

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(1); (3)a., b., c., f., & j. (16 Del.C. §122(1); (3)a., b., c., f., & j.)  
16 DE Admin. Code 4457

### PROPOSED

### PUBLIC NOTICE

#### 4457 Regulations Governing the Manufacture and Sale Of Ice

Pursuant to 16 Del.C. §122(1); (3)a., b., c., f., & j., the Department of Health and Social Services, Division of Public Health, Health Systems Protection Section, is proposing revisions to the regulations governing the manufacture and sale of ice (16 DE Admin. Code 4457).

The proposed amendments will introduce several important changes to better serve and protect Delawareans. Changes include updated and new definitions and technical changes to bring the regulation into compliance with the *Delaware Administrative Code Style Manual*.

Copies of the proposed regulation are available for review in the October 1, 2025 issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at 302-744-4951.

Public comments will be accepted until 4:30 PM on November 3, 2025. Comments will be accepted in written form via email to [DHSS\\_DPH\\_regulations@delaware.gov](mailto:DHSS_DPH_regulations@delaware.gov), or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer  
Division of Public Health  
417 Federal Street  
Dover, DE 19901

#### 4457 Regulations-Regulation Governing the Manufacture and Sale Of Ice

##### 1.0 Preamble

1.1 ~~These Regulations are~~ This regulation is adopted by the Division of Public Health pursuant to the authority invested in the ~~Board~~ Division of Public Health by 16 Del.C. §122(1), ~~(3)(a,b,c,f and j)~~ §122(1); (3)a., b., c., f., and j. It is hereby declared that ~~it is~~ the purpose of this ~~section~~ regulation is to protect, ~~preserve~~ preserve, and promote the public health and well-being of the people of Delaware, to minimize the incidence of communicable diseases, ~~and~~ to regulate the manufacture of ~~ice~~ ice, and ~~to~~ provide for the examination and labeling of ice for the purpose of maintaining minimal adequate sanitation standards.

1.2 ~~These Regulations~~ This regulation was initially adopted October 1, ~~2011~~ 2011, by the Division of Public Health ~~have~~ Health, with an effective date of October 11, 2011.

**15 DE Reg. 527 (10/01/11)**

##### 2.0 Application

2.1 ~~These Regulations~~ This regulation shall be liberally construed and applied to promote ~~their~~ underlying purpose ~~of~~ protecting the public health. ~~They establish~~ This regulation establishes minimum sanitation and manufacturing standards ~~and for ice~~; those facilities that choose to require more stringent standards are encouraged to do so.

2.2 ~~These Regulations~~ This regulation shall apply to the construction, alteration, addition ~~to~~ to, and maintenance ~~and/or~~ or operation of all ice plants in the State of Delaware, ~~to~~ those ice plants located in states where no ice manufacturing regulations presently exist, and ~~to~~ the ice products originating from outside of the State ~~state~~ that are sold in ~~Delaware~~ Delaware, when Delaware has established reciprocity agreements with ~~such~~ these jurisdictions.

##### 3.0 Scope

3.1 ~~These Regulations are~~ This regulation is written with the intent of impacting upon those persons by whom ice is ~~manufactured or processed, and~~ manufactured, processed, or offered for wholesale or retail sale to the public.

#### 4.0 Severability

- 4.1 If any provision or application of ~~these Regulations~~ this regulation is held invalid, that invalidity shall not affect provisions or applications of ~~these Regulations~~ this regulation.

#### General Provisions

#### 5.0 Definitions

- 5.1 ~~For purposes of these Regulations~~ The following words and terms, when used in this regulation, have the following meaning:

**"Adequate"** ~~shall mean~~ means that which is needed to accomplish the intended purpose in keeping with good public health practice.

**"Approved"** ~~shall mean~~ means acceptable to the Division of Public Health based on a determination of conformity with principles, practices, and recognized standards that protect public health.

**"Contamination"** ~~shall mean~~ means the condition whereby ice or the water used in its manufacture has been or may have been exposed to or may have come in contact with foreign or injurious substances or matter including ~~but not limited to~~ microorganisms.

**"Coring"** ~~shall mean the process of pumping off or removing that portion of a block of ice which has not solidified during the freezing process.~~

**"Critical Control Point"** ~~shall mean a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.~~

**"Easily Cleanable"** ~~shall mean~~ "cleanable" means a characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

**"Employee"** ~~shall mean~~ means any person working in an ice plant who transports ice or ice containers, who engages in ice ~~manufacture,~~ manufacturing, processing, packaging, ~~storage or~~ storage, distribution, or who comes into contact with any ice equipment.

**"Food Contact Surfaces"** ~~shall mean a surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.~~

**"Hazardous Chemical"** ~~shall mean~~ "chemical" means any element, chemical, ~~compound~~ compound, or mixture of elements ~~and/or~~ or compounds which is a physical hazard or health hazard.

**"Ice"** ~~shall mean~~ means the product, in any form, obtained as a result of freezing water by mechanical or artificial means.

**"Ice Plant plant"** ~~shall mean~~ means any commercial establishment, including kiosks and other self-service ice machines, together with the necessary appurtenances in which ice is manufactured, or processed and stored, packaged, or ~~distributed~~ distributed, and offered for sale for human consumption.

**"Owner/operator"** means an individual or legal entity with ownership rights of a business.

**"Person"** ~~shall mean~~ means an individual, ~~or a~~ firm, partnership, company, corporation trustee, association, other business ~~organizations~~ organization, or any public or private entity.

**"Potable Water"** ~~shall mean~~ "water" means water which is in compliance with all of the required applicable drinking water regulations ~~regulations~~, including 16 **DE Admin. Code 4462**.

**"Processing"** ~~shall mean~~ means the act or acts of grinding, crushing, flaking, ~~cubing~~ cubing, or any other operation which changes the physical characteristics of ice.

**"Product"** ~~shall mean any and all areas where the product, ingredients, or packaging materials are handled or stored, including any area related to the manufacturing, packaging, handling, and storage of ice intended for sale for human consumption.~~

**"Regulatory Authority"** ~~shall mean the official enforcement agency responsible for ice plant sanitation~~ authority means the Division of Public Health.

**"Sanitization"** ~~shall mean~~ means the application of cumulative heat or chemicals on cleaned ~~food~~ ice contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% ~~reduction,~~ reduction of representative disease microorganisms of public health importance.

**"Single-service Article"** ~~shall mean tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one-time, one person use after which they are intended for discard.~~

**"Single-use Article"** ~~shall mean utensils and bulk food containers designed and constructed to be used once and discarded, that includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications in State of Delaware Food Code for multiuse utensils.~~

**“Treatment”** shall ~~mean~~ means a mechanism ~~which~~ which, when demonstrated to the satisfaction of the regulatory authority ~~will lead~~ authority, leads to a reduction in the level of any contaminant.

**“Utensil”** shall ~~mean~~ means a food contact surface implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

**15 DE Reg. 527 (10/01/11)**

## **6.0 Pre-operational Requirements**

### **6.1 General**

6.1.1 An ice plant must comply with ~~these Regulations~~ this regulation if it manufactures or ~~processes,~~ processes ice and offers ice for wholesale or retail sale to the public.

