

NAVAJO NATION CODE ANNOTATED

Title 13

Health and Welfare

Cross References

Division of Health, see 2 N.N.C. § 1601 *et seq.*

Water development and improvement generally, see 22 N.N.C. § 1 *et seq.*

United States Code

Contracts for medical attention for Indians, see 25 U.S.C. §§ 452-454.

Construction of health facilities, financial assistance by Surgeon General, see 42 U.S.C. § 2005 *et seq.*

Indians afflicted with contagious or infectious diseases, see 25 U.S.C. § 198.

Code of Federal Regulations

Indian health services, see 42 CFR § 136.1 *et seq.*

Native American housing assistance, see 24 CFR § 1000.1 *et seq.*

Chapter 1. Food Service Sanitation Code

History

CMY-28-86, May 2, 1986.

ACMA-37-60, March 9, 1960.

Note. Appendix referenced in the Code and the rationale for certain sections are not included. See source resolution.

Subchapter 1. General Provisions

§ 1. Purpose

This Code shall be liberally construed and applied to promote and protect the public health.

History

CMY-28-86, May 2, 1986.

§ 2. Definitions

A. "Accessible" means easily or readily exposed for cleaning or inspection with or without the use of simple tools such as a screwdriver, pliers or an open-end wrench. Readily accessible means exposed or capable of being exposed for cleaning and inspection without the use of any tools.

B. "Act" means the Federal Food, Drug and Cosmetic Act of June 25, 1938,¹ as amended.

C. "Adulterated" means a condition of a food that (1) bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (2) bears or contains any poisonous or deleterious substances for which no safe tolerance has been established bylaw, or is in excess of such tolerance if one has been established; (3) consists in whole or in part of any filthy, putrid, or decomposed substance or otherwise is unfit for human consumption; (4) has been processed, prepared, packed, or held under any insanitary conditions whereby there is a reasonable probability that it might have become contaminated with filth or rendered injurious to health; (5) is in whole or in part the product of a diseased animal or an animal which has died otherwise than by slaughter; or (6) its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

D. "Approved/Approved Source" means acceptable to the health advisor based on their determination as to conformance with appropriate standards and good public health practice.

E. "Closed" means fitted together snugly, leaving no openings large enough to permit the entrance of vermin, insects, and rodents.

F. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored including any service center or base of operations directly from which mobile food units are supplied or serviced.

G. "Cooked Foods" means those foods, either single or combined food ingredients, which through the application of heat, microwave energy, or other acceptable methods have been prepared by an approved method and are ready for human consumption.

H. "Corrosion-Resistant Materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal use, and then discarded.

I. "Display Case" means any case, cabinet, or other facility, used for displaying food.

J. "Easily Cleanable" means that surfaces are readily accessible and made of such materials and/or finish and so fabricated that residue may be effectively removed by normal cleaning methods.

K. "Employee" means individuals having supervisory or management duties and any other person working in a food service establishment.

L. "Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

M. "Food" means any raw, cooked, or processed edible substance, or beverage, or ingredient intended for human consumption and includes ice and water.

N. "Food Additive" means any substance as defined in the Federal Food, Drug, and Cosmetic Act, § 201,² meeting the approval of the U.S. Department of Agriculture, U.S. Environmental Protection Agency and the U.S. Department of Commerce.

O. "Food Contact Surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back on to surfaces normally in contact with food.

P. "Food Processing Establishment" means a commercial establishment in which food is manufactured or packaged for human consumption.

Q. "Food Service Establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that offer prepared foods intended for individual portion service, and includes commissaries. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

R. "Frozen Food" means any article used for food or drink which has been processed, packaged, or preserved by accepted commercial practices and is in a frozen state.

S. "Health Advisor" shall mean the Director, Navajo Area Indian Health Service or an authorized agent.

T. "Hermetically Sealed Container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

U. "Internal Product Temperature" means the internal temperature of a food.

V. "Kitchenware" means all multi-use utensils other than tableware.

W. "Mobile Food Unit" means a vehicle-mounted food service establishment designed to be readily moveable.

X. "Packaged" means bottled, canned, cartoned, or securely wrapped.

Y. "Person" means any individual, partnership, corporation, association, or other legal entity.

Z. "Person in Charge" means an individual present in a food service establishment who has management or supervisory responsibilities and has authority to allow food service inspections and receive any notifications pertaining to violations.

AA. "Potentially Hazardous Food" means any food that consists in whole or part of milk or milk products, eggs, meat, poultry, fish shellfish, edible crustacea, whipped butter or whipped margarine or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. Rice, fried rice, refried beans and baked potatoes will also be considered potentially hazardous food. The term does not include foods which have pH level of 4.6 or below or a water activity value of 0.85 or less.

BB. "Reconstituted" means dehydrated food products recombined with potable water or other safe liquids.

CC. "Regulatory Authority" shall mean the Navajo Division of Health or its successor.

DD. "Safe Materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined by the Act they are "safe" only if they are used in conformity with this Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined by the Act.

EE. "Sanitation Permit" means a written permit issued by the Commerce Department of the Navajo Nation or its successor upon the recommendation of the Health Advisor reflecting the food establishment's compliance with the provisions of this Chapter.

FF. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on clean utensils and equipment.

GG. "Sealed" means free of spaces or other openings that permit the entry or passage of moisture.

HH. "Solid Wastes" means any discarded organic matter, garbage, trash, and other waste materials resulting from the operation of a food service establishment.

II. "Tableware" means multi-use eating and drinking utensils.

JJ. "Temporary Food Service Establishment" means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

KK. "Toxic" means any substance which may have an adverse physiological

effect on a person or persons.

LL. "Uniform Plumbing Code" shall mean the International Association of Plumbing and Mechanical Officials, Uniform Plumbing Code, 1982.

MM. "Utensil" means any implement used in the storage, preparation, transportation, or service of food.

NN. "Vehicle" means any van, truck, trailer, cab, bus, cycle, automobile, push cart, wagon, or any means of conveying food.

OO. "Wastewater" means sewage or water carried wastes, and shall include but is not limited to, the discharges from all plumbing fixtures or facilities.

PP. "Warewashing/Dishwashing" means the cleaning and sanitization of food-contact surfaces of all tableware and utensils.

QQ. "Wholesome" shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

History

CMY-28-86, May 2, 1986.

§ 3. Captions

Sections and other captions are made a part of this Act.

History

CMY-28-86, May 2, 1986.

Subchapter 2. Food Care

§ 31. Food supplies—General

Food shall be free from adulteration, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all the Act relating to food and food labeling. Food in hermetically sealed containers which are free from major defects must be prepared in an approved food processing establishment. Home canned and home prepared foods are prohibited.

History

CMY-28-86, May 2, 1986.

§ 32. Special Requirements

A. Fluid milk and fluid milk products used or served shall be pasteurized and meet the Grade A quality standards as specified in the latest edition of the U.S. Food and Drug Administration's Grade A Pasteurized Milk Ordinance, Public Health Service/Food and Drug Administration Publication No. 229, U.S.

Government Printing Office. Dry milk and dry milk products shall be made from pasteurized milk and milk products. Raw milk and raw milk products shall not be served.

B. Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they are received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quality of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.

C. Only "Grade B" clean, whole eggs or better meeting U.S. Department of Agriculture grade standards, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.

D. All imported foods shall bear an English language label. Foods that do not bear such label shall be detained until the source is determined. Procedures for condemnation of such foods shall be taken if an approved source cannot be found.

E. All meat products used in food preparation shall be U.S. Department of Agriculture inspected and approved or be inspected and meet the approval of a state inspection program which has been certified by the U.S. Department of Agriculture. Meat which is state inspected shall only be sold in the state that the product was inspected.

History

CMY-28-86, May 2, 1986.

§ 33. Food protection—General

At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs, and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be 45°F or below or 140°F or above at all times, except as otherwise provided in these regulations.

History

CMY-28-86, May 2, 1986.

§ 34. Emergency occurrences

In the event of a fire, flood, power outage, sewage flooding 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 Health Advisor, who shall take whatever reasonable action is necessary to protect the public health.

History

CMY-28-86, May 2, 1986.

§ 35. Food Storage—General

A. Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean, covered container except during necessary period of preparation or service. If the food is potentially hazardous, the container must be sanitized, and covers shall be impervious and non-absorbent, except that clean laundered linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

B. Containers of food shall be stored a minimum of six inches above the floor in a manner that protects the food from splash or other contamination, and permits easy cleaning of the storage area except:

1. Metal pressurized beverage containers and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; or

2. Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.

C. Food and containers of food shall not be stored under open stair wells or under unprotected sewer lines, or where water lines are leaking or condensate is present. The storage of food in the toilet rooms or vestibules is prohibited.

D. Food not subject to further washing or cooking before serving shall be stored in a manner that protects it against cross-contamination from food requiring washing or cooking.

E. Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.

F. Bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in an approved container identifying the food by common name. The labeling shall be on the container body or a non-detachable lid.

G. Store rooms should be properly ventilated and have adequate space. Store room temperatures should not exceed 70°F.

H. Food products in storage shall not be stored against the wall. Storage shall be at least six inches from any wall surface and be accessible

for inspection.

History

CMY-28-86, May 2, 1986.

§ 36. Refrigerated storage

A. Sufficient conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to 3°F located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to 3°F, may be used in lieu of indicating thermometers. A zone type thermometer without calibrations is not acceptable.

B. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F or below unless maintained in accordance with § 37 of these regulations.

C. Refried beans, rice, and baked potatoes intended for use and/or re-use shall be rapidly cooled to an internal temperature of 45°F or below. Large volumes of these products shall be rapidly cooled using similar methods to those listed in § 36(B). These products being transported shall be pre-chilled at temperatures of 45°F or below, unless maintained in accordance with § 37 of these regulations.

D. Frozen food shall be kept frozen and should be stored at a temperature of 0°F or below.

E. Ice intended for human consumption shall not be used as a medium for cooking stored food, food containers or food utensils, except that such ice may be used for cooking tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooking stored food and food containers shall not be used for human consumption.

History

CMY-28-86, May 2, 1986.

§ 37. Hot storage

A. Sufficient hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to 3°F located to measure

the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to 3°F may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bain-maries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

B. The internal temperature of potentially hazardous foods including refried beans, rice and baked potatoes requiring hot storage shall be 140°F or above except during necessary period of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F or above unless maintained in accordance with § 36(B) of these regulations.

History

CMY-28-86, May 2, 1986.

§ 38. Food preparation—General

Food shall be prepared with the least possible manual contact, with suitable utensils and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

History

CMY-28-86, May 2, 1986.

§ 39. Raw fruits and raw vegetables

Raw fruits and raw vegetables shall be thoroughly washed with potable water before cooking or serving. Any sink used to wash, prepare, store or soak food shall be indirectly connected to the sewer, through an air-break.

History

CMY-28-86, May 2, 1986.

§ 40. Cooking potentially hazardous foods

Potentially hazardous foods being processed within the retail food store by cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F (60°C), except that:

A. Poultry, poultry stuffings, stuffed meats, and stuffings containing meat, shall be cooked to heat all parts of the food to at least 165°F (74°C), with no interruption of the cooking process.

B. Pork and pork products shall be cooked to heat all parts of the food to at least 150°F (66°C), or, if cooked in a microwave oven, to at least 170°F (77°C).

C. When beef roasts under 10 pounds [5 kilograms (kg)] in weight are cooked in a still dry heat oven, the oven shall be preheated to and held at an

air temperature of at least 350°F (177°C) throughout the process. If cooked in a convection oven, the oven shall be preheated to and held at an air temperature of at least 325°F (163°C) throughout the process.

D. When beef roasts of 10 pounds [5 kilograms (kg)] in weight are cooked in a still dry heat oven, the oven shall be preheated to and held at an air temperature of a least 350°F (177°C) throughout the process. If cooked in a convection oven, the oven shall be preheated to and held at an air temperature of a least 325°F (163°C) throughout the process.

E. Further, in order to meet public health requirements for the processes cited above, the following table lists the minimum internal temperature of the beef roast for the minimum time the roast needs to be held at such temperature. [See note below.]

History

CMY-28-86, May 2, 1986.

Note. § 40(E): Consult CMY-28-86 for table listing the minimum holding times for beef, roasts at various internal temperatures.

§ 41. Dry milk and dry milk products

Reconstituted pasteurized dry milk and pasteurized dry milk products may be used in instant desserts and whipped products, and for cooking and baking purposes.

History

CMY-28-86, May 2, 1986.

§ 42. Liquid, frozen, dry eggs and egg products

Liquid, frozen, dry eggs products shall be pasteurized products used only for cooking and baking purposes.

History

CMY-28-86, May 2, 1986.

§ 43. Reheating

Potentially hazardous foods including refried beans and rice that have been cooked and then refrigerated shall be reheated rapidly to 165°F or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.

History

CMY-28-86, May 2, 1986.

§ 44. Nondairy products

Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when stored in sanitized, covered containers not exceeding one gallon capacity and cooled to 45°F or below within four hours after preparation.

History

CMY-28-86, May 2, 1986.

§ 45. Product thermometers

Non-corrosive metal stem-type numerically scaled indicating thermometers accurate to 3°F shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods. Glass or liquid filled thermometers shall not be used.

History

CMY-28-86, May 2, 1986.

§ 46. Thawing potentially hazardous foods

Potentially hazardous foods shall be thawed:

A. In refrigerated units at a temperature not to exceed 45°F; or

B. Under potable running water of a temperature of 70°F or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

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.

History

CMY-28-86, May 2, 1986.

§ 47. Chilis and peppers

Chilis and peppers shall be added to foods and cooked as part of the cooking process.

History

CMY-28-86, May 2, 1986.

§ 48. Food display and service—Potentially hazardous foods

Potentially hazardous food including refried beans, rice and baked potatoes shall be kept at an internal temperature of 45°F or below or at an internal temperature of 140°F or above during display and service, except that rare roast beef shall be held for service at a temperature of at least 130°F.

History

CMY-28-86, May 2, 1986.

§ 49. Milk and cream dispensing

A. Milk and milk products for drinking purposes should be provided to the consumer in an unopened, commercially filled package not exceeding one pint (16 oz.) in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. The outlet dispenser tubes for these bulk milk dispensers shall be trimmed to a length not exceeding two inches and cut to an angle of approximately 45 degrees to facilitate drainage. Where a bulk dispenser for milk and milk products is not available and portions of less than 1/2 pint are required for mixed drinks, cereal, dessert service, or in a glass for drinking, milk and milk products may be poured from a commercially filled container of not more than 1/2 gallon capacity.

B. Cream or half-and-half shall be provided in an individual service container, a protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service. When pour-type dispensers are emptied, they shall be washed and sanitized before re-use.

C. When canned evaporated or condensed milk is used, the tops of cans will be thoroughly cleaned and punctured with an instrument. Open canned milk will be refrigerated at 45°F or below between use or serving periods and at no time remain out of refrigeration more than two hours total time.

History

CMY-28-86, May 2, 1986.

§ 50. Nondairy product dispensing

These items shall be provided in an individual service container, a protected pour-type dispenser, or drawn from a refrigerated dispenser designed for such service. When pour-type dispensers are emptied, they shall be washed and sanitized before re-use.

History

CMY-28-86, May 2, 1986.

§ 51. Condiment dispensing

A. Condiments, seasoning and dressing for self-service use shall be

provided in individual packages, from dispensers, or from containers protected in accordance with § 55 of these regulations.

B. Condiments provided for table or counter service shall be individually portioned except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar, jams, jellies, honey or syrup for consumer use shall be provided in individual portions or a pour-type dispenser. The use of a spoon in a container containing the product is prohibited for table service.

History

CMY-28-86, May 2, 1986.

§ 52. Ice dispensing

Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic self-service, ice-dispensing equipment. Scooping of ice with a cup or glass or similar container is prohibited. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing handle extending out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air break as defined in the latest edition of the Uniform Plumbing Code.

History

CMY-28-86, May 2, 1986.

§ 53. Dispensing utensils

To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

A. Stored in the food with the dispensing utensil handle extended out of the food; or

B. Stored clean and dry; or

C. Stored in running water; or

D. Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

History

CMY-28-86, May 2, 1986.

§ 54. Re-service

Once served to a consumer, portions of leftover food shall not be served again except that packaged food other than potentially hazardous food, that is still packaged and is still in sound condition may be re-served.

History

CMY-28-86, May 2, 1986.

§ 55. Display equipment

Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line, or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

History

CMY-28-86, May 2, 1986.

§ 56. Re-use of tableware

Re-use of soiled tableware by self-service customers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

History

CMY-28-86, May 2, 1986.

§ 57. Food transportation—General

During transportation, food and food utensils shall 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 overwrapped or covered if the original package has not been torn or broken or otherwise damaged. During transportation, including transportation to another location for service or catering operation, food shall meet the requirements of these regulations relating to food protection and food storage.

History

CMY-28-86, May 2, 1986.

Subchapter 3. Personnel

§ 81. Employee health—General

A. 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 disease or while afflicted with a boil, an infected wound, or an acute respiratory infection shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

B. The manager or person in charge of the establishment shall notify the Health Advisor when any employee of a food service establishment is known or suspected of having a disease in communicable form. It is the responsibility of the employee to advise the employer of the occurrence of the above disease, symptoms or conditions, and every employee shall be advised of this responsibility upon his employment.

History

CMY-28-86, May 2, 1986.

§ 82. Personal cleanliness—General

Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

History

CMY-28-86, May 2, 1986.

§ 83. Clothing—General

A. The outer clothing of all employees shall be clean, and where uniforms are not provided, clean aprons should be worn over street clothes.

B. Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces. All employees directly involved in food preparation or utensil washing or storing operations are required to wear hats, caps, or hairnets that cover the hair. The use of hair sprays will not be accepted as a suitable substitute for hats, caps, hairnets or other approved hair coverings. Other employees shall keep hair under control at all times.

C. Food service employees wearing beards must keep them neatly trimmed, and clean at all times while working.

History

CMY-28-86, May 2, 1986.

§ 84. Employee practices—General

A. Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils or other items needing protection.

B. Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An employee tobacco-use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food,

equipment, utensils, or other items needing protection.

C. Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

D. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment. Jewelry shall not be worn on the hands of those individuals involved in handling of food and cleaning and sanitizing of kitchen ware, utensils, etc.

E. All employees, managers, and owners working in a food service establishment shall have a valid food handlers training certificate issued by the Health Advisor. Records of such training shall be available for inspection at each establishment.

History

CMY-28-86, May 2, 1986.

Subchapter 4. Equipment and Utensils

§ 111. Materials—General

Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials, shall be corrosion resistant and nonabsorbent and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, or contribute to the contamination of food.

History

CMY-28-86, May 2, 1986.

§ 112. Solder

If solder is used, it shall be composed of safe materials and be corrosion resistant.

History

CMY-28-86, May 2, 1986.

§ 113. Wood

Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in § 111 of these regulations may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood, canvas, or other porous materials as a food-contact surface under other circumstances is prohibited.

History

CMY-28-86, May 2, 1986.

§ 114. Plastics

Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping or distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing/warewashing methods, and which meet the general requirements set forth in § 111 of these regulations, are permitted for repeated use.

History

CMY-28-86, May 2, 1986.

§ 115. Mollusk and crustacea shells

Mollusk and crustacea shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

History

CMY-28-86, May 2, 1986.

§ 116. Single-service

Reuse of single-service articles is prohibited.

History

CMY-28-86, May 2, 1986.

§ 117. Design and fabrication—General

A. All equipment and utensils or tableware, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, crazing and shall meet the National Sanitation Foundation requirements or be of equivalent construction.

B. Food-contact surfaces shall 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 smooth and heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited as food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems, such threads shall be minimized.

C. Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or

be forced into food onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. These lubricating materials shall meet 21 CFR 178.3570.

D. Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice; provided, that such tubing is fabricated from safe materials, is grommited at entry and exit points to prevent moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

E. Sinks and drain boards shall be self-draining.

History

CMY-28-86, May 2, 1986.

§ 118. Accessibility

Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

- A. Without being disassembled; or
- 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.

History

CMY-28-86, May 2, 1986.

§ 119. In-place cleaning

Equipment intended for in-place cleaning shall be so designed and fabricated that:

- A. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and
- 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.

History

CMY-28-86, May 2, 1986.

§ 120. Pressure spray cleaning

Fixed equipment designed and fabricated to be cleaned and sanitized by

pressure spray methods shall have sealed electrical wiring, switches, and connections.

History

CMY-28-86, May 2, 1986.

§ 121. Thermometers

Indicating thermometers required for immersion into food or cooking media shall be of non-corrosive metal, stem type construction, numerically scaled, and accurate to 3°F.

History

CMY-28-86, May 2, 1986.

§ 122. Non-food-contact surfaces

Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

History

CMY-28-86, May 2, 1986.

§ 123. Ventilation hoods

Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceiling, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. These hoods shall be constructed and maintained in accordance with the latest edition of the National Fire Codes, National Fire Protection Association, Volume 9, 1983.

History

CMY-28-86, May 2, 1986.

§ 124. Existing equipment

Equipment that was installed in a food service establishment prior to the effective date of these regulations and that does not fully meet all of the design and fabrication requirements of these regulations shall be deemed acceptable in that establishment if it is in good repair, capable of being in a sanitary condition, and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of these regulations shall meet the requirements of these regulations.

History

CMY-28-86, May 2, 1986.

§ 125. Equipment installation and location—General

Equipment, including ice makers and ice storage equipment, shall not be located under open stairwells or under exposed or unprotected sewer lines, or where water lines are leaking or condensate is present, or other source of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

History

CMY-28-86, May 2, 1986.

§ 126. Table-mounted equipment

A. Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

B. Equipment is portable within the meaning of these regulations if:

1. It is small and light enough to be moved easily by one person; and

2. It has no utility connection, or has a utility connection that disconnects quickly, or has flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

History

CMY-28-86, May 2, 1986.

§ 127. Floor-mounted equipment

A. Floor-mounted equipment, unless readily movable, shall be:

1. Sealed to the floor; or

2. Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearances; or

3. Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor and equipment if no part of the floor under the mixer is more than six inches from cleaning access.

B. Equipment is easily movable if.

1. It is mounted on wheels or casters; and

2. It has no utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

C. Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceiling shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

History

CMY-28-86, May 2, 1986.

§ 128. Aisles and working spaces

Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

History

CMY-28-86, May 2, 1986.

Subchapter 5. Cleaning, Sanitization and Storage of Equipment and Utensils

§ 151. Equipment and utensil cleaning and sanitization and storage—Cleaning frequency

A. Tableware shall be washed, rinsed, and sanitized after each use and when necessary pre-rinsed or pre-soaked to remove gross food particles and soil.

B. To prevent cross-contamination, kitchenware and food-contact, surfaces of equipment shall not be used for both raw and cooked food unless they have been washed, rinsed, and sanitized after each use or following any interruption of operations during which time contamination may have occurred.

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

D. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at

least once a day, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

E. Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, grease, food particles, and other debris.

History

CMY-28-86, May 2, 1986.

§ 152. Wiping cloths

A. Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.

B. Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted by the Federal Insecticide, Fungicide and Rodenticide Act of June 25, 1947,¹ as amended and used for no other purpose. These cloths shall be rinsed and then stored in the sanitizing solution between uses.

C. Moist cloths used for cleaning non-food contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed in one of the sanitizing solutions permitted by the Federal Insecticide, Fungicide and Rodenticide Act,¹ as amended, and used for no other purpose. These cloths shall be rinsed and then stored in the sanitizing solution between uses.

History

CMY-28-86, May 2, 1986.

§ 153. Manual cleaning and sanitizing

A. 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 shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

B. Drain boards or easily movable dish tables or carts of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

C. Equipment and utensils shall be pre-flushed or pre-scraped, and when necessary, pre-soaked to remove gross food particles and soil.

D. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

1. Sinks shall be thoroughly cleaned prior to each use;
2. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean; and
3. Equipment and utensils shall be rinsed free of detergent and abrasive with clean water in the second compartment.

E. Equipment and utensils shall be sanitized in the their compartment as follows:

1. Immersion for a least one-half (1/2) minute in clean, hot water at a temperature of at least 170°; or
2. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available iodine and at a temperature of at least 75°F; or
3. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F; or
4. Immersion in a clean solution containing any approved sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available iodine and at a temperature of a least 75°F for one minute; or
5. Treatment with steam free from unapproved materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
6. Rinsing or spraying or swabbing with an approved chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution in the case of equipment too large to sanitize by immersion.

F. When hot water is used for sanitizing, the following facilities shall be provided and used;

1. 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; and
2. A numerically scaled indicating thermometer, accurate to 3°F, convenient to the sink for frequent checks of water temperatures; and
3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

G. When chemicals are used for sanitization, they shall meet the requirements of the U.S. Environmental Protection Agency as a sanitizer for food equipment and not have concentrations higher than the maximum permitted by the manufacturer of the approved product and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

History

CMY-28-86, May 2, 1986.

§ 154. Mechanical cleaning and sanitizing

A. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it can be demonstrated to the Health Advisor that it thoroughly cleans and sanitizes equipment and utensils. These machines and device shall be properly installed and maintained in good repair. Machine and device shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be an approved device properly installed and maintained.

B. The pressure of final rinse water supplied to spray-type dishwashing machines shall 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 (Iron Pipe Size) valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

C. Machine or water line mounted numerically scaled indicating thermometers, accurate to 3°F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

D. Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing/warewashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

E. Drain boards shall be provided, be self-draining, and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables or carts for the storage of clean utensils following sanitization.

F. Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove food particles and soil prior to being washed in a dishwashing/warewashing machine unless a pre-wash cycle is a part of the dishwashing/warewashing machine operation. Equipment and utensils shall 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.

G. Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemical for sanitization may be used; provided, that:

1. The temperature of the wash water shall not be less than 120°F.
2. The wash water shall be kept clean.
3. Chemicals added for sanitization purposes shall be automatically dispensed.
4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.
5. The chemical sanitizing rinse water temperature shall be not less than 75°F nor less than the temperature specified by the machine's manufacturer.
6. Approved chemical sanitizer shall be used.
7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

H. Machines using hot water for sanitization may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperatures as indicated below:

1. Single-tank stationary-rack, dual-temperature machine:
Wash temperature.....150°F
Final rinse temperature.....180°F
2. Single-tank, stationary-rack, single-temperature machine:
Wash temperature.....165°F
Final rinse temperature.....165°F
3. Single-tank, conveyer machine:
Wash temperature.....160°F
Final rinse temperature.....180°F
4. Multi-tank, conveyer machine:
Wash temperature.....150°F

Pumped rinse temperature.....160°F

Final rinse temperature.....180°F

5. Single-tank, pot, pan, and utensil washer (either stationary or moving-rack):

Wash temperature.....140°F

Final Rinse temperature.....180°F

I. All dishwashing/warewashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

History

CMY-28-86, May 2, 1986.

§ 155. Drying

After sanitization, all equipment and utensils shall be air dried.

History

CMY-28-86, May 2, 1986.

§ 156. Equipment and utensils—Handling

Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

History

CW-28-86, May 2, 1986.

§ 157. Equipment and utensils—Storage

A. Cleaned and sanitized utensils and equipment shall be stored at least six inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under open stairwells or under exposed sewer line or water lines which are leaking or on which condensate is present, except for automatic fire protection sprinkler heads that may be required by the Fire Protection Authority having jurisdiction.

B. Utensils shall be air dried before being stored or shall be stored in a self-draining position.

C. Glasses and cups shall be stored inverted. Direct storage on toweling or paper is prohibited. Other stored utensils shall be covered or inverted whenever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is pre-wrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer. All unused pre-set tableware will be collected for washing and sanitizing immediately after customer meal period.

History

CMY-28-86, May 2, 1986.

§ 158. Single-service articles

A. Single-service articles shall be stored at least six inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under open stairwells, under unprotected sewer lines or water lines that are leaking or on which condensate is present, except for automatic fire protection sprinkler heads that may be required by the Fire Protection Authority having jurisdiction.

B. Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

C. Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoon are pre-wrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensils to the consumer.

D. To protect against health hazards related to the conduct of the food service establishment in the case of dishwashing equipment breakdown or other operational failure, the Health Advisor may impose the requirement to provide only single-service articles for use by the consumer.

History

CMY-28-86, May 2, 1986.

§ 159. Prohibited storage area

The storage of food, equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

History

CMY-28-86, May 2, 1986.

Subchapter 6. Sanitary Facilities and Controls

§ 181. Water supply—General

Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to the Safe Drinking Water Act, Public Law 93-523.¹

History

CMY-28-86, May 2, 1986.

§ 182. Transportation

All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed-water system. Both of these systems shall be both constructed and operated to meet the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 183. Bottled water

Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

History

CMY-28-86, May 2, 1986.

§ 184. Water under pressure

Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

History

CMY-28-86, May 2, 1986.

§ 185. Steam

Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

History

CMY-28-86, May 2, 1986.

§ 186. Sewage—General

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated to meet the approval of the Health Advisor. Non-water-carried sewage disposal facilities are prohibited, except as permitted by §§ 291-298 of this ordinance (pertaining to temporary food service establishments) or as permitted by the regulatory authority in remote areas or because of special situations.

History

CMY-28-86, May 2, 1986.

§ 187. Plumbing—General

Plumbing shall be sized, installed, and maintained according to the latest edition of the Uniform Plumbing Code. There shall be no cross connection between the potable water supply and any nonpotable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

History

CMY-28-86, May 2, 1986.

§ 188. Nonpotable water system

A nonpotable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed to meet the approval of the Health Advisor and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

History

CMY-28-86, May 2, 1986.

§ 189. Backflow

The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

History

CMY-28-86, May 2, 1986.

§ 190. Grease traps

If used, grease traps shall be located to be easily accessible for cleaning and shall be located outside the building.

History

CMY-28-86, May 2, 1986.

§ 191. Garbage grinders

If used, garbage grinders shall be installed and maintained to meet the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 192. Drains

There shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located within five feet of a trapped floor drain, the dishwasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap if meeting the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 193. Toilet facilities—Toilet installation

A. Toilet facilities shall be installed for the public and employees according to the latest edition of the Uniform Plumbing Code, shall be conveniently located, and shall be accessible to employees at all times.

B. Bathroom facilities shall accommodate handicapped individuals. These facilities shall be constructed according to American National Standard Specification A1171-1976 (R1971).

History

CMY-28-86, May 2, 1986.

§ 194. Toilet design

Toilets and urinals shall be designed to be easily cleanable.

History

CMY-28-86, May 2, 1986.

§ 195. Toilet rooms

Toilet rooms shall be completely enclosed and shall have tight-fitting,

self-closing, solid doors, which shall be closed except during cleaning or maintenance.

History

CMY-28-86, May 2, 1986.

§ 196. Toilet fixtures

Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

History

CMY-28-86, May 2, 1986.

§ 197. Lavatory facilities—Lavatory installation

A. Lavatories shall be at least the number required by the latest edition of the Uniform Plumbing Code, shall be installed according to this Code, and shall be located to permit convenient use by all employees in food preparation areas and utensil-washing areas.

B. Lavatories shall be accessible to employees at all times.

C. Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

History

CMY-28-86, May 2, 1986.

§ 198. Lavatory faucets

Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall 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.

History

CMY-28-86, May 2, 1986.

§ 199. Lavatory supplies

A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device, providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

History

CMY-28-86, May 2, 1986.

§ 200. Lavatory maintenance

Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

History

CMY-28-86, May 2, 1986.

§ 201. Garbage and refuse—Containers

A. Garbage and refuse shall 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.

B. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

C. Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall 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 shall be in place at all times, except during cleaning.

D. There shall be a number of containers to hold all the garbage and refuse that accumulates.

E. Soiled containers shall 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, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

History

CMY-28-86, May 2, 1986.

§ 202. Storage

A. Garbage and refuse on the premises shall 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 waste need not be stored in covered containers.

B. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, non-absorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

C. Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall 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.

History

CMY-28-86, May 2, 1986.

§ 203. Disposal

A. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

B. Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter meeting the approval of the Health Advisor. Areas around incineration facilities shall be clean and orderly.

History

CMY-28-86, May 2, 1986.

§ 204. Insect and rodent control-General

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

History

CMY-28-86, May 2, 1986.

§ 205. Openings

Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.

History

CMY-28-86, May 2, 1986.

Subchapter 7. Construction and Maintenance Of Physical Facilities

§ 221. Floor construction

Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair. Nothing in this Section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.

History

CMY-28-86, May 2, 1986.

§ 222. Floor carpeting

Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment washing and utensil-washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

History

CMY-28-86, May 2, 1986.

§ 223. Prohibited floor covering

The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

History

CMY-28-86, May 2, 1986.

§ 224. Floor drains

Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

History

CMY-28-86, May 2, 1986.

§ 225. Mats and duckboards

Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

History

CMY-28-86, May 2, 1986.

§ 226. Floor junctures

In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water-flush cleaning methods are used, the junctures between walls and floors shall be covered and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than 1/32 inch.

History

CMY-28-86, May 2, 1986.

§ 227. Utility line installation

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

History

CMY-28-86, May 2, 1986.

§ 228. Walls and ceilings—Maintenance

Walls and ceilings, including doors, windows, skylights, and similar closures shall be maintained in good repair.

History

CMY-28-86, May 2, 1986.

§ 229. Construction

The walls, including non-supporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

History

CMY-28-86, May 2, 1986.

§ 230. Exposed construction

Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

History

CMY-28-86, May 2, 1986.

§ 231. Utility line installation

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas equipment-washing and utensil-washing areas, toilet rooms and vestibules.

History

CMY-28-86, May 2, 1986.

§ 232. Attachments

Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

History

CMY-28-86, May 2, 1986.

§ 233. Covering material installation

Wall and ceiling covering materials shall be attached and scaled so as to be easily cleanable.

History

CMY-28-86, May 2, 1986.

§ 234. Cleaning physical facilities—General

Cleaning of floors and walls, except emergency cleaning of floors, shall 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 shall be kept clean. Only dustless methods of cleaning floors and walls shall be used such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.

History

CMY-28-86, May 2, 1986.

§ 235. Utility facility

In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with floor drain shall 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 lavatories, utensil-washing or equipment-washing, or food preparation sinks for this purpose is prohibited.

History

CMY-28-86, May 2, 1986.

§ 236. Lighting-General

A. Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles of light on all food preparation surfaces and at equipment or utensil-washing work levels.

B. Permanently fixed artificial light sources shall be installed to provide, at distance of 30 inches from the floor:

1. At least 20 foot candles of light in utensil and equipment storage areas and in lavatory and toilet areas; and

2. At least 10 foot candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

History

CMY-28-86, May 2, 1986.

§ 237. Protective shielding

A. Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

History

CMY-28-86, May 2, 1986.

§ 238. Ventilation-General

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 239. Special ventilation

A. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

B. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

History

CMY-28-86, May 2, 1986.

§ 240. Dressing rooms and areas

If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

History

CMY-28-86, May 2, 1986.

§ 241. Locker areas

Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

History

CMY-28-86, May 2, 1986.

§ 242. Poisonous or toxic materials—Materials permitted

There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and equipment and utensils, and controlling insects and rodents.

History

CMY-28-86, May 2, 1986.

§ 243. Labeling of materials

Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to U.S. Environmental Protection Agency's

requirements for easy identification of contents.

History

CMY-28-86, May 2, 1986.

§ 244. Storage of materials

A. Poisonous or toxic materials consist of the following categories:

1. Insecticides and rodenticides;
2. Detergents, sanitizers, and related cleaning or drying agents;
3. Caustics, acids, polishes, and other chemicals.

B. Each of the three categories set forth in Subsection A of this Section shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

History

CMY-28-86, May 2, 1986.

§ 245. Use of materials

A. Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.

B. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

History

CMY-28-86, May 2, 1986.

§ 246. Personal medications

Personal medications shall not be stored in food storage, preparation or service areas.

History

CMY-28-86, May 2, 1986.

§ 247. First-aid supplies

First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

History

CMY-28-86, May 2, 1986.

§ 248. Premises and building—General

A. Food service establishments and all parts of property used in connection with their operations shall be kept free of litter.

B. The walking and driving surfaces of all exterior areas of food service establishments shall be surfaces with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.

C. Only articles necessary for operation and maintenance of the food service establishment shall be stored on the premises.

D. The premises and building shall be accessible to handicapped individuals. It shall meet the requirements as specified in the American National Standards Specification A1171-1976 (R1971).

History

CMY-28-86, May 2, 1986.

§ 249. Living areas

No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

History

CMY-28-86, May 2, 1986.

§ 250. Laundry facilities

A. Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

B. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

History

CMY-28-86, May 2, 1986.

§ 251. Linens and clothes storage

A. Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

B. Soiled cloths and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

History

CMY-28-86, May 2, 1986.

§ 252. Cleaning equipment storage

Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner for the cleaning of that storage location.

History

CMY-28-86, May 2, 1986.

§ 253. Animals

Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons, shall be permitted in dining areas.

History

CMY-28-86, May 2, 1986.

§ 254. Fire and electrical safety

Premises and buildings shall comply with the most recent edition of the National Fire Protection Association and the Navajo Nation Fire Protection Codes.

History

CMY-28-86, May 2, 1986.

Subchapter 8. Mobile Food Units

§ 271. Mobile food service—General

Mobile food units shall comply with the requirements of this Chapter,

except as otherwise provided in this Section and in § 272 of these regulations. The Health Advisor may impose additional requirements to protect against health hazards related to the conduct of food service establishments as a mobile operations, may prohibit the sale of some of all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this Chapter relating to physical facilities except those requirements of §§ 274-278 of these regulations.

History

CMY-28-86, May 2, 1986.

§ 272. Restricted operation

Mobile food units serving food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of these regulations, or beverages that are not potentially hazardous and are dispensed from covered urns, or other protected equipment, need not comply with requirements of these regulations pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the commissary.

History

CMY-28-86, May 2, 1986.

§ 273. Single-service articles

Mobile food units shall provide only single-service articles for use by the consumer.

History

CMY-28-86, May 2, 1986.

§ 274. Water system

A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of these regulations. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of these regulations.

History

CMY-28-86, May 2, 1986.

§ 275. Waste retention

If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least fifteen percent (15%) larger capacity than the water supply tank and in any case of sufficient capacity to contain all anticipated waste water loading. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable waster system.

History

CMY-28-86, May 2, 1986.

§ 276. Commissary—Base of operations

A. Mobile food units shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food service establishment used as a base of operations for mobile food units shall be constructed and operated in compliance with the requirements of these regulations.

History

CMY-28-86, May 2, 1986.

§ 277. Servicing area and operations—Servicing area

A. A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food unit do not contain waste retention tanks.

B. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

C. The construction of the walls and ceilings of the servicing area is exempted from the provisions of § 228-233 of these regulations.

History

CMY-28-86, May 2, 1986.

§ 278. Servicing operations

A. Potable water servicing equipment shall be installed to meet the

Health Advisor's approval and shall be stored and handled in a way that protects the water and equipment from contamination.

B. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system in accordance with § 186 of these regulations.

History

CMY-28-86, May 2, 1986.

Subchapter 9. Temporary Food Service

§ 291. Temporary food service establishments—General

A temporary food service establishment shall comply with the requirements of this Chapter, except as otherwise provided in this Subchapter. The Health Advisor may impose additional reasonable requirements to protect against health hazards related to the conduct of temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of Subchapter 9 of this Code.

History

CMY-28-86, May 2, 1986.

§ 292. Restricted operations

A. These provisions are applicable whenever a temporary food service establishment is permitted, under the provisions of § 291 of these regulations, to operate without complying with all the requirements of this Subchapter.

B. Only those potentially hazardous foods requiring limited preparation, such as hamburgers, frankfurters, refried beans, mutton and lamb stew that only require seasoning and cooking, shall be prepared or served. The preparation or sandwiches containing meat, poultry eggs or fish is prohibited. This prohibition does not apply to any potentially hazardous foods that have been prepared and packaged under conditions meeting the requirements of these regulations, is obtained in individual servings, is stored at a temperature of 45°F or below or at a temperature of 140°F or above in facilities meeting the requirements of these regulations, and is served directly in the unopened contain or in which it was packaged.

History

CMY-28-86, May 2, 1986.

§ 293. Ice

Ice that is consumed or that contacts food shall be made under conditions meeting the approval of the Health Advisor. The ice shall be obtained only in

chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

History

CMY-28-86, May 2, 1986.

§ 294. Equipment

A. Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

B. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

History

CMY-28-86, May 2, 1986.

§ 295. Single-service articles

All temporary food service establishments without effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

History

CMY-28-86, May 2, 1986.

§ 296. Water

Sufficient potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.

History

CMY-28-86, May 2, 1986.

§ 297. Wet storage

Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

History

CMY-28-86, May 2, 1986.

§ 298. Wastewater

All wastewater including liquid wastes shall be disposed of at a public sewer or other approved wastewater disposal systems.

History

CMY-28-86, May 2, 1986.

Note. Slightly reworded for purposes of statutory clarity.

§ 299. Handwashing

A convenient handwashing facility shall be available for employee handwashing. This facility shall consist of water, soap and single-service towels.

History

CMY-28-86, May 2, 1986.

§ 300. Floors

Floors shall be effectively treated to control dust.

History

CMY-28-86, May 2, 1986.

§ 301. Walls and ceilings of food preparation areas

A. Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way which minimizes the entrance of insects and other sources of contamination. Doors to food preparation areas shall be self-closing. Screening material used for walls, doors, or windows shall be at least 16 mesh to the inch.

B. Counter-service openings shall not be larger than necessary for the particular operation conducted.

History

CMY-28-86, May 2, 1986.

Note. § 301 (A) slightly reworded for purposes of statutory clarity.

Subchapter 10. Compliance Procedures

§ 331. Permits, licenses, or certificates—General

No person shall operate a food service establishment who does not have a valid sanitation permit issued to him by the regulatory authority. Only a person who complies with the requirements of this Code shall be entitled to receive or retain such a sanitation permit. Sanitation permits are not

transferable. A valid permit shall be posted in every food service establishment. Food processing operations, i.e., canneries, must have a valid sanitation permit issued by the Regulatory Authority and meet the requirements of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 332. Certifications

Each employee working in a food service establishment, including mobile and temporary food establishments, must have a valid food service training certificate from the Health Advisor. Each food service establishment must have on duty at least one individual who is currently certified as a food service manager by the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 333. Issuance of sanitation permit

A. Any person desiring to operate a food service establishment shall make written application for a sanitation permit on forms provided by the Regulatory Authority. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment, and the signature of each applicant.

B. Prior to approval of an application for a sanitation permit, the Health Advisor shall inspect the proposed food service establishment to determine compliance with the requirements of this Code.

C. The Regulatory Authority based on the recommendation of the Health Advisor shall issue a sanitation permit to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of this Code.

D. Certain waivers of these regulations may be granted if, in the opinion of the Health Advisor, this does not constitute a health hazard.

History

CMY-28-86, May 2, 1986.

§ 334. Suspension of permit, license, or certificate

A. The Regulatory Authority or Health Advisor may, without warning, notice, or hearing suspend any sanitation permit to operate a food service establishment if the holder of the permit does not comply with the requirements of this Code, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by § 334(B) of this Code. When a sanitation permit is suspended, food service operations shall immediately

cease. Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate shall be afforded an opportunity for hearing within 10 days of receipt of a request for hearing.

B. Whenever a sanitation permit is suspended, the holder of the permit, or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the Regulatory Authority by the holder of the permit, within 10 days of receipt of the request. All notification of violations and permit suspensions must include a written description of reasons for suspension, with clear specification of violations. If no written request for hearing is filed within 10 days, the suspension is sustained. The Regulatory Authority may end the suspension at any time if reasons for suspension no longer exist.

History

CMY-28-86, May 2, 1986.

§ 335. Revocation of sanitation permit

A. The Regulatory Authority may, after providing opportunity for hearing, revoke a sanitation permit, for serious or repeated violations of any of the requirements of this Code or for interference with the Health Advisor in the performance of duty.

B. Prior to revocation, the Regulatory Authority shall notify, in writing, the holder of the sanitation permit, or the person in charge, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the 10 days following service of such notice unless a written request for hearing is filed with the Regulatory Authority by the holder of the permit within such 10-day period. If no request for hearing is filed within the 10-day period, the revocation of the permit becomes final.

History

CMY-28-86, May 2, 1986.

§ 336. Service of notice

A notice provided for in this Code is properly served when it is delivered to the holder of the permit, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the Regulatory Authority.

History

CMY-28-86, May 2, 1986.

§ 337. Hearings

The hearings provided for in this Code shall be conducted by the Regulatory Authority at a time and place designated by it. Any oral testimony

given at the hearing shall be recorded verbatim, and the presiding officer shall make provision for sufficient copies of the transcript. The Regulatory Authority shall make a final finding based upon the complete hearing records and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the sanitation permit, by the Regulatory Authority, within 10 days after the hearing.

History

CMY-28-86, May 2, 1986.

§ 338. Application after revocation

Whenever a revocation of a sanitation permit has become final, the holder of the revoked permit may make a written application for a new permit.

History

CMY-28-86, May 2, 1986.

§ 339. Inspections--Inspection frequency

An inspection of a food service establishment shall be performed at least once every 12 months. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this Code.

History

CMY-28-86, May 2, 1986.

§ 340. Access

Representatives of the Health Advisor, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this Code. The representatives shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.

History

CMY-28-86, May 2, 1986.

§ 341. Report of inspections

Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on the inspection report form set out in § 343 of this Code. The inspection report form shall summarize the requirements of this ordinance and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by Section number, the Section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the completed

inspection report form is a public document that shall be made available for public disclosure to any person who requests it.

History

CMY-28-86, May 2, 1986.

§ 342. Correction of violations

A. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

1. If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup onto the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the Health Advisor.

2. All violations of 4 or 5 point weighted items as described in the inspection report form shall be corrected as soon as possible, but in any event, within 10 days following inspection. Within 15 days after the inspection, the holder of the sanitation permit shall submit a written report to the Health Advisor stating that the 4 or 5 point weighted violations have been corrected. A follow-up inspection shall be conducted to confirm correction.

3. All 1 or 2 point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

4. When the rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.

5. In the case of temporary food service establishment, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the Health Advisor.

B. The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the Regulatory Authority within 90 days following cessation of operations. If a request for hearing is received, a hearing shall be held within 20 days of receipt of the request.

C. Whenever a food service establishment is required under the provisions of § 342 to cease operations, it shall not resume operations until it has shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

History

CMY-28-86, May 2, 1986.

§ 343. Inspection report Form 300.3 [See note below]

History

Note. See Appendix B, CMY-28-86, May 2, 1986.

§ 344. Examination and condemnation of food—General

Food may be examined or sampled by the Health Advisor as often as necessary for enforcement of this Code. The Health Advisor may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefore, place a hold order on any food which it believes is in violation of §§ 31, 32, or any other Section of this Code. The Health Advisor shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Health Advisor shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within 10 days and that if no hearing is requested the food shall be destroyed. If a request for hearing is received, the hearing shall be held within 10 days after receipt of the request. On the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this Code.

History

CMY-28-86, May 2, 1986.

§ 345. Review of plans—Submission of plans

Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Health Advisor for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Health Advisor shall approve the plans and specifications if they meet the requirements of this Code. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 346. Pre-operational inspection

Whenever plans and specifications are required by § 345 of this Code to be submitted to the Health Advisor, the Regulatory Authority shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this Code.

History

CMY-28-86, May 2, 1986.

§ 347. Procedure when infection is suspected—General

When the Health Advisor has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. All investigations shall be conducted in compliance with the provisions of the Privacy Act, and information collected will only be used for epidemiological purposes. The Health Advisor may require any or all of the following measures:

A. The immediate exclusion of the employee from employment in food service establishments;

B. The immediate closing of the food service establishment concerned until, in the opinion of the Health Advisor, no further danger of disease outbreak exists;

C. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and/or

D. Adequate medical and laboratory examination of the employee and of other employees and of his/her and their body discharges.

History

CMY-28-86, May 2, 1986.

§ 348. Remedies—Penalties

A. The Regulatory Authority shall execute and enforce the provisions of this Act and in that enforcement is vested with all powers relating to inspecting, sampling, condemnation and embargoing of hazardous substances granted to it with respect to this Code.

B. If any person shall violate directly or indirectly, through his officers or employees, any of the provisions of this Act, or regulations promulgated thereunder, the Regulatory Authority may order the correction of the violation within such reasonable period of time as the commissioner may prescribe. Such order shall be complied within the time specified.

C. Any person violating any of the provisions of this Act or orders of regulations promulgated thereunder shall be liable to a penalty of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars

(\$250.00), and for the second and each succeeding violation, double that of the proceeding infraction, to be collected in a civil action by the Regulatory Authority and deposited in the Navajo Nation General Funds account. Where the violation is of a continuing nature, each day during which it continues, after the date given by which the violation must be eliminated in the order by the Regulatory Authority, shall constitute an additional, separate and distinct offense, except during the time an appeal from said order may be taken or is pending.

D. The Regulatory Authority is hereby authorized and empowered to compromise and settle any claim for a penalty under the Section in such amount in the discretion of the Regulatory Authority as may appear appropriate and equitable under all of the circumstances.

E. Payment of a penalty for any violation of this Act or regulations promulgated thereunder either or after the institution of proceedings for the collection thereof shall be deemed equivalent to a concession of the violation for which such penalty was claimed.

History

CMY-28-86, May 2, 1986.

§ 349. Injunctions

The Health Advisor may seek to enjoin violations of this Code.

History

CMY-28-86, May 2, 1986.

Chapter 2. Civil Tobacco Liability Enforcement and Recovery Act

§ 401. Short title

This Act shall be known and designated as the "Civil Tobacco Liability Enforcement and Recovery Act."

History

CJY-80-99, July 23, 1999.

§ 402. Findings and purpose

A. Tobacco use leads to disease and death and has created an epidemic of tragic proportions. More than 400,000 deaths per year in the United States are tobacco-related. Tobacco causes more deaths than AIDS, homicide, suicide, automotive accidents, and alcohol and drug use combined.

B. According to the United States Surgeon General, Native Americans have "substantially higher" smoking rates than any other group in the general United States population. Data compiled by the National Center for Health Statistics shows that the overall prevalence of cigarette smoking among American Indians

and Alaska Natives was forty-eight and two-tenths percent (48.2%) in 1978 and thirty-nine and two-tenths percent (39.2%) in 1994-5.

