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 ARM37.110.207(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.
(9) Receiving temperature of refrigerated, potentially hazardous food must be 41°F (5°C) or below unless otherwise required by law.

(10) 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.)

37.110.210 FOOD EMPLOYEES

(1) No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, diarrhea illness or acute gastrointestinal illness or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons. Food employees experiencing persistent sneezing, coughing or runny nose that causes discharges from the eyes, nose or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(2) Food employees and other authorized persons shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment.

(3) Food employees shall clean their hands in a hand washing facility that conforms to the requirements in ARM 37.110.221.

(4) Food employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm running water after any of the following activities:

(a) immediately before engaging in food preparation, including working with exposed food, clean equipment and utensils and unwrapped single-service and single-use articles;
(b) during food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
(c) when switching between working with raw foods and working with ready-to-eat foods;
(d) after handling soiled equipment or utensils;
(e) after coughing, sneezing, using a handkerchief or disposable tissue;
(f) after using the toilet room;
(g) after eating, drinking or using tobacco;
(h) after touching bare human body parts other than clean hands and clean, exposed portions of arms;
(i) after caring for or handling support animals; or
(j) after engaging in other activities that contaminate the hands.

(5) If used, chemical hand sanitizers must:

(a) have active antimicrobial ingredients that are listed as safe and effective for application to human skin as an antiseptic handwash pursuant to the U.S. food and drug administration's regulations for over-the-counter health-care antiseptic drug products; and
(b) have only components that are:
(i) regulated for the intended use as food additives as specified in 21 CFR 178; or
(ii) generally recognized as safe for the intended use in contact with food within the meaning of the
federal Food, Drug, and Cosmetic Act, section 201(s); and

(c) be applied only to hands and arms that are cleaned with a cleaning compound in a hand washing
facility by thoroughly rubbing together the surfaces of their lathered hands and arms and
thoroughly rinsing with clean water;

(d) if a hand sanitizer or a chemical hand sanitizing solution used as a hand dip does not meet the
criteria specified in (5)(a) through (c) of this rule, use must be:

(i) followed by thorough hand rinsing in clean water before hand contact with food or by the use of
gloves; or
(ii) limited to situations that involve no direct contact with food by the bare hands;

(e) a chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a
strength equivalent to at least 100mg/L chlorine.

(6) Food employees in a food establishment shall adhere to the following requirements to prevent
contamination of food:

(a) minimize contact with exposed ready-to-eat food with bare hands by using utensils such as deli
tissue, spatula, tongs, single-use gloves or dispensing equipment;

(b) minimize contact of bare hands and arms with exposed food that is not in a ready-to-eat form;

(c) use single-use gloves for only one task, such as working with ready-to-eat food or with raw
animal food; use them for no other purpose; and discard them when they are damaged or soiled or
when interruptions occur in the food operation;

(d) use clean slash-resistant gloves with ready-to-eat foods that will not be subsequently cooked if
the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or are covered
with a smooth, durable, nonabsorbent glove, or single-use glove; (e) use a utensil only once to taste
food that is to be sold or served.

(7) Food employee practices must conform to the following requirements:

(a) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and
surfaces are cleanable and not rough.

(b) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or
artificial fingernails when working with exposed food.

(c) While preparing food, food employees may not wear jewelry on their arms and hands except a
simple wedding band.

(d) Food employees shall wear clean outer clothing. If uniforms are not provided, clean outer
coverings must be worn over clothing or the employee shall change to clean clothing if their
clothing is soiled.
(e) Food employees may eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils and linens; unwrapped single-service and single-use articles; or other items needing protection cannot occur. However, a food employee may drink from a closed beverage container if the container is handled to prevent contamination of the food employee’s hands, the container; exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles.

(f) Food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair. The hair restraints must be designed and worn to effectively keep hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single service and single-use articles.

(i) Subsection (7)(f) does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

(8) Persons unnecessary to the food establishment operation may not be allowed in the food preparation, food storage, or warewashing areas, except as allowed by the person in charge if steps are taken to ensure that exposed food, clean equipment, utensils and linens; and unwrapped single-service and single-use articles are protected from contamination.

37.110.215 EQUIPMENT AND UTENSIL CLEANING AND SANITATION

(1) Tableware must be washed, rinsed, and sanitized after each use.

(2) To prevent cross contamination, kitchenware and food contact surfaces of equipment must be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(3) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food contact surfaces of equipment must be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(4) The food contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens must be cleaned at least once a day. This requirement does not apply to hot oil cooking equipment and hot oil filtering systems. The food contact surfaces of all cooking equipment must be kept free of encrusted grease deposits and other accumulated soil.

(5) Non-food contact surfaces of equipment must be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(6) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, must be clean, dry and used for no other purpose.
(7) Moist cloths used for wiping food spills on food contact and nonfood contact surfaces of equipment must be laundered as required, stored in a chemical sanitizer and maintain sanitizing strength at the point of use.