6.1.2 No person shall operate an ice plant, within the definition set forth in Section 5.0 of this regulation, who does not have a valid permit issued ~~to him~~ by the regulatory authority. Only a person who complies with the requirements of ~~these Regulations~~ this regulation shall be entitled to receive or retain such a permit. Permits shall not be transferable from person to person, nor from location to location. The valid permit shall be posted in a location easily observed by the consumers.

6.1.3 When an ice plant changes either ownership, management firm, or lessee, both the facility and its operation shall be brought into full compliance with ~~these Regulations~~ this regulation prior to the issuance of a permit. Variances may be issued by the Division of ~~Public Health~~ for reasons stated in Section subsection 17.18.2 of these Regulations this regulation.

6.1.4 Sections 1.0 through 16.0 of ~~these Regulations~~ this regulation outline requirements for facilities with permanent or provisional permits. Section 17.0 of this regulation provides compliance procedures applicable to all ice plants issued permits in accordance with Section subsection 6.4 of this regulation.

### **6.2 Out of State Out-of-State Compliance Verification**

6.2.1 In order for any out-of-state ice plant to obtain a permit to ship ice into Delaware, plans and specifications must be submitted in accordance with Section subsection 6.3 of this regulation to: Division of Public Health, Health Systems Protection, 417 Federal St., Office of Food Protection, 43 South DuPont Highway, Suite C, Dover, DE 19901.

6.2.2 In order for a permit to be issued to a firm located in a state where no ice regulations exist and no recognized certifying laboratory exists, approval can only be achieved by:

#### **6.2.2.1**

~~6.2.2.1.1~~ Reciprocity approval with that state's regulatory authority; ~~or~~

~~6.2.2.1.2~~ 6.2.2.2 An on-site approval by a designated representative of the ~~Delaware~~ Division of Public Health; ~~Health; or~~

~~6.2.2.1.3~~ 6.2.2.3 Certification by an approved nationally recognized certifying body.

### **6.3 Classification of Ice Plant Permits**

#### **6.3.1 Permanent ~~Permits~~ Permits.**

6.3.1.1 A permanent permit shall be issued as delineated in Section subsections 6.4 and 6.5 of this regulation.

#### **6.3.2 Provisional ~~Permits~~ Permits.**

6.3.2.1 When ~~no~~ health hazards are present, as determined by the regulatory authority, in an existing ice plant, and the new ~~owner or operator~~ owner/operator demonstrates proof of intention to correct, within a specified time period, those items ~~which~~ that do not meet permit requirements, a provisional permit may be issued. Plans, as required, ~~and~~ a written statement delineating changes to be ~~made~~ made, and completion dates must be presented to the regulatory authority before a provisional permit shall be issued for a 30-day period, with possible extension to a maximum of 60 days, and shall be non-renewable. After satisfactory compliance with permit requirements, a permanent permit shall be issued.

### **6.4 Issuance of Permits**

6.4.1 Any person desiring to operate an ice plant shall ~~make written application~~ apply for a permit ~~on~~ using forms provided by the regulatory authority. ~~Such~~ The application shall include the name and address of each applicant, the location of the ice plant plant, and the signature of each applicant.

6.4.2 Prior to approval of an application for a permit, the regulatory authority shall inspect the proposed ice plant to determine compliance with the requirements of ~~these Regulations~~ this regulation.

6.4.3 The regulatory authority shall issue a permit to the applicant if its inspection reveals that the proposed ice plant complies with the requirements of ~~these Regulations~~ this regulation.

6.4.4 A permanent permit, after issuance, remains valid for a period of 12 calendar months, or until such time as the ice plant is closed, “out of ~~business,~~ business,” a new ~~owner,~~ owner/operator, management firm firm, or lessee takes possession, or the permit is revoked by the ~~Health Authority~~ regulatory authority for

~~violation(s) a violation or violations of these Regulations this regulation.~~ The annual fee for the permanent permit shall be in accordance with ~~Title 16 Delaware Code, Section 122 16~~ **Del.C. §122.**

6.5 Submission of PlansPlans.

6.5.4 Whenever an ice plant is constructed or undergoes physical alterations, and whenever an existing structure is converted to use as an ice plant, properly prepared plans and specifications for ~~such the~~ conversion shall be submitted to the Division of Public Health, for review and approval before construction, alteration or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, ~~and~~ construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Division ~~of Public Health~~ shall approve plans and specifications if they meet the requirements of ~~these Regulations this regulation.~~ No ice plant shall be constructed or undergo physical alterations, nor shall a structure be converted to an ice plant except in accordance with plans and specifications approved by the Division ~~of Public Health~~. The fee for the review and approval of such plans and specifications shall be in accordance with ~~Title 16 Delaware Code, Section 12216~~ **Del.C. §122.**

6.6 Post-construction InspectionInspection.

6.6.4 Whenever plans and specifications are required by ~~Section subsection~~ 6.5 of ~~these Regulations this regulation,~~ the regulatory authority shall inspect the ice plant prior to the start of ice manufacturing or processing, to determine compliance with approved plans and specifications and with the requirements of ~~these Regulationsthis regulation.~~ The post-construction inspection report shall indicate compliance with the plans and specifications as approved by the regulatory authority.

6.7 Pre-operational Inspection

6.7.1 The regulatory authority shall inspect an ice plant prior to the start of operations to determine compliance with the requirements of ~~these Regulations this regulation,~~ as follows:

6.7.1.1 Following completion of a satisfactory post-construction inspection, a newly converted or physically altered facility shall be in a minimum of 90% compliance with ~~these Regulations in order this regulation~~ to be approved for a permanent operating permit.

6.7.1.2 When there is a change of ownership, management firm, or lessee of an existing operating facility:

6.7.1.2.1 A new operating permit will be issued.

6.7.1.2.2 The facility shall be in a minimum of 90% compliance with ~~these Regulations this regulation~~ to be approved for a permanent operating permit.

6.7.1.2.3 The new owner, management firm, or lessee may be granted a provisional permit to operate in accordance with ~~Section subsection~~ 6.3.2 ~~of this regulation,~~ pending completion of the requirements for a permanent operating permit.

6.7.1.2.4 The new owner, management firm, or lessee may be granted a variance from certain requirements in accordance with ~~Section subsection~~ 17.18.2 ~~of this regulation.~~

6.7.1.3 When reopening an ice plant which has been closed for 60 or more consecutive ~~days. The days,~~ the facility shall be in a minimum of 90% compliance with ~~these Regulations this regulation~~ in order to be approved for a permanent operating permit, or to resume operations under a currently valid permit.

**15 DE Reg. 527 (10/01/11)**

## **Quality Standards**

### **7.0 Water Source Quality Standards**

7.1 Ice-Contact and Ingredient—Ingredient - Potability RequirementsRequirements.

7.1.4 All water used in ice plants, including that used in preparing brine solutions, shall be of safe and sanitary quality and drawn from an approved public or private water supply system which is constructed, protected, operated, and maintained in conformance with applicable ~~Federal, State federal, state,~~ and local laws, ordinances, and regulations, ~~and~~ in compliance with “State of Delaware Regulations Governing Public Drinking Water Systems” (16 **DE Admin. Code** 4462), and the U.S. Environmental Protection Agency Drinking Water Standards. Only potable water shall be used in sprays and in filling dipping wells for the removal of ice cakes from ice cans or tanks. Ice shall not come into direct contact with water in dipping wells.

