

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	08/29/2018	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 10/12/2018**

**2. COMAR Codification**

<b>Title</b>	<b>Subtitle</b>	<b>Chapter</b>	<b>Regulation</b>
10	15	03	02, .25, .28

**3. Name of Promulgating Authority**

Department of Health and Mental Hygiene

<b>4. Name of Regulations Coordinator</b>	<b>Telephone Number</b>
Michele Phinney	410-767-5623

**Mailing Address**

201 W. Preston Street

<b>City</b>	<b>State</b>	<b>Zip Code</b>
Baltimore	MD	21201

**Email**  
michele.phinney@maryland.gov

<b>5. Name of Person to Call About this Document</b>	<b>Telephone No.</b>
Eamon Flynn	410-767-4071

**Email Address**  
eamon.flynn@maryland.gov

**6. Check applicable items:**  
 New Regulations  
 Amendments to Existing Regulations



**Subtitle 15 FOOD**

**10.15.03 Food Service Facilities**

Authority: Health-General Article, §§18-102, 21-101, 21-102, 21-211, 21-234, 21-301, 21-304, and 21-308; Annotated Code of Maryland

**Notice of Proposed Action**

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The Secretary of Health proposes to amend Regulations .02, .25, and .28 under COMAR 10.15.03 Food Service Facilities.

**Statement of Purpose**

The purpose of this action is to create consistency with licensing, inspection, and enforcement of the mobile reciprocity license among the local health departments as required by House Bill 771 (Ch. 216) and Senate Bill 262 (Ch. 215), Acts of 2017. Specifically, this proposal will:

- (1) Define new terms related to mobile reciprocity licenses;
- (2) Clarify the requirements for the operation of a mobile food service facility, including the establishment of a base of operations; and
- (3) Add language concerning the issuance and enforcement of a mobile reciprocity license by local health departments.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

The proposal will include in regulations the mobile reciprocity license established in Health-General Article §21-304, Annotated Code of Maryland. The reciprocity license eliminates the need for a separate plan review and associated inspection in each jurisdiction in which the mobile food service facility is licensed. Additionally, a limited number of mobile food service facilities have operated without a base of operations that meets the requirements of COMAR 10.15.02. These mobile units will be required to establish a base of operations; mobile units not seeking a reciprocity license will be given until May 1, 2020 to comply.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE		
B. On other State agencies:	NONE		
C. On local governments:	(R+)		Indeterminate

(2)	(R-)	Indeterminate
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Indeterminate
(2)	(+)	Indeterminate
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

C(1). The fee for this license is set by each individual local health department and cannot exceed \$300. The net economic impact is indeterminate as the licensing fees are set by local health departments.

C(2). See C1 above.

D(1). Mobile food service facilities currently operating without a base of operations would be required to establish a base of operations by May 1, 2020. The Department estimates this would apply to approximately 157 operators. The Department estimates the cost to establish a base of operations ranges from free (e.g. use of church kitchen) to \$1,500 per month (e.g. high-end incubator kitchen space rental). A survey of 223 full-time single-truck vendors from California, Florida, New York, Texas, and Oregon found that 85 percent of vendors made over \$100,000 per year and half made over \$150,000. At \$150,000 per year, \$750 per month for a commercial kitchen rental would be 6 percent of revenue. The program notes that 90 percent of mobile food service facilities are already successfully operating with a base of operations.

D(2). See D1 above.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY:800-735-2258, or email to [mdh.regs@maryland.gov](mailto:mdh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through November 13, 2018. A public hearing has not been scheduled.

