# New Mexico Food Code

## NM Environment Department Retail and Manufactured Food Field Guide

Based on 7.6.2 NMAC

**Version 1 – Updated October 2026**

# 2026

## FIELD GUIDE INFORMATION TO ASSIST THE USER

***This Field Guide was developed to make the adopted, modified, omitted, and additional requirements of 7.6.2 NMAC easier to read by combining them into a single document. This Field Guide is not the official version of 7.6.2 NMAC. If a discrepancy between this Field Guide and 7.6.2 NMAC is discovered, the requirements of 7.6.2 NMAC shall apply.***

This section was provided to make the document easier to use. The structure, nomenclature, and methodology are listed below:

The field guide is divided into the following basic areas:

- Personnel (Chapter 2)
- Food (Chapter 3)
- Equipment/facilities/supplies (Chapters 4, 5, 6, 7)
- Compliance and enforcement (Chapter 8)
- Mobile Food Establishments and Temporary Food Establishments (Chapters 9- 10)
- Manufactured Food (Chapters 11-14)
- Home-based Food Processing and Catering (Chapters 15-16)

A new user will find it helpful to review the Table of Contents in order to quickly gain an understanding of the scope and sequence of subjects included within these five areas.

The structural nomenclature of the document is as follows:

| | |
|---|---|
| Chapter | 9 |
| Part | 9-1 |
| Subpart | 9-101 |
| Section (§) | 9-101.11 |
| Paragraph (¶) | 9-101.11(A) |
| Subparagraph | 9-101.11(A)(1) |

Two types of internal cross referencing are widely used throughout the Field Guide to eliminate the need for restating provisions.

(A) The first type of cross reference uses phrases that contain the word “under”, e.g., “as specified **under**… (followed by the relevant portion of the Code).”

The purpose of this type of cross reference is to:

1) Alert the reader to relevant information, and

2) Provide a system by which each violation is recorded under the one most appropriate provision. This type of cross reference signals to the reader the provision of the Code under which a certain violation is properly cited/debited.

(B) The second type of cross reference uses phrases that contain the word "in," e.g., "as specified **in**... (followed by the relevant portion of the Code)."

The purpose of this type of cross reference is to:

1) Indicate the specific provisions of a separate document such as a federal regulation that are being incorporated by reference in the requirement of the Code, e.g., ¶ 3-201.11(C); or

2) Refer the reader to a nondebitable provision of the Code which provides further information for consideration, such as provision for an exception or for an allowance to comply via an alternative method.

For example, ¶ 3-201.16 (A) begins with "Except as specified in ¶ (B)…" and ¶ (B) states the relevant exceptions to ¶ (A). ¶ 3-201.11(E) states in part, "… as specified *in* ¶ 3-401.11(C)" and ¶ 3-401.11(C) provides for an allowance to serve or sell raw or undercooked, whole-meat, intact beef steaks in a ready-to-eat form.

If you review the exception in ¶ 3-201.16(B) and the allowance in ¶ 3-401.11(C), you will see that exceptions and allowances often contain conditions of compliance, i.e., conditions that must be met in order for the exception or allowance to convey.

Based on the violation being cited, the substance of the text being referred to, and the context in which the reference is made, users of the Code must infer the intent of the cross reference. That is, the user must determine if the cross reference simply alerts the user to additional information about the requirement or if the cross reference:

- sends (via the word "under") the citing/debiting to another Code provision;
  or
- incorporates (via the word "in") the referenced requirements into the Code provision.

The Field Guide presents requirements by principle rather than by subject. For example, equipment requirements are presented under headings such as Materials, Design and Construction, Numbers and Capacities, Location and Installation, and Maintenance and Operation rather than by refrigerators, sinks, and thermometers. In this way provisions need be stated only once rather than repeated for each piece or category of equipment. Where there are special requirements for certain equipment, the requirement is delineated under the appropriate principle (e.g., Design and Construction) and listed separately in the index.

The former use of "high-risk", "moderate-risk" and "low-risk" violations in the previous versions of 7.6.2 NMAC have been changed to match the terminology of the 2017 Food Code. The terminology change was originally made in the 2013 Food Code in recognition of the need to better identify risk-based controls. Requirements contained in the Field Guide are presented as being in one of three categories of importance: PRIORITY ITEM (i.e. a

provision in the Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard); PRIORITY FOUNDATION ITEM (i.e., a provision in the FOOD CODE whose application supports, facilitates or enables one or more PRIORITY ITEMS); and, CORE ITEM (i.e., a provision in the FOOD CODE that is not designated as a PRIORITY ITEM or a PRIORITY FOUNDATION ITEM and that usually relates to general sanitation, operational controls, SANITATION STANDARD OPERATING PROCEDURES (SSOPs), facilities or structures, equipment design, or general maintenance.

A "P" or "Pf" designation after a paragraph or subparagraph indicates that the provision within that section is a PRIORITY ITEM or PRIORITY FOUNDATION ITEM. Any unmarked provisions within a section are CORE ITEMS.

The following conventions are used in the Field Guide. "Shall" means the act is imperative, i.e., "shall" constitutes a command. "May not" means absolute prohibition. "May" is permissive and means the act is allowed. The term "means" is followed by a declared fact.

Defined words and terms are in "small caps" in the text of the Field Guide chapters to alert the reader to the fact that there is a specific meaning assigned to those words and terms and that the meaning of a provision is to be interpreted in the defined context. A concerted effort was also made to place in "small caps" all forms and combinations of those defined words and terms that were intended to carry the weight of the definition

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Chapter

# 1 Purpose and Definitions

**Parts**


1-1 TITLE, INTENT, SCOPE
1-2 DEFINITIONS


## 1-1 TITLE, INTENT, SCOPE

**Subparts**


1-101 Title
1-102 Intent
1-103 Scope


### Title

#### 1-101.10 New Mexico Food Code.

These provisions shall be known as the New Mexico Food Code, hereinafter referred to as "this Code."

### Intent

#### 1-102.10 Food Safety, Illness Prevention, and Honest Presentation.

The purpose of this Code is to safeguard public health and provide to CONSUMERS FOOD that is safe, unADULTERATED, and honestly presented.

### Scope

#### 1-103.10 Statement.

This Code establishes definitions; sets standards for management and personnel, FOOD operations, and EQUIPMENT and facilities; and provides for FOOD ESTABLISHMENT plan review, PERMIT issuance, inspection, EMPLOYEE RESTRICTION, and PERMIT suspension.

## 1-2 DEFINITIONS

### Subpart

### 1-201 Applicability and Terms Defined

## Applicability and Terms Defined

### 1-201.10 Statement of Application and Listing of Terms.

(A) The following definitions shall apply in the interpretation and application of this Code.

(B) Terms Defined. As used in this Code, each of the terms listed in ¶ 1-201.10(B) shall have the meaning stated below.

**Accredited Program.**

(1) **"Accredited program"** means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(2) **"Accredited program"** refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.

(3) **"Accredited program"** does not refer to training functions or educational programs.

**"Acid food"** means food that has a natural pH of 4.6 or below.

**"Acidified food"** means LOW-ACID FOOD to which acid(s) or ACID FOOD(S) are added and have a water activity greater than 0.85 and have a finished equilibrium pH of 4.6 or below. Carbonated BEVERAGES and food that are stored, distributed, and retailed under refrigeration are not classified as ACIDIFIED FOOD.

**Additive.**

(1) **"Food additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.3(e)(1).

(2) **"Color additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.3(f).

**"Adulterated"** has the meaning stated in the New Mexico Food Act, Section 25-2-10 NMSA 1978.

**"Approved"** means acceptable to the REGULATORY AUTHORITY based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

**Asymptomatic.**

(1) **"Asymptomatic"** means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice.