C. Smoking rates of Native American minors are significantly higher than the smoking rates of all other groups of minors in the United States. According to the United States Surgeon General, the prevalence of previous-month cigarette smoking during 1990-94 was thirty-nine and four-tenths percent (39.4%) among American Indian and Alaska Native females and forty-one and one-tenth percent (41.1%) among males. A 1992 survey of Navajo and Pueblo school children found that thirty and six-tenths percent (30.6%) of fifth graders and sixty and four-tenths percent (60.4%) of seventh graders had tried smoking. Approximately seventy percent (70%) of all adult smokers start smoking before the age of 18.

D. The use of tobacco is unique among all consumer products sold in the Navajo Nation. It is the only product which, when used as the manufacturer intends, will lead to disease and/or death.

E. Tobacco use in the Navajo Nation has resulted in a health care crisis. In conjunction with the United States government, the Navajo Nation provides medical assistance to tribal members. In responding to the health care crisis resulting from tobacco use, the Navajo Nation has paid millions of dollars each year, including payments funded by the Indian Health Care Improvement Act, 25 U.S.C. § 1601, *et seq.*, to treat the tobacco-related illnesses of tribal members.

F. In addition to the health care costs arising from tobacco-related illnesses, tobacco use imposes incalculable additional costs on the Navajo Nation. These costs include, but are not limited to, the income that would be generated by those tribal members who suffer debilitating illness or death at the hands of tobacco and the costs of caring for dependents or such tribal members.

G. It is a policy of the Navajo Nation, as well as that of the United States pursuant to the Indian Health Care Improvement Act,¹ to raise the health status of tribal members to the highest possible level and to reduce the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, tribal members.

H. It is the intent of the Navajo Nation and the Indian Health Care Improvement Act¹ that the Navajo Nation recover the costs of providing health care services from third parties held liable for such costs. It is intended that the Navajo Nation shall recover from a liable tobacco manufacturer the costs of treating the tobacco-related illnesses of tribal members.

I. In order to protect the health of tribal members, it is also a policy of the Navajo Nation to prevent restraints of trade, and unfair, deceptive, fraudulent and unconscionable acts or practices committed in the sale of tobacco products.

J. This Act shall be liberally construed so that its beneficial purposes may be served.

History

CJY-80-99, July 23, 1999.

§ 403. Definitions

A. "Tribal member" means any member of the Navajo Nation.

B. "Tobacco" means any tobacco product, including but not limited to loose tobacco suitable for smoking, snuff flour, cavendish, plug and twist tobacco, fine cut and other kinds and forms of tobacco suitable for chewing and smoking, including cigars and cigarettes.

C. "Tobacco manufacturer" means any person engaged in the process of designing, fabricating, assembling, producing, constructing or otherwise preparing a product containing tobacco, including any packaging or labeling or repacking or relabeling of such product, with the intention of selling the product for gain or profit. "Tobacco manufacturer" does not include persons whose activity is limited to growing natural leaf tobacco or to selling tobacco products at wholesale or retail to consumers; provided that this term shall not be interpreted to mean any person that engages in the defined activities in furtherance of a religious practice, e.g. Navajo Mountain tobacco.

D. "Liable tobacco manufacturer" means a tobacco manufacturer having an obligation under this Act, or otherwise by law, to pay all or any portion of the medical expense incurred by the Navajo Nation to treat the tobacco-related illnesses of tribal members. The obligation is not discharged by virtue of being undiscovered or undeveloped at the time assistance is provided. Liability includes a finding of legal liability by a court of law.

E. A "restraint of trade" means a contract, combination, or conspiracy between two or more persons in restraint of trade or commerce. It is a restraint of trade hereunder to agree not to research, develop, manufacture or sell less harmful tobacco products, or to advertise tobacco based on comparative health claims.

F. An "unfair" act or practice is one which:

1. Offends public policy as defined by statute or common law;
2. Is immoral, unethical, oppressive or unscrupulous;
3. Causes substantial injury to consumers; or
4. A reasonable person would conclude was designed to encourage or does encourage persons under the age of 18 to use tobacco products.

G. A "deceptive" act or practice is one which has the tendency or capacity to deceive concerning a material fact which a person could be expected to consider in determining whether to commence or continue using tobacco products or a particular brand or type of tobacco product, whether or not any person has in fact been misled, deceived or damaged thereby. It includes the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact. Actual reliance by a person is not required. Nor is it necessary to

prove intent to deceive. In evaluating representations and omissions hereunder, the test is whether the act or practice has the tendency or capacity to deceive or mislead the least sophisticated consumer. The technical correctness of a representation is irrelevant if the capacity to deceive or mislead is found.

H. "Unconscionable acts or practices" include, without limitation:

1. Withholding, suppressing or altering information concerning the deleterious health effects of tobacco products in any manner which deprives consumers or governmental authorities of such information;

2. Making insupportable, bad-faith claims of attorney client privilege or work product protection in order to suppress information about the adverse health effects of tobacco;

3. Deliberately enhancing the addictive qualities of tobacco products through such means as increasing the bioavailability of nicotine in tobacco smoke and breeding or selecting strains of tobacco plants that have unusually high nicotine content;

4. Designing ventilation holes and other technology to provide the smoker with higher levels of "tar" and nicotine than those documented in F.T.C. tests; and

5. Not informing "low tar" or "light" smokers of the proper manner in which to smoke those products in order to obtain the lower "tar" and nicotine levels advertised by the tobacco manufacturers.

I. "Person" shall include, where applicable, natural persons, corporations, trusts, unincorporated associations and partnerships, and governmental entities.

J. "Caused" as used in § 404(B)(3) of this Act means that the tobacco product was a material element and a substantial factor in bringing about the health conditions and includes both direct and indirect effects.

K. "Unit" as used in this Act means a pack of cigarettes or a package of smokeless tobacco.

History

CJY-80-99, July 23, 1999.

§ 404. Liability for tobacco-related illnesses

A. After the Navajo Nation has provided medical assistance to tribal members for tobacco-related illness under any program, it may recover from tobacco manufacturers the amount paid or likely to be paid for medical assistance to such persons, plus civil penalties, costs, reasonable attorneys' fees and other appropriate relief.

B. In order to recover under Subsection (A) of this Section, the Navajo Nation shall prove:

1. That a tobacco manufacturer, in the research, design, manufacture, distribution, marketing or sale of a tobacco product, did one or more of the following:

- a. Conspired to restrain trade or engage in restraints of trade;
- b. Committed an unfair or deceptive act or practice;
- c. Committed an unconscionable act or practice;
- d. Was negligent or produced a defective product unreasonably dangerous to the user or consumer who received or will receive medical assistance; or
- e. Violated any other duties owed under the law of the Navajo Nation.

2. That the tobacco manufacturer's perpetration of any such act as enumerated in Subsection (B)(1) was a factor in tribal members' use of unreasonably unsafe tobacco products.

3. That the tobacco products caused the health conditions for which the Nation seeks reimbursement; and

4. The amount of compensatory damages and the appropriateness of any other relief sought.

History

CJY-80-99, July 23, 1999.

§ 405. Independent, non-exclusive remedy; Preservation of causes of action

A. The right of the Navajo Nation to a cause of action against a tobacco manufacturer hereunder shall be independent of and not construed to affect any rights or causes of action by an individual tribal member to recover damages or other relief as a result of tobacco-related illness. In the event that recovery of health care expenditures had been achieved hereunder, and the individual tribal member thereafter recovers damages from a tobacco manufacturer, then the tobacco manufacturer shall be entitled to a setoff for the amount of any such recovery which represents the expenditure on behalf of the individual tribal member.

B. Existing common law and statutory actions available to recover health care expenditures from a tobacco manufacturer, including direct action, are expressly preserved. An action brought pursuant to this Act may be brought in addition to any existing common law or statutory action, or both, and shall not preempt, limit or extinguish those actions.

History

CJY-80-99, July 23, 1999.

§ 406. Abrogation of certain defenses

A. Principles of common law and equity as to assignment, lien, subrogation, comparative negligence, assumption of risk, and all other affirmative defenses normally available to a tobacco manufacturer are to be abrogated to allow full recovery from tobacco manufacturers. Such principles shall not act to reduce the recovery of the Navajo Nation pursuant to this Act. Common law theories of recovery shall be liberally construed to accomplish this intent.

B. The defenses of statute of repose and statute of limitations shall not apply to any action brought under this Act.

History

CJY-80-99, July 23, 1999.

§ 407. Joint and several liability; Market share recovery

A. The concept of joint and several liability applies to any judgment on behalf of the Navajo Nation under this Act.

B. In any action brought pursuant to this Act, the Navajo Nation shall be allowed to proceed under a market share theory, provided that the products involved are substantially interchangeable among brands, and that substantially similar factual and legal issues would be involved in seeking recovery against each tobacco manufacturer individually. In the event the Navajo Nation elects to proceed under such a market share theory, the concept of joint and several liability shall not apply.

History

CJY-80-99, July 23, 1999.

§ 408. Recovery in a single action; Use of statistics

A. In the event that medical assistance has been provided by the Navajo Nation to more than one tribal member, and the Nation elects to seek recovery hereunder due to actions by tobacco manufacturers or circumstances which involve common issues of fact or law, the Nation may bring an action to recover sums paid on behalf of all such tribal members in one proceeding.

B. In any action brought under this Act wherein the number of tribal members is so large as to cause it to be impracticable to join or identify each claim, the Nation shall not be required to identify the individual for which payment has been made, but rather can proceed to seek recovery based upon payments made on behalf of all tribal members as a group.

C. The evidence code shall be liberally construed regarding issues of causation and of aggregate damages, and causation and damages in any such action may be proven by use of statistical analysis.

History

CJY-80-99, July 23, 1999.

§ 409. Civil penalties

Because the actual costs of tobacco use to the Navajo Nation are far greater than the amounts which may be recovered under § 404(A) of this Act, and in order to more fully remediate the deleterious effects of tobacco on the health and welfare of the Navajo Nation, any tobacco manufacturer who violates this Act by committing any of the actions set out in § 404(B)(1) of this Act, shall pay civil penalties in the amount of:

A. Not more than three times the cost per unit of tobacco sold; or

B. No more than five thousand dollars (\$5,000) per advertisement where such advertisement violates this Act; or

C. Not more than one hundred thousand dollars (\$100,000) per unfair act or practice as provided in Sections 404(B)(1)(b) and 403(F) of this Act.

History

CJY-80-99, July 23, 1999.

§ 410. Amount of awardable attorneys' fees

The Nation may recover attorneys' fees and costs if it prevails on any claims against any or all of the defendants. The attorneys' fees recoverable under this Act shall be in an amount representing a reasonable hourly rate per hour of work expended plus a multiplier. The multiplier shall have a benchmark of twenty percent (20%) of all amounts recovered hereunder, including damages and civil penalties but not costs. Deviation from the benchmark shall be permitted only if a manifest injustice would occur.

History

CJY-80-99, July 23, 1999.

§ 411. Effective date

This Act, being deemed of immediate importance, takes effect upon enactment, although recovery may be had hereunder for acts occurring prior to the effective date.

History

CJY-80-99, July 23, 1999.

§ 412. Severability

In the event that any provision of this Act is ruled to be void or unenforceable for any reason, the courts shall give full effect to all other provisions of this Act.

History

CJY-80-99, July 23, 1999.

Chapter 3. Slaughterhouses and Meat Processing Establishments

Subchapter 1. Generally

§ 501. Definitions

For the purposes of these regulations, the following definitions shall apply:

- A. "Animal" shall mean cattle, sheep, swine, or goat.
- B. "Area Director" shall mean the Navajo Agency Area Director or his designated representative.
- C. "Carcass" shall mean all parts, including viscera, of a slaughtered animal that are capable of being used for human food.
- D. "Employee" shall mean any individual who is employed in any establishment used as a slaughterhouse or meat processing establishment.
- E. "Establishment" shall mean any building, room, or other location occupied or used for slaughtering meat animals or preparing meat food products for human consumption, including meat-canning, curing, smoking, salting, packing, rendering, sausage manufacture, or where any other similar operation is conducted, and shall include all detached buildings or rooms under the control of the operator of the establishment and used in any capacity in connection with its operation.
- F. "Health Advisor" shall mean the United States Public Indian Health Service, Window Rock Field Office, Medical Officer in Charge, or his designated representative.
- G. "Health and Social Services Committee" shall mean the Health and Social Services Committee of the Navajo Nation Council.
- H. "Meat" shall mean the edible part of the muscle of cattle, sheep, swine, or goats, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing.
- I. "Meat Food Product" shall mean any article of food, or any article intended for or capable of being used as human food which is derived or prepared, in whole or in substantial and definite part, from any portion of any cattle, sheep, swine, or goat.
- J. "Person" shall mean any individual, firm, corporation, partnership, corporate group or association.

K. "President" shall mean the President of the Navajo Nation or his designated representative.

L. "Sanitation Permit" shall mean a written permit issued by the Health and Social Services Committee upon the recommendation of the Health Advisor, reflecting a slaughterhouse or meat processing operator's compliance with these regulations.

M. "Transportation Vehicle" shall mean any vehicle used in the transportation of meat, or meat products, outside of an establishment.

History

ACJA-13-63, January 17, 1963. ACJA-13-63 adopted regulations, attached thereto, defining and regulating sanitation at slaughterhouses and meat-processing establishments; establishing the minimum requirements governing the construction, maintenance, and operation; fixing the responsibilities and duties of owners and operators; authorizing inspection and providing penalties for violations.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454(B) (3) and (4).

§ 502. Alterations or new construction; approval of plans

Whenever any alteration, modification, or new construction of a slaughterhouse or meat-processing establishment is contemplated by the operator or prospective operator, three sets of plans and specifications shall be submitted to the Health Advisor for review of such plans, and he shall recommend approval or such modifications necessary for approval to the President.

History

ACJA-13-63, January 17, 1963.

§ 503. Employees

A. No person who is affected with any disease in a contagious or infectious form, or who is a carrier of such diseases, or any person who has an open sore or lesion, shall work in any establishment, and no establishment shall employ any such person or persons.

B. All employees shall wear clean, washable outer garments and shall keep their hands clean at all times while engaged in handling meat, meat products, utensils or equipment.

C. Employees shall not expectorate or use tobacco in any form, in any room where meat or meat food products are handled, prepared, or stored.

D. The use of caps or hair nets is required of all employees working in processing rooms.

History

ACJA-13-63, January 17, 1963.

Cross References

Handwashing facilities, see 13 N.N.C. § 610.

§ 504. Inspections; authority; number; report

A. The President, Health Advisor, and Area Director shall have the power to enter at reasonable times, the property and buildings for the purpose of inspecting and investigating conditions relating to the enforcement of this Chapter.

B. The President, Health Advisor, and Area Director are empowered and authorized to make inspections of slaughterhouses and meat-processing establishments and obtain samples of water and sewage for laboratory analysis to determine the condition of the water and sewer systems.

C. It shall be the duty of owner or person in charge of the slaughterhouse or meat-processing establishment to give the President, Health Advisor, or Area Director, free access to such premises at reasonable times for the purpose of inspections.

D. Inspections of slaughterhouse or meat-processing establishments shall be made at least once every 12 months or more often if the President, Health Advisor, or Area Director deems it necessary for the protection of the health of the people.

E. When the inspection is made by the Health Advisor, he will leave with the management, or person in charge of the slaughterhouse or meat-processing establishment, a copy of the completed inspection report which indicates the sanitary conditions of the slaughterhouse or meat-processing establishment. The report shall be displayed in a prominent place on the premises, and one copy forwarded to the President with the recommendations as to necessary action. Also, one copy shall be forwarded to the appropriate person in the Bureau of Indian Affairs interested in such matters. A copy of the inspection report shall also be filed in the records of the Health Advisor.

History

ACJA-13-63, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, December 15, 1989, resolve § 9.

Subchapter 3. Sanitation Permits

§ 551. Requirement

A. No person shall operate a slaughterhouse or meat-processing

establishment on the lands of the Navajo Nation who does not possess a valid sanitation permit issued to him by the Health and Social Services Committee.

B. The failure to obtain or maintain a sanitation permit may be cause for termination of a slaughterhouse or meat-processing establishment lease granted by the Health and Social Services Committee.

History

ACJA-13-63, January 17, 1963.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454 (B) (2).

§ 552. Application; form and contents

Application for sanitation permits shall be in writing signed by the applicant and shall include the following:

A. The name and address of the applicant; and

B. The location and legal land description of the slaughterhouse or meat-processing establishment.

History

ACJA-13-63, January 17, 1963.

§ 553. Inspection

Before a permit is issued, the Health Advisor shall inspect the slaughterhouse or meat-processing establishment for which an application for permit has been filed to determine its compliance with the provisions of this Chapter.

History

ACJA-13-63, January 17, 1963.

Cross References

Inspections generally, see 13 N.N.C. § 504.

§ 554. Issuance

Upon certification of the Health Advisor that a slaughterhouse or meat-processing establishment for which an application for a permit has been filed meets the requirements of this Chapter, the President shall issue a sanitation permit.

History

ACJA-13-63, § 2.5, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, Resolve #9, December 15, 1989.

Cross References

Permit requirement, see 13 N.N.C. § 551.

§ 555. Hearing on denial of application

Any person whose application for a permit has been denied may request and shall be granted a hearing before the Health and Social Services Committee under the procedure provided by 13 N.N.C. § 682.

History

ACJA-13-63, January 17, 1963.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454(B)(2).

§ 556. Display

A sanitation permit shall be displayed in a prominent place within the premises.

History

ACJA-13-63, January 17, 1963.

§ 557. Transfer

A sanitation permit shall not be transferable.

History

ACJA-13-63, January 17, 1963.

§ 558. New ownership or control-Notice

Every person who succeeds to the ownership or control of a slaughterhouse or meat-processing establishment shall give notice in writing to the President of the Navajo Nation within 10 days after having purchased, received by transfer, or gift, or otherwise acquired interest in or control of any slaughterhouse or meat-processing establishment. Such notice shall include the name and address of the previous owner of the slaughterhouse or meat-processing establishment.

History

ACJA-13-63, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, Resolve #9, December 15,

1989.

§ 559. Application for permit

Each person who succeeds to the ownership or control of a slaughterhouse or meat-processing establishment shall within 10 days file an application for a sanitation permit to be issued to him in the manner provided in this Subchapter. Failure to file such application within the 10-day period shall result in suspension of the privilege to operate such slaughterhouse or meat-processing establishment until compliance with this provision.

History

ACJA-13-63, § 2.3, January 17, 1963.

§ 560. Suspension or revocation

A. Whenever upon inspection of any slaughterhouse or meat processing establishment which holds a permit, conditions or practices are found to exist which are in violation of any provisions of this Subchapter, the President shall give notice in writing to the person to whom the permit was issued of such conditions or practices that unless such conditions and practices are corrected within a reasonable period of time, as recommended by the Health Advisor, the permit shall be suspended.

B. At the end of such period, the Health Advisor shall reinspect such slaughterhouse or meat-processing establishment and if such conditions or practices have not been corrected he shall so advise the President, who will give notice in writing to the permittee that the permit has been suspended. Upon receipt of notice of suspension, such person shall cease operation of such establishment at once.

C. Any person whose permit has been suspended, or has received notice from the President that his permit will be suspended unless certain conditions or practices at the slaughterhouse or meat-processing establishment are corrected, may request and will be granted a hearing on the matter before the Health and Social Services Committee as provided by 13 N.N.C. § 682. When no petition for such hearing shall have been filed within 10 days following the day when such permit was suspended, such permit shall be deemed to have been automatically revoked.

History

ACJA-13-63, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, Resolve #9, December 15, 1989.

Subchapter 5. Sanitation Requirements

§ 601. Premises for establishments

A. No establishment shall be located in barns, sheds, or other buildings

not designed or suitable for the slaughtering of animals or for processing of meat and/or meat products; nor shall any slaughtering be done in a manner wherein the carcasses are exposed to dust, dirt, fowls, flies, insects, rodents, cats, dogs, or any other possible source of contamination.

B. The premises of every establishment, including the docks and areas where cars and vehicles are loaded and unloaded, driveways, approaches, yards, pens, and alleys, shall be paved or properly graded and drained, and kept clean.

History

ACJA-13-63, January 17, 1963.

§ 602. Floors

A. The floors in all rooms of the establishment shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

B. The floors of killing rooms and refrigerated rooms shall be constructed of impervious material such as dense concrete, or vitrified floor brick of good quality laid on a concrete base, and shall be sloped to permit easy drainage. Killing floors shall be provided with floor drains.

C. The floors in all other rooms of the establishment shall be constructed of dense concrete, vitrified floor brick of good quality laid on a concrete base, tile, terrazzo, tight wood, or other impervious material. Wood floors containing wide cracks, holes, or loose fitting planks are prohibited.

History

ACJA-13-63, January 17, 1963.

Cross References

Cleaning floors, see 13 N.N.C. § 614.

Drainage of floors, see 13 N.N.C. § 607.

Washing floors, see 13 N.N.C. § 612.

§ 603. Walls, ceilings, partitions and posts

Walls, ceilings, partitions, and posts of all workrooms shall be well plastered or finished with wood, tile, metal, or other impervious material, and shall be suitably finished so as to be washable, and shall be kept clean and in good repair.

History

ACJA-13-63, January 17, 1963.

Cross References

Washing walls, see 13 N.N.C. § 612.

§ 604. Doors, windows and other openings

A. Doors, windows and other openings to the outside of the establishment shall be fitted with self-closing screen doors and window screens of not coarser than 16 gauge mesh wire or 18 gauge plastic screen during the fly season, unless other effective means are provided to prevent the entrance of flies.

B. Fans of sufficient power to prevent entrance of flies and other insects shall be provided at all otherwise ineffectively protected openings.

History

ACJA-13-63, January 17, 1963.

Cross References

Exclusion of insects generally, see 13 N.N.C. § 618.

§ 605. Lighting

There shall be adequate lighting in all workrooms of the establishment. Sufficient artificial lighting shall be provided at places where, or at times when, natural lighting is not available. At least 20 foot candles in all areas should be provided except meat inspection and work surfaces which shall have 40 foot candles.

History

ACJA-13-63, January 17, 1963.

§ 606. Ventilation

All workrooms shall be well ventilated and shall be free from disagreeable odors, condensation, vapor and smoke. Exhaust fans or ventilating hoods shall be provided wherever necessary. The walls, ceilings, and overhead structures of rooms and compartments in which any product is prepared, handled, or stored shall be kept reasonably free from moisture.

History

ACJN-13-63, January 17, 1963.

§ 607. Drainage

Floors which require flushing during operations must have a sufficient number of floor drains, properly spaced, to adequately carry off the floor drainage. Each floor drain must be equipped with a deep-seal trap; the drainage lines shall be properly vented to the outside in accordance with the National Plumbing Code, as stated in 13 N.N.C. § 616. In no case shall a drain line be less than four inches in diameter and should be larger where required.

History

ACJA-13-63, January 17, 1963.

§ 608. Water supply

A. The water supply shall be ample, of safe and sanitary quality, and with adequate facilities for its distribution in the plant and its protection against contamination and pollution. Every establishment shall make known and whenever required, shall afford opportunity for inspection of the source of its water supply, the storage facilities, and the distribution system. Equipment using potable water shall be so installed as to prevent back-siphonage into the potable water system.

B. Nonpotable water is permitted only in those parts of establishments where no edible product is handled or prepared, and then only for limited purposes such as on ammonia condensers not connected with the potable water supply, in vapor lines serving inedible product-rendering tanks. Nonpotable water is not permitted for washing floors, areas, or equipment involved in trucking materials to and from edible products departments, nor is it permitted in hog-scalding vats, dehairing machines, or vapor lines serving edible products rendering equipment, or for cleanup of shackling pens, bleeding areas, or runways within the slaughtering department. In all cases, nonpotable water lines shall be clearly identified (painted yellow) and shall not be cross-connected with the potable water supply.

C. Running hot and cold water, under pressure, shall be easily accessible in all rooms in which meat or meat food products are prepared, and utensils are washed. Outlets and connections to fixtures and equipment shall be so installed as to prevent backflow into the water distribution system, or shall be equipped with backflow preventers.

History

ACJA-13-63, January 17, 1963.

§ 609. Toilet and dressing room facilities

A. Every establishment shall have convenient flush-type toilets, separate and apart from rooms where processing; manufacturing, packing, canning, storing or selling of any meat or meat food product is conducted. All toilet room doors shall be provided with springs or checks to make them self-closing. The toilet room or rooms shall be well lighted and ventilated and shall be maintained in a sanitary condition, free from flies. An approved handwashing sign shall be posted in a conspicuous place in all toilet rooms.

B. A supply of toilet tissues shall be provided in toilet rooms at all times.

C. Adequate lockers, or facilities in dressing rooms, shall be provided in, or shall be convenient to, meat-processing establishments for the storage of employees' clothing. Such locker or dressing rooms shall be kept in a clean and orderly condition and shall be separate and apart from any room or rooms

where the process of production, processing, manufacturing, packing, canning, storing, selling, or distribution of any meat or meat food product is conducted. Hampers for soiled clothes shall be located in locker or dressing rooms and shall not be located in processing rooms.

History

ACJA-13-63, January 17, 1963.

Cross References

Handwashing facilities generally, see 13 N.N.C. § 610.

§ 610. Handwashing facilities

A. Adequate handwashing facilities, including hot and cold running water, soap and sanitary towels, shall be provided in or adjacent to all toilet rooms and in any other locations in the establishment where the nature of the work requires frequent use of such facilities. The use of a common towel is prohibited. No employee shall begin work after visiting the toilet room or handling any disease contaminated product, or before resuming work after having been absent from the work area for any reason, without first thoroughly washing his hands and arms with clean water and soap.

B. Each lavatory shall be supplied with a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl to facilitate washing arms as well as hands. Lavatories in work areas in new establishments, or those areas undergoing major alterations or additions, shall be supplied with foot, elbow, or knee controls.

History

ACJA-13-63, January 17, 1963.

Cross References

Toilet and dressing room facilities generally, see 13 N.N.C. § 609.

§ 611. Equipment—Generally

A. All equipment used in an establishment which comes in contact with meat or meat products, except workbenches and tables, shall be constructed of metal or other impervious materials, and shall be free of crevices, seams, and joints, and shall be kept clean and in good repair.

B. Workbenches and tables shall be constructed of metal, tight-fitting removable hardwood planks or both, or of other impervious materials.

C. Handtrucks used in establishments for the transportation of unpackaged meat shall be of smooth metal construction. Trucks and receptacles used for inedible material shall be of similar construction and shall bear some conspicuous and distinctive mark, and shall not be used for handling edible products.

D. Metal containers used for storage or transportation of meat shall be so constructed as to be easily cleanable and shall be kept clean and in good repair. Such containers shall not be painted on the inner surfaces.

E. Utensils containing or plated with cadmium, lead, or other poisonous substances shall not be used.

F. All containers other than those of metal construction which are used for transportation or storage of unwrapped meat or meat food products shall be kept clean and in good repair and shall be lined with new clean paper material of a type which does not tear easily or disintegrate during use but remains intact when moistened by the product. The use of newspapers or soiled wrappings is prohibited. Burlap shall not be used as a wrapping for meat or meat products unless the product is first wrapped with a good grade of paper or cloth which will prevent contamination with lint or other foreign matter.

G. Scabbards for knives or similar devices for temporary retention of knives, steels, etc., shall be constructed of rust-resisting metal and shall be so constructed that they can be readily cleaned and shall be kept clean.

H. Racks, receptacles or other equipment used for retaining such parts as the head, tongue, tail, thymus glands, viscera, and other usable meats shall be constructed of metal and shall be constructed so as to prevent contact of said meats with the floor.

I. Mechanized equipment, such as meat choppers and agitators, shall be protected so that contamination of the product with grease or metal particles is avoided.

J. Broken window glass or broken light bulbs in all rooms where meat or meat food products are handled shall be immediately replaced.

History

ACJA-13-63, January 17, 1963.

Cross References

Calf, sheep and goat equipment, see 13 N.N.C. § 620.

Cattle equipment, see 13 N.N.C. § 619.

Hog equipment, see 13 N.N.C. § 621.

Washing equipment, see 13 N.N.C. § 612.

§ 612. Washing equipment, floors and walls

A. An ample supply of steam or hot water shall be easily accessible to workrooms and adequate facilities for washing and cleaning equipment shall be provided.

B. Equipment washing sinks shall be provided with running hot and cold water and shall drain into open-trap drains connected directly to the sewerage

system.

C. Adequate hose connections shall be provided for hot and cold water under sufficient pressure to be used for cleaning and washing floors, walls, and stationary equipment.

D. Adequate brushes, detergents, and other similar materials shall be provided for cleaning and washing equipment. Wire brushes or steel wool shall not be used for cleaning equipment coming in contact with the product. A separate wash area shall be provided for the washing of movable equipment.

E. Cleaning shall be accomplished by the use of warm water (100°F to 120°F) containing an adequate amount of detergent to remove grease. The wash water shall be changed at sufficient intervals to keep it reasonably clean and free from precipitated grease.

F. Equipment and utensils used for processing meat and meat products shall be thoroughly cleaned at the end of each day's operations and at such other times as shall be necessary in order to prevent contamination of meat and meat food products. Such cleaning shall remove grease and other soils, and shall leave no visible surface film or deposit.

G. After cleaning, all utensils shall be sanitized by one of the following methods: (1) after rinsing, complete immersion in a warm chlorine bath for at least two minutes with at least 100 parts per million of chlorine; or (2) complete immersion in 180°F water bath for a period of not less than two minutes.

History

ACJA-13-63, January 17, 1963.

§ 613. Rails

All overhead rails for the movement of carcasses shall be kept clean and free from rust. Rails shall be placed in such a way as to prevent carcasses or parts of carcasses from touching the floors or walls.

History

ACJA-13-63, January 17, 1963.

Cross References

Equipment generally, see 13 N.N.C. § 611.

§ 614. Operation generally

A. Meats and meat food products shall be prevented from falling on the floor or coming in contact with any unclean or disease-producing materials.

B. Carcasses, after slaughter and evisceration, shall be moved from the killing floor to the chilling room without delay.

C. Slaughtering and processing shall not be conducted in the same room at the same time.

D. Water supplied to wash beef carcasses or for scraping hog carcasses shall be under pressure at all times. The use of cloths or rags to wash or wipe carcasses is prohibited.

E. During operations, the floors in killing and processing rooms and areas shall be kept reasonably free from processing wastes, including blood, paunch contents, manure, scraps, grease, dirt, water, and litter. Where processing is conducted at short, irregular intervals, wastes shall be removed from the floors and properly disposed of immediately following each period of processing. Floors shall be thoroughly cleaned at the end of each day's operations. Those sections of walls, partitions, posts, ceilings and exposed overhead structures in killing rooms or areas, in other processing rooms, and in refuse rooms which become soiled during meat processing shall be thoroughly cleaned after each day's operations.

F. Sawdust used on floors of meat-cutting rooms and refrigerated rooms must be changed frequently enough to keep it fresh and clean.

G. Such practices as spitting on whetstones, spitting on the floor, or placing skewers, tags, or knives in the mouth are prohibited.

H. Care shall be taken to prevent the contamination of products with perspiration, hair, cosmetics, medicaments and the like. Rooms and compartments used for edible products shall be separate and distinct from those used for inedible products.

I. Processing and storage rooms of establishments used for inedible materials shall be maintained in an acceptably clean condition. The rooms and compartments in which any meat or meat food products are prepared or handled shall be free from dust and from odors from dressing and toilet rooms, catch basins, hide cellars, casing rooms, inedible tank, fertilizer rooms and livestock pens.

J. Hides and pelts shall be promptly removed from the slaughter room. The room where hides are kept shall be completely separate from other rooms in the establishment.

K. Calves dressed with the skin or hide on shall be thoroughly cleaned and washed before being placed in rooms where other meat or meat food products are kept.

L. Animals awaiting slaughter shall not be kept on the killing floor. If it is necessary to keep them in the main building, pens shall be provided in a section partitioned from the killing floor and processing rooms. The floors in the pens shall be of concrete or other nonabsorbent material and provided with suitable drains. All manure and other excrement from the pens shall be removed daily.

M. Equipment, utensils, packaging materials and meat food product ingredients shall be stored in a suitable location and protected from

contamination. Single-service containers and all wrapping or lining material shall be packaged and shall be transported and stored under sanitary conditions.

N. Vehicles and cars in which any meat or meat food products are transported inside an establishment shall be kept in a clean and sanitary condition.

O. It is prohibited to skin, butcher, cut-up or dress any animal, or the meat or other parts of any animal, that died from natural causes, disease, or accident and was therefore not slaughtered and bled out properly in any room of an establishment where animals are slaughtered, dressed and prepared for human food, or in any room in an establishment where meats or meat food products are prepared or handled for human food.

P. No portion of any building used in connection with the processing of meat or meat food products shall be used for domestic purposes.

Q. No eating shall be allowed in the slaughtering or meat processing rooms.

History

ACJA-13-63, January 17, 1963.

Cross References

Floors generally, see 13 N.N.C. § 602.

Transportation vehicles, see 13 N.N.C. § 625.

§ 615. Refrigeration

A. The refrigeration provided in the chilling rooms shall be capable of reducing the internal temperature of carcasses to 36°F within twenty-four (24) hours.

B. Carcasses which have been chilled to 36°F shall be held at 40°F, or below until shipped from the establishment unless further cut up prior to such shipment.

C. Immediately after being cut up, the meat shall be replaced in refrigerated rooms maintained at temperatures of 40°F, or below.

D. Frozen meat or meat products shall be stored at a temperature of 0°F, or lower.

E. Sufficient refrigeration space shall be available for the refrigeration of each carcass immediately after completion of the dressing operation. There shall be sufficient room in the chilling rooms to permit free circulation of air between the carcasses.

F. A chill cooler and separate holding coolers may be provided, or both

may be combined in one room. The chill cooler must have floors of concrete properly sloped to a drain. Wells must be smooth-finished Portland cement plaster or glazed tile. The room must be sealed. Floors of other coolers must be of concrete; walls of smooth finished Portland cement plaster or glazed tile and the room sealed. The door between the slaughtering department and the chill cooler must be clad with rust-resistant metal.

G. Rails should be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact of the carcasses. If overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them, and the pipes properly connected to the drainage system. If wall-coil systems are used, the drip pans must be installed beneath the coils.

H. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area must be separately drained.

History

ACJA-13-63, January 17, 1963.

Cross References

Transportation vehicles, see 13 N.N.C. § 625.

§ 616. Disposal of wastes

A. All waste shall be properly disposed of and all inedible products and trash shall be kept in suitable receptacles in such a manner as not to become a nuisance.

B. Containers used for the collection and holding of solid wastes shall be kept covered or otherwise protected at all times so that the wastes shall not be accessible to flies, rodents, or other vermin.

C. The sewerage system in establishments shall be of sufficient size to handle the sewage at peak production. The drainage pipes shall be of cast or wrought iron and shall be provided with clean-out fixtures, screens and water-seal traps where the sewage enters the disposal system.

D. Liquid wastes from sinks, drains, toilets, and similar fixtures shall empty into a municipal sewer, if available. In the absence of a municipal sewer, sewage disposal shall be accomplished by a method approved by the Health Advisor. Open ditch drainage or open sewerage systems are prohibited.

E. Where grease catch basins are used, they shall be situated on the outside of the establishment, in the open, and the area around the catch basins shall be paved and properly drained. The material which is collected in the catch basins shall be removed as frequently as is necessary. Toilet soil lines shall be separated from the establishment drainage lines to a point outside of the building so as to bypass the grease catch basins.

F. Water-wasting equipment, such as meat-cooking vats, curing vats, and meat-soaking vats, shall drain into the sewerage system by means of a "broker

connection" or into an open-trapped drain to avoid continuity of the equipment handling edible products with the drainage system, so that if there is a stoppage in the drainage lines, the wastes cannot back up into and contaminate the equipment and the product contained in it.

G. All overhead drain lines and piping shall be so located and installed, or protected, that leakage and condensation therefrom cannot drip upon meat or meat food products, stored edible products, processing equipment or utensils, facilities for the cleaning of utensils and portable equipment, working or trucking floor areas.

H. All plumbing shall comply with the latest edition of the National Plumbing Code, which shall be on file at the Central Records Room of the Navajo Nation, and shall be so designed as to prevent contamination of the potable water supply through cross-connections or back-siphonage from fixtures.

I. Suitable receptacles shall be provided for blood, offal, and similar materials and such materials shall be placed into an offal tank, or where such tank is not available they shall be removed from the premises daily. In no case shall they be permitted to accumulate in or around the establishment. Receptacles and vehicles used for storing and transporting such materials shall be kept clean. Stomach and intestinal contents and other refuse shall not be allowed to accumulate on the floor of the slaughter room, and shall not be stored on the premises in any place or in such a manner as to render the establishment insanitary.

History

ACJA-13-63, January 17, 1963.

Cross References

Blood disposal, see 13 N.N.C. § 617.

Drainage generally, see 13 N.N.C. § 607.

§ 617. Disposal of blood

When blood is not permitted to drain into the sewerage system, it may be collected in a properly constructed metal blow tank and removed from the premises or blown to the blood dryer in such a manner as to create no insanitary conditions.

History

ACJA-13-63, January 17, 1963.

Cross References

Waste disposal generally, see 13 N.N.C. § 616.

§ 618. Exclusion of insects, rodents, fowl, dogs and cats

A. Every practicable precaution shall be taken to exclude flies, fowl,

rats, mice and other vermin from establishments. All outer walls and rooms shall be effectively protected against the entrance and harborage of rodents and insects, and interior walls, partitions, posts, ceilings, and overhead structures shall be free from such harborage.

B. Rodenticide, insecticides, and other toxic materials used in establishments where meat or meat products are processed, stored, or otherwise handled shall be identified, stored, and used in such a manner as to preclude the contamination of meat and meat products or the creation of other health hazards. So-called "rat viruses" shall not be used in any part of an establishment. Residual insecticides shall not be used in meat processing or storage rooms where meat or meat products may be exposed.

C. Dogs and cats shall be excluded from the inside of the establishment and shall not be allowed any access to offal or refuse awaiting removal on the outside of the establishment.

History

ACJA-13-63, January 17, 1963.

§ 619. Cattle

A. A metal knocking box or concrete box with metal door shall be provided for cattle. Provisions also should be made for bringing in cripples.

B. There shall be a dry-landing area at least five feet wide in front of the knocking box. This area should be separately drained.

C. The curbed-in bleeding area shall be at least eight feet wide and seven feet long, so located that blood will not splash upon stunned animals lying in the dry-landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide.

D. There shall be a distance of at least five feet from the curbed-in bleeding area to the siding bed. This area should be separately drained.

E. There shall be a distance of at least 14 feet from the vertical of the drop-off to the vertical of the hoist where carcasses are eviscerated. For multiple bed plants, this distance should be increased to 16 feet.

F. There shall be a distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be somewhat shortened where a single rail handoff is used.

G. There shall be a distance of at least three feet from the header rail to the adjacent wall.

H. There shall be a bleeding rail with its top at least 16 feet above the floor or a traveling hoist on a 1" beam which will provide an equivalent distance of the carcass from the floor.

I. Suitable facilities and adequate floor space for the washing, flushing, and inspection of heads shall be provided.

J. When hides are dropped to a room below, a properly constructed hide chute near the point where hides are removed from the carcasses shall be provided. The chute must have a vented hood with a self-closing, push-in door. The vent should be approximately ten inches in diameter and extend to a point above the roof. Other chutes for inedible and condemned materials must also be of appropriate size and conveniently located and vented.

K. A two-level viscera inspection truck for evisceration except when a moving-top viscera inspection table is used shall be provided.

L. An area for washing and shrouding carcasses shall be provided. This area should be curbed and sloped to a separate drain within the area, or it may have a slope of approximately one-half inch to the foot leading to a separate drain.

M. Dressing rails and cooler rails shall be not less than 11 feet in height.

History

ACJA-13-63, January 17, 1963.

Cross References

Equipment generally, see 13 N.N.C. § 611.

§ 620. Calves, sheep and goats

A. Bleeding rail with its top approximately 11 feet from the floor shall be provided for calves, sheep and goats. The floor of the bleeding area must be curbed and separately drained.

B. Dressing and cooler rails of such height as to assure a clearance of at least eight inches from the carcasses to the floor shall be provided. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, must be skinned and eviscerated as cattle.

C. Proper facilities shall be provided for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide-on.

D. Suitable facilities for flushing, washing, and inspecting heads, including head-flushing cabinet and head-inspection rack with removable loops shall be provided.

E. Facilities shall be provided for the inspection of the viscera. A hopped metal stand must be provided which accommodates two removable inspection pans. One inspection pan is for the thoracic viscera, while the other is for the abdominal viscera. The pans should have perforated bottoms and handles or hand holds for convenient removal. A sterilizing receptacle

should be provided at a convenient location for sterilization of the pans when necessary.

F. Suitable facilities shall be provided for washing sheep carcasses after the removal of the pelt. Calves and sheep must be washed again after they have been eviscerated.

History

ACJA-13-63, January 17, 1963.

Cross References

Equipment generally, see 13 N.N.C. § 611.

§ 621. Hogs

A. Facilities shall be provided for bleeding hogs in a hanging position over a separately drained, curbed-in bleeding area.

B. A scalding vat and gambreling table, including the platforms, of metal construction shall be provided.

C. A shaving rail of sufficient length to assure that carcasses are properly cleaned shall be provided.

D. A hopped metal stand for the inspection of viscera shall be provided. A sterilizing receptacle should be provided at a convenient location for the sterilization of the pans, when necessary.

E. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor shall be provided.

History

ACJA-13-63, January 17, 1963.

Cross References

Equipment generally, see 13 N.N.C. § 611.

§ 622. Hide room

The floor of the hide room, if provided, must be of concrete and properly drained. Walls must be smooth and impervious to at least the highest point of the hide pile. The hide room must not connect with the slaughtering department except for one opening, equipped with a tight-fitting, self-closing door. The hide room must not connect with any other room in which edible products are stored, processed, or handled.

History

ACJA-13-63, January 17, 1963.

Cross References

Floors and walls generally, see 13 N.N.C. §§ 602, 603.

§ 623. Inedible products department

An inedible products department, completely separate and apart from edible products departments, must be provided. Walls must be of smooth-finish Portland cement plaster, glazed tile, or other approved impervious material.

History

ACJA-13-63, January 17, 1963.

Cross References

Walls generally, see 13 N.N.C. § 603.

§ 624. Pens

A. A holding pen must be surfaced with an impervious material sloped to drain. A curb must be installed around the outside of the pen to prevent the wash from escaping. An ample supply of water under pressure must be available for washing out the pens. Feeding pens should be located at least 100 feet from the plant. Pens should not be located in front of the plant.

B. Holding and shackling pens should be located outside of, or effectively separated from, the slaughtering department.

History

ACJA-13-63, January 17, 1963.

§ 625. Transportation vehicles

A. The name and address of any person transporting meat or meat products outside of an establishment shall be legibly and conspicuously painted or be permanently affixed letters of at least three inches high on each side of all transportation vehicles. All transportation vehicles shall have completely and permanently enclosed areas for meat or meat food product carrying.

B. Meat products being transported in vehicles must be maintained at a temperature of not more than 45°F, during transit. Frozen meats consigned to retail outlets shall be delivered at a temperature not to exceed 20°F.

C. Vehicles used to transport meat and meat products shall be kept in a clean and sanitary condition and shall not be used to transport objectionable materials, such as oil, kerosene, manure, etc. All vehicles and containers must be constructed and all wrappings applied, so as to protect all meat and meat products from dirt, dust, vermin, or any other substance unwholesome or detrimental to public health.

D. Loading and unloading of meat and meat products shall be conducted in a sanitary manner.

History

ACJA-13-63, January 17, 1963.

Subchapter 7. Violation of Provisions

§ 681. Notice

A. When the Health Advisor recommends action pursuant to violation of any of the provisions of this Chapter, the President shall give notice to the person or persons responsible for such violation.

B. Such notice shall be in writing, include a statement of the reasons for its issuance, allow a reasonable time for the performance of any action required, be served upon the owner or his agent, and contain an outline of remedial action, which if taken will effect compliance with the provisions of this Chapter.

C. Such notice or order shall be deemed to have been properly served upon the owner or agent when a copy thereof has been sent by registered mail to his last known address or when he has been served by any other method authorized by the Health and Social Services Committee.

History

ACJA-13-63, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, Resolve #9, December 15, 1989.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454(B)(3).

§ 682. Hearing

A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter may request and shall be granted a hearing on the matter before the Health and Social Services Committee; provided, that such person shall file in the office of the President a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day notice was served. Upon receipt of such petition, the President shall set a time and place for such hearing before the Health and Social Services Committee and shall give the petitioner written notice thereof.

B. The hearing shall be commenced within a reasonable time, but not later than the next regularly scheduled session of the Health and Social Services Committee following the day on which the petition was filed.

C. At the hearing the petitioners shall be given an opportunity to be heard, and to show cause why such notice should be modified or withdrawn.

D. Any notice served pursuant to 13 N.N.C. § 681 shall automatically become an order if a written petition for a hearing shall not have been filed in the office of the President within ten (10) days after such notice was served.

History

ACJA-13-63, §§ 4.2, 4.3, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, Resolve #9, December 15, 1989.

Cross References

Rules and Regulations, see 2 N.N.C. § 454(B)(5).

Health and Social Services Committee powers, see 2 N.N.C. § 454(B)(3).

§ 683. Determination

A. After such hearing, the Health and Social Services Committee, with the consultation of the Health Advisor or Area Director shall sustain, modify, or withdraw the notice, depending on the findings as to the compliance or noncompliance with the provisions of this Chapter. If the Health and Social Services Committee shall sustain or modify such notice, it shall be deemed to be an order.

B. After a hearing in the case of any notice suspending any permit required by the provisions of this Chapter, when such notice shall have been sustained by the Health and Social Services Committee, the permit shall be deemed to have been revoked; provided, however, that the Health and Social Services Committee may grant a further opportunity to comply with the provisions of this Chapter.

History

ACJA-13-63, January 17, 1963.

§ 684. Record of proceedings

The proceedings at such hearings including any findings and decisions of the Health and Social Services Committee shall be reduced to writing and entered as a matter of Navajo Nation record. Such record shall include every notice or order issued in connection with the matter.

History

ACJA-13-63, January 17, 1963.

§ 685. Emergency action

Whenever the President, upon the advice of the Health Advisor or Area Director, finds that an emergency matter exists which requires immediate action to protect public health, the President may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is deemed necessary to meet the emergency. Notwithstanding any other provision of this Chapter, such order shall be effective immediately, but upon petition to the Health and Social Services Committee, the petitioner will be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to compliance or noncompliance with the provisions of this Chapter, the Health and Social Services Committee may continue the order in effect, modify it, or revoke it.

History

ACJA-13-63, January 17, 1963.

Note. Insertion of word "President", see CD-68-89, December 15, 1989, resolve § 9.

§ 686. Forfeiture of right to do business

The right of any person, found in violation of the provisions of this Chapter and who remains in violation after exhausting remedies provided in 13 N.N.C. § 682, to do business within the Navajo Nation may be forfeited pursuant to the terms contained in the particular slaughterhouse and meat-processing establishment lease.

History

ACJA-13-63, January 17, 1963.

Chapter 5. Retail Food Store Sanitation Code

History

CMY-28-86, May 2, 1986.

ACMA-55-60, March 9, 1960.

Note. Appendix referenced in this Code and the rationale for certain Sections are not included. See CMY-28-86, May 2, 1986.

Subchapter 1. General Provisions

§ 901. Purpose

This code shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

History

CMY-28-86, May 2, 1986.

§ 902. Definitions

For the purpose of this Code:

A. "Bulk food" means unpackaged or unwrapped, processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn. For the purpose of this interpretation, the term does not include fresh fruits, fresh vegetables, nuts in the shell, salad bars¹ and potentially hazardous foods.²

B. "Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

C. "Display area" means a location or locations, including physical facilities and equipment, where bulk food is offered for customer self-service.

D. "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue can be effectively removed by normal cleaning methods.

E. "Employee" means that permit holder, individual having supervisory or management duties, person on the payroll, family members, volunteer, person performing work under contractual agreement, or any other person working in a food store.

F. "Equipment" means items other than utensils used in the storage, preparation, display, and transportation of food such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, and similar items used in the operation of a retail food store. This item does not include fork lift trucks or dollies.

G. "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

H. "Food contact surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces, normally in contact with food.

I. "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for food. The term includes delicatessen type operations that offer prepared food intended for individual portions services. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

J. "Health Advisor" shall mean the Director, Navajo Area Indian Health Service or an authorized agent.

K. "Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

L. "Law" includes applicable federal, state, and local statutes, ordinances, and regulations.

M. "Packaged" means bottled, canned, cartoned, bagged, or securely wrapped.

N. "Permit" means the document issued by the regulatory authority which authorizes a person to operate a retail food store.

O. "Person" includes any individual, partnership, corporation, association, or other legal entity.

P. "Person in charge" means individual present in a retail food store who is the supervisor of the retail food store at the time of inspection.

Q. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, and which is in the form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. Potentially hazardous foods include rice, fried rice, refried beans and baked potatoes. The term does not include: clean, whole, encroached, odor free shell eggs; foods that have a PH level of 4.6 or below or a water activity (a) value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage.

R. "Product module" means a food-contact container (multi-use or single-service) designed for customer self-service of bulk food by either direct or indirect means.

S. "Regulatory authority" shall mean the Navajo Division of Health or its successor.

T. "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared food in packaged bulk quantities only. The term does not include establishments which handle only prepackaged, non-potentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetable for sale; food service establishments; or food and beverage vending machines.

U. "Safe materials" means articles manufactured from or composed of materials that may not reasonable be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in § 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used they are "safe" only if they are used in conformity with regulations established pursuant to § 409 or § 706 of that Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in § 201 (s) or (t) of the Federal Food, Drug, and

Cosmetic Act ³ and are used in conformity with all applicable regulations of the Food and Drug Administration.

V. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on cleaned food-contact surfaces of utensils and equipment.

W. "Salvage operations" means operations in which food products which have been subject to possible damage due to accidents, fire, flood, adverse weather or any other similar cause or which may have been rendered unsafe or unsuitable for human consumption or use.

