or vegetables, cut raw vegetables such as celery or carrot sticks, cut potatoes, and tofu may be immersed in ice or water that is at a safe temperature.

(i) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(2) Packaged and unpackaged food must be protected from cross-contamination by:

(a) cleaning and sanitizing equipment and utensils as specified under ARM 37.110.215;
(b) storing food removed from its original container or package in a clean and sanitized covered container. Covers must be impervious and nonabsorbent, except that clean laundered linens or napkins may be used for lining or covering containers of bread or rolls. Quarters or sides of meat or whole and uncut processed meats may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat;

(c) cleaning hermetically sealed containers of food of visible soil before opening;

(d) storing damaged, spoiled, or recalled products being held for credit, redemption, or return in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles;

(e) separating fruits and vegetables, before they are washed as specified under ARM 37.110.207(3) from ready-to-eat food;

(f) separating raw animal foods during storage, preparation, holding, and display from raw ready-to-eat food, including other raw animal food such as fish for sushi or molluscan shellfish; other raw ready-to-eat food, such as vegetables; and cooked ready-to-eat food;

(g) separating types of raw animal foods from each other, such as beef, fish, lamb, pork, and poultry, during storage, preparation, holding, and display by any of the following methods:

(i) using separate equipment for each type;

(ii) arranging raw animal products by cooking temperature, with those products requiring lower cooking temperatures at the top and those products requiring higher cooking temperatures at the bottom;

(iii) arranging each type of food in equipment so that cross-contamination of one type with another is prevented; or

(iv) preparing each type of food at different times or in separate areas.

(3) Enough conveniently located refrigeration facilities or effectively insulated facilities must be provided to assure the maintenance of potentially hazardous food at 41°F (5°C) during storage except as specified in ARM 37.110.203(61). Each refrigerated facility storing potentially hazardous food must be provided with a numerically scaled indicating temperature measuring device, accurate to ±3°F (1.5°C), located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording temperature measuring devices, accurate to ±3°F (1.5°C) may be used in lieu of indicating temperature measuring devices.

(4) Frozen food must be kept frozen.

(5) Enough conveniently located hot food storage facilities must be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food must be provided with a numerically scaled indicating temperature measuring device, accurate to ±3°F (1.5°C) located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording temperature measuring devices, accurate to ±3°F (1.5°C) may be used in lieu of indicating thermometers. Where it is impractical to
install temperature measuring devices on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product temperature measuring device must be available and used to check internal food temperature.

(6) The internal temperature throughout potentially hazardous foods requiring hot storage must be 135°F (57.2°C) or above except during necessary periods of preparation. Potentially hazardous food to be transported must be held at a temperature of 135°F (57.2°C) or above unless maintained in accordance with (3) and (4) of this rule.

(7) In the event of a fire, flood, power outage, or similar event that might result in the contamination of food or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action that it deems necessary within its statutory authority to protect the public health. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1985 MAR p. 928, Eff. 7/12/85; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.207 FOOD PREPARATION

(1) Sinks used for the preparation of foods:

(a) must be cleaned and sanitized as required by ARM 37.110.215 immediately before beginning the preparation of the food; and

(b) may not be used for hand washing or waste water disposal.

(2) Food employees shall adhere to the requirements in ARM 37.110.210 in the preparation of food.

(3) Raw fruits and vegetables must be thoroughly washed in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form. Fruits and vegetables may be washed by using chemicals approved by the EPA. Any sink used to wash, prepare, store, or soak food must be indirectly connected to the sewer through an air gap.

(4) The following are requirements for the destruction of organisms of public health concern:

(a) Raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods, must be cooked to heat all parts of the food as measured by temperature measuring devices for the specified times listed below:

<table>
<thead>
<tr>
<th>Item</th>
<th>Temperature</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fish and Meat</td>
<td>145°F (63°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Shell eggs individually ordered for immediate service</td>
<td>145°F (63°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Item Description</td>
<td>Cooking Temperature</td>
<td>Holding Time</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Shell eggs prepared for other than individual order for immediate service</td>
<td>155°F (68°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Pork products</td>
<td>145°F (63°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td>Comminuted (ground) beef, pork and fish, exotic game, and injected meats (Choose any one)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>145°F (63°C)</td>
<td>for 3 min</td>
</tr>
<tr>
<td></td>
<td>150°F (66°C)</td>
<td>for 1 min</td>
</tr>
<tr>
<td></td>
<td>155°F (68°C)</td>
<td>for 15 sec</td>
</tr>
<tr>
<td></td>
<td>158°F (70°C)</td>
<td>for &lt; 1 sec</td>
</tr>
<tr>
<td>Poultry, wild game, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites</td>
<td>165°F (74°C)</td>
<td>for 15 sec</td>
</tr>
</tbody>
</table>