(2) **"Asymptomatic"** includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

**"$a_w$"** means water activity which is a measure of the free moisture in a FOOD, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol $A_w$.

**"Balut"** means an embryo inside a fertile EGG that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

**"Beverage"** means a liquid for drinking, including water.

**"Bottled drinking water"** means water that is SEALED in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

**"Casing"** means a tubular container for sausage products made of either natural or artificial (synthetic) material.

**"Certification number"** means a unique combination of letters and numbers assigned by a SHELLFISH CONTROL AUTHORITY to a MOLLUSCAN SHELLFISH DEALER according to the provisions of the National Shellfish Sanitation Program.

**"CFR"** means CODE OF FEDERAL REGULATIONS. Citations in this Code to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

**CIP.**

(1) **"CIP"** means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and SANITIZING solution onto or over EQUIPMENT surfaces that require cleaning, such as the method used, in part, to clean and SANITIZE a frozen dessert machine.
(2) **"CIP"** does not include the cleaning of EQUIPMENT such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

**"Commingle"** means:

(1) To combine SHELLSTOCK harvested on different days or from different growing areas as identified on the tag or label, or

(2) To combine SHUCKED SHELLFISH from containers with different container codes or different shucking dates.

**Comminuted.**

(1) **"Comminuted"** means reduced in size by methods including chopping, flaking, grinding, or mincing.

(2) **"Comminuted"** includes FISH or MEAT products that are reduced in size and restructured or reformulated such as gefilte FISH, gyros, ground beef, and sausage; and a mixture of 2 or more types of MEAT that have been reduced in size and combined, such as sausages made from 2 or more MEATS.

**"Conditional employee"** means a potential FOOD EMPLOYEE to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential FOOD EMPLOYEES who may be suffering from a disease that can be transmitted through FOOD and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

**"Confirmed disease outbreak"** means a FOODBORNE DISEASE OUTBREAK in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the FOOD as the source of the illness.

**"Consumer"** means a PERSON who is a member of the public, takes possession of FOOD, is not functioning in the capacity of an operator of a FOOD ESTABLISHMENT or FOOD PROCESSING PLANT, and does not offer the FOOD for resale.

**"Control Point"** means a step at which biological, chemical, or physical factors can be controlled.

**Core Item.**

(1) **"Core item"** means a provision in this Code that is not designated as a PRIORITY ITEM or a PRIORITY FOUNDATION ITEM.

(2) **"Core item"** includes an item that usually relates to general sanitation, operational controls, SANITATION STANDARD OPERATING PROCEDURES (SSOPs), facilities or structures, equipment design, or general maintenance.

**"Corrective action"** means an action to be taken when the results of MONITORING at the CRITICAL CONTROL POINT indicate a loss of control.

**"Corrosion-resistant material"** means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the FOOD to be contacted, the

normal use of cleaning compounds and SANITIZING solutions, and other conditions of the use environment.

**"Counter-mounted equipment"** means EQUIPMENT that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

**"Critical control point"** means a point, step, or procedure in a food process at which a control measure can be applied and at which control is essential to prevent, reduce to an acceptable level, or eliminate an identified food hazard.

**"Critical limit"** means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a CRITICAL CONTROL POINT to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food HAZARD.

**“Cut leafy greens”** means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term “leafy greens” includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term “leafy greens” does not include herbs such as cilantro or parsley.

**"Dealer"** means a PERSON who is authorized by a SHELLFISH CONTROL AUTHORITY for the activities of SHELLSTOCK shipper, shucker-packer, repacker, reshipper, or depuration processor of MOLLUSCAN SHELLFISH according to the provisions of the National Shellfish Sanitation Program.

**“Deviation”** means failure to meet a CRITICAL LIMIT.

**"Disclosure"** means a written statement that clearly identifies the animal-derived FOODS which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

**"Drinking water"** means water that meets criteria as specified in 20.7.10 NMAC. DRINKING WATER is traditionally known as “potable water”, and includes the term “water” except where the term used connotes that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,” and “non-drinking” water.

**"Dry storage area"** means a room or area designated for the storage of PACKAGED or containerized bulk FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and dry goods such as SINGLE-SERVICE items.

**Easily Cleanable.**

(1) **"Easily cleanable"** means a characteristic of a surface that:

(a) Allows effective removal of soil by normal cleaning methods;

(b) Is dependent on the material, design, construction, and installation of the surface; and

(c) 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.

(2) **"Easily cleanable"** includes a tiered application of the criteria that qualify the surface as EASILY CLEANABLE as specified in Subparagraph (1) of this definition to different situations in which varying degrees of cleanability are required such as:

(a) The appropriateness of stainless steel for a FOOD preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for CONSUMER dining; or

(b) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the CONSUMER dining area.

**"Easily movable"** means:

(1) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of EQUIPMENT for cleaning; and

(2) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the EQUIPMENT to be moved for cleaning of the EQUIPMENT and adjacent area.

**Egg.**

(1) **"Egg"** means the shell EGG of avian species such as chicken, duck, goose, guinea, quail, RATITES or turkey.

(2) **"Egg"** does not include:

(a) A BALUT;

(b) The egg of reptile species such as alligator; or

(c) An EGG PRODUCT.

**Egg Product.**

(1) **"Egg Product"** means all, or a portion of, the contents found inside EGGS separated from the shell and pasteurized in a FOOD PROCESSING PLANT, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid EGGS.

(2) **"Egg Product"** does not include FOOD which contains EGGS only in a relatively small proportion such as cake mixes.

**"Employee"** means the PERMIT HOLDER, PERSON IN CHARGE, FOOD EMPLOYEE, PERSON having supervisory or management duties, PERSON on the payroll, family member, volunteer, PERSON performing work under contractual agreement, or other PERSON working in a FOOD ESTABLISHMENT.

**"EPA"** means the U.S. Environmental Protection Agency.

**Equipment.**

(1) **"Equipment"** means an article that is used in the operation of a FOOD ESTABLISHMENT such as a freezer, grinder, hood, ice maker, MEAT block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, TEMPERATURE MEASURING DEVICE for ambient air, VENDING MACHINE, or WAREWASHING machine.

(2) **"Equipment"** does not include apparatuses used for handling or storing large quantities of PACKAGED FOODS that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

**"Exclude"** means to prevent a PERSON from working as an EMPLOYEE in a FOOD ESTABLISHMENT or entering a FOOD ESTABLISHMENT as an EMPLOYEE.

**"FDA"** means the U.S. Food and Drug Administration.

**Fish.**

(1) **"Fish"** means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

(2) **"Fish"** includes an edible human FOOD product derived in whole or in part from FISH, including FISH that have been processed in any manner.

**"Food"** means a raw, cooked, or processed edible substance, ice, BEVERAGE, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

**"Foodborne disease outbreak"** means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common FOOD.

**"Food-contact surface"** means:

(1) A surface of EQUIPMENT or a UTENSIL with which FOOD normally comes into contact; or

(2) A surface of EQUIPMENT or a UTENSIL from which FOOD may drain, drip, or splash:

(a) Into a FOOD, or

(b) Onto a surface normally in contact with FOOD.

**"Food employee"** means an individual working with unPACKAGED FOOD, FOOD EQUIPMENT or UTENSILS, or FOOD-CONTACT SURFACES.

**Food Establishment.**

(1) **"Food establishment"** means an operation that:

(a) stores, prepares, packages, serves, vends food directly to the CONSUMER, or otherwise provides FOOD for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides FOOD directly to a CONSUMER or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or FOOD bank; and

(b) relinquishes possession of FOOD to a CONSUMER directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(2) **"Food establishment"** includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the REGULATORY AUTHORITY; or

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the PREMISES; and regardless of whether there is a charge for the FOOD.