7.2 Potability ExceptionException.

7.2.4 If specifically approved by the regulatory authority, a non-potable water supply may be permitted within the plant for purposes of fire protection, cooling of refrigeration equipment, use in ~~boilers boilers,~~ or flushing toilets.

7.3 Water TreatmentTreatment.

- 7.3.4 If water is treated at the ice plant, the facilities and treatment shall be approved by the Division. Use of chemicals and additives shall be in accordance with regulations promulgated by the Food and Drug Administration or other appropriate authority.
- 7.4 ~~Ice~~ Quality.
- 7.4.4 Ice intended for human consumption and for use in direct contact with water, beverage, food, food ~~equipment~~ equipment, or utensils shall meet the same bacteriological, ~~chemical~~ chemical, and physical standards as are required of the water from which it is made.
- 7.5 Testing and Analysis Requirements
- 7.5.1 Frequency of source water testing and analytical procedures shall conform with the requirements as specified in the "State of Delaware Regulations Governing Drinking Water ~~Systems~~ Systems" (16 **DE Admin. Code 4462**).
- 7.5.2 Product ice shall be sampled monthly for bacteriological analysis ~~on a monthly basis~~ during the peak period of production, from May 1 through September 30. Sampling during the remainder of the year shall be conducted on a quarterly basis. ~~Said~~ The sample collection requirement shall be satisfied by any routine samples collected at the time of annual regular inspection.
- 7.5.3 Both source water and ice product samples shall be collected by a representative of the regulatory authority having jurisdiction in the matter or by a representative of a recognized certified laboratory.
- 15 DE Reg. 527 (10/01/11)**

## **Water/Ice Protection**

### **8.0 ~~Water~~ Water/Ice Protection**

- 8.1 All water storage shall have suitable watertight covers which exclude birds, animals, ~~insects~~ insects, and excessive dust. All openings shall be screened.
- 8.2 ~~Ice~~ Protection.
- 8.2.4 Ice, while being manufactured, processed, packaged, ~~stored~~ stored, and transported shall be protected from contamination. ~~As such, these~~ These activities must be conducted in an enclosed building and maintained in sanitary condition. ~~Such ice~~ Ice shall not be processed, packaged, or stored on open ~~platforms or transported platforms~~ platforms, transported, or in trucks or delivery vehicles, or in any manner which would permit contamination from overhead drip, dust, dirt, rodents, ~~insects~~ insects, or any other sources of contamination.

## **Personnel**

### **9.0 ~~Employee~~ Personnel/Employee Health**

- 9.1 No person, while infected with a communicable disease ~~in a communicable form~~ that can be transmitted by ice, or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in an ice plant in any capacity in which there is a likelihood of such a person contaminating ice or ice-contact surfaces with pathogenic organisms or transmitting disease to other persons.
- 9.2 ~~Personnel~~ Hygiene.
- 9.2.4 Persons working in direct contact with ice or ice-contact surfaces:
- 9.2.4.1 ~~19.2.1~~ 2.1 Shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water in an approved handwashing facility before starting work, after each absence from the ~~work station~~ workstation, and at any other time when the hands may have become soiled or contaminated;
- 9.2.4.2 ~~9.2.2~~ 2.2 Shall not resume work after visiting the toilet room without washing their hands;
- 9.2.4.3 ~~39.2.3~~ 2.3 Shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices to the extent necessary to prevent contamination of the product;
- 9.2.4.4 ~~49.2.4~~ 2.4 Shall wear hair nets, headbands, ~~caps~~ caps, or other effective hair restraints;
- 9.2.4.5 ~~59.2.5~~ 2.5 Take necessary precautions to prevent contamination of ice and ice-contact surfaces with microorganisms or foreign substances ~~including, but not limited to,~~ including perspiration, hair, cosmetics, tobacco, ~~chemicals and chemicals,~~ cannabis, vaping products, medications; and
- 9.2.4.6 ~~69.2.6~~ 2.6 Shall not store clothing or other personal belongings, eat ~~food or food~~ food, drink beverages, or use tobacco, cannabis, or vaping products in areas of manufacturing, processing, ~~packaging~~ packaging, and storage.

## **Process Controls**

### **10.0 Process Controls and Supplies Storage**

- 10.1 Storage of paper and packaging supplies shall be on pallets or raised above floor level, and all ~~partially-used~~ partially-used supplies shall be kept in closed containers.

- 10.2 Single-service supplies shall be stored, ~~dispensed~~ dispensed, and handled in a sanitary manner and shall be used only once.
- 10.3 Hazardous Chemicals. Hazardous chemicals consist of the following categories:
- 10.3.1 Insecticides and rodenticides;
- 10.3.2 Detergents, sanitizers, and related cleaning agents;
- 10.3.3 Refrigerants particular to the ice industry such as anhydrous ammonia and chlorinated fluorocarbon (freon).
- 10.4 Chemicals Permitted
- 10.4.1 There shall be present in the ice plant only those hazardous chemicals necessary for maintaining the establishment and the grounds, cleaning and sanitizing equipment and ~~utensils-utensils~~, and controlling insects and rodents.
- 10.4.2 The presence and storage of necessary hazardous chemical shall be reported in accordance with State state and Federal-federal law.
- 10.5 Labeling of ~~Chemicals~~Chemicals.
- 10.5.4 Containers of hazardous chemicals shall be prominently and distinctly labeled in accordance with 29 CFR 1910.1200, "Hazard Communication ~~Standard~~."Standard".
- 10.6 Storage of ~~Chemicals~~Chemicals.
- 10.6.4 Hazardous chemicals must be stored in accordance with applicable ~~Federal-state~~ and ~~State-federal~~ requirements.
- 10.7 Filtration ~~System~~System.
- 10.7.4 Filter beds and filtering equipment shall be designed to protect ice from contamination and shall be subject to periodic treatment and cleaning as required for good sanitation practices.
- 10.8 Agitator
- 10.8.1 Air intakes shall be located and maintained ~~in an approved manner~~.
- 10.8.2 Filters shall be located upstream from the compressor and shall be easily removable for cleaning or replacement.
- 10.9 Agitation Air~~Air~~.
- 10.9.4 Air used for water agitation shall be filtered or otherwise treated to render it free of dust, dirt, insects, and extraneous material.
- 10.10 ~~Blower/Compressor~~Blower/Compressor.
- 10.10.4 The blower or compressor for supplying air for water agitation shall ~~shall~~ shall:
- 10.10.1 ~~be~~ Be designed so it will deliver oil-free air.
- 10.10.2 Oil-free air may be produced by ~~one~~ one of the following methods or its equivalent:
- 10.10.1.1 ~~10.10.2.1~~ Use ~~The use~~ of a carbon ring compressor; or
- 10.10.1.2 ~~10.10.2.2~~ Use ~~The use~~ of an oil-lubricated compressor with effective provision for removal of any oil vapor; or
- 10.10.1.3 ~~10.10.2.3~~ Use ~~The use~~ of high-pressure water lubricated or non-lubricated blowers.
- 10.11 ~~Restricted Operations~~Operations.
- 10.11.4 Ice for human consumption shall be processed and packaged only in rooms used solely for those operations necessary to the processing and packaging of food products.
- 10.12 ~~Restricted Access~~Access.
- 10.12.1 ~~Unauthorized Personnel~~.
- 10.12.1.1 Unauthorized personnel shall not be permitted in any room where ice is manufactured, processed, packaged, or stored.
- 10.13 ~~Animals~~Animals.
- 10.13.4 No live animals shall be allowed in any production, ~~packaging-packaging~~, or storage areas of the plant.