(b) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham must be cooked:

(i) in an oven that is preheated to the temperature specified for the roast’s weight in the following chart and that is held at that temperature;

<table>
<thead>
<tr>
<th>Oven type</th>
<th>Roast size: under 10 pounds</th>
<th>over 10 pounds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Still dry oven</td>
<td>350°F (177°C)</td>
<td>250°F (121°C)</td>
</tr>
<tr>
<td>Convection oven</td>
<td>325°F (163°C)</td>
<td>250°F (121°C)</td>
</tr>
<tr>
<td>High humidity (&gt;90% for 1 hour); and</td>
<td>250°F (121°C)</td>
<td>250°F (121°C)</td>
</tr>
</tbody>
</table>

(ii) as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

<table>
<thead>
<tr>
<th>Cooking temperature</th>
<th>holding time</th>
</tr>
</thead>
<tbody>
<tr>
<td>130°F (54°C)</td>
<td>121 minutes</td>
</tr>
<tr>
<td>Temperature (°F/°C)</td>
<td>Time (minutes)</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>132°F (56°C)</td>
<td>77</td>
</tr>
<tr>
<td>134°F (57°C)</td>
<td>47</td>
</tr>
<tr>
<td>136°F (58°C)</td>
<td>32</td>
</tr>
<tr>
<td>138°F (59°C)</td>
<td>19</td>
</tr>
<tr>
<td>140°F (60°C)</td>
<td>12</td>
</tr>
<tr>
<td>142°F (61°C)</td>
<td>8</td>
</tr>
<tr>
<td>144°F (62°C)</td>
<td>5</td>
</tr>
<tr>
<td>145°F (63°C)</td>
<td>3</td>
</tr>
</tbody>
</table>

(c) Subsections (4)(a) and (b) do not apply to raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw or partially cooked animal foods, that are served or offered for sale in a ready-to-eat form upon consumer request.

(d) A raw or undercooked whole muscle intact beef steak may be served or offered for sale in a ready-to-eat form if:

(i) the food service establishment serves a population that is not a highly susceptible population; and

(ii) the steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above, and a cooked color change is achieved on all external surfaces.

(e) Fruits and vegetables that are cooked for hot holding must be cooked to a temperature of 135°F (57.2°C).

(5) Raw animal foods cooked in a microwave oven shall be:

(a) rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(b) covered to retain surface moisture;

(c) heated to a temperature of a least 165°F (74°C) in all parts of the food; and

(d) allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

(6) Cooked and refrigerated food that is prepared for Immediate service in response to an individual consumer order, such as a roast beef sandwich au jus may be served at any temperature.

(7) The cooling of potentially hazardous food must be accomplished in the following manner:

(a) Cooked potentially hazardous food must be cooled as a continuous process:

(i) from 135°F (57.2°C) to 70°F (21°C) within 2 hours; and
(ii) from 70°F (21°C) to 41°F (5°C), or below, within 4 hours, or 45°F (7°C) or below as provided in ARM 37.110.203(61).

(b) Potentially hazardous food must be cooled to 41°F (5°C) or below, except as specified in ARM 37.110.203(61), within 4 hours if prepared from ingredients at ambient temperatures, such as reconstituted foods and canned tuna.

(c) A potentially hazardous food received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier must be cooled to 41°F (5°C) or below, or 45°F (7°C) or below, as provided in ARM 37.110.203(61) or to a temperature specified on the manufacturer’s label, within 4 hours.

(d) Cooling must be accomplished in accordance with the time and temperature criteria specified in (4)(a) through (c) of this rule using one or more of the following methods based on the type of food being cooled:

(i) placing the food in shallow pans;
(ii) separating the food into smaller or thinner portions;
(iii) using rapid cooling equipment;
(iv) stirring the food in a container placed in an ice water bath;
(v) using containers that facilitate heat transfer;
(vi) adding ice as an ingredient; or
(vii) other effective methods.

(e) When placed in cooling or cold holding equipment, food containers in which food is being cooled must be arranged in the equipment to provide maximum heat transfer through the container walls and must be loosely covered. However, food may be uncovered if it is protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.

(8) Reheating for hot holding must be done as follows:

(a) Except as specified in (4)(b) through (e), potentially hazardous food that is cooked, cooled, and reheated for hot holding must be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) for 15 seconds.

(b) Potentially hazardous food reheated in a microwave oven for hot holding must be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.

(c) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the plant, must be heated to a temperature of at least 140°F (60°C) for hot holding.