X. "Sanitation permit" means a written permit issued by the Commerce Department of the Navajo Nation or its successor upon the recommendation of the Health Advisor reflecting the retail food stores compliance with the provisions of this Chapter.

Y. "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

Z. "Servicing area" means a designated location or locations equipped for cleaning, sanitizing, drying or refilling product modules or for preparing bulk food.

AA. "Single-service articles" means items used by the retailer of consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "single use" articles such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.

BB. "Transportation" (transported) means movement of food within the retail food store or delivery of food from that retail food store to another place while under the control of the person in charge.

CC. "Uniform Plumbing Code" shall mean the International Association of Plumbing and Mechanical Officials, Uniform Plumbing Code, 1982.

DD. "Utensil" means any food-contact implement used in the storage, preparation, transportation, or dispensing of food.

EE. "Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

FF. "Wholesale food" means food processed, packaged, canned, manufactured, stored and sold of resale purposes. This definition will include food storage warehouses.

History

CMY-28-86, May 2, 1986.

Subchapter 2. Food

§ 911. Food supplies—General

A. Food shall be in sound condition and safe for human consumption. Food shall be obtained from sources that comply with the applicable laws relating to food safety. Food prepared in a home shall not be used or offered for sale.

B. Bulk food product modules shall be labeled with either:

1. The manufacturer's or processor's bulk container labeling plainly in view; or

2. A counter card, sign or other appropriate device bearing prominently and conspicuously the common name of the product, a list of ingredients in proper order of predominance and declaration of artificial color or flavor and chemical preservatives if contained in the product.

History

CMY-28-86, May 2, 1986.

§ 912. Special requirements

A. Fluid milk and fluid milk products used or offered for sale shall comply with the Grade "A" standards as specified in the latest edition of the U.S. Food and Drug Administration's Grade A Pasteurized Milk Ordinance, Public Health Service/Food and Drug Administration's Publication No. 229, U.S. Government Printing Office. Dry milk and milk products used or offered for sale shall be made from pasteurized milk and milk products. Raw milk and raw milk products shall be not sold.

B. Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be received, and/or repacked in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the state certification number issued according to the law. Shucked shellfish should be kept in the container in which they were received until used or sold.

C. Each original container of unshucked shellfish (oysters, clams, or mussels) shall be identified by an attached tag, to be retained for a period of 90 days, that states the name and address of the original shellfish processor, the kind and quantity of shellfish and the certification number issued by the state or foreign shellfish control agency, where applicable.

D. Only clean shell eggs meeting only "Grade B" standards or better of the U.S. Department of Agriculture or a state program which has been certified by the U.S. Department of Agriculture, or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale.

E. Only ice which has been manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged.

F. All meat products offered for sale shall be U.S. Department of Agriculture inspected and meet the approval of a state inspection program which has been certified by the U.S. Department of Agriculture. Meat which is state inspected shall only be sold in the state that the product was inspected in.

History

CMY-28-86, May 2, 1986.

§ 913. Food protection—General

A. At all times, including while being stored, prepared, displayed, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by insects, insecticides, rodents, rodenticides, probe-type price or probe-type identification tags, unclean equipment and utensils, unnecessary handling; flooding, draining, and overhead leakage or condensation, or other agents of public health significance. The temperature of potentially hazardous foods shall be 45°F (7°C) or below or 140°F (60°C) or above, at all times, except as otherwise provided in this Code. Hermetically sealed packages shall be handled so as to maintain produce and container integrity. Food items that are spoiled or that are in damaged containers that may affect the product and those food items that have returned to, or are being detained by, the retail food store because of spoilage, container damage or other public health considerations shall be segregated and held in designated areas pending proper disposition unless disposed of under the supervision of the Health Advisor.

B. Bulk foods and product modules shall be protected from contamination during display, customer self-service, refilling and storage.

C. Containers of bulk pet foods and bulk non-food items shall be separated by a barrier or open space from product modules.

D. Bulk food returned to the store by the customer shall not be offered for resale.

E. Only containers provided by the store in the display area shall be filled with bulk foods.

History

CMY-28-86, May 2, 1986.

§ 914. Emergency occurrences

The person in charge of a retail food store that is affected by a fire, flood, extended power outage, or a similar significant occurrence that creates a reasonable probability that food in the retail food store may have been contaminated or that the temperature level of food which is in a potentially hazardous form may have caused that food to have become hazardous to health, shall take such action as is necessary to protect the public health and shall promptly notify the Health Advisor of the emergency.

History

CMY-28-86, May 2, 1986.

§ 915. Food storage—General

A. Food packaged in an immediate closed container, once the container is opened in the retail food store prior to use or retail sale, shall be kept covered. Food, whether raw or prepared, if removed from the immediate closed container in which it was originally packaged prior to use or retail sale, shall be stored in a clean, covered container, except during necessary periods of preparation. Whole and unprocessed fresh raw vegetables and fresh raw fruits shall be exempted from this requirement. Container covers shall be impervious and nonabsorbent. During periods of storage, subprimal cuts of meat shall be covered with single-service wrapping materials. Primal cuts, quarters or sides of meat, or processed meats such as country hams, slab bacon, and smoked or cured sausages, may be hung uncovered on clean sanitized hooks or placed on clean, metal racks in such a manner as to preclude contamination of any food products in storage.

B. Containers of food shall be stored in minimum of six inches [152 millimeters (mm)] above the floor or stored on dollies, skids, racks, or open-ended pallets, provided such equipment is easily movable, either by hand or with the use of pallet-moving equipment that is on the premises and used. Such storage areas shall be kept clean. Cased food packaged in cans, glass, or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean. Food products in storage shall not be stored against the wall. Storage shall be at least six inches from any wall surface and be accessible for inspection.

C. Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated.

D. Packaged foods shall not be stored in contact with water or undrained ice.

E. A food ingredient, such as flour, sugar, salt, baking powder, cooking oil or vinegar, that is not stored in the original package and is not readily identifiable on sight, shall be stored in a container identifying it by common name.

F. Toilet rooms and their vestibules, and garbage or mechanical room shall not be used for the storage of food.

G. Labels or marking pens shall be available to customers to identify their take-home containers with the common name of the product unless the product is readily identifiable on sight.

History

CMY-28-86, May 2, 1986.

§ 916. Refrigerated/frozen storage

A. Refrigeration units or effectively insulated units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer accurate to 3°F (1°C). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature of the unit. The thermometer scale shall be located to be easily readable. Recording thermometers, accurate to 3°F (1°C) may be used in lieu of indicating thermometers.

B. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F (7°C) or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F (7°C) or below unless maintained in accordance with the hot storage requirements of this Code.

C. Potentially hazardous frozen foods shall be kept frozen and should be stored at an air temperature of 0°F (18°C) or below except for defrost cycles and brief periods of loading or unloading.

D. Ice used as a cooling medium for food storage shall not be used or sold for human consumption.

History

CMY-28-86, May 2, 1986.

§ 917. Hot food storage

A. Hot food storage units shall be provided in such number and such capacity to assure the maintenance of potentially hazardous food at the required temperature during storage. Each hot food storage unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to 3°F (1°C). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers accurate to 3°F (1°C) may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as heat lamps, calrod units or insulated food transport carriers, a food product thermometer shall be available and used to check internal food temperature.

B. The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F (60°C) or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F (60°C) or above unless maintained in accordance with the

refrigerated storage requirements of this Code.

History

CMY-28-86, May 2, 1986.

§ 918. Food preparation—General

A. Food shall be prepared with a minimum of manual contact. Food shall be prepared on food-contact surfaces and with utensils which are clean and have been sanitized.

B. Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods, each new operation shall begin with food-contact surfaces and utensils which are clean and have been sanitized. Salads and other ready-to-eat foods shall be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products.

C. Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products shall be prepared from chilled products.

History

CMY-28-86, May 2, 1986.

§ 919. Raw fruits and raw vegetables

Raw fruits and raw vegetables that will be cut or combined with other ingredients or will be otherwise processed into food products by the retail food store shall be thoroughly cleaned with potable water before being used.

History

CMY-28-86, May 2, 1986.

§ 920. Cooking potentially hazardous foods

Potentially hazardous foods being processed within the retail food store by cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F (60°C), except that:

A. Poultry, poultry stuffings, stuffed meats, and stuffings containing meat, shall be cooked to heat all parts of the food to at least 165°F (74°C) with no interruption of the cooking process.

B. Pork and pork products shall be cooked to heat all parts of the food to at least 150°F (66°C), or, if cooked in a microwave oven, to at least 170°F (77°C).

C. When beef roasts under 10 pounds [5 kilograms (kg)] in weight are

cooked in a still dry heat oven, the oven shall be preheated to and held at an air temperature of a least 350°F (177°C) throughout the process. If cooked in a convection oven, the oven shall be preheated to and held at an air temperature of at least 325°F (163°C) throughout the process.

1. When beef roasts of 10 pounds [5 kilograms (kg)] or over in weight are cooked in a dry heat oven, the oven shall be preheated to and held at an air temperature of at least 250°F (122°C) throughout the process.

2. Further, in order to meet public health requirements for the processes cited above, the following table lists the minimum internal temperature of the beef roast for the minimum time the roast needs to be held at such temperature.

MINIMUM HOLDING TIMES FOR BEEF ROASTS
AT VARIOUS INTERNAL TEMPERATURES

MINIMUM INTERNAL TEMPERATURE		MINIMUM HOLDING TIME	MINIMUM INTERNAL TEMPERATURE		MINIMUM HOLDING TIME
°F	°C	MINUTES	°F	°C	MINUTES
130	54.4	121	138	58.9	19
131	55.0	97	139	59.5	15
132	55.6	77	140	60.0	12
133	56.1	62	141	60.6	10
134	56.7	47	142	61.1	8
135	57.2	37	143	61.7	6
136	57.8	32	144	62.2	5
137	58.4	24			

D. Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145°F (63°C).

History

CMY-28-86, May 2, 1986.

§ 921. Bakery product fillings

A. Custards, cream fillings, and similar products, including synthetic fillings, shall meet the temperature requirement in § 916(B) of this Code following preparation and be maintained at that temperature during storage, transportation, and display. Products with synthetic fillings may be excluded from this requirement if

1. The food, including the interface between the backer product and its filling, has a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less under standard conditions; or

2. It is handled in such a manner as to preclude contamination with and the growth of pathogenic microorganisms after heat processing; or

3. Other scientific evidence is on file with the Health Advisor demonstrating that the specific product will not support with growth of pathogenic microorganisms.

B. Bakery products with synthetic fillings, which meet the above criteria, may be labeled to state that refrigeration is not required.

History

CMY-28-86, May 2, 1986.

§ 922. Reheating

Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F (74°C) or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

History

CMY-28-86, May 2, 1986.

§ 923. Food product thermometers

Metal stem-type numerically scaled indicating thermometers, accurate to 2°F (1°C) shall be provided and used to assure attainment and maintenance of proper temperatures during preparation of all potentially hazardous foods.

History

CMY-28-86, May 2, 1986.

§ 924. Thawing potentially hazardous foods

Potentially hazardous food shall be thawed:

A. In refrigerated units at a temperature not to exceed 45°F (7°C); or

B. Under potable running water at temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow and for a period not to exceed that reasonably required to thaw the food; or

C. In a microwave oven only when the food will be immediately transferred to conventional cooking units 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.

History

CMY-28-86, May 2, 1986.

§ 925. Potentially hazardous foods

Potentially hazardous foods shall be held at an internal temperature of 45°F (7°C) or below or at an internal temperature of 140°F (60°C) or higher during display, except that rare roast beef which is offered for sale hot shall be held at a temperature of at least 130°F (55°C).

History

CMY-28-86, May 2, 1986.

§ 926. Frozen foods

Foods intended for sale in a frozen state should be displayed at an air temperature of 0°F (-18°C) or below, except for defrost cycles and brief periods of loading and unloading. Frozen foods should be displayed below or behind product food lines according to cabinet manufacturers' specifications.

History

CMY-28-86, May 2, 1986.

§ 927. Food display

A. Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by being packaged, by display cases, by covered containers for self-service, or by similar protective equipment. All food shall be displayed above the floor in a manner that will protect the food from contamination. Hot or cold food units shall be provided to assure the maintenance of potentially hazardous food at the required temperature during display. Potentially hazardous foods shall not be provided for consumer self-service.

B. Bulk foods shall be dispensed only from product modules which are protected by close fitting, individual covers. If opened by the customer, the covers shall be self-closing and shall remain closed when not in use.

C. Customer access to bulk food in product modules shall be limited and controlled to avoid the introduction of contaminants. Means considered suitable include, but are not limited to:

1. Providing a product module depth of no more than 18 inches [457 millimeters (mm)]; and

2. Either locating product modules with access from the top so that there is at least 30 inches (762 mm) between the access point and the floor; or, if the product module access point is less than 30 inches (762 mm) off the floor, providing access from the side or at an angle provided that when the product module is open, the cover extends across the surface of the product and provides overhead protection.

History

CMY-28-86, May 2, 1986.

§ 928. Dispensing utensils

A. To avoid unnecessary manual contact with the food, suitable dispensing utensils and single-service articles shall be used by employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils. Dispensing utensils shall be:

1. Stored in the food with the dispensing utensil handle extended out of the food; or

2. Stored clean and dry, or

3. Stored in running potable water.

B. When food sample demonstrations and food promotions are authorized in the retail food store, the person in charge shall ensure that such activities comply with the applicable sanitation provisions of this Code.

History

CMY-28-86, May 2, 1986.

§ 929. Food transportation by the retail food store—General

Food, other than hanging primal cuts, quarters, or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of this Code relating to food protection and food storage. Foods packaged in immediate closed containers do not need to be overwrapped or covered if the immediate closed containers have not been opened, torn, or broken.

History

CMY-28-86, May 2, 1986.

Subchapter 3. Personnel

§ 951. Employee health—General

No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause a disease or while affected with a boil, an infected wound, or an acute respiratory infection, shall work in a retail food store in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

History

CMY-28-86, May 2, 1986.

§ 952. Personal cleanliness—General

Employees engaged in food preparation and warewashing operations shall thoroughly wash their hands and the exposed portions of their arms with soap or detergent and warm water before starting work; after smoking, eating or using the toilet; before and after handling raw meat, or raw poultry, or raw seafood; and as often as is necessary during work to keep them clean. Employees shall keep their fingernails trimmed and clean.

History

CMY-28-86, May 2, 1986.

§ 953. Clothing—General

A. Employees shall wear clean clothing.

B. Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces.

History

CMY-28-86, May 2, 1986.

§ 954. Employee practices—General

A. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods.

B. Employees shall consume food or use tobacco only in designated areas. Such designated areas must be located so that the eating or tobacco use of an employee does not result in contamination of food, equipment, or utensils.

C. All employees working in retail food stores shall have a certificate that they have received training on the prevention of foodborne disease issued by the Health Advisor.

D. Jewelry shall not be worn on hands by employees involved in the handling of food items or warewashing activities.

History

CMY-28-86, May 2, 1986.

Subchapter 4. Equipment and Utensils

§ 981. Materials—General

A. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors colors, taste, nor contribute to the contamination of food.

B. Product modules and utensils shall be constructed of safe materials; and shall be corrosion resistant, nonabsorbent, smooth, easily cleanable and durable under conditions of normal use.

History

CMY-28-86, May 2, 1986.

§ 982. Solder

If solder is used, it shall be composed of safe materials and be corrosion resistant.

History

CMY-28-86, May 2, 1986.

§ 983. Wood

A. Hard maple or equivalent nonabsorbent wood that meets the general requirements sets forth in § 981 of this Code may be used for cutting blocks, cutting boards, and bakers' tables. Wood shall not be used as a food contact surface under other circumstances, except for contact with raw fruits, raw vegetables, and nuts in the shell.

B. Wood shall not be used as a food contact surface.

History

CMY-28-86, May 2, 1986.

§ 984. Plastics and rubber materials

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, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods, and which meet the general requirements set forth in § 981 of this Code, are permitted for repeated use.

History

CMY-28-86, May 2, 1986.

§ 985. Cutting surfaces

Cutting surfaces subject to scratching and scoring must be resurfaced so as to be easily cleaned, or be discarded when these surfaces can no longer be effectively cleaned and sanitized.

History

CMY-28-86, May 2, 1986.

§ 986. Single-service articles

Single-service articles shall not be reused.

History

CMY-28-86, May 2, 1986.

§ 987. Design and fabrication—General

A. As a general principle, the specifications for design and fabrication of equipment should maintain uniformity with equipment design criteria found in food codes and national equipment standards. Organizations involved with food equipment standards include American Society of Mechanical Engineers (ASME/SNSI), Baking Industry Sanitary Standards Committee (BISSC) and National Sanitation Foundation (NSF).

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

C. Food-contact surfaces shall 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 used for cooking. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers, not oil cooking equipment, or hot oil filtering systems, such threads shall be minimized.

D. Equipment containing bearings and gears requiring lubricants not made of safe materials shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Equipment designed to receive lubrication of bearings and gears on or within

food-contact surfaces shall be lubricated with materials meeting the requirements of 21 CFR 178.3570.

E. Sinks and drain boards shall be sloped to drain and be self-draining.

F. Food-contact surfaces-Product modules, lids, dispensing units and utensils shall be designed and fabricated to meet the requirements for food-contact surfaces.

History

CMY-28-86, May 2, 1986.

§ 988. Accessibility

A. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

1. Without being disassembled; or
2. By disassembling without the use of tools; or
3. By easy disassembling with the use of only simple tools, such as mallets, screwdrivers, or open-end wrenches which are kept near the equipment.

B. Individual product modules shall be designed to be easily removable from the display unit for servicing unless the modules are so designed and fabricated that they can be effectively cleaned (and sanitized when necessary) through a manual in-place cleaning procedure that will not contaminate or otherwise adversely affect bulk food or equipment in the adjoining display area.

History

CMY-28-86, May 2, 1986.

§ 989. Cleaned in place (CIP)

Equipment designed and constructed for CIP shall meet requirements equivalent to those contained in § 119 of the Navajo Nation Health Code Title 13, Chapter 1, Food Service Sanitation Ordinance.

History

CMY-28-86, May 2, 1986.

§ 990. Food product thermometers

Indicating thermometers required for immersion into food or cooking media shall be metal stem-type construction, numerically scaled, and accurate to 2°F (1°C).

History

CMY-28-86, May 2, 1986.

§ 991. Non-food-contact surface

A. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

B. Surfaces of product module display units, tethers, and all display equipment not intended for food-contact, but which are exposed to splash, food debris or other soiling, shall be designed and fabricated to be smooth, cleanable, durable under conditions of normal use and free of unnecessary ledges, projections or crevices.

C. Tethers shall be designed to be easily removable from the product module for cleaning.

D. The materials for non-food-contact surfaces shall be nonabsorbent or made nonabsorbent by being finished and sealed with a cleanable coating.

History

CMY-28-86, May 2, 1986.

§ 992. Ventilation hoods

Ventilation hoods and devices, where installed, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place. These hoods shall be constructed and maintained in accordance with the latest edition of the National Fire Codes, National Fire Protection Association, Volume 9, 1983.

History

CMY-28-86, May 2, 1986.

§ 993. Maintenance of equipment and utensils

All equipment and utensils shall be maintained in good repair to comply with the requirements of this Code.

History

CMY-28-86, May 2, 1986.

§ 994. Equipment installation and location—General

Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water has accumulated, open stairwells, or other sources of contamination.

History

CMY-28-86, May 2, 1986.

§ 995. Table-mounted equipment

A. Table-mounted equipment shall be installed to facilitate the cleaning of the equipment and the adjacent areas.

B. Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a three-inch (102 mm) clearance between the table or counter, except that if no part of the table under the equipment is more than 18 inches (457 mm) from cleaning access, the clearance space shall be three inches (76 mm) or more; or if no part of the table under the equipment is more than three inches (76 mm) from cleaning access, the clearance space shall be two inches (51 mm) or more.

C. Equipment is portable within the meaning of § 995(B) of this Code if:

1. It is small and light enough to be moved easily by one person; and

2. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning; and

3. It is table-mounted, such as powered mixers, grinders, slicers, tenderizers, and similar equipment; and does not exceed 80 pounds [36 kilograms (kg)], or is equipped with a mechanical means of safety tilting the unit for cleaning.

History

CMY-28-86, May 2, 1986.

§ 996. Floor-mounted equipment

A. Floor-mounted equipment, unless easily movable, shall be:

1. Sealed to the floor; or

2. Elevated on legs to provide at least a six-inch (152 mm) clearance between the floor and equipment, except that equipment may be elevated to provide at least a four-inch (102 mm) clearance between the floor and equipment if no part of the floor under the equipment is more than six inches (152 mm) from cleaning access.

3. Display shelving units, display refrigeration units, and display

freezer units are exempt from the provisions of § 996(A)(1) and (2) of this Code if they are installed so that the floor beneath the units can be cleaned.

B. Equipment is easily movable if:

1. It is mounted on wheels or casters; and

2. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

C. Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch (0.8 mm) and, if exposed to seepage, the space shall be sealed.

History

CMY-28-86, May 2, 1986.

§ 997. Aisles and working spaces

Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks, and open-ended pallets shall be positioned to provide accessibility to working areas.

History

CMY-28-86, May 2, 1986.

Subchapter 5. Cleaning, Sanitization and Storage of Equipment and Utensils

§ 1031. Equipment and utensil cleaning and sanitization—Cleaning frequency

A. Utensils and food-contact surfaces of equipment shall be cleaned and sanitized:

1. Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods;

2. After an interruption of operations during which time contamination may have occurred; and

3. After final use each working day.

B. 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 shall be cleaned and sanitized at intervals throughout the day on a schedule based on food temperature type of food, and amount of food particle accumulation.

C. The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once each day of use, except that this shall not apply for hot oil cooking equipment and hot oil filtering system. The food-contact surfaces of all baking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soil.

D. Non-food-contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

E. Tongs, scoops, ladles, spatulas, other appropriate utensils and tethers used by customers shall be cleaned and sanitized at least daily or at more frequent intervals based on the type of food and amount of food particle accumulation or soiling.

F. Product modules, lids and other equipment shall be cleaned prior to restocking, when soiled or at intervals on a schedule based on the type of food and amount of food particle accumulation.

History

CMY-28-86, May 2, 1986.

§ 1032. Wiping cloths

A. Cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in § 1033(H) of this Code and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

B. Cloths and sponges used for cleaning non-food-contact surfaces of equipment shall be clean and rinsed as specified in § 1032(A) of this Code and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

C. Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use.

History

CMY-28-86, May 2, 1986.

§ 1033. Manual cleaning and sanitizing

A. For manual rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too

large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

B. Drain boards or easily movable utensil tables of adequate size shall be provided for proper storage and handling of soiled utensils prior to cleaning and for cleaned utensils following sanitizing and shall be located so as not to interfere with proper use of the warewashing facilities.

C. Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, pre-soaked to remove food particles and soil.

D. The sinks shall be cleaned before use.

E. When a three-compartment sink is utilized for warewashing, the operation shall be conducted in the following sequence:

1. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and

2. Equipment and utensils shall be rinsed free of detergent and abrasive with clean water in the second compartment; and

3. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in § 1033 (H) (Items 1-5) of this Code.

F. When a two-compartment sink is utilized for warewashing, one of the following two methods shall be used:

1. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in hot water in the second compartment in accordance with § 1033(H) (1) of this Code; or

2. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent sanitizer solution that is kept clean and at a concentration indicated on the manufacturer's label; and shall be sanitized in the second compartment in hot water in accordance with § 1033(H) (1) of this Code.

G. When pressure spray methods are utilized for cleaning and sanitizing, the equipment and utensils shall be thoroughly flushed with a detergent-sanitizer solution until the article is free of visible food particles and soil. The detergent-sanitizer solution shall be used in accordance with the manufacturer's instructions and shall be of the type that does not require a potable water rinse when used according to those instructions.

H. The food-contact surfaces of all equipment and utensils shall be sanitized by:

1. Immersion for at least 1/2 minute in clean, hot water of a

temperature of at least 170°F (77°C); or

2. Immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75°F (24°C); or

3. Immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine, having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75°F (24°C); or

4. Immersion for at least one minute in a clean solution containing 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75°F (24°C). The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration; or

5. Immersion in a clean solution containing any other chemical sanitizing agency allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at temperature of at least 75°F (24°C) for one minute; or

6. Treatment with steam from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

7. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under § 1033(H)(2), (3) and (5) of this Code in the case of equipment too large to sanitize by immersion.

I. When hot water is used for sanitizing, the following equipment shall be provided and used:

1. 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); and

2. A numerically scaled indicating thermometer, accurate to 3°F (1°C) convenient to the sink for frequent checks of water temperature; and

3. Utensil racks or baskets of such size and design to permit complete immersion of utensils and equipment in the hot water.

J. When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 and a test kit or other device that measures the parts per million concentration of the solution shall be provided and used.

K. Facilities and/or equipment shall be available, either in a servicing

area or in place, to provide for proper cleaning and sanitizing of all food-contact surfaces including product modules, lids and dispensing utensils.

History

CMY-28-86, May 2, 1986.

§ 1034. Mechanical cleaning and sanitizing

A. Mechanical cleaning and sanitizing equipment and practices shall conform to the provisions contained in 13 N.N.C. § 154 of Navajo Nation Health Code, Food Service Sanitation Ordinance.

B. Facilities and/or equipment shall be available, either in a servicing area or in place, to provide for proper cleaning and sanitizing of all food-contact surfaces including product modules, lids and dispensing utensils.

History

CMY-28-86, May 2, 1986.

§ 1035. Drying

Unless used immediately after sanitization, all equipment and utensils shall be air dried. Towel drying shall not be permitted.

History

CMY-28-86, May 2, 1986.

§ 1036. Retail food stores without equipment and utensil cleaning facilities

Retail food stores that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables.

History

CMY-28-86, May 2, 1986.

§ 1037. Equipment and utensil handling and storage—Handling

Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination.

History

CMY-28-86, May 2, 1986.

§ 1038. Storage

A. Cleaned and sanitized utensils and equipment shall be stored at least six inches (152 mm) above the floor in a clean, dry location in a way that protects them from splash, dust, and other means of contamination. The

food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water had accumulated.

B. Utensils shall be air dried before being stored or shall be stored in a self-draining position.

C. Stored utensils shall be covered or inverted wherever practical.

History

CMY-28-86, May 2, 1986.

§ 1039. Single-service articles

A. Single-service articles shall be stored in closed cartons or containers at least six inches (152 mm) above the floor or on easily movable dollies, skids, racks, or open-ended pallets. Such storage shall protect the articles from contamination and shall not be located under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water had accumulated.

B. Single-serve articles shall be handled in a manner that prevents contamination of surfaces that may come in contact with food.

C. Take-home containers (bags, cups, lids, etc.) provided in the display area for customer use shall be stored and dispensed in a sanitary manner.

History

CMY-28-86, May 2, 1986.

§ 1040. Prohibited storage areas

Food equipment, utensils, or single-service articles shall not be stored in locker rooms, toilet rooms or their vestibules, garbage rooms, or mechanical rooms.

History

CMY-28-86, May 2, 1986.

Subchapter 6. Sanitary Facilities and Controls

§ 1071. Water supply—General

Sufficient potable water for the needs of the retail food store shall be provided from a source constructed, maintained, and operated according to the Safe Drinking Water Act, Public Law 93-523.¹

History

CMY-28-86, May 2, 1986.

§ 1072. Water delivery

All potable water not provided to the retail food store directly from the source by pipe shall be delivered in a bulk water transport system and shall be transferred to a closed water system. Both of these systems shall be constructed, maintained, and operated meeting the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1073. Water under pressure

Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

History

CMY-28-86, May 2, 1986.

§ 1074. Steam

Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

History

CMY-28-86, May 2, 1986.

§ 1075. Sewage—General

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed, maintained, and operated meeting the approval of the Health Advisor. Non-water carried sewage disposal facilities are prohibited, except as permitted by the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1076. Plumbing—General

Plumbing shall be sized, installed, and maintained according to the latest edition of Uniform Plumbing Code. There shall be no cross-connect between the potable water supply and any other system containing:

- A. Water of unknown or questionable origin; or
- B. Contaminating or polluting substances.

History

CMY-28-86, May 2, 1986.

§ 1077. Nonpotable water system

A nonpotable water system is permitted for air conditioning, equipment cooling, and fire protection, and shall be installed meeting the approval of the Health Advisor. Nonpotable water shall not directly or indirectly contact food or equipment or utensils that contact food. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

History

CMY-28-86, May 2, 1986.

§ 1078. Backflow

The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. No hose shall be attached to a faucet that is not equipped with a backflow prevention device.

History

CMY-28-86, May 2, 1986.

§ 1079. Grease traps

Grease traps, if used, shall be located to be easily accessible for cleaning and shall be placed outside the building.

History

CMY-28-86, May 2, 1986.

§ 1080. Garbage grinders

Garbage grinders, if used, shall be installed and maintained meeting the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1081. Drains

There shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a warewashing machine is located within five feet [152 centimeters (cm)] of a trapped floor drain, the warewasher waste outlet may be connected directly on the inlet side of a properly vented floor drain

trap if approved by the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1082. Toilet facilities---Toilet installation

A. Toilet facilities shall be installed according to the latest edition of the Uniform Plumbing Code, shall be at least one and no less than the number required, shall be conveniently located, and shall be accessible to employees at all times.

B. Toilet and lavatory facilities shall be provided for the public, as required by Navajo Nation Resolution ACAP-48-82, and shall accommodate handicapped individuals and meet those handicapped standards of the American National Standard Specification A1171-1976 (R1971).

History

CMY-28-86, May 2, 1986.

§ 1083. Toilet design

Toilets and urinals shall be designed to be easily cleanable.

History

CMY-28-86, May 2, 1986.

§ 1084. Toilet rooms

Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors, except for louvers that may be necessary for ventilation system.

History

CMY-28-86, May 2, 1986.

§ 1085. Toilet facility maintenance

Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

History

CMY-28-86, May 2, 1986.

§ 1086. Handwashing facilities--Handwashing facility installation

A. Handwashing facilities shall be according to the latest edition of the Uniform Plumbing Code, shall be a least one, and not less than as specified by the Health Advisor, and shall be conveniently located to permit use by all employees in food preparation and warewashing areas. Handwashing facilities shall be accessible to employees at all times. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms or their vestibules. Sinks used for food preparation or for warewashing shall not be used for washing of hands or for any other purpose.

B. When handwashing facilities are not available at the bulk food display area, customers, upon request, are permitted access to handwashing facilities located in employee restroom(s).

C. When sanitary paper towels or disposable towelettes are provided, easily cleanable waste receptacle(s) shall be conveniently provided in the display area.

History

CMY-28-86, May 2, 1986.

§ 1087. Handwashing facility faucets

Each handwashing facility shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall 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 at handwashing facilities.

History

CMY-28-86, May 2, 1986.

§ 1088. Handwashing supplies

A supply of hand-cleaning soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. If disposal towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

History

CMY-28-86, May 2, 1986.

§ 1089. Handwashing facility maintenance

Handwashing facilities, soap or detergent dispensers, hand-drying devices, and all related facilities shall be kept clean and in good repair.

History

CMY-28-86, May 2, 1986.

§ 1090. Garbage and refuse—Containers

A. Garbage and refuse shall be held in durable, easily cleanable, insect-resistant, and rodent-resistant containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the retail food store.

B. Containers used in food preparation and utensil washing areas shall be kept covered during non-working hours after they are filled.

C. Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable, shall 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 shall be in place at all times, except during cleaning.

D. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

E. Soiled containers shall 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, detergent, and hot water or steam, shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

History

CMY-28-86, May 2, 1986.

§ 1091. Storage

A. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects, rodents and other animals. Outside storage of non-rodent-resistant plastic containers, unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

B. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect and rodent resistant, and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency.

C. Outside storage areas or enclosures, if used, shall be kept clean and be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters, and compactors systems located outside, shall be stored on or above a smooth surface of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

History

CMY-28-86, May 2, 1986.

§ 1092. Disposal

A. Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents.

B. Where garbage or refuse is burned on the premises, it shall be done by controlled incineration and meet the approval of the health advisor. Areas around incineration units shall be kept clean and orderly.

History

CMY-28-86, May 2, 1986.

§ 1093. Insect and rodent control—General

Effective measures shall be utilized to minimize the entry, presence, and propagation of rodents, flies, cockroaches, or other insects. The premises shall be maintained in a condition that prevents the harborage or feeding of insects or rodents.

History

CMY-28-86, May 2, 1986.

§ 1094. Openings

Openings to the outside shall be effectively protected against the entry of rodents. Outside openings shall, be protected against the entry of insects by tight-fitting, self-closing doors; closed windows; screening; controlled air currents; or other means. Screen doors shall be self-closing, and screens for windows, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall. be tight-fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch.

History

CMY-28-86, May 2, 1986.

Subchapter 7. Construction and Maintenance Of Physical Facilities

§ 1131. Floors—Floor construction

A. Except as specified in § 1132 of this Code, floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight-fitting wood impregnated with plastic, and shall be maintained in good repair. Nothing in this Section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.

B. Floors which are water flushed or which receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with properly installed trapped drains. Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile, or similar materials and shall be graded to drain.

C. In all establishments utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials, or where water flush cleaning methods are used, the junctures between walls and floors shall be covered and sealed. In all other cases, the juncture between walls and floors shall be covered so as not to present an open seam of more than 1/32 inch (0.8 mm).

History

CMY-28-86, May 2, 1986.

§ 1132. Floor carpeting

Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting shall not be used in food preparation and warewashing areas, in food storage areas, or in toilet room areas where urinals or fixtures are located.

History

CMY-28-86, May 2, 1986.

§ 1133. Prohibited floor covering

Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings. However, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors.

History

CMY-28-86, May 2, 1986.

§ 1134. Mats and duckboards

Mats and duckboards shall be of nonabsorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained in good repair.

History

CMY-28-86, May 2, 1986.

§ 1135. Utility line installation

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively

remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

History

CMY-28-86, May 2, 1986.

§ 1136. Walls and ceilings—Maintenance

Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

History

CMY-28-86, May 2, 1986.

§ 1137. Construction

The walls, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas, warewashing areas, and toilet rooms and their vestibules shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks and bricks used for interior wall construction in these locations shall be finished and sealed to provide a smooth easily cleanable surface.

History

CMY-28-86, May 2, 1986.

§ 1138. Exposed construction

Studs, joists, and rafters shall not be exposed in those areas listed in § 1137 of this Code. If exposed in other rooms or areas, they shall be finished to provide a cleanable surface.

History

CMY-28-86, May 2, 1986.

§ 1139. Utility line installation

Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in § 1137 of this Code. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.

History

CMY-28-86, May 2, 1986.

§ 1140. Attachments

Light fixtures, vent covers, wall mounted fans, decorative materials, and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

History

CMY-28-86, May 2, 1986.

§ 1141. Covering materials installation

Wall and ceiling covering materials shall be attached and sealed in a manner to be easily cleanable.

History

CMY-28-86, May 2, 1986.

§ 1142. Cleaning physical facilities—General

Cleaning of floors, walls, and ceilings shall be done as often as necessary, but preferably during periods when the least amount of food is exposed, such as after closing. Only dustless methods of cleaning floors, walls, and ceilings shall be used, such as vacuum cleaning, wet cleaning, treated-dust mops, or the use of dust-arresting, sweeping compounds with brooms. Floors, mats, duckboards, walls, ceilings, and attachments (e.g., light fixtures, vent covers, wall mounted fans, and similar equipment), and decorative materials (e.g., signs and advertising materials) shall be kept clean.

History

CMY-28-86, May 2, 1986.

§ 1143. Service sinks

At least one service sink or curbed cleaning facility with a floor drain shall 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. Handwashing or warewashing facilities, or food preparation sinks shall not be used for this purpose.

History

CMY-28-86, May 2, 1986.

§ 1144. Lighting—General

A. Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles (215 lux) of light on all food preparation surfaces and at warewashing work levels.

B. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches (762 mm) from the floor;

1. At least 20 foot candles (215 lux) of light in sales areas, utensil and equipment storage areas, and in handwashing and toilet areas; and

2. At least 10 foot candles (108 lux) of light in walk-in refrigeration units, dry food storage areas, and in all other areas.

History

CMY-28-86, May 2, 1986.

§ 1145. Protective shielding

A. Lamps located over or within food storage, food preparation, and food display facilities, and facilities where utensils and equipment are cleaned and stored shall be shielded, coated or otherwise shatter resistant.

B. Infrared or other heat lamps shall be protected against breakage by shields surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

History

CMY-28-86, May 2, 1986.

§ 1146. Ventilation—General

All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to provisions established by the Health Advisor, and when vented to the outside, shall not create a harmful or unlawful discharge. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

History

CMY-28-86, May 2, 1986.

§ 1147. Dressing rooms and locker areas—Dressing rooms and areas

If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, food storage, food display, warewashing, or storage of utensils and equipment.

History

CMY-28-86, May 2, 1986.

§ 1148. Locker areas

Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may only be located in the designated dressing rooms or areas or, in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

History

CMY-28-86, May 2, 1986.

§ 1149. Poisonous or toxic materials—Materials permitted

Only those poisonous or toxic materials necessary and intended for the maintenance of the establishment, including the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in retail food stores, except those items being stored or display for retail sale as described in § 1153 of this Code.

History

CMY-28-86, May 2, 1986.

§ 1150. Labeling of materials

Containers of poisonous or toxic materials necessary for operational maintenance of the establishment shall be prominently and distinctly labeled. Small working containers of bulk cleaning agents shall be individually labeled for easy identification of contents. Poisonous and toxic products being sold shall be prominently and distinctly labeled. Included on the label of the product being sold shall be the basic first aid recommendations in the event of ingestion, inhalation, etc. Poisonous or toxic products transferred from bulk containers to smaller containers for sale to the public shall meet labeling requirements of this Section and should not be transferred into containers similar to those used for food. If food-like containers are used, they must meet labeling requirements of this Section, plus the containers shall have child-proof safety lids/caps.

History

CMY-28-86, May 2, 1986.

§ 1151. Storage of materials

A. Poisonous or toxic materials necessary for the maintenance of the establishment consist of the following two categories:

1. Insecticides and rodenticides;
2. Detergents, sanitizers, related cleaning or drying agents, and caustics, acids, polishes, and other chemicals.

B. Materials in each of these two categories shall be stored and located to be physically separated from each other; shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose; and, to preclude potential contamination, shall not be stored above or intermingled with food, food equipment, utensils, or single-service articles, except that this latter requirement does not prohibit the convenient availability of detergent sanitizer, or sanitizer at warewashing facilities.

History

CMY-28-86, May 2, 1986.

§ 1152. Use of materials

A. Sanitizers, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons.

B. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way other than in full compliance with the manufacturer's labeling.

History

CMY-28-86, May 2, 1986.

§ 1153. Storage and display of materials for retail sale

Poisonous or toxic materials stored or displayed for retail sale shall be separated from food and single-service articles by spacing, partitioning, or dividers. These materials shall not be stored or displayed above food or single-service articles.

History

CMY-28-86, May 2, 1986.

§ 1154. First-aid supplies and personal medications

Retail food store employee first-aid supplies and personal medications shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

History

CMY-28-86, May 2, 1986.

§ 1155. Premises—General

A. Retail food stores and all parts of the property used in connection with operations of the establishment shall be reasonably free of litter and articles not essential to the operations or maintenance of the establishment.

B. The walking and driving surfaces of all exterior areas of retail food stores shall be surfaced with concrete, asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage.

History

CMY-28-86, May 2, 1986.

§ 1156. Living areas

No operation of a retail food store shall be conducted in any room used as living or sleeping quarters. Retail food store operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

History

CMY-28-86, May 2, 1986.

§ 1157. Laundry facilities

A. If provided, laundry facilities in a retail food store shall be restricted to the washing and drying of linens and work clothes used in the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

B. Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

History

CMY-28-86, May 2, 1986.

§ 1158. Linens and work clothes storage

A. Clean work clothes and linens, including articles such as wiping cloths, shall be stored in a clean place and protected from contamination until used.

B. Soiled work clothes and linens, including articles such as wiping cloths, shall be kept in nonabsorbent containers or washable laundry bags until removed from laundering and shall be stored to prevent contamination of food, food equipment and utensils.

History

CMY-28-86, May 2, 1986.

§ 1159. Cleaning equipment storage

Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

History

CMY-28-86, May 2, 1986.

§ 1160. Animals

A. Live animals shall be excluded from within the retail food store operational areas and from immediately adjacent areas inside the store under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or fish in aquariums.

B. Live or dead fish bait shall be stored separately from food or food products.

C. Patrol dogs accompanying security or police officers shall be permitted in offices, storage areas and outside store premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Guide dogs accompanying blind persons shall be permitted in sales areas.

D. While on duty, persons employed in the food operational areas of an establishment shall not care for or handle any pets, or patrol/sentry dogs.

History

CMY-28-86, May 2, 1986.

§ 1161. Building and premises

Premises and buildings shall be accessible to handicapped individuals. It shall meet the requirements as specified in the American National Standards Specifications A1171-1976 (R1971).

History

CMY-28-86, May 2, 1986.

§ 1162. Fire and electrical safety

Premises and buildings shall comply with the most recent edition of the National Fire Protection Codes.

History

CMY-28-86, May 2, 1986.

Subchapter 8. Compliance Procedures

§ 1191. Permit to operate—General

No person shall operate a retail food store without a valid sanitation permit to operate such retail food store issued to such person by the Regulatory Authority. Such permit shall not be transferable. A valid sanitation permit shall be posted in every retail food store.

History

CMY-28-86, May 2, 1986.

§ 1192. Certification

Each employee working in a retail establishment must have a valid food service training certificate from the Health Advisor. Each retail establishment must have on duty at least one individual who is currently certified as a food service manager by the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1193. Issuance of permit

A. Any person desiring to operate a retail food store shall make written application for a sanitation permit to operate such retail food store on forms provided by the Regulatory Authority. Such application shall include the name and address of each applicant, the location and type of the proposed retail food store, and the signature of each applicant.

B. Before approving an application for a sanitation permit to operate a retail food store, the Health Advisor and the Regulatory Authority shall inspect the proposed retail food store to determine compliance with the provisions of this Code.

C. The Regulatory Authority shall promptly issue a sanitation permit upon the recommendation of the Health Advisor to operate a retail food store if its inspection reveals that the proposed retail food store is designed, constructed, and equipped to be operated in a manner that protects the public health.

D. Certain waivers on equipment covered by these regulations may be granted if, in the opinion of the Health Advisor, this does not create a health hazard.

History

CMY-28-86, May 2, 1986.

§ 1194. Suspension of permit

A. The Regulatory Authority or Health Advisor may, upon written notice, without prior warning, notice, or hearing, suspend any sanitation permit to operate a retail food store if the operation of the retail food store constitutes an imminent hazard to the public health, such as an extended loss of water supply, an extended power outage, or sewage back-up into the establishment. When such sanitation permit is suspended, retail food store operations shall be suspended immediately.

B. Whenever a sanitation permit to operate a retail food store is suspended, the holder of the permit to operate the retail food store, or the person in charge, shall be notified in writing that the permit to operate the retail food store is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Regulatory Authority by the holder of the permit

within 10 days. If a written request is filed within 10 days, an opportunity for a hearing with the Regulatory Authority shall be afforded within 10 days of receipt of the request. If no written request for a hearing is filed within 10 days, the suspension is sustained. The Regulatory Authority shall end the suspension if the reasons for the suspension no longer exist.

History

CMY-28-86, May 2, 1986.

§ 1195. Revocation of permit

A. The Regulatory Authority may, after providing opportunity for a hearing, revoke a permit for:

1. Serious violations of this Code; or
2. Repeated violations of this Code, found in consecutive inspections; or
3. Interference with the Health Advisor or Regulatory Authority in the performance of his duty.

B. Before revocation, the Regulatory Authority shall notify the holder of the permit to operate the retail food store, or the person in charge, in writing, of the reasons for which such permit is subject to revocation. The permit to operate the retail food store shall be revoked at the end of the 10 days following service of such notice unless a written request for a hearing is filed with the Regulatory Authority by the holder of the permit within such 10 day period. If no request for hearing is filed within the 10 day period, the revocation of the permit to operate the retail food store becomes final.

History

CMY-28-86, May 2, 1986.

§ 1196. Service of notice

A notice provided for in this Code is properly served when it is delivered to the holder of the sanitation permit to operate the retail food store, or to the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of such permit to operate a retail food store. A copy of the notice shall be filed in the records of the Regulatory Authority, Health Advisor, and the Bureau of Indian Affairs.

History

CMY-28-86, May 2, 1986.

§ 1197. Hearings

The hearings provided for in this Code shall be conducted by the Regulatory Authority at a time and place it designates. Any oral testimony

given at a hearing shall be recorded verbatim, and the presiding officer shall make provision for sufficient copies of the transcript. The Regulatory Authority shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision, including the reasons(s) for such decision, shall be furnished to the holder of the permit to operate the retail food store, or to the person in charge, by the Regulatory Authority within 10 days after the hearing.

History

CMY-28-86, May 2, 1986.

§ 1198. Application after revocation

Whenever a revocation of a sanitation permit to operate a retail food store has become final, the holder of such revoked permit may make written application for a new permit to operate a retail food store as provided in § 1193 of this Code.

History

CMY-28-86, May 2, 1986.

§ 1199. Inspections—Inspection frequency

An inspection of a retail food store shall be performed at least once a year. Additional inspections shall be performed as often as necessary for the efficient and effective enforcement of this Code.

History

CMY-28-86, May 2, 1986.

§ 1200. Access

Representatives of the Health Advisor and Regulatory Authority, after proper identification, shall be permitted to enter any retail food store at any reasonable time for the purpose of making inspections to determine compliance with this Code. The representatives shall, upon written notice, be permitted to examine records maintained in the retail food store (or other location) to obtain information pertaining to the source of food and supplies in the establishment when deemed necessary for the enforcement of this Code.

History

CMY-28-86, May 2, 1986.

§ 1201. Report of inspections

Whenever an inspection is made of a retail food store, the findings shall be recorded on the inspection report form set out in § 1203 of this Code. The inspection report form shall summarize the requirements of this Code and shall set forth a weighted point value for each requirement. Inspectional remarks

shall be written to reference, by Section number, the Section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the completed inspection report form shall be given to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form constitutes an official notice of inspectional findings. It is a public document that shall be made available for public disclosure to any person who requests. Request for such information must be made in writing to the Regulatory Authority, stating the reasons for such requests.

History

CMY-28-86, May 2, 1986.

§ 1202. Correction of violations

A. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accompanied within the period specified, in accordance with the following provisions:

1. If an imminent health hazard exists, such as may be created by an extended loss of water supply, an extended power outage, or a sewage back-up into the establishment, the establishment shall immediately cease affected retail food store operations. Such operations shall not be resumed until authorized by the Health Advisor.

2. All violations of 4 or 5 point weighted items as described in the inspection report form shall be corrected within the period of time specified by the Health Advisor, but in any event, not to exceed 10 days following inspection. Within 15 days after the inspection, the holder of the permit to operate the retail food store shall submit a written report to the Regulatory Authority stating the action taken to correct the 4 or 5 point weighted violations. Purchase orders or work contracts with a work completion date satisfactory to the Regulatory Authority may be accepted as interim corrective action. A follow-up inspection shall be conducted to confirm correction(s).

3. All 1 or 2 point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

4. When the rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.

B. Failure to comply with § 1202(A)(2), (3), and/or (4) may result in revocation of the permit to operate the retail food store.

C. Whenever a retail food store is required under the provisions of § 1194 (A) of this Code to suspend operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to suspend operations no longer exist. Opportunity for inspection shall be

offered within a reasonable time. An opportunity for a hearing by the Regulatory Authority will be provided if a written request for a hearing is filed by the holder of the permit to operate the suspension of operations. If such a written request for hearing is received, a hearing shall be held within 10 days of receipt of the request. All hearings shall be conducted in accordance with the procedures as described in § 1197 of this Code. If no written request for a hearing is filed within 10 days, the suspension is sustained. The Regulatory Authority shall end the suspension if the reasons for the suspension no longer exists.

History

CMY-28-86, May 2, 1986.

§ 1203. Inspection report form

History

CMY-23-86, May 2, 1986. See Appendix A for form.

§ 1204. Examination and condemnation of food—General

A. Food may be examined or sampled by the Health Advisor for the purpose of determining compliance with this Code. The Regulatory Authority may place a hold order on any food which it has reason to believe is in violation of any Section of this Code and may pose a health hazard to the public, provided:

1. A written notice is issued to the holder of the sanitation permit to operate the retail food store, or to the person in charge; and
2. The notice specifies in detail the reasons(s) for the hold order.

B. The Health Advisor shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, sold, moved from the establishment, or destroyed without permission from the Health Advisor.

C. The Health Advisor shall permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.

D. The hold order shall state that a request for hearing may be filed with the Regulatory Authority within 10 days, and that if no hearing is requested, the food shall be destroyed. If a request for a hearing is received, the hearing shall be held within 20 days after receipt of the request. On the basis of evidence produced at that hearing, the hold order may be vacated or the holder of the permit to operate the retail food store, or the person in charge, may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this Code. If food is to be denatured or destroyed, such action shall be taken under the supervision of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1205. Review of plans—Submission of plans

A. Before the construction or major remodeling of a retail food store, and whenever an existing structure is converted to use as a retail food store, properly prepared plans and specifications for such construction, major remodeling, or conversion shall be submitted to the Regulatory Authority and the Health Advisor for review and approval. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The health advisor shall treat such plans and specifications as confidential or trade secret information in accordance with law and shall approve the plans and specifications if they meet the requirements of this Code. No retail food store shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Health Advisor.

B. Alteration of a retail food store to accommodate self-service of bulk food will constitute major remodeling. This will require submission of plans and specifications for approval.

History

CMY-28-86, May 2, 1986.

§ 1206. Review of plans—Preoperational inspection

Whenever plans and specifications are required by § 1205 of this Code, the health advisor or Regulatory Authority shall inspect the retail food store prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this Code.

History

CMY-28-86, May 2, 1986.