(3) **"Food establishment"** does not include:

(a) An establishment that offers only prePACKAGED FOODS that are not TIME/TEMPERATURE CONTROL FOR SAFETY (TCS) FOODS;

(b) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(c) A FOOD PROCESSING PLANT; including those that are located on the PREMISES of a FOOD ESTABLISHMENT

(d) A kitchen in a private home if only baked goods (e.g., cookies, brownies, cakes, fruit pies) that are not TCS food, are prepared for sale or service at a fundraising function (e.g., a religious or charitable organization's bake sale) if the CONSUMER is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;

(e) An area where FOOD that is prepared as specified in Subparagraph (3)(d) of this definition is sold or offered for human consumption;

(f) A kitchen in a private home, such as:

(i) a facility licensed by or registered with the Department of Health, or the Department of Children, Youth and Families; or

(ii) a bed-and-breakfast operation that prepares and offers FOOD to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the CONSUMER is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the REGULATORY AUTHORITY;

(g) A private home that receives catered or home-delivered FOOD that is served to non-paying guests;

(h) Non-paying guests in private homes;

(i) A private home or home environment where the residents take part in preparing and serving their own meals;

(j) A pot-luck dinner or similar event in which the FOOD is prepared and/or contributed by the participants and for which no fee is charged;

(k) A custom exempt MEAT processing facility where animals are processed for personal use by the animal owner as FOOD and not for sale or service in a FOOD ESTABLISHMENT;

(l) A dairy establishment as defined in the New Mexico FOOD Act;

(m) An animal slaughter facility;

(n) An aquaculture facility that raises FISH;

(o) A "pure honey" processing facility. "Pure honey" refers to natural liquid or solid honey extracted from the combs or in the comb taken from beehives with no processing or adding of additional ingredients; or

(p) An operation that offers to CONSUMERS whole raw agricultural products.

**“Food Handler Card”** means a card issued to an individual after successful completion of a FOOD HANDLER TRAINING PROGRAM to function as a FOOD EMPLOYEE.

**“Food Handler Training Program”** means an ANSI/ASTM E2659-09 accredited Food Handler Training Certificate Program.

**Food Processing Plant.**

(1) **"Food processing plant"** means a commercial operation that manufactures, packages, labels, or stores FOOD for human consumption, and provides FOOD for sale or distribution to other business entities such as FOOD PROCESSING PLANTS or FOOD ESTABLISHMENTS.

(2) **"Food processing plant"** does not include a FOOD ESTABLISHMENT.

**Game Animal.**

(1) **"Game animal"** means an animal, the products of which are FOOD, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2 Definitions, or as Poultry, or FISH.

(2) **"Game animal"** includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(3) **"Game animal"** does not include RATITES.

**"General use pesticide"** means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175 Pesticides classified for restricted use.

**“Good Manufacturing Practices” (GMPs)** means the minimum sanitary and processing requirements related to production methods, EQUIPMENT, facilities, and other controls that a FOOD PROCESSING PLANT must meet to assure that FOOD is safe and wholesome.

**"Grade A standards"** means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

**"HACCP plan"** means a document prepared in accordance with the principles of HACCP to ensure control of HAZARDS which are significant for food safety.

**Handwashing Sink.**

(1) **"Handwashing sink"** means a lavatory, a basin or vessel for washing, a wash basin, or a PLUMBING FIXTURE especially placed for use in personal hygiene and designed for the washing of the hands.

(2) **"Handwashing sink"** includes an automatic handwashing facility.

**"Hazard"** means a biological, chemical, or physical property that may cause an unacceptable CONSUMER health RISK.

**"Hazard Analysis"** means the process of collecting and evaluating information on HAZARDS associated with the FOOD under consideration to decide which are significant and must be addressed in the HACCP PLAN.

**"Hazard Analysis and Critical Control Point" (HACCP)** means a FOOD safety management system that focuses on the identification, evaluation, and control of FOOD safety HAZARDS.

**"Health practitioner"** means a physician licensed to practice medicine, or if allowed by LAW, a nurse practitioner, physician assistant, or similar medical professional.

**"Hermetically sealed container"** means an airtight container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing, or to maintain the controls which prevent potential growth of microorganisms or the elaboration of toxins through acidity (pH) or water activity (aw).

**"Highly susceptible population"** means PERSONS who are more likely than other people in the general population to experience foodborne disease because they are:

(1) Immunocompromised; preschool age children, or older adults; and
(2) Obtaining FOOD at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

**"Home-based Food Processing Operation"** means any business in which a residential kitchen is permitted to process APPROVED FOOD that is not classified as a TIME /TEMPERATURE CONTROL FOR SAFETY FOOD and is PACKAGED and is offered directly to the CONSUMER.

**"Imminent health hazard"** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(1) The number of potential injuries, and

(2) The nature, severity, and duration of the anticipated injury.

**"Injected"** means manipulating MEAT to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping".

**"Jerky"** means a dried, finished MEAT, POULTRY, FISH, or GAME ANIMAL product having a water activity (Aw) less than 0.85.

**"Intact Meat"** means a cut of whole muscle(s) MEAT that has not undergone COMMINUTION, INJECTION, MECHANICAL TENDERIZATION, or reconstruction.

**Juice.**

(1) **"Juice"** means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée.

(2) **"Juice"** does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as BEVERAGES or ingredients of BEVERAGES.

**"Kitchenware"** means FOOD preparation and storage UTENSILS.

**"Law"** means applicable local, state, and federal statutes, regulations, and ordinances.

**"Linens"** means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.
**“Low Acid Food”** means any FOOD, other than alcoholic BEVERAGES, with a finished equilibrium pH greater than 4.6 and a water activity (Aw) greater than 0.85. Tomatoes and tomato products having a finished equilibrium pH less than 4.7 are not classified as LOW ACID FOOD.

**Major Food Allergen.**

(1) **"Major food allergen"** means:

(a) Milk, EGG, FISH (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(b) A FOOD ingredient that contains protein derived from a FOOD, as specified in Subparagraph (1)(a) of this definition.

(2) **"Major food allergen"** does not include:

(a) Any highly refined oil derived from a FOOD specified in Subparagraph (1)(a) of this definition and any ingredient derived from such highly refined oil; or

(b) Any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

**"Meat"** means the flesh of animals used as FOOD including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except FISH, POULTRY, and wild GAME ANIMALS as specified under Subparagraphs 3-201.17(A)(3) and (4).

**Mechanically Tenderized.**

(1) **"Mechanically tenderized"** means manipulating meat with deep penetration by processes which may be referred to as “blade tenderizing,” “jaccarding,” “pinning,” “needling,” or using blades, pins, needles or any mechanical device.

(2) **"Mechanically tenderized"** does not include processes by which solutions are INJECTED into MEAT.

**"mg/L"** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

**"Misbranded"** has the meaning stated in the New Mexico Food Act, Section 25-2-11 NMSA 1978.

**"Mobile Food Establishment"** means a FOOD ESTABLISHMENT that is designed to be readily movable; completely retains its mobility; and is equipped to serve FOOD. MOBILE FOOD ESTABLISHMENT includes SELF CONTAINED MOBILE UNITS, NON SELF CONTAINED MOBILE UNITS, PUSHCARTS, and MOBILE SUPPORT UNITS.

**"Mobile support unit"** means an enclosed motor vehicle department-licensed driven or towed wheeled vehicle used in conjunction with a New Mexico based SERVICING AREA that travels to, and services, other MOBILE FOOD ESTABLISHMENTS as needed to replenish supplies, including FOOD and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

**"Molluscan shellfish"** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

**"Monitoring"** means to conduct a planned sequence of observations or measurements to assess whether a process, point, or procedure is under control and to produce an accurate record for future use in VERIFICATION.