(d) Reheating for hot holding must be done rapidly and the time the food is between the temperature 41°F and 165°F may not exceed 2 hours.

(e) Remaining unsliced portions of roasts of beef that are cooked as specified under ARM 37.110.207(4)(b) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under ARM 37.110.207(4)(b).

(9) The following are approved methods of parasite destruction by freezing:
(a) Except as specified in (8)(b) of this rule, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than mollusk an shellfish that is served in ready-to-eat form must be frozen throughout to a temperature of:

(i) -4°F (-20°C) or below for 168 hours (7 days) in a freezer; or
(ii) -31°F (-35°C) or below for 15 hours in a blast freezer.

(b) If the fish are tuna of the species Thunnus alalunga, Thunnus albacares (yellow fin tuna), Thunnus atlanticus, Thunnus maccokayi (blue fin tuna, southern), Thunnus obesus (bigeye tuna), or Thunnus thynnus (blue fin tuna, northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified in (8)(a) of this rule.

(10) Potentially hazardous food may not be held at temperatures above 45°F (7°C) for refrigerated food, or below 135°F (57.2°C) for heated food, for more than:

(a) 4 hours, including the time needed for preparation for cooking; or
(b) the time specified in the cooling criteria in (7) of this rule.

(11) Potentially hazardous foods must be thawed:

(a) in refrigerated units at a temperature not to exceed 41°F (5°C), or as specified in ARM 37.110.203(61);

(b) under potable running water of a temperature of 70°F (22°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow for a period of time that does not allow thawed portions of ready-to-eat food to rise above 45°F (5°C), or as specified in (9) of this rule;

(c) in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or (d) as part of the conventional cooking process. (12) Food must be protected from:

(a) contamination that may result from the addition of:

(i) unsafe or unapproved food or color additives; and
(ii) unsafe or unapproved levels of approved food and color additives;

(b) application of sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B-1; or

(c) service or selling of food specified in (11)(b) of this rule that is treated with sulfiting agents before receipt by the food service establishment, except that grapes need not meet this subsection.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; AMD, 1986 MAR p. 1076, Eff. 6/27/86; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.208 FOOD DISPLAY AND SERVICE

(1) Cold potentially hazardous food must be kept at an internal temperature of 41°F (5°C), or as specified in ARM 37.110.203(61), or below, and hot potentially hazardous food must be kept at an
internal temperature of 135°F (57.2°C) or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130°F (55°C).

(2) Ice for consumer use must be dispensed only by food employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic self service ice-dispensing equipment. Ice-dispensing utensils must be stored on a clean surface or in the ice with the dispensing utensil’s handle extended out of the ice. Between uses, ice transfer receptacles must be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap. Liquid water drain lines may not pass through an ice machine or ice storage bin unless the tubes are properly shielded or separated from the potable ice.

(3) Food must be protected from contamination by equipment, utensils, and wiping cloths by:

(a) preventing contact with wiping cloths that do not meet the requirements in ARM 37.110.215(6) through (8);

(b) preventing contact with surfaces of utensils and equipment that are not cleaned and sanitized;

(c) ensuring utensils are stored properly during pauses in food preparation or dispensing, as follows:

(i) except as specified in (3)(b), in the food with their handles above the top of the food and the container;

(ii) in food that is not potentially hazardous with their handles above the top of the food in containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon; (iii) in running water of sufficient velocity to flush particulates to the drain, if the utensils are used with moist food such as ice cream or mashed potatoes;

(iv) in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

(v) cleaning, sanitizing, and air drying between uses.

(4) In equipment that dispenses or vends liquid food or ice in unpackaged form:

(a) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food must be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food.

(b) The delivery tube, chute, and orifice must be protected from manual contact and be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(i) located in an outside area that does not afford the protection of an enclosure against rain, windblown debris, insects, rodents, and other contaminants; and

(ii) available for self-service during hours when it is not under the full-time supervision of a food employee.
(c) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment must be designed to prevent contact with the lip contact surface of glasses or cups that are refillable.

(5) Molluscan shellfish life-support system display tanks that are used to store and display shellfish that are offered for human consumption must be operated and maintained to ensure that: (a) water used with fish other than molluscan shellfish does not flow into the molluscan tanks; (b) the safety and quality of the shellfish as they were received are not compromised by use of the tank; and (c) the identity of the source of the shell stock is retained as specified in ARM 37.110.204(3).

