Proposed No. BOH13-01.1

A RULE AND REGULATION relating to the protection of
the public against foodborne illness, amending R&R 05-06,
Section 3, and BOH 5.04.010, R&R 05-06, Section 4, and
BOH 5.04.020, R&R 09-05, Section 5, and BOH 5.04.035,
R&R 09-05, Section 6, and BOH 5.04.036, R&R 05-06,
Section 8, and BOH 5.04.290, R&R 91, Section 1 (part), as
amended, and BOH 5.04.370, R&R 91, Section 1 (part),
and BOH 5.04.390, R&R 05-06, Section 11, and BOH
5.04.400, R&R 09-05, Section 8, and BOH 5.04.405, R&R
05-06, Section 12, and BOH 5.04.410, R&R 05-06, Section
13, and BOH 5.04.420, R&R 05-06, Section 14, and BOH
5.04.450, R&R 05-06, Section 15, and BOH 5.04.460,
R&R 91, Section 1 (part), as amended, and BOH 5.04.620,
R&R 09-05, Section 10, and BOH 5.04.625, R&R 91,
Section 1 (part), as amended, and BOH 5.04.640, R&R 05-
06, Section 23, as amended, and BOH 5.34.030, R&R 05-
06, Section 30, and BOH 5.60.020, R&R 05-06, Section 31,
and BOH 5.60.030, R&R 05-06, Section 32, and BOH
5.60.040, R&R 05-06, Section 33, and BOH 5.60.050,
R&R 05-06, Section 34, and BOH 5.60.060 and R&R 05-06, Section 35, and BOH 5.64.010, adding a new section to BOH chapter 5.34, adding new sections to BOH chapter 5.60 and repealing R&R 05-06, Section 5, and BOH 5.04.030, R&R 05-06, Section 6, and BOH 5.04.040, R&R 05-06, Section 7, and BOH 5.04.280, R&R 91, Section 1 (part), and BOH 5.04.490, R&R 91, Section 1 (part), as amended, and BOH 5.10.070, R&R 91, Section 1 (part), as amended, and BOH 5.20.050, R&R 05-06, Section 20, and BOH 5.26.010, R&R 05-06, Section 21, and BOH 5.34.010, R&R 05-06, Section 22, and BOH 5.34.020, R&R 05-06, Section 24, and BOH 5.42.010, and R&R 05-06, Section 29, and BOH 5.60.010; enacted pursuant to RCW 70.05.060, including the latest amendments or revisions thereto.

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

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

Apprentice meat cutter. WAC ((246-215-014)) 246-215-01115 is supplemented with the following:

Apprentice meat cutter (WAC ((246-215-011(3.1))) 246-215-01115(3.1)).
"Apprentice meat cutter" means any person in a meat/fish establishment employed for the purpose of selling meat or learning meat cutting while enrolled in a meat cutter's apprenticeship program.

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

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

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

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

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

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

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

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

SECTION 4. R&R 09-05, Section 6, and BOH 5.04.036 are each hereby amended to read as follows:
Farmers market or recurring event food establishment. WAC ((246-215-04+)) 246-215-01115 is supplemented with the following:

Farmers market or recurring event food establishment (WAC ((246-215-04+10.2)) 246-215-0111(41.2)).

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

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

General food service. WAC ((246-215-04+)) 246-215-01115 is supplemented with the following:

General food service (WAC ((246-215-04+13.1)) 246-215-01115(51.1)).

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

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

Grocery store. WAC ((246-215-04+)) 246-215-01115 is supplemented with the following:

Grocery store (WAC ((246-215-04+13.2)) 246-215-01115(53.1)).

"Grocery store" means a food establishment selling commercially prepared and prepackaged potentially hazardous foods requiring refrigeration or freezer control, whole produce and/or bulk foods for consumption off-site.
R&R BOH13-01

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

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

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

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

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

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

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

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

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

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

Limited temporary food establishment (WAC ((246-215-011(15.2))) 246-215-01115(56.2)).

"Limited temporary food establishment" means a temporary food establishment serving only foods that have been commercially prepared, prepackaged, pre-cooked, or that require limited handling and preparation, such as espresso, personal pizzas,
pasteurized dairy products, farmer processed frozen meat, beverages, or other low risk or non-potentially hazardous foods.

