



Ohio Department of Agriculture  
and  
Ohio Department of Health



Governor Ted Strickland  
Lieutenant Governor Lee Fisher

ODA Director Robert J. Boggs  
ODH Director Alvin D. Jackson, M.D.

To: Health Commissioners, Directors of Environmental Health and Interested Parties

From: Ohio Department of Agriculture, Division of Food Safety  
Ohio Department of Health, Bureau of Environmental Health

Date: February 23, 2010

Re: Letter of Opinion 2010-01

**Cold Holding at Farmers' Markets and At Temporary and Some Mobile Facilities**

This letter of opinion is to provide clarification to OAC 3717-1-04.1(KK) which states:

Food equipment - certification and classification.

- (1) Except as provided in paragraph (KK)(2) of this rule, food equipment that is acceptable for use in a food service operation or retail food establishment shall be approved by a recognized food equipment testing agency.
- (2) The Ohio department of agriculture, the Ohio department of health, or the licensor may approve the use of food equipment, other than vending machines and bulk water machines that have not been approved by a recognized testing agency if the equipment demonstrates compliance with this chapter.

There is an inconsistency across local health districts regarding the application of the above provision of the Ohio Uniform Food Safety Code.

While application of this provision of the Code is at the discretion of the local health district, we hope to provide guidance regarding the use of food equipment that has not been approved by a recognized food equipment testing agency.

We believe it is appropriate to allow refrigeration equipment, which has not been approved by a recognized testing agency, and non-mechanical refrigeration (i.e. ice) to cold hold some TCS foods at time limited events, such as farmers markets. Some examples of products that could be stored in ice are watertight, leakproof beverage containers and unopened impermeable commercially packaged cheese and meats. When using mechanical refrigeration, which has not been approved by a recognized testing agency, for items, such as cream pies and shell eggs, accurate thermometers are needed in each unit to assure the required temperature is maintained.

It has been a long standing practice by many local health districts to approve the use of food equipment not approved by a recognized food equipment testing agency in some mobile food facilities, such as pushcarts and at temporary events.

Sections 3717.23(F) and 3717.43(F) of the Ohio Revised Code state the licensor may place restrictions or conditions on a retail food establishment license or food service license limiting the types of food that may be prepared or served based on the equipment or facilities.

Limitations pertaining to a mobile retail food establishment or mobile food service operation shall be placed on the back of the license.

The Ohio Revised Code in Sections 3717.23(B) and 3717.43(B) requires that a mobile retail food establishment license or mobile food service operation license issued by one licensor shall be recognized by all other licensors in Ohio.

*This "Letter of Opinion" was reviewed and recommended by the Retail Food Safety Advisory Council at their February 23, 2010 meeting.*