**Non-Continuous Cooking.**

(1) **"Non-continuous cooking"** means the cooking of FOOD in a FOOD ESTABLISHMENT using a process in which the initial heating of the FOOD is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.

(2) **"Non-continuous cooking"** does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

**"Non Self-Contained Mobile Unit"** means an enclosed motor vehicle department-licensed driven or towed wheeled vehicle that is required to operate from a New Mexico based SERVICING AREA.

**"Operational Plan"** means a written plan outlining the product formulation, production steps, safety requirements, distribution, labeling, and RECALL procedures of a FOOD product that will be implemented by a FOOD ESTABLISHMENT or FOOD PROCESSING PLANT when processing PACKAGED FOOD.

**Packaged.**

(1) **"Packaged"** means bottled, canned, cartoned, bagged, or wrapped, whether PACKAGED in a FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT.

(2) **"Packaged"** does not include wrapped or placed in a carry-out container to protect the FOOD during service or delivery to the CONSUMER, by a FOOD EMPLOYEE, upon CONSUMER request.

**"Permit"** means the document issued by the REGULATORY AUTHORITY that authorizes a PERSON to operate a FOOD ESTABLISHMENT.

**"Permit holder"** means the entity that:

(1) Is legally responsible for the operation of the FOOD ESTABLISHMENT such as the owner, the owner's agent, or other PERSON; and

(2) Possesses a valid PERMIT to operate a FOOD ESTABLISHMENT.

**"Person"** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

**"Person in charge"** means the individual present at a FOOD ESTABLISHMENT who is responsible for the operation at the time of inspection.

**Personal Care Items.**

(1) **"Personal care items"** means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a PERSON'S health, hygiene, or appearance.

(2) **"Personal care items"** include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

**"pH"** means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

**"Physical facilities"** means the structure and interior surfaces of a FOOD ESTABLISHMENT including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

**"Plumbing fixture"** means a receptacle or device that:

(1) Is permanently or temporarily connected to the water distribution system of the PREMISES and demands a supply of water from the system; or

(2) Discharges used water, waste materials, or SEWAGE directly or indirectly to the drainage system of the PREMISES.

**"Plumbing system"** means the water supply and distribution pipes; PLUMBING FIXTURES and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the PREMISES; and water-treating EQUIPMENT.

**"Poisonous or toxic materials"** means substances that are not intended for ingestion and are included in 4 categories:

(1) Cleaners and SANITIZERS, which include cleaning and SANITIZING agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(2) Pesticides, except SANITIZERS, which include substances such as insecticides and rodenticides;

(3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and PERSONAL CARE ITEMS that may be deleterious to health; and

(4) Substances that are not necessary for the operation and maintenance of the establishment and are on the PREMISES for retail sale, such as petroleum products and paints.

**"Poultry"** means:

(1) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, RATITES, or squabs), whether live or dead, as defined in 9 CFR 381.1 Poultry Products Inspection Regulations Definitions, Poultry; and

(2) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1 Voluntary Poultry Inspection Regulations, Definitions.

**"Premises"** means:

(1) The PHYSICAL FACILITY, its contents, and the contiguous land or property under the control of the PERMIT HOLDER; or

(2) The PHYSICAL FACILITY, its contents, and the land or property not described in Subparagraph (1) of this definition if its facilities and contents are under the control of the PERMIT HOLDER and may impact FOOD ESTABLISHMENT personnel, facilities, or operations, and a FOOD ESTABLISHMENT is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

**"Primal cut"** means a basic major cut into which carcasses and sides of MEAT are separated, such as a beef round, pork loin, lamb flank, or veal breast.

**Priority Item.**

(1) **"Priority item"** means a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, HAZARDS associated with foodborne illness or injury and there is no other provision that more directly controls the HAZARD.

(2) **"Priority item"** includes items with a quantifiable measure to show control of HAZARDS such as cooking, reheating, cooling, handwashing; and

(3) **"Priority item"** is an item that is denoted in this Code with a superscript P-$^{P}$.

**Priority Foundation Item.**

(1) **"Priority foundation item"** means a provision in this Code whose application supports, facilitates or enables one or more PRIORITY ITEMS.

(2) **"Priority foundation item"** includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and

(3) **"Priority foundation item"** is an item that is denoted in this Code with a superscript Pf - $^{Pf}$.

**“Process Authority”** means an expert in the processes for controlling pathogenic microorganisms in FOOD, and as such, is qualified by education, training and experience to evaluate all of the aspects of pathogen control measures and determine if such control measures, when properly implemented, will control pathogens effectively.

**"Public water system"** has the meaning stated in 20.7.10 NMAC.

**“Pushcart”** means a human propelled unit, equipped to serve FOOD, that is required to operate from a New Mexico based SERVICING AREA.

**"Ratite"** means a flightless bird such as an emu, ostrich, or rhea.

**Ready-to-Eat Food.**

(1) **"Ready-to-eat food"** means FOOD that:

(a) Is in a form that is edible without additional preparation to achieve FOOD safety, as specified under one of the following: ¶ 3-401.11(A) or (B), § 3-401.12, or § 3-402.11, or as specified in ¶ 3-401.11(C); or

(b) Is a raw or partially cooked animal FOOD and the CONSUMER is advised as specified in Subparagraphs 3-401.11(D)(1) and (3); or

(c) Is prepared in accordance with a VARIANCE that is granted as specified in Subparagraph 3-401.11(D) (4); and

(d) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(2) **"Ready-to-eat food"** includes:

(a) Raw animal FOOD that is cooked as specified under § 3-401.11 or 3-401.12, or frozen as specified under § 3-402.11;

(b) Raw fruits and vegetables that are washed as specified under § 3-302.15;

(c) Fruits and vegetables that are cooked for hot holding, as specified under § 3-401.13;

(d) All TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked to the temperature and time required for the specific FOOD under Subpart 3-401 and cooled as specified under § 3-501.14;

(e) Plant FOOD for which further washing, cooking, or other processing is not required for FOOD safety, and from which rinds, peels, husks, or shells, if naturally present are removed;

(f) Substances derived from plants such as spices, seasonings, and sugar;

(g) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for FOOD safety;

(h) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured MEAT and POULTRY products, such as prosciutto ham, country cured ham, and Parma ham; and dried MEAT and POULTRY products, such as JERKY or beef sticks; and

(i) FOODS manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

**“Recall”** means a return of FOOD products that are either known or suspected to be ADULTERATED, MISBRANDED, or otherwise unsafe for human consumption, to the manufacturer or distributor, or that are disposed of by APPROVED methods.

**Reduced Oxygen Packaging.**

(1) **"Reduced oxygen packaging"** means:

(a) The reduction of the amount of oxygen in a PACKAGE by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and

(b) A process as specified in Subparagraph (1)(a) of this definition that involves a FOOD for which the HAZARDS **Clostridium botulinum** or **Listeria monocytogenes** require control in the final PACKAGED form.

(2) **"Reduced oxygen packaging"** includes:

(a) Vacuum PACKAGING, in which air is removed from a PACKAGE of FOOD and the PACKAGE is HERMETICALLY SEALED so that a vacuum remains inside the PACKAGE;

(b) Modified atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the PACKAGING material or the respiration of the FOOD. Modified atmosphere PACKAGING includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

(c) Controlled atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that until the PACKAGE is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring FOOD, and impermeable PACKAGING material;

(d) Cook chill PACKAGING, in which cooked FOOD is hot filled into impermeable bags which have the air expelled and are then SEALED or crimped closed. The bagged FOOD is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens; or

(e) Sous vide PACKAGING, in which raw or partially cooked FOOD is vacuum PACKAGED in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

**"Refuse"** means solid waste not carried by water through the SEWAGE system.

**"Regulatory authority"** means the New Mexico Environment Department.

**"Reminder"** means a written statement concerning the health RISK of consuming animal FOODS raw, undercooked, or without otherwise being processed to eliminate pathogens.