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

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

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

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

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

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

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

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

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

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

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

"Meat/fish market" means all premises, buildings or parts thereof used for the preparation for sale, sale or dispensing of meat, fish, game animals or poultry to consumers and intended for off-premises consumption.
SECTION 13. R&R 05-06, Section 15, and BOH 5.04.460 are each hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Facilities for cleaning and sanitizing must meet the provisions of this title and be located within 200 feet of the establishment and available at all times that the establishment is operating.
(e) The owner of a mobile food unit operating in King County shall use a
commissary kitchen located in King County.)

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

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

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

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

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

(6) The owner, permit holder or person in charge of a mobile food cart shall
ensure the cart body size is limited to three feet by six feet with each extension no longer
than eighteen inches.
NEW SECTION. SECTION 18. There is hereby added to BOH chapter 5.34 a new section to read as follows:

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

Mobile food units - Limited food service - requirements.

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

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

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

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

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

(1) The health officer may renew a permit, issue duplicate or name change permits for an existing food establishment or issue a permit to a new owner of an existing establishment after a properly completed application is submitted, reviewed and
approved, the applicable fees are paid, and an inspection by the health officer shows that
the establishment is in compliance with this chapter.

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

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

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

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

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

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

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

Permits required, suspension, revocation, enforcement ((-General (WAC 246-
215-200(2)))) (WAC 246-215-08600(2)).
The health officer may suspend any permit to operate a food establishment if:

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

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

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

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

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

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

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

Permit suspension process ((WAC 246-215-200(6))) (WAC 246-215-08600(6)).

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

SECTION 23. R&R 05-06, Section 32, and BOH 5.60.040 are each hereby amended to read as follows:
Permit revocation process. WAC (246-215-200(10)) is not adopted and the following is substituted:

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

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

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

Closure (246-215-200(12)).

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

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

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

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

(b) Notice of closure. The notice of closure shall state:
That the food establishment shall close immediately upon issuance of the notice of closure to an ((operator)) owner, permit holder or person in charge and that all preparation and service of food shall immediately cease.

That no food preparation or service shall occur at the food establishment after a notice of closure has been received by the ((operator)) owner, permit holder or person in charge;

The reason(s) for the notice of closure; and

That the ((operator)) owner, permit holder or person in charge may request reconsideration of the closure order by filing a written request with the health officer within ten ((days)) days after delivery of the closure notice as provided in WAC 246-215-209 and WAC 246-215-08610.

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

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

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

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

SECTION 26. R&R 05-06, Section 35, and BOH 5.64.010 are each hereby amended to read as follows:
Food establishment risk categories. Every food establishment and every new
and renewal application for a food establishment permit shall be subject to a risk
assessment by the health officer. The health officer shall designate each food
establishment as low risk (risk category 1), medium risk (risk category 2), or high risk
(risk category 3) based on the types of food dispensed, food preparation steps, and types
of food processing or packaging performed at the establishment; provided, however, that
temporary food establishments shall be designated as either high risk or low risk. In
determining the most appropriate risk category for each establishment, the health officer
shall apply the risk category standards of this section.

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

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

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

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

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

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

1. Any establishment baking bread or pastries, frying donuts, or grilling sandwiches or toast for immediate service, with no hot-holding of food;

2. Any school or institution satellite operation performing food service limited to reheating or hot holding of prepared foods, with no on-site cooking; and

3. Any grocery store or market selling pre-packaged raw meat or fish products.

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

1. Any establishment cooking and either cooling, reheating, hot holding, or holding other than cold holding of food;

2. Any meat or fish market selling meat or fish other than pre-packaged raw product;

3. Any establishment where food preparation includes cutting or processing of raw meat or fish products; ((and))

4. Any establishment with an approved HAACP plan ((and performing either overnight cooking or on-site reduced oxygen packaging)); and

5. Any establishment using time as a public health control.

SECTION 27. R&R 05-06, Section 5, and BOH 5.04.030 are each hereby repealed.
SECTION 28. R&R 05-06, Section 6, as amended, and BOH 5.04.040 are each hereby repealed.

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

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

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

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

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

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

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

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

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

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

SECTION 39. Severability. If any provision of this rule or its application to any
person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.

R&R BOH13-01 was introduced on and passed by the Board of Health on 3/21/2013, by the following vote:

Yes: 9 - Ms. Frisinger, Mr. Conlin, Ms. Patterson, Ms. Clark, Dr. Baker, Mr. McDermott and Dr. Delecki
No: 0
Excused: 4 - Ms. Lambert, Mr. Licata, Dr. Nicola and Dr. Danielson

BOARD OF HEALTH
KING COUNTY, WASHINGTON

Joe McDermott, Chair

ATTEST:

Anne Noris, Clerk of the Board

Attachments: None