



Issuing Letters of Compliance

(December 2016)

for use with

COMAR 13A.17 Letters of Compliance

(as amended effective 7/20/15)

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.01 Food Service.

A. Food and Beverages.

- (1) **Food and beverages that are furnished by an operator for meals or snacks, or both, shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.**

INTENT: Each child in care needs adequate nutrition for proper growth and development. To help ensure that this occurs, all meals and snacks furnished by the facility must meet specified nutritional guidelines for the child's age.

INSPECTION REPORT ITEM: "Food Service"

COMPLIANCE CRITERIA: Each meal and snack furnished by the facility to a child meets the guidelines of the Child and Adult Care Food Program (CACFP) for the child's age.

ASSESSMENT METHOD:

- *Observe the items and amounts served at mealtime or snack time to determine if they meet CACFP guidelines.*
- *If observation is not possible, review the facility's current menu and interview staff as necessary to determine the contents of meals and snacks served.*

Note: Refer to the **"USDA/CACFP Child Care Meal Pattern Guidelines"**, for meal and snack portion sizes of various food groups recommended by the CACFP for various age groups.

- (2) **For children in care, the operator shall furnish:**
 - (a) **All beverages, including beverages for meals and snacks; and**
 - (b) **Milk with all meals.**
- (3) **Except as prescribed for a child by a health care provider, beverage furnished by the operator may not contain an added sweetener or caffeine.**

Note for (3) above: *This regulation does not apply to beverages supplied by parents.*

- (4) **Unless otherwise ordered by a health care provider or requested by the child's parent, milk furnished to a child by the operator shall be 1% fat milk or nonfat milk.**
- (5) **The operator may arrange with a child's parent to furnish milk of a type that is different from the milk ordinarily furnished by the operator.**
- (6) **The operator shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied:**
 - (a) **Food for meals or snacks; or**

- (b) **Sufficient food to meet the standards of the Child and Adult Care Food Program of the U.S. Department of Agriculture.**

B. Hours of Operation. If a facility operates:

- (1) **4 or more consecutive hours a day, the operator shall furnish either:**
 - (a) **All meals and snacks; or**
 - (b) **Snacks; or**
- (2) **Less than 4 consecutive hours a day, the operator shall either:**
 - (a) **Furnish food and beverages for meals or snacks, or both; or**
 - (b) **Make arrangements with the parent of a child to provide food and beverages for meals or snacks, or both.**

INTENT: Children need enough wholesome food and drink each day to ensure their proper growth and development. Depending on the length of the daily program, the operator must either provide these items directly and/or make arrangements for parents to provide the items.

INSPECTION REPORT ITEM: "Food Service"

COMPLIANCE CRITERIA:

- *If operating for at least 4 consecutive hours per day, the facility provides all meals and snacks, or all snacks.*
- *If operating less than 4 consecutive hours per day, the facility either provides meals and/or snacks or has arranged for parents to do so.*

ASSESSMENT METHOD: Determine the number of consecutive operating hours, then interview facility staff to determine whether meals, or snacks, or both are provided by the facility or by parents.

C. An operator shall serve meals and snacks at intervals of not more than 3 hours apart according to the following schedule:

If a child is at a facility for:	The child shall receive at least:
Less than 4 consecutive hours	1 snack
4 to 7 consecutive hours	1 meal and 1 snack
7 to 11 consecutive hours	1 meal and 2 snacks or 2 meals and 1 snack
11 to 14 consecutive hours	2 meals and 2 snacks or 3 meals and 1 snack

INTENT: Growing children burn a lot of energy, so their energy levels must constantly be restored through frequent meals and snacks.

INSPECTION REPORT ITEM: "Food Service"

COMPLIANCE CRITERIA: Each child receives the appropriate number of meal(s) and/or snack(s) based on the length of a child's daily attendance.

ASSESSMENT METHOD: Review child attendance records to determine how long children are in care daily, and cross-reference those records with the facility's meal/snack schedule to determine if children are getting the appropriate number of meals and/or snacks.

D. If an operator chooses not to provide meals, the operator shall make arrangements with the parent of each child to provide food for meals.

INTENT: While a child is in attendance, the operator is responsible for the child's appropriate nutrition. Part of this responsibility is making sure that the child receives foods that meet USDA/CACFP (United States Department of Agriculture/Child and Adult Care Food Program) guidelines. This responsibility is met by either providing the foods that meet the USDA/CACFP guidelines, or encouraging the parent to provide those meals.

INSPECTION REPORT ITEM: "Food Service"

COMPLIANCE CRITERIA: For each child, meals are provided by either the operator or the parent.