**"Re-service"** means the transfer of FOOD that is unused and returned by a CONSUMER after being served or sold and in the possession of the CONSUMER, to another PERSON.

**"Restrict"** means to limit the activities of a FOOD EMPLOYEE so that there is no RISK of transmitting a disease that is transmissible through FOOD and the FOOD EMPLOYEE does not work with exposed FOOD, clean EQUIPMENT, UTENSILS, LINENS, or unwrapped SINGLE-SERVICE or SINGLE-USE ARTICLES.

**"Restricted egg"** means any check, dirty EGG, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

**"Restricted use pesticide"** means a pesticide product that contains the active ingredients

specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

**"Risk"** means the likelihood that an adverse health effect will occur within a population as a result of a HAZARD in a FOOD.

**"Safe material"** means:

(1) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any FOOD;

(2) An additive that is used as specified in § 409 of the Federal Food, Drug, and Cosmetic Act; or

(3) Other materials that are not ADDITIVES and that are used in conformity with applicable regulations of the Food and Drug Administration.

**"Sanitation Standard Operating Procedures" (SSOPs)** means written procedures specific to a single FOOD PROCESSING PLANT to be followed routinely for the performance of designated operations to ensure sanitary conditions and to prevent product adulteration in a FOOD PROCESSING PLANT.

**"Sanitization"** means the application of cumulative heat or chemicals on cleaned FOOD-CONTACT SURFACES that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

**"Self-Contained Mobile Unit"** means an enclosed motor vehicle department-licensed driven or towed wheeled vehicle that is not required to operate from a New Mexico based SERVICING AREA.

**"Sealed"** means free of cracks or other openings that allow the entry or passage of moisture.

**"Service animal"** means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

**"Servicing area"** means an operating base location to which a mobile FOOD ESTABLISHMENT or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding FOOD.

**"Sewage"** means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

**"Shelf-stable Product"** means a product that is hermetically SEALED and, when stored at room temperature, should not demonstrate any microbial growth.

**"Shellfish control authority"** means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of MOLLUSCAN SHELLFISH harvesters and DEALERS for interstate commerce.

**"Shellstock"** means raw, in-shell MOLLUSCAN SHELLFISH.

**"Shiga toxin-producing Escherichia coli"** (STEC) means any **E. coli** capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be ASYMPTOMATIC or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea), to hemolytic uremic syndrome (HUS - a type of kidney failure). Examples of serotypes of STEC include: E. coli O157:H7; E. coli O157:NM; E. coli O26:H11; E. coli O145:NM; E. coli O103:H2; and E. coli O111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic E. coli) or as EHEC (Enterohemorrhagic E. coli). EHEC are a subset of STEC which can cause hemorrhagic colitis or HUS.

**"Shucked shellfish"** means MOLLUSCAN SHELLFISH that have one or both shells removed.

**"Single-service articles"** means 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 Articles.**

(1) **"Single-use articles"** means UTENSILS and bulk FOOD containers designed and constructed to be used once and discarded.

(2) **"Single-use articles"** 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 under §§ 4-101.11, 4-201.11, and 4-202.11 for multiuse UTENSILS.

**"Slacking"** means the process of moderating the temperature of a FOOD such as allowing a FOOD to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen FOOD such as shrimp.

**"Smooth"** means:

(1) A FOOD-CONTACT SURFACE having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;

(2) A nonFOOD-CONTACT SURFACE of EQUIPMENT having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(3) A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

**"Standard Operating Procedures" (SOPs)** means written procedures to be followed routinely for the performance of designated operations in a FOOD PROCESSING PLANT.

**“Standards of Identity”** means legal standards, defined by the Food and Drug Administration (FDA), for FOODS regarding minimum quality specifications, including permitted ingredients and processing requirements, to be marketed under a certain name.

**“Sub-ingredient”** means an ingredient within another ingredient that has been added to a FOOD and is declared parenthetically following the name of the ingredient or by dispersing each ingredient in its order of predominance in the ingredient statement without naming the original ingredient.

**"Tableware"** means eating, drinking, and serving UTENSILS for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

**"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of FOOD, air, or water.

**"Temporary food establishment" (TFE)** means a FOOD ESTABLISHMENT that operates at a fixed location in conjunction with a single event or celebration for a period not exceeding the length of the event or celebration, and does not exceed 30 days.
**Time/Temperature Control for Safety Food** (formerly “potentially hazardous food” (PHF)).

(1) **"Time/temperature control for safety food"** means a FOOD that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(2) **"Time/temperature control for safety food"** includes:

(a) An animal FOOD that is raw or heat-treated; a plant FOOD that is heat-treated or consists of raw seed sprouts, cut melons, CUT LEAFY GREENS, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

(b) Except as specified in Subparagraph (3)(d) of this definition, a FOOD that because of the interaction of its $A_w$ and pH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

**Table A. Interaction of pH and $A_w$ for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED**

| $A_w$ values | pH: 4.6 or less | pH: > 4.6 - 5.6 | pH: > 5.6 |
|---|---|---|---|
| **≤0.92** | non-TCS FOOD* | non-TCS FOOD | non-TCS FOOD |
| **> 0.92 - 0.95** | non-TCS FOOD | non-TCS FOOD | PA** |
| **> 0.95** | non-TCS FOOD | PA | PA |

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
** PA means Product Assessment required

**Table B. Interaction of pH and $A_w$ for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED**

| $A_w$ values | pH: < 4.2 | pH: 4.2 - 4.6 | pH: > 4.6 - 5.0 | pH: > 5.0 |
|---|---|---|---|---|
| **< 0.88** | non-TCS FOOD * | Non-TCS FOOD | non-TCS FOOD | non-TCS FOOD |
| **0.88 – 0.90** | non-TCS FOOD | non-TCS FOOD | non-TCS FOOD | PA** |
| **> 0.90 – 0.92** | non-TCS FOOD | non-TCS FOOD | PA | PA |
| **> 0.92** | non-TCS FOOD | PA | PA | PA |

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
** PA means Product Assessment required

(3) **"Time/temperature control for safety food"** does not include:

(a) An air-cooled hard-boiled EGG with shell intact, or an EGG with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable **salmonellae**;

(b) A FOOD in an unopened HERMETICALLY SEALED CONTAINTER that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(c) A FOOD that because of its pH or $A_w$ value, or interaction of $A_w$ and pH values, is designated as a non-TCS FOOD in Table A or B of this definition;

(d) A FOOD that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that FOOD is precluded due to:

(i) Intrinsic factors including added or natural characteristics of the FOOD such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(ii) Extrinsic factors including environmental or operational factors that affect the FOOD such as packaging, modified atmosphere such as REDUCED OXYGEN PACKAGING, shelf life and use, or temperature range of storage and use, or

(iii) A combination of intrinsic and extrinsic factors; or

(e) A FOOD that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (3)(a) - (3)(d) of this definition even though the FOOD may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

**"USDA"** means the U.S. Department of Agriculture.

**"Utensil"** means a FOOD-CONTACT 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.

**“Validation”** means that element of VERIFICATION focused on collecting and evaluating scientific and technical information to determine whether the HACCP system, when properly implemented, will control effectively the identified FOOD HAZARDS.

**"Variance"** means a written document issued by the REGULATORY AUTHORITY that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the REGULATORY AUTHORITY, a health HAZARD or nuisance will not result from the modification or waiver.

