



KING COUNTY
Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

March 6, 2013

R&R

Proposed No. BOH13-01.1

Sponsors

1 A RULE AND REGULATION relating to the protection of
2 the public against foodborne illness, amending R&R 05-06,
3 Section 3, and BOH 5.04.010, R&R 05-06, Section 4, and
4 BOH 5.04.020, R&R 09-05, Section 5, and BOH 5.04.035,
5 R&R 09-05, Section 6, and BOH 5.04.036, R&R 05-06,
6 Section 8, and BOH 5.04.290, R&R 91, Section 1 (part), as
7 amended, and BOH 5.04.370, R&R 91, Section 1 (part),
8 and BOH 5.04.390, R&R 05-06, Section 11, and BOH
9 5.04.400, R&R 09-05, Section 8, and BOH 5.04.405, R&R
10 05-06, Section 12, and BOH 5.04.410, R&R 05-06, Section
11 13, and BOH 5.04.420, R&R 05-06, Section 14, and BOH
12 5.04.450, R&R 05-06, Section 15, and BOH 5.04.460,
13 R&R 91, Section 1 (part), as amended, and BOH 5.04.620,
14 R&R 09-05, Section 10, and BOH 5.04.625, R&R 91,
15 Section 1 (part), as amended, and BOH 5.04.640, R&R 05-
16 06, Section 23, as amended, and BOH 5.34.030, R&R 05-
17 06, Section 30, and BOH 5.60.020, R&R 05-06, Section 31,
18 and BOH 5.60.030, R&R 05-06, Section 32, and BOH
19 5.60.040, R&R 05-06, Section 33, and BOH 5.60.050,

20 R&R 05-06, Section 34, and BOH 5.60.060 and R&R 05-
21 06, Section 35, and BOH 5.64.010, adding a new section to
22 BOH chapter 5.34, adding new sections to BOH chapter
23 5.60 and repealing R&R 05-06, Section 5, and BOH
24 5.04.030, R&R 05-06, Section 6, and BOH 5.04.040, R&R
25 05-06, Section 7, and BOH 5.04.280, R&R 91, Section 1
26 (part), and BOH 5.04.490, R&R 91, Section 1 (part), as
27 amended, and BOH 5.10.070, R&R 91, Section 1 (part), as
28 amended, and BOH 5.20.050, R&R 05-06, Section 20, and
29 BOH 5.26.010, R&R 05-06, Section 21, and BOH
30 5.34.010, R&R 05-06, Section 22, and BOH 5.34.020,
31 R&R 05-06, Section 24, and BOH 5.42.010, and R&R 05-
32 06, Section 29, and BOH 5.60.010; enacted pursuant to
33 RCW 70.05.060, including the latest amendments or
34 revisions thereto.

35 BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

36 SECTION 1. R&R 05-06, Section 3, and BOH 5.04.010 are each hereby
37 amended to read as follows:

38 **Apprentice meat cutter.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented
39 with the following:

40 Apprentice meat cutter (WAC ((~~246-215-011(1.1)~~)) 246-215-01115(3.1)).

41 "Apprentice meat cutter" means any person in a meat/fish establishment
42 employed for the purpose of selling meat or learning meat cutting while enrolled in a
43 meat cutter's apprenticeship program.

44 SECTION 2. R&R 05-06, Section 4, and BOH 5.04.020 are each hereby
45 amended to read as follows:

46 **Bakery.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented with the
47 following:

48 Bakery (WAC ((~~246-215-011(1.2)~~)) 246-215-01115(6.1)).

49 "Bakery" means any food establishment in which food or food products are mixed
50 and baked to final form and offered to the ultimate consumer.

51 SECTION 3. R&R 09-05, Section 5, and BOH 5.04.035 are each hereby
52 amended to read as follows:

53 **Farmers market or recurring event coordinator.** WAC ((~~246-215-011~~)) 246-
54 215-01115 is supplemented with the following:

55 Farmers market or recurring event coordinator (WAC ((~~246-215-011(10.1)~~)) 246-
56 215-01115(41.1)).

57 "Farmers market or recurring event coordinator" means an individual authorized
58 by the health officer to be responsible for the operation of the farmers market or recurring
59 event in conformance to the requirements of this title and the lawful orders of the health
60 officer, including providing the common facilities for and monitoring the farmers market
61 or recurring event food establishments and limited food establishments.