§ 1207. Procedure when infection suspected—General

A.¹ When the Health Advisor has reasonable cause to suspect possible disease transmission from any retail food store employee, it may secure a morbidity history of the suspected employee, or make any other investigation as indicated and shall take appropriate action. All investigations shall be conducted in compliance with the provisions of the Privacy Act, and information collected will only be used for epidemiological purposes. The Health Advisor may require any or all of the following measures:

1. The immediate exclusion of the employee from employment in retail food stores;

2. The immediate closing of the retail food store concerned until, in the opinion of the Health Advisor, no further danger of disease

outbreak exists;

3. Restriction of the employee's services to some area of the establishment where there could be no danger of transmitting disease;

4. Adequate medical and laboratory examination of the employee, of other employees, and of the body discharges of such employees.

History

CMY-28-86, May 2, 1986.

§ 1208. Remedies--Penalties

A. The Regulatory Authority shall execute and enforce the provisions of this Act and in that enforcement is vested with all powers relating to inspection, sampling, condemnation and embargoing of hazardous substances granted to it with respect to this Code.

B. If any person shall violate directly or indirectly, through his officers or employees, any of the provisions of this Act, or regulations promulgated thereunder, the Regulatory Authority may order the correction of the violation within such reasonable period of time as the commissioner may prescribe. Such order shall be complied with in the time specified.

C. Any person violating any of the provisions of this Act or orders or regulations promulgated thereunder shall be liable to a penalty of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250.00), and for the second and each succeeding violation, double that of the proceeding infraction, to be collected in a civil action by the Regulatory Authority and deposited in the Navajo Nation general funds account. Where the violation is of a continuing nature, each day during which it continues, after the date given by which the violation must be eliminated in the order by the Regulatory Authority, shall constitute an additional, separate and distinct offense, except during the time an appeal from said order may be taken or is pending.

D. The Regulatory Authority is authorized and empowered to compromise and settle any claim for a penalty under this Section in such amount in the discretion of the Regulatory Authority as may appear appropriate and equitable under all of the circumstances.

E. Payment of a penalty for any violation of this Act or regulations promulgated thereunder either before or after the institution of proceedings for the collection thereof shall be deemed equivalent to a concession of the violation for which such penalty was claimed.

History

CMY-28-86, May 2, 1986.

§ 1209. Injunctions

The regulatory authority or Health Advisor may seek to enjoin violators

of this Code.

History

CMY-28-86, May 2, 1986.

Subchapter 9. Enactment Provisions

§ 1241. Captions

Sections and other captions are part of this Code.

History

CMY-28-86, May 2, 1986.

§ 1242. Exceptions

A. Building facilities and equipment in use before the effective date of this Code which do not meet fully all of the design and fabrication requirements of this Code, shall be acceptable if they are in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces (if any) are in compliance with § 902(R) of this Code.

B. New building facilities and new equipment for which contractual obligations are incurred before the effective date of this Code, and which do not fully meet all the design and fabrication requirements of this Code, shall be acceptable if they are capable of being maintained in a sanitary condition and the food-contact surfaces (if any) are in compliance with § 902(F) of this Code.

History

CMY-28-86, May 2, 1986.

§ 1243. Repealer

Twelve months after the date of adoption and publication of this Code in accordance with law, all codes and parts of codes that conflict with this Code are repealed.

History

CMY-28-86, May 2, 1986.

§ 1244. Separability

If any provision or application of any provision of this Code is held invalid, that invalidity shall not affect other provisions or applications of this Code.

History

CMY-28-86, May 2, 1986.

§ 1245. Effective Date

This code is effective 12 months after its adoption and publication in accordance with law.

History

CMY-28-86, May 2, 1986.

Subchapter 10. Wholesale and Salvage Food Operations

§ 1261. Whole food operations

Any wholesale food operation including food storage warehouses on the Navajo Nation shall meet the provisions of the Food, Drug and Cosmetic Act ¹ along with its amendments, and shall meet the approval of the Health Advisor.

History

CMY-28-86, May 2, 1986.

§ 1262. Permits

Any wholesale food operation shall be required to obtain a sanitation permit from the Regulatory Authority.

History

CMY-28-86, May 2, 1986.

§ 1263. Salvage operations

Salvage operations shall not be permitted.

History

CMY-28-86, May 2, 1986.

Chapter 6. Food and Beverage Machine Vending Sanitation Code

History

CMY-28-86, May 2, 1986.

Note. Appendix referenced in this Code is not included; see CMY-28-86.

Subchapter 1. General Provisions

§ 1301. Purpose

This code shall be liberally construed and applied to promote its

underlying purpose of protecting the public health.

History

ACMY-28-86, May 2, 1986.

§ 1302. Definitions

For the purpose of this ordinance:

A. "Bulk food" means a food which when dispensed to the customer is not package, wrapped or otherwise enclosed.

B. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term shall not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

C. "Condiment" means any food such as salt, pepper, mustard and ketchup that is used to enhance the flavor of other food.

D. "Controlled location vending machine (limited service vending machine)" means a vending machine which:

1. Dispenses only non-potentially hazardous food; and
2. Is of such design that it can be filled and maintained in a sanitary manner by untrained persons at the location; and
3. Is intended for and used at locations in which protection is assured against environmental contamination.

E. "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

F. "Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residues may be effectively removed by normal cleaning methods.

G. "Employee" means that permit holder, individual having supervisory or management duties and any other person who handles any food to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials, used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

H. "Equipment" means vending machines, ovens, tables, counters, sinks, and similar items, other than utensils used in vending operations.

I. "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part

for human consumption.

J. "Food-contact surfaces" means those surfaces with which food normally comes into contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.

K. "Health Advisor" shall mean the Director, Navajo Area Indian Health Service or an authorized agent.

L. "Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

M. "Law" includes federal, state and local statutes, codes and regulations, and ordinances.

N. "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

O. "Operator" means any person, who by contract, agreement, or ownerships, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.

P. "Packaged" means bottled, canned, cartoned, or securely wrapped.

Q. "Person" includes an individual, partnership, corporation, association, or other legal entity.

R. "Potentially hazardous food" means any food that consists in whole or in part of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients including synthetic ingredients, which is in form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. Potentially hazardous foods will include rice, fried rice, refried beans and baked potatoes. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions.

S. "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

T. "Regulatory Authority" shall mean the Navajo Division of Health or its successor.

U. "Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in § 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act ¹ as used, they are "safe" only if they are used in conformity with regulations established pursuant to § 409 ² or § 706 ³ of the Act. Other materials are "safe" only if they are not food additives or color additives as defined in § 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act, and are used in conformity with regulations issued under the Act.⁴

V. "Safe temperatures" for potentially hazardous food means temperatures of 45°F (7.2°C) or below or 140°F (60°C) or above.

W. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemical for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

X. "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

Y. "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles designed for one time/one person use, and then discarded.

Z. "Utensil" means any implement used in the storage, preparation, transportation or service of food.

AA. "Vending machine" means any self-service device which, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation. It shall also include self-service dispensers equipment for coin, paper currency, token, card or key operation and optional manual operation. Unless otherwise stated, vending machine includes controlled location vending machines.

History

ACMY-28-86, May 2, 1986.

§ 1303. Captions

Sections and other captions are part of this Code.

History

ACMY-28-86, May 2, 1986.

§ 1304. Repealer

This code shall be in full force and effect three months after its adoption and publication in accordance with law. At that time, all code and parts of code that conflict with this Code are repealed.

History

ACMY-28-86, May 2, 1986.

§ 1305. Separability

If any provision or application of any provision of this Code is held invalid, that invalidity shall not affect other provisions or applications of

this Code.

History

ACMY-28-86, May 2, 1986.

Subchapter 2. Food Care

§ 1311. Food supplies—General

Food exposed for sale, offered for sale, sold through vending machines and offered to patrons of vending machines shall be sound and free from spoilage, filth, or other contamination and shall be safe for human consumption. The food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

History

ACMY-28-86, May 2, 1986.

§ 1312. Food protection—General

A. At all times, including while being prepared, stored, loaded, displayed, or transported, food intended for sale through vending machines shall be protected from contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs, sneezes, flooding, draining, and overhead leakage or condensation.

B. The temperature of potentially hazardous foods shall be 45°F (7.2°C) or below or 140°F (60°C) or above at all times, except as otherwise provided in § 1313 (G).

History

ACMY-28-86, May 2, 1986.

§ 1313. Special requirements

A. Milk and fluid milk products offered for sale through vending machines shall be pasteurized, shall meet the Grade A quality standards as established by law, and shall be dispensed only in individual original containers. Raw milk and raw milk products shall not be sold.

B. Milk and fluid milk products and fluid non-dairy products (creaming agents) shall not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

C. When condiments are provided in conjunction with food dispensed by a vending machine, they shall be:

1. Packaged in individual portions in single-service containers;

and

2. Dispensed from sanitary dispensers which are cleaned, rinsed and sanitized and filled at the commissary or at the machine location if sanitary facilities are provided; or

3. Made available from condiment self-service dispensing equipment at those locations having an on-duty attendant.

D. Fresh fruits which may be eaten without peeling shall be thoroughly washed in potable water at the packing plant by the processor, or at the commissary before being placed in the vending machines for dispensing. The washed fruit shall be protected from contamination after the washing process.

E. All food, other than fresh fruit, shall be stored or packaged in clean protective containers, and all food shall be handled and vended in a sanitary manner.

F. Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual, original container or package into which it was placed at the commissary or at the manufacturer's or processor's plant. Potentially hazardous food shall not be dispensed from bulk food machines.

G. Potentially hazardous food shall be maintained at safe temperatures except as follows:

1. During necessary periods of preparation and packaging; and

2. During the actual time required to load or otherwise service the machine and for a maximum machine ambient temperature recovery period of 30 minutes following completion of loading or servicing operation.

H. Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units and thermostatic controls which insure the maintenance of sale temperatures at all times. Such vending machines shall also have automatic controls which prevent the machine from vending potentially hazardous food until serviced by the operator in the event of power failure, mechanical failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.

I. Potentially hazardous food that has failed to conform to the time-temperature requirements of this Code shall be removed from the vending machine, and be denatured or otherwise rendered unusable for human consumption.

J. Vending machine dispensing potentially hazardous food shall be provided with one or more thermometers which, to an accuracy of 3°F, indicate the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

History

ACMY-28-86, May 2, 1986.

Subchapter 3. Personnel

§ 1321. Employee health—General

No person, while infected with a communicable disease 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, or an acute respiratory infection, shall work in any area of a commissary or vending operation except as specified in § 1394.

History

ACMY-28-86, May 2, 1986.

§ 1322. Personal cleanliness—General

A. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices while engaged in handling foods or food-contact surfaces of utensils or equipment.

B. Employees shall thoroughly wash their hands with soap and warm water immediately prior to engaging in any vending machine servicing operation which may bring them into contact with food, or with food-contact surfaces of utensils, containers, or equipment. While engaged in such servicing operations, employees shall wear clean outer garments, shall not use tobacco in any form, wear hair restraints, and shall keep their fingernails clean and trimmed.

C. Jewelry shall not be worn on the hands of employees involved in the handling of foods or by those employees involved in equipment and utensil washing and sanitizing activities.

D. All employees working in the commissary shall have a valid certificate that they have received training on the prevention of foodborne disease issued by the Health Advisor.

History

ACMY-28-86, May 2, 1986.

Subchapter 4. Equipment and Utensils

§ 1341. Interior construction and maintenance—General

A. The non-food-contact surfaces of the interior of vending machines shall be designed and constructed to permit easy cleaning and to facilitate maintenance operations and shall be kept clean and in good repair. Inaccessible surfaces and areas shall be minimized.

B. All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped places.

The design of such surfaces shall preclude routine contact between food and "V" type threaded surfaces except that in equipment where such contact is unavoidable, such as ice makers, such thread shall be minimized. All joints and welds in food-contact surfaces shall be smooth, and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.

C. If solder or other sealer is used on food-contact surfaces, it shall be composed of safe materials and be corrosion resistant.

D. All food-contact surfaces of vending machines, including containers, pipes, valves, and fittings, shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion-resistant, non-absorbent, easily cleanable and durable under conditions of normal use; and shall be cleaned, rinsed, and sanitized at a frequency established by the Health Advisor based upon the type of product being dispensed.

E. All food-contact surfaces unless designed for in-place cleaning, shall be accessible for manual cleaning, rinsing, sanitizing and inspection:

1. Without being disassembled; or
2. By disassembly without the use of tools; or
3. By easy disassembling with the use of only simple tools such as a screwdriver or an open-end wrench.

F. All food-contact parts or surfaces not designed for in-place cleaning (§ 1341 (G)) shall be cleaned, rinsed and sanitized in clean, portable containers or in utensil washing sinks at the location or at the commissary. Cleaning shall consist of washing in warm water containing a suitable detergent and brushing or wiping, as appropriate. Rinsing shall consist of immersion or wiping with clean clear rinse water. Sanitizing shall be accomplished by.

1. Immersion or rinsing in water of at least 170°F (76.7°C) for 30 seconds; or
2. Immersion for one minute in a chemical sanitizing solution containing at least 50 parts per million (p.p.m.) of available chlorine, or 12.5 p.p.m. of available iodine, or 200 p.p.m. of quaternary ammonium sanitizer.

G. In machines designed so that food-contact surfaces are not readily removable, all such surfaces intended for in-place cleaning shall be designed and fabricated that:

1. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and
2. Cleaning and sanitizing solutions will contact all food contact surfaces; and
3. The system is self-draining or capable of being completely evacuated; and

4. The procedures utilized result in thorough cleaning of the equipment.

H. The openings into all nonpressurized containers used for the storage of vendible food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash is possible. Concave covers are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths of an inch, and shall be provided with an overlapping over flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food containers unless a watertight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of safe materials, relatively stable, and relatively non-absorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.

I. The delivery tube or chute and orifice of all bulk food vending machines shall be protected from normal manual contact, dust, insects, rodents, and other contamination. The design shall divert condensation or moisture from the normal filling position of the container receiving the food. The ending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept closed except when food is being removed. The cup filling area or platform of controlled location vending machines shall not require a door or cover if there is no opening into the cabinet interior at that point other than for dispensing tube(s) or trapped waste tubing. The dispensing compartment of prepackaged candy and similar product vending machines shall be equipped with a self-closing lid at vending locations where insect or rodent entry into the machine may occur.

J. The food storage compartment and other compartments in refrigerated vending machines which are subject to condensation or cooling water retention shall be self draining or equipped with a drain outlet which permits complete draining. In vending machines designed to store cartoned beverages, diversion devices and retention pans or drains for leakage shall be provided. All such drains, devices, and retention pans shall be easily cleanable.

K. Can and bottle openers which come into contact with the food or the food-contact surfaces of the containers shall be constructed of corrosion-resistant, non-absorbent, and safe materials and shall be kept clean. Cutting or piercing parts of multiuse openers which come into contact with the food or food-contact surfaces of the containers shall be constructed of corrosion-resistant, nonabsorbent, and safe materials and shall be kept clean. Cutting or piercing parts of multiuse openers which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

History

ACMY-28-86, May 2, 1986.

§ 1342. Exterior construction and maintenance—General

A. The vending machine shall be of sturdy construction and the exterior shall be designed, fabricated, finished and maintained to facilitate its being kept clean, and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean. The vending machine shall not constitute a safety hazard.

B. Door and panel access openings to the food and container storage spaces of the machine shall be tight fitting, and if necessary, gasketed to prevent the entrance of dust, moisture, insects, and rodents.

C. All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less than 16 mesh to the inch or equivalent. Screening materials for openings into condenser units which are separated from food and container storage spaces shall be not less than 8 mesh to the inch or equivalent.

D. In all vending machines in which the condenser unit is an integral part of the machine, such unit when located below the food and container storage space, shall be separated from such space by a dust proof barrier, and when located above, shall be sealed from such space.

E. In order to prevent seepage underneath the machine and to promote cleaning, free standing vending machines shall have one or more of these elevation or movability features:

1. Be light enough to be manually moved with ease by one person; or
2. Be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of at least six inches (15.24 cm) under the machine; or
3. Mounted on rollers or casters which permit easy movement; or
4. Be sealed to the floor.

F. Where used, kickplates shall be easily removable or be capable of being rotated. These kickplates shall be designed and installed to make the area under the machine easily accessible for routine cleaning without unlocking the cabinet door.

G. Counter type machines shall be:

1. Sealed to the counter; or
2. Mounted on four-inch (10.16 cm) legs or the equivalent; or
3. Easily moved for cleaning with service connections in place.

H. All service connections through an exterior wall of the machine

including water, gas, electrical, and refrigeration connections, shall be grommeted, or closed with no opening over 1/32 inch (0.79 mm) to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food shall be such as to discourage their unauthorized or unintentional disconnection.

History

ACMY-28-86, May 2, 1986.

§ 1343. Equipment location—General

A. Vending machines, ovens, and other equipment shall be located in a room, area or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste or sewer piping. The immediate area in which the equipment is located shall be well lighted and ventilated. Each vending machine shall be located so that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

B. The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

C. Adequate handwashing facilities, including hot or cold or tempered running water, soap and individual towels, shall be convenient to the machine location and shall be available for use by employees servicing or loading bulk food machines.

History

ACMY-28-86, May 2, 1986.

§ 1344. Special requirements—Single-service articles

Single-service articles shall be purchased in sanitary packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be furnished to the customer in the original individual wrapper or from a sanitary single-service dispenser. All single-service articles shall be protected from manual contact, dust, insects, rodents, and other contamination.

History

ACMY-28-86, May 2, 1986.

§ 1345. Other equipment

A. All other equipment at the vending location must be kept clean. Food-contact surfaces, if any, must be cleaned, rinsed and sanitized at a frequency established by the Health Advisor based upon the type of product being dispensed.

B. The cavities and door edges of microwave ovens must be cleaned at least once a day with non-abrasive cleaners and shall be kept free of encrusted grease deposits and other accumulated soil. All doors, seals, hinges, and latch fasteners (screws and related hardware) shall be kept tight and adjusted in accordance with manufacturer's procedures. Microwave ovens shall be in compliance with applicable safety standards of the U.S. Food and Drug Administration's Center for Devices and Radiological Health.

C. Food-contact surfaces of all equipment and utensils must be protected from contamination at all times including while being transported from the commissary to the vending location.

History

ACMY-28-86, May 2, 1986.

Subchapter 5. Sanitary Facilities and Controls

§ 1361. Water supply—General

A. All water used in vending machines shall be of a safe and sanitary quality and from a source constructed and operated according to the Safe Drinking Water Act, Public Law 93-523.¹ Water used as a food ingredient shall be piped to the vending machines under pressure, except that in controlled location vending machines, water may be obtained from a safe source and carried to the machines in containers that are clean and of good sanitary construction.

1. External water fill ports or drawers of controlled location vending machines shall be designed so that covers and drawers are secured to the machine.

2. All plumbing connections and fittings shall be installed and maintained according to the 1982 Uniform Plumbing Code.

B. If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.

C. To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines manufactured after January 1, 1975, which are designed with an incoming water supply air gap shall have no copper tubing or other potentially toxic water system tubing between the air gap and the downstream, carbonated water dispensing nozzle.

D. To prevent leaching of toxic materials caused by possible interaction of carbonated water, piping and contact surfaces, post-mix soft drink vending machines which are directly connected to the external water supply system shall be equipped with a double (or two single) spring-loaded check valves or other devices which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. Backflow preventive devices shall be located to facilitate servicing and maintenance. No copper tubing or other potentially toxic tubing or contact surfaces shall be permitted

in or downstream from the check valves or backflow devices. These check valves or device shall be inspected and cleaned or replaced annually.

E. Where spring-loaded check valves are used to prevent the backflow of carbon dioxide into accessible upstream copper or other potentially toxic piping or tubing, a screen of not less than 100 mesh to the inch shall be installed in the water line immediately upstream from the check valves in a location which permits servicing or replacement.

F. In all vending machines in which carbon dioxide is used as a propellant, all food-contact surfaces from the check valves or other protective devices, including the valves or devices, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

History

ACMY-28-86, May 2, 1986.

§ 1362. Waste disposal—General

A. All trash and other solid or liquid waste shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in a manner meeting the approval of the health advisor.

B. Self-closing, leak-proof, easily cleanable, insect-proof and rodent-proof waste receptacles shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other items. Plastic bags and wet-strength paper bags may be used to line the receptacles. Soiled waste receptacles shall be cleaned at a frequency to prevent insect and rodent attraction.

C. Waste receptacles shall not be located within the vending machines with the exception of those machines dispensing only packaged food with crown closures; in which case, the closure receptacles may be located within the machine. Waste receptacles shall not be located under counters or otherwise enclosed in a manner that will create a nuisance or prevent space around and under the counter or enclosure from being easily cleaned and maintained. Suitable racks or cases shall be provided for multiuse containers or bottles.

D. Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. Such machines shall be equipped with an automatic shut-off device at the waste pail or other devices or valves which will place the machine out of operation before the waste pail overflows. Such devices shall prevent water or liquid product from continuously running in the event of the failure of any single control, high level control, or other flow control device in the liquid product or water system.

E. Controlled location vending machines not connected to a water supply system, and which generate no internal liquid wastes, may be equipped with easily removable drip pans at the dispensing platform in lieu of internal waste containers and automatic shut-off devices.

F. Controlled location vending machines that are connected to a water supply and have no internal waste containers, shall be equipped with at least two independently operated controls to prevent the continued flow of water in event of failure of any single flow control device.

G. Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion-resistant. If liquid wastes from drip, spillage, or overflow, which originate within the machine are discharged into a sewerage system, the connection to the sewer shall be through an air gap.

History

ACMY-28-86, May 2, 1986.

Subchapter 6. Compliance Procedures

§ 1381. Permits—General

A. No person shall operate one or more vending machines, other than controlled location vending machines, without a valid permit issued by the Regulatory Authority. Persons who do not comply with the requirements of this Code shall not be entitled to receive or retain such a permit. Permits are not transferrable.

B. The operator's company name and service telephone number shall be displayed on each vending machine or conspicuously adjacent to the vending machine bank.

C. All operators of vending machines shall:

1. Comply with the requirements of this Code;

2. Maintain at the operator's headquarters or at some other designated location within the jurisdiction of the Health Advisor and Regulatory Authority a list of all vending machines operated by such operator within the jurisdiction and the complete address of each machine location and of all commissaries or other establishments from which this machines are serviced. This information shall be available to the Health Advisor upon request, and shall be kept current;

3. Notify the Health Advisor and Regulatory Authority of each new vending machine location at which potentially hazardous food or hot or cold cup beverage vending machines have been placed in operation; and

4. Notify the Health Advisor and Regulatory Authority of any change in operations involving new types of vending machines or conversions of existing machines to dispense products other than those for which the machines were built.

History

ACMY-28-86, May 2, 1986.

§ 1382. Issuance of permits

A. Any person desiring to operate one or more vending machines, other than controlled location vending machines, shall make written application for a permit on forms provided by the Regulatory Authority.

B. Upon receipt of such application, the Health Advisor shall make an inspection of the commissary, supply storage, servicing, cleaning and sanitizing facilities, and transport facilities, and representative equipment and machine locations to determine compliance with the provisions of this Code. A numbered operator's permit shall be issued to the applicant by the Regulatory Authority after compliance by the operator with the applicable provisions of this Code.

History

ACMY-28-86, May 2, 1986.

§ 1383. Suspension of permits

A. The Health Advisor or Regulatory Authority may, without prior warning, notice, or hearing, suspend any permit to engage in a vending operation if the operation constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by § 1383(B). When a permit is suspended, vending operations shall immediately cease. Whenever a permit is suspended, the permit holder shall be afforded an opportunity for a hearing with the Regulatory Authority within 10 days of receipt of a request for a hearing.

B. Whenever a permit is suspended, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended, the reasons why, including clear specification of violations, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Regulatory Authority by the permit holder within 10 days. If no request for hearing is filed within 10 days of receipt of the request, the suspension is sustained. Prior to the hearing, the Regulatory Authority may end the suspension if reasons for suspension no longer exists.

C. A sustained suspension may be rescinded by the Regulatory Authority based on the recommendation of the Health Advisor after confirming by inspection that the requirements of this Code have been satisfied.

D. The Regulatory Authority, in lieu of suspending a permit, may suspend applicability of the permit to a particular vending machine, machines, commissary or specific products.

History

ACMY-28-86, May 2, 1986.

§ 1384. Revocation of permits

Prior revocation, the Regulatory Authority shall notify in writing the permit holder or operator of the reasons for which the permit is subject to revocation. A permit may be revoked for serious or repeated violations of any of the items of this Code as delineated in the inspection report form or for interference with the Health Advisor in the performance of his duties. The permits shall be revoked at the end of 10 days following service of a revocation notice unless a request for a hearing is filed with the regulatory authority by the permit holder within such a 10 day period. If no request for a hearing is filed within the 10 day period, the revocation of the permit becomes final.

History

ACMY-28-86, May 2, 1986.

§ 1385. Service of notices

A notice provided for in this Code is properly served when it is delivered to the permit holder or operator or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of any notice shall be filed in the records of the Regulatory Authority.

History

ACMY-28-86, May 2, 1986.

§ 1386. Hearings

The hearings provided for in this Code shall be conducted by the Regulatory Authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the Regulatory Authority shall make a final finding, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Regulatory Authority within 10 days of the hearing.

History

ACMY-28-86, May 2, 1986.

§ 1387. Reallocation

Whenever a permit has been revoked, the holder may make a written application for a new permit as provided in § 1382.

History

ACMY-28-86, May 2, 1986.

§ 1388. Permit exemption

All controlled location vending machines and vending machines which dispense exclusively: bottled or canned soft drinks; prepackaged ice; prepackaged candy, cookies, crackers, or similar prepackaged, non-potentially

hazardous snacks; or, ballgum, nuts, and panned candies are exempt from the requirements of § 1381(A) and § 1381(C), but shall meet all other applicable requirements of this Code.

History

ACMY-28-86, May 2, 1986.

§ 1389. Inspections--Inspection frequency

The Health Advisor shall select vending locations for inspection by a method which assures the inspection of representative machines and locations serviced by each of the operator's routemen and supervisor. The frequency of inspection and selection of locations shall assure the widest coverage of each operator's locations over the time span deemed available by the Regulatory Authority but, in any case, shall not be less than at least one inspection every six months, except that vending machines as set forth in § 1388 of this Code may be inspected by the Regulatory Authority when there is reason to believe that unsanitary conditions exist. Commissaries shall be inspected at least once every six months.

History

ACMY-28-86, May 2, 1986.

§ 1390. Access for inspection

The Health Advisory and Regulatory Authority, after proper identification, shall be permitted to enter at any reasonable time, upon any private or public property where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the provisions of this Code. The operator shall make provision for the Health Advisor to have access, either in company with an employee or otherwise, to the interior of all food vending machines operated by him.

History

ACMY-28-86, May 2, 1986.

§ 1391. Notification of inspection findings

A. Whenever an inspection of food vending machines is made, a copy of the completed inspection form set out in § 1392 shall be furnished to the operator.

B. Whenever the Health Advisor discovers a violation of any provision of this Code, it shall notify the Regulatory Authority and the operator concerned either by the inspection report form set out in § 1392 or by other written notice. Such form or notice, which is a public document shall:

1. Describe the condition found;

2. Provide a specific and reasonable period of time for the correction of the condition; and

3. State that an opportunity for a hearing on inspection findings will be provided if a written request for such hearing is filed with the Regulatory Authority within 10 days of receipt of the notice. The Regulatory Authority may also advise the operator in writing that unless the violations are corrected within the specified period of time, any permit issued under the provisions of this Code may be suspended or revoked in accordance with the provisions of Subchapter 6, or court action may be initiated.

History

ACMY-28-86, May 2, 1986.

§ 1392. Inspection report 307 [See note below]

History

ACMY-28-86, May 2, 1986.

Cross References

See Appendix B, CMY-28-86, May 2, 1986 for report form 307.

§ 1393. Examination and condemnation of food—General

Food may be examined or sampled by the Health Advisor as often as necessary for enforcement of this Code. The Health Advisor may, upon written notice to the permit holder or operator specifying with particularity the reasons therefore, place a hold order on any food which he believes is in violation of this Code. The Health Advisor shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, sold, or moved to facilities not under control of the permit holder. The Health Advisor shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within 10 days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated, or the permit holder or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this Code.

History

ACMY-28-86, May 2, 1986.

§ 1394. Procedure when infection suspected—General

When the Health Advisor has reasonable cause to suspect the possibility of disease transmission from any employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. All investigations shall be conducted in

compliance with the provisions of the Privacy Act, and morbidity information collected will only be used for epidemiological purposes. The Health Advisor may require any or all of the following measures:

A. The immediate exclusion of the employee from the commissary or vending operation;

B. The immediate closing of the commissary and vending operations concerned until, in the opinion of the Health Advisor, no further danger of disease outbreak exists;

C. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and/or

D. Adequate medical and laboratory examinations of the employee, of other employees and of his or her and their body discharges. The permit handler shall be responsible for all costs incurred.

History

ACMY-28-86, May 2, 1986.

§ 1395. Commissaries, outside jurisdiction of the regulatory authority—General

Food from commissaries outside the jurisdiction of the Regulatory Authority may be sold within the jurisdiction if such commissaries conform to substantially equivalent food service sanitation standards. To determine the extent of compliance with such provisions, the Regulatory Authority may accept reports from the responsible authorities in the jurisdictions where the commissaries are located.

History

ACMY-28-86, May 2, 1986.

§ 1396. Remedies—Penalties

A. The Regulatory Authority shall execute and enforce the provisions of this Act and in that enforcement is vested with all powers relating to inspection, sampling, condemnation and embargoing of hazardous substances granted to it with respect to this Code.

B. If any person shall violate directly or indirectly, through his officers or employees, any of the provisions of this Act, or regulations promulgated thereunder, the Regulatory Authority may order the correction of the violation within such reasonable period of time as the commissioner may prescribe. Such order shall be complied with in the time specified.

C. Any person violating any of the provisions of this Act or orders or regulations promulgated thereunder shall be liable to a penalty of not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250.00), and for the second and each succeeding violation, double that of the proceeding infraction, to be collected in a civil action by the Regulatory Authority and deposited in the Navajo Nation general funds account. Where the

violation is of a continuing nature, each day during which it continues, after the date given by which the violation must be eliminated in the order by the Regulatory Authority, shall constitute an additional, separate and distinct offense, except during the time an appeal from said order may be taken or is pending.

D. The Regulatory Authority is authorized and empowered to compromise and settle any claim for a penalty under this Section in such amount in the discretion of the Regulatory Authority as may appear appropriate and equitable under all of the circumstances.

E. Payment of a penalty for any violation of this Act or regulations promulgated thereunder either before or after the institution of proceedings for the collection thereof shall be deemed equivalent to a concession of the violation for which such penalty was claimed.

History

ACMY-28-86, May 2, 1986.

§ 1397. Injunctions

The Regulatory Authority or Health Advisor may seek to enjoin violations of this Code.

History

ACMY-28-86, May 2, 1986.

Chapter 7. Navajo Nation Mobile Home Park Code

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961

Subchapter 1. Generally

§ 1401. Title

This act shall be known and cited as the Mobile Home Park Code.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1402. Purpose

The purpose of this Act is to protect the health, safety and welfare of the Navajo Nation by regulating and monitoring all mobile home park operations

and activities. All mobile home park operators shall comply with the provisions of this Act. It is the intent of this Act that all provisions herein be liberally construed and implemented to accomplish and fulfill said purpose.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1403. Definitions

As used in this Code:

A. "Building Code" means the current model uniform code for mobile homes recommended by the International Conference of Building Officials and subsequent revisions.

B. "Dependent Mobile Home" means a mobile home which does not have a toilet, bathtub or shower.

C. "Electrical Code" means the current model uniform code for Mobile Home Parks recommended by the National Fire Protection Association, and subsequent revisions.

D. "Employee" means any individual who is employed in any establishment used as a mobile home park.

E. "Fire Authority" means the Fire Chief of the Navajo Nation Fire Services or the Fire Chief's authorized agent.

F. "Gas Code" means that current model uniform code recommended by the National Fire Protection Association, for fuel gas Pipe System and National Fire Protection Association, No. 58, 1983, and subsequent revisions, storage and handling of fuel gases.

G. "Health Advisor" means the Director, Navajo Area Indian Health Service, or the Director's authorized agent.

H. "Health and Social Services Committee" means the oversight Committee of the Navajo Nation Council empowered to recommend various Navajo Nation legislation to the Navajo Nation Council.

I. "Housing and Urban Development Standards" means the standards adopted by the United States Department of Housing and Urban Development (DHUD) under its Manufactured Housing Standard Program, pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974,¹ Public Law 93-383 and its amendments.

J. "Independent Mobile Home" means a mobile home that has a toilet and a bathtub or shower.

H. "Installation Code" means the current model uniform code for mobile

homes recommended by National Fire Protection Association and subsequent revisions.

L. "Installation Permit" means a permit issued by the Licensing Permitting Authority to the owner/operator of the mobile home park defining the installation code requirements so that each mobile home is installed in a safe and sanitary manner.

M. "Licensing/Permitting Authority" means Commerce Department, Division of Economic Development or its successor.

N. "Mobile Home" means any vehicle used, or so constructed as to permit being used as a conveyance upon the public streets or highways, and constructed in such a manner as will permit occupancy thereof, as a dwelling or sleeping place for one or more persons. It shall be more than 20' in length and greater than or equal to 100 square feet of gross area and remain in place on site for more than 30 days.

O. "Mobile Home Park" means any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes are parked and where rent is collected and/or are located in place for more than 30 days.

P. "Mobile Home Space" means a plot of ground within a mobile home park designated for the accommodation of one mobile home.

Q. "Navajo Nation Environmental Protection Branch" means the official Navajo Nation department established to develop, initiate and enact policy to protect the natural resources of the Navajo Nation.

R. "Navajo Nation Council" means the official legislative body of the Navajo Nation empowered to adopt, enact and enforce policy and laws on the Navajo Nation's behalf.

S. "Operator" means any person employed by the owner who oversees the daily operations of the mobile home park.

T. "Owner" means any person in possession of the business site lease agreement with the Navajo Nation.

U. "Person" means any individual, firm, corporation, partnership, corporate group, association, business site lessee(s) and governmental agencies.

V. "Plumbing Code" means the current model uniform code recommended by the International Association of Plumbing and Mechanical Officials, and subsequent revisions.

W. "Recreational Vehicle" means a vehicle less than 300 square feet in gross area on site and in place less than 30 days.

X. "Regulatory Authority" means the Navajo Division of Health (DH), its authorized agent or successor.

Y. "Sanitation Permit" means a written permit issued by the Regulatory

Authority upon the recommendation of the Health Advisor, reflecting a mobile home park operator's compliance with the provisions of this Act.

Z. "Service Building" means a Building which houses separate toilet facilities for men and women, and with separate bath or shower accommodations.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1404. Conformity with requirements

The person to whom a sanitation permit for a mobile home park is issued shall at all times operate the park in compliance with provisions of this Act and the regulations issued thereunder, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a safe and sanitary condition at all times.

History

CJY-47-86, July 17, 1986.

ACD-196-6 1, December 21, 1961.

§ 1405. Register of mobile home and occupants

Every mobile home park owner/operator shall maintain a register containing a record of all mobile homes and occupants using the mobile home park. Such register shall be available to any authorized person inspecting the park and shall be preserved for five years unless some other period is required by the Government Services Committee. Such register shall contain the names and addresses of all mobile home residents staying in the park, the make, model, and state license number of the mobile home, the dates of arrival and departure of each mobile home, and whether or not each mobile home is dependent or independent. This register shall also include the name of the person or company that installed the mobile home.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10, December 15, 1989.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454(B) (4).

Transportation and Community Development Committee powers, see 2 N.N.C. § 423(B) (2) and 423(F) (1).

§ 1406. Inspection authority

A. The Health Advisor and Regulatory Authority shall have the power to enter at reasonable times the property and building of the mobile home park for the purpose of inspecting and investigating conditions.

B. The Regulatory Authority and Health Advisor are empowered and authorized to make inspections and obtain samples of water and sewage for laboratory analysis to determine the condition of the water and sewer system.

C. It shall be the duty of the owner/operator of the mobile home park to give the Regulatory Authority or Health Advisor free access to such premises at reasonable times for the purpose of investigations and/or inspections.

D. Inspection of mobile home parks shall be made at least once every 24 months or more often if the Regulatory Authority or Health Advisor deems it necessary for the protection of the health safety and welfare of the public.

E. An inspection report containing violations of this Act found by the Health Advisor or Regulatory Authority shall be forwarded to the owner or operator of the mobile home park. This report shall be made available by the Regulatory Authority to any prospective tenant or authorized officials upon request.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1407. Rules and regulations authority

The Division of Health will have the authority to promulgate rules and regulations necessary to implement and clarify the provisions of this Chapter. Where necessary, the Division of Health will solicit the advise of the Health Advisor, Commerce Department and the Fire Department All rules and regulations promulgated according to this Chapter must be approved by resolution by the Health and Social Services Committee of the Navajo Nation Council.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Cross References

Transportation and Community Development Committee powers, see 2 N.N.C. § 423(B) (2) and 423(F) (1).

Subchapter 3. Permits

§ 1451. Requirement

A. No person shall operate a mobile home park within the jurisdiction of the Navajo Nation who does not possess a valid sanitation permit issued by the Regulatory Authority.

B. The failure to obtain or maintain a sanitation permit shall be just cause for termination of a business site lease for a mobile home park.

C. No owner/operator shall install a mobile home in a mobile home park within the jurisdiction limits of the Navajo Nation without first obtaining an Installation Permit from the Licensing/Permitting authority. Each installation shall require a separate permit.

D. The mobile home park owner/operator shall not allow any mobile homeowner to park a vacant mobile home on the leased premises for any purpose, other than its purpose, without a valid Installation Permit.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Cross References

Leases, permits, and licenses, see 2 N.N.C. § 724(B).

§ 1452. Application for permits

A. Application for Sanitation Permits shall be in writing, signed by the owner/operator and shall include the name and address of the applicant, the location and legal description of the mobile home park.

B. Application for Installation Permits shall be in writing signed by the mobile home park owner/operator, providing information on the location and date of installation.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1453. Inspection

Before a Sanitation Permit and/or Installation Permit is issued, the Health Advisor shall inspect the mobile home park for which a permit application has been filed to determine its compliance with the provisions of this Chapter.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1454. Issuance

Upon recommendation of the Health Advisor that a mobile home park for which an application for a permit has been filed meets the requirements of this Chapter, the Regulatory Authority shall issue a sanitation permit and/or installation permit.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1455. Hearing on denial of application

Any person whose application for a sanitation permit or installation permit has been denied may request and shall be granted a hearing before the Health and Social Services Committee under the procedure provided by 13 N.N.C. § 1552 upon request.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1456. Display

A sanitation permit shall be displayed in a prominent place within the premises.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1457. Transfer

A sanitation permit shall not be transferable.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1458. New ownership or control-Notice

A. A mobile home park can only be leased, subleased, assigned or sold if it has a valid sanitation permit. Owners planning to lease, sublease, assign

or sell must give a 10 day prior notice to the Health Advisor and the Regulatory Authority. Prospective transferees/buyers shall be provided with copies of the most recent sanitation and safety inspection reports. The deficiencies must be corrected within a time frame established by the Regulatory Authority before a sanitation permit can be issued.

B. Every person who succeeds to ownership or control of a mobile home park shall give notice in writing to the Regulatory Authority within 10 days after having purchased, received by transfer or gift or otherwise acquired interest in or control of any mobile home park.

C. Each person who succeeds to ownership or control of a mobile home park shall within 10 days file application for a Sanitation Permit to be issued to such person in the manner provided in this Subchapter. Failure to file such application within 10 day period shall be pursuant to § 1557 of this Code.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Cross References

Lease transfers, assignments, etc., see 2 N.N.C. § 724(B)(2).

§ 1459. Suspension or revocation of sanitation permit

A. Whenever upon inspection of any mobile home park, which holds a permit, conditions or practices exist which are in violation of any provisions of this Chapter, the Regulatory Authority shall give notice of the violations in writing to the person to whom the sanitation permit was issued, and said notice shall state that unless such conditions or practices are corrected within a reasonable period of time, as recommended by the Health Advisory, the sanitation permit shall be suspended.

B. At the end of such period, the Health Advisor shall reinspect such mobile home park and if such conditions or practices have not been corrected, the Health Advisor will inform the Regulatory Authority that provisions of this Chapter are still being violated. The Regulatory Authority will thereupon issue a notice in writing to the owner/operator of the mobile home park that said mobile home park owner/operator is in continued violation of this Chapter and that subject sanitation permit has been suspended. The Regulatory Authority will advise the Health and Social Services Committee of the Navajo Nation Council, of the failure to comply with the provisions of this Chapter. Upon receipt of the notice, the owner and/or operator shall comply with the notice.

C. Any person whose sanitation permit has been suspended or has received notice from the Health and Social Services Committee that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected may request and shall be granted a hearing on the matter before the Health and Social Services Committee as provided by 13 N.N.C. § 1552. When no petition for such hearing has been filed within 10 days following the day when

such sanitation permit was suspended, such permit shall be deemed to have been automatically revoked.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Subchapter 5. Safety and Sanitation Requirements

§ 1501. Location, space and general layout

A. Conditions of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors or other adverse influences, and no portion subject to sudden flooding or erosion shall be used for any purpose which would expose persons or property to hazards.

B. Mobile home supports shall not occupy an area in excess of one-third of the respective lot area. The accumulated occupied area of the mobile home, and its accessory structures on a mobile home lot shall not exceed two-thirds of the respective lot area.

C. Each independent mobile home space shall contain a minimum of 2500 square feet, and shall be at least 40 feet wide. Each dependent mobile home space shall contain not less than 1000 square feet and shall be at least 25 feet wide.

D. All mobile homes shall be located at least 25 feet from the property boundary line abutting upon a public street or highway and at least 10 feet from other boundary lines of the development.

E. There shall be a minimum distance of 10 feet between the mobile home support and the abutting street.

F. All mobile home park developments located adjacent to industrial or commercial land uses shall be provided with screening such as fences or natural growth along the property boundary line separating the development and such adjacent nonresidential uses.

G. Independent mobile home spaces in existence on the effective date of this Chapter, which have illumination, width or area less than the minimum prescribed in §§ 1501 and 1507(D) and (E), respectively, may continue to operate provided the Health Advisor determines that the criteria would not cause serious threat to the health and safety of the people.

H. Any mobile home installed in a mobile home park will be installed in accordance with the Installation Code.

I. It shall be unlawful for an independent mobile home to be located on a dependent mobile home space.

J. All mobile home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.

K. Entrances to mobile home developments shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of 50 feet from its point of beginning.

L. The street system should provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be limited in length to 1000 feet and their closed end shall be provided with an adequate turn-around contingent upon the approval of the Health Advisor and Fire Authority.

M. Streets shall be of adequate widths to accommodate contemplated parking and traffic load in accordance with the type of street with 10 feet minimum moving lanes for collector streets, 9 feet minimum moving lanes for minor streets, 7 feet lanes for parallel parking, and in all cases shall meet the following minimum requirements as determined by the Health Authority and Fire Authority:

1. Collector streets with guest parking shall be a minimum width of 34 feet;
2. Collector streets and all other streets except minor streets without parking allowances of 24 feet;
3. Minor streets serving less than 40 lots (no parking) 14 feet; and
4. One-way minor streets serving less than 20 lots (no-parking) 14 feet.

N. Grades of all streets shall be sufficient to insure adequate surface drainage, but should not be more than eight percent (8%). Short runs with a maximum grade of twelve percent (12%) may be permitted, provided traffic safety is assured.

O. Street intersections should generally be at right angles. Offsets at intersections and intersections of more than two streets at one point, shall be avoided.

P. All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. The surface shall be maintained free of cracks and holes and its edge shall be protected by suitable means to prevent traveling and shifting of the base.

Q. The design criteria for automobile parking shall be based upon two parking spaces for each mobile home lot. Parking may be in tandem.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1502. Service buildings and permanent buildings

A. Each mobile home park, if it permits dependent mobile homes, must be provided with at least one service building, adequately equipped with flush-type toilet fixtures and other sanitary facilities as required in this Section. No service building shall contain less than one toilet for females, one toilet for males, one lavatory and shower or bathtub for each sex, equipped with self-closing doors. All sanitary facilities required by this Section shall be located in a service building. All structures, buildings and sanitary facilities must meet the requirements for the handicapped as determined by the Health Advisor.

B. All portions of the structure shall be properly protected from damage by ordinary use and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such material and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

C. All rooms containing sanitary or laundry facilities shall:

1. Have sound resistant walls extending to the ceiling between the male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof material or covered with moisture resistant material;

2. Have at least one window or skylight facing directly to the outdoors. The minimum aggregate gross area of window for each required room shall be not less than ten percent (10%) of the floor area served by them;

3. Must have a mechanical exhaust ventilation system device which will provide the room with at least 10 air changes per hour;

4. Toilets shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type;

5. The rooms shall be screened to prevent direct view of the interior when the exterior doors are open; and

6. Provide separate compartments for each bathtub or shower and water closet, and a sound resistant wall to separate male and female toilet facilities.

D. Illumination levels shall be maintained as follows:

1. General seeing tasks-5 footcandles;

2. Laundry room work area-40 footcandles; and

3. Toilet room-in front of mirrors-40 footcandles.

E. Hot and cold water shall be furnished to every sink, bathtub and shower. Cold water shall be furnished to every watercloset and urinal. Mobile home parks, with more than 10 dependent mobile homes, shall be provided with the following for every additional 15 dependent mobile homes or fraction thereof, one watercloset for females for every additional 10 dependent mobile homes or fraction thereof, one watercloset for males for every 15 dependent mobile home or fraction thereof; provided that urinals may be substituted for not more than one-third of the additional waterclosets required for males under this Paragraph.

F. Service building shall have adequate heating facilities to maintain a temperature of 70 degrees during cold water, and to supply adequate hot water during time of peak demands.

G. All sanitary facilities within this services building must be properly cleaned and disinfected at least once per day or more often as necessary.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1503. Water supply

A. An accessible, adequate, safe, and potable supply of water shall be provided in each mobile home park, capable of furnishing a minimum of 200 gallons per mobile home. The development of an independent water supply to serve the mobile home park shall be made only after written approval has been granted by the Health Advisor. Where a public supply of water of such quality is available, connection shall be made thereto and its supply shall be used exclusively.

B. Where an independent or nonpublic water system is used to serve the mobile home park with water obtained from wells, the wells shall have been approved by the Health Advisor. All water supplies shall comply with the Safe Drinking Water Act.¹ (P.L. 93-523 and its amendments.)

C. All water piping shall be constructed and maintained in good working order and be in compliance with the Uniform Plumbing Code. The water piping system shall not be connected with nonpotable or questionable water supplies and shall be protected against the hazards of backflow or backsiphonage. All plumbing alterations and repairs shall be in accordance with the Uniform Plumbing Code.

D. No well-casing, pumping machinery or suction pipe shall be placed in any pit, room or space extending below ground level nor in any room or space above ground which is walled-in or otherwise enclosed, unless such rooms, whether above or below ground have free drainage by gravity to the surface of the ground.

E. The treatment of a private water supply shall meet the approval of the Health Advisor.

F. Drinking fountains may be provided by swimming pools, recreation buildings, and other areas where it is considered necessary to meet the anticipated needs of the mobile home development. If provided, drinking fountains shall be properly located and constructed of impervious material and shall have an angle jet with nozzle above the overflow rim of the bowl. The nozzle shall be protected by a nonoxidizing mouth guard. The bowl shall be of easily cleanable design, without corners, and the bowl opening shall have a strainer. The drain from a fountain shall have no direct physical connection with a waste pipe, unless the drain is trapped. Drinking fountains shall have a flow pressure of at least 15 pounds per square inch.

G. All water storage reservoirs shall be covered, watertight and constructed of impervious material. Overflows and vents of such reservoirs shall be effectively screened. Manholes shall be constructed with overlapping covers, so as to prevent the entrance of contaminated material. Reservoir overflow pipes shall discharge through an acceptable air gap.

H. All water piping fixtures and other equipment shall be constructed, maintained, located and of a type which meets the approval of the Health Advisor.

I. Fire hydrants, if provided, shall be located within 300 feet of any mobile home, service building or other structure in the development. Hydrants shall provide a flow of 500 gallons per minutes. It is highly recommended that at a minimum pressure of 20 pounds per square inch shall be provided at a flow of 250 gallons per minute. The minimum size fire hydrant outlet nozzle shall be 2 1/2 inches. Hose connections shall be compatible to hoses used by the Fire Authority.

J. Water mains and waterlines, installed parallel to or crossing sewer lines, shall meet the approval of the Health Advisor.

K. All water riser pipes and connections shall comply with the Uniform Plumbing Code. Water riser pipes shall extend at least four inches above ground elevation. The water outlet shall be capped when a mobile home does not occupy the lot.

L. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes and to protect risers from heating and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.

M. Underground stop and waste valves shall not be installed on any water service.

N. Every well shall be located and constructed in such a manner that neither underground nor surface contaminated will reach the water supply from any source. A minimum distance of 150 feet shall be maintained between the water supply and any sewage disposal system. A minimum distance of 100 feet shall be maintained between the water supply and any other possible source of contamination except that sewers or pipes through which sewage may back up

shall be located at least 50 feet from any well or water-suction pipeline. Where such sewers or pipes are especially constructed to provide adequate safe guards, and when specifically authorized by the Health Advisor, such sewers or pipes through which sewage may back up may be closer than 50 feet, but not less than 30 feet from the wall.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1504. Sewage disposal

A. All plumbing used for sewage disposal shall be operated and maintained in good working order and shall comply with the Uniform Plumbing Code.

B. Sewer lines shall be constructed in accordance with the Uniform Plumbing Code and meet the approval of the Health Advisor.

C. Where the sewer lines of a mobile home park are not connected to a public sewer, a method of sewage disposal approved by the Health Advisor shall be provided. The design of such sewage treatment facilities shall be based on the maximum capacity of the mobile home park. Effluents from sewage treatment facilities shall not be discharged except with prior approval of the Health Advisor and the Navajo Nation Environmental Protection Branch or its successor. The disposal facilities shall be located where they will not create a nuisance or health hazard to the mobile home park or the owner or occupants of any adjacent property. The approval of the Health Advisor shall be obtained on the type of treatment proposed and on the design of the disposal plan prior to construction.