**"Vending machine"** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by electronic transaction or optional manual operation, dispenses unit servings of FOOD in bulk or in PACKAGES without the necessity of replenishing the device between each vending operation.

**"Vending machine location"** means the room, enclosure, space, or area where one or more VENDING MACHINES are installed and operated and includes the storage areas and areas on the PREMISES that are used to service and maintain the VENDING MACHINES.

**“Verification”** means those activities, other than MONITORING, that establish the validity of the HACCP PLAN and that the system is operating according to the plan. It includes VALIDATION procedures.

**"Warewashing"** means the cleaning and SANITIZING of UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT.

**"Whole-muscle, intact beef"** means whole muscle beef that is not INJECTED, MECHANICALLY TENDERIZED, reconstructed, or scored and marinated, from which beef steaks may be cut.

Chapter

# 2 Management and Personnel

**Parts**


2-1 SUPERVISION
2-2 EMPLOYEE HEALTH
2-3 PERSONAL CLEANLINESS
2-4 HYGIENIC PRACTICES
2-5 RESPONDING TO CONTAMINATION EVENTS


## 2-1 SUPERVISION AND EMPLOYEE CERTIFICATION

**Subparts**


2-101 Responsibility
2-102 Knowledge
2-103 Duties
2-104 Employee Certification


### Responsibility

#### 2-101.11 Assignment.

(A) Except as specified in ¶ (B) of this section, the PERMIT HOLDER shall be the PERSON IN CHARGE or shall designate a PERSON IN CHARGE and shall ensure that a PERSON IN CHARGE is present at the FOOD ESTABLISHMENT during all hours of operation. Pf

(B) In a FOOD ESTABLISHMENT with two or more separately PERMITTED departments that are the legal responsibility of the same PERMIT HOLDER and that are located on the same PREMISES, the PERMIT HOLDER may, during specific time periods when food is not being prepared, PACKAGED, or served, designate a single PERSON IN CHARGE who is present on the PREMISES during all hours of operation, and who is responsible for each separately PERMITTED FOOD ESTABLISHMENT on the PREMISES. Pf

## Knowledge

### 2-102.11 Demonstration.

Based on the RISKS inherent to the FOOD operation, during inspections and upon request the PERSON IN CHARGE shall demonstrate to the REGULATORY AUTHORITY knowledge of foodborne disease prevention, application of the HAZARD ANALYSIS and CRITICAL CONTROL POINT principles, and the requirements of this Code. The PERSON IN CHARGE shall demonstrate this knowledge by:

(A) Complying with this Code by having no violations of PRIORITY ITEMS during the current inspection; Pf

(B) Being a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; Pf or

(C) Responding correctly to the inspector's questions as they relate to the specific FOOD operation. The areas of knowledge include:

(1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a FOOD EMPLOYEE; Pf

(2) Explaining the responsibility of the PERSON IN CHARGE for preventing the transmission of foodborne disease by a FOOD EMPLOYEE who has a disease or medical condition that may cause foodborne disease; Pf

(3) Describing the symptoms associated with the diseases that are transmissible through FOOD; Pf

(4) Explaining the significance of the relationship between maintaining the time and temperature of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and the prevention of foodborne illness; Pf

(5) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS, and FISH; Pf

(6) Stating the required FOOD temperatures and times for safe cooking of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD including MEAT, POULTRY, EGGS, and FISH; Pf

(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; Pf

(8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(a) Cross contamination, [Pf]

(b) Hand contact with READY-TO-EAT FOODS, [Pf]

(c) Handwashing, [Pf] and

(d) Maintaining the FOOD ESTABLISHMENT in a clean condition and in good repair; [Pf]

(9) Describing FOODS identified as MAJOR FOOD ALLERGENS and the symptoms that a MAJOR FOOD ALLERGEN could cause in a sensitive individual who has an allergic reaction. [Pf]

(10) Explaining the relationship between FOOD safety and providing EQUIPMENT that is:

(a) Sufficient in number and capacity, [Pf] and

(b) Properly designed, constructed, located, installed, operated, maintained, and cleaned; [Pf]

(11) Explaining correct procedures for cleaning and SANITIZING UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT; [Pf]

(12) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections; [Pf]

(13) Identifying POISONOUS OR TOXIC MATERIALS in the FOOD ESTABLISHMENT and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to LAW; [Pf]

(14) Identifying CRITICAL CONTROL POINTS in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code; [Pf]

(15) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP PLAN if a plan is required by the LAW, this Code, or an agreement between the REGULATORY

AUTHORITY and the FOOD ESTABLISHMENT; [Pf]

(16) Explaining the responsibilities, rights, and authorities assigned by this Code to the:

(a) FOOD EMPLOYEE, [Pf]

(b) CONDITIONAL EMPLOYEE, [Pf]

(c) PERSON IN CHARGE, [Pf]

(d) REGULATORY AUTHORITY; [Pf] and

(17) Explaining how the PERSON IN CHARGE, FOOD EMPLOYEES, and CONDITIONAL EMPLOYEES comply with reporting responsibilities and EXCLUSION or RESTRICTION of FOOD EMPLOYEES. [Pf]

## 2-102.12 Certified Food Protection Manager

(A) At least one EMPLOYEE per FOOD ESTABLISHMENT that has supervisory and management responsibility and the authority to direct and control FOOD preparation and service shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM.

(B) This section applies to FOOD ESTABLISHMENTS, TEMPORARY FOOD ESTABLISHMENTS, and MOBILE FOOD ESTABLISHMENTS.

(C) This section does not apply to certain types of FOOD ESTABLISHMENTS deemed by the REGULATORY AUTHORITY to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of FOOD preparation.

(D) A single certified food protection manager may be responsible for more than a single FOOD ESTABLISHMENT, provided that a VARIANCE is APPROVED by the REGULATORY AUTHORITY as specified in §§ 8-103.10 and 8-103.11 of this Code.

(E) The effective date of this section is April 1, 2019.

## 2-102.20 Food Protection Manager Certification.

(A) A PERSON IN CHARGE who demonstrates knowledge by being a food protection manager that is certified by a FOOD protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of food protection manager certification programs is deemed to comply with ¶2-102.11(B).

(B) A FOOD ESTABLISHMENT that has an EMPLOYEE that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with §2102.12.

## Duties

### 2-103.11 Person in Charge.

The PERSON IN CHARGE shall ensure that:

(A) FOOD ESTABLISHMENT operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under § 6-202.111; Pf

(B) PERSONS unnecessary to the FOOD ESTABLISHMENT operation are not allowed in the FOOD preparation, FOOD storage, or WAREWASHING areas, except that brief visits and tours may be authorized by the PERSON IN CHARGE if steps are taken to ensure that exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES are protected from contamination; Pf

(C) EMPLOYEES and other PERSONS such as delivery and maintenance PERSONS and pesticide applicators entering the FOOD preparation, FOOD storage, and WAREWASHING areas comply with this Code; Pf

(D) EMPLOYEES are effectively cleaning their hands, by routinely MONITORING the EMPLOYEES' handwashing; Pf

(E) EMPLOYEES are visibly observing FOODS as they are received to determine that they are from APPROVED sources, delivered at the required temperatures, protected from contamination, UNADULTERATED, and accurately presented, by routinely MONITORING the EMPLOYEES' observations and periodically evaluating FOODS upon their receipt; Pf

(F) EMPLOYEES are verifying that FOODS delivered to the FOOD ESTABLISHMENT during non-operating hours are from APPROVED sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unADULTERATED, and accurately presented; Pf