## **Packaging and Labeling**

### **11.0 Packaging and Labeling**

- 11.1 The immediate ice-contact surface of any product packaging material shall be ~~foodgrade~~ food-grade in quality, quality and therefore meet the food safety requirements of, Pure Food & and Drug Act of the State of Delaware.
- 11.2 ~~Labeling~~Labeling.
- 11.2.4 Ice packaging shall clearly and accurately display the following information:
- 11.2.1.1 ~~11.2.1~~ 11.2.1 Product common name;
- 11.2.1.2 ~~11.2.2~~ 11.2.2 Net weight;
- 11.2.1.3 ~~11.2.3~~ 11.2.3 ~~Processing Plant/Distributor Name, Address and Zip Code~~ plant/distributor name, address, zip code; and
- 11.2.1.4 ~~11.2.4~~ 11.2.4 Production lot number/code.

## **Liquid Waste Disposal**

### **12.0 Liquid Waste and Sewage Disposal**

- 12.1 All sewage and ~~waste water~~ wastewater shall be disposed of by means of a public sewerage system or an approved sewage-disposal system which is constructed, ~~operated~~ operated, and maintained in conformance with applicable ~~State state~~ and local laws, ordinances, and regulations.
- 12.2 Waste Processing ~~Water~~ Water.
  - 12.2.4 Water used for washing or rinsing shall not be reused and shall be disposed of as liquid waste.

## **Plumbing**

### **13.0 General Plumbing**

- 13.1 All plumbing shall be sized, ~~installed~~ installed, and maintained in accordance with applicable ~~State state~~ and local plumbing laws, ordinances, and regulations. Plumbing shall be of adequate ~~size and design~~ size, design, and installed and maintained to carry sufficient quantities of water to required locations throughout the ice plant.
- 13.2 ~~Cross-Connections~~ Cross-connections.
  - 13.2.4 The potable water supply piping shall not be connected ~~with to~~ any non-potable water supply system whereby the non-potable water can be drawn or discharged into the potable water supply system.
- 13.3 ~~Backflow~~ Backflow.
  - 13.3.4 The potable water system shall be installed in such a manner as to preclude the possibility of backflow into the system.
- 13.4 ~~Marking/Identification~~ Marking/Identification.
  - 13.4.4 The piping of any ~~nonpotable non-potable~~ water system shall be adequately and durably identified, such as by distinctive colored paint, so that it is readily distinguished from piping which carries potable ~~water; and nonpotable water water~~. Non-potable water shall not be connected to equipment, except as specified in ~~Section subsection~~ 7.2 of this regulation, or have outlets in the brine circulation tanks. Fire protection outlets shall be so designed or protected as to discourage their use for any other purpose.
- 13.5 Drain Lines
  - 13.5.1 Drain lines from equipment shall not discharge ~~waste water~~ wastewater in such a manner as to permit flooding of ~~floors or floors~~, the flowing of water across working or walking areas, or in difficult to clean areas, or otherwise create a nuisance.
  - 13.5.2 Soil, ~~waste waste~~, or discharge pipes shall be ~~so~~ located, ~~installed~~ installed, and maintained as ~~not to~~ not constitute a source of contamination for ice ~~equipment~~, equipment or utensils, or to create an insanitary condition or nuisance.

## **Toilet and Handwashing Facilities**

### **14.0 Toilet and Handwashing Facilities**

- 14.1 Toilet Installation.
  - 14.1.4 Toilet facilities shall be installed according to law, shall be adequate and conveniently located, and shall be always accessible to the employees ~~at all times~~. Applicable ~~laws regulations~~ include the "State of Delaware Regulations Governing a Detailed Plumbing Code" (**16 DE Admin. Code 4455**), and specific county/city building and plumbing codes. ~~These Toilet~~ facilities shall contain or be located adjacent to adequate handwashing facilities.
- 14.2 Toilet Fixtures.
  - 14.2.4 Toilets and urinals shall be designed to be easily cleanable.
- 14.3 Toilet Rooms.
  - 14.3.1 The walls, ~~ceilings ceilings~~, and floors of ~~these toilet~~ facilities shall be of a material that is easy to clean. These rooms and their fixtures shall be kept clean and in good repair.
  - 14.3.2 Toilet rooms shall be completely enclosed, properly ventilated, and ~~shall~~ shall have tight-fitting, self-closing doors. Windows, when provided in rest rooms and capable of being opened, shall be equipped with screens in good repair. Toilet room doors shall not be left open except during cleaning or maintenance, nor shall they open directly into the manufacturing, ~~processing processing~~, or packaging areas. If vestibules are provided, they shall be kept clean and in good repair.
  - 14.3.3 Each toilet shall be always furnished with toilet tissue ~~at all times~~.
  - 14.3.4 Signs shall be posted requiring employees to wash hands with soap or detergent before returning to work.
- 14.4 Handwashing Facilities.

- 14.4.4 Handwashing facilities shall have hot and cold running water, hand-cleaning soaps or detergents, and sanitary paper towels or ~~other~~another approved sanitary hand-drying device. If provided, mechanical hand dryers shall be maintained in good repair. Adequate trash receptacles with covers shall be provided for disposal of waste.