D. The mobile home park operator shall keep as-built maps on all sewer and waterline and shall include information on valves, manholes, grades or sewer water lines, connections and other information important to the operation and maintenance of the sewer and water systems.

E. All sewer connections and manholes shall be so constructed that they will prevent surface water from entering the sanitary sewers. Proper bedding and backfilling shall be used on all sewer pipes to minimize maintenance problems and prolong the life of the sewage system. A backfill of at least 12 inches of clean earth free from stones, cinder-fill, or large quantities of organic matter shall be provided over all sewer lines.

F. Manholes shall be provided at every change in direction or grade, at the upper end of every main sewer line, at every junction of two or more branch sewers, at intervals of not more than four 400 feet. Cleanouts extending to grade may be used instead of manholes on sewer lines less than eight inches in diameter. They shall be provided where a manhole would otherwise be necessary and at intervals of not more than 100 feet. All cleanouts shall be at least four inches in diameter and shall be capped with cleanout plugs. A clearance of at least 18 inches over cleanouts is necessary for the purpose of rodding.

G. All sewer service connections shall comply with the Uniform Plumbing

Code.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1505. Solid waste disposal

A. The storage, collection, and disposal of solid waste in the mobile home park shall be so managed so as not to create health hazards, rodent harborage, insect-breeding areas, accidents, or fire hazards.

B. All solid waste shall be stored in flytight, watertight, rodent-proof containers, which shall be located not more than 150 feet from a mobile home space. Containers shall be provided in sufficient number and capacity to properly store all solid waste.

C. Racks or holders shall be provided for all solid waste containers. Such container racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.

D. All solid waste shall be collected at least twice weekly. Where such collection service is not available from municipal or private agencies, the mobile home park owner or operator shall provide this service in a manner approved by the Health Advisor. Solid waste shall be collected and transported in covered vehicles or covered containers. Containers and vehicles used for the storage and transportation of solid waste, shall be maintained in a clean and sanitary manner.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1506. Insect and rodent control; obnoxious weeds and debris; animal control

A. Insect and rodent-control measures to safeguard public health as required by the Health Advisor shall be applied in the mobile home park.

B. Pesticide control measures may be required by the Health Advisor to control insects, rodents and/or other vermin which cannot be controlled by other measures. Such methods shall meet the approval of the Health Advisor.

C. Dogs and cats owned by the occupants or owner of the park shall not be permitted to run at large. These dogs and cats must be vaccinated against rabies. Such provisions shall be made by the park operator not to permit animals to roam at large, i.e., horses, cattle, sheep, goats, etc.

D. The mobile home park operator shall take suitable measures to control all obnoxious weeds, prevent the accumulation of debris and protect the tenants

and/or public from stray dogs and cats.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1507. Electric supply; exterior lighting

A. All mobile home parks shall comply with the National Electrical Code.

B. All electrical alterations or repairs in the mobile home park shall be made in accordance with the National Electrical Code.

C. Any wet areas where standing water or conditions of high moisture may exist such as bathrooms, swimming pools, etc., shall have electrical outlets protected with ground-fault circuit-interrupter devices.

D. Potentially hazardous locations such as driveways, and walkways and steps or stepped ramps shall be individually lighted at night with a minimum illumination of at least 0.3 footcandles.

E. Lighting shall be designed to produce a minimum of 0.6 footcandles throughout the street system.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1508. Fuel gas storage; fuel gas piping

A. All LPG and Natural gas piping and LP gas storage containers shall comply with the National Fuel Gas Code.

B. Any modifications of the fuel gas storage or piping systems (LPG/Natural Gas) shall be done in accordance with the National Fuel Gas Code.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1509. Fire protection

A. The mobile home park area shall meet the approval of the Health Advisor and Fire Authority and shall be subject to the rules and regulations of the Navajo Nation fire prevention authority.

B. All mobile home parks shall be kept free of litter, rubbish and other flammable materials.

C. Fires shall be made only in stoves, incinerators, and other equipment intended for such purposes. Incinerators, if provided, shall meet the approval of the Health Advisor.

D. Portable fire extinguishers of a type ABC of a minimum of five pounds shall be kept by the operator or owner of the park in the event of an emergency and readily available. Each tenant shall be responsible for having a two and one-half pound portable fire extinguisher and a smoke detector. Fire alarm system shall also be installed in service buildings and at all other locations designated by such Navajo Nation fire prevention authority, and shall be maintained in good operating condition.

E. Where a public water system with a water main of six inches or larger is available to the mobile home park and can provide 250 gpm at a minimum of 20 PSI, standard fire hydrants shall be located not more than 300 feet from any mobile home building.

F. Where the water supply system does not provide at least a six inch water main, there shall be provided a two inch frost protected water riser not more than 300 feet from a mobile home or building.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1510. Nuisances: prohibition

No obnoxious, troublesome or offensive activity shall be carried on or allowed to exist at a mobile home, or shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. The mobile home park must be maintained in a safe and sanitary manner at all times by the park owner or his agent. It shall be the responsibility of the mobile home park owner to maintain the operation of the park in compliance with Subchapter 3 as part of the lease or rental agreement.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1511. Additions and skirting

A. Skirting of mobile home is permissible, but areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents, or create a fire hazard as approved by the management. Skirting when used shall comply with the Uniform Building Code.

B. No permanent additions shall be built onto or become a part of any mobile home unless they are in accordance with requirements, established by the Health Advisor, so as not to cause a health or safety hazard.

C. A landing shall be provided by the occupant of the mobile home that mounts flush to but not less than 2" below the main door of the mobile home. The stairs for this landing shall have railing of sufficient strength (i.e., thick rot-treated wood or metal) to protect occupant from potential fall or serious injury. The structure shall be properly maintained at all times.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1512. Alterations, renovations or construction plans

Whenever any alterations, modifications, or new construction of a mobile home park is contemplated by the operator or prospective operator, three sets of plans and specifications shall be submitted to the Regulatory Authority, Health Authority (IHS), and the Fire Authority for their review. These plans must meet the approval of the Health Advisor, Fire Authority, and Regulatory Authority. All alterations, modifications or new construction must be in accordance with the approval plans.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Subchapter 7. Violation of Provisions

§ 1551. Notice

A. When the Health Advisor recommends action pursuant to violation of any provisions of this Chapter, the Regulatory Authority shall give notice to the owner responsible for such violation.

B. Such notice shall be in writing including a statement of the reasons for its issuance; allow reasonable time for the performance of any action required; be served upon the owner or his agent; and contain an outline of remedial action, which if taken will affect compliance with the provisions of this Chapter.

C. Such notice shall be deemed to have been properly served upon the owner or his agent when a copy thereof has been sent by registered mail to his last known address or when he has been served by any other method authorized by the Regulatory Authority.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1552. Hearing

A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter, within 10 days of notice, may submit a written petition to the Regulatory Authority for a hearing before the Health and Social Services Committee which shall set a time and place for such a hearing and will give the petitioner written notice thereof.

B. The hearing shall be scheduled (commenced) at the next duly called Health and Social Services Committee meeting after the day on which the petition was filed; provided, that upon application of the petitioner, the Health and Social Services Committee may postpone the date of the hearing for a reasonable time period if the petitioner has submitted sufficient reason for such postponement. The petitioner shall have the right to representation and shall be given an opportunity to be heard, and to show cause why such notice should be modified or withdrawn.

C. Any notice served pursuant to 13 N.N.C. § 1551 shall automatically become an order if a written petition for a hearing has not been filed in the office of the Regulatory Authority within 10 days such notice was served.

D. An aggrieved mobile home park owner shall have the right to legal counsel of his choice for representation.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1553. Determination

A. After such hearing the Health and Social Services Committee with the consultation of the Health Advisor, will sustain, modify, or withdraw the notice, depending on the findings as to the compliance or noncompliance with these regulations. If the Health and Social Services Committee shall sustain or modify such notice, it shall be deemed to be an order.

B. After a hearing in the case of any notice suspending any permit required by these regulations, when such notice shall have been sustained by the Health and Social Services Committee, the permit shall be deemed to have been revoked; provided, however, that the Health and Social Services Committee may grant a further opportunity to comply with these regulations in its sound discretion.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1554. Record of proceedings

The proceedings at such hearing including the findings and decisions of the Health and Social Services Committee shall be reduced to writing and entered as a matter of public record. Such record shall include every notice or order issued in connection with the matter.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1555. Emergency action

Whenever the Regulatory Authority or the Health Advisor finds that an emergency matter exists which requires immediate action to protect the public health, the Regulatory Authority or Health Advisor may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as is deemed necessary to meet the emergency. Notwithstanding any other provision of this Chapter, such order shall be effective immediately, but upon petition to the Health and Social Services Committee, petitioner shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to compliance or noncompliance with the provisions of the Navajo Mobile Home Park Code, the Health and Social Services Committee may continue the order in affect, modify it or revoke it.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1556. Forfeiture of right to do business

Any owner of a mobile home park found in violation of the provisions of this Chapter and who remains in violation after exhausting remedies provided in 13 N.N.C. § 1552, may forfeit his right to operate a mobile home park and this business site lease held by an owner shall be terminated and/or revoked upon the recommendation of the Health and Social Services Committee, Economic Development Committee, and the Transportation and Community Development Committee, and upon the final approval of the Government Services Committee or its successor.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1557. Sanction(s)

Any person who violates any provision of this Code shall be fined not less than three hundred (\$300.00) dollars, and each day's failure to comply shall constitute a separate violation.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1558. Severance clause

Any Section, Subsection, Sentence, Clause or Phrase in this Code that is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Code.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1559. Effective date

The effective date of the provisions of this Navajo Nation Mobile Home Parks Code shall be July 20, 1986. Existing and operating mobile home parks will have two years to comply with this Code.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

§ 1560. Prior inconsistent laws

Upon the effective date of this Navajo Nation Mobile Home Parks Code, all prior inconsistent laws, rules, policies, ordinances, and regulations of the Navajo Nation branches, divisions, departments, offices, and political subdivisions thereof, are hereby superseded and/or amended to comply herewith.

History

CJY-47-86, July 17, 1986.

ACD-196-61, December 21, 1961.

Chapter 9. Dog and Cat Control

§ 1701. Definitions

In this Chapter, the following words and terms shall, unless the context indicates a difference in meaning, have the meaning given herein:

- A. "Animal" means any live dog or cat, domestic or wild.

B. "Animal Owner" means every person in possession of or who harbors any animal or who shall suffer any animal to remain about the premises.

C. "Animal Shelter" means any facility operated by a humane society, or governmental agency, or its authorized agents for the purpose of impounding or caring for animals held under authority of this Chapter or Navajo Nation law.

D. "Commercial Animal Establishment" means any pet shop, grooming shop, auction, zoological park, performing animal exhibition or kennel.

E. "Harboring". The occupant of any premises on which an animal is kept or to which an animal customarily returns for daily food and care, is presumed to be harboring or keeping the animal within the meaning of this Chapter.

F. "Abandonment of Animals". Any owner or owners who leave an animal off the premises without provision for care or control by another person.

G. "Kennel" means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats; or any premises of any person harboring dogs or cats over three months of age.

H. "Licensing Authority" shall mean the Division of Community Development within the Executive Branch of the Navajo Nation.

I. "Person" means any individual, household, firm, partnership, corporation.

J. "Licensed Veterinarian". A person with a Doctor of Veterinary Medicine Degree licensed to practice within the United States and the Navajo Nation.

K. "Rabies Vaccination" shall mean the inoculation of a dog, cat or other animal with a rabies vaccine approved by the Licensing Authority.

L. "Quarantine". To detain or isolate an animal suspected of being infected with rabies.

M. "Restraint" means securing an animal by a leash or lead, or under control of a responsible person and obedient to that person's commands, or within a fenced area capable of confining the animal.

N. "Running at Large" means to be off the premises of the owner and not under the control of the owner or an authorized person over 12 years of age, either by leash or otherwise, but an animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises.

O. "Dog Pack". Three or more dogs running at large together.

P. "Vicious Animal". Any animal that inflicts unprovoked bites or attacks human beings or other animals either on public or private property, or in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places.

Q. "Bite". A puncture or tear of the skin inflicted by the teeth of an animal.

R. "Health Advisor". A person with specialized training in the identification and control of zoonotic diseases in dogs and cats such as rabies which might infect humans and other animals. This individual may be a representative of the United States Public Health Service, a licensed veterinarian or a designee of the Director of the Community Dog and Cat Control Program.

History

CO-54-84, October 24, 1984.

§ 1702. Licensing

The licensing requirements are as follows:

A. License Required. Any person owning, keeping, harboring, or having custody of any animal three months of age or older within the territorial jurisdiction of the Navajo Nation must obtain a license as herein provided. All licenses shall expire December 31 of each year and the full amount for a required license shall be paid for any fraction of the licensing year. Upon collection of the license fee by the Licensing Authority, a dated receipt shall be issued indicating the name and address of the owner, description of the animal, the appropriate fee, license numbers, year and location of issuing office.

B. License Displayed. The license tag shall be attached to a collar, harness or other device and shall be worn with the rabies tag by the licensed animal at all times, and shall not be removed from any animal by an unauthorized person. The original license receipt and rabies vaccination certificate shall be retained by the owner or harboring for inspection by any person charged with the enforcement of this Chapter.

C. Rabies Vaccination. No animal shall be licensed without proof of rabies vaccination as provided in the Chapter.

D. Duplicate Tags. In the event of loss or destruction of the original license tag, the owner of the animal shall obtain a duplicate tag from the Licensing Authority.

E. License Fees. Licenses and duplicate tags shall be issued by the Licensing Authority after payment of a fee; fees shall be set by the authority. Public notice of fees shall be made in the Navajo Times and by public display of posters.

F. Failure to Obtain or Display License. Any person who fails to obtain, or to display the license tags as provided by Subsection (B) shall be required to pay a fine set by the Licensing Authority.

G. Transferability. Animal licenses are not transferable. Any person attaching a license or rabies tags to any animal other than the animal for which such tag was originally issued shall be required to pay a fine set by the

Licensing Authority.

History

CO-54-84, October 24, 1984.

§ 1703. Permits

Permit requirements are as follows:

A. Permits Required. No person, partnership or corporation shall operate a commercial animal establishment or animal shelter within the territorial jurisdiction of the Navajo Nation without first obtaining a permit in compliance with this Section and with all other licensing laws of the Navajo Nation. All permits shall expire December 31 of each year and all fees shall be prorated for any fraction of the licensing year. Upon collection of the permit by the Licensing Authority, a dated receipt shall be issued indicating the name and address of the owner of the commercial animal establishment, and the appropriate fee.

B. Change in Ownership. If there is a change in ownership of a commercial establishment, the new owner may have the current permit transferred to his name upon payment of a transfer fee.

C. Permit Fees. Animal permits shall be issued upon payment of the applicable fee to be set by the Licensing Authority pursuant to § 1702 (A) (5).

D. License Option. A person operating a kennel for the breeding of dogs or cats may elect to license animals individually.

E. Failure to Obtain Permit. Any person who fails to obtain a permit before opening any facility covered by this Section shall pay a fine set by the Licensing Authority.

F. All facilities covered by this Section shall be operated in a safe and sanitary manner. Humane treatment of animals covered under this Section is required. Penalty for violation of this Subsection shall be a fine set by the Licensing Authority and/or revocation of permit.

History

CO-54-84, October 24, 1984.

§ 1704. Rabies control

Rabies control provisions are as follows:

A. Vaccinations.

1. Every person owning or harboring a dog and cat three months of age or older for five or more days shall have such animals vaccinated against rabies with an approved vaccine by a licensed veterinarian or by persons authorized by the Director. This vaccine shall be listed as an approved vaccine in the most recent Compendium of Animal Rabies Vaccine

prepared by the National Association of State Public Health Veterinarians, Inc.

2. Dogs whose vaccination expires during the calendar year will be vaccinated during the months of January, February or March prior to their vaccination expiration date. Cats will be vaccinated during the months of January, February and March prior to their vaccination expiration date for the current calendar year; provided, however, that persons acquiring dogs and cats between April 1 and December 31 shall immediately following acquisition have such animals vaccinated.

B. Certificate of Vaccination. Upon vaccination the veterinarian administering the vaccine, or the authorized persons authorizing rabies vaccine, shall execute and furnish to the owner of the animal as evidence thereof a certificate upon a form furnished by the Licensing Authority. The veterinarian or administrator of a rabies vaccine shall retain a duplicate copy and one copy thereof shall be filed with the Licensing Authority. Such certificate shall contain the following information:

1. The name, address and telephone number of the owner or harborer of the inoculated animal;
2. The date of inoculation;
3. The type of vaccine used including the manufacturer and the serial (lot) number;
4. The date the vaccination expires in the dog and cat;
5. The year and serial number of the rabies tag; and
6. The breed, age, color and sex of the inoculated animal.

C. Rabies Tag. Concurrent with the issuance and delivery of the certificate of vaccination referred to in § 1704(B), the owner of the animal shall attach to the collar or harness of the vaccinated animal a metal tag, serially numbered and bearing the year of issuance, The Licensing Authority shall furnish an adequate supply of such tags to each veterinarian or authorized grantee designated to perform such vaccination, with a fee to be set by the Licensing Authority pursuant to § 1702 (E).

D. Duplicate Tags. In the event of loss or destruction of the original tag provided in Subsection (C), the owner of the animal shall obtain a duplicate tag from the Licensing Authority for a fee set by the Licensing Authority pursuant to § 1702 (E).

E. Designation of Qualified Persons. All veterinarians who are duly registered and licensed to practice veterinary medicine in the United States are hereby designated as authorized to vaccinate animals against rabies and to execute certificates of vaccination as provided by law. Also, health advisors, who have received specialized training in vaccinating animals against rabies, are authorized to vaccinate animals.

F. Proof. It shall be unlawful for any person who owns or harbors any

dog, cat or other animal to fail or refuse to exhibit a copy of the certificates of vaccination upon demand to any person charged with the enforcement of this Chapter.

History

CO-54-84, October 24, 1984.

§ 1705. Notice to Licensing Authority of animal bite

Requirements when a person is bitten by an animal are as follows:

A. Duty to Report. When any person is bitten by an animal, it shall be the duty of such person or his parent or guardian and the owner or keeper of the animal to immediately notify the Licensing Authority of the incident and the Navajo Nation Police Department.

B. Quarantine of Animals. Any animal which has bitten a person shall be observed for a period of 10 days from the date of the bite. The procedure and place of observation shall be designated by the Licensing Authority. If the animal is not confined on the owner's premises, confinement shall be in an authorized Animal Shelter or at any veterinary hospital of the owner's choice. Stray animals whose owners cannot be located shall be confined in an authorized Animal Shelter. The owner of any animal that has been reported as having inflicted a bite on any person shall on demand produce said animal for quarantine as prescribed in this Section. Refusal to produce said animal constitutes a violation of this Section and each day of such refusal shall constitute a separate and individual violation.

C. Any dog or cat being held in quarantine which develops signs and symptoms which may be indicative of rabies, shall be humanely killed by a Health Advisor and its head/body submitted to a laboratory qualified to conduct rabies analysis.

D. Removal of Animals of Quarantine. No person shall remove from any place of isolation or quarantine any animal which has been isolated or quarantined as authorized without the consent of the Licensing Authority.

History

CO-54-84, October 24, 1984.

§ 1706. Dogs or cats bitten by rabid animals

Any dog or cat bitten by an animal known or proved to be rabid shall be killed immediately by its owner or by a person authorized by the Director, provided that any dog or cat which has been vaccinated at least three weeks before being bitten shall be revaccinated against rabies and confined for 90 days. At the end of the confinement period, the dog or cat shall be released if declared free of rabies by a licensed veterinarian. If, as determined by the veterinarian, the dog or cat develops rabies during the period of confinement, the owner or keeper shall have it killed and properly disposed of.

History

CO-54-84, October 24, 1984.

§ 1707. [Reserved]

History

Note. Previous § 1707, "Injury to Livestock", enacted by CO-54-84, October 24, 1984, was deleted by CMY-27-06, May 12, 2006, the Navajo Nation Livestock and Foreign Animal Disease Response Act of 2006.

§ 1708. Nuisance

No animal owner or keeper shall harbor, maintain or permit on any lot, parcel of land or premise under his control, any dog or other animal which by any sound or cry shall disturb the peace and comfort of the inhabitants of the neighborhood or interfere with any person in the reasonable and comfortable enjoyment of life or property.

History

CO-54-84, October 24, 1984.

§ 1709. Restraint of animals

A. It shall be unlawful for any person owning or having charge of any animal, except a domestic house cat, to permit such animal to run at large, unless such animal is restrained by a leash not to exceed six feet in length and is in charge of a person competent to restrain such animal.

B. Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such animal cannot come into contact with another dog or cat except for planned breeding. Any person permitting a female dog in heat to run at large shall be cited into Navajo Nation Court.

History

CO-54-84, October 24, 1984.

§ 1710. Vicious animals; liability for dog bites

A. No person shall keep any animal known to be vicious and liable to attack and injure human beings unless such animal is securely kept so as to prevent injury to any person. The owner of such an animal must post a sign on his property warning others to be aware of the animal.

B. The owner of any dog which bites a person when the person is in or on a public place, or on the property of the owner of the dog, shall be liable for damages suffered by the person bitten, regardless of the former viciousness of the dog or the owner's knowledge of its viciousness.

C. A person is lawfully in or on the private property of the owner of a dog within the meaning of this Section when an invitee or guest, or when in the performance of a duty imposed upon him by law or by ordinance.

D. Proof of provocation of the attack by the person injured shall be a defense action for damages.

History

CO-54-84, October 24, 1984.

§ 1711. Impounded animals

Provisions for impounded animals are as follows:

A. Animal Shelter. An Animal Shelter shall be established for the purpose of caring for any animal impounded under the provisions of this Chapter, and such shelter shall be constructed to facilitate cleaning and sanitizing and shall provide adequate heating and water supply. The Animal Shelter shall be operated in a safe and sanitary manner and shall meet Indian Health Services and Navajo Nation standards.

B. Removal of Animals from Animal Shelter. It shall be unlawful for any person to remove any impounded animal from the Animal Shelter without the consent of the Licensing Authority.

C. Removal of Bite Animals from Quarantine. Animals impounded because of bites shall not be removed from the pound until after the 10 days observation period and a release of the Licensing Authority is secured.

D. Disposition of Impounded Licensed Animals. As soon as practicable after impoundment, the Licensing Authority shall notify the owner, provided that a name tag including the owner's name, address and telephone number is attached to the dog or cat collar or harness. Any impounded animal which is licensed may be redeemed by the owner upon payment of the impoundment fee, care and feeding charges, veterinary charges, and such other costs as set by the Licensing Authority. If such animal is not redeemed within eight days, it shall be deemed abandoned and the Licensing Authority may humanely euthanize said animal.

E. Disposition of Impounded Unlicensed Animals. As soon as practicable after impoundment, the Licensing Authority shall notify the owner, provided that a name tag including the owner's name, address and telephone number is attached to the dog or cat collar or harness. Any impounded animal which is not licensed may be redeemed upon payment of the payment of the license fee, impound fee, care and feeding charges, veterinary charges, and presentation of proof of rabies vaccination, and such other costs as set by the Licensing Authority. If such animal which is not wearing its tags as required by this Code is not redeemed within three days, it shall be deemed abandoned and the Licensing Authority may humanely euthanize the animal as such.

F. Impoundment Fee. An owner reclaiming an impounded cat shall pay a fee to be set by the Licensing Authority, pursuant to § 1702 (A) (5).

G. Unwanted Animals. Unwanted and/or wild or untamed dogs and cats can be immediately destroyed or put up for adoption for a fee to be set by the Licensing Authority.

H. Neutered/Spayed. All male dogs and cats shall be neutered prior to adoption. All female dogs and cats shall be spayed prior to adoption. The cost of these services shall be the responsibility of the person/persons adopting the dog and/or cat.

History

CO-54-84, October 24, 1984.

§ 1712. Safety provisions

Safety provisions are as follows:

A. Interference with the Licensing Authority or Its Authorized Representatives. No one shall interfere with, molest, hinder, or prevent the Licensing Authority or its authorized representatives in the discharge of their duties as herein prescribed, or to violate the provisions of this Chapter.

B. Penalty for Violation. Unless otherwise provided in this Chapter, any person who violates any of the provisions of this Chapter shall be fined no less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00).

C. Severance Clause. If any Section, Subsection, Sentence, Clause or Phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter.

D. Safety Clause. The Navajo Nation Council hereby finds, determines and declares that this Chapter is necessary for the immediate preservation of the public's peace, health and safety.

History

CO-54-84, October 24, 1984.

Chapter 11. Burials

Subchapter 1. Generally

§ 1901. Navajos

Any member of the Navajo Nation, regardless of place of residence or place of death, may be buried in a Navajo Nation cemetery.

History

CF-10-58, February 12, 1958.

§ 1902. Non-Navajos—Generally

Dead persons who were not members of the Navajo Nation may be buried in Navajo Nation cemeteries with the approval of the President of the Navajo Nation, or of the Vice-President if the President is absent from Window Rock

History

CF-10-58, February 12, 1958.

Note. Insertion of word "President" pursuant CD-68-89, Resolve #9.

§ 1903. Husbands, wives or children

Where a Navajo Indian is buried in a Navajo cemetery, such Indian's non-Navajo husband or wife, or their children, may be buried in the same cemetery without special approval of the President or Vice-President of the Navajo Nation.

History

CF-10-58, February 12, 1958.

Note. Insertion of word "President" pursuant CD-68-89, Resolve #9.

§ 1904. Unclaimed bodies

A. It shall be the duty of the Navajo Nation to provide decent burial in a Navajo cemetery for all unclaimed bodies found on Navajo Nation land. In carrying out this duty under this Section, the Nation may request the assistance of the appropriate branch of the Navajo Nation.

B. The Navajo Nation shall have a lien on the estates of persons buried under Subsection (A) of this Section for funeral expenses, but no charge shall be made for burial privileges, or costs of opening or closing the grave.

History

CF-10-58, February 12, 1958.

§ 1905. Removal of bodies

Bodies buried in Navajo Nation cemeteries may not be moved without the consent of the next of kin of the deceased. In the event the next of kin cannot be determined or located, then such bodies may be moved, upon approval by the Government Services Committee of the Navajo Nation Council.

History

CO-60-73, October 23, 1973.

CF-10-58, February 12, 1958.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

§ 1906. Annual allotment for expenses

There shall be allotted annually from Navajo Nation funds an amount not to exceed ten thousand dollars (\$10,000) to pay all costs of funeral and/or burial expenses and transportation of bodies of indigent Navajos.

History

1922-1951 Res. p. 44, November 5, 1947.

Subchapter 3. Cemeteries

§ 1951. Designation of sites

The Government Services Committee is authorized to designate sites for memorial and general cemeteries on the Navajo Nation not to exceed 30 acres, upon the recommendation of a majority of members of the district delegation to the Navajo Nation Council.

History

CJA-09-07, January 25, 2007. Increased the maximum acreage from 10 acres to 30 acres.

Note. Slightly reworded by deleting the word "of", which came after "Navajo Nation".

CF-10-58, February 12, 1958.

Tribal Council Resolution 1922-1951 Res. p. 43 amended by CF-10-58, § 6.

Note. Insertion of words "Government Services" pursuant CD-68-89, Resolve #10.

Cross References

Committee powers, see 2 N.N.C. § 423(C).

§ 1952. Maintenance

The Government Services Committee is authorized to provide for improving, safeguarding, and beautifying memorial and general cemeteries as the final resting places for Navajos by adopting such rules and regulations as they see fit.

History

CF-10-58, February 12, 1958.

Note. Insertion of words "Government Services" pursuant CD-68-89, Resolve #10.

§ 1953. Administration; delegation of authority

The Government Services Committee is authorized to delegate to such officers and departments of the Navajo Nation, as they see fit, the authority to administer memorial and general cemeteries so far as is consistent with the

obligations of the Government Services Committee to the Navajo Nation Council.

History

CF-10-58, February 12, 1958.

Note. Insertion of words "Government Services" pursuant CD-68-89, Resolve #10.

Chapter 13. Health Commitment Act of 2006

§ 2101. Policy

A. It is the policy of the Navajo Nation that any individual who, due to a physical or mental illness or disorder, is a threat to the health or safety of themselves or others, should receive appropriate treatment in the least restrictive environment.

B. This Act is part of a coordinated community response to care for members of the Navajo Nation, and others to whom the jurisdiction of the Navajo Nation extends, who are suffering from a physical or mental illness or disorder so that the individual and community can be restored to and live in harmony (hózhó).

C. The Navajo principle of k'é (respect, solidarity, compassion and cooperation) shall be applied at all steps of the civil commitment, evaluation, treatment processes, and reintegration of the afflicted person into the community.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

Note. Previous Chapter 13, "Tuberculosis or Other Contagious Diseases" enacted by CD-59-61, December 4, 1961, was deleted in its entirety by CJA-01-06, January 24, 2006.

§ 2102. Interpretation and application of the Act

A. The purpose and intent of the Navajo Nation Health Civil Commitment Act of 2006 is to balance the interests of the individual and the community where an individual is suffering from physical or mental illness(es) or disorder(s) and the untreated consequences of the physical or mental illness(es) or disorder(s) presents a reasonable likelihood of serious harm to the health or safety of the afflicted individual or the community, or both.

B. This Act shall be liberally construed to be consistent with the policy of the Navajo Nation expressed in 13 N.N.C. § 2101.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2103. Responsibilities in coordinating community response

A. The President of the Navajo Nation, and all divisions, departments, offices, programs, enterprises and entities of the Navajo Nation shall work together to develop a health civil commitment process that meets the needs of the Navajo people through the most effective and efficient use of health care resources available to the Navajo Nation.

B. The Executive Director of the Navajo Division of Health, or his or her designee, shall work with the divisions, departments, offices, programs, enterprises and entities of the Navajo Nation and with external agencies, enterprises and entities, including those of the states and their subdivisions, to ensure that the most urgent needs of the Navajo people are met with the highest quality health care available.

C. The Navajo Nation Rules of Civil Procedure and Rules of Evidence shall apply to all health civil commitment proceedings, unless they are inconsistent with this Act.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2104. Definitions

A. "Least restrictive treatment procedure" means a course of treatment that provides the maximum freedom to the individual while protecting that individual and others, or both, from the individual's behavior, illness or disorder. Treatment in the least restrictive environment does not include detainment in any correctional facility as a result of alleged or adjudicated criminal behavior. An individual shall receive treatment in a facility as close to his or her home as possible.

B. "Least restrictive environment" means that:

1. Each patient committed solely on the ground that there is a reasonable likelihood that he or she will cause harm to himself or herself, or to suffer substantial mental or physical deterioration shall be placed in the most appropriate and therapeutic setting available, that is, a setting in which treatment provides the patient with a reasonable opportunity to improve and which is no more restrictive of his or her physical or social liberties than is believed conducive to the most effective treatment for the patient, and

2. Each patient committed solely or in part on the ground that there is a reasonable likelihood that he or she will cause harm to others shall be placed in a setting in which treatment is available and the risks of physical injury or property damage posed by such placement are warranted by the proposed plan of treatment. Treatment in the least restrictive environment does not include detainment in any correctional

facility as a result of alleged or adjudicated criminal behavior. An individual shall receive treatment in a home or community setting or in a local medical or treatment facility as close to the individual's home as possible.

C. "Likelihood of serious harm" means:

1. A substantial risk of physical harm in the near future to the individual, as manifested by evidence of threats of, or attempts at, suicide or serious physical harm; or

2. A substantial risk of physical harm in the near future to other individuals as manifested by evidence of homicidal or other violent behavior, or evidence that others are placed in reasonable fear of violent behavior and serious harm; or

3. A substantial risk of physical impairment or injury in the near future to the individual as manifested evidence that such individual's judgment is so impaired that he or she is unable to protect himself or herself in the community; or

4. A substantial and serious threat of spread in the near future of an infectious illness which has life-threatening consequences for a significant number of people exposed, which spread can be prevented by reasonable precautions and illness management and where the infected individual either refuses, or is unable to comply with voluntary treatment or confinement procedures, as necessary to protect the public health; or

5. A pregnant woman whose ongoing substance abuse presents a substantial risk to the unborn child.

D. "Individual" or "person" means an adult or minor child under 18 years of age.

E. "Family member" means a blood relative to the third degree or the individual's spouse.

F. "Health care professional" means a health practitioner who has an active State or Navajo Nation license and who works in licensed health care delivery settings or programs, consistent with the training, experience and other requirements identified by their licensing body.

G. "Evaluation" means an assessment consisting of an individual patient's history, corroborating information, presenting signs and symptoms, and physical exam, to include a mental status assessment, as well as necessary laboratory or psychological testing, or both, which results in an opinion on a patient's condition and treatment recommendations by a health care professional.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

Note. The words "or her" were added following the word "his" at § 2104(B) for

purposes of statutory consistency.

§ 2105. Application for evaluation

Any adult family member, legal guardian, or employee of a governmental agency suspecting that an individual suffers from an illness or disorder, and as a result presents a reasonable likelihood of serious harm to himself or herself or the community because of an illness or disorder, may apply to the family court for an ex parte order requiring the individual to be held in the least restrictive environment and to undergo an evaluation, as defined in 13 N.N.C. § 2104(G).

A. Evaluation. The evaluation shall be completed within seven working days after the entry of the court order.

B. Application. The application shall contain such information and facts as shown by clear and convincing evidence that the individual's behavior(s), illness(es) or disorder(s) present a reasonable likelihood of serious harm to himself or herself or the community, and warrants an evaluation. Such information and facts shall include, but not be limited to:

1. A statement by the applicant that he or she believes, on the basis of personal observation, that the individual is, as a result of a physical or mental illness or disorder, a danger to himself or herself or the community, and that during the time necessary to complete the requested evaluation, the applicant presents a reasonable likelihood of serious harm; and
2. A statement of the specific nature of the serious harm; and
3. A summary of the observations upon which the statement of serious harm is based; and
4. The signature of the applicant.

C. Scheduled evaluation. The application shall identify one health care professional who will conduct the evaluation, a second health care professional who will concur in the evaluation, and shall include the date and location of the evaluation.

D. Use and protection of health information. Any evaluation conducted pursuant to 13 N.N.C. § 2105 may be used in a health civil commitment hearing held pursuant to 13 N.N.C. § 2106. Evaluation reports shall be maintained in a manner consistent with the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. § 81 *et seq.*

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

Note. The complete name of the Navajo Nation Privacy and Access to Information Act was provided at § 2105(D).

§ 2106. Petition for treatment

Upon petition by any adult family member, legal guardian, or employee of a governmental agency, and after a hearing on the petition, if the traditional native healing methods are not a viable alternative, the Navajo Nation Family Court may then order an individual to undergo further medical evaluation or a course of treatment, or both.

A. Petition. The petition for treatment of any individual must contain the following information:

1. Name and address of the individual to be treated;
2. Name(s) and address(es) of the person(s) filing the petition;
3. The type of illness or disorder from which the individual suffers;
4. A brief statement of observations describing the individual's communications, behaviors, or actions occurring as a result of the illness or disorder which present a likelihood of serious harm;
5. A statement of the least restrictive treatment procedures available; and
6. A signed evaluation by one health care professional who has conducted the evaluation and a second health care professional who has concurred in the evaluation. In cases where an individual is a danger because of mental illness, one of the two health care professionals shall be a clinical psychologist or a psychiatrist. No liability will attach for any such evaluation statement so long as it is made in good faith and with reasonable professional judgment.

B. Scheduling Order. Upon receipt of the petition that meets the requirements of Subsection A, above, the family court shall schedule a hearing on the merits to be heard on an expedited basis. The family court may immediately order the individual to be held in the least restrictive environment in order to protect the public or individual from him or herself. This temporary holding order may be for a period of up to seven working days, and may be extended, as provided in this Act.

C. Notice to the individual. Upon scheduling of a hearing, and in any event at least 72 hours before the family court conducts the hearing on the petition for court-ordered treatment, the individual shall be served with the following documents:

1. A copy of the petition and evaluation in support thereof; and
2. Notice of the date, time and place of the hearing, which shall be held in the courtroom or other place on the Navajo Nation that the family court may designate to ensure humane treatment with due regard for the comfort and safety of the individual and others; and

3. Advice of individual rights in these proceedings, including, but not limited to:

a. The right to legal counsel, and that, if necessary, the family court will appoint counsel on the same basis as other pro bono appointments; and

b. Adequate time to prepare for the hearing, which time may, however, extend the time of any temporary hold ordered by the family court; and

c. The right to confront the witnesses against him or her; and

d. The right to present the testimony or evaluations of health care professionals on his or her behalf, at his or her own expense; and

e. The right to a fair and impartial hearing into the matter by the family court.

D. Petition hearing.

1. During the petition hearing, the petitioner shall have the burden of proving, through clear and convincing evidence, that the individual suffers from an illness or condition, and as a result presents a reasonable likelihood of serious harm.

2. The individual has the right to counsel during the petition hearing and, if necessary, the family court may appoint counsel on the same basis as other pro bono appointments.

3. The individual shall be present for the petition hearing, shall be afforded all due respect and dignity, and shall be entitled to participate in his or her best interest, unless the family court makes written findings that the individual would be disruptive or has a communicable disease, and no reasonable accommodation is available to facilitate his or her participation. The family court shall require clear and convincing evidence that the individual should not be present at the hearing for such reasons, and, upon making its written findings, may proceed with the hearing in the individual's absence.

4. Hearings on petitions for health treatment shall be closed to the public and court records shall be sealed at the discretion of the court. However, the court may permit the family members of the individual to be present.

E. Independent evaluation. If requested by the individual who is the subject of the petition, the family court may order the petition hearing stayed to allow an independent evaluation of the individual, as defined in 13 N.N.C. § 2104(G), at the individual's expense. The family court shall ensure that the individual is informed of available resources to pay for the independent evaluation. During the stay, the family court may extend its temporary holding

order to protect the individual or others, or both. During the period of the temporary holding order, the individual shall be held in the least restrictive environment.

F. The Navajo Nation Rules of Civil Procedure and Rules of Evidence shall apply to all health commitment proceedings, unless they are inconsistent with this Section.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2107. Health Commitment Order

A. After the petition hearing and upon a finding based on clear and convincing evidence that the individual is suffering from an illness or condition which causes the individual to present a reasonable likelihood of serious harm, the family court may order that the individual undergo a course of treatment.

B. The course of treatment ordered shall be the least restrictive treatment procedure available and include traditional native healing methods to the extent advisable. The commitment order shall comply with all certification requirements of the receiving facility or agency that are not inconsistent with the sovereignty of the Navajo Nation.

C. The order shall provide for transportation of the individual and the development of a long-term discharge or other treatment plan, which may include subsequent telephone conferences with the family court.

D. In issuing its order, the family court shall receive information from the Executive Director of the Navajo Division of Health and Executive Director of the Division of Social Services, or his or her designee, regarding available resources for the course of treatment developed by the Navajo Nation, other resources identified by the parties, and other agreements between the Navajo Nation and other governments, if the facility or agency of another government is to be used.

E. The order shall specify when it will be reviewed by the family court, but at a minimum every 120 days. The order shall not be in effect for longer than 120 days without review by the family court.

F. The family court's review must conform to the standards of the original petition hearing, and include a substantive review of treatment and the opinion(s) of the treating health care professional(s). Unless the family court is convinced upon clear and convincing evidence that the individual continues to present a reasonable likelihood of serious harm to himself or herself or others, the individual shall be released, despite the need for further treatment.

G. The individual can be released before the next regularly scheduled family court review upon the determination of the treating health care professional(s) that commitment is no longer necessary, or upon expiration of

the order. Upon such determination, the treating health care professional(s), the individual, or the individual's counsel shall inform the family court that the individual has been released and no further court proceedings are necessary to allow the release.

H. At any time, with or without the concurrence of the individual's guardian or conservator, the individual who is the subject of the health commitment order may petition the family court for release.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2108. Guardianship

A. The family court may, as part of a health commitment order, appoint an individual, preferably a person acceptable to the individual subject to the order or a willing family member, to serve as a guardian for the individual, or conservator for his or her property, upon a showing, by clear and convincing evidence, that the individual is no longer capable of protecting himself or herself, or his or her property.

B. The guardian or conservator shall act in a fiduciary capacity for the individual or property of the individual he or she has been appointed to serve, and shall take action for the individual's benefit. The family court may make either a general or limited appointment for a specific purpose, but shall limit the guardianship to the specific needs of the individual and require a regular accounting.

C. The family court shall specify a date on which the guardianship or conservatorship will expire. A guardianship or conservatorship ordered under this Section shall not extend beyond the period of commitment ordered under 13 N.N.C. § 2107.

D. The guardian shall be required to be involved in all medical discussions and decisions made for the individual's benefit.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2109. Emergency protective custody

A. In the event that an individual presents a reasonable likelihood of serious harm outside the regular hours of family court operations, or for emergency care, the individual may be held in protective custody by the Navajo Nation Division of Public Safety for a maximum of 72 hours excluding holidays and weekends, during which an application or petition must be filed and a temporary holding order issued pursuant to Sections 2105 and 2106.

B. Health care professionals may take appropriate actions, as necessary,

to safeguard an individual who comes to the emergency room or treatment room of a health care facility on their own, including actions that are necessary while waiting for appropriate law enforcement personnel to take custody of the individual. To the extent necessary to protect public safety, an individual held in law enforcement custody may be entrusted to appropriate health care professionals to take those actions that are professionally responsible and clinically appropriate.

C. Health care professionals shall not be held personally liable for actions taken when the actions are professionally responsible and clinically appropriate.

D. Emergency Involuntary Mental Health Admissions. A law enforcement officer may detain and transport a individual for emergency mental health evaluation and care in the absence of a family court order, only if:

1. The individual is otherwise subject to lawful arrest; or
2. There are reasonable grounds for the officer to believe that the individual has just attempted suicide; and
3. The officer, based on his or her own observation and investigation, has reasonable grounds to believe that the individual, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others, and requires immediate detention to prevent such harm; and
4. The officer, upon arrival at an evaluation facility is interviewed by the admitting physician or his or her designee, to provide information relative to the need for emergency protective custody; and
5. A health care professional has certified that the individual, as a result of a mental disorder, presents a reasonable likelihood of serious harm to himself or herself or to others, and requires emergency detention to prevent such harm.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2110. Minors

In all proceedings involving persons under the age of 18 years, the parent(s), guardian, or legal custodian shall be notified and have the right to be present.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2111. Severability

Should any provision of the Health Commitment Act of 2006 be found invalid by the Courts of the Navajo Nation, the remaining provisions which can be implemented without the invalid provision(s) will be given full force and effect. To this extent, the provisions of the Act are severable.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

§ 2112. Periodic review and amendments

The Health Commitment Act of 2006 may be amended from time to time by the Navajo Nation Council upon the recommendation of the Health and Social Services Committee and the Judiciary Committee of the Navajo Nation Council.

History

CJA-01-06, January 24, 2006. The Health Commitment Act of 2006.

Chapter 15. Child Day Care Centers

§ 2301. Definitions

For the purposes of this Chapter the following definitions shall apply:

A. "Child day care center" or "center" shall mean child care agency and includes any person who maintains facilities for the purpose of providing care, supervision or training for five or more children not related to the proprietor under the age of 16 years for periods of more than one hour, but less than 24 hours per day, apart from their parents or guardians for compensation, excepting parochial and private educational institutions which are operated for the sole purpose of providing an education to children in substitution for an education in the public school system.

B. "Director" shall mean the person who is responsible for the operation of the child care agency.

C. "Health Advisor" shall mean the Director, Navajo Area Indian Health Service, or his authorized representative.

D. "Sanitation permit" shall mean a written permit issued by the Navajo Office of Environmental Health upon the recommendation of the Health Advisor, reflecting a day care center's director's compliance with these regulations.

E. "Infant" shall mean a child under 18 months or one who has not yet reached the steady walking stage, or who requires the use of diapers.

History

ACMY-192-71, May 12, 1971.

§ 2302. Permits—Requirement; display; application; failure to obtain

No person shall operate a child day care center on the Navajo Nation unless he possesses a valid Sanitation Permit issued to him by the Navajo Office of Environmental Health. Such permit shall be displayed in a prominent place within the premises. Application for permits shall be in writing signed by the applicant and shall include the name and address of the applicant and the location and legal description of the child day care center. Failure to obtain or maintain a Sanitation Permit may be cause for termination of a day care center lease.

History

ACMY-192-71, May 12, 1971.

Note. Paragraph slightly reworded for purpose of clarity.

§ 2303. Succession to ownership or control of center

A. No permit shall be transferrable.

B. Every person who succeeds to ownership or control of a child day care center shall give notice in writing to the Navajo Office of Environmental Health within ten days after having purchased, received by transfer, or gift, or otherwise acquired interest in or control of the center. Such notice shall include the name and address of the previous owner of the center. Each person who succeeds to ownership or control of a child day care center shall, within ten days, file application for a Sanitation Permit to be issued to him in the manner provided in this Chapter. Failure to file such application within said ten day period shall result in suspension of the privilege to operate such center until this provision is complied with.

History

ACMY-192-71, May 12, 1971.

Note. Slightly reworded for purpose of clarity.

§ 2304. Application inspection; issuance of permit; hearing on denial

A. Before a permit is issued, the Health Advisor shall inspect the child day care center for which an application for permit has been filed to determine its compliance with this Chapter.

B. Upon certification of the Health Advisor that a child day care center for which an application for permit has been filed meets the requirements of this Chapter, the Navajo Office of Environmental Health shall issue a Sanitation Permit.

C. Any person whose application for permit under these regulations has been denied may request and shall be granted a hearing before the Government Services Committee under the procedure provided by 13 N.N.C. § 2324.

History

ACMY-192-71, May 12, 1971.

Note. Subsection (C) substituted "shall" for "will".

Words "Government Services" inserted pursuant CD-68-89, Resolve #10.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

§ 2305. Rules for admission to center

Each child day care center shall establish rules for admission, which shall include the following:

A. The child shall be enrolled by his parent or other person responsible for his care;

B. Information needed for the child's record shall be secured;

C. Provision shall be made to release children only to a person authorized by parents or guardians; and

D. The admission plan shall include instructions and authorization for the emergency care of the child in case of accident or illness when the parents or persons responsible cannot be contacted.

History

ACMY-192-71, May 12, 1971.

Note. Slightly reworded opening Paragraph and Subsections (C) and (D) for purpose of clarity.

§ 2306. Staff requirements and attendance

A. When children are in attendance, the director or a qualified person designated by the director shall be on the premises and in charge of the child day care center. The minimum age for the director and his qualified designate shall be 21 years.

B. Children shall be grouped according to age and maturity for supervision, and all groups of children shall be directly supervised at all times. In groups of mixed age, the maximum number of children per staff member shall be that set for the age bracket the youngest child in the group is in. The maximum number of children in attendance per staff member in child day care centers licensed for more than 10 children shall not exceed:

10 infants or children up to age three;

15 children three to four years old;

20 children four to five years old; and

25 children five years old or more.

C. Any child day care center shall have a minimum of two staff members on duty whenever the number of children on the premises exceeds 10. In any center where 10 or less children are in attendance, only one staff member need be on the premises, providing there is a specific plan in the event of an emergency whereby another staff member is continuously and readily available to relieve the one in charge should an emergency arise.

D. Staff members to be counted in determining the number of staff in proportion to the number of children are the director, teachers, and assistants engaged in care and supervision of children. Other than the director and his designate, the minimum age of staff members shall be 18 years of age; except that persons 16 to 18 years of age may work as staff assistants provided they are under adult supervision at all times. These persons shall be counted as staff when a ratio of one 16 to 18-year-old person to one or more adults is maintained. Domestic and maintenance personnel shall not be included in the count of the number of staff members necessary for child supervision.

E. Sufficient domestic and maintenance personnel shall be employed to insure proper and sanitary food service and preparation, and plant safety and maintenance. No part of the maintenance of the child day care center shall be dependent upon the work of the children under supervision.

History

ACMY-192-71, May 12, 1971.

Note. Partially reworded for purpose of clarity.

§ 2307. Personnel; hygiene; conduct

A. Good personal hygiene shall be practiced by all persons working in a child day care center. All personnel shall wear clean outer garments, maintain a high degree of personal cleanliness, wash hands after visiting the toilet room and refrain from using tobacco in any form while engaged in the preparation or service of food or while working directly with the children. Personnel shall not be in the center while ill with a disease in a communicable form, e.g. diarrhea, upper respiratory infections and skin lesions.

B. A member of a child day care center staff, and members of a household if the center is conducted in a private home, shall not be addicted to drugs, a chronic alcoholic, known to have abused children or have been found guilty of immoral conduct involving children.

C. All personnel responsible for supervising children shall refrain from aggressive disciplinary methods which injure or unreasonably frighten children.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (A) and (B) slightly reworded for purpose of clarity.

§ 2308. Construction of buildings generally—Submission of plans

A. The minimum standards and requirements of this Chapter shall apply to all existing and new child day care center buildings except where specific exceptions are permitted by this Chapter. Additions to existing child day care buildings, conversion of existing buildings or portions thereof for use as centers, and portions of buildings under going any alteration other than repair, shall meet standards required for new building construction.

B. Preliminary plans and three copies of final work drawings and specifications showing all information adequate to check compliance with this Chapter shall be submitted to the Health Advisor before any construction or alteration is started, before any system of water supply, plumbing, sewage, garbage or refuse disposal is installed or materially altered, and before any structural or functional change substantially altering the original design for human occupancy is made.

C. An agency building in existence at the time of the passage of this Chapter must comply with all requirements immediately, when feasible, and totally within 60 days. Rooms of new agencies used for preschool headquarters, first or second grade pupils shall not be located above the first story above grade except in buildings of concrete or steel construction.

History

ACMY-192-71, May 12, 1971.

Note. Subsections slightly reworded for purposes of clarity.

§ 2309. Heat; light; use for other purposes; laundry, storage

A. All rooms used by children shall be adequately heated and cooled. Ventilation shall not subject children to drafts.

B. All parts of all buildings shall be adequately lighted and free of glare. A minimum of 30 sustained foot-candles of illumination shall be maintained at work and play areas, except where higher levels are required by the Health Advisor.