62 SECTION 4. R&R 09-05, Section 6, and BOH 5.04.036 are each hereby
63 amended to read as follows:

64 **Farmers market or recurring event food establishment.** WAC ((~~246-215-~~
65 ~~011~~)) 246-215-01115 is supplemented with the following:

66 Farmers market or recurring event food establishment (WAC ((~~246-215-~~
67 ~~011(10.2)~~)) 246-215-0111(41.2)).

68 "Farmers market or recurring event food establishment" means either a temporary
69 or a limited temporary food establishment at a farmers market or recurring event.

70 SECTION 5. R&R 05-06, Section 8, and BOH 5.04.290 are each hereby
71 amended to read as follows:

72 **General food service.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented
73 with the following:

74 General food service (WAC ((~~246-215-011(13.1)~~)) 246-215-01115(51.1)).

75 "General food service" means any stationary food establishment that provides
76 food to the public, guests, patrons or its personnel for on-premises or off-premises
77 consumption.

78 SECTION 6. R&R 91, Section 1 (part), as amended, and BOH 5.04.370 are each
79 hereby amended to read as follows:

80 **Grocery store.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented with the
81 following:

82 Grocery store (WAC ((~~246-215-011(13.2)~~)) 246-215-01115(53.1)).

83 "Grocery store" means a food establishment selling commercially prepared and
84 prepackaged potentially hazardous foods requiring refrigeration or freezer control, whole
85 produce and/or bulk foods for consumption off-site.

86 SECTION 7. R&R 91, Section 1 (part), and BOH 5.04.390 are each hereby
87 amended to read as follows:

88 **Health officer.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented with the
89 following:

90 Health officer (WAC ((~~246-215-011(13.3)~~)) 246-215-01115(56.1)).

91 "Health officer" means the director of the Seattle-King County Department of Public
92 Health or any of his or her authorized representatives.

93 SECTION 8. R&R 05-06, Section 11, and BOH 5.04.400 are each hereby
94 amended to read as follows:

95 **Limited food service.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented
96 with the following:

97 Limited food service (WAC ((~~246-215-011(15.1)~~)) 246-215-01115(65.1)).

98 "Limited food service" means a mobile food establishment with a limited menu
99 ((~~in a building~~)) and with or without permanent plumbing.

100 SECTION 9. R&R 09-05, Section 8, and BOH 5.04.405 are each hereby
101 amended to read as follows:

102 **Limited temporary food establishment.** WAC ((~~246-215-011~~)) 246-215-01115
103 is supplemented with the following:

104 Limited temporary food establishment (WAC ((~~246-215-011(15.2)~~)) 246-215-
105 01115(65.2)).

106 "Limited temporary food establishment" means a temporary food establishment
107 serving only foods that have been commercially prepared, prepackaged, pre-cooked, or
108 that require limited handling and preparation, such as espresso, personal pizzas,

109 pasteurized dairy products, farmer processed frozen meat, beverages, or other low risk or
110 non-potentially hazardous foods.

111 SECTION 10. R&R 05-06, Section 12, and BOH 5.04.410 are each hereby
112 amended to read as follows:

113 **Local health officer.** WAC ((~~246-215-011(17))~~) 246-215-01115(68) is not
114 adopted and the following is substituted:

115 Local health officer (WAC ((~~246-215-011(17))~~) 246-215-01115(68)).

116 "Local health officer" means the director of the Seattle-King County Department of
117 Public Health or any of ((~~his or her~~)) the director's authorized representatives.

118 SECTION 11. R&R 05-06, Section 13, and BOH 5.04.420 are each hereby
119 amended to read as follows:

120 **Meat cutter.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented with the
121 following:

122 Meat cutter (WAC ((~~246-215-011(17.1)~~) 246-215-01115(70.1)).

123 "Meat cutter" means any person cutting or preparing for sale fresh meat.

