



STATE OF MARYLAND

DHMH

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MEMORANDUM

DATE: March 8, 2011 **HO Memo #11-010**

TO: Health Officers
Environmental Health Directors

FROM: Alan Taylor
Chief
Office of Food Protection and Consumer Health Services

THROUGH: Clifford S. Mitchell
Assistant Director
Office of Environmental Health and Food Protection

RE: **Open Windows and Doors in Food Service Establishments**

The intent of this memorandum is to clarify current regulations for vermin controls in food service establishments. Recently, across the state of Maryland, we have heard of and engaged in discussions about proposed wall and door systems that essentially leave the food service establishment open to the exterior. Unless there are protective measures in place, such as an interior door between the open seating space and the rest of the facility, these proposed wall and door systems pose a potential problem with protection against the entry of vermin.

Under Code of Maryland Regulations (COMAR) 10.15.03.20 Vermin Control, control measures shall be provided to keep establishments free of vermin such as rodents, flies, roaches, and other insects. Openings into the building must be protected by doors that are tight and self-closing; while windows must contain screening that is tight-fitting, in good repair, and meets a specification. In addition to tight, self-closing doors and screened openings, this regulation also allows for positive air pressure and controlled air currents as another means of vermin exclusion.

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This Maryland regulation is consistent with the national food protection standard, 2009 Food Code, in which section 6-202.15 Outer Openings, Protected, establishes methods for protection of outer openings of a food establishment against the entry of insects and rodents. Food Code paragraph 6-202-15(E) provides that if windows or doors are left open and effective control measures are not in place, then the flying insects and other pests must be absent due to the location of the establishment, the weather, or other limiting condition. In this regard, windows would be allowed to remain open if, for example, it is January and the cold weather precludes flying insects from entering. In this example, at such time that the cold weather no longer acts to control the pests, it would be required that the openings be sealed, torn screens be fixed, and door closers installed. In a similar interpretation of the Maryland regulation, during warm months a restaurant would be required to maintain screens on the windows, and the practice of only opening unscreened windows during cold weather would then be an acceptable means of effectively protecting the opening against entrance of insects and rodents. As an example, this national Code would allow windows of a food service facility to remain open during months when cold weather would preclude flying insects and rodents from entering. Similarly, Maryland's regulation would allow the same practice during the same weather conditions.

Both COMAR 10.15.03.20C(4), and the Food Code allow for other means that are deemed effective control measures. However, any proposed method would require plan review approval prior to implementation. Individual food service facility issues should be addressed by local regulatory agencies and would include: potential compliance schedule for existing violations; plan review of alternative means of vermin exclusion; and plan review of new and innovative door and window systems.

Several local agencies have identified existing facilities within their jurisdiction that might currently have wall or door systems that essentially leave the food service establishment open to the exterior. In order to address these specific cases we are working with local jurisdictions to develop a procedure to allow facilities and local health departments to establish an approved schedule for the facilities to achieve compliance. The procedure would call for a formal agreement between the jurisdiction and the existing food service facility that includes a schedule to achieve full compliance with COMAR but minimizes the impact on the facility. When the compliance schedule protocol is drafted it will be offered for comment to all jurisdictions. This procedure would apply only to existing food service facilities. New food service facilities must still comply with existing provisions and requirements of the regulations before a license is issued.

Any questions regarding the content in this document should be directed to the Center for Retail Food, Plan, and Process Reviews at (410) 767-8400.

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