ASSESSMENT METHOD: If the facility does not provide meals:

- Interview facility staff to determine if and how children are fed while in attendance, and
- If available, review facility contracts or service agreements with parents to determine if arrangements have been made for parents to provide meals.

E. Menus. An operator shall:

- (1) **Post in a conspicuous place a weekly planned menu of foods and beverages furnished by the facility for meals and snacks; and**
- (2) **Keep a dated record of food actually served in the facility, and to each child on a modified diet, on file for at least 4 weeks, correcting the planned menu if necessary.**

INTENT: Proper menu planning is critical to ensuring that children in care get nutritional and appropriate amounts of food and beverages each day. Parents have a right to know what food is being served to their children and when. A menu provides them with this knowledge. For the same reason, and because last-minute changes to

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planned menus are sometimes necessary, a record of food actually served must be kept for a reasonable period of time.

INSPECTION REPORT ITEM: "Food Service"

COMPLIANCE CRITERIA:

- *A menu for the current week is posted where it is readily visible to parents.*
- *A dated record of food actually is served is maintained on file for at least 4 weeks after the corresponding menu date.*

ASSESSMENT METHOD: *Observe to determine if a current menu is posted and if dated records of food served are on file for the required time.*

.02 Modified Diet.

When an operator agrees to accept a child who requires a modified diet for:

- A. Medical reasons, the operator shall obtain from the child's parent a written prescription for the diet signed and dated by the child's licensed health practitioner within the previous 6 months; or**
- B. Cultural or religious reasons, the operator shall obtain written, dated instructions for the diet signed by the child's parent.**

INTENT: *A modified diet, whether it is for medical, cultural, or religious reasons, requires a child to eat certain items and/or to avoid eating certain items. By accepting the child for care, the operator agrees to observe these requirements. The child's parent is responsible for communicating those specific requirements in writing.*

INSPECTION REPORT ITEM: "Modified Diet"

COMPLIANCE CRITERIA:

- *For each child who is on a modified diet for medical reasons, there is in the child's facility record a signed and dated prescription for the diet that is no more than 6 months old.*
- *For each child who is on a modified diet for non-medical reasons, there are in the child's facility record signed and dated diet instructions from the child's parent.*

ASSESSMENT METHOD: *Determine if there are any children in care who require modified diets. If there are, determine whether these diets are for medical or non-medical reasons. Then review the children's facility records to determine if the necessary prescriptions or parent instructions, as applicable, are present.*

.03 Food Sources.

- A. An operator shall furnish food at the facility only if it is wholesome and free from spoilage, filth, or other contamination and obtained from sources that comply with all laws relating to food, food processing, food handling, and food labeling.**

INTENT: All food furnished by the facility must be fit for consumption and must be procured only from legitimate commercial food vendors.

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA: All food present at the facility:

- *Is fit for consumption, and*
- *Has come from legitimate commercial sources.*

ASSESSMENT METHOD: Observe food items to assess their fitness for consumption and determine their sources. As necessary, interview facility staff for additional information about where food used for meals and snacks comes from.

- B. If an operator contracts to have food furnished from an outside source, such as a catering service, the operator shall ensure that the food:**

- (1) **Has been prepared and processed in a licensed food service facility or in a licensed food processing plant; or**
- (2) **Consists of a snack or party food which is not potentially hazardous and does not present a significant risk of transmitting food-borne disease.**

INTENT: An outside food service may be used only if it is properly licensed or if the food items provided by the service do not require special handling or processing.

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA: The outside food service is either duly licensed or provides low-risk food.

ASSESSMENT METHOD: Review the contract or service agreement with the outside food service to determine:

- *The nature of the food items to be provided by the service, and*
- *If the items are not low-risk, whether the service is duly licensed.*

- C. An operator may not provide to the children home-canned goods or any other hermetically sealed food prepared in a place other than a licensed food processing establishment.**

INTENT: Because they carry a high risk of food-borne illness if not processed correctly, canned or jarred foods may not be used unless they come from a properly licensed commercial source.

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA: All canned and jarred food items come from a licensed commercial source.

ASSESSMENT METHOD: Observe canned and jarred food items to determine their sources.

D. An operator:

- (1) **Shall provide only fluid milk and fluid milk products that are:**
 - (a) **Pasteurized Grade A;**
 - (a) **Except as provided by §D(3) of this regulation, served from the original container; and**
 - (b) **Not more than 4 days older than the expiration date marked on the original container;**
- (2) **May use dry milk, dry milk products, or reconstituted dry milk only for cooking purposes; and**
- (3) **For meals and snacks, may serve milk family-style from a pitcher or similar container into which the milk has been poured from the original container.**

INTENT: Milk and milk products are classified as "potentially hazardous food" because they are especially susceptible to contamination and spoilage. Milk or a fluid milk product may not be served if it is 4 days beyond its "sell-by" date. Fluid milk substitutes do not have the same nutritional value as Grade A fluid milk and may not be used for drinking purposes.