124 SECTION 12. R&R 05-06, Section 14, and BOH 5.04.450 are each hereby
125 amended to read as follows:

126 **Meat/fish market.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented with
127 the following:

128 Meat/fish market (WAC ((~~246-215-011(17.2))~~) 246-215-01115(70.2)).

129 "Meat/fish market" means all premises, buildings or parts thereof used for the
130 preparation for sale, sale or dispensing of meat, fish, game animals or poultry to
131 consumers and intended for off-premises consumption.

132 SECTION 13. R&R 05-06, Section 15, and BOH 5.04.460 are each hereby
133 amended to read as follows:

134 **Nonprofit institution.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented
135 with the following:

136 Nonprofit institution (WAC ((~~246-215-011(3.1)~~)) 246-215-01115(75.1)).

137 "Nonprofit institution" means a food establishment with valid, current United
138 States Internal Revenue Code section 501(c)(3) nonprofit status, Washington State

139 SECTION 14. R&R 91, Section 1 (part), as amended, and BOH 5.04.620 are
140 each hereby amended to read as follows:

141 **School kitchen.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented with the
142 following:

143 School kitchen (WAC ((~~246-215-011(24.1)~~)) 246-215-01115(109.1)).

144 "School kitchen" means a food establishment in an institution for learning limited
145 to the K-12 grades.

146 SECTION 15. R&R 09-05, Section 10, and BOH 5.04.625 are each hereby
147 amended to read as follows:

148 **School lunch program.** WAC ((~~246-215-011~~)) 246-215-01115 is supplemented
149 with the following:

150 School lunch program (WAC ((~~246-215-011(24.2)~~)) 246.215-01115(109.2)).

151 "School lunch program" means a school kitchen participating in the United States
152 Department of Agriculture National School Lunch Program under the ((~~Child Nutrition~~
153 ~~and WIC Reauthorization Act of 2004 (Public Law 108-265)~~)) Healthy Hunger-Free Kids
154 Act of 2010 (Public Law 111-296).

155 SECTION 16. R&R 91, Section 1 (part), as amended, and BOH 5.04.640 are
156 each hereby amended to read as follows:

157 **Seasonal food establishment.** WAC ((246-215-011)) 246-215-01115 is
158 supplemented with the following:

159 Seasonal food establishment (WAC ((246-215-011(24.2))) 246-215-
160 01115(110.1)).

161 "Seasonal food establishment" means a food establishment that routinely operates
162 for ~~((no more than six))~~ less than twelve consecutive months each year.

163 SECTION 17. R&R 05-06, Section 23, as amended, and BOH 5.34.030 are each
164 hereby amended to read as follows:

165 **Mobile food units - ((Additional)) Requirements and restrictions --**
166 **requirements.** WAC ((246-215-121(21))) 246-215-09100 is not adopted and the
167 following is substituted:

168 Mobile food units - ((Additional)) Requirements and restrictions - requirements
169 (WAC ((246-215-121(21))) 246-215-09100).

170 ~~((The health officer may allow a person to operate a food establishment with a
171 limited menu in a movable building without permanent plumbing under applicable
172 provisions of this section. In addition the following provisions must be met:~~

173 ~~(a) Toilet facilities must be within 200 feet of the establishment and available at
174 all times that the establishment is operating.~~

175 ~~(b) Facilities for cleaning and sanitizing must meet the provisions of this title and
176 be located within 200 feet of the establishment and available at all times that the
177 establishment is operating.~~

178 ~~(e) The owner of a mobile food unit operating in King County shall use a~~
179 ~~commissary kitchen located in King County.)~~

180 (1) The owner, permit holder and person in charge of a mobile food unit shall
181 comply with the requirements of this chapter, except as otherwise provided in this
182 section.

183 (2) The owner, permit holder or person in charge of a mobile food unit shall
184 obtain approval from other applicable regulating agencies prior to operating a mobile
185 food unit, including the Washington state department of labor and industries.

186 (3) The owner, permit holder or person in charge of a mobile food unit operating
187 in King County shall operate the mobile food unit from a commissary kitchen or
188 servicing area located in King County and approved by the health officer, and shall return
189 to such location for supplies, thorough cleaning, and other servicing activities, as
190 approved in a plan of operation. The owner, permit holder or person in charge shall store
191 the mobile food unit at a servicing area or other location approved by the health officer
192 while the mobile food unit is not in operation.