## **Design, Construction and Maintenance**

### **15.0 Ice Plant Structure — General Design, Construction, and Maintenance**

- 15.1 Plant buildings and structures for ice manufacture shall be suitable in size, construction, design, and of sound repair to facilitate maintenance and sanitary operations including the effective exclusion of vermin.
- 15.2 Sufficient space shall be provided for ~~such~~the placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe ice.
- 15.3 Housekeeping operations shall be sufficiently frequent and thorough to maintain all parts of the plant in a clean condition.
- 15.4 Contamination ~~Exclusion~~Exclusion.
- 15.4.4 Ice manufacturing, processing, ~~packaging~~packaging, and storage operations shall be conducted in an enclosed building designed to protect the ice, ingredients, ~~equipment~~equipment, and utensils from contamination. Adequate screening and tight-fitting closures shall be provided at openings to ice manufacturing, processing, packaging and storage areas to effectively exclude dust, dirt, rodents, ~~birds or insects~~birds, insects, and other sources of contamination.
- 15.5 Floors, ~~Walls~~Walls, and Ceilings
- 15.5.1 The floors, ~~walls~~walls, and ceilings of all rooms in which ice is manufactured, processed, packaged, and stored shall be of such material, and so constructed as to facilitate cleaning and good repair. Floors, walls, and ceilings shall be maintained in a clean and sanitary condition.
- 15.5.2 Adequate floor drainage shall be provided in all areas where floors are subject to flood-type ~~cleaning~~cleaning, or where normal operations release or discharge water or other liquid waste onto the floor.
- 15.6 Lighting
- 15.6.1 ~~Illumination Requirements~~Requirements
- 15.6.1.1 Adequate lighting shall be provided in areas where ice is manufactured, processed, ~~packaged~~packaged, or stored to facilitate handling and inspection of the ~~product and cleanup~~product, cleanup, and repair of the building, ~~equipment~~equipment, and utensils. Sources ~~or of~~ artificial light shall be provided and used to the extent necessary to provide illumination on those surfaces and in those areas when in use and when being cleaned. The following minimum intensities, as measured 30 inches from the floor, shall be fulfilled:
- 15.6.1.1.1 At least 20 foot-candles of light shall be required on surfaces in all rooms or areas in which ice is manufactured, ~~processed~~processed, or packaged,
- 15.6.1.1.2 At least 20 foot-candles of light shall also be required in utensil-washing areas, toilet rooms, handwashing ~~areas and areas~~areas, dressing rooms, and locker rooms.
- 15.6.1.1.3 Storage rooms shall have at least 5 10 foot-candles of light.
- 15.7 Protective Shielding.
- 15.7.4 Effective shielding to protect against broken glass falling onto ice or equipment shall be provided on all light bulbs, fixtures, ~~skylights~~skylights, or other glass suspended over, ~~by~~by, or within, ice manufacturing, processing, ~~packaging~~packaging, and storage areas.
- 15.8 ~~Ventilation~~Ventilation
- 15.8.1 Rooms in which hazardous chemicals are stored or used shall be ventilated in accordance with applicable ~~Federal, State, federal, state~~federal, state, and local requirements.
- 15.8.2 Adequate ventilation shall be provided, and the equipment kept clean, to minimize odors, noxious fumes or vapors, and condensate in manufacturing, processing, and storage rooms.
- 15.8.3 Toilet rooms and fixtures shall be ventilated in accordance with applicable ~~State~~state and local plumbing laws, ordinances, and regulations.
- 15.9 Vehicles
- 15.9.1 Vehicles used for transporting or delivering unpackaged ice shall be of closed construction with tight-fitting covered bodies. All vehicles hauling unpackaged ice shall be thoroughly washed immediately prior to loading with ice.
- 15.9.2 The ice compartment of vehicles used in transporting or delivery of ice shall be of cleanable construction and shall be kept clean and in good repair. If the vehicles are of open construction, they shall have tight floors and sides and shall be equipped with clean tarpaulins.
- 15.10 ~~Grounds~~Grounds.
- 15.10.4 The grounds around the ice plant under the control of the ~~operator~~owner/operator shall be free from ~~conditions~~conditions which may result in the contamination of ice ~~including, but not limited to ice~~including the following:

- ~~15.10.1~~ 15.10.1 Improperly stored or discharged equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests;
- ~~15.10.1.2~~ 15.10.2 Excessively dusty roads, yards, or parking lots that may constitute a source of contamination; or
- ~~15.10.1.3~~ 15.10.3 Inadequately drained areas that may contribute contamination to the ice through seepage or foot-borne filth, by providing a breeding place for insects or microorganisms.
- 15 DE Reg. 527 (10/01/11)**

## Equipment and Utensils

### 16.0 General Equipment and Utensils

- 16.1 All equipment and utensils used in ice plants shall be of easily cleanable construction and shall be kept clean, in good repair, and shall be handled and stored in a sanitary manner. Materials used as ice-contact surfaces shall be smooth, non-toxic, and corrosion resistant ~~resistant~~, and non-absorbent.
- 16.2 Ice-contact surfaces, including loading platforms, conveyors, and chutes, shall be ~~easily cleanable and shall be cleanable, kept clean~~ and kept in good repair.
- 16.3 Equipment Lubrication.
- ~~16.3.4~~ Equipment lubrication shall not cause contamination and only food grade lubricants shall be used.
- 16.4 Ice Cans
- 16.4.1 Ice cans shall be leak-proof and the inner surfaces shall be free of corrosion.
- 16.4.2 Canvas containers shall not be used unless ~~such~~ the use is with a sanitary single-service liner that completely protects the ice from contamination.
- 16.5 Tank Covers.
- ~~16.5.4~~ Freezing tank covers shall be designed and constructed of acceptable and ~~easily cleanable~~ easily-cleanable materials to protect ice containers from contamination. ~~They~~ Freezing tank covers shall be kept ~~clean and clean~~, in good repair ~~repair~~, and shall be equipped with rings or similar devices when hooks are used for pulling. Can or tank covers and the ledges or sides of the tank upon which the cover rests shall be cleaned as often as necessary to keep them in a sanitary condition.
- 16.6 Conveyors.
- ~~16.6.4~~ Conveyor surfaces shall be of impervious material and shall protect ice from contaminants that may result from shredding, flaking, ~~peeling~~ peeling, or fragmentation of the conveyor surface.
- 16.7 Equipment Cleaning and Sanitization
- 16.7.1 Ice contact surfaces, including storage bins, conveyors, packaging ~~equipment~~ equipment, and hand utensils shall be kept clean. Ice contact surfaces shall be ~~cleaned,~~ cleaned according to CFR 117.35, using acceptable cleansers and cleaning methods, as often as necessary to ~~insure~~ ensure that no contamination of the product occurs.
- 16.7.2 Equipment that is used to store or deliver ~~water~~ water, or that is in contact with the ice in the freezing ~~process~~ process, should be regularly sanitized. All process water-contact surfaces shall be cleaned and sanitized before use and after any interruption during which the surfaces may have become contaminated. Any time portable equipment or utensils contact the floor or are otherwise subjected to contamination, they shall be cleaned and ~~sanitized,~~ sanitized before use or storage ~~in a sanitary manner~~.
- 16.7.3 Cleaning and sanitization operations shall be conducted in a manner to preclude contamination of product and product contact surfaces. When chemicals are used for sanitization, they shall not exceed concentrations permitted under 21 **CFR** 178.1010. An approved means for measuring the solution concentration shall be provided and used.
- 16.8 Utensil and Equipment Storage.
- ~~16.8.4~~ Utensils and portable equipment shall be maintained in a sanitary condition. When not in use, they shall be stored in a clean cabinet or other suitable enclosure which provides protection from contamination. When equipment or utensils contact the floor or are otherwise subjected to contamination, they shall be thoroughly sanitized before reuse.
- 16.9 ~~Tarpaulins~~ Tarpaulins.
- ~~16.9.1~~ If transporting or delivery vehicles are of ~~such~~ a design as to require them, tarpaulins shall ~~meet the following criteria~~. Tarpaulins shall:
- ~~16.9.1.1~~ 16.9.1 Cover the entire load and reach all the way to the floor ~~in back of~~ behind the load; and
- ~~16.9.1.2~~ 16.9.2 They shall be ~~Be~~ Be thoroughly cleaned after each usage use.
- 15 DE Reg. 527 (10/01/11)**