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA:

- *Only pasteurized Grade A milk and fluid milk products are used for direct consumption.*
- *No milk or fluid milk product present at the facility is more than 4 days beyond its "sell-by" date.*

ASSESSMENT METHOD:

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- *Observe mealtime to determine if only proper milk and fluid milk products are used for direct consumption. If observation is not possible, interview facility staff to determine what type of milk is used.*
- *Observe milk and fluid milk containers to determine if any are more than 4 days after the "sell-by" date.*

Notes:

- *Maryland Health Department regulations, COMAR 10.15.06.03D, require that milk and milk products be consumed within no more than 4 days after the "sell-by" date in "eating and drinking establishments, hospitals, schools, institutions, and similar places where milk is consumed on the premises."*
- *Milk is classified as a "potentially hazardous food" as defined in Chapter .01, §.02B(44)(a), because its high protein content supports rapid growth of bacteria. The operator must ensure that milk is served immediately after pouring and that the container with any remaining milk is re-refrigerated immediately. The shelf life of milk decreases rapidly if not kept at or below a temperature of 45° F. When opening a milk container, care must be taken to avoid contaminating the container's lip or spout. If possible during a facility inspection, the Licensing Specialist should assess the proper handling and storage of milk containers that have been opened for use.*

.04 Food Storage and Preparation.

A. An operator shall:

- (1) **Protect all food from contamination while it is being stored, transported, or displayed; and**
- (2) **Prepare and serve food, including infant formula, in a safe, sanitary, and healthful manner.**

INTENT: Potential contamination of food must be prevented through safe and sanitary storage, handling, preparation, and service. If contaminated food is consumed, serious illness or death may result.

INSPECTION REPORT ITEM: "Food Storage and Preparation"

COMPLIANCE CRITERIA:

- *Food items that are stored until use are protected during storage from contamination and infestation.*
- *Food is handled, prepared, and served in a sanitary manner.*
- *Food storage areas are:*

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- *Large enough to accommodate all stored items without damaging them,*
- *Clean and dry,*
- *Cool and well-ventilated enough to retard spoilage of stored items,*
- *Sufficiently well-organized and well-lit to permit easy identification and retrieval of stored items, and*
- *Equipped to keep all stored items at least 6 inches from the floor.*

ASSESSMENT METHOD:

- *Observe all food storage areas to determine their appropriateness and cleanliness.*
- *Observe stored food items to determine their condition and accessibility.*
- *Observe food preparation and service to determine if safe and sanitary procedures are used. If observation is not possible, interview facility staff to determine what procedures are used for handling and serving food.*

B. There shall be sufficient storage areas for all food brought from home and all food held in reserve for service by the operator.

C. Food shall be stored:

- (1) **In an area that is dry, cool, well-ventilated, well-lighted, and equipped with easily cleanable shelving; and**
- (2) **At least 6 inches off the floor to facilitate cleaning.**

D. In a small facility, food may be stored:

- (1) **Separately from family food; or**
- (2) **With family food if the operator chooses to have the entire family food storage area inspected.**

E. When food is transferred for storage from its original container, the operator shall provide a secondary storage container that is:

- (1) **Easily cleanable;**
- (2) **Nontoxic;**
- (3) **Nonabsorbent;**
- (4) **Tightly closed; and**
- (5) **Clearly labeled as to its contents.**

INTENT: Because of the risk of accidental contamination and the mixing up of food items, re-packaging of food is permitted only if the new food receptacles keep their contents safe and wholesome, and are clearly marked.

INSPECTION REPORT ITEM: *"Food Storage and Preparation"*

COMPLIANCE CRITERIA: *All secondary food containers in use are safe, hygienic, tightly closable, and properly labeled as to contents.*

ASSESSMENT METHOD: *Observe secondary food containers in use to determine their appropriateness, condition, and marking.*

Note: *Plastic food storage bags may not be re-used and should be discarded after they are empty.*

F. The operator:

- (1) **May not store food below overhead waste lines;**
- (2) **Shall maintain cooked, potentially hazardous hot food at or above a temperature of 140° F;**
- (3) **Shall refrigerate potentially hazardous food at or below a temperature of 40° F;**
- (4) **Shall keep frozen food at or below 0° F; and**
- (5) **Shall restrict the movement of pets and other animals so that food and food contact surfaces are not contaminated.**