(8) Dry or moist cloths that are used with raw animal foods must be kept separate from cloths used for other purposes, and the moist cloths used with raw animal foods must be kept in a separate sanitizing solution.

(9) Sponges may not be used in contact with cleaned and sanitized or in-use food contact surfaces.

(10) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments must be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink must be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments must be washed manually or cleaned through pressure spray methods.

(11) Drainboards or easily movable dish tables of adequate size must be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and must be located so as not to interfere with the proper use of the dishwashing facilities.

(12) Equipment and utensils must be pre flushed or pre-scraped and, when necessary, presoaked to remove food particles and soil.

(13) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing must be conducted in the following manner:

(a) Sinks must be cleaned prior to use;
(b) Equipment and utensils must be thoroughly washed in the first compartment with a hot detergent solution that is kept clean;
(c) Equipment and utensils must be rinsed free of detergent and abrasives with clean water in the second compartment;
(d) Equipment and utensils must be sanitized in the third compartment according to one of the methods included in (14)(a) through (g) of this rule.

(14) The food contact surfaces of all equipment and utensils must be sanitized by:

(a) immersion for at least 30 seconds in clean, hot water at a temperature of at least 170°F (77°C);
(b) immersion for at least 30 seconds in a clean solution containing at least 100 parts per million but not more than 200 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F (24°C);
(c) immersion for at least 30 seconds in a clean solution containing at least 12.5 parts per million but not more than 25 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F (24°C);
(d) immersion for at least 30 seconds in a clean solution containing no more than 200 parts per million of quaternary ammonium compound used by following manufacturer's instructions;
(e) immersion in a clean solution containing any other chemical sanitizing agent approved by the EPA that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F (24°C) for 30 seconds;

(f) treatment with steam free from unsafe materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined and raises the surface temperature to 160°F (72°C) or above; or

(g) rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under (14)(a) through (e) of this rule in the case of equipment too large to sanitize by immersion.

(15) When hot water is used for sanitizing, the following facilities must be provided and used:

(a) an integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170°F (77°C);
(b) a numerically scaled indicating temperature measuring device, accurate to ±3°F (1.5°C), convenient to the sink for frequent checks of water temperature; and
(c) dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(16) When chemicals are used for sanitization, they must not have concentrations higher than the maximum permitted in (14) and a test kit or other device that accurately measures the parts per million concentration of the solution must be used.

(17) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices must be properly installed and maintained in good repair. Machines and devices must be operated in accordance with manufacturers’ instructions, and utensils and equipment placed in the machine must be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, must be properly installed and maintained.

(18) The pressure of final rinse water supplied to spray-type dishwashing machines must not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4 inch IPS valve must be provided immediately up stream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(19) Machine or water line mounted numerically scaled indicating temperature measuring devices, accurate to ±3°F (1.5°C), must be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(20) Rinse water tanks must be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines must be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers’ specifications attached to the machines.
(21) Drainboards must be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and must be so located and constructed so as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

(22) Equipment and utensils must be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a pre-wash cycle is a part of the dishwashing machine operation. Equipment and utensils must be placed in racks, trays, or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(23) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used, provided:

(a) The temperature of the wash water may not be less than 120°F (49°C);
(b) The wash water must be kept clean.
(c) Chemicals added for sanitization purposes shall be automatically dispensed;
(d) Utensils and equipment must be exposed to the final chemical sanitizing rinse in accordance with manufacturers’ specifications for time and concentration;
(e) The chemical sanitizing rinse water temperature may not be less than 75°F (24°C) or less than the temperature specified by the machine’s manufacturer;
(f) Chemical sanitizers used must be approved by the EPA;
(g) A test kit or other device that accurately measures the parts per million concentration of the solution must be available and used.

(24) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water must be kept clean and water must be maintained at not less than the temperature stated below:

<table>
<thead>
<tr>
<th>(a)</th>
<th>Single-tank, stationary-rack, dual-temperature machine:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wash temperature</td>
<td>150°F (66°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
</tr>
<tr>
<td>(b)</td>
<td>Single-tank, stationary-rack, single-temperature machine:</td>
</tr>
<tr>
<td>Wash temperature</td>
<td>165°F (74°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>165°F (74°C)</td>
</tr>
<tr>
<td>(c)</td>
<td>Single-tank, conveyor machine:</td>
</tr>
<tr>
<td>Wash temperature</td>
<td>160°F (72°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>(d) Multi-tank, conveyor machine:</td>
<td></td>
</tr>
<tr>
<td>Wash temperature</td>
<td>150°F (66°C)</td>
</tr>
<tr>
<td>Pumped rinse temperature</td>
<td>160°F (72°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
</tr>
<tr>
<td>(e) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):</td>
<td></td>
</tr>
<tr>
<td>Wash temperature</td>
<td>140°F (60°C)</td>
</tr>
<tr>
<td>Final rinse temperature</td>
<td>180°F (83°C)</td>
</tr>
</tbody>
</table>

(25) Machines using hot water for sanitizing must achieve a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator.