## Compliance Procedures

## 17.0 **General Compliance Procedures**

- 17.1 No person shall operate an ice plant who does not possess a valid permit issued to him by the Division of Public Health in accordance with Section 6.0 of ~~these Regulations~~ this regulation. Only a person who complies with the requirements of ~~these Regulations~~ this regulation shall be entitled to receive or retain such a permit.
- 17.2 A valid ~~Delaware~~ Division of Public Health permit shall be posted in a conspicuous location, in every ice plant.
- 17.3 The Division of Public Health, or its designated authority, for just reasons of non-compliance with the requirements of ~~these Regulations~~ this regulation, may: ~~Refuse~~ may refuse to issue a permit, deny the reissuance of a permit; or suspend/revoke a permit.
- 17.4 Enforcement authority for the assurance of a safe source of water supply and the microbiological, ~~chemical~~ chemical, and physical standards of both the water and the ice product shall be vested concomitantly in ~~these Regulations~~ this regulation and in ~~State of Delaware Regulations Governing Drinking Water Supplies~~ State of Delaware Public Drinking Water Systems regulation (16 DE Admin. Code 4462).
- 17.5 Change of Ownership, Management ~~Firm~~ Firm, or Lessee
- 17.5.1 A valid permit is not transferable from person to person or location to location. Therefore, it is the responsibility of the new owner/operator to apply for an operating permit prior to commencing operations.
- 17.5.2 If any ~~renovation(s)~~ renovations of the physical structure of the transferred facility is(~~are~~) are required, based on previous inspection reports of the regulatory authority, the new owner/operator will be held responsible for ~~this~~(~~these~~) renovation(s) these renovations.
- 17.5.3 Compliance with ~~these Regulations~~ this regulation shall be achieved prior to the start of business unless the new owner/operator is either granted a variance in accordance with ~~Section~~ subsection 17.18.2 of this regulation, or is granted a provisional permit in accordance with ~~Section~~ subsection 6.3.2 of ~~these Regulations~~ this regulation. Upon compliance with ~~these Regulations~~ this regulation, a permanent permit shall be issued to the ~~operator~~ owner/operator as described in ~~Section~~ subsection 6.3.1 of this regulation.
- 17.6 Inspections
- 17.6.4 Inspection Frequency.
- 17.6.4.1 An inspection of an ice plant shall be performed at least once every ~~twelve (12)~~ 12 months. Additional inspections of the ice plant shall be performed as often as necessary for the enforcement of ~~these Regulations~~ this regulation.
- 17.7 Official Access.
- 17.7.4 Representatives of the regulatory authority, after proper identification, shall be permitted to enter any ice plant or gain access to product stored in vending machines at any reasonable time for the purpose of making inspections to determine compliance with ~~these Regulations~~ this regulation. These inspections may include any room, ~~area~~ area, or vehicle associated with the ice plant operation. In addition, the representatives shall be permitted to examine the records of any ice plant to obtain information pertaining to required water and ice product analysis, bulk ice product purchase ~~receipts~~ receipts, and supplies used. The Director, Division of Public Health, or ~~his/her~~ the Director's designee may, after providing the opportunity for a hearing, suspend for a period not to exceed ~~ninety (90)~~ 90 days, the permit to operate an ice plant for refusing access to representatives of the regulatory authority.
- 17.8 Inspection Report Form
- 17.8.1 A co-signed copy of the completed inspection report form adopted by the regulatory authority shall be furnished to the person in charge of the ice plant at the conclusion of the inspection. Inspectional remarks on the completed inspection form shall refer to the ~~item(s)~~ item or items violated, give the ~~time~~ period for correcting the ~~violation(s)~~ violation or violations, and shall state the corrections to be made. The inspection report form shall summarize the requirements of ~~these Regulations~~ this regulation and shall set forth a weighted point value for each requirement.
- 17.8.2 The post-construction/pre-permitting inspection report form shall be used to record the post-construction inspections of ice plants as specified in ~~Section~~ subsection 17.9 ~~below~~ of this regulation. This form shall contain the statement: "Items whose number and weight value are circled have not been completed." ~~The Regulations Governing the Manufacture and Sale of Ice require that~~ This regulation requires compliance with approved plans and specifications be obtained prior to a pre-opening inspection.
- 17.8.3 The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, in accordance with the Freedom of Information Act (29 Del.C. Ch. 100).
- 17.9 Types of Inspections
- 17.9.1 Inspections of ice plants are performed for a wide range of purposes. All inspections shall be categorized by type, classified by ~~purpose~~ purpose, and shall include, ~~but not be limited to~~, the following:
- 17.9.1.1 Regular Inspections.
- 17.9.1.1.1 Regular inspections are performed on a routine basis in permanent, operating, permitted facilities. These inspections shall address all items on the inspection report form. Items in violation shall be recorded by item number and the weighted point value given to that item.

The rating score of the ice plant shall be the total of the weighted point values for all violations subtracted from 100.

#### 17.9.1.2 ~~Follow-up Inspections~~ Inspections

17.9.1.2.1 Follow-up inspections shall be performed when a regular inspection score of less than 85 and greater than 69 is received, or when ~~one~~<sup>one</sup> or more 4 or 5-point weighted items are in violation. When the regular inspection score is 85 or above, the follow-up inspection shall address only items of "C" value or 4 or 5-point weighted items in violation. A rating score shall not be determined for these inspections. When the regular inspection score is less than 85, a complete inspection shall be ~~performed~~ performed, and a follow-up rating score shall be determined.

17.9.1.2.2 Follow-up inspections may also be performed after complaint and investigation inspections, or after administrative hearings. Rating scores may or may not be determined for these inspections.

#### 17.9.1.3 Complaint Inspections.

~~17.9.1.3.1~~ Complaint inspections are performed in response to formal or informal complaints against permitted facilities. A complete inspection may be performed by the regulatory authority in the interest of the public's health.

#### 17.9.1.4 ~~Investigation~~ Investigative Inspections.

~~17.9.1.4.1~~ ~~Investigation~~ Investigative inspections are performed on non-permitted ice plants for determining compliance with ~~these Regulations~~ this regulation.

#### 17.9.1.5 Other Inspections.

~~17.9.1.5.1~~ These inspections include post-construction, ~~pre-operational~~ pre-operational, and other inspections not included ~~above~~. (See ~~Sections in subsections 6.6 and 6.7 of the Regulations~~ this regulation).

### 17.10 Rating Score.

~~17.10.1~~ Rating scores of ice plants are kept on file by the regulatory authority and may be used to determine inspection frequencies. The receipt of any "C" value items, an overall rating score below 70 (excluding the presence of any critical violative items) during a regular inspection, a follow-up rating score below 85, or two successive regular inspection scores below 85, shall indicate the need for action by the regulatory authority as specified in ~~Section subsection~~ 17.12 of these Regulations this regulation.