INTENT: *An overhead waste line may leak, contaminating any food stored below it. "Potentially hazardous food", which is defined in Chapter .01, §.02B(44)(a), is food that is susceptible to rapid bacterial growth. If it is not kept for serving at a sufficiently high temperature or refrigerated or frozen at a sufficiently low temperature, it presents a significant risk of food-borne illness.*

INSPECTION REPORT ITEM: *"Food Storage and Preparation"*

COMPLIANCE CRITERIA:

- *All food is stored away from waste lines.*
- *All potentially hazardous food is served or stored at the proper temperature.*

ASSESSMENT METHOD:

- *Observe where food is stored in relation to waste lines.*
- *Observe to determine if food is kept hot for serving and refrigerated or frozen, as appropriate, at sufficiently cold temperatures.*
- *If observation of food service is not possible, interview facility staff to determine how cooked food is kept ready for service.*

Notes:

- *The temperature storage requirements apply to food brought from home by children as well as to food provided or prepared on-site at the facility.*

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- §F(2)(3) and (4) of this regulation address the storage of food at proper temperatures. The ability of a refrigerator or freezer to achieve and maintain the proper temperature is addressed under §.05 C and D of this Chapter.

G. Single service items such as paper and plastic cups, containers, lids, plates, knives, forks, spoons, and placemats shall be:

- (1) **Used only once; and**
- (2) **Stored, handled, and dispensed to protect them from contamination.**

INTENT: Single service items are not meant to be re-used, so they are not made of materials that allow them to be properly cleaned and sanitized after use.

INSPECTION REPORT ITEM: "Food Storage and Preparation"

COMPLIANCE CRITERIA: All single service items are:

- *Protected from contamination until use, and*
- *Discarded after use.*

ASSESSMENT METHOD: Observe to determine how single service items are maintained until use and if they are discarded after use. If observation is not possible, interview facility staff to determine how these items are maintained and used.

H. During an activity in which the children prepare food, the activity shall be planned and carried out in a manner consistent with the safety and health practices required in this subtitle.

INTENT: Food preparation activities can be fun-filled learning opportunities for children, but they also carry increased risk for cuts, burns, and other injuries and for food-borne illness. At all times during these activities, children must be closely supervised and sanitary practices must be maintained.

INSPECTION REPORT ITEM: "Food Storage and Preparation"

COMPLIANCE CRITERIA: At all times:

- *Each child is closely supervised,*
- *Safe and sanitary food handling practices are followed, and*
- *Proper handwashing procedures are followed.*

ASSESSMENT METHOD:

- *Observe to determine if:*
 - *Proper child supervision is occurring; and*
 - *Appropriate food handling practices and handwashing procedures are being followed by both staff and children.*
- *If observation is not possible, interview facility staff to determine if and how safety and health practices are being followed.*

I. The operator shall discard:

- (1) **All spoiled fruits, vegetables, or other food;**
- (2) **Refrozen food;**
- (3) **Potentially hazardous frozen food that has been thawed and not immediately cooked and served;**
- (4) **Swelled, rusty, or leaky canned foods;**
- (5) **Foods exposed to fire, smoke, or water damage;**
- (6) **After a child finishes eating, any remaining food that has come into contact with:**
 - (a) **The child's mouth; or**
 - (b) **An eating utensil that has been used by the child; and**
- (7) **After being left out for consumption by children during a meal or snack, any milk remaining in an opened original container, a pitcher or similar container, or a drinking vessel.**

***INTENT:** Food that may be spoiled or contaminated poses a potential health risk and must be discarded right away to prevent it from being eaten or possibly contaminating other food. Leftover food that has been in contact with a child's mouth or with a utensil used by the child has been contaminated by microorganisms in the child's saliva and must be discarded.*

***INSPECTION REPORT ITEM:** "Food Storage and Preparation"*

COMPLIANCE CRITERIA:

- *Spoiled or contaminated food is not present.*
- *Any mouthed or partially consumed food item or beverage is discarded.*

ASSESSMENT METHOD:

- *Observe food items to determine if any are spoiled or contaminated.*
- *Observe to determine which leftover food items, if any, are retained and which are discarded.*

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- *If observation is not possible, interview facility staff to determine which leftovers are kept and which ones are thrown away.*

J. The operator shall send home or discard at the end of each day all opened containers of food brought from home for a child.

INTENT: Opened food brought from home may not have been prepared or contained in a sanitary manner and may harbor microorganisms that will contaminate other foods with which it is stored. In addition, if kept at the facility it may inadvertently be served the next day to a different child.