C. No child day care center building shall be located on the same premises or operated in conjunction with a rest home, nursing home, sheltered care home, boarding house, rooming house for adults, or multiple or single dwelling unit where such operations involve the use in common of any facility during hours of child care operation. If a child day care center building is a family residence, the building or portion of building to which children have access shall be used only for child care purposes while it is in operation.

D. Adequate laundry facilities shall be provided unless arrangements are made for a commercial concern with approved facilities to provide services. If laundry is done on the premises, the installation shall comply with applicable codes. Wash water temperature shall be optimum for the material being laundered. Sorting and clean laundry areas must be kept separate and so designated, and the procedure for handling and washing laundry must be approved by the Health Advisor.

E. All agencies shall provide storage space for:

1. Indoor and outdoor play equipment and materials so children can freely use and replace items;
2. Cots and bedding convenient to the napping area, and separate from other storage which would preclude proper sanitation practices; and
3. Each child's clothes and personal belongings.

History

ACMY-192-71, May 12, 1971.

Note. Slightly reworded for purpose of clarity.

§ 2310. Swimming and wading pools

Swimming and wading pools may be installed at the option of the owner and must conform to the minimum rules for semipublic and wading pools. All swimming pools shall be enclosed by a solid wall or fence or chain link fence not less than five feet nor more than six feet in height so as to prevent uncontrolled use and uninvited access. Adequate supervision of the pool's use must be provided at all times. Water play is encouraged. When temporary pool equipment is used there shall be full-time supervision and only clean, fresh water shall be used and equipment shall be properly drained, cleaned and stored when not in use.

History

ACMY-192-71, May 12, 1971.

Note. Last two sentences slightly reworded for purpose of clarity.

§ 2311. Toilet facilities

A. An adequate number of toilets and lavatories, easily accessible for use and supervision shall be provided in the following ratio:

1. At least one flush toilet and one lavatory for 10 or less children;
2. At least two flush toilets and two lavatories for 11 - 25 children;
3. At least one flush toilet and one lavatory for each additional 20 children; and
4. In computing the number of units required, infants who use diapers need not be included.

B. The facilities shall be child-sized or equipped with stairs or platforms, shall be in a condition that allows for thorough cleaning, and shall not open directly to the kitchen.

C. There shall be facilities for the exclusive use of the children while they are in attendance in a child day care center operated in a family home.

D. It is desirable to provide, for children of elementary school age and above, separate facilities for each sex.

E. Toilet rooms shall be ventilated either by windows that open or by mechanical ventilation.

F. Temperate water, under pressure, soap and individual towels of an approved type shall be provided in the lavatories and within reach of the children.

History

ACMY-192-71, May 12, 1971.

Note. Slightly reworded Subsections (B) and (C).

§ 2312. Sewage; new plumbing

All sewage and liquid wastes shall be discharged into a municipal sewage system, or in a manner approved by the Health Advisor. All new plumbing shall comply with applicable codes.

History

ACMY-192-71, May 12, 1971.

§ 2313. Drinking water

Drinking water shall be easily accessible to the children on the playground and in playrooms. Drinking fountains shall be of a type approved for schools with angle jet and orifice guard above the rim and regulated pressure. Only an approved water supply shall be used.

History

ACMY-192-71, May 12, 1971.

§ 2314. Sleeping facilities

A. A sufficient number of cots or cribs shall be provided with only one child to a crib or cot. Cots and cribs shall be of sound construction and kept clean and repaired. Bedding shall be laundered as needed and always upon change of occupancy.

B. Sufficient staff supervision shall be provided.

C. If used, individual rugs must be clean and comfortable, and shall only be used for rest periods of under five hours. A child shall not be lain in direct contact with the floor.

D. Bunk beds may be used only by child day care centers using them at the time of adoption of this Chapter and only with the approval of the Health Advisor.

E. Where a private home is used as a child day care center, a family bed shall not be used by the children.

History

ACMY-192-71, May 12, 1971.

Note. Partially reworded for purpose of clarity.

§ 2315. Safety precautions

A. Combustibles.

1. Attic space shall not be used for the storage of readily combustible materials nor for any other purpose unless approved by the fire inspector and the Health Advisor. Furnace rooms and rooms where hot water tanks are located shall not be used for storage of combustibles.

2. All flammable liquids, other than one quart maximum quantity used for medical purposes, shall be stored in approved-type metal safety containers.

3. Combustible waste material shall be kept in metal containers with tight-fitting covers and shall not be accumulated in or around the premises. All paper, cotton, cloth batting, vines, leaves, straw and materials used for decorations or costumes shall be flame-proofed or manufactured of noncombustible material.

4. Trash burning shall be done on the premises only in approved incinerators.

B. Fire.

1. Each new and existing child day care center building with an occupant load of more than 25 shall be provided with a manually operated fire alarm system.

2. Portable fire extinguishers shall be installed and maintained in all centers for emergency fire protection. Extinguishers hung on wall brackets shall have the top handhold within five feet of the floor. The use of carbon tetrachloride is prohibited. Each facility should provide a connected garden hose of adequate length to assist in fire fighting. All chemical fire extinguishers must be recharged one year from date of last charge, immediately after use or as otherwise necessary. Such recharge shall be done by a qualified person. Extinguishers shall be tagged showing date of charging and company performing the work. Written instructions shall be posted which shall include special staff assignments and general procedures in case of fire or other disaster. A fire evacuation drill shall be executed at the time of the annual fire inspection.

C. Exits and stairs.

1. A minimum of two exterior exits shall be provided for each floor level in all child care centers. Exit ways shall be kept clear of obstructions and at least 30 feet in width.

2. The door latch activator of required exit doors of all centers shall be located within 40 inches of the floor. Required exit doors shall have only one latching device. These devices shall be readily operable from the inside and without the use of a key or any special effort or knowledge.

3. All basement stairways shall be separated from the main floor by a full door at the main floor level and such door shall have a self-closing device and be kept locked when not in use. All stairways leading to rooms used by children of school age shall be equipped with railings suitable for the use of children.

D. Heating equipment. Heating facilities shall be adequately protected to prevent children from contacting them. The use of unvented or open-flame space heaters, portable heaters or sawdust burning furnaces is prohibited. All unused gas outlets shall have the valves removed and shall be capped at the wall or floor with a standard pipe cap. All gas fired devices shall be connected to the gas supply by means of a rigid pipe and equipped with automatic pilot gas shutoff controls. Such systems shall be inspected and serviced as needed and at least annually by a properly qualified person.

E. Electrical wiring. Electrical outlets shall be of a safe type or located out of reach of children. Extension cords shall not exceed seven feet in length and shall not extend from room to room. Cords shall not be stapled or otherwise permanently fastened to walls, fixtures, floors or ceilings and shall not be run on the floor under rugs. Electrical wires extending over outdoor play areas shall be securely supported, fully insulated and located at least 12 feet above the play area. All exposed wiring shall be fully insulated. The installation of any new electrical work or equipment shall comply with all applicable codes. Applicable utility company regulations shall govern service connections.

F. Windows. All low windows or arcadia doors shall be protected sufficiently to assure the safety of the children.

G. Poisons and acids. House and garden insecticides, medicines, flammable liquids in safety cans and all corrosive materials shall be kept in locked storage out of the reach of children. Such storage shall not be in or near food storage areas.

H. Tools and equipment. Garden tools and repair equipment shall be kept in a locked area and may be used by children only under adult supervision.

I. Animals. The operator shall be responsible for the behavior of pets or animals allowed on the premises. All dogs and cats on the premises shall be immunized against rabies.

J. Water temperature. Water used by children shall not exceed 110°F temperature.

K. Telephone. There shall be at least one readily available telephone in the agency.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (B)-(D) slightly reworded for purpose of clarity. Subsection headings added.

§ 2316. Sanitation requirements

A. All agencies shall have and use facilities and equipment adequate to insure sanitation of premises, and have approved storage which shall be ventilated for cleaning supplies and equipment. Facilities for over 25 shall have utility sink properly installed and illuminated.

B. All parts of the premises and all furnishings, equipment and materials shall be kept in a sanitary condition and maintained free of flies, roaches, and other vermin at all times. Fixtures such as lavatories, playroom and kitchen floors shall be scrubbed daily, and more frequently if necessary, with an approved cleaning solution and disinfectant.

C. There shall be sufficient water pressure to meet sanitary needs at all times.

D. Garbage and rubbish shall be stored in containers with tight-fitting covers. Garbage shall be removed from the building daily, or more often if necessary to maintain a sanitary condition. Garbage containers shall be washed and sanitized after emptying. Garbage cans shall be lined with newspapers, paper bags or plastic liners.

E. The use of common drinking utensils is prohibited. Clean, single use cups, dispensed from an approved dispenser, are acceptable. Drinking fountains shall be kept clean and in working condition.

F. Where individual cloth towels, toothbrushes, washcloths or combs are provided for the children, they shall be kept in a sanitary condition.

G. Extra, clean clothing shall be available for the younger children to use in case of accidents.

H. There shall be separate, covered, waterproof, easily cleanable containers for the storage of soiled diapers and clothing. The children shall not have access to the containers. Permanent floor coverings shall be tight, smooth, washable and free from dampness and odors.

I. Appropriate fly control measures, such as screening all windows that open and all other direct openings to the outside other than doors, and placing self-closing devices on all doors to the outside, or any equivalent measure

approved by the Health Advisor, shall be taken when flies are prevalent.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (B), (C), and (F) slightly reworded for clarity.

§ 2317. Isolation and medical care

A. Isolation quarters, separate from the other facilities used by the children, shall be provided. A child in isolation shall be supervised at all times.

B. Any child showing symptoms during the day of a fresh cold, sore throat, inflammation, fever, rash, diarrhea, vomiting, etc., shall be immediately isolated from the group. Parents or guardians shall be notified at once and all necessary arrangements for prompt removal of the child shall be made.

C. Personnel shall never give medication, including aspirin, to children without instructions for administering the medication from the physician in charge of the child or written authorization from the parent or guardian.

D. Parents shall be notified immediately of any serious injury to the child that requires some medical attention, or the plan for the emergency care of the child agreed upon under 13 N.N.C. § 2305(D) shall be followed.

E. Emergency telephone numbers for the local fire department, police department, and ambulance service shall be posted conspicuously near the phone.

F. An approved first aid kit, accessible to all personnel and out of reach of children shall be kept in the center. At least one member of the staff on duty shall have received current first aid training.

G. Each child shall be observed by a staff member before he enters the center. A child shall not be accepted at the center if he is obviously ill with a communicable disease.

H. Parents shall be notified if their child has been exposed to a communicable disease, if so requested by a parent.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (A), (C), (D), (F)-(H) slightly reworded for purpose of clarity.

§ 2318. Play areas and classrooms

A. At least 35 square feet of indoor play space per child shall be provided. For children attending an organized school session under the supervision of a teacher, the minimum classroom space shall be 25 square feet

while the school session is being conducted. The play area shall be occupied only by the children's play materials, equipment and furniture. The floor space of kitchens, bathrooms, halls and permanent equipment such as built-ins is excluded in computing the minimum dayroom and classroom area.

B. Each child shall have an outdoor play period during good weather. The outdoor playing area shall have at least 75 square feet for each child occupying the area at any time, shall be easily accessible, fenced adequately to insure the safety of the children and free from hazards such as sharp objects, deep holes, construction equipment, drainage ditches and debris. The outside area shall have a suitable surface with tanbark, sand or a resilient material under swings and play equipment where falls may occur. A hard surfaced area can be provided for wheeled vehicles. Dust shall be kept to a minimum. Shaded areas shall be available during summer months. Outdoor play equipment shall be arranged to minimize hazard from conflicting activities. Any construction or equipment situated on the playground which constitutes a potential safety hazard shall be adequately fenced off so as not to be accessible to children.

C. All new and existing facilities shall provide sufficient materials and play equipment to meet the varied developmental levels and interests of children of different age groups. The equipment, both indoor and outdoor, shall be in sufficient quantity to provide variety and active physical play, shall be in good condition, safe and free of sharp, loose or pointed parts. Painted toys and equipment shall be free of toxic paints, lead, arsenic and guaranteed by the manufacturer as safe. Equipment shall be kept clean.

D. All play areas shall be directly supervised when in use.

E. There shall be provision to separate age groups in the indoor and outdoor areas where a large group of children (over 25) is cared for and the age varies. These groups shall follow the same maximum size and minimum staffing as set forth in 13 N.N.C. § 2306.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (A) and (E) slightly reworded for purpose of clarity.

§ 2319. Infant care requirements

A. Child day care centers which enroll infants shall have received permission to do so from the Navajo Office of Environmental Health. An infant shall be considered to be a child under 18 months, or one who has not yet reached the steady walking stage, or requires use of diapers.

B. Rooms used by infants shall be separated from rooms used by older children. There shall be no passageway through the infants' rooms by children of other age groups going from one area to another. Provisions shall be made for separation of crib infants from toddlers.

C. There shall be continuous supervision of infants while in the center.

D. There shall be hand washing facilities available in the infant area used for diaper changing. Each infant's diapers shall be changed as frequently as needed, and while the infant is in his own crib or on a surface which provides clean coverings. When changing diapers, the infant shall be washed and dried, using his own individual toilet accessories. Handwashing before and after the care of each infant shall be a routine procedure. There shall be a covered, waterproof container for the storage of soiled diapers and clothing.

E. All rooms in the nursery shall be ventilated by windows or mechanical means sufficient to prevent all objectionable odors, and in such a manner as to avoid direct drafts on the children. A moderate degree of temperature shall be maintained with a minimum of 68°F.

F. Formulas, and special or modified diets for children, should be provided by the parents. If prepared by the center, it shall be prepared in accordance with written instructions from the parent or physician in charge of the child and by a technique approved by the Health Advisor. All infants under six months of age shall be held when being fed from a bottle. Bottles shall be individually labeled for each child. All bottles, nipples and bottle covers shall be washed, rinsed and well drained. Infants shall be spoon fed as soon as they are of sufficient age and allowed to feed themselves as soon as this desire is shown.

G. High chairs shall be equipped with a safety step and shall be constructed so that the chair will not topple.

H. Playpens, walkers, strollers, etc., shall be provided. No more than one child shall be placed in a playpen at one time. Washable toys, large enough so they cannot be swallowed, shall be provided for cribs and playpens. Toys shall have no sharp edges or removable parts.

I. A crib shall be provided for each infant. Each crib shall be of sturdy construction with bars closely spaced so a child's head cannot be caught, and have clean, individual bedding including sheets and blanket. Each mattress shall be completely and securely covered with waterproof material. If plastic materials are used, they shall be heavy, durable and not dangerous to children. A child shall never be placed directly on a waterproof mattress cover. Cribs shall be cleaned and bedding laundered daily, or more often if necessary, and always upon change of occupant. There shall be no restraining device of any type used in cribs. The minimum spacing between cribs shall be two feet on any side.

History

ACMY-192-71, May 12, 197 1.

Note. Subsections (A), (C), (D), (F), (G) and (I) slightly reworded for purpose of clarity.

§ 2320. Food; nutrition

A. Food preparation, storage and handling areas shall be provided in child day care centers serving food. These areas shall be separated from rooms

used by children and shall not be used as a passageway by children to travel from one area to another. All food preparation, storage and handling facilities shall be constructed to conform to Chapter 1 of this title.

B. Meals shall be made available to all children at customary meal times. Individual sack lunches provided by the parents are acceptable. A warm meal shall be served the child in the variety and amounts necessary to meet approximately one-third of the "Recommended Dietary Allowances" of the National Council (when sack lunches are not provided by the parent).

C. Meals shall be planned a week in advance and posted. When a child is on a modified diet as prescribed by a physician, the food and snacks served this child shall comply with the dietary regime as requested.

D. Food shall be prepared and served so as to appeal to children and be easily eaten by them. Children shall be given assistance in feeding when necessary, and second servings shall be available.

History

ACMY-192-71, May 12, 1971.

Note. Last sentence of Subsection (A) reworded for purpose of clarity.

§ 2321. Transportation of children

A. If transportation is provided, the child day care center is responsible, whether it provides the transportation or contracts it out.

B. The driver shall be between the ages of 21 and 65, have a current chauffeur's license, a pre-service physical and an annual in-service physical, and shall be capable and responsible for the discipline of the children. Unruly children may be denied transportation.

C. The vehicle shall be basically constructed for the transportation of persons, and shall be inspected annually in accordance with state law. All seats shall be securely fastened to the body of the vehicle, and children shall be properly seated with no one standing.

D. All loading and unloading shall be done from the right side of the vehicle and on the side of the street on which the child lives.

E. No child shall be left unattended in a bus or a car.

F. An additional attendant is required when children under two are transported.

G. The agency is responsible for adequate and proper transportation insurance coverage.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (A)-(C) slightly reworded for purpose of clarity.

§ 2322. Required records and reports

A. Each agency shall maintain the records set out in Subsections (B) and (C) of this Section at the agency. The records shall be up to date and available to the Health Advisor on request.

B. The following staff records shall be kept for all personnel, including part-time and volunteer:

1. An application blank giving pertinent information including the employee's name, birth date, experience, education, employment references, person to notify in emergency and social security number;

2. Documental evidence, given by a licensed MD, that the employee had a physical examination within six weeks of employment, a blood test, and which indicated freedom from communicable disease, physical disability such as blindness, deafness and epilepsy, and any other disability which might affect adequate care of the children. A skin test or chest X-ray, negative for evidence of active pulmonary tuberculosis, shall also have been obtained from a physician;

3. Unpaid volunteers are required to present evidence of a negative X-ray or a negative tuberculin skin test given within one year;

4. The negative chest X-ray and skin test report shall be obtained annually, and

5. If the child day care center is conducted in a private home, every member of the household shall be subject to the same physical examination and yearly negative tuberculosis report as are required of the staff.

C. The following individual records shall be kept for all children:

1. Name, address, sex, and date of birth;

2. Names of parents or guardians, and their home and work addresses and telephone numbers;

3. Name, address and telephone number of additional responsible person or persons in case parents or guardians cannot be located;

4. Name and telephone number of family physician or pediatrician;

5. A report by the parents or physicians noting history of immunizations, susceptibility to illnesses, including allergies, and special requirements for health and maintenance such as special diets or extra rest periods; and

6. A record of medication requested by the parent and administered by the center.

D. Daily attendance records shall be kept of the staff on duty and of all children admitted for any period of the day.

History

ACMY-192-71, May 12, 1971.

Note. Subsections (A)-(C) partially reworded for purpose of clarity.

§ 2323. Annual or periodic inspections

A. The Navajo Office of Environmental Health and the Health Advisor are authorized to make inspections and obtain samples of water and sewage for laboratory analysis to determine the condition of the water and sewer systems.

B. Inspections of child day care centers may be made at least once every 12 months or more often if the Navajo Office of Environmental Health or Health Advisor deems it necessary for the protection of the health of the people.

C. The Navajo Office of Environmental Health or Health Advisor shall have the power to enter, at reasonable times, the property and buildings of the child day care center for the purpose of inspecting and investigating conditions relating to the enforcement of these regulations, and it shall be the duty of the owner or person in charge of the child day care center to give the Navajo Office of Environmental Health or Health Advisor free access to such premises at reasonable times for the purpose of inspections.

D. When the inspection is made by the Health Advisor, he shall leave with the management, or person in charge of the child day care center, a copy of the completed inspection report which indicates the sanitary conditions of the center. The report shall be displayed in a prominent place. A copy of the inspection report shall be sent to the appropriate person in the Bureau of Indian Affairs interested in such matters. A copy of the inspection report shall also be filed in the records of the Health Advisor.

History

ACMY-192-71, May 12, 1971.

Note. Subsection (D) slightly reworded for purpose of clarity.

§ 2324. Notice, hearing and orders

A. When the Health Advisor recommends action pursuant to violation of any provision of this Chapter, the Navajo Office of Environmental Health shall give notice to the person or persons responsible therefor as hereinafter provided. Such notice shall: (1) be in writing; (2) include a statement of the reasons for its issuance; (3) allow a reasonable time for the performance of any action required; (4) be served upon the owner or his agent; provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to his last known address, or when he has been served by another method authorized by the Navajo Office of Environmental Health; (5) and contain an outline of remedial action which, if taken, will effect compliance with the provisions of this

Chapter.

B. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Chapter may request and shall be granted a hearing on the matter before the Navajo Office of Environmental Health; provided, that such person shall file in the office of the President of the Navajo Nation, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day notice was served. Upon receipt of such petition the Navajo Office of Environmental Health shall set a time and place for such hearing and give the petitioner written notice thereof. At the hearing, petitioners shall be given an opportunity to be heard, and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 10 days after the day on which the petition was filed; provided, that upon application of the petitioner, the Navajo Office of Environmental Health may postpone the date of the hearing for a reasonable time beyond such 10 day period if the petitioner has submitted a good and sufficient reason for such postponement.

C. After such hearing, the Navajo Office of Environmental Health with the consultation of the Health Advisor, shall sustain, modify or withdraw the notice, depending on the findings as to the compliance or noncompliance with this Chapter. If the Navajo Office of Environmental Health shall sustain or modify such notice, it shall be deemed to be an order. Any notice served pursuant to 13 N.N.C. § 2323 shall automatically become an order if a written petition for hearing shall not have been filed in the office of President of the Navajo Nation, within 10 days after such notice was served. After a hearing, in the case of any notice suspending any permit when such notice shall have been sustained by the Navajo Office of Environmental Health the permit shall be deemed to have been revoked; provided, however, that the Government Services Committee may grant a further opportunity to comply with this Chapter in its sound discretion.

D. The proceedings at such hearing, including the findings and decisions of the Navajo Office of Environmental Health shall be reduced to writing and entered as a matter of public record. Such record shall include every notice or order issued in connection with the matter.

History

ACMY-192-71, May 12, 1971.

Note. Words "President" inserted pursuant CD-68-89, Resolve #9.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

§ 2325. Emergency orders; hearing

Whenever the Navajo Office of Environmental Health upon the advice of the Health Advisor, finds that an emergency matter exists which requires immediate action to protect public health, the Navajo Office of Environmental Health may, without notice or hearing, take such action and issue such order as is deemed necessary to meet the emergency. Notwithstanding any other provision of this

Chapter, such order shall be effective immediately, but upon petition to the Navajo Office of Environmental Health shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to compliance or noncompliance with the provisions of these regulations the Navajo Office of Environmental Health may continue the order in effect, modify it or revoke it.

History

ACMY-192-71, May 12, 1971.

Note. Slightly reworded for purposes of clarity.

Chapter 17. Nursing Homes

Subchapter 1. Generally

§ 2501. Definitions

For the purposes of this Chapter the following definitions shall apply:

A. "Administrator" shall mean the permittee or the person designated by the permittee to supervise the care and administrative functions of the nursing home.

B. "Ambulatory resident" shall mean a resident or patient of the home who, unaided, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs.

C. "Annex" shall mean a subsidiary building to the main building located on the same premises as the nursing home.

D. "Approved" shall mean acceptable to the enforcing authority based on his determination as to conformance with appropriate standards and good public health practices.

E. "Automatic fire detection system" shall mean a system which automatically detects a fire condition and actuates an audible fire alarm signal device.

F. "Automatic sprinkler system" shall mean a system of specially sized piping connected to sprinkler heads and installed in accordance with standards outlined in N.F.P.A. Pamphlet No. 13, "Sprinkler Systems."

G. "Basement" shall mean a room or area which is one-half or more of its clear height below the elevation of the grounds adjoining the building on all sides.

H. "Bed-patient-bedfast" shall mean a person who is not an ambulatory patient as described above.

I. "Director of nursing" shall mean a registered nurse who shall have the responsibility for over-all planning, instruction and supervision of nursing care administered to patients by all personnel.

J. "Government Services Committee" shall mean the Government Services Committee of the Navajo Nation Council.

K. "Hazardous areas" shall mean boiler or furnace room, basement or attic used for storage of combustible material; workroom, such as carpenter shop, maintenance shop, and paint shop; central storeroom for furniture mattresses; and other similar areas intended to contain combustible materials.

L. "Health Committee" shall mean the Health and Social Services Committee of the Navajo Nation Council.

M. "Licensed practical nurse," abbreviated L.P.N., shall mean a person licensed by the Arizona State Board of Nurse Registration and Nursing Education for the State of Arizona to practice as a licensed practical nurse.

N. "New home" shall mean a nursing home never having been duly licensed or an existing nursing home where there has been a change in the ownership.

O. "NIHAO" shall mean the Navajo Indian Health Area Office of the United States Public Health Service.

P. "Nursing home" shall mean any nursing home, convalescent home, institution, home place or facility for the accommodation, care, treatment or boarding of two or more aged, sick, infirmed, convalescent, invalid, mentally ill, incompetent, decrepit, blind, disabled, injured, infected or chronically ill person, drug addict, dipsomaniac, or alcoholic, for which accommodation, care, treatment, or boarding, a charge is made or compensation is required or expected, whether by fee or gift; provided, however, that the accommodation, care, treatment, or boarding in a household or family, for compensation or otherwise of a person related by blood to head of such household or family, or to his or her spouse, shall not be deemed to constitute a nursing home within the meaning of this Chapter; and provided further that the provisions of this Chapter shall not apply to any nursing home, hospital, clinic, treatment center, institution or other facility operated or maintained by or under the jurisdiction of the federal government.

Q. "Nursing unit" shall mean a grouping of 40 to 60 beds around a central area, which is the nurses' station and which contains the charts, medicines, and other medical necessities for those beds.

R. "Patient-resident" shall mean a person who receives personal care or nursing care in a nursing home.

S. "Permit" shall mean a certificate to operate a nursing home on the Navajo Nation. "License" shall have the same meaning.

T. "Permittee" shall mean a person having a valid permit to establish, conduct or maintain a nursing home on the Navajo Nation, issued in accordance with this Chapter.

U. "Person" shall mean a natural person or persons, firm, partnership, association, corporation, organization or other legal entity.

V. "Registered nurse," abbreviated R.N., shall mean a person currently licensed by the Board of Nurse Registration and Nursing Education for the State of Arizona.

History

ACS-219-69, September 16, 1969.

Note. ACS-219-69 adopted regulations, attached thereto, for the licensing of nursing homes in the Navajo Nation.

Redesignation of Advisory Committee to Government Services Committee, see § 2501 (J), CD-68-89, December 15, 1989.

§ 2502. Permits-Requirements

A. No person shall establish, conduct or maintain a nursing home on the Navajo Nation without a permit issued by the Government Services Committee. The permit shall be issued on the basis of compliance with all standards or regulations adopted or established by the Government Services Committee.

B. Each permit shall be issued only to the person to conduct a nursing home on the premises described in the application and shall not be transferable or assignable to another nursing home or person. A separate permit shall be required for homes maintained on separate premises, even though operated under the same management or ownership, provided a separate permit shall not be required for separate buildings on the same grounds.

C. The permit shall be posted in a conspicuous place on the premises.

History

ACS-219-69, September 16, 1969.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

§ 2503. Applications

A. Persons interested in constructing a nursing home on the Navajo Nation shall consult with the President of the Navajo Nation and describe the proposed facility, location, and approximate number of beds. The President shall provide proper application forms which shall be completed and returned to him for presentation to the Health and Social Services Committee. Health and Social Services Committee approval is necessary before the applicant can proceed further.

B. Application for permits shall be in writing, signed by the applicant and shall include the following:

1. The name and address of the applicant.

2. The location and legal description of the proposed nursing home;
and

3. A description of the type of patients to be cared for and the proposed number of patient beds.

C. After approval of the application, the applicant shall contact NIHAO for information concerning preparation of plans, inspection procedures, and technical guidance on requirements of the regulations.

History

ACS-219-69, September 16, 1969.

Note. Word "President" inserted pursuant CD-68-89, Resolve #9.

§ 2504. Renewal

The permit to operate a nursing home shall be renewable annually by the Health and Social Services Committee, upon payment of an annual fee of twenty-five dollars (\$25.00) plus one dollar (\$1.00) per bed and upon approval by the NIHAO. In determining whether renewal should be allowed the Health and Social Services Committee shall consider among other things the recommendations of NIHAO.

History

ACS-219-69, September 16, 1969.

§ 2505. Denial, revocation or denial of renewal

A. An application for a permit to operate a nursing home on the Navajo Nation may be disapproved and the issuance of a permit denied for:

1. Failure to meet any of the standards prescribed by these regulations;

2. Insufficient nursing personnel, lack of qualifications of nursing personnel or lack of training and experience to properly care for the number and type of patients; and/or

3. Previous denial or revocation of a permit to own or operate a nursing home on the Navajo Nation.

B. A permit may be revoked or renewal denied for:

1. Cruelty or indifference to the welfare of the patients;

2. Misappropriation of real or personal property of the residents without the consent of the resident or the immediate family; or

3. Failure to meet the standards prescribed by the Government Services Committee.

4. The revocation, suspension, or denial of permit shall become final 10 days after a notice is mailed or served, unless the applicant or permittee shall within 10 days file a written request for a hearing with the Health and Social Services Committee.

C. The Health and Social Services Committee shall hold hearings upon request of the applicant or permittee for any nursing home affected by the denial, suspension, revocation, or refusal to issue a permit. The following procedures shall be followed:

1. A notice from the Health and Social Services Committee will be sent by registered mail to the applicant or permittee advising him of the date and location of the hearing.

2. All testimony shall be under oath and shall be recorded and a copy of the procedures shall be sent to the applicant or permittee.

3. The NIHAO shall present the evidence supporting the denial or revocation of the permit and the applicant or permittee shall have the right to cross-examine. The applicant or permittee shall have an opportunity to present evidence to show cause as to why he should be granted a permit or why his permit should be continued.

4. On the basis of the evidence presented at the hearing, the Health and Social Services Committee shall make a determination specifying its findings of fact and conclusion of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or permittee.

5. Any applicant or permittee or the NIHAO, aggrieved by the decision of the Health and Social Services Committee after a hearing, may, within 30 days after the mailing or serving of notice of the decision, appeal to the Government Services Committee of the Navajo Nation Council for a review of the Health and Social Services Committee's decision. Pending final disposition of the matter, the status quo of the applicant or permittee shall be preserved, except as the Government Services Committee otherwise orders in the interest of the Navajo People.

6. Upon failure of the applicant or permittee or their duly authorized representative to appear at the hearing, the denial, suspension or revocation shall be final.

History

ACS-219-69, September 16, 1969.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10, December 15, 1989.

§ 2506. Inspections

A. The NIHAO is empowered and authorized to make inspections and to determine the conditions of the nursing home.

B. The NIHAO shall have the power to enter, at reasonable times, the property and buildings of the nursing home for the purpose of inspecting and investigating conditions relating to the enforcement of this Chapter.

C. It shall be the duty of the operator-administrator of the nursing home to give the NIHAO free access of such premises at reasonable times for the purposes of inspections.

D. Inspections of nursing homes may be made as often as deemed necessary for the protection of the health and safety of the residents.

E. When the inspection is made by the NIHAO, a written report will be prepared and submitted to the operator/administrator. Copies of the written report, which indicates the conditions of the nursing home, will be forwarded to the Health and Social Services Committee, with recommendations as to necessary action.

F. The nursing home shall also be subject to periodic sanitation and fire inspections by those officials of the Navajo Nation and the Bureau of Indian Affairs authorized to do so by applicable Navajo Nation and federal law.

History

ACS-219-69, September 16, 1969.

§ 2507. Decisions and interpretations

All decisions and interpretations made by the Government Services Committee shall be final.

History

ACS-219-69, September 16, 1969.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10, December 15, 1989.

Subchapter 3. Construction Standards

§ 2551. Plans and specifications

A. Two sets of preliminary plans describing new buildings, major alterations or additions to existing buildings for which a request is made to obtain a license for a nursing home, shall be submitted to the President of the Navajo Nation, who shall forward them to the Window Rock Field Office, United States Public Health Service, Division of Indian Health, for review and recommendations. Approval or disapproval with recommendations for compliance shall be made by the Health and Social Services Committee of the Navajo Nation Council. Preliminary plans shall be drawn to scale and shall include the following:

1. Rooms or spaces to be included in each department;

2. Functions or services to be performed in each room; including size of rooms and kind and size of equipment each will contain;

3. Drawings of each floor showing relationship of various departments and services;

4. Proposed roads, walks, service and entrance courts and parking areas;

5. Brief description of type of construction;

6. Description of site and type of construction; and

7. Owner's name and address, address and location of proposed facility.

B. After the preliminary plans have been approved by the President of the Navajo Nation, final working drawings and specifications shall be prepared and submitted to the Health and Social Services Committee for review and approval. Final working drawings shall be complete and distinctly drawn.

C. Separate drawings shall be prepared for each of the following branches of work: architectural, structural, mechanical, and electrical. Specifications shall be complete and shall contain detailed and descriptive information about the building and equipment.

D. All plans shall be drawn by a registered professional architect and shall bear his name and registry number.

E. At least two complete sets of plans and specifications shall be submitted for review, one of which shall be retained in the office of the NIHAO.

F. All construction shall be in strict compliance with the approved plans and no changes shall be made without written approval from the NIHAO.

History

ACS-219-69, September 16, 1969.

Note. Word "President" inserted pursuant CD-68-89, Resolve #9.

§ 2552. Foundations, materials and methods

A. Foundations shall rest on natural solid ground and shall be carried to a depth of not less than one foot below estimated frost line or shall rest on leveled rock or load-bearing piles when solid ground is not encountered. Footings, piers, and foundation walls shall be adequately protected against deterioration from ground water. Proper soil bearing values shall be established for the soil at the proposed site of the home.

B. Nursing homes shall be constructed of materials which have a full two-hour fire rating, except for non-bearing walls, partitions, ceilings, and

roof areas which may have only a one-hour fire rating. The ceiling of basements shall have a fire rating of at least two hours. Walls enclosing stairways, elevators, laundry and trash chutes and other vertical shafts, boiler rooms and rooms used for storage of combustible materials shall be of two-hour fire resistive construction.

C. Fire resistive ratings and practices shall be determined on the basis of standards of Underwriters' Laboratories, Inc., "Building Materials List", and the National Fire Codes.

D. All existing buildings which are to be converted to nursing homes and which do not meet the above construction standards for fire resistive ratings shall conform to Paragraph 2364 of N.F.P.A., Code 101, and shall be protected by a complete automatic sprinkler system installed in accordance with plans which have been approved by the NIHAO. All other requirements for nursing homes shall be met regardless of whether it is a converted building or a building constructed for the express purpose for occupancy as a nursing home.

E. Any additional building (outbuilding) or any addition to an existing licensed nursing home, which is to be used as a part of, or annex to, a nursing home for housing patients, shall be constructed in accordance with N.F.P.A. Code 101, Paragraphs 2312a and 2312b, Regulating New Construction, Additions and Conversions. The buildings shall be connected so traffic will not be required to pass through rooms other than halls, corridors, lounges or dining rooms. Plans and specifications shall be submitted to NIHAO and approval received in writing before construction of such building is begun or before an existing building is occupied. All such buildings shall meet all other requirements of the standards governing construction, fire safety, patient facilities and operation of the nursing home.

F. Nursing homes shall be of structural design with sufficient strength to support all dead, live and lateral loads without exceeding the working stresses permitted for materials used in the construction. Special provisions shall be made for machine or apparatus loads which would cause greater stress than that specified as the minimum live load.

History

ACS-219-60, September 16, 1969.

§ 2553. Site

A. No nursing home shall be located more than three miles from a responding fire station as measured along public thoroughfares unless the facility is protected by an approved automatic sprinkler system.

B. No nursing home shall be located more than thirty (30) miles from a practitioner of the healing arts licensed by the State of Arizona or certified by United States Public Health Service who has agreed to be called and will respond to calls in an emergency.

C. The nursing home should be located where competent medical consultation is available, and where employees can be recruited and retained.

D. The home shall not be located near insect breeding areas, sources of undue noise such as airports or near a cemetery.

E. The home shall be located where transportation is readily available within a reasonable distance on all weather roads.

F. All weather roads and sidewalks shall be provided within the lot lines to the main entrance and service entrance.

G. When possible, the home should be located where water in sufficient quantity and of acceptable quality can be obtained from a community supply, and where water carried waste can be discharged into a community sewerage system. If community water or sewerage systems are not available, the site shall be sized and so located to facilitate construction of individual water supply and/or waste disposal systems in accordance with recommended standards of the United States Public Health Service.

History

ACS-219-69, September 16, 1969.

§ 2554. General design; facilities

A. No patient rooms shall have more than four beds, and each bed in each multiple-bed room shall be provided with curtains, blinds, or similar fire resistive equipment for privacy. All patient rooms shall provide at least 80 square feet of floor space per bed in multiple-bed rooms and at least 100 square feet per bed in single-bed rooms. Space and room arrangement shall permit spacing of beds at least three feet apart in multiple-bed rooms and no bed shall be located closer than two feet from any wall except for the head or foot of the bed.

B. A minimum of one single room for each sex per each 10 beds shall be provided for incompatible patients or patients required to be isolated.

C. All patient rooms shall be outside rooms with window space equal to at least one-eighth (1/8) of the floor space. No hallway or any location commonly used for other than bedroom purposes shall be used for patient beds. No room shall be used for a patient's room which can only be reached by passing through another patient's room. Bedrooms shall not open into any room in which food is prepared, served or stored, or into a utility room, dining room or communal bathroom. Patients of the opposite sex shall not be housed in the same bedroom or ward except in cases of husband and wife. All patient rooms shall be numbered.

D. No patient shall be housed in a basement, attic story, trailer house, or any room other than an approved patient room.

E. At least one nurses' station shall be provided for each floor or for each 60 patients or major fraction thereof and shall be equipped with the following facilities:

1. Locked medicine cabinet or closet, complete with running water for preparation of medications;

2. Space allowance must be made for a refrigerator to store medications;

3. Nurses call system connected to call stations between each two beds in two-bed rooms and four-bed rooms, and one in each one bed room;

4. Storage space for current patient charts;

5. Desk and chair space; and

6. Nurses toilet and lavatory facilities.

F. The following facilities shall be located on each patient floor or for each 60 patients or major fraction thereof

1. A utility room which is divided into a clean and dirty area; (See Title 53 of Hill-Burton Act for appropriate standards.)

2. Facilities for flushing and sanitizing bedpans;

3. Toilet facilities:

a. When centralized toilets are used, a toilet room containing at least one lavatory and one water closet shall be provided for each eight patients of each sex. At least one water closet enclosure shall have minimum dimensions of five feet by six feet to permit toilet training. If private or semi-private toilet facilities are provided, a separate training toilet with minimum dimensions of five feet by six feet shall be provided on each patient floor and located conveniently to the patient area;

b. If private or semi-private toilet facilities are located between patient rooms, they shall be used only by those patients occupying the rooms adjacent to the toilet rooms. Patients from other areas of the home shall not be permitted to pass through other patient rooms to gain access to toilet facilities;

c. At least one toilet room for each sex shall be located adjacent to the dining room and/or recreation area; and

d. Public toilet facilities for each sex shall be provided conveniently to the lobby or waiting room;

4. Closet for clean linen storage;

5. Closet for storage of equipment and daily working supplies;

6. Janitors closet with hot and cold running water, storage shelves, janitors sink and racks for storing cleaning equipment;

7. At least one bathtub or shower on each patient floor for each 10 patients (separate for each sex);

8. At least one treatment room for each nursing unit; and

9. Nourishment kitchen. (See Title 53 of Hill-Burton Act for appropriate standards.)

G. The following facilities shall be provided and located convenient to but separate and apart from the patient care area:

1. Food service department consisting of the following:

a. Food preparation area.

b. Dishwashing (separate from food preparation and serving area). An approved, properly installed mechanical dishwashing machine shall be provided in nursing homes with 10 or more patients.

c. Refrigeration.

d. Garbage disposal facilities.

e. Employee dining area.

f. Janitors closet with hot and cold running water, shelves, janitors sink and racks for storing of cleaning equipment.

g. Storage space for supplies, staples and other food items not requiring refrigeration.

2. Housekeeping facilities with:

a. Space for storage of clean linens.

b. Separate room for soiled linens.

3. Mechanical equipment room or rooms for heating and air handling.

4. Employees facilities consisting of room for changing clothes with:

a. Lockers for storage of personal effects.

b. Toilet and lavatory facilities.

5. Storage space as follows:

a. General storage at rate of 15 square feet per patient bed to be used for storage of supplies and equipment. This general storage space shall be concentrated in one area.

b. Storage room for residents clothing.

c. Storage for outdoor equipment.

6. Gas or oil fired incinerator.

H. Residents dining, recreation, and occupational activities space shall be provided at the rate of at least 25 square feet for seventy-five percent (75%) of the total beds in the nursing home.

I. Outside recreation or sitting area shall be provided at the rate of at least 50 square feet per patient bed.

J. Wheelchair and stretcher storage and parking area.

History

ACS-219-69, September 16, 1969.

United States Code

Hill-Burton Act, see 42 U.S.C.A. § 291 *et seq.*

§ 2555. General specifications

The following general specifications shall apply to all new construction, converted buildings, additions to existing buildings and remodeling of existing licensed buildings:

A. If laundry and trash chutes are located inside the building, they shall have a minimum diameter of two feet, shall be constructed of fire resistive material and shall be equipped with a flushing ring and automatic sprinkler head at the top of each chute. Each laundry and trash chute shall be vented to the atmosphere and have a floor drain in the room in which the chute terminates. An elbow and self-closing door shall be provided at the point of discharge of each chute.

B. Ceiling heights shall be as follows:

1. Boiler room-12 feet, except that a lesser height may be used for small buildings using a domestic type package unit. If a boiler is set in a pit, the height may be measured from the pit floor:

2. Laundry-11 feet.

3. Food preparation area-10 feet.

4. Patient rooms and corridors-Eight feet.

C. All doors through which patients must pass shall be at least three feet eight inches wide; except doors to private or semi-private toilet rooms which may have a width of 36 inches.

D. All corridors shall have a minimum width of eight feet.

E. Handrails shall be provided on both sides of all corridors and stairways used by patients.

F. All stairways shall be at least three feet eight inches wide as

measured between handrails if the handrails project more than three and one-half inches.

G. Thresholds at interior doorways shall be flush with the floor.

H. Approved angle-jet drinking fountains shall be located in patient corridors, in treatment areas, and in the lobby of the home. The drinking fountains shall be installed so they may be used by wheelchair patients.

I. Enclosures or partitions around water closets and showers which are to be used by patients shall have handrails on both sides.

J. Hardware on water closet enclosures shall be operable from both sides and all doors on water closet enclosures shall open outward.

K. Lavatories shall be installed with brackets and designed so wheelchair patients may slide wheelchairs underneath.

L. All bathtubs used by patients shall have handrails at the side and ends of the tub. Bathtubs shall not be elevated.

M. Floors of the following areas shall have smooth waterproof surfaces that are easily cleanable and resistant to heavy wear:

Toilet room	Bedpan rooms	Sterilizing
Bathrooms	Utility rooms	Locker rooms
Shower rooms	Janitors closets	Laundry rooms
Patient rooms	General storage	

N. Floors of the following areas shall be waterproof, greaseproof, smooth, easily cleaned and resistant to heavy wear:

Kitchens	Dining rooms
Food preparation rooms	Housekeeping storage rooms
Recreation rooms	

O. The walls and bases of the following areas shall have smooth surfaces with painted or equal washable grease-resistant finish in light color. The base of the walls shall be waterproof and free from spaces which might harbor vermin and insects:

Kitchen	Housekeeping storage rooms
Food preparation rooms	Utility rooms
Dining rooms	Locker rooms

P. The walls of the following areas shall have smooth, washable, waterproof, painted, glazed or similar finishes to a point above the splash or

spray line:

Toilet rooms	Bedpan rooms	Sterilizing rooms
Bathroom	Utility rooms	Laundry rooms
Showers	janitors closets	General storage rooms
Kitchens	Dishwashing rooms	Spaces with sinks

Q. Interior finish of all exitways, storage rooms, and all areas of unusual fire hazard shall have a flame spread rating of less than 20. Interior finish of patient rooms, patient day rooms, and other areas occupied by patients shall have a flame spread rating of less than 75. Interior finishes of other areas shall have a flame spread rating of less than 75, except that ten percent (10%) of the aggregate wall and ceiling areas of any space may have a flame spread rating up to 200. Interior finish materials shall be classified in accordance with their average flame spread rating on the basis of tests conducted in accordance with ASTM Standard No. E84. All acoustical materials used in the above areas shall withstand washing.

History

ACS-219-69, September 16, 1969.

§ 2556. Electrical installations

A. All electrical installations or alterations to existing systems shall comply with standards of the National Electrical Code as published by the National Fire Protection Association. All electrical equipment shall be new and shall meet the standards and bear the approved label of the Underwriters' Laboratory.

B. Each area of the nursing home shall be provided with sufficient number of electrical outlets to meet the use requirements of the particular area and special attention shall be given to the laundry, food service department, physical and occupational therapy and other specialized areas.

C. The following shall be provided in all patient areas:

1. Patient bedrooms shall be provided with lights for general illumination, a night light and a reading light for each bed.

2. General illumination and night lights shall be controlled by switches located at the door to the room.

3. All switches in patient rooms shall be of an approved mercury or equal, quiet operating type.

4. Each bedroom shall have at least one duplex receptacle located at the head of each patient bed and at least one duplex receptacle located elsewhere in the room where it is easily accessible.

5. Emergency lighting shall be provided for all corridors,

exitways, and stairways and shall be supplied by an emergency generator or battery powered units equipped with an automatic throwover switch to provide automatic throwover to the emergency lighting system in case of failure of regular power.

6. If ceiling lights are used, they shall be of an indirect type and designed and installed so they will not shine in the patient's eyes.

7. Night lights shall be provided for all corridors, toilet rooms, stairways and patient rooms, and all nursing unit corridors shall have grounding type receptacles installed not more than 50 feet apart.

D. Lighting levels shall be provided as listed in 13 N.N.C. § 2565.

E. All light fixtures, wiring and equipment shall be tested by a competent electrician and certification made in writing to show that the system is free from grounds, shorts or open circuits.

History

ACS-219-69, September 16, 1969.

§ 2557. Plumbing

A. All parts of the plumbing system shall comply with the standards set forth in the "Report of Public Health Service Technical Committee on Plumbing Standards."

B. Plumbing fixtures requiring both hot and cold water which are accessible to patients shall be supplied with water which is thermostatically controlled to provide a maximum water temperature of 125°F at the fixture.

C. Drinking fountains shall be provided at the rate of one for each 25 patients or at least one for each floor and shall be of angle-jet type and meet the standards of the American Standard Specifications A.S.A. Z 4.2-1942.

D. Hot water storage tank or tanks shall have a capacity of at least eighty percent (80%) of the total consumption during peak periods.

E. Recirculating pumps shall be used for all hot water lines extending more than 100 feet from the source of hot water supply to assure that hot water will be readily available at each hot water fixture.

F. Each fixture such as lavatories, water closets, sinks, showers, and janitors sinks shall be provided with a valve or fixture stop to permit repair of the fixture without disrupting the flow of water to other fixtures in the building.

G. All plumbing lines, both hot and cold, shall be sanitized before the nursing home is occupied.

History

ACS-219-69, September 16, 1969.

§ 2558. Heating and ventilation

A. All steam, hot water, warm air heating, ventilating and air conditioning systems shall comply with the minimum standards of the American Society of Mechanical Engineers, the American Society of Heating, Ventilating, and Air Conditioning Engineers, and the Underwriters' Laboratories, Inc. All gas fired equipment shall comply with the regulations of the American Gas Association.

B. All types of portable heaters are prohibited.

C. All nursing homes shall be heated by hot water, warm air, or steam system with thermostatic controls. The heating system shall be capable of maintaining a temperature of at least 80°F at all times.

D. The corridors of nursing homes shall not be used as a plenum. All return air shall be carried by return air ducts.

E. The nursing home shall be well ventilated by windows, forced air or a combination of both.

F. Each window, if used for ventilation, shall be screened with 16 mesh wire screening at all times except that screens may be removed and replaced with storm windows during the cold season.

G. All wet rooms such as utility rooms, bathrooms, toilet rooms, bedpan rooms, shower rooms, etc., shall be provided with forced ventilation to change the air at least once every six minutes. Wet rooms shall have one square inch of venting to the outside per one square foot of floor area.

H. All stacks, exhaust systems and other vents for the heating and ventilation systems shall discharge above the roof and shall be located at least 10 feet from any window.

History

ACS-219-69, September 16, 1969.

§ 2559. Sewage disposal

A. Every nursing home shall be provided with disposal system for body wastes. Water carried waste shall be discharged to public sewerage system if possible. If a public system is not available, an individual sewage disposal system shall be constructed which meets the standards contained in the latest edition of Manual of Septic Tank Practice published by the United States Public Health Service. If an individual waste disposal system is used, it shall be operated and maintained in a satisfactory manner.

B. In areas where a storage, collection and land fill operation approved by the NIHAO is available, it may be used to dispose of contaminated dressings and other infectious wastes. Where such approved operation is not available,

infectious wastes shall be disposed of in incineration facilities approved by the NIHAO.

History

ACS-219-69, September 16, 1969.

§ 2560. Water supply

The water supply shall be from a source acceptable to the Health Advisor and shall be adequate to supply the demands of the nursing home.

History

ACS-219-69, September 16, 1969.

§ 2561. Elevators and dumbwaiters

A. Elevators and dumbwaiters shall meet the applicable standards as outlined in the following:

1. "American Standard Safety Code for Elevators, Dumbwaiters and Escalators" (A17.1-1960).

2. "National Electrical Code" N.F.P.A. #70.

3. "The National Board of Underwriters".

B. Any nursing home with one or more floors and housing residents above the ground floor level shall have at least one hydraulic or electric motor driven elevator. Nursing homes with a bed capacity of from 60 to 200 above the first floor shall have at least two elevators.

C. Cabs of elevators shall be constructed of fire resistive material.

D. Car sizes of elevators shall be at least five feet by seven feet six inches inside dimensions and have a capacity of at least 3,500 pounds.

E. Doors to elevator cabs shall not be less than three feet eight inches clear opening.

F. Automatic, self-locking devices shall be provided for doors leading to the elevator cab from each floor level. The locking devices shall automatically lock the doors when the elevator leaves the floor.

G. Dumbwaiter cabs shall be at least 24 inches by 24 inches by 36 inches and shall be constructed of steel.

H. Doors to dumbwaiter shafts shall close automatically and shall remain closed at all times except when the dumbwaiter is being loaded or unloaded.