193 (4) The owner of a mobile food unit shall obtain a single, separate mobile food
194 unit permit for each mobile food unit. ~~((In addition))~~

195 (5) Except for limited food services, the owner of a mobile food unit shall obtain
196 a single, separate commissary permit for each commissary kitchen used, regardless of
197 whether any other mobile food unit owner uses the same commissary kitchen.

198 (6) The owner, permit holder or person in charge of a mobile food cart shall
199 ensure the cart body size is limited to three feet by six feet with each extension no longer
200 than eighteen inches.

201 NEW SECTION. SECTION 18. There is hereby added to BOH chapter 5.34 a
202 new section to read as follows:

203 **Mobile food units - Limited food service - requirements.** WAC 246-215-
204 09180 is not adopted and the following is substituted:

205 Mobile food units - Limited food service - requirements.

206 (1) The health officer may allow a person to operate a mobile food establishment
207 with a limited menu with or without permanent plumbing under applicable provisions of
208 this chapter.

209 (2) The owner, permit holder or person in charge of a limited food service shall
210 ensure that toilet facilities and facilities for cleaning and sanitizing are located within two
211 hundred feet of the limited food service and available at all times that the limited food
212 service is operating.

213 NEW SECTION. SECTION 19. There is hereby added to BOH chapter 5.60 a
214 new section to read as follows:

215 **Permit to operate - Issuance - Existing establishments, permit renewal, and**
216 **change of ownership.** WAC 246-215-08335 (2009 FDA Food Code 8-303.20) is not
217 adopted and the following is substituted:

218 Permit to operate - Issuance - Existing establishments, permit renewal, and
219 change of ownership.

220 (1) The health officer may renew a permit, issue duplicate or name change
221 permits for an existing food establishment or issue a permit to a new owner of an existing
222 establishment after a properly completed application is submitted, reviewed and

223 approved, the applicable fees are paid, and an inspection by the health officer shows that
224 the establishment is in compliance with this chapter.

225 (2) The health officer may deny an application for permit if the applicant has any
226 outstanding monies owed to the Seattle-King county Department of Public Health for
227 permit fees, late fees, checks returned by the bank, civil penalties, or other applicable
228 fees.

229 (3) Each permit shall expire on the date set forth on the face of the permit.

230 NEW SECTION. SECTION 20. There is hereby added to BOH chapter 5.60 a
231 new section to read as follows:

232 **Access - Refusal, reporting.** WAC 246-215-08425 (2009 FDA Food Code 8-
233 402.30) is not adopted and the following is substituted:

234 Access - Refusal, reporting. If after the health officer presents credentials and
235 provides notice as specified under WAC 246-215-08415, explains the authority upon
236 which access is requested, and makes a final request for access as specified under WAC
237 246-215-08420, the person in charge continues to refuse access, the health officer shall
238 provide details of the denial of access on an inspection report form and may suspend the
239 permit to operate the food establishment in accordance with this chapter.

240 SECTION 21. R&R 05-06, Section 30, and BOH 5.60.020 are each hereby
241 amended to read as follows:

242 **Permits required, suspension, revocation, enforcement**~~((--General))~~. WAC
243 ~~((246-215-200(2)))~~ 246-215-08600(2) is not adopted and the following is substituted:

244 Permits required, suspension, revocation, enforcement ~~((--General (WAC 246-~~
245 ~~215-200(2))))~~ (WAC 246-215-08600(2)).

246 The health officer may suspend any permit to operate a food establishment if:

247 (a) Continued operation of the food establishment constitutes an imminent or
248 actual health hazard;

249 (b) Operations, facilities, or equipment in the food establishment fail to comply
250 with these regulations;

251 (c) The owner, permit holder or person in charge does not comply with these
252 regulations; ~~((or))~~

253 (d) Interference with the health officer in the performance of his or her duties has
254 occurred; or

255 (e) The owner, permit holder or ~~((operator))~~ person in charge does not comply
256 with the conditions of a variance.