(G) EMPLOYEES are properly cooking TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, being particularly careful in cooking those FOODS known to cause severe foodborne illness and death, such as EGGS and COMMINUTED MEATS, through daily oversight of the EMPLOYEES' routine

MONITORING of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under § 4-203.11 and ¶ 4-502.11(B); Pf

(H) EMPLOYEES are using proper methods to rapidly cool TIME/TEMPERATURE CONTROL FOR SAFETY FOODS that are not held hot or are not for consumption within 4 hours, through daily oversight of the EMPLOYEES' routine MONITORING of FOOD temperatures during cooling; Pf

(I) EMPLOYEES are properly maintaining the temperatures of TIME/TEMPERATURE CONTROL FOR SAFETY FOODS during hot and cold holding through daily oversight of the EMPLOYEES' routine MONITORING of FOOD temperatures; Pf

(J) CONSUMERS who order raw or partially cooked READY-TO-EAT FOODS of animal origin are informed as specified under § 3-603.11 that the FOOD is not cooked sufficiently to ensure its safety; Pf

(K) EMPLOYEES are properly SANITIZING cleaned multiuse EQUIPMENT and UTENSILS before they are reused, through routine MONITORING of solution temperature and exposure time for hot water SANITIZING, and chemical concentration, pH, temperature, and exposure time for chemical SANITIZING; Pf

(L) CONSUMERS are notified that clean TABLEWARE is to be used when they return to self-service areas such as salad bars and buffets as specified under § 3-304.16; Pf

(M) Except when APPROVAL is obtained from the REGULATORY AUTHORITY as specified in ¶ 3-301.11(E), EMPLOYEES are preventing cross-contamination of READY-TO-EAT FOOD with bare hands by properly using suitable UTENSILS such as deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT; Pf

(N) EMPLOYEES are properly trained in FOOD safety, including FOOD allergy awareness, as it relates to their assigned duties; Pf

(O) FOOD EMPLOYEES and CONDITIONAL EMPLOYEES are informed in a verifiable manner of their responsibility to report in accordance with LAW, to the PERSON IN CHARGE, information about their health and activities as they relate to diseases that are transmissible through FOOD, as specified under ¶ 2-201.11(A); Pf and

(P) Written procedures and plans, where specified by this Code and as developed by the FOOD ESTABLISHMENT, are maintained and implemented as required. Pf

## Employee Certification

### 2-104.11 Food Handler Cards.

(A) Except as specified in ¶¶ (B) and (G) of this section, FOOD EMPLOYEES shall demonstrate their knowledge of safe FOOD handling practices through passing a test from a FOOD HANDLER TRAINING PROGRAM and possess a valid FOOD HANDLER CARD. Pf

(B) Except as specified in ¶ (G) of this section, individuals who do not possess a valid FOOD HANDLER CARD prior to employment as a FOOD EMPLOYEE shall obtain such card within 30 calendar days from the beginning of employment.

(C) FOOD HANDLER CARD shall be kept by the FOOD EMPLOYEE on his or her PERSON while working at a FOOD ESTABLISHMENT or a copy kept on file by the current employer and be made available for inspection by the REGULATORY AUTHORITY. Pf

(D) The REGULATORY AUTHORITY may approve an entity's training program to be used in lieu of requiring a FOOD HANDLER CARD of its FOOD EMPLOYEES. A FOOD EMPLOYEE must complete the entity's APPROVED training program at least every three years. This exemption is only valid during the FOOD EMPLOYEES' time of employment with the entity that administered the training.

(E) An EMPLOYEE or PERSON IN CHARGE at any FOOD ESTABLISHMENT, FOOD PROCESSING PLANT, TEMPORARY FOOD ESTABLISHMENT, or MOBILE FOOD ESTABLISHMENT must provide information or training regarding pertinent safe food handling practices to FOOD EMPLOYEES prior to beginning food handling duties, if the FOOD EMPLOYEE does not hold a valid FOOD HANDLER CARD. Record of the training, including name of instructor, date of training, and name(s) of FOOD EMPLOYEES shall be maintained on file and made available to the regulatory authority upon request. The record of training shall be maintained for the duration of the FOOD EMPLOYEE'S employment. Pf

(F) FOOD HANDLER CARDS shall be valid for three years from the date of issuance.

(G) This paragraph does not apply to:

(1) FOOD EMPLOYEES who comply with § 2-102.12;

(2) FOOD EMPLOYEES who comply with ¶ (B) of this section;

(3) FOOD EMPLOYEES who do not prepare or handle

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, provided that at a minimum the PERMIT HOLDER assures the EMPLOYEE complies with ¶ (E) of this section;

(4) EMPLOYEES or volunteers who occasionally function as a FOOD EMPLOYEE, provided that at a minimum the PERMIT HOLDER assures the EMPLOYEE complies with ¶ (E) of this section;

(5) FOOD EMPLOYEES or volunteers working as FOOD EMPLOYEES of TEMPORARY FOOD ESTABLISHMENTS, provided that at a minimum the PERSON IN CHARGE during hours of operation complies with § 2-102.12 or has a valid FOOD HANDLER CARD, either of which shall be obtained prior to issuance of a TEMPORARY FOOD ESTABLISHMENT PERMIT, and the PERMIT HOLDER assures the FOOD EMPLOYEE or volunteer complies with ¶ (E) of this section;

(6) FOOD EMPLOYEES or volunteers working as FOOD EMPLOYEES for charitable organizations serving the needy, provided that at a minimum the PERSON IN CHARGE during hours of operation complies with § 2-102.12; or

(7) EMPLOYEES who do not function as FOOD EMPLOYEES.

(H) The effective date of this section is April 1, 2019.

## 2-2 EMPLOYEE HEALTH

### Subpart

### 2-201 Responsibilities of Permit Holder, Person in Charge, Food Employees, and Conditional Employees

### Responsibilities and Reporting Symptoms and Diagnosis

#### 2-201.11 Responsibility of Permit Holder, Person in Charge, and Conditional Employees.

(A) The PERMIT HOLDER shall require FOOD EMPLOYEES and CONDITIONAL EMPLOYEES to report to the PERSON IN CHARGE information about their health and activities as they relate to diseases that are transmissible through FOOD. A FOOD EMPLOYEE or CONDITIONAL EMPLOYEE shall report the information in a manner that allows the PERSON IN CHARGE to reduce the RISK of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE:

reportable symptoms

(1) Has any of the following symptoms:

(a) Vomiting, P

(b) Diarrhea, P

(c) Jaundice, P

(d) Sore throat with fever, P or

(e) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(i) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a SINGLE-USE glove is worn over the impermeable cover, P

(ii) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, P or

(iii) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage; P

reportable diagnosis

reportable diagnosis

(2) Has an illness diagnosed by a HEALTH PRACTITIONER due to:

(a) Norovirus, [P]

(b) Hepatitis A virus, [P]

(c) Shigella spp., [P]

(d) SHIGA TOXIN-PRODUCING ESCHERICHIA COLI, [P]

(e) Typhoid fever (caused by Salmonella Typhi) [P] or

(f) Salmonella (nontyphoidal); [P]

reportable past illness

(3) Had Typhoid fever, diagnosed by a HEALTH PRACTITIONER, within the past 3 months, without having received antibiotic therapy, as determined by a HEALTH PRACTITIONER; [P]

reportable history of exposure

(4) Has been exposed to, or is the suspected source of, a CONFIRMED DISEASE OUTBREAK, because the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE consumed or prepared FOOD implicated in the outbreak, or consumed FOOD at an event prepared by a PERSON who is infected or ill with:

(a) Norovirus within the past 48 hours of the last exposure, [P]

(b) SHIGA TOXIN-PRODUCING ESCHERICHIA COLI or Shigella spp. within the past 3 days of the last exposure, [P]