INSPECTION REPORT ITEM: *"Food Storage and Preparation"*

COMPLIANCE CRITERIA: *Food from home that has been opened or partly consumed either is discarded or goes back home with the child at the end of the day.*

ASSESSMENT METHOD:

- *Observe facility food storage units (pantry, refrigerator, freezer, etc.) to determine if home-brought food containers are present.*
- *Interview facility staff to determine what happens to these items, and when.*

.05 Food Preparation Area and Equipment.

A. Appliances and equipment in the food preparation area shall be:

- (1) **Cleaned and sanitized;**
- (2) **In good repair;**
- (3) **Capable of normal operation; and**
- (4) **Not conducive to the harboring of insects and rodents.**

INTENT: All food preparation appliances and equipment must be operable, safe, and sanitary.

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *All appliances and equipment are clean, sanitary, and operate safely and properly.*

ASSESSMENT METHOD: *Observe and, as necessary, test food preparation appliances and equipment to assess their cleanliness, safety, and operability.*

B. Food contact surfaces shall be nontoxic, smooth, in good repair, and free of breaks, open seams, cracks, pits, and similar imperfections.

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INTENT: *To prevent food contamination, food preparation surfaces must be safe and in good condition.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *All food contact surfaces are safe and suitable for use in food preparation.*

ASSESSMENT METHOD: *Observe food contact surfaces to assess their condition and suitability for safe food preparation.*

C. Refrigeration shall be:

- (1) **Of sufficient capacity to store all food and beverages that require refrigeration;**
- (2) **Operated at or below 40° F; and**
- (3) **Equipped with an indicating thermometer graduated at 2° F intervals.**

INTENT: *Refrigeration equipment must be large enough to meet the facility's food refrigeration needs and able to maintain a proper temperature.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA:

- *Refrigeration equipment safely accommodates all items requiring refrigeration.*
- *Refrigeration equipment maintains a temperature of 40° F or less.*
- *Each refrigeration unit has a proper indicating thermometer.*

ASSESSMENT METHOD: *Observe the refrigeration equipment to determine if:*

- *There is sufficient safe capacity,*
- *The required temperature is maintained, and*
- *A proper indicating thermometer is present.*

D. All frozen food units shall be operated at 0° F or less, and shall be provided with an indicating thermometer.

INTENT: *Food freezers maintain proper freeze temperatures.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *Each freezer unit:*

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- *Maintains a temperature of 0° F or less, and*
- *Has a proper indicating thermometer.*

ASSESSMENT METHOD: *Observe freezer units to determine if:*

- *The required temperature is maintained, and*
- *A proper indicating thermometer is present.*

E. Facilities operating more than 4 consecutive hours shall provide refrigeration.

INTENT: *Since a facility operating for 4 or more consecutive hours must provide meals and/or snacks (see §.12.01 Food Service), the facility must be able to refrigerate food.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *Suitable refrigeration equipment is present.*

ASSESSMENT METHOD: *Observe to determine if suitable refrigeration equipment is present.*

F. Except in a small facility or when only snacks are provided by the operator, a separate handwashing sink which is equipped with soap and paper towels shall be provided in or adjacent to each food preparation area. Food preparation and utensil washing sinks may not be used for handwashing.

G. A cooking exhaust hood shall be provided when routine cleaning does not eliminate condensation or greasy film.

INTENT: *Condensation and grease provide unsafe and unsanitary conditions. If these cannot be eliminated by routine clean-up procedures after cooking, then a stove exhaust hood must be provided that will prevent condensation and grease residue from forming.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *Either exterior stove surfaces are free of condensation and grease residue, or a cooking exhaust hood is present.*

ASSESSMENT METHOD: *Observe to determine if there is condensation or grease residue on exterior stove surfaces.*

H. Utensils and equipment used for the preparation and service of food and beverages shall be cleaned, sanitized, air dried, and stored in a manner approved by the office.

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***INTENT:** Items used to prepare and serve food and drink must be cleaned and stored in a manner that prevents the growth of disease-producing organisms.*

***INSPECTION REPORT ITEM:** "Food Preparation Area and Equipment"*

***COMPLIANCE CRITERIA:** Equipment and utensils are cleaned and stored as required.*

***ASSESSMENT METHOD:** Observe cleaning and storage procedures to determine if they meet OCC guidelines. If observation is not possible, interview facility staff to determine what procedures are used.*

***Note:** Food preparation and service equipment and utensils should be cleaned and sanitized according to **OCC's "General Sanitation Guidelines"**.*

- I. Floors and walls in a food preparation area shall be easily cleanable and maintained in a clean condition.**