257 SECTION 22. R&R 05-06, Section 31, and BOH 5.60.030 are each hereby
258 amended to read as follows:

259 **Permit suspension process.** WAC ~~((246-215-200(6)))~~ 246-215-08600(6) is not
260 adopted and the following is substituted:

261 Permit suspension process ~~((WAC 246-215-200(6)))~~ (WAC 246-215-08600(6)).
262 ~~((WAC 246-215-200(6) is not adopted and the following is substituted:))~~

263 The health officer may adopt and use a permit suspension process different than
264 specified under subsections (2), (3), (4), or (5) of this section, including the permit
265 suspension process of ~~((Chapter 1.08 of this code))~~ BOH chapter 1.08.

266 SECTION 23. R&R 05-06, Section 32, and BOH 5.60.040 are each hereby
267 amended to read as follows:

268 **Permit revocation process.** WAC ((246-215-200(10))) 246-215-08600(10) is
269 not adopted and the following is substituted:

270 Permit revocation process (WAC ((245-215-200(10))) 246-215-08600(10)).

271 The health officer may use a permit revocation process different than specified
272 under subsections (7), (8), and (9) of this section, including the permit revocation process
273 of ((Chapter 1.08 of this code)) BOH chapter 1.08.

274 SECTION 24. R&R 05-06, Section 33, and BOH 5.60.050 are each hereby
275 amended to read as follows:

276 **Closure.** WAC ((246-215-200)) 246-215-08600 is supplemented as follows:

277 Closure (WAC ((246-215-200(12))) 246-215-08600(12)).

278 (a) Issuance. The health officer may issue a notice of closure to a food
279 establishment requiring the ((operator)) owner, permit holder or person in charge to cease
280 operation immediately if the ((operator)) owner, permit holder or person in charge has:

281 ((1-)) i. Failed to submit plans or receive approval from the health officer of
282 plans as required by this title, or an inspection indicates construction or renovation at the
283 food establishment is not in substantial compliance with plans approved by the health
284 officer;

285 ((2-)) ii. Failed to submit a permit application or receive approval from the
286 health officer of a permit application for a food establishment or failed to submit a
287 change of ownership application as required by this title; or

288 ((3-)) iii. Failed to pay a permit fee or any other applicable fee required by this
289 code.

290 (b) Notice of closure. The notice of closure shall state:

291 ~~((1-))~~ i. That the food establishment shall close immediately upon issuance of
292 the notice of closure to an ~~((operator))~~ owner, permit holder or person in charge and that
293 all preparation and service of food shall immediately cease.

294 ~~((2-))~~ ii. That no food preparation or service shall occur at the food
295 establishment after a notice of closure has been received by the ~~((operator))~~ owner,
296 permit holder or person in charge;

297 ~~((3-))~~ iii. The reason(s) for the notice of closure; and

298 ~~((4-))~~ iv. That the ~~((operator))~~ owner, permit holder or person in charge may
299 request reconsideration of the closure order by filing a written request with the health
300 officer within ten ~~((days))~~ days after delivery of the closure notice as provided in WAC
301 ~~((246-215-200))~~ 246-215-08600(3) and WAC ~~((246-215-220))~~ 246-215-08610.

302 SECTION 25. R&R 05-06, Section 34, and BOH 5.60.060 are each hereby
303 amended to read as follows:

304 **Examination, hold orders, condemnation, and destruction of food.** WAC
305 ~~((246-215-240(3)))~~ 246-215-03705(3) is not adopted and the following is substituted:

306 Examination, hold orders, condemnation, and destruction of food (WAC ~~((246-~~
307 ~~215-240(3)))~~ 246-215-03705(3)).

308 The health officer may examine or collect samples of food as necessary for
309 enforcement of this title. The cost of any laboratory testing shall be paid by the permit
310 holder or person in charge of the food establishment.

311 SECTION 26. R&R 05-06, Section 35, and BOH 5.64.010 are each hereby
312 amended to read as follows:

313 **Food establishment risk categories.** Every food establishment and every new
314 and renewal application for a food establishment permit shall be subject to a risk
315 assessment by the health officer. The health officer shall designate each food
316 establishment as low risk (risk category 1), medium risk (risk category 2), or high risk
317 (risk category 3) based on the types of food dispensed, food preparation steps, and types
318 of food processing or packaging performed at the establishment; provided, however, that
319 temporary food establishments shall be designated as either high risk or low risk. In
320 determining the most appropriate risk category for each establishment, the health officer
321 shall apply the risk category standards of this section.