I. Shafts for dumbwaiters and elevators shall be of fire resistive material and no openings other than doors to each floor level shall be permitted.

History

ACS-219-69, September 16, 1969.

§ 2562. Refrigeration

A. All refrigerators shall be insulated with waterproof, nonabsorbent, vermin proof insulation.

B. All refrigeration facilities shall be lined with nonabsorbent material which will withstand heavy use and can be easily cleaned and sanitized.

C. Outer doors and walls of walk-in boxes shall have insulation equal to four inches of cork.

D. Portable ice chests shall have insulation in doors and walls equal to two inches of cork.

E. Refrigeration of adequate capacity shall be provided and located in or adjacent to all kitchens and other food preparation areas where perishable food will be stored.

F. Refrigeration for the main kitchen shall consist of at least two separate sections or separate boxes. One shall be used for storage of meats and dairy products and the other shall be used for general storage of foods requiring refrigeration.

G. Toxic or flammable refrigerants shall not be used in refrigerators or compressors that are located in buildings occupied by patients.

H. Compressors and evaporators shall be capable of maintaining temperatures of not more than 45°F at all times.

I. Compressors shall be automatically controlled.

J. Compressors, piping, and evaporators shall be tested for leaks and capacity.

K. Refrigeration equipment shall meet the applicable standards outlined in the "American Standard Safety Code for Mechanical Refrigeration," the National Board of Fire Underwriters and the minimum general standards set forth in the preceding Subsections.

History

ACS-219-69, September 16, 1969.

§ 2563. Kitchen equipment

A. All kitchen equipment shall be so constructed and installed in such a manner to meet all sanitation standards contained in the "Food Service Sanitation Manual" as recommended by the United States Public Health Service,

1962 Edition.

B. Equipment shall be adequate and arranged to provide a convenient work flow for the receipt of food, proper storage, preparation, cooking, serving, and dishwashing for the over-all food service for patients and staff.

C. Enclosed cabinets and other facilities shall be provided for storage or display of food, drink and utensils and shall be designed to protect them from contamination by insects, rodents, splash, dust and overhead leakage.

D. An approved number of sinks shall be provided for washing pots and pans, vegetable preparation, and the cooks work table. A regular lavatory with soap and paper towels shall be provided for handwashing. Nursing homes with 30 or more beds shall have at least one three-compartment sink for washing and sanitizing pots and pans, a separate two-compartment sink for vegetable preparation and a small sink with running water for the cooks work table.

History

ACS-219-69, September 16, 1969.

§ 2564. Laundry

A. If laundry is done commercially for the home, a separate room of adequate size shall be provided for sorting, processing and storing of soiled linens. Clean linen shall not be received in the same sorting and storage room for soiled linens. This space shall not be located where the activities conducted therein will disturb the patients or endanger their health and safety. The room shall be equipped with a floor drain and power vent to change the air at least once each six minutes.

B. If laundry is done in the home, facilities for this purpose shall be separate and located remote from the patient areas and food preparation and storage areas. The laundry room shall be of sufficient size and design to permit:

1. Space for sorting and storing soiled linens which is separate from the clean linen sorting or storage area.

2. Storage space for clean linen which is separate from the main laundry room.

C. If laundry is done in the home, commercial type laundry equipment shall be used and consist of the following minimum equipment:

1. At least two washers with combined rated capacity of at least 12 pounds of dry laundry per day per resident bed, when operating not more than 40 hours per week.

2. At least one flat ironer with capacity equal to seventy percent (70%) of the washer capacity when operating 40 hours per week.

3. At least one extractor with a daily capacity equal to that of the washers. (Combination washer-extractor may be used in lieu of

separate extractor.)

4. At least one tumbler with rated capacity equal to twenty-five percent (25%) of the washers when operating 40 hours per week.

D. Separate carts and equipment shall be used for transporting soiled and clean linens.

E. Table linens shall be laundered separate from bed linens, towels and clothing.

History

ACS-219-69, September 16, 1969.

§ 2565. Lighting levels

The lighting levels recommended for nursing homes are as follows:

AREA	FOOTCANDLES ¹
Corridors and interior ramps	20
Stairways other than exits	30
Exit stairways and landings	5 on floor
Doorways	10
Administrative and lobby areas	50
Administrative and lobby areas, night	20
Chapel or quiet area	30
Physical therapy	20
Occupational therapy	30
Worktable, course work	100
Worktable, fine work	200
Recreation area	50
Dining area	30
Patient care unit (or room), general	10
Patient care room, reading	30
Nurses' station, general, day	50
Nurses' station, general, night	20

Nurses' desk, for charts and records	70
Nurses' medicine cabinet	100
Utility room, general	20
Utility room, work counter	50
Pharmacy area, general	30
Pharmacy, compounding and dispensing area	100
Janitor's closet	15
Toilet and bathing facilities	30
Barber and beautician areas	50

History

ACS-219-69, September 16, 1969.

§ 2566. Codes and standards

The codes and recommended standards listed shall be used for reference and interpretation and included as a part of the Navajo Nation standards when so indicated in the ordinance or established standards of the Navajo Nation Council.

History

ACS-219-69, September 16, 1969.

§ 2566A. List of Codes and Standards

LIST OF CODES AND STANDARDS

U.S. Department of Commerce
National Bureau of Standards
Superintendent of Documents
Washington, D.C.

- *1. "American Standard Building Code," publication No. M 179.
2. "Food Service Sanitation Manual," 1962 edition, PHS publication No. 934.
3. "Milk Ordinance and Code," 1953 Recommendations of the Public Health Service, PHS publication No. 229.

4. "Public Health Service Drinking Water Standards," 1962 edition, PHS publication No. 956.

5. "Manual of Septic Tank Practice," 1963 edition, Public Health Service publication No. 526.

6. "Report of Public Health Service Technical Committee on Plumbing Standards," (a proposed revision of the National Plumbing Code ASA A40-81955), 1962 edition, PHS publication No. 1038.

National Fire Protection Association
60 Batterymarch Street
Boston, Massachusetts

1. "Building Exits Code," NFPA No. 101, 1963 edition.

2. "Uniform Building Code of the Pacific Coast Building Official Conference."

3. "Nonflammable Medical Gas Systems," NFPA No. 565, 1962 edition.

*4. "National Electrical Code," NFPA No. 70, 1962 edition.

5. "Method of Test for Surface Burning Characteristics of Building Materials," NFPA No. 255, 1961 edition. '

6. "Standard Methods of Fire Tests of Building Construction and Materials," NFPA No. 251, 1963 edition.

7. "Standpipe and Hose Systems," NFPA pamphlet No. 14, 1963 edition.

8. "Gas Piping and Gas Appliances in Buildings," NFPA pamphlet No. 54, 1959 edition.

9. "Storage and Handling of Liquefied Petroleum Gases," NFPA pamphlet No. 58, 1963 edition.

10. "Proprietary, Auxiliary, and Local Signaling Systems," NFPA pamphlet No. 72, 1963 edition.

*11. "Air Conditioning, Warm Air Heating, Air Cooling, and Ventilating Systems," NFPA pamphlet No. 90A, 1963 edition.

12. "Blower and Exhaust Systems," NFPA pamphlet No. 91, 1961 edition.

13. "Incinerators," Pamphlet No. 82, 1960 edition.

14. "Rubbish Handling," Pamphlet No. 82A., 1960.

15. "National Building Code," pamphlet No. 12, 1955 edition.
16. "Containers for Storing and Handling Flammable Liquids," NFPA pamphlet No. 30, 1963 edition.
17. "Portable Fire Extinguishers," NFPA pamphlet No. 10, 1963 edition.
18. "Sprinkler Systems," NFPA pamphlet No. 13, 1963 edition.

AMERICAN SOCIETY OF MECHANICAL ENGINEERS
29 West 39th Street
New York, New York 10018

- *1. "Specifications for Drinking Fountains," ASA Z 4.2-1942 edition.
- *2. "American Standards Code for Elevators, Dumbwaiters, and Escalators," No. A1 7.1, 1960 edition.
3. "American Standard Safety Code for Mechanical Refrigeration."

UNDERWRITERS LABORATORIES, INC.
207 East Ohio Street
Chicago, Illinois

1. "Fire Hazard Classification of Building Materials."
2. "Building Material List."

Subchapter 5. Fire Safety Standards

§ 2601. Occupancy

A. The number of persons in any room used as sleeping quarters shall not exceed the proportion of one adult for each 80 square feet. All nursing homes shall provide floor space and ceiling heights in patient areas as outlined in Subchapter 3 of this Chapter.

B. No occupancy not under the control of, and not necessary to the administration of a nursing home, shall be contained in any building occupied by nursing home patients.

History

ACS-219-69, September 16, 1969.

§ 2602. Firestopping

Exterior walls of frame construction and interior stud partitions shall be firestopped so as to cut off all concealed draft openings. Horizontal openings shall be firestopped between basement rooms and vertical openings in basement at ceiling level. Firestopping material may consist of noncombustible material or of wood at least two inches thick.

History

ACS-219-69, September 16, 1969.

§ 2603. Hazardous areas and combustibile materials

A. All hazardous areas as defined in 13 N.N.C. § 2501 shall be separated from other areas of the nursing home by construction having a fire resistive rating of at least two hours; except that all areas other than boiler and furnace rooms may be protected by an automatic approved sprinkler system in lieu of such construction.

B. The use of attics or basements for storage of combustibile materials is prohibited.

History

ACS-219-69, September 16, 1969.

§ 2604. Exit facilities

Exit facilities shall be provided in accordance with applicable Sections of NFPA "Life Safety Code" #101 and shall include the following:

A. At least two exits, remote from each other, shall be provided for each occupied floor of the building, including the basement. Exits shall be located so there are no dead ends or pockets extending more than 30 feet beyond the exit.

B. Exits from each floor shall be located so the distance of normal travel to reach an exit does not exceed 100 feet from any part or section of the floor in an unsprinklered building or more than 150 feet in a sprinklered building.

C. Exit doors shall have a minimum width of three feet eight inches and shall open outward in the direction of exit travel. Screen or storm doors, if used, shall also open outward. Doors to patient rooms shall swing into the room and not into the corridors.

D. Corridors leading to exit doors shall have a minimum width of eight feet.

E. Each occupied room shall have at least one solid core door opening directly to the outside or to a corridor leading directly to an exit stair or exit door which opens directly to the outside.

F. All exit doors, doors to stairways or doors leading to ramps or other exit facilities shall be provided with panic hardware and self closing devices.

G. Required exits from each floor, above or below the first floor, shall lead directly or through an enclosed corridor or enclosed stairway to the outside. Exits, other than required exits, shall also be enclosed between floors but may lead to a first floor lobby rather than directly to the outside as for required exits.

H. Windows and doors within 10 feet of fire escapes shall be provided with wire glass.

History

ACS-219-69, September 16, 1969.

§ 2605. Stairways and vertical openings

A. Stairways and ramps serving as required exits shall be at least three feet eight inches wide, with handrails on both sides.

B. A ramp shall be provided when necessary from the first floor or ground floor of the nursing home directly to the outside for the purpose of removal of nonambulatory patients. Ramps shall be provided with handrails, and the surface shall be roughened or of nonslip material. Ramp slope shall be a maximum of one foot rise in 10 feet run.

C. All vertical shafts or other floor openings extending to basement or cellar and between occupied floors shall be enclosed in partitions having a fire resistive rating of not less than two hours; except in sprinklered building such enclosures may be of construction having a fire resistance rating of not less than one-half (1/2) hour or may be wired glass in metal framework.

D. Doors to all vertical openings shall be located at each floor level and shall be equipped with self-closing devices and shall be kept closed at all times. All doors shall be consistent with the fire resistive ratings listed for enclosures in Subsection (C) above.

E. Stairways shall be designed in such a manner that patients from upper floors are not required to enter onto lower floors when descending. The stairway shall be a continuous shaft extending from the uppermost floor to the outside grade level, and entrance doors to the shaft shall be located at each floor level. Doors to the stairway shall open in the direction of travel from the floor.

History

ACS-219-69, September 16, 1969.

§ 2606. Corridors and passageways

A. Required corridors and passageways shall be at least eight feet in width and shall be consistent with the fire resistive ratings as listed in 13 N.N.C. § 2552.

B. Corridors and passageways to be used as a means or a part of a required exitway, shall be unobstructed and shall not lead through any room or space used for a purpose that may obstruct free passage.

C. Corridors and passageways which lead to the outside from any required stairway shall be enclosed and constructed with materials to provide the fire resistive ratings required for stairways.

History

ACS-219-69, September 16, 1969.

§ 2607. Doorways

A. Doorways serving as exits or parts of exits shall be at least three feet eight inches wide and hinged to swing in the direction of exit travel.

B. All doors to stairways, vertical openings, passageways or hazardous areas, which are required to be enclosed, shall be Class B, one hour or one and one-half (1 1/2) hour Underwriters' Laboratories labeled fire doors with self-closing devices.

C. Doors to all patient rooms shall be solid wood doors. Use of hollow-core doors or doors with vents or transoms are prohibited.

History

ACS-219-69, September 16, 1969.

§ 2608. Division of floor openings

A. All floors of a nursing home which are occupied by patients and exceed 3,000 square feet in area shall be divided into separate areas by smoke barriers so located as to provide ample space on each side for the total number of beds on the floor. Doors provided for such smoke barriers shall be smoke-resistive and installed so they may normally be kept in an open position but will close automatically or may be released manually to self-closing section.

B. Smoke barriers shall have a fire resistance rating of not less than one-half (1/2) hour. Doors may be metal, metal-covered or one and three-quarter inch solid core flush type wood doors. Doors shall be hung so they are reasonably smoke tight.

History

ACS-219-69, September 16, 1969.

§ 2609. Exit signs

All exits used by patients shall be clearly marked with large exit signs. Exit signs shall be continuously illuminated by artificial light. The line of travel to such exits shall be clearly marked with arrows and signs. Directional type exit signs with arrows pointing in the direction of the nearest exit shall be located at all corridor junctions or other areas where a change of direction is required to reach the nearest exit. All exit signs shall be included on the emergency generator lighting system or shall be illuminated by light from emergency battery lights.

History

ACS-219-69, September 16, 1969.

§ 2610. Interior finish and decorative materials

A. Wall and ceiling surfaces of all occupied rooms and of all exitways therefrom shall be of such materials or so treated as not to have flame spread classification of more than 75 according to the method for the "Method of Test for Surface Burning Characteristics" of the National Fire Protection Association.

B. All decorative and acoustical material, including curtains or drapes located in corridors, passageways, stairway enclosures, lobbies, or other rooms or spaces occupied by patients or visitors, shall be fire resistive. Interior materials shall be classified in accordance with their average flame spread rating on the basis of tests conducted in accordance with ASTM Standards No. E 84. Materials shall be deemed fire resistive if it will not ignite and allow flame to spread over the surface when exposed to a match flame applied to a piece removed from the material. The Navajo Nation authority shall reserve the right to request the owner or operator of a nursing home to perform this test in the presence of the inspector at the time of routine inspections. All such tests shall be performed in a safe place.

History

ACS-219-69, September 16, 1969.

§ 2611. Heating, lighting and air conditioning equipment

A. The heating of all buildings shall be restricted to central heating plant. Use of portable heaters of any type is prohibited.

B. All duct work for heating and air conditioning systems shall be provided with automatic fire dampers.

C. All lighting shall be restricted to electricity.

History

ACS-219-69, September 16, 1969.

§ 2612. Fire extinguishing equipment

A. Fire extinguishers bearing the label of Underwriters' Laboratories, Inc. and meeting standards outlined in NFPA No. 10 shall be provided throughout the entire building or buildings. Fire extinguishers shall be located so a person will not have to travel more than 75 feet from any point in the building in order to reach a fire extinguisher.

B. An additional fire extinguisher or extinguishers shall be provided in or located adjacent to each kitchen and storage room. All personnel shall be trained in the proper use of all types of fire extinguishers. Fire extinguishers shall be inspected and recharged at least once a year and immediately after each use with date of checking and recharging recorded on a tag attached to the extinguisher. All fire protection equipment shall be inspected and dated periodically and maintained in readily usable condition.

History

ACS-219-69, September 16, 1969.

§ 2613. Automatic sprinkler system

A. All hazardous areas, as defined in 13 N.N.C. § 2501 shall be protected by an approved, properly installed automatic sprinkler system unless the areas are protected by construction with a fire resistive rating of at least two hours.

B. All sprinkler systems shall be provided with an approved local or central station water flow alarm system.

History

ACS-219-69, September 16, 1969.

§ 2614. Alarm systems

A. All buildings, except those protected by an approved automatic sprinkler system, shall be equipped with an approved automatic fire detection signal system. The fire detection system shall conform to the following minimum requirements:

1. All component parts shall be approved by Underwriters' Laboratories, Inc.

2. The system shall be electrically supervised or monitored.

3. The system shall be provided with an auxiliary source of power (automatic battery change-over).

4. All systems shall be installed in strict accordance with the National Fire Protection Association pamphlet No. 72, "Proprietary, Auxiliary, and Local Signaling Systems."

5. A separate circuit shall be provided for a basement.

6. The minimum number of circuits for any facility shall be as

follows:

- a. One-story buildings—one circuit.
- b. Two-story buildings—two circuits.
- c. Three-story buildings—one circuit each floor and one circuit for attic.

B. All nursing homes shall be provided with a manually operated remote station fire alarm system with manual "break-stations" located on each floor of the building. The "break-stations" shall be located so no person will be required to travel more than 75 feet from any point on the floor in order to reach the break-station. The manual fire alarm system shall be provided in addition to the automatic sprinkler system when the sprinkler system is required as outlined in 13 N.N.C. § 2613.

History

ACS-219-69, September 16, 1969.

§ 2615. Attendants

A. Each building in which patients are housed shall have at least one attendant on duty, awake and dressed therein at all times, and, in addition, one standby attendant within the building and within hearing distance and available for emergency service. These attendants shall be at least 21 years of age and capable of performing the required duties of emergency evacuation of patients. No persons other than management or persons under the control of management shall be considered as an attendant. The patient-attendant ratio shall be at least one attendant and one stand-by attendant for each 20 patients or fraction thereof.

B. In homes where fifty percent (50%) or more of the patients are bedfast, the ratio shall be increased to one attendant and one stand-by attendant for each 15 patients.

C. Personnel employed to fulfill the requirements for attendants and standby attendants need not be capable of rendering professional care to the patients, but professional nurses, licensed practical nurses, and other patient care personnel may serve in this capacity to satisfy the requirements for attendants and standby attendants as well as rendering professional care to the patients.

History

ACS-219-69, September 16, 1969.

§ 2616. Evacuation plan

Each nursing home shall formulate a written procedure to be followed in case of fire, explosion, or other emergency. All employees shall be familiar with the plan, and routine emergency evacuation drills shall be held at different times of the day in order that all employees, including the night

shifts, may participate. The evacuation plan shall include such items as: persons to notify, alarm signals, fire extinguisher locations, evacuation routes, procedures for evacuating helpless patients, and personnel assignments for specific duties and responsibilities.

History

ACS-219-69, September 16, 1969.

§ 2617. Smoking

Smoking shall be permitted in nursing homes only where proper facilities are provided. Smoking shall not be permitted in sleeping quarters unless constant supervision is provided. Patients shall not be permitted to smoke in bed at any time. Smoking is prohibited in all rooms, wards and adjacent areas where oxygen is stored.

History

ACS-219-69, September 16, 1969.

§ 2618. Oxygen storage

A. Oxygen tanks must be safely stored and labeled when empty. Provision shall be made for racks or fastenings to protect cylinders from accidental damage or dislocation.

B. Oxygen, when stored within the building, shall be enclosed in a separate room or enclosure within a room with a minimum fire resistant rating of at least two hours. The room shall be vented to the outside. No oxygen cylinders shall be stored within a patient's room.

C. No open flame, smoking, or spark-producing device shall be permitted within a room where compressed oxygen is used or stored.

History

ACS-219-69, September 16, 1969.

§ 2619. Trash and rubbish disposal

All buildings shall be kept free from accumulation of combustible trash or rubbish. Metal containers for receiving same shall be placed in easily accessible locations. Trash shall be removed from the building daily. Ashes shall be kept in metal containers with metal covers and be removed from the building daily. Buildings shall not be littered with empty boxes, papers, accumulation of old clothes and other combustible material.

History

ACS-219-69, September 16, 1969.

Subchapter 7. Furnishing and Equipment

§ 2651. Furnishings; living rooms and bedrooms

A. Living room for patients' use shall be provided with a sufficient number of reading lamps, tables, chairs or sofas of satisfactory design for elderly and infirm people.

B. Each patient shall be provided with his own bed which shall be at least 36 inches wide, have a headboard, be substantially constructed and in good repair. Roll-away type beds, cots, folding beds or double beds, shall not be used.

C. Each bed shall be provided with a satisfactory type spring in good repair and a clean comfortable mattress—at least five inches thick (four inches thick if of foam rubber construction and four and one-half inches thick if of inner spring type) and standard size for the bed.

D. Mattresses shall be protected by a cover and pad. Moisture proof covers or sheeting are recommended to keep mattresses clean and dry.

E. Each bed shall be provided with at least one clean, comfortable pillow. Additional pillows shall be available to meet the needs of the patients.

F. Each patient shall be provided with a satisfactory type bedside table with a drawer to accommodate personal possessions.

G. Each patient shall be provided with an individual rack for towel and washcloth. This may be attached to the bedside table.

H. Each patient shall also be provided with adequate drawer space for personal belongings and a wardrobe or an enclosed space or closet for hanging his clothing within the patient's room. If a common closet is used for two or more persons, there shall be separation of clothing for each person.

History

ACS-219-69, September 16, 1969.

§ 2652. General equipment

A. Walkers, wheelchairs, metal bedside rails, footstools, commodes and commode chairs (preferably metal), foot cradles, trapeze frames and similar equipment shall be provided in sufficient number to satisfactorily meet the needs of the residents in the home.

B. Cubicle curtains or portable bedside screens shall be provided as needed in multiple-bed rooms to insure privacy for patients.

C. All furniture and equipment shall be maintained in a sanitary manner, kept in good repair and shall be so located in the room that the patient may conveniently use it.

History

ACS-219-69, September 16, 1969.

§ 2653. Nursing equipment and supplies

A. Adequate and satisfactory equipment and supplies shall be provided to enable the nursing staff to satisfactorily serve the patient.

B. A sufficient number of utensils shall be available to meet the needs of other patients and shall be stored in an area provided for the storage of nursing care equipment. Utensils stored away from the patient's bedside shall be marked for the individual or shall be thoroughly and effectively sterilized after each use.

C. All utensils shall be kept in good condition. Chipped and otherwise damaged utensils shall not be used.

D. Separate sputum receptacles with disposable containers shall be available for use as needed, or paper tissues may be provided to collect secretions from the nose and mouth and shall be deposited in a paper bag and burned. Flip-top metal boxes with disposable parafined containers are recommended.

E. There shall be available such additional equipment and supplies as are necessary to carry out common nursing procedures as required by the type of patients accepted by the nursing home.

History

ACS-219-69, September 16, 1969.

§ 2654. Linen

A. There shall be an adequate supply of linen and other bedding according to the number and type of patients accepted by the home.

B. Each bed shall be supplied with two clean sheets large enough to tuck under the mattress, draw sheets as needed, pillow slips, bedspread and sufficient light weight blankets to insure warmth. All linen shall be changed at least twice weekly.

C. Blankets shall be laundered as often as necessary to assure cleanliness and freedom from odors.

D. Individual hand towels, bath towels and washcloths shall be provided for each patient and shall be changed at least twice weekly. Additional clean towels and washcloths shall be provided as needed.

E. Hotwater bottle covers and ice cap covers shall be provided and used whenever the physician orders application of hotwater bottles or ice caps.

F. Bedpan and urinal covers shall be provided.

G. Adequate and convenient storage space shall be provided for all

linens, pillows and bedding. Separate storage space should be provided on each floor or in each building.

H. Bed blankets shall be supplied as necessary and be made available to nursing personnel to assure the comfort of the patient.

History

ACS-219-69, September 16, 1969.

§ 2655. General care and cleaning of equipment

A. Bedpans, urinals and commodes shall be emptied promptly and thoroughly cleaned after each use.

B. Following the discharge of any patient, all equipment shall be thoroughly cleaned prior to reuse. Bedpans, urinals, emesis basins, washbasins, soap basins and other individual items shall be thoroughly cleaned and sterilized.

History

ACS-219-69, September 16, 1969.

Subchapter 9. Food Sanitation Service

§ 2701. Generally

All food handling facilities, personnel and procedures shall comply with recommended standards contained in the "Food Service Sanitation Manual" published by the United States Public Health Service, 1962 edition.

History

ACS-219-69, September 16, 1969.

§ 2702. Milk

All fluid milk served directly to the patients in the nursing home shall be grade A pasteurized milk and shall be stored and served in accordance with standards contained in the "Recommended Milk Ordinance and Code" published by the United States Public Health Service.

History

ACS-219-69, September 16, 1969.

Subchapter 11. Administration and Personnel

§ 2751. Administrator, qualifications; duties and responsibilities

A. A responsible and qualified person shall be on duty at all times to maintain a desirable standard of environmental sanitation and provide services

which shall satisfactorily meet the needs of the nursing home residents. This person, known as the administrator, shall be capable of directing and supervising persons working in the nursing home and shall be fully authorized and empowered to carry out recommendations of the Navajo Indian Health Area Office as may be necessary to fully comply with the standards established or adopted by the Government Services Committee.

B. The administrator shall not leave the premises without delegating necessary authority to a competent person who is at least 21 years of age to carry out the required duties during his absence.

C. The administrator shall be in good physical and mental health and shall have a genuine interest in the welfare of the residents of the home.

D. The administrator shall be of high moral character and shall never have been convicted of a felony.

E. The administrator shall have a thorough knowledge of the standards of the Government Services Committee governing the operation of the nursing home, and he shall instruct all employees in the home as to these requirements and insist that they are carried out to the fullest extent at all times.

F. The administrator shall be responsible for the completion, maintenance, or submission of all records or reports as may be required by the Navajo Nation.

G. The administrator shall notify the Health and Social Services Committee in writing if the nursing home is to cease operation. This notice shall be given at least 60 days prior to the date the home is to cease operation and shall contain detailed information as to the placement of patients who are residents of the home.

H. Each license issued to the home shall specify the maximum number of patients and bed patients that may be cared for in the home. The administrator shall see that no greater number of patients and bed patients shall be kept than is authorized by the license.

I. The administrator shall make provisions for prompt removal of a body when a death occurs.

J. The administrator shall attend in person and shall cause other responsible personnel to attend institutes and training courses in nursing care, nutrition, fire safety, and administration when sponsored by a reliable agency and held at a location within a reasonable distance from the home.

K. The administrator shall be responsible that bills rendered to the family or guardians of the patients, which are for services not covered by the contractual arrangement with the patient, shall be itemized, certified to, and accompanied by original invoices from the vendor.

History

ACS-219-69, September 16, 1969.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

§ 2752. Standing advisory committee

A. At each nursing home, there shall be a standing advisory committee to the administrator. This committee shall consist of a physician, nurse, social worker, physical therapist or whatever specialists are appropriate in individual cases. The purpose of this committee shall be to advise the administrator on actions to be taken regarding patients of the nursing home.

B. Upon concurrence of the multi-discipline committee, a decision can be reached that further inpatient stay is no longer necessary or that further hospital or consultant skills are necessary. The patient's attending physician shall be notified of the decision.

History

ACS-219-69, September 16, 1969.

§ 2753. Personnel; qualifications; records

A. All persons working in the nursing home, including the administrator, shall annually submit a health card and a report of a physical examination if indicated.

B. Each new employee shall have a health card before employment in the home begins.

C. Each employee shall be in good health and free from colds and other communicable diseases while on duty.

D. In addition to the staff engaged in the direct care and treatment of the patients, there shall be sufficient personnel to provide all other basic services including administration, food service, housekeeping, laundry and home maintenance.

E. No employee shall be less than 16 years of age.

F. A record of each employee shall be maintained and such records shall be available to authorized representatives of the State Department of Health.

History

ACS-219-69, September 16, 1969.

§ 2754. Admission policies

A. The administrator of the nursing home shall be responsible for exercising discretion in the type of patients admitted to the home. He shall not accept patients for whom care cannot be provided in keeping with the

patient's mental or physical condition.

B. A physical examination shall be made and a medical diagnosis recorded within 48 hours after admission to the nursing home, unless the patient is accompanied by a record of a recent physical examination. Such record shall include the diagnosis, treatment, medications, diet and extent of physical activity prescribed and shall be signed by the physician.

C. Children under 16 years of age shall not be admitted to nursing homes caring for adults unless special segregated facilities are provided.

D. Patients with serious, acute illnesses requiring the medical, surgical or nursing care of a general or special hospital shall not be admitted to a nursing home.

E. No home, except one for tuberculosis patients, shall knowingly admit a person with a communicable disease. Provision shall be made for the isolation of cases of communicable disease contracted or diagnosed after admittance to the home either at a hospital or suitable isolation room in the home if satisfactory to the Health and Social Services Committee.

F. Maternity cases shall not be admitted to nursing homes.

G. Tuberculosis nursing homes should be equipped with approved isolation facilities.

History

ACS-219-69, September 16, 1969.

§ 2755. Patients; register; inventory of personal possessions; rights and privileges

A. A register shall be kept in a separate book, listing in chronological order the names of patients and the date of admissions and discharges.

B. An inventory in duplicate of the valuable personal possessions with which the patient entered the nursing home shall be prepared.

C. Patients shall receive their mail unopened. Outgoing mail written by patients shall not be censored by the nursing home administrator or by any employee.

D. Regular visiting hours shall be established.

E. Members of the clergy shall be admitted at the request of the patient or guardian.

F. Relatives or guardians shall be allowed to see critically ill patients at any time.

G. Privacy shall be available at all times to patients for visits with family, friends, clergy, social workers and for professional or other business reasons.

H. Every patient shall have the freedom of attending the church of his choice. No patient shall be deprived of the right to have visits from the minister, priest or rabbi of his choice.

I. When a person dies in a nursing home, neither the administrator nor any attendant shall call any mortician or make any arrangements for permanent disposition of the body without first making an effort to contact some relative or guardian of such person or the placing agency so as to give such relative, guardian, or agency the right to make their own arrangements.

History

ACS-219-69, September 16, 1969.

Subchapter 13. Physician and Nursing Services

§ 2801. Physicians; medical records and orders

A. There shall be a duly state licensed physician or PHS authorized physician who shall advise on medical administrative problems, review the institution's plan for patient care, and handle emergencies, if the patient's personal physician is unavailable.

B. Each patient shall be under the care of a duly state licensed physician or PHS authorized physician, and shall be seen by a physician as the need indicates. A review of each patient's status will be completed at least every 60 days by the attending physician.

C. There shall be a medical record maintained for each patient, which shall include at least:

1. The medical history;
2. Report of physical examination;
3. Diagnosis;
4. Physician's orders;
5. Progress note (medical and nursing); and
6. Medications and treatments given.

D. All medical orders shall be in writing and signed by a physician. Emergency verbal orders will be cosigned at the physician's next visit.

History

ACS-219-69, September 16, 1969.

§ 2802. Director of nursing; duties and responsibilities

A. The nursing home shall have a director of nursing who is a licensed registered professional nurse and who shall provide 24-hour direct registered professional nurse supervision of nursing care to adequately meet the total needs of patients.

B. If the director of nursing is also the administrator; a second registered nurse will be designated as an assistant director of nursing, who shall be responsible for the supervision and evaluation of nursing care.

C. The director of nursing participates in the planning and budgeting for nursing personnel, equipment and facilities.

D. The director of nursing is responsible for the selection, orientation, supervision, evaluation, and development of professional and allied nursing personnel.

E. The director of nursing shall adhere to written personnel policies, develop job descriptions, plan for orientation for new staff, and provide for in-service education.

F. The director of nursing shall be responsible for defining the activities of volunteer workers as related to patient care and in guiding the volunteers in carrying out their activities.

G. The director of nursing shall participate in the screening of prospective patients in terms of kinds of care available in the institution.

H. The director of nursing shall adhere to the written policies relating to the control of prescribed medicines and treatment, defined frequency of medical review and the renewal of orders. These policies shall have the approval of the consulting physician or responsible medical group.

I. The director of nursing shall be responsible for implementing an active program of restorative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence. This program includes the involvement of family members.

History

ACS-219-69, September 16, 1969.

§ 2803. Nursing personnel; number, qualifications; hours of duty; statement of responsibilities and duties

A. The facility shall have a sufficient total number of nursing personnel, including sufficient number of RNs and LPNs to meet the physical, physiological, psycho-social and teaching needs of the patient.

B. A registered professional nurse or a licensed practical nurse currently licensed in the State of Arizona shall be on duty and in charge of nursing service at all times depending upon the size of the home as follows:

1. In nursing homes of 39 beds or less: A registered nurse shall be on duty eight hours of each day and no less than a licensed practical

nurse shall be on duty on each of the other two shifts.

2. In nursing homes of 40 to 64 beds: A registered nurse shall be on duty 16 hours of each day. (One registered nurse for each of two shifts and no less than a licensed practical nurse for the remaining shift.)

3. In nursing homes of 65 beds and up: A registered professional nurse shall be on duty and in charge of nursing service at all hours of the day and night. (One registered nurse for each eight-hour shift.)

C. The following minimum ratio of nursing personnel engaged exclusively in nursing duties to patients in nursing homes is to be maintained seven days a week with provisions made for relief personnel whenever a nurse or attendant is off duty for any reason:

1. For the work period commonly termed the morning shift (approximately 7:00 a.m. to 3:00 p.m.), there shall be nursing personnel in the ratio of one per 10 patients or fraction thereof and one for each additional 10 patients or fraction thereof.

2. For the afternoon shift (approximately 3:00 p.m. to 11:00 p.m.) there shall be nursing personnel in the ratio of one per 15 patients or fraction thereof and one for each additional 15 patients or fraction thereof.

3. For the night shift (approximately 11:00 p.m. to 7:00 a.m.), there shall be nursing personnel on duty and fully dressed in the ratio of one per 25 patients or fraction thereof and one for each additional 25 patients or fraction thereof.

D. The provisions of the Arizona Nurse Practice Act¹ shall be applicable to all nursing personnel. Those provisions shall be considered part of these regulations and shall be enforced by the Navajo Nation with the cooperation of NIHAO.

E. Employed nursing personnel and/or attendants or any person having a responsibility for the care of patients shall be at least 17 years of age (preferably over 21 years of age) and be physically and mentally capable.

F. The administrator shall cause to be posted a written statement outlining authority, responsibilities and duties of all personnel in the home. Such statements shall be amended or revised whenever a change in the staff occurs which would render the statement inaccurate.

History

ACS-219-69, September 16, 1969.

§ 2804. Nursing care

A. A nursing assessment shall be conducted on each new admission and reassessment done on an on-going basis by registered professional nurses.

B. A nursing care plan shall be established and currently maintained with long and short term goals for each patient based on nursing assessment. In the development of the nursing care plan, it is necessary to have a written statement by the physician regarding the nature of the illness, the condition of the patient, and the treatment prescribed and expected outcome of care.

C. A nursing record shall be maintained for each patient. A registered nurse shall be responsible for the accuracy of the reporting and recording of the patients' symptoms, reactions, and progress.

D. A registered professional nurse shall make rounds with the physician and confer with him concerning the patients nursing needs.

E. No restraint shall be used except upon a physician's direct order on the patient's chart, which should include the date, time of order, reason for restraint, means of restraint, and period of time the patient is to be restricted. No restraint of rough material or that which may otherwise cause harm to the patient shall be used.

F. While under restraint, the patient shall be observed at least every hour and a full report of his condition during the restriction period shall be written and signed by the nurse responsible for his care.

G. No patient shall be secluded in any room by locking or fastening a solid door from the outside. A half door is acceptable in case of mentally disturbed patients.

H. Oxygen shall be administered only by licensed personnel pursuant to a physician's written order. The nurse in charge shall be responsible to the attendant physician for the safe administration and handling of oxygen.

I. Nursing care standards can roughly be defined as follows:

1. Custodial:

- a. Patients shall be fed, kept clean and dry.
- b. Patients shall receive ordered medications and treatment.
- c. Patients shall be protected from accidents and injuries.

2. Therapeutic in addition to Subsection (I)(1)(a), (b), and (c) above:

a. Each patient shall be given proper daily personal attention and care, including skin, nails, hair and oral hygiene.

b. A regular program of encouraging activity and self-help for each patient should be established. If patients are up and about, every effort should be made to keep them ambulatory.

3. Restorative in addition to Subsections (I)(1)(a), (b) and (c), and (I)(2)(a) and (b) above:

a. Each patient shall have a planned interesting activity to maintain mental and psychological ability to the highest level possible.

b. Each patient shall be assessed and evaluated by a registered professional nurse for recognition of symptoms and nursing intervention to prevent unnecessary deterioration.

c. Active measures to maintain normal range of motion and to prevent deformities should be carried out.

History

ACS-219-69, September 16, 1969.

Note. Subsection reworded for purposes of clarity.

Subchapter 15. Supervision and Care of Medications

§ 2851. Storage generally

A. A drug storage area shall be provided at the nursing station. It should be of sufficient size, properly lighted, and easily accessible. It shall be locked when not in use. The key for the lock of this drug storage area or cabinet shall be carried by or be accessible to only licensed nursing personnel.

B. Internal and external medications shall be kept in separate areas in the medicine cabinet or in separate locked cabinets.

C. All poisonous, dangerous and habit-forming drugs, including narcotics, sedatives and amphetamines, shall be maintained apart from the other medical products, and are to be secured by double lock.

D. Biologicals, insulin and other medications requiring cold storage shall be refrigerated and kept in covered containers. Temperature shall be maintained at 40°F to 45°F, unless the label on the biologicals requires a lower storage temperature.

History

ACS-219-69, September 16, 1969.

§ 2852. Individual prescriptions

A. Prescriptions belonging to patients shall be given to them when discharged, if so authorized by the attending physician.

B. When the patient is no longer in the nursing home, the remaining drugs (in their original containers) shall be placed in a box separate from the daily medication of other patients, and the licensed PHS pharmacist shall be notified to pick up these drugs.

C. The contents of all individual prescriptions shall be kept in the

original container bearing the original label. No in-patient shall be permitted to retain any medication.

History

ACS-219-69, September 16, 1969.

§ 2853. Narcotics and other dangerous drugs

A. To comply with state and federal regulations governing narcotics and other dangerous, poisonous, and habit-forming drugs, there shall be a narcotic record book with complete data recorded on each dose administered. In addition, a recorded audit shall be done at least once daily. Each time a narcotic is given a notation shall be made on the patient's nursing record.

B. All narcotics shall be placed under double lock. This may be accomplished by maintaining a separate locked box, cabinet, or drawer within the locked medication cabinet. If a locked box is used, it should be bolted or permanently attached within the cabinet. The key to the narcotic container shall be carried by the person duly authorized to give medication.

History

ACS-219-69, September 16, 1969.

§ 2854. Administration

A. Licensed nursing personnel shall be responsible for handling and administering drugs and individual prescriptions.

B. A full time licensed PHS pharmacist shall be available on call and for routine visits, which will permit stock supplies of narcotics, sedatives, dangerous, poisonous, or habit-forming drugs, prescription legend drugs, or other medications to be kept on the premises.

C. No medications shall be given without a written order signed by the physician. Emergency telephone orders can be accepted by a registered professional nurse and cosigned by the physician on his next visit.

D. Any pharmaceutical container having soiled or damaged labels should be returned to the pharmacist for relabeling. If label is missing or illegible, the contents should be destroyed immediately.

E. Graduated medicine glasses and medicine droppers should be available for the purpose of accurately measuring liquid medication. After each use the articles shall be washed and disinfected and stored in a suitable place.

F. Hypodermic syringes, needles, medicine droppers and similar equipment shall be sterile when used.

G. First aid supplies shall be readily available to all personnel.

History

ACS-219-69, September 16, 1969.

Subchapter 17. Patient's Records

§ 2901. General requirements

A. The administrator of each nursing home shall be held responsible for the proper preparation, preservation and adequacy of records of all persons admitted to the home.

B. Individual records for each patient shall be maintained. These records shall be kept up-to-date and complete on each patient in the home. After the death or discharge of the patient, the record shall be placed in an inactive file and kept for a minimum of two years. The active records shall be kept in the home at all times and available to the staff.

C. All records shall be kept in ink or typewritten.

D. All medical records relating to the patient shall be considered confidential, except that they shall be made available to the authorized persons having legal responsibility pertaining to the licensing of nursing homes.

History

ACS-219-69, September 16, 1969.

§ 2902. Patient charts

Each patient's chart kept from the time of admission to the time of discharge or death shall include the following information:

A. Admission record containing identifying information:

1. Name;
2. Religion;
3. Usual residence, including street address, city or town, county or state;
4. Sex;
5. Color or race;
6. Marital status; for example, single, married, widowed or divorced;
7. Birthplace;
8. Date of birth including year, month and day;
9. Usual occupation and kind of business or industry;

10. Social Security Number;

11. Father's name and his birthplace—at least the state or foreign country;

12. Mother's maiden name and her birthplace—at least the state or foreign country;

13. Whether or not the resident ever was a member of the U.S. Armed Forces and if so, the dates of service (if available);

14. The person or persons or agency responsible for the patient;

15. Next of kin;

16. Name and address of the attending physician;

17. Date of admission;

18. Date of discharge, reason for discharge, discharge diagnosis or date and time of death and disposition of body;

B. Medical records:

1. Medical examination record containing information found on the physical examination signed and dated by the physician performing the examination;

2. Record should include whether the patient was ambulatory or non-ambulatory at the time of admission, whether there were bedsores, bruises or marks on the body and a description of the mental condition of the patient;

3. Physician's order record containing the physician's authorization for the required medical and nursing care, administration of drugs, medicines, treatment, diet, extent or restriction of activity, etc. Each entry and order shall be dated and signed (or countersigned) by the physician;

C. Nursing record and notes shall be kept current and shall include such information as outlined in regulations below:

1. All pertinent factors pertaining to the patient's general condition. Charting of observations shall include date and time and shall be done by the person who makes the observation or renders the nursing care;

2. Date, time, kind, dosage and method of administration of all medications shall be recorded daily and signed by the nurse who administered the drug. This may be recorded on the regular nursing notes or on individual medication records;

3. Date and time of all treatments and dressing;

4. Any change in the patient's condition;
5. Observations on patients may be summarized and recorded;
6. Restriction of activity of any patient including reason for restriction used, the time of starting and ending the restrictions, regular observations of any patient while restricted;
7. Any incident or accident occurring and time of occurrence, while the patient is in the home;
8. Date of each physician's visit;
9. All other significant observations, such as moods, delusions, hallucinations, judgment, orientation and behavior; and
10. Nursing notes shall be signed by the person writing the note. If geriatric check sheet is used, it must also be signed by the nurse in charge.

D. The maintenance of progress notes is recommended and should include all subsequent medical examinations, including findings and recommendations for further care following regular visits to or by the physician.

History

ACS-219-69, September 16, 1969.

Chapter 19. Midwives

§ 3101. Authorization of training program

The Director of the Navajo Area Indian Health Service, in cooperation with the University of Utah College of Midwifery, is authorized to establish a program to train and develop nurses to be employed as midwives in the Navajo Nation.

History

ACJY-196-70, July 14, 1970.

Note. Beginning of Section reworded for purpose of statutory form.

Chapter 21. Discharge of Sulfur

§ 3151. Permits; exception

On or before the effective date of this Chapter the Navajo Environmental Protection Commission shall issue sulfur emission permits to all static sources within the Navajo Nation (whether operated by individuals, corporations, partnerships, governments, syndicates, or other forms of organizations) discharging sulfur or its compounds into the atmosphere of the Navajo Nation;

provided however, that no permit shall be required or issued to any person, all of whose static sources discharge less than 1,000,000 pounds of sulfur into the atmosphere annually.

History

CS-59-77, September 15, 1977.

CJN-45-77, June 8, 1977.

§ 3152. Discharge reports; fees

A. Every permit holder shall report to the Navajo Tax Commission the quantity of sulfur discharged into the atmosphere during each calendar quarter, commencing with the quarter beginning, after the effective date of this Chapter. Together, with such report, the permit holder shall remit a sulfur discharge fee according to the following schedule:

CALENDAR QUARTERS

Beginning On	Fee (per pound)
January 1, 1978	\$.15
January 1, 1979	.30
January 1, 1980	.45
January 1, 1981	.60
January 1, 1982	.75

B. The report and payment to the Navajo Nation required by this Section shall be made on or before the 45th day after the end of the quarter for which the report is made.

C. The fee imposed shall not apply to the first 250,000 pounds of sulfur discharged each quarter by a given person. In calculating this exemption, all static sources owned, operated or controlled by a person, in whole or in part, within a 10 mile radius shall be considered as a single static source.

History

CS-59-77, September 15, 1977.

CJN-45-77, June 8, 1977.

Note. Effective date of Chapter. See CS-59-77, September 15, 1977.

§ 3153. Rules and regulations

The Navajo Environmental Protection Commission and the Navajo Tax Commission are vested with the authority to enforce this permit system by appropriate rules and regulations. The Commissions may divide this authority

as they deem fit and mutually agree.

History

CJN-45-77, June 8, 1977.

§ 3154. Legal proceedings

The Courts of the Navajo Nation are vested with jurisdiction:

A. To hear and determine any challenge to the validity of this Chapter, either generally, or as applied to any person; and

B. Over any and all persons subject to this Chapter, provided however:

1. No private right of action by any person or group of persons either directly against any person subject to this Chapter or indirectly against any Navajo Nation official or body to compel the enforcement of the provisions of this Chapter shall be deemed created by this Chapter or be within the subject matter jurisdiction of the Courts of the Navajo Nation.

2. No injunction or restraining order shall issue from any Court of the Navajo Nation to enforce the provisions of this Chapter.

History

CS-59-77, September 15, 1977.

CJN-45-77, June 8, 1977.

Note. Subsections renumbered for statutory clarity.

§ 3155. Severability clause

If any provision of this Chapter or its application to any person or circumstances is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

History

CJN-45-77, June 8, 1977.

Chapter 23. Navajo Nation HIV/AIDS Code

§ 3201. Purpose

A. The Navajo Nation HIV/AIDS Policy Development Work Group, after extensive study of the requirements of the Navajo Nation, has developed a "Navajo Nation HIV/AIDS Policy". This Act is based on that Policy and that Policy should be consulted to resolve any questions or ambiguities in this Act.

B. It is the policy of the Navajo Nation to ensure that all individuals within the jurisdiction of the Navajo Nation receive education and appropriate counsel with respect to the HIV, a virus that leads to Acquired Immune Deficiency Syndrome (AIDS), and other similar communicable diseases. Further, it is the policy of the Navajo Nation that an individual infected with the AIDS virus should receive compassionate medical treatment and be protected from discrimination and invasion of privacy due to their infection or suspected infection with the HIV/AIDS virus.

C. Navajo Nation programs and service providers shall cooperate to prevent the spread of the HIV/AIDS virus. Activities coordinated under this Act shall emphasize Navajo concepts of harmony, culture, traditional practices and the role of the family, kinship and community.

History

CO-100-94, October 21, 1994.

§ 3202. Education

A. Communicable diseases generally. All programs, services and businesses within the Navajo Nation shall adopt simple, accessible infection control procedures and protocols for their organizations. These procedures shall include appropriate education on communicable diseases. The Navajo Occupational Safety and Health Administration and the Navajo Division of Health shall assist in the planning, implementation, education, and monitoring of infection and communicable disease control procedures. As appropriate and available, the Navajo Area Indian Health Service shall participate in these activities.

B. Schools. Local school boards and parent advisory groups shall be educated to assist with HIV/AIDS prevention efforts in the schools. Lesson plans and curricula, similar to the "Navajo Beauty Way" shall be developed and implemented to allow for traditional Navajo values in HIV/AIDS education. Adil'idli and other Navajo traditional teachings shall be incorporated wherever relevant. Parents, family members, and community leaders are to be involved in this education process. The Navajo Division of Education and the Navajo Division of Health will assist in developing this education curriculum.

History

CO-100-94, October 21, 1994.

§ 3203. Confidentiality and testing

A. Testing. All HIV antibody testing shall be voluntary. No person shall be required to undergo an HIV antibody test, against his or her free will, to receive any benefit, employment opportunity, or for any other reason. Except as provided in this Act, and subject to the provisions of the Privacy Act, 5 U.S.C. § 552a, all test results, counseling and treatment of individuals who may be infected with the HIV/AIDS is confidential. Otherwise confidential information may be obtained by a Court Order of the Navajo Nation District Courts, provided appropriate safeguards are taken to ensure individual privacy.

B. Notification of persons "at-risk." If, based on an investigation, it appears that an uninfected individual, who is unaware, may have been infected with HIV, a public health investigator shall inform that individual. All information relating to the notification shall otherwise be kept in strict confidence.

C. Equal access to services. No person shall be denied services nor offered substandard services because of real or suspected HIV/AIDS infection. Nor shall any program or business within the Navajo Nation refuse services or employment opportunities to anyone based on real or suspected HIV/AIDS infection.

History

CO-100-94, October 21, 1994.

§ 3204. Coordination with Navajo Nation Division of Health

A. Reporting requirements. Consistent with this Act, all HIV-positive test results and HIV/AIDS cases shall be reported to the Navajo Nation AIDS Office.

B. Maintenance of records. All reports and records of HIV-positive tests and cases of HIV/AIDS shall be confidentially maintained consistent with the Privacy Act, 5 U.S.C. § 552a. No unauthorized persons shall be allowed access to these records. The Navajo Nation AIDS Office shall use these records to monitor the incidence of HIV/AIDS cases and assist HIV-positive patients and their families in receiving appropriate medical care and services.

C. Coordination of services. The Navajo Nation AIDS Office shall assist in the development of a comprehensive and coordinated system of care for HIV positive patients and their families, and identification of alternative resources and treatment programs. Local HIV/AIDS-related resource listings shall be developed and made available to assist patients and non-medical providers in accessing direct care services.

D. The Navajo Nation AIDS Office shall assist in researching traditional Navajo teachings and re-initiating the traditional ways of dealing with HIV/AIDS and other sexually transmitted diseases.