### 17.11 Response to Violations Violations.

~~17.11.1~~ ~~Official and/or operator or owner/operator~~ response to citing of violative items shall be in accordance with the below stated procedures:

~~17.11.1.1~~ ~~17.11.1~~ Closure Items (denoted "~~subsection 17.11.1.3~~ 17.12"). When an inspection results in the finding of any violative items denoted "~~17.11.1.3 in subsection 17.12~~", the permit shall be immediately suspended in accordance with ~~Section 17.12~~.

~~17.11.1.2~~ ~~17.11.2~~ Critical Items (4 or 5-point weighted items)

~~17.11.1.2.1~~ ~~17.11.2.1~~ When the rating score of an ice plant is determined to be 85 or above by regular inspection, all violations of 4 or 5-point weighted items shall be corrected, or written proof of intention to correct shall be provided as soon as possible, ~~but in any event~~, within 48 hours following inspection.

~~17.11.1.2.2~~ ~~17.11.2.2~~ When the rating score of an ice plant is determined to be less than 70 by regular inspection, the permit shall be suspended in accordance with ~~Section subsection~~ 17.13 of this regulation. All violations of 4 or 5-point weighted items shall be corrected or written proof of intention to correct prior to resuming operations.

~~17.11.1.2.3~~ ~~17.11.2.3~~ Follow-up inspections shall be conducted at reasonable time intervals to assure corrections are completed according to schedule.

~~17.11.1.3~~ ~~17.11.3~~ Non-critical ~~Items~~ Items (1- or 2-point weighted items). All ~~1-~~ or 2-point weighted items shall be corrected as soon as possible, ~~but in any event~~, by the time of the next regular inspection.

### 17.12 Procedure for Administrative Action

17.12.1 Administrative action is required if any of the following conditions are found to exist:

17.12.1.1 The inspection discloses any immediate health hazards (~~described below~~) described in subsection 17.12.2 of this regulation constituted by violation of any "~~17.11.1.3~~" subsection 17.12.2 value items; or

17.12.1.2 ~~the~~ The Director, Division of Public Health, or ~~his/her~~ the Director's designee determines that an imminent health hazard (~~described below~~) exist(s) described in subsection 17.2.3 of this regulation exists in an ice plant which represents a threat to life; or

17.12.1.3 ~~there exists a~~ A serious risk of damage to health or safety of the public exists; or

17.12.1.4 ~~critical~~ Critical or repeat violations; or

17.12.1.5 ~~general~~ General insanitary conditions are found to exist.

17.12.2 Immediate Health Hazard ~~Hazard~~.

~~17.12.2.1~~ An immediate health hazard shall include, ~~but is not limited to,~~ any ~~one~~1 of the following:

~~17.12.2.1.1~~17.12.2.1 An unapproved source of water for product (ice) manufacture;

~~17.12.2.1.2~~17.12.2.2 Source water or ice product fails to meet microbiological, ~~chemical~~chemical, and physical standards for drinking water; or

~~17.12.2.1.3~~17.12.2.3 Cross-connections are found between potable and non-potable water systems.

17.12.3 Imminent Health Hazard ~~(s)~~Hazards.

~~17.12.3.1~~ An imminent health hazard shall include, ~~but is not limited to,~~ any ~~one~~1 of the following:

~~17.12.3.1.1~~17.12.3.1 An ongoing outbreak of an infectious, ~~pathogenic~~pathogenic, or toxic agent capable of being transmitted to consumers; or

~~17.12.3.1.2~~17.12.3.2 The absence of potable water, supplied under pressure, in quantities capable of meeting the needs of the facility; or

~~17.12.3.1.3~~17.12.3.3 A sewage backup into the facility or into equipment containing ice; or

~~17.12.3.1.4~~17.12.3.4 An infestation of vermin to the extent that ice or ice-contact surfaces cannot be protected from contamination; or

~~17.12.3.1.5~~17.12.3.5 Receipt of an overall rating score of less than 70 following an inspection by a representative of the regulatory authority.

17.13 Suspension of Permit

17.13.1 If ~~some condition(s) is/are a condition is~~ determined to exist in an ice plant which ~~present(s) presents~~ an imminent health hazard to the public, the Director, Division of Public Health, or ~~his/her the Director's~~ designee in the county in which the ice plant operates, may suspend the operating permit of the ice plant without a hearing or written notice for a period not to exceed ~~ten (10)~~10 days. Further enforcement action shall be taken in accordance with ~~Section subsection~~ 17.19 of this regulation.

17.13.2 The suspension shall be effective upon receipt of written notice by the person in charge of the ice plant. A suspension statement recorded on the inspection report by the inspecting regulatory representative constitutes a written notice. The Director, Division of Public Health, or ~~his/her the Director's~~ designee, shall be notified of the suspension by the close of the following business day. Service of written notice of suspension by the Director, Division of Public Health, or ~~his/her the Director's~~ designee stating the ~~reason(s) reason or reasons~~ for the suspension shall be made by the close of the following business day. The person in charge shall be requested to yield the permit to the representative of the regulatory authority. The permit shall not be suspended for a period longer than ~~ten (10)~~10 days without a hearing.

17.14 Reinstatement of Permit

17.14.1 If a follow-up inspection by a representative of the regulatory authority shows that the immediate health ~~hazard(s) hazard or hazards~~ or the imminent health ~~hazard(s) hazard or hazards~~ no longer ~~exist(s) exist or exists~~, the suspension shall be lifted immediately and the permit returned. If there is no evidence that the immediate health ~~hazard(s) and/or hazard or hazards~~ or the imminent health ~~hazard(s) hazard or hazards~~ has/have been corrected by the end of the ~~ten (10) day~~10-day suspension, the Director, Division of Public Health, or ~~his/her the Director's~~ designee must schedule a hearing to determine if the suspension should be extended. Failure to hold a hearing within the ~~ten (10) day~~10-day period shall automatically terminate the suspension.

17.14.2 The owner/operator of the ice plant may request, in writing, a hearing before the Director, ~~Division of Public Health,~~ or ~~his/her the Director's~~ designee at any time during the period of suspension, for the purpose of demonstrating that the immediate health ~~hazard(s) and/or hazard or hazards~~ or imminent health ~~hazard(s) hazard or hazards~~ no longer ~~exist(s) exists or exist~~. The request for hearing shall not stay the suspension.

17.15 Administrative Hearings.

~~17.15.1~~ Whenever conditions in an ice plant warrant, the Director, Division of Public Health, or ~~his/her the Director's~~ designee shall schedule an administrative hearing to consider suspension or recommend revocation of a permit. The Director, Division of Public Health, or ~~his/her the Director's~~ designee shall neither suspend nor recommend revocation of a permit of an ice plant for serious or repeated ~~violations,~~ violations which do not present an imminent health hazard, without having first held a hearing to determine whether the permit should be suspended or revoked. The holder of the permit or the person in charge of the ice plant must be informed at least ~~ten (10)~~10 days prior to the hearing, of the date, time, and place of the hearing and the specific charges against the ice plant. The notification of the hearing shall be sent by certified mail or by hand delivery. The Director, Division of Public Health, or ~~his/her the Director's~~ designee, after providing the opportunity for a hearing, may suspend for a period not to exceed ~~ninety (90)~~90 days, or may recommend revocation of a permit to operate an ice plant for serious or repeated violations of any of the requirements of ~~these Regulations~~this regulation.