(26) All dishwashing machines must be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(27) After sanitization, all equipment and utensils must be air dried.

(28) Food service establishments using a dishwashing machine shall provide a manual dish washing facility described in ARM 37.110.215(10) or provide a plan acceptable to the regulatory authority to adequately clean, rinse and sanitize utensils, in case the dishwashing machine is not functional.

37.110.221 HAND WASHING FACILITIES

(1) Hand washing facilities must be constructed, installed, and maintained to facilitate cleaning.

(2) Customers are prohibited from entering the food preparation, food service, food storage or utensil washing areas to use hand washing facilities.

(3) Hand washing facilities for food employees must be located within the area or areas where food is prepared or served and in utensil washing areas.

(a) The number and location of hand washing facilities in the areas will be determined by the convenience of the hand washing facility to the food employees.

(4) Hand washing facilities located outside and immediately adjacent to toilet rooms may also serve the food preparation, food service or utensil washing areas if convenient.

(5) Service sinks and utensil washing sinks may be used as handwashing facilities if properly located, equipped, maintained, and continuously available for hand washing.

(6) Sinks used for food preparation or curbed cleaning sinks used for mop water disposal may not be used for hand washing.
(7) Each hand washing facility must be provided with warm running water by means of a mixing valve or combination faucet. Any self-dispensing, slow-closing, or metering faucet used must be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited.

(8) A supply of hand-cleansing soap or detergent must be available at each hand washing facility.

(9) A supply of disposable towels in a wall-hung or protected container, a continuous towel system that supplies the user with a clean towel, or a hand drying device providing heated air must be conveniently located near each hand washing facility. Common towels are prohibited. When disposable towels are used, easily cleanable waste receptacles must be conveniently located near the hand washing facility.

(10) Hand washing facilities, soap dispensers, hand drying devices and all related fixtures must be kept clean and in good repair.

(37.110.222 GARBAGE AND REFUSE)

(1) Garbage and refuse must be kept in durable, easily cleanable, insect proof and rodent proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.

(2) Containers used in food preparation and utensil washing areas must be kept covered after they are filled or when not in active use.

(3) Containers stored outside the establishment, and dumpsters, compactors and compactor systems must be easily cleanable, must be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs must be in place at all times, except during cleaning.

(4) There must be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(5) Soiled containers must be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, must be provided and used for washing containers. Liquid waste from compacting or cleaning operations must be disposed of as sewage.

(6) Garbage and refuse on the premises must be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.
(7) Garbage or refuse storage rooms, if used, must be constructed of easily cleanable, nonabsorbent, washable materials; be kept clean; be insect-proof and rodent-proof; and be large enough to store the garbage and refuse containers that accumulate.

(8) Outside storage areas or enclosures must be large enough to store the garbage and refuse containers that accumulate and must be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside must be stored on or above a smooth surface of nonabsorbent materials such as concrete or machine-laid asphalt that is kept clean and maintained in good repair. (9) Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents. (10) Where garbage or refuse is burned on the premises, it must be done by controlled incineration that prevents the escape of particulate matter in accordance with the Montana Clean Air Act, 75-2-101, et seq., MCA and associated administrative rules. Areas around incineration facilities must be clean and orderly.

(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.)

37.110.223 INSECT AND RODENT CONTROL

(1) Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises must be utilized. The premises must be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(2) Devices that are used to electrocute flying insects must be designed to have escape-resistant trays. Devices that are used to electrocute flying insects and that may impel insects or insect fragments or to trap insects by adherence must be installed so that:

(a) the devices are not located within 5 feet of a food preparation area; and

(b) dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, utensils, and lines, and unwrapped single-service and single-use articles.

(3) Dead or trapped birds, insects, rodents and other pests must be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

(4) Rodent bait must be contained in covered, tamper-resistant bait stations.

(5) Tracking powder pesticide may not be used in a food service establishment. A nontoxic tracking powder such as talcum or flour may be used, but may not contaminate food, equipment, utensils, linens, and single-service articles.

(6) Openings to the outside must be effectively protected against the entrance of rodents. Outside openings must be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors must be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside must be tight-fitting and free of breaks. Screening material must not be less than 16 mesh to the inch.
(1) Cleaning of floors and walls, except emergency cleaning of floors, must be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials must be kept clean. Floors and walls must be cleaned by dustless methods, such as vacuum cleaning, wet cleaning, or the use of dust arresting sweeping compounds with brooms.

(2) In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain must be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of hand washing facilities, utensil washing or equipment washing, or food preparation sinks for this purpose is prohibited.

(3) When service sinks are used as a hand washing facility, such sinks must be located to prevent potential contamination of food or food contact surfaces of equipment and utensils.