History

CO-100-94, October 21, 1994.

§ 3205. Treatment

A. Service provider requirements. Treatment of HIV positive persons shall be comprehensive, competent and compassionate. All service providers shall make special efforts to keep clinical services up-to-date with recent developments in HIV/AIDS-related care. Direct services shall include, but not be limited to, HIV antibody testing, counseling, HIV/AIDS education and prevention, current pharmacological treatment for HIV/AIDS infection, mental health, and counseling services for HIV-positive patients and their families.

Service providers shall select an existing program or develop an appropriate program that is culturally relevant or Navajo-specific, respectful of the Navajo culture, and reflects current knowledge and clinical guidelines about medical care and treatment is appropriate, respectful, and reflects current knowledge and clinical guidelines about HIV/AIDS related illnesses. Patients and their families shall have input into these processes.

B. Use of traditional Navajo treatment. Traditional Navajo healing methods may evolve as a primary means of treatment for persons already suffering from HIV/AIDS. As appropriate, the Navajo Division of Health shall include and assist such organizations as the Diné Spiritual and Cultural Society, Inc., in their efforts to develop treatment methodologies.

History

CO-100-94, October 21, 1994.

§ 3206. Amendments

Upon the recommendation of the Health and Social Services Committee of the Navajo Nation Council, the Navajo Nation Council may amend the Navajo Nation HIV/AIDS Code by majority vote of the members present.

History

CO-100-94, October 21, 1994.

Chapter 25. Navajo Nation Human Research Code

§ 3251. Title

This Code shall be known as the Navajo Nation Human Research Code.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3252. Purpose

The purpose of this Code shall be to set forth the conditions under which investigators, physicians, researchers and others may perform research activities on living human subjects within the territorial jurisdiction of the Navajo Nation.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3253. Policy

A. All persons within the territorial jurisdiction of the Navajo Nation are free from unreasonable harmful, intrusive, ill-conceived or otherwise offensive research and investigation procedures.

B. Research conducted is beneficial, community-based, and consistent with Navajo Nation priority and concerns.

C. Research information and data generated by and about Navajo individuals, communities, culture represent inalienable intellectual properties of the Navajo people and over which the Navajo Nation will provide oversight.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3254. Rules and regulations

The Health and Social Services Committee is authorized to promulgate rules and regulations consistent with and necessary to implement this Code.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3255. Definitions

As used in this Code, the following definitions apply:

A. Subjects. As used in this Code, "Subjects" means a living individual about whom a researcher (whether professional or student) conducting research obtains private information or data through intervention or interaction with the individual, involving physical procedures by which data are gathered (for example, venipuncture) and/or manipulations of the subject or the subject's environment.

B. Navajo Nation Human Research Review Board. This is the Board created in Section 3256 of this Code

C. Research. As used in this Code, "research" is the use of systematic methods (including but not limited to note taking, interviewing, video and audio taping) to gather and analyze information for the purpose of proving or disproving a hypothesis, concepts or practices, or otherwise adding to knowledge and insight in a particular medical or psychological discipline. Generally, proposed studies are defined as "research" if their goal is to produce generalizable descriptive knowledge through the use of human subjects or volunteers whose protection must be assured in accordance with the ethical principles of respect for persons; the duty to help others or beneficence; and justice or fairness. This may include, at the discretion of the Navajo Nation Human Research Review Board, quality assurance activities, chart reviews

and program evaluations. All data and research subject to this Code are the property of the Navajo Nation, although a researcher may be given a permit.

D. Publication. As used in this Code, the term "Publication" includes all proposed professional and program papers and reports concerning Navajo individuals. Also requiring advance approval are papers based on research conducted within the territorial jurisdiction of the Navajo Nation, prepared for presentation at national or international professional society meetings by researchers. Papers or reports for technical and lay audiences prepared and approved by Indian Health Service or the Navajo Nation for compliance with contract or grant requirements are specifically excluded from this definition.

E. Researcher. As used in this Code, the term "researcher" means any person, organization, business or other entity which conducts research within the territorial jurisdiction of the Navajo Nation.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3256. Creation of the Navajo Nation Human Research Review Board

There is hereby created the Navajo Nation Human Research Review Board, whose purpose is to review all proposals (notwithstanding other IRB approvals) for human research which will occur within the territorial jurisdiction of the Navajo Nation or which otherwise concerns Navajo individuals as an identifiable group, issue permits for those projects which are consistent with the terms and intent of this Code, and, as appropriate, review and approve the results of such studies before publication. However, this Board is to coordinate with the Historic Preservation Department to avoid jurisdiction conflicts. The Navajo Nation Human Research Review Board is administratively assigned to the Navajo Nation Division of Health for support services.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3257. Composition and term of the Navajo Nation Human Research Review Board

A. The Navajo Nation Human Research Review Board shall be composed of 15 individuals, selected as follows: three persons appointed by the Navajo Area Health Board; three persons appointed by the Office of the President of the Navajo Nation; three persons appointed by the Health and Social Services Committee of the Navajo Nation Council; three persons appointed by the Navajo Area Indian Health Service Area Director; and three persons appointed by the Education Committee. At least two persons serving on the Navajo Nation Human Research Review Board shall be licensed physicians and at least one of the appointees must be a community representative.

B. The term of an appointment to the Navajo Nation Human Research Review

Board shall be three years from appointment.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3258. Meetings, quorum

The Navajo Nation Human Research Review Board shall meet at least quarterly, but as often as necessary. Five members, one of whom must be a licensed physician and one of whom must be a community representative, of the Navajo Nation Human Research Review Board shall constitute a quorum.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3259. Purposes of the Navajo Nation Human Research Review Board

The purposes of the Navajo Nation Human Research Review Board are to assure that research and publication activities:

A. Are consistent with the health and education goals and objectives of the Navajo Nation.

B. Do not detract from, nor interfere with, the provision of human services to the Navajo people.

C. Do not endanger the well-being of individuals or communities.

D. Require informed consent of all affected individuals or their legal representatives.

E. Are culturally relevant to the extent possible and are appropriate clinically, technically, epidemiologically and statistically.

F. Present only reasonable risks to subjects in relation to anticipated benefits, if any, to those subjects, and the importance of knowledge that reasonably may be expected to result.

G. Select subjects equitably. In making this assessment the Navajo Nation Human Research Review Board shall take into account the purposes of the research, the setting in which the research will be conducted, and the population from which subjects will be recruited.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3260. Powers of the Navajo Nation Human Research Review Board

Consistent with the requirements of this Code, the powers of the Navajo Nation Human Research Review Board shall include:

- A. The review and approval or disapproval of research proposals.
- B. The review and approval or presentation materials and manuscripts, including thesis, dissertations and abstracts, prior to publication.
- C. The negotiation of additional and/or revised procedures, methodologies, and approaches to research and publication with researchers.
- D. The Board may request assistance from other persons with specialized knowledge in the review of any application, proposal or manuscript. When research is reviewed involving a category of vulnerable subjects (e.g., prisoners, children, and individuals who are mentally disabled), the Navajo Nation Human Research Review Board shall include in its reviewing body one or more individuals who have a particular concern for the welfare of these subjects.
- E. Subject to the approval of the Health and Social Services Committee, and Education Committee and the requirements of this Code, the Navajo Nation Human Research Review Board shall adopt appropriate rules and procedures regarding: confidentiality of subjects; storage of specimens and other research materials; monitoring of research activities; amendments to any research proposals; financial disclosure regarding the research; volunteer payments and fees; adverse reactions of any volunteers; applications and their contents; fees for permits and other services; and other procedures to implement this Code.
- F. The Board will coordinate with other appropriate boards and committees including but not limited to, other Institutional Review Boards, and the Historic Preservation Department for activities which may also be subject to the Cultural Resources Preservation Act (CMY-19-88).

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3261. Record retention

The Navajo Nation Human Research Review Board shall develop and maintain an up-to-date file on all research projects, past and ongoing, approved and disapproved. Records of research projects will be maintained at least 10 years after the Navajo Nation Human Research Review Board receives the proposal or five years after publication of a paper derived from the research activity, whichever is longer. The Navajo Nation Human Research Review Board shall maintain a file of reprints of publications resulting from all research projects conducted within the territorial jurisdiction of the Navajo Nation.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3262. Research permit required

Prior to undertaking any human research within the territorial jurisdiction of the Navajo Nation, a researcher must apply for and receive from the Navajo Nation Human Research Review Board a Research Permit as provided for in Section 3264 or within the Cultural Preservation Act.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3263. Administrative fees

The Navajo Nation Human Research Review Board may assess reasonable costs associated with the review of proposals and other materials; any monies generated are for the exclusive use of the administration of this Code.

History

CAP-16-02, April 16, 2002.

§ 3264. Research application

The Research Application shall be in a form developed by the Navajo Nation Human Research Review Board in accordance with Section 3259, but such application, at a minimum shall include research goals, methodology, and anticipated results. The application shall also include a separate section addressing specific anticipated benefit to the study's subjects, Navajo individuals or groups of tribal members, the Navajo Nation and all other readily identifiable potential beneficiaries. The Research Application must be signed by the Researcher and include a provision that the Researcher agrees to the civil jurisdiction of the Navajo Nation with respect to the research to be undertaken and any publications arising from such research.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3265. Confidentiality and security

There must be adequate assurance, as determined by the Navajo Nation Human Research Review Board, that the data and information generated during the conduct of research is protected from unauthorized access and misuse consistent with informed consent provisions, the Navajo Nation Privacy Act, and other

Navajo Nation information technology requirements.

History

CAP-16-02, April 16, 2002.

§ 3266. Informed consent

Before any research may be conducted on any subject, the researcher must obtain the active informed consent of that prospective subject, or their parent, legal custodian or guardian, as appropriate. At a minimum, this informed consent must be in writing, acknowledged by the subject, which informs the subject of the purpose of the research, any potential risks, and alternative treatments or procedures. The Informed Consent may not include any exculpatory language or disclaimer of liabilities.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3267. Progress reports on research

A. Researchers shall report to the Navajo Nation Human Research Review Board the progress of their research as often and in the manner prescribed by the Navajo Nation Human Research Review Board in the research permit.

B. Researchers shall promptly report any injuries or adverse impacts (including violations of an individual's privacy) to human subjects to the Navajo Nation Human Research Review Board.

C. Researchers shall promptly report any unanticipated problems which involve risks to the human research subjects or others to the Navajo Nation Human Research Review Board.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3268. Continuing review of research activities

The Navajo Nation Human Research Review Board shall regularly review all research activities conducted within the territorial jurisdiction of the Navajo Nation. If, during the course of a research activity, the research conditions change, the Navajo Nation Human Research Review Board may require the researcher to amend their application consistent with the changed conditions. If the Navajo Nation Human Research Review Board determines that a research project is no longer viable because of changes in the scope or effect of the research, it may rescind any research permit or otherwise limit the scope of research activities which may be conducted under the permit.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3269. Publication review procedures

A. All individuals proposing publishing covered by this Code are required to submit a manuscript to the Navajo Nation Human Research Review Board for approval, in advance of publication.

B. The manuscript will be reviewed for technical content and validity, organization of content, readability, as well as assurance that they are consistent with the goals, intent and policies of this Code.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3270. Permit appeal procedures

A. Researchers who are denied a research permit may request reconsideration of their application upon a showing of good cause. A request for reconsideration shall be deemed to have shown good cause if it:

1. Presents significant relevant information not previously considered by the Navajo Nation Human Research Review Board;

2. Demonstrates that significant changes have occurred in the factors or circumstances considered by the Navajo Nation Human Research Review Board in reaching its decision; or

3. Demonstrates that the Navajo Nation Human Research Review Board failed to follow its adopted procedures in reaching its decision.

B. A request for reconsideration must be received within 30 days after the researcher is notified of a decision.

C. If deemed in good cause, reconsideration shall be conducted within 30 days after receipt of the appeal request.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

§ 3271. Enforcement

Whenever it appears that a researcher or other person or entity has violated the provisions of this Code, the Navajo Nation Human Research Review

Board on its own initiative may petition the Courts of the Navajo Nation for injunction or other appropriate relief. If the Court, after a hearing, finds that this Code has been violated, it may assess civil penalties of up to five thousand dollars (\$5,000), in addition to any other damages resulting from an unpermitted research activity.

History

CAP-16-02, April 16, 2002.

CO-106-95, October 25, 1995.

Chapter 31. Community Works Program

§ 3301. Purpose

The purpose of this Chapter is to set guidelines for the Administration and expenditures of the Community Works Program funds of the Navajo Nation.

History

ACJY-83-78, July 18, 1978.

ACAP-77-76, April 1, 1976.

ACAU-189-75, August 28, 1975.

ACJY-79-74, July 3, 1974.

ACAU-114-74, August 15, 1974.

ACMA-83-75, March 21, 1975.

ACAP-108-75, April 9, 1975.

ACAU-317-73, August 8, 1973.

ACJA-7-74, January 11, 1974.

ACJY-222-72, July 13, 1972.

ACAU-302-72, August 25, 1972.

ACS-368-72, September 28, 1972.

ACD-401-72, December 6, 1972.

ACJY-198-71, July 1, 1971.

ACJY-244-71, July 14, 1971.

ACF-30-72, February 10, 1972.

ACJA-1-7 1, January 26, 1971.

ACJN-151-70, June 16, 1970.

ACJN-150-69, June 27, 1969.

ACJN-116-68, June 12, 1968.

ACJN-134-67, June 22, 1967.

ACJY-146-66, July 22, 1966.

ACAP-47-65, April 27, 1965.

ACJY-120-64, July 23, 1964.

ACAU-145-62, August 9, 1962.

ACAU-159-60, August 25, 1960.

§ 3302. Control of Program

The Office of Navajo Revenue Sharing will direct the Community Works Program.

History

ACAP-77-76, April 1, 1976.

§ 3303. Projects

A. Projects will be originated by the people of each chapter and certified at a duly called chapter meeting with the help of respective council member and chapter officers in accordance with Community Work's Plan of Operation.

B. The Community Works personnel of the Office of Navajo Revenue Sharing will screen and approve or deny all applications according to the Plan of Operation. On technical matters, assistance will be sought from Navajo Nation, PHS and BIA personnel.

History

ACJY-83-78, July 18, 1978.

ACAP-77-76, April 11, 1976.

§ 3304. Work orders; procurement

A. Upon approval of specified projects, work order authorization forms and work project information will be given to the council member and/or chapter officers requesting the project.

B. Procurement of necessary materials and supplies will be channeled

through the Navajo Nation Purchasing Department. Requests for such materials and supplies will be made on a Purchase Requisition. The Navajo Nation Purchasing Department will call for bids on substantial orders. Materials will be secured through the issuance of a Purchase Order and will be delivered to the Navajo Nation Warehouse. Materials will be released from the Warehouse upon receipt of the proper Warehouse Materials Requisition Form. No purchases are to be made by the foreman without proper processing.

C. Authorization for immediate purchases from local vendors to program jobsites may be performed at the discretion of the Office of Navajo Revenue Sharing, provided funds are available, functioning in direct liaison with the Navajo Nation Purchasing Department and the Office of the Controller. Any purchases made with chapter funds to prevent a complete halt of the project is permissible and the concerned chapter shall be reimbursed with its Community Works funds upon presentation of a proper vendor invoice.

History

ACAP-77-76, April 1, 1976.

§ 3305. Employment—Preference

A. After a project is approved, the chapter organization, with their Council Member, will procure the foreman and workmen required on the project at an officially called Chapter meeting. Personnel selection will include one foreman per project. Hiring will be on the basis of local knowledge of need.

B. The chapter will make every possible effort to employ only those persons of the community who are in need of assistance, giving preference to those with the greatest need.

C. Chapter officers, grazing committee and land board members may work as laborer or foreman on a Community Works Project, but only with the permission of chapter membership having voted on the proposition. However, they may not work more than two times out of each appropriation.

D. Due to technicalities involved, a person shall not work under another person's name or social security number.

History

ACAP-77-76, April 1, 1976.

§ 3306. Persons who may not work under this Chapter

A. Members of the Nation and their immediate families, who are permanently employed by the Navajo Nation, federal government agencies, state agencies, and other agencies, may not work under this Chapter.

B. Proper withholding of social security and other taxes required by law will be made by the Financial Services Department on all Community Works Payrolls.

C. A schedule of pay periods will be made out and sent to all Chapter

Officers. Timecards submitted to the Financial Services Department on schedule will be processed during the week and checks made ready for delivery on the Friday following pay period worked.

History

ACJY-83-78, July 18, 1978.

ACAP-77-76, April 1, 1976.

§ 3307. Work stoppages

A. If a work project is not being done according to the Plan of Operation, the Council Member, Chapter Officers, and/or Office of Navajo Revenue Sharing representative will stop the work project and call a chapter meeting to correct the mistakes.

B. Projects will be stopped during unfavorable weather at the discretion of Chapter Officers and/or Council Member.

History

ACAP-77-76, April 1, 1976.

§ 3308. Allocation of funds to Chapters

The funds shall be allocated by chapters on the basis of unemployed population as determined by the current census figures. It will be the duty of Council Members and chapter organizations, with the assistance of the Tribal Work Experience Program Office, to give the latest census information as to its increase and decrease. A regulation census form supplied by the Office of Navajo Revenue Sharing will be used. Household heads who are permanently employed, and their families, will not be counted in population for allocation of funds.

History

ACAP-77-76, April 1, 1976.

§ 3309. Disbursement

A. Payment of wages, rental of trucks and teams and/or any claim arising out of the Community Works Program will be made through the Office of the Controller at Window Rock, Arizona. Individual timecards; and equipment rental cards will be supplied as part of the information kit at the start of each project and given to the elected foremen of the project.

B. Proper withholding of social security and other taxes required by law will be made by the Office of the Controller on all Community Works Payrolls.

C. A schedule of pay periods will be made out and sent to all Chapter Officers. Timecards brought into the Window Rock Office on schedule will be processed during the week and checks made ready for delivery on the Friday following the pay period worked.

D. Only Council Members, Chapter Officers and Director or Assistant Director of the Office of Navajo Revenue Sharing can sign out payroll checks. Individuals will not be given checks by Community Works Office personnel. In the event of the unavailability of a Council Member to sign Community Works documents, and to prevent inconvenience and hardship to all concerned, the Director or Assistant Director of the Office of Navajo Revenue Sharing may sign the documents; this authorization is valid only in cases of emergencies where the Council Members are unavailable to sign Community Works documents.

History

ACAP-77-76, April 1, 1976.

§ 3310. Compensation

A. Common laborers shall be compensated at the rate of two dollars and thirty cents (\$2.30) per hour; foreman two dollars and forty cents (\$2.40) per hour; and summer student supervisors two dollars and forty cents (\$2.40) per hour. Only in unusual situations where protection of property or safety measures so requires may chapters secure services of skilled workmen who can be paid in excess of two dollars and forty cents (\$2.40) per hour.

B. Equipment rental rates are as follows:

1. Teams and 1/2-ton Pickups—Three dollars (\$3.00) per hour when actually employed. (Not to exceed eight hours per day.)

2. 3/4-ton Pickups and 1-ton Trucks—Three dollars and fifty cents (\$3.50) per hour when actually employed. (Not to exceed eight hours per day.)

3. Tractor (farm) and rental of heavy equipment—Four dollars and fifty cents (\$4.50) per hour when actually employed. (Not to exceed eight hours per day.)

C. Rental of personal equipment owned by members of the Navajo Nation Council is permissible only with the approval of the chapter.

D. Rental of chapter-owned vehicle and heavy equipment on Community Works Project is permissible and payment shall be made to concerned chapter. (Not to exceed eight hours per day.) Payment shall be made with proper vendor's invoice and completed direct payment form from the Office of Navajo Revenue Sharing requesting payment.

E. Payment for all heavy equipment rented by the chapter on an approved project in excess of four dollars and fifty cents (\$4.50) per hour or on contracts will be made upon completion of "Request for Direct Payment" forms with supporting documents from the vendor.

History

ACAP-77-76, April 1, 1976.

§ 3311. Duties and responsibilities

A. Project Foremen:

1. Will be hired only at Chapter meetings;
2. Will rotate every 10 days;
3. Will direct laborers on assigned projects;
4. Will keep accurate project records and will report time for laborers on proper timecards;
5. Will turn timecards properly signed by Council Members into Community Works, Financial Services Department at regular pay periods; and
6. Will be responsible for the safety of laborers under their supervision.

B. Laborers:

1. Will be hired on the basis of need only (in accordance with eligibility rules in 13 N.N.C. §§ 3305, 3306);
2. Will be hired only at Chapter meetings; and
3. Will rotate every 10 days.

C. The use of intoxicants is expressly forbidden and any workman drinking on Community Works Projects shall be terminated immediately by the foreman, Chapter Officers or Council Member.

D. A person may not work as a foreman or laborer and have a family vehicle rented on a project at the same time.

History

ACJY-83-78, July 18, 1978.

ACAP-77-76, April 1, 1976.

§ 3312. Types of projects

A. Rug weaving and other arts and crafts (Chapter Officers or project foreman may contact Arts and Crafts personnel as to size, design, dye, etc.).

B. Home improvement (payment for labor, purchase of lumber, cinder blocks). Order of preference:

1. Needy.
2. Those unable to construct for themselves and who have their materials available. If a needy family has received assistance from all

Welfare Departments with lumber, doors, windows, etc., and the material is delivered and another family not so needy also has their materials ready for construction, the needy family's house should be worked on first. This shall be a one-time project for each qualifying individual family in any one fiscal year.

C. Fence construction (not to be done on individual farm plots).

D. Rehabilitation or small irrigation projects (for which no appropriation is available and which is not in conflict with any existing agreements of the Navajo Nation or Bureau regulations). Purchase of farm tractors or implements (freight cost) and repairs will be permitted.

E. Construction of roads for community use (labor and materials).

F. Construction or improvement of a permanent structure (dipping vat, Chapter house addition, landscaping, corral construction, custodian's quarters, police quarters, preschool building, rodeo ground facilities, warehouse construction, bus shelter, athletic and recreational facilities and multipurpose building).

G. Summer Student Program. Purchase of essential materials for worthwhile projects (cabinet-making, sewing projects and painting).

H. Woodcutting and hauling (labor only).

I. Removal of dirt overburdened from open pit coal mines so that said coal mines may be used by the community and purchase of coal (labor only).

J. Hiring an individual to act as custodian of chapter facilities under salary, duration and terms as the chapter shall determine.

K. Maintenance of Chapter buildings, not to exceed the sum of three thousand dollars (\$3,000) (out of each appropriation) where approved by individual Chapters to deposit such amount into their bank accounts. Chapter Revenue Sharing funds shall not apply.

L. Repairs and maintenance of any Chapter-owned motor vehicles and/or equipment not to exceed two thousand dollars (\$2,000) (out of each appropriation), which funds shall be deposited into a local bank account of the respective chapter. Chapter Revenue Sharing Funds shall not apply.

M. Purchase of seeds and fertilizer.

N. Water hauling for Livestock (labor and equipment rental only).

O. Construct or repair Charco Dam (labor and equipment rental only).

P. Labor and/or materials for construction and repair of shallow wells to provide water for livestock.

Q. Labor to assist Grazing Committee in dipping and vaccination of sheep and branding of cattle and horses.

R. Purchase of livestock spray machine, scale, water tank, trough, vaccination and branding supplies and freight cost thereof.

S. Purchase of materials for Tribal Work Experience Program's community project and for programs under CETA.

T. Labor and/or materials for community farms (farm project not to be done on individual farm plots).

U. Maintain community trash dump.

V. Purchase of feed and hay for livestock (labor and equipment rental).

W. Purchase of Chapter equipment, trucks, heavy equipment, appliances and office equipment. There shall be a Plan of Operation for trucks and heavy equipment and insurance coverage provided before the initial purchase is made.

History

ACJY-83-78, July 18, 1978.

Chapter 33. Assistance to Needy

Code of Federal Regulations

Financial assistance and social services programs, see 25 CFR § 20.100 *et seq.*

§ 3501. Definitions

Where the following terms are used in this Chapter, their meaning shall be defined as follows:

A. "Need" shall mean a condition requiring supply or relief; or the existence of an urgent exigency; or the lack of means to provide the basic subsistence of a person or family group.

B. "Income" shall mean a gain or benefit derived from property, labor or from the combination of both measured in money or in kind.

C. "Eligibility" shall mean the applicant is capable of meeting the basic standards of the Navajo Nation Health and Welfare policy.

D. "Resources" shall mean any new or reserve source which is an immediate and a possible source of revenue or support for the person or family group.

E. "Building materials" shall mean lumber and other necessary building materials to erect foundation, walls, roofs and/or renovate a permanent dwelling. This request will materialize with assistance of other existing agency funds.

F. "Emergency illness" shall mean critical illness as diagnosed by an attending physician (Physician meaning doctors with medical certificate or a medicine man).

G. "Health rehabilitation" shall mean a reinstatement of a condition of physical and emotional health to a useful and constructive state.

H. "Agency" shall mean a program dealing with welfare under the federal government, Public Health Service, Bureau of Indian Affairs, State or Navajo Division of Social Services components.

History

ACN-503-73, November 21, 1973.

ACMA-80-69, March 13, 1969.

§ 3502. Policy

A. It is the policy of the Navajo Nation to provide only emergency assistance to needy Navajo persons to enable them to maintain a reasonable standard of health and well-being, and to accomplish this in a manner which encourages and aids the individual or family toward self-reliance and fuller development for individual capacities.

B. The purpose of Navajo Nation Welfare assistance is to supplement income and other resources which are inadequate to meet emergency or temporary need within the defined standards.

History

ACN-503-73, November 21, 1973.

§ 3503. Welfare standards generally

A. The welfare standards for granting assistance shall be established by the Navajo Division of Social Services staff with approval and concurrence by the Navajo Nation Health and Social Services Committee and the Government Services Committee of the Navajo Nation Council.

B. Need shall be determined by an evaluation of each case based on reasonable standards compatible with decency, health and welfare. In order to give fair and impartial treatment of individual cases, basic standards are herein set forth which shall be used as guidelines in determining eligibility.

History

ACN-503-73, November 21, 1973.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454(B)(2).

§ 3504. Application; standards of eligibility

A. Application for assistance may be made in person, by letter or by referral. Bills submitted for payment by business firms shall not be considered unless there has been prior authorization for their payment.

B. Applicant must be in need for the type of assistance available from the Navajo Nation Division of Social Services.

C. The applicant shall provide all requested information as to his income and/or resources. He shall be responsible for the disclosure of consistent and truthful factual information necessary to establish his eligibility. All necessary supplemental information shall be secured from other sources for evaluation and consideration.

D. To be eligible, an applicant must:

1. Have inadequate income and/or resources;

2. Be a member of the Navajo Nation and have a census number; or if not a member of the Navajo Nation must provide verification by proper documents of a legal marriage with an enrolled Navajo Indian; and

3. Be verified as being incapacitated or disabled to the extent he is unable to do any work to support himself or family.

E. Applications for Navajo Nation assistance should be acted on as soon as possible due to the emergency nature of such assistance. In no event should an application for assistance pend for more than 90 days if applicant has provided all necessary information and forms such as homesite leases in building materials assistance.

History

ACN-503-73, November 21, 1973.

§ 3505. Financial assistance

A. Navajo Nation welfare assistance of a temporary nature may be provided by issuance of a check or purchase order only to an indigent person who has verified his immediate need and has met the basic standards of eligibility.

B. An unemployed applicant must show reasonable effort to secure employment. Said effort must be shown in writing.

C. An applicant must not receive monthly grants from another agency.

D. The amount authorized shall not exceed fifty dollars (\$50.00). Thereafter, the applicant will be referred to another agency for long term assistance.

E. Supplemental funds for assistance may be negotiated by the Division of Social Services.

History

ACN-503-73, November 21, 1973.

§ 3506. Burnout assistance

A. Navajo Nation assistance may be provided not to exceed three hundred dollars (\$300), in cases of hardship caused by fire or natural disasters of dwelling used as residence during the year that contained essential clothing and household items.

B. Applicant shall be a member of the Navajo Nation, have a census number, and have inadequate resources to cover the disaster.

C. The following must be established:

1. Official report or verification to be submitted to the Navajo Nation Division of Social Services within the 15 days after the burnout; and

2. That the burnout occurred on the Navajo Nation.

History

ACN-503-73, November 21, 1973.

§ 3507. Building material assistance

A. Navajo Nation welfare assistance may be granted to eligible persons in the form of building materials not to exceed six hundred dollars (\$600.00) in retail value to improve, build a permanent residence, or to meet standards of health, safety, sanitation, well-being and self-reliance.

B. Applicant shall meet the basic standards of eligibility.

C. Applicant shall apply for housing assistance from other agencies or departments. If this assistance is not sufficient to improve or build applicant's permanent residence, then building material can be supplied by the Navajo Nation Division of Social Services.

D. Homesite lease must be cleared and approved by the local people living in immediate area, chapters, grazing committee, and then the council person. A homesite lease within a proposed community development must be cleared through proper channels or it must be clear that the homesite lease will be approved in the near future.

E. Homesite on allotted land or deeded land must be supported, or documents proving ownership submitted.

F. Applications for homesite lease on deeded land (Trust Land) must be processed properly with the concurrence of the local chapter and clearance made through the Navajo Nation Office of Land Administration, Window Rock, Arizona.

G. A home visit may be required for evaluation of current home condition when necessary.

H. Upon recommendation and approval by the chapter and verification by other resource agencies, applicant must submit a list of building materials needed to complete project.

I. In unusual circumstances, applications will be accepted for a separate structure.

J. Unusual circumstances shall be considered when due to Navajo Nation cultural religion and beliefs.

K. The Navajo Nation Division of Social Services shall not be responsible for assembling materials.

History

ACN-503-73, November 21, 1973.

§ 3508. Burial and transportation assistance

A. Minimum burial assistance may be provided in cases of death outside the Navajo Nation, for the purpose of returning the deceased to the Navajo Nation for burial.

B. Applicants who request burial or transportation assistance must meet the basic standards of eligibility.

C. Applicant representing the immediate family must make the request.

D. Applicant requesting burial assistance must have prior authorization from the Navajo Nation Division of Social Services covering the minimum cost for returning body to the Navajo Nation.

E. Burial assistance shall be provided only if the deceased was a member of the Navajo Nation and had a census number.

F. Transportation assistance must have prior authorization from the Navajo Nation Division of Social Services.

G. The Division of Social Services shall have the authority to request and obtain the funds that the Bureau of Indian Affairs and Public Health Service have available for burial assistance. If the Bureau of Indian Affairs and Public Health Services allow the Navajo Nation Division of Social Services to administer their burial funds, the Division of Social Services will give consideration to such agreement and process the applications for burial assistance under the respective eligibility standards of the BIA and PHS burial contracts.

History

ACN-503-73, November 21, 1973.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454(B)(2).

Intergovernmental Relations Committee powers, see 2 N.N.C. § 824(B)(6).

§ 3509. Health, rehabilitation

A. Navajo Nation assistance may be available for items needed for health rehabilitation requirements when no such services or resources are available from other agencies; provided, this assistance shall not include the cost of hospitalization and medical care. Rehabilitation items include eyeglasses, hearing aids, crutches, and such other items that the department may deem it appropriate to acquire.

B. The applicant must have a written medical statement and/or referral recommending any of the items mentioned in Subsection (A) of this Section.

C. Prior authorization must be secured from the Navajo Nation Division of Social Services for the items listed under Subsection (A) of this Section. The applicant shall be responsible for all repairs and maintenance.

D. Rehabilitation supplies no longer needed shall be sent to nearest United States Public Health Service Hospital or Navajo Nation Division of Social Services.

History

ACN-503-73, November 21, 1973.

§ 3510. Appeals

A. Determination of eligibility of an applicant under this Chapter, refusal to let an individual apply for assistance, failure to take action on an application within 30 days, and discriminating conditions and practices in the operation of the program, may be appealed.

B. The Division of Social Services shall inform applicants of their right to appeal.

C. An appeal may be filed in writing by a letter to the Division of Social Services.

D. The appeal must be filed within 30 days following the decision or action of the Division of Social Services which forms the basis of the grievance, unless extreme conditions prevent the person from filing the appeal within the time allowed. The Division of Social Services shall determine if extreme conditions warrant that an appeal procedure is permissible.

E. The Division of Social Services will review the appeal which is submitted. If the applicant requests a hearing, then the Division of Social Services will designate an impartial agency employee to conduct the hearing. If the information in the client's record is incomplete, then the office shall request that the appropriate Division of Social Services department present a complete review of the case.

F. The hearing shall be held within 30 days of the filing of the appeal

with the Division of Social Services and shall be held in a place convenient for the applicant. The applicant shall have at least 10 days notice before the hearing and shall be advised that he or a representative can present his case.

G. The hearing officer will conduct the hearing and record the proceedings. The applicant will have the opportunity to present and confront witnesses to produce evidence.

H. The hearing officer will file a report of the hearing with the appropriate Division of Social Services department within seven days after the hearing.

I. The Division of Social Services will review the appeal and the report of the hearing and render a decision.

J. In the event an applicant is not satisfied with the decision of the Division of Social Services he/she shall present a written appeal to the Health and Social Services Committee for review, evaluation, and final decision on the case. The Division of Social Services shall present the report on the hearing, tentative findings, conclusions and all other materials to the Health and Social Services Committee.

K. Copies of the findings and conclusions of the Health and Social Services Committee must be filed with the clients record. Clients shall be furnished a written statement on the decision.

L. The decision of the Health and Social Services Committee shall be binding and final.

History

ACN-503-73, November 21, 1973.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

Chapter 35. Contributions to Worthy Causes

§ 3701. Policy

The Navajo Nation gives its support to all worthy causes and the Government Services Committee of the Navajo Nation Council urges the members of the Navajo Nation to support organizations conducting drives for funds through individual contributions and through the organization of community benefit affairs.

History

ACJ-14-59, February 9, 1959.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10, December 15, 1989.

Chapter 37. Navajo Nation Work Experience Program

§ 3901. Authorization

A. The Advisory Committee of the Navajo Nation Council hereby approves and adopts the revised Plan of Operation for the Navajo Nation Work Experience Program.

B. Resolution No. ACJN-133-70, which approved the previous Plan of Operation, is hereby rescinded.

C. The Program Director shall submit a complete comprehensive report to the Government Services Committee of the Navajo Nation Council at each six-month period.

History

ACMY-178-72, May 11, 1972.

ACJN-133-70, June 15, 1970.

Note. Words "Government Services" are to be inserted for the words "Advisory Committee" pursuant CD-68-89, Resolve #10, December 15, 1989.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

Chapter 51. Navajo Home Health Agency

History

Note. Former Sections 4301-4306, based on CYJ-39-76 and relating to the establishment, membership and functions of the Navajo Area Indian Health Board, were rescinded by CMY-46-80, § 1, effective May 6, 1980.

§ 4301. Establishment

The Navajo Home Health Agency (NHHA) was established by the Advisory Committee of the Navajo Tribal Council upon recommendation from the Health and Human Services Committee.

History

ACO-135-84, October 11, 1984.

§ 4302. Purposes

The purposes of the Navajo Home Health Agency are:

A. To provide home health services to eligible patients in the Navajo Nation, including but not limited to, skilled nursing care and home health aide

care;

B. To promote, maintain and restore health;

C. To prevent illness, disease and disability;

D. To coordinate, plan and provide comprehensive health care to the sick and disabled in their homes which is culturally relevant and appropriate to their needs; and

E. To foster independence and self-respect among the recipients of home health care.

History

ACO-135-84, October 11, 1984.

§ 4303. Goal

The goal of the NHHA is that all people across the Navajo Nation achieve the highest attainable level of health through comprehensive and coordinated home health care services.

History

ACO-135-84, October 11, 1984.

§ 4304. Administration and organization

A. The management of the NHHA is the responsibility of the Board of Directors and the NHHA's administrator.

B. The Board of Directors shall be appointed by the Government Services Committee of the Navajo Nation Council upon recommendation from the Health and Social Services Committee.

C. The Board of Directors shall appoint a Professional Advisory Committee (PAC), consisting of health professional personnel, who will establish and review annually the Agency's policies governing scope of services offered, admission and discharge policies, medical supervision, plans of treatment, emergency care, clinical records, personnel qualifications and program evaluation. The PAC will serve the Parent Agency (Window Rock/Ft. Defiance), as well as the entire NHHA.

D. There shall be a Subunit Professional Advisory Committee (Subunit PAC) located in each service unit which functions as a Subunit of the NHHA. There shall be no more than seven Subunit Professional Advisory Committees. They shall be located in Crownpoint, Chinle, Gallup, Kayenta, Shiprock, Tuba City and Winslow. At least one representative from each of the Subunit Professional Advisory Committees shall serve as a member of the PAC established by the Board of Directors.

E. The Subunit Professional Advisory Committees shall assist the Home Health Agency located in each respective subunit in establishing and

recommending policies and procedures that govern the scope of services offered by the Agency. A representative from each Subunit PAC shall share these recommendations with the PAC established by the Board of Directors.

History

ACO-135-84, October 11, 1984.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10, December 15, 1989.

§ 4305. Services

A. The NHHA will utilize home health teams to provide the following services to homebound patients on the Navajo Nation:

1. Part-time or intermittent skilled nursing care by Navajo Nation hired registered nurses which has been ordered by a physician; and
2. Auxiliary health services by Navajo Nation hired home health aides.

B. The home health teams will be located in each service unit (where feasible) and will consist of a registered nurse, hereafter called the home health nurse, and two home health aides.

C. Specific home health services described in the NHHA Policy and Procedure Manual will be delivered to those individuals who are in need of the services. The services of the home health nurse will include making the initial evaluation visit to the patient, regularly reevaluating the patient's nursing needs, initiating the plan of treatment and necessary revisions, providing those services which require substantial and specialized nursing skill, initiating appropriate preventive and rehabilitative nursing procedures, preparing clinical and progress notes, coordinating services, informing the physician and other health personnel of changes in the patient's condition and needs, counseling the patient and family in meeting nursing and related needs, participating in in-service programs, and supervising and teaching other nursing and auxiliary personnel.

D. The services of the home health aide will be given under the direction and supervision of the home health nurse. Written instructions for patient care will be prepared by the nurse. Services will include the performance of simple procedures as an extension of therapy services, personal care, ambulation, exercise, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs and completing appropriate records.

E. As the need is demonstrated, other services, such as medical social work, physical, occupational and/or speech therapy may be added as the NHHA is expanded. These services may also be provided through contractual arrangements.

F. Services will be available 8:00 a.m. to 5:00 p.m. Services may also

be provided on weekends and holidays when the need is justified. No limit will be established for the number of patients to be accepted for service; however, this will be determined by the number of available staff.

History

ACO-135-84, October 11, 1984.

§ 4306. Target population

A. Home health services will be available to everyone in the community, regardless of race, creed, color, political affiliation or ability to pay. The services must be ordered by a physician and the patient's diagnosis must meet specific requirements required by Title XVIII (Medicare)¹ and Title XIX (Medicaid)² of the Social Security Act.

B. Referrals for service can be made by any of the following and not limited to: physicians, Chapters, family, friends, schools, community health nurses, community health representatives, the patient, and/or other community organizations.

History

ACO-135-84, October 11, 1984.

§ 4307. Funding

A. The overall plan and budget which provides for an annual operating budget and capital expenditure plan will be prepared under the direction of the Board of Directors by the administrative staff of the NHHA. The overall plan and budget will be reviewed and updated at least annually by the Board of Directors.

B. The NHHA is currently funded by grant funds under the Indian Self-Determination Act, P.L. 93-638.¹ The administrative staff, as well as the home health nurses and home health aides, function under this grant.

C. It is anticipated that a large proportion of the NHHA's operating funds in the future will come from third party payments, such as Title XVIII² (Health Insurance for the Aged and Disabled, commonly known as Medicare) or Title XIX³ (Grants to States for Medical Assistance Programs, known as Medicaid) of the Social Security Act. In order to collect the reimbursements from third party payors, the home health services must be in accordance with HCFA's Conditions of Participation and the reimbursement regulations outlined in the Home Health Agency Manual (HIM 11). Once these regulations are met, the NHHA will apply for federal and state certification and licensure, respectively.

D. The Medicare law requires home health agencies to work with fiscal intermediaries in performing specified administrative functions including the determination of reasonable costs of services delivered to the beneficiary and the payment of such costs. The fiscal intermediary selected and authorized by the Social Security Administration to work with NHHA is Aetna Life and Casualty Company of Reno, Nevada.

E. Prior to the NHHA application for federal certification and state licensure, the following steps must be completed:

1. The Government Services Committee of the Navajo Nation Council, upon recommendation from the Health and Social Services Committee must establish the NHHA; and

2. The delegated oversight Committee of the Navajo Nation Council and the Budget and Finance Committee of the Navajo Nation Council must approve the establishment of an account number to receive revenue generated from third party payments. This account will be a Revolving Account and NHHA shall annually submit a certified audit report to the Budget and Finance Committee of the Navajo Nation Council.

History

ACO-135-84, October 11, 1984.

Note. Words "Government Services" inserted pursuant CD-68-89, Resolve #10, December 15, 1989.

§ 4308. Evaluation

At least once a year a group of professional personnel, specifically the Professional Advisory Committee, will evaluate the performance of the NHHA's total operations as written in the policies. The evaluation will assess the extent to which the NHHA's total operations are appropriate, adequate, effective and efficient. The total operations refer not only to those services provided directly to patients, but also to the broader concepts of overall agency administration including, but not limited to, policies, procedures, personnel, fiscal management and patient care.

History

ACO-135-84, October 11, 1984.

Chapter 53. [Reserved]

§§ 4501 to 4527. [Reserved]

History

ACD-179-82, § 1, December 27, 1982.

Chapter 55. [Reserved]

History

Note. Former Chapter 55, §§ 4701-4705, "Navajo Nation Safety Committee" (ACMY-65-78, May 11, 1978), was deleted in its entirety by CAP-39-00, April 20, 2000, which also approved the "Navajo Nation Occupational Safety and Health Act" codified in Title 15 of the Navajo Nation Code.

Chapter 57. Navajo Nation Council on Handicapped

§ 4801. Purpose

The Navajo Nation Council on Handicapped (NNCOH) will serve as an advocate for handicapped Navajo People and their families. The NNCOH will be composed of handicapped consumers, representatives of public and private service providers and other groups concerned with services to handicapped Navajo People, representatives of the business community, and other interested persons. The NNCOH will be responsible for insuring that Navajo handicapped persons have equal access to employment and to public buildings and programs or services on the Navajo Nation and to otherwise promote the concept that all persons should have an opportunity to realize their potential to the extent of their mental and physical capabilities.

History

CAP-12-79, April 25, 1979.

§ 4802. Objectives

A. Advocacy:

1. Identify and express the needs of handicapped Navajo People and their families;

2. Stimulate the development of a full continuum of appropriate support services to all age groups of Navajo handicapped persons in the least restrictive environment. Potential areas of interest include, but are not limited to:

a. Prevention of developmental disabilities and other handicapping conditions;

b. Early identification of these conditions;

c. The quality of health related services;

d. The quality of educational services;

e. The provision of adequate housing;

f. The creation of employment opportunities; and

g. Return of institutionalized Navajos to their homes and communities;

3. Monitor the activities of all employers conducting operations on the Navajo Nation to insure compliance with the Navajo Nation Affirmative Action Plan for the Handicapped;

4. Promote activities to recognize exemplary efforts of employers

in improving employment opportunities and working conditions for handicapped individuals; and

5. Provide incentives to handicapped persons by presenting an annual award to the "Outstanding Handicapped Employee of the Year."

B. Planning:

1. Encourage the development of planning efforts leading to long-range, comprehensive service programs which will meet the many different needs of these people;

2. Provide technical assistance for the development of these plans;

3. Review these plans for completeness and appropriateness; and

4. Develop priorities for the expansion of service programs to meet the needs of the target population.

C. Evaluation:

1. Evaluate the quality and effectiveness of programs serving handicapped Navajo People and their families;

2. Report the results of these evaluations and make recommendations for program improvement to those entities responsible for the funding of these service programs; and

3. Provide technical assistance and consultation to these service programs with the aim of improving their quality.

D. These advocacy, planning and evaluation efforts will be directed towards the Navajo Nation Council, the Bureau of Indian Affairs, and other federal agencies, the states of Arizona, New Mexico, and Utah, private service providers, and other groups concerned with the needs of handicapped Navajo People.

History

CAP-12-79, April 25, 1979.

§ 4803. Membership

A. The NNCOH shall, at all times, include in its membership, representatives of the principal governmental and non-governmental agencies, private business, and groups concerned with services to handicapped Navajo People. All geographic areas of the Navajo Nation shall be represented on the Council.

B. At least one-third of the membership of NNCOH will consist of either handicapped persons or members of their families.

C. Members are recommended by the community of those involved in human service delivery and are appointed by the President of the Navajo Nation.

D. The number of NNCOH members shall be no less than 15 and no more than 20.

E. Members, once selected, will serve for three years.

F. Resignation of a NNCOH member must be done by a letter to this effect to the Chairman of NNCOH with a copy to the President of the Navajo Nation.

G. A vacancy created by a member resigning will be filled by appointment at the earliest possible date by the President of the Navajo Nation after review of NNCOH's recommendations.

History

CAP-12-79, April 25, 1979.

Note. Word "President" inserted pursuant CD-68-89, Resolve #9.

§ 4804. Meetings

A. The NNCOH will meet at least four times a year and more frequently if necessary to carry out the Council's business. Meeting notices will be sent out to members at least two weeks prior to the regular meetings. Notices shall include a proposed agenda. Members not able to attend a particular meeting are required to send an alternate to the meeting to represent them. Emergency meetings may be called under special circumstances by the chairman or by the Executive Committee. Phone or mailgram notices shall be given for emergency meetings.

B. A simple majority of the voting membership shall constitute a quorum.

C. All appointed members shall have the right to vote on all matters related to the functions of the NNCOH. An alternate attending a meeting in the place of a regular member shall be eligible to vote for that member. Decisions are made by a simple majority vote, with the chairman voting only in case of ties.

History

CAP-12-79, April 25, 1979.

§ 4805. Officers

A. The officers shall consist of a chairman, a vice-chairman, a secretary, and a treasurer.

B. The chairman shall set the agenda for and preside at all meetings of the NNCOH. He shall serve as a liaison between NNCOH and the Navajo Nation Council.

C. The vice-chairman shall exercise all rights and duties of the chairman in his absence.

D. The secretary, with the help of the NNCOH secretarial staff, shall record and keep an accurate account of all the council meetings and the distribution of council minutes.

E. The treasurer, with the help of the NNCOH's financial officer, shall maintain, review, and report on the financial standing of the council.

F. The chairman, vice-chairman, secretary, and treasurer, plus two other members of the council as appointed by the chairman, shall constitute the executive committee.

History

CAP-12-79, April 25, 1979.

§ 4806. Election

A. Election of officers will be held at the first meeting of each calendar year. Officers will serve for a period of one year from the date of the election. Vacancies will be filled by majority vote at a meeting where a quorum is present.

B. A nominating committee will be selected by the chairman prior to the election date. It will recommend one member for each office. Members will not be nominated for office without asking them first. Once the nominating committee reports, candidates may be nominated from the floor.

History

CAP-12-79, April 25, 1979.

§ 4807. Expenses

When funds are available, expenses related to attendance by council members or alternates at meetings will be reimbursed. Members attending in an official capacity from their agency or through administrative leave should not expect reimbursement. Cost of reimbursements for per diem and other expenses shall be set and approved by the NNCOH. This schedule shall not exceed the rates used by the Navajo Nation Council.

History

CAP-12-79, April 25, 1979.

§ 4808. Rule of order

Except where already stated in this Chapter, questions of order and parliamentary procedure will be resolved by Robert's Rules of Order.

History

CAP-12-79, April 25, 1979.

§ 4809. Reports

The Chairman of the NNCOH shall appear before the Health and Social Services Committee of the Navajo Nation Council at least once annually to give a full report on the activities of the council.

History

CAP-12-79, April 25, 1979.

Cross References

Health and Social Services Committee powers, see 2 N.N.C. § 454.

Chapter 59. Alcohol and Drug Abuse Task Force

§ 4901. Purposes

The purpose of the Alcohol and Drug Abuse Task Force are:

- A. To consider the extent of alcohol and drug abuse on the Navajo Nation;
- B. To consider alternative strategies for the prevention and/or treatment of alcohol and drug abuse;
- C. To disseminate all information received and gathered by the task force to all Chapters throughout the Navajo Nation; and
- D. To recommend further study by the respective standing committees of the Navajo Nation Council.

History

ACJY-124-83, July 18, 1983.

Note. Slightly reworded for purposes of statutory form.

§ 4902. Membership

- A. The task force shall consist of 15 members.
- B. At least six members shall be members of the Navajo Nation Council.
- C. The Vice-President of the Navajo Nation shall serve as the Chairman of the Task Force.
- D. At least one of the local school boards operating within the Navajo Nation shall be a member of this task force.

History

ACJY-124-83, July 18, 1983.

Note. Words "Vice-President" inserted pursuant CD-68-89, Resolve #9, December

15, 1989.

§ 4903. Powers

The Alcohol and Drug Abuse Task Force shall exercise the following powers:

A. To acquire and disseminate information from the various Navajo Nation divisions, offices, and commissions regarding alcohol and drug abuse.

B. To acquire and disseminate information on treatment strategies for alcohol and drug abuse.

C. To serve as a clearinghouse for drug and alcohol abuse information and prevention programs for the Navajo Nation.

History

ACJY-124-83, July 18, 1983.

Note. Slightly reworded for purposes of statutory form.

§ 4904. Meetings

A. Meetings shall be held at least once a month.

B. All meetings shall be in Window Rock or as designated by the Chairman of the Task Force.

History

ACJY-124-83, July 18, 1983.

Title 14

Navajo Nation Motor Vehicle Code

History

Note. Title 14 section numbers and some subchapters have been redesignated.

See CMY-30-88, May 6, 1988, for the original order of the Title 14 section numbers.

Chapter 1. General Application

§ 100. Jurisdiction: civil infractions and misdemeanor offenses

The District Courts of the Navajo Nation shall have exclusive original jurisdiction over all civil traffic infractions under this title, committed within their respective jurisdictions by any person 18 years of age or older; and over all criminal misdemeanor offenses under this title, committed within their respective jurisdictions by Indian persons 18 years of age or older.