17.16 Records of Administrative Proceedings.

~~17.16.1 (Number needed)~~ Written minutes shall be made of all hearing proceedings and shall become documents of record. A written report of the hearing decision shall be furnished to the Division of Public Health, ~~the~~

Bureau of Environmental Health Equity, and the owner/operator by the Director, Division of Public Health, or his/her ~~the Director's~~ designee within ~~ten (10)-10~~ days following the hearing.

17.17 Right of Appeal to the Division of Public Health.

~~17.17.4~~ The owner/operator of the ice plant may appeal to the Secretary, Delaware Health and Social Services for reconsideration of the decision of the Director, Division of Public Health or his/her ~~the Director's~~ designee. ~~In order to~~ To appeal for reconsideration, written notice of appeal must be received by the Secretary, Delaware Health and Social Services ~~Services~~ within ~~forty-eight (48)-48~~ hours after announcement of the decision of the Director, Division of Public Health, or his/her ~~the Director's~~ designee. The notice of appeal may be sent via certified mail or hand delivered to the Secretary, Delaware Health and Social Services. If a notice of appeal is timely filed, the decision of the Director, Division of Public Health or his/her ~~the Director's~~ designee ~~in regard to~~ regarding ice plant suspension or revocation for serious or repeat violations, or for general insanitary conditions will be stayed until that decision is confirmed by the Secretary, Delaware Health and Social Services. If a notice of appeal is not filed within the required ~~time~~ period, the permit suspension or revocation recommendation shall be ~~upheld~~ upheld, and other enforcement action taken in accordance with ~~Section-subsection~~ 17.19 of this regulation. If the notice of appeal is timely filed, the Secretary, Delaware Health and Social Services shall hold a hearing at the next scheduled Division of Public Health meeting.

17.18 Division of Public Health Action.

~~17.18.4~~ The Secretary, Delaware Health and Social Services, at ~~its~~ the Secretary's next scheduled meeting, shall consider ~~the~~ the Director, Division of Public Health recommendation for permit revocation or hear an appeal by the owner/operator whose permit to operate an ice plant stands suspended. The Division of Public Health shall, at each scheduled meeting, release the ~~name(s)-name or names~~ of those ice plants not meeting the following criteria:

~~17.18.1.1~~ 17.18.1 Permit revoked; ~~or~~

~~17.18.1.2~~ 17.18.2 Permit suspended due to imminent health hazard or hazards; ~~or~~

~~17.18.1.3~~ 17.18.3 Permit suspended due to repeat ~~violation(s)-violation or violations~~ of critical items; or

~~17.18.1.4~~ 17.18.4 Operating without a valid ice plant permit.

~~17.18.2~~ Variance.

~~17.18.2.1~~ The Division of Public Health ~~may, from time to time,~~ may grant written permission to vary from particular provisions of ~~these Regulations~~ this regulation when the extent of the variation is clearly ~~specified~~ specified, and ~~such~~ the variation is:

~~17.18.2.1.1~~ 17.18.2.1 In conformance with the variance requirements of the ~~State of Delaware Regulations Governing Public Drinking Water Systems~~; State of Delaware Public Drinking Water Systems regulation (16 DE Admin. Code 4462);

~~17.18.2.1.2~~ 17.18.2.2 Necessary to obtain a beneficial use of an existing facility; and

~~17.18.2.1.3~~ 17.18.2.3 Appropriate alternative measures have been taken to protect the health and safety of the public and to assure that the purpose of the provisions from which the variation is sought will be observed.

17.18.3 Written applications for ~~such~~ variances shall be filed with the Director, Division of Public Health. No such variance shall be effective until granted by the Division of Public Health.

17.19 Agency Emergency Actions

17.19.1 Condemnation/Embargo.

17.19.1.1 ~~(Number needed)~~ Ice ~~and/or~~ and water may be sampled by the regulatory authority as often as necessary for enforcement of ~~these Regulations~~ this regulation. All product water and ice shall meet the quality standards set forth in quality standards of ~~these Regulations~~ this regulation. Ice failing to meet the quality standards shall not be kept on the premises. The established administrative procedures for the implementation and enforcement of the provisions of 16 ~~Del.C., Ch. 33 (Volume 63, Chapter 148, Laws of Delaware~~ 63 Del. Laws, c. 148), relating to the embargo of misbranded or adulterated food and penalties shall be applicable to this ~~section~~ subsection.

17.19.2 Procedure When Infection is Suspected

17.19.2.1 When the regulatory authority has reasonable cause to suspect possible disease transmission by an ice plant or an employee thereof, it may conduct an epidemiological investigation which can indicate morbidity histories of suspected employees or make any other investigations as indicated and shall take appropriate action.

17.19.2.2 The regulatory authority may require any or all of the following:

~~17.19.2.1.1~~ 17.19.2.2.1 The immediate exclusion of an employee from the ice plant;

~~17.19.2.1.2~~ 17.19.2.2.2 The immediate closing of the ice plant until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;

~~17.19.2.1.3~~ 17.19.2.2.3 Restriction of an ~~employee(s)-employee or employees'~~ services to some area of the ice plant where there is no danger of transmitting disease;

~~17.19.2.1.4~~17.19.2.2.4 Adequate medical and laboratory examination of the employee and of other ~~employees~~employees, and of his ~~and their body~~the examined employee's or employees' bodily discharges;

~~17.19.2.1.5~~17.19.2.2.5 Any other action deemed necessary and feasible by the Director, Division of Public Health or ~~his/her designee~~the Director's designee, or the Division of Public Health State Epidemiologist~~Epidemiologist~~, to protect the health of the public and other employees of the ice plant.

#### 17.20 Recall PlanPlan.

17.20.4 The ice plant management must:

~~17.20.1.1~~17.20.1 Prepare and maintain a current written contingency plan for use in initiating and affecting a recall;

~~17.20.1.2~~17.20.2 Use sufficient coding of regulated products to make possible positive identification and to facilitate effective recall of all violative lots; and

~~17.20.1.3~~17.20.3 Maintain ~~such~~ product distribution records as ~~are~~ necessary to facilitate location of products that are being recalled. ~~Such~~These distribution records should be maintained for a period of ~~time~~ that exceeds the expected use of the product and is at least the length of time specified in other applicable regulations governing records retention.

#### 17.21 Penalties

17.21.1 Any person (or responsible officer of that person) who violates a provision of ~~these Regulations~~this regulation, and any responsible person (or responsible officer to that person) who is the holder of a permit or who otherwise operates an ice plant that does not comply with the requirements of ~~these Regulations~~this regulation shall be subject to the provisions of [16 Del.C. §107](#).

17.21.2 The regulatory authority may seek to enjoin violations of ~~these Regulations~~this regulation.

17.21.3 A conspicuous, colored placard shall be prominently displayed at all entrances to ice plants meeting the following requirements:

17.21.3.1 Failure to obtain a valid permit; or

17.21.3.2 ~~whose~~Whose permit stands suspended; or

17.21.3.3 ~~whose~~Whose permit stands revoked.

[15 DE Reg. 527 \(10/01/11\)](#)

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