322 A. Low Risk - Risk Category 1. Any food establishment performing only cold
323 holding or limited food preparation, with no further preparation, shall be designated a low
324 risk or risk category 1 establishment. The following shall also be designated as a low risk
325 or risk category 1 establishment:

326 1. Any establishment serving ready to eat, pre-packaged potentially hazardous
327 food or prepackaged frozen foods;

328 2. Any establishment serving espresso or blended drinks, with no other food
329 preparation;

330 3. Any establishment heating and serving individually, commercially-prepared
331 and prepackaged ready to eat foods for immediate service;

332 4. Any mobile food establishment serving only espresso or hot dogs or both,
333 with no other food preparation; and

334 5. Any bed and breakfast operation.

335 B. Medium Risk - Risk Category 2. Any food establishment performing only
336 cold holding or food preparation, and which does not otherwise qualify as a high risk or
337 risk category 3 establishment, shall be designated as a medium risk or risk category 2
338 establishment. The following shall also be designated as a medium risk or risk category 2
339 establishment:

- 340 1. Any establishment baking bread or pastries, frying donuts, or grilling
341 sandwiches or toast for immediate service, with no hot-holding of food;
- 342 2. Any school or institution satellite operation performing food service limited
343 to reheating or hot holding of prepared foods, with no on-site cooking; and
- 344 3. Any grocery store or market selling pre-packaged raw meat or fish products.

345 C. High Risk - Risk Category 3. The following shall be designated as a high risk
346 or risk category 3 establishment:

- 347 1. Any establishment cooking and either cooling, reheating, hot holding, or
348 holding other than cold holding of food;
- 349 2. Any meat or fish market selling meat or fish other than pre-packaged raw
350 product;
- 351 3. Any establishment where food preparation includes cutting or processing of
352 raw meat or fish products; ~~((and))~~
- 353 4. Any establishment with an approved HACCP plan ~~((and performing either~~
354 ~~overnight cooking or on-site reduced oxygen packaging)); and~~
- 355 5. Any establishment using time as a public health control.

356 SECTION 27. R&R 05-06, Section 5, and BOH 5.04.030 are each hereby
357 repealed.

358 SECTION 28. R&R 05-06, Section 6, as amended, and BOH 5.04.040 are each
359 hereby repealed.

360 SECTION 29. R&R 05-06, Section 7, and BOH 5.04.280 are each hereby
361 repealed.

362 SECTION 30. R&R 91, Section 1 (part), and BOH 5.04.490 are each hereby
363 repealed.

364 SECTION 31. R&R 91, Section 1 (part), as amended, and BOH 5.10.070 are
365 each hereby repealed.

366 SECTION 32. R&R 91, Section 1 (part), as amended, and BOH 5.20.050 are
367 each hereby repealed.

368 SECTION 33. R&R 05-06, Section 20, and BOH 5.26.010 are each hereby
369 repealed.

370 SECTION 34. R&R 05-06, Section 21, and BOH 5.34.010 are each hereby
371 repealed.

372 SECTION 35. R&R 05-06, Section 22, and BOH 5.34.020 are each hereby
373 repealed.

374 SECTION 36. R&R 05-06, Section 24, and BOH 5.42.010 are each hereby
375 repealed.

376 SECTION 37. R&R 05-06, Section 29, and BOH 5.60.010 are each hereby
377 repealed.

378 SECTION 38. **Effective date.** This rule takes effect May 1, 2013.

379 SECTION 39. **Severability.** If any provision of this rule or its application to any

380 person or circumstance is held invalid, the remainder of the rule or the application of the
381 provision to other persons or circumstances is not affected.
382

KING COUNTY BOARD OF HEALTH
KING COUNTY, WASHINGTON

Joe McDermott, Chair

ATTEST:

Anne Noris, Clerk of the Board

Attachments: None