## **Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 2019
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.  
The economic impact on small businesses (i.e. mobile food service facilities) is indeterminate but expected to be minimal. These changes are intended to reduce the operational burden on mobile food service facilities which operate in multiple jurisdictions within 90 miles of their base of operations. The mobile reciprocity license limits the amount of time mobile food service facilities will spend being inspected instead of operating and generating revenue, which will represent a cost savings. While the fee is set by local health departments, it is not expected to exceed current licensing fee levels due to the reduction in inspections local health departments will need to perform.
- A survey of all 24 Maryland jurisdictions identified 157 mobile food truck operators out of a total of approximately 1,450 operators (10.8 percent) who do not currently have an identified base of operations. It is estimated that the cost of implementing a base of operations for each of these operators would be anywhere from \$0 - \$1,500 per month.
- G. Small Business Worksheet:

Attached Document:

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## **Title 10**

# **MARYLAND DEPARTMENT OF HEALTH**

## **Subtitle 15 FOOD**

### **10.15.03 Food Service Facilities**

Authority: Health-General Article, §§18-102, 21-101, 21-102, 21-211, 21-234, 21-301, 21-304, and 21-308; Annotated Code of Maryland

10.15.03.02 (May 11, 2017)

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(7) (text unchanged)

(7-1) *“Base of operations” means a licensed facility in Maryland that is used by the owner or operator of a mobile food service facility for food storage, potable water, safe disposal of waste and sewage, and, if necessary, utensil washing.*

(8)—(17-2) (text unchanged)

(17-3) *“County of origin” means the county in which the base of operations of a mobile food service facility is located.*

(18)—(46) (text unchanged)

(46-1) *“Mobile reciprocity license” means a license issued to a mobile food service facility that:*

(a) *Is operating in the jurisdiction;*

(b) *Is operating within 90 miles of its base of operations; and*

(c) *Holds a valid license from the county of origin.*

(47)—(86) (text unchanged)

10.15.03.25

**.25 Special Food Service Facilities.**

A.—B. (text unchanged)

C. For a special food service facility that is a mobile unit, the person-in-charge shall ensure that:

(1)—(3) (text unchanged)

(4) Potable water *tanks* are used to provide water for hand washing and, where applicable, for food preparation and utensil cleaning; [and]

(5) Wastewater *tanks* are used to hold wastewater pending disposal at a facility in a manner that conforms with State and local laws, regulations, and ordinances[.];

(6) *Subject to §§C(7) and (8) of this regulation, a base of operations is established that provides:*

(a) *A source of potable water, potable water hoses, and clean connections;*

(b) *A method for the disposal of sewage;*

(c) *Clean, adequate, and covered trash receptacles;*

(d) *A storage area for single serve food items; and*

(e) *If necessary:*

(i) *Refrigerated and dry food storage areas; and*

(ii) *A utensil washing facility.*

(7) *For a mobile food service facility not seeking a mobile reciprocity license, a base of operations as set forth in §C(6) of this regulation is established by May 1, 2020;*

(8) *A base of operations is not required for a mobile food service facility that offers only prepackaged frozen desserts;*

(9) *A valid license from the county of origin is maintained; and*

(10) *Compliance is maintained with all applicable State and local laws and regulations in the jurisdiction in which it is operating.*

D.—H. (text unchanged)

10.15.03.28

**.28 Licenses.**

A.—I. (text unchanged)

J. A local health department:

(1) *Shall issue a mobile reciprocity license:*

(a) *In accordance with Health-General Article, §21-304, Annotated Code of Maryland;*

(b) *To a mobile food service facility that:*

(i) *Holds a valid license from the county of origin;*

(ii) *Is operating in the jurisdiction; and*

(iii) *Is operating within 90 miles of its base of operations.*

(2) *Shall provide copies of inspection or other supporting documentation for a mobile food service facility with a base of operations within the jurisdiction of the local health department to the jurisdiction in which the mobile food service facility is seeking a mobile reciprocity license;*

(3) *May inspect the mobile food service facility during operation in the jurisdiction after a mobile reciprocity license has been issued;*

(4) *May suspend a mobile reciprocity license for not maintaining a valid license from the county of origin until such time that the county of origin license is renewed;*

(5) *May issue a violation of this regulation as set forth in Regulation .35 of this chapter; and*

*(6) Shall notify all known Maryland jurisdictions which license the mobile food service facility if:*

*(a) Any fines are issued to a mobile reciprocity licensee; or*

*(b) Enforcement action is taken against a mobile reciprocity licensee under §J(3) of this regulation.*

*K. A mobile reciprocity license:*

*(1) May not exceed \$300; and*

*(2) Is valid for a period of 1 year.*

**ROBERT R. NEALL**

**Secretary of Health**