(6) Date marking and disposition of ready-to-eat potentially hazardous food must be handled in the following manner:

(a) Refrigerated, ready-to-eat, potentially hazardous food prepared and held for more than 24 hours in a food establishment must be clearly marked at the time of preparation to indicate the "sell by" date, "best if used by" date, or the date by which the food must be consumed which is, including the day of preparation:

(i) 7 calendar days or less from the day that the food is prepared, if the food is maintained at 41°F (5°C) or less; or

(ii) 4 calendar days or less from the day the food is prepared, if the food is maintained between 42°F and 45°F (5.5°C and 7°C).

(b) A container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a food manufacturing establishment must be clearly marked to indicate the date by which the food must be consumed:

(i) 7 calendar days or less after the original container is opened, if the food is maintained at 41°F (5°C) or less; or

(ii) 4 calendar days or less from the day the original container is opened, if the food is maintained between 42°F and 45°F (5.5°C and 7°C).

(c) Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shut-off control that is activated at a temperature of:

(i) 41°F (5°C) or below must be discarded if not sold within 7 days; or

(ii) between 42°F and 45°F (5.5°C and 7°C) must be discarded if not sold within 4 days. (d) The requirements in (6)(a) and (b) of this rule do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(e) Subsection (6)(b) of this rule does not apply to whole, unsliced portions of a cured and processed food product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.

(7) Time is allowable as a public health control. (a) Time only, rather than time in conjunction with temperature, maybe used as the public health control for a working supply of potentially hazardous
food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for
service for immediate consumption, if the following requirements are met:

(i) the food is marked or otherwise identified with the time within which it must be cooked, served,
or discarded;

(ii) the food is served or discarded within 4 hours from the time when the food is removed from
temperature control;

(iii) food in unmarked containers or packages, or for which the time expires, is discarded; and

(iv) written procedures are maintained in the food establishment and made available to the
regulatory authority upon request to ensure compliance with (7)(a)(i) through (iii) of this rule and
ARM 37.110.206 for food that is prepared, cooked, and refrigerated before time is used as a public
health control. (b) Once time is implemented as a control measure for potentially hazardous food,
no other measures may be substituted.

(b) Food on display for self-service by the consumer must be protected from contamination by:

(a) use of packaging; counter, service line, or salad bar food guards; display cases; or similarly
effective means;

(b) providing suitable utensils or effective dispensing methods for self-service operations for ready-
to-eat foods;

(c) protecting condiments by using:

(i) dispensers that are designed to provide protection;
(ii) food display units provided with proper dispensing utensils;
(iii) original containers designed for dispensing; or
(iv) individual packages or portions; and

(d) not allowing food that has been served or sold and in the possession of a consumer and that is
unused or returned by the consumer to be offered again as food for human consumption. However,
food that is not potentially hazardous, such as crackers and condiments, in an unopened original
package and maintained in sound condition may be reserved or resold to that population that is not
classified as highly susceptible;

(e) not allowing self-service consumers to use soiled tableware, including single-service articles, to
obtain additional food from display and serving equipment. However, cups and glasses may be
reused if refilling is a contamination free process. A sign similar to the one shown must be posted to
inform the consumer of this requirement: "CONSUMER: Please obtain clean tableware before
obtaining additional food."

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79;
TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.209 FOOD TRANSPORTATION

(1) During transportation, food and food utensils must be kept in covered containers or completely
wrapped or packaged so as to be protected from contamination. Foods in original individual
packages do not need to be over wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food must meet the requirements of this subchapter relating to food protection and food storage.

(History: 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.212 MATERIALS FOR EQUIPMENT AND UTENSILS

(1) Equipment and utensils must be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(2) Cast iron may not be used for utensils or food contact surfaces of equipment except as a surface for cooking. However, cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(3) If solder is used, it must be composed of safe materials and be corrosion resistant. Solder and flux containing lead in excess of 0.2% may not be used on surfaces that contact food.

(4) Use of wood is limited as follows:

(a) Except as specified in (4)(b) through (e) of this rule, wood and wood wicker may not be used as a food contact surface.

(b) Hard maple or an equivalently hard, close-grained wood may be used for:

(i) cutting boards; cutting blocks; bakers’ tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and non-single-service chopsticks; and

(ii) wooden paddles used in confectionery operations for Pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.

(c) Whole uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(d) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(i) untreated wood containers; or

(ii) treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800.

(e) Wood may be used for single-service articles, such as chopsticks, stirrers and ice cream spoons.
(5) Cutting surfaces such as cutting blocks and boards that are subject to scratching and scoring must be resurfaced if they can no longer be effectively cleaned and sanitized, or be discarded if they are not capable of being sanitized.

(6) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, and that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods are permitted for repeated use.

(7) Mollusk and crustacea shells may be used only once as a serving container. Further re-use of such shells for food service is prohibited.

