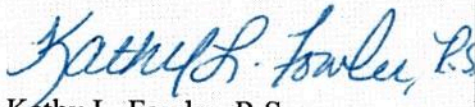
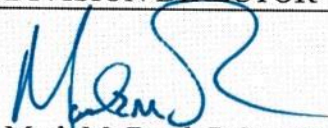


KENTUCKY DEPARTMENT FOR PUBLIC HEALTH DIVISION OF PUBLIC HEALTH PROTECTION & SAFETY—FOOD SAFETY BRANCH EXTERNAL ADMINISTRATIVE POLICY DOCUMENT	NO: 2015-03-01	REV:
	EFFECTIVE: March 31, 2015	
TITLE: Food Catered from Permitted/Inspected Out-of-State Food Service Establishments ASSOCIATED SOPs: ASSOCIATED DOCUMENTS: RELATES TO: Kentucky Food Drug & Cosmetic Act (KRS 217.002-217.998); Kentucky Food Code (902 KAR 45:005).	APPROVED BY:	DATE
	 Kathy L. Fowler, R.S. DIVISION DIRECTOR	3/31/2015
	 Mark M. Reed, R.S., MPA, MPH BRANCH MANAGER	3/31/2015

SUBJECT: Food Catered from Permitted/Inspected Out-of-State Food Service Establishments

STATEMENT OF PURPOSE: The purpose of this policy document is to provide uniform guidance to assist local health department agents and the Kentucky Department for Public Health—Food Safety Branch in determining permit/inspection requirements for out-of-state food service establishments preparing foods that are catered to public Kentucky events. This policy is intended to update Kentucky Department for Public Health (DPH) policy regarding those entities operating their catering business from a retail food-service establishment permitted/inspected by regulatory authorities outside the state of Kentucky.

This policy document shall supersede all previous interpretations/policy statements issued on this subject prior to the effective date noted above.

HISTORY/BACKGROUND:

For the purposes of this policy, catering shall be defined as the business of providing food prepared in a permitted out-of-state retail-food service establishment to a public event that occurs at location remote from the food preparation site.

Historically, the KY Department for Public Health has consistently required that in-state caterers operate from an “approved,” permitted and inspected food-service establishment.

The Food Safety Branch often receives inquiries regarding the permit/inspection requirements for out-of-state retail food-service operators who bring in to Kentucky food that was prepared in a retail food-service establishment permitted/inspected by a regulatory authority outside the state of Kentucky. This situation frequently arises during festivals/events in Kentucky cities located along the border of Missouri, Illinois, Indiana, Ohio, Virginia, West Virginia, and Tennessee.

DEFINITIONS USED IN THIS POLICY:

The following definitions relative to this policy statement are from the 2005 FDA Food Code:

"Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides FOOD for human consumption:

(a) Such as a restaurant; satellite or catered feeding location; catering operation if the operation provides FOOD directly to a CONSUMER or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or FOOD bank; and

(b) That relinquishes possession of FOOD to a CONSUMER directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

"Food establishment" includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the REGULATORY AUTHORITY; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the PREMISES; and regardless of whether there is a charge for the FOOD.

"Temporary food establishment" means a FOOD ESTABLISHMENT that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

UPDATED DPH GUIDANCE:

The purpose of this Policy Statement is to address current DPH thinking regarding the following three (3) questions relative to out of state food-service operators who wish to cater food prepared outside the State of Kentucky, at open, public events within the Commonwealth:

Q1: Can food prepared at a food-service establishment located in another state be catered to Kentucky and be considered from an "approved" source?

A: Yes. In May 2010, Kentucky modernized its Retail Food Code with the formal implementation of the 2005 FDA Food Code which emphasizes a risk-based inspection system. After re-examining the revised regulatory definitions from the 2005 Food Code, it is the determination of this office that out-of-state food-service establishments may cater food across state lines for service at Kentucky events, and that the food prepared in the out-of-state facility can be considered from an "approved" source, provided all of the following are met:

(a) The out-of-state caterer is able to demonstrate to Kentucky Regulatory Authorities that it is operating in good standing under the home state's regulatory program (i.e., no suspended or revoked permits);

- (b) The out-of-state caterer is able to provide to Kentucky Regulatory Authorities a copy of a valid permit to operate from the home state regulatory authority; and
- (c) The out-of-state caterer is able to demonstrate to Kentucky Regulatory Authorities, via a copy of a food establishment inspection report, that the facility has received a current regulatory food safety inspection no longer than 12 months prior to the date of the Kentucky event.

Q2: What are the Kentucky permit/inspection requirements for out-of-state food-service operations catering public Kentucky events?

In addition to the “proof of permit” requirements under Q1 above, an out-of-state food-service operation that does not otherwise hold a valid permit to operate in Kentucky as a “Food Service” with “Catering,” that wishes to cater food prepared outside the state to a public event, shall be permitted/inspected as a “Temporary Food Service Establishment” in alignment with the 2005 Food Code definitions noted above. Those entities which do not qualify for a “charitable food kitchens” fee exemption under KRS 271.125 (11) shall be required to remit the appropriate temporary food service fee (\$25 or \$30) as determined by the number of days in operation.

Out-of-state food establishments that are unable to meet the above requirements shall be required to operate out of a Kentucky-permitted food-service establishment.

Please Note: This policy document is not intended to require permitting/inspection of out-of-state catering conducted at private, closed events such as weddings, etc.

Q3: Is food delivery (i.e., pizza delivery, etc.) from another state considered catering?

No. This policy is not intended to prohibit the simple delivery/drop-off of food ordered from a legitimate out-of-state retail food service establishment, and simply delivered across state lines to the end consumer. With the exception of possible consumer complaints, such operations, including but not limited to pizza delivery, would require no additional Kentucky permits/inspections if conducted out of an establishment permitted/inspected by regulatory authorities in the border state.

REFERENCES

2005 FDA Food Code, available at
<http://www.fda.gov/food/guidanceregulation/retailfoodprotection/foodcode/ucm2016793.htm>

902 KAR 45:110 Permits and fees for retail food establishments, food manufacturing plants, food storage warehouses, salvage processors and distributors, vending machine companies, and seasonal restricted food concessions, available at
<http://www.lrc.ky.gov/kar/902/045/110.htm>



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