

Kansas Administrative Regulations

Kansas Department of Agriculture

Article 28.—Food Safety

4-28-6. Fees; risk levels; food establishment.

(a) Each food establishment required to be licensed shall be assessed by the secretary for classification by risk level according to this regulation. The following classifications shall be used to determine licensing fees and inspection frequency at food establishments:

(1) A "category I facility" shall mean a food establishment that presents a high relative risk of causing food-borne illness based upon the usage of food-handling processes associated with food-borne illness outbreaks. Factors considered in classifying a food establishment as a category I facility shall include whether the food establishment meets any of the following conditions:

(A) Cooks, cools, or reheats food that requires time and temperature control for safety;

(B) uses freezing as a means to achieve parasite destruction;

(C) handles raw, in-shell molluscan shellfish ingredients;

(D) uses specialized processing;

(E) has a required hazard analysis critical control point plan; or

(F) offers for consumption without further preparation any food containing raw or undercooked eggs, meat, poultry, fish, or shellfish.

(2) A "category II facility" shall mean a food establishment that presents a moderate relative risk of causing food-borne illness based upon the usage of a limited number of food-handling processes associated with food-borne illness outbreaks. Factors considered in classifying a food establishment as a category II facility shall include whether the food establishment meets any of the following conditions:

(A) Prepares baked products;

(B) repackages foods from a licensed food processor in smaller quantities for distribution;

(C) heats only foods from a licensed food processor; or

(D) handles, cuts, grinds, or slices only raw animal foods or ready-to-eat meats and cheeses.

(3) A "category III facility" shall mean a food establishment that presents a low relative risk of causing food-borne illness based upon the usage of few or no food-handling processes associated with food-borne illness outbreaks. Factors considered in classifying a food establishment as a category III facility shall include whether the food establishment meets any of the following conditions:

(A) Offers self-service beverages;

(B) offers prepackaged food and beverages, including those prepackaged foods and beverages that are required to be held at a temperature of 41°F or below for food safety; or

(C) offers unpackaged food that does not require time and temperature control for safety, including mixed drinks.

(4) A "category IV facility" shall mean a food establishment that presents a very low relative risk of causing food-borne illness based upon the usage of few or no food-handling processes associated with food-borne illness outbreaks. The food establishment shall have systematic controls in place to further reduce the risk of a food-borne illness outbreak. Factors considered in classifying a food establishment as a category IV facility shall include whether the food establishment meets the following conditions:

(A)(i) Offers prepackaged food and beverages, including those prepackaged foods and beverages that are required to be held at a temperature of 41°F or below for food safety;

(ii) offers unpackaged food that does not require time and temperature control for safety; or

(iii) offers prepackaged food and beverages, including those prepackaged foods and beverages that are required to be held at a temperature of 41°F or below for food safety, and unpackaged food that does not require time and temperature control for safety; and

(B) has the following controls in place in a structure that has limited or controlled access, including an office building with keyed entrances or security guards:

(i) Continuous electronic monitoring of all food items that require temperature control for safety;

(ii) a means to prevent lawful purchase of a food that has been held outside of the time and temperature combinations specified in the Kansas food code by physical lockout, transaction lockout, or other equivalent method; and

(iii) remote monitoring and recording of video surveillance covering all areas of the food establishment.

(b) Each food establishment with operations in multiple categories shall be placed in the highest risk-level category. A history of a food establishment's noncompliance with applicable statutes and regulations may be considered and may warrant placement of the food establishment in a higher risk-level category. The risk level assigned to a food establishment may be changed if the secretary determines that the change is warranted based upon the degree of risk of a health hazard and protection of the public health and safety.

(c) Each person operating or intending to operate a food establishment shall submit an application on a form prescribed by the secretary with the following fees, as applicable:

(1) Category I facilities.

(A) Application fee. Each person shall submit a onetime application fee based on the size of the food establishment as follows:

(i) Less than 5,000 square feet: \$300;

(ii) 5,000 through 10,000 square feet: \$325;

(iii) 10,001 through 50,000 square feet: \$350; and

(iv) more than 50,000 square feet: \$350.

(B) License fee. Each person shall submit a license fee based on the size of the food establishment as follows:

(i) Less than 5,000 square feet: \$250;

(ii) 5,000 through 10,000 square feet: \$300;

(iii) 10,001 through 50,000 square feet: \$500; and

(iv) more than 50,000 square feet: \$750.

(2) Category II facilities.

(A) Application fee. Each person shall submit a onetime application fee of \$325.

(B) License fee. Each person shall submit a license fee of \$220.

(3) Category III facilities.

(A) Application fee. Each person shall submit a onetime application fee of \$275.

(B) License fee. Each person shall submit a license fee of \$190.

(4) Category IV facilities.

(A) Application fee. Each person shall submit a onetime application fee of \$100.

(B) License fee. Each person shall submit a license fee of \$75.

(d)(1) Each category I facility shall be inspected at least once every 12 months.

(2) Each category II facility shall be inspected at least once every 15 months.

(3) Each category III facility shall be inspected at least once every 18 months.

(4) Each category IV facility shall be inspected at least once every 36 months.

(e) Each license shall expire on the first March 31 following the date of issuance.

(f) Each license shall require annual renewal by the licensee's submission of an online application for renewal available on the department's web site and payment of the applicable license fee specified in subsection (c).

(g) For the purpose of this regulation, "mixed drink" shall mean any beverage combining two or more liquids, including any combination of alcoholic or nonalcoholic liquids.

(Authorized by and implementing K.S.A. 2017 Supp. 65-688; effective Feb. 18, 2005; amended, T-4-6-28-12, July 1, 2012; amended Oct. 26, 2012; amended May 31, 2013; amended June 15, 2018.)

***** Authenticated Kansas Administrative Regulation *****