(8) Re-use of single-service articles is prohibited.

(9) Ceramic, china, crystal utensils, and decorative utensils, such as hand painted ceramic or china, that are used in contact with food must be lead-free or contain levels of lead not exceeding the following limits:

<table>
<thead>
<tr>
<th>Utensil Category</th>
<th>Description</th>
<th>Maximum Lead</th>
</tr>
</thead>
<tbody>
<tr>
<td>hot beverage mugs</td>
<td>coffee mugs</td>
<td>0.5 mg/L</td>
</tr>
<tr>
<td>large hollowware</td>
<td>bowls &gt; 1.16 Qt/[1.1L]</td>
<td>1 mg/L</td>
</tr>
<tr>
<td>small hollowware</td>
<td>bowls &lt; 1/16 Qt/[1.1L]</td>
<td>2.0 mg/L</td>
</tr>
<tr>
<td>flat utensils</td>
<td>plates, saucers</td>
<td>3.0 mg/L</td>
</tr>
</tbody>
</table>

(10) Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine; and may not be used for a fitting or tubing installed between a backflow prevention device and a carbonator.

(11) Galvanized metal may not be used for utensils or food contact surfaces of equipment that are used for beverages, acidic food, and moist food.

(History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 1979 MAR p. 677, Eff. 7/13/79; TRANS & AMD, 2000 MAR p. 3201, Eff. 11/23/00.)

37.110.213 EQUIPMENT AND UTENSIL DESIGN AND FABRICATION

(1) All equipment and utensils, including plastic-ware, must be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

(2) Food contact surfaces must be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads must be designed to facilitate cleaning; ordinary "v" type threads are
prohibited in food contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads must be minimized.

(3) Equipment containing bearings and gears requiring unsafe lubricants must be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food contact surfaces. Only food-safe lubricants must be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.

(4) Tubing and cold plates conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice provided such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units must not pass through the ice machine or the ice storage bin unless the tubes are properly shielded or separated from the potable ice.

(5) Sinks and drainboards must be self-draining.

(6) Unless designed for in-place cleaning, food contact surfaces must be accessible for cleaning and inspection:

(a) without being disassembled;
(b) by disassembling without the use of tools; or
(c) by easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

(7) Equipment intended for in-place cleaning must be designed and fabricated so that:

(a) cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;
(b) cleaning and sanitizing solutions will contact all interior food contact surfaces; and
(c) the system is self-draining or capable of being completely evacuated.

(8) Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods must have sealed electrical wiring, switches, and connections.

(9) Temperature measuring devices are required in all food establishments and must meet the following requirements:

(a) may not have sensors or stems constructed of glass, except that temperature measuring devices with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used;
(b) must have a numerical scale, printed record, or digital readout in increments no greater than 2°F (1°C);
(c) must be designed to be easily readable;
(d) devices that are used to check food temperatures must be scaled only in Celsius or scaled only in Fahrenheit or dually scaled in Celsius and Fahrenheit and must be accurate to ±2°F (±1°C);
(e) devices that are used to measure ambient air and water temperature that are scaled in Celsius or dually scaled in Celsius and Fahrenheit must be designed to be easily readable and accurate to ±3°F (±1.5°C) at the use range;

(f) in a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device must be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit;

(g) cold or hot holding equipment used for storing or displaying potentially hazardous food must be designed to include and must be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device’s temperature display; and

(h) subsection

(9) does not apply to equipment such as heat lamps, cold plates, bainsmarie, steam tables, insulated food transport containers, and salad bars when the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment.

(10) Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning must be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and must be of such material and in such repair as to be easily maintained in a clean and sanitary condition. Unfinished wood is not acceptable as a non-food contact surface in areas utilized for food preparation, equipment, or utensil washing.

(11) Hoods must be installed at or above all commercial type deep fat fryers, broilers, fry grills, steam-jacketed kettles, hot-top ranges, ovens, barbecues, rotisseries, dishwashing machines, and similar equipment which produce comparable amounts of steam, smoke, grease, or heat.

(12) Ventilation hoods and devices must be designed to prevent grease or condensation from collecting on walls and ceilings, and from dropping into foods or onto food contact surfaces.

(13) Filters or other grease extracting equipment must be readily removable for cleaning and replacement if not designed to be cleaned in place.

(14) Hoods, filters, hood fire extinguishing equipment and other ventilation system items must be kept clean.

(15) Equipment that was installed in a food service establishment prior to the effective date of this rule, and that does not fully meet all of the design and fabrication requirements of this rule, will be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are non-toxic. Replacement equipment and new equipment acquired after the effective date of this rule must meet the requirements of this subchapter.