(c) Typhoid fever within the past 14 days of the last exposure, [P] or
(d) Hepatitis A virus within the past 30 days of the last exposure; [P] or

reportable history of exposure

(5) Has been exposed by attending or working in a setting where there is a CONFIRMED DISEASE OUTBREAK, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a CONFIRMED DISEASE OUTBREAK, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

(a) Norovirus within the past 48 hours of the last exposure, [P]

(b) SHIGA TOXIN-PRODUCING ESCHERICHIA COLI or Shigella spp. within the past 3 days of the last exposure, P

(c) Typhoid fever (caused by Salmonella Typhi) within the past 14 days of the last exposure, P or

(d) Hepatitis A virus within the past 30 days of the last exposure. P

responsibility of PERSON IN CHARGE to notify the REGULATORY AUTHORITY

(B) The PERSON IN CHARGE shall notify the REGULATORY AUTHORITY when a FOOD EMPLOYEE is:

(1) Jaundiced, Pf or

(2) Diagnosed with an illness due to a pathogen as specified under Subparagraphs (A)(2)(a) - (f) of this section. Pf

responsibility of the PERSON IN CHARGE to prohibit a CONDITIONAL EMPLOYEE from becoming a FOOD EMPLOYEE

(C) The PERSON IN CHARGE shall ensure that a CONDITIONAL EMPLOYEE:

(1) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under Subparagraphs (A)(1) - (3) of this section, is prohibited from becoming a FOOD EMPLOYEE until the CONDITIONAL EMPLOYEE meets the criteria for the specific symptoms or diagnosed illness as specified under § 2-201.13; P and

(2) Who will work as a FOOD EMPLOYEE in a FOOD ESTABLISHMENT that serves as a HIGHLY SUSCEPTIBLE POPULATION and reports a history of exposure as specified under Subparagraphs (A)(4) – (5), is prohibited from becoming a FOOD EMPLOYEE until the CONDITIONAL EMPLOYEE meets the criteria as specified under ¶ 2-201.13(J). P

responsibility of the PERSON IN CHARGE to EXCLUDE or RESTRICT

(D) The PERSON IN CHARGE shall ensure that a FOOD EMPLOYEE who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under Subparagraphs (A)(1) - (5) of this section is:

(1) EXCLUDED as specified under ¶¶ 2-201.12 (A) - (C), and Subparagraphs (D)(1), (E)(1), (F)(1), (G) or (H)(1) and in compliance with the provisions specified under ¶¶ 2-201.13(A) - (H); P or

(2) RESTRICTED as specified under Subparagraphs 2-201.12 (D)(2),

(E)(2), (F)(2), (H)(2), or ¶¶ 2-201.12(I) or (J) and in compliance with the provisions specified under ¶¶ 2-201.13(D) - (J). P

responsibility of FOOD EMPLOYEES and CONDITIONAL EMPLOYEES to report

(E) A FOOD EMPLOYEE or CONDITIONAL EMPLOYEE shall report to the PERSON IN CHARGE the information as specified under ¶ (A) of this section. Pf

responsibility of FOOD EMPLOYEES to comply

(F) A FOOD EMPLOYEE shall:

(1) Comply with an EXCLUSION as specified under ¶¶ 2-201.12(A) - (C) and Subparagraphs 2-201.12(D)(1), (E)(1), (F)(1), (G), or (H)(1) and with the provisions specified under ¶¶ 2-201.13(A) - (H); P or

(2) Comply with a RESTRICTION as specified under Subparagraphs 2-201.12(D)(2), (E)(2), (F)(2), (G), (H)(2), or 2-201.12 (H), (I), or (J) and comply with the provisions specified under¶ 2-201.13(D) - (J). P

**conditions of exclusion and restriction**

**2-201.12 Exclusions and Restrictions.**

The PERSON IN CHARGE shall EXCLUDE or RESTRICT a FOOD EMPLOYEE from a FOOD ESTABLISHMENT in accordance with the following:

symptomatic with vomiting or diarrhea

(A) Except when the symptom is from a noninfectious condition, EXCLUDE a FOOD EMPLOYEE if the FOOD EMPLOYEE is:

(1) Symptomatic with vomiting or diarrhea; P or

(2) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., Salmonella (nontyphoidal), or SHIGA TOXIN-PRODUCING E. COLI. P

jaundiced or diagnosed with **hepatitis A infection**

(B) EXCLUDE a FOOD EMPLOYEE who is:

(1) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER

specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection; P

(2) Diagnosed with an infection from hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; P or

(3) Diagnosed with an infection from hepatitis A virus without developing symptoms. P

diagnosed or reported previous illness with Typhoid fever

(C) EXCLUDE a FOOD EMPLOYEE who is diagnosed with Typhoid fever, or reports having had Typhoid fever within the past 3 months as specified under Subparagraph 2-201.11(A)(3). P

diagnosed with an ASYMPTOMATIC infection from **Norovirus**

(D) If a FOOD EMPLOYEE is diagnosed with an infection from Norovirus and is ASYMPTOMATIC:

(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; Por

(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION. P

diagnosed with **Shigella spp.** infection and ASYMPTOMATIC

(E) If a FOOD EMPLOYEE is diagnosed with an infection from Shigella spp. and is ASYMPTOMATIC:

(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; P or

(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION. P

diagnosed with **STEC** and ASYMPTOMATIC

(F) If a FOOD EMPLOYEE is diagnosed with an infection from SHIGA TOXIN-PRODUCING E. COLI, and is ASYMPTOMATIC:

(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; Por

(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT

not serving a HIGHLY SUSCEPTIBLE POPULATION. P

diagnosed with **nontyphoidal Salmonella** and ASYMPTOMATIC

(G) If a FOOD EMPLOYEE is diagnosed with an infection from Salmonella (nontyphoidal) and is ASYMPTOMATIC, RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION or in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION. P

symptomatic with **sore throat with fever**

(H) If a FOOD EMPLOYEE is ill with symptoms of acute onset of sore throat with fever:

(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; Por

(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION. P

symptomatic with **uncovered infected wound or pustular boil**

(I) If a FOOD EMPLOYEE is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under Subparagraph 2-201.11(A)(1)(e), RESTRICT the FOOD EMPLOYEE. P

**exposed** to foodborne pathogen and works in FOOD ESTABLISHMENT serving HSP

(J) If a FOOD EMPLOYEE is exposed to a foodborne pathogen as specified under Subparagraphs 2-201.11(A)(4)(a-d) or 2-201.11(A)(5)(a-d), RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION. P

## Managing Exclusions and Restrictions

### 2-201.13 Removal, Adjustment, or Retention of Exclusions and Restrictions.

The PERSON IN CHARGE shall adhere to the following conditions when removing, adjusting, or retaining the EXCLUSION or RESTRICTION of a FOOD EMPLOYEE:

(A) Except when a FOOD EMPLOYEE is diagnosed with Typhoid fever or an infection from hepatitis A virus:

removing EXCLUSION for FOOD EMPLOYEE who was symptomatic and not diagnosed

(1) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under Subparagraph 2-201.12(A)(1) if the FOOD EMPLOYEE:

(a) Is ASYMPTOMATIC for at least 24 hours; P or

(b) Provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER that states the symptom is from a noninfectious condition. P

**Norovirus diagnosis**

(2) If a FOOD EMPLOYEE was diagnosed with an infection from Norovirus and EXCLUDED as specified under Subparagraph 2-201.12(A)(2):

adjusting EXCLUSION for FOOD EMPLOYEE who was symptomatic and is now ASYMPTOMATIC

(a) RESTRICT the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours and works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION, until the conditions for reinstatement as specified under Subparagraphs (D)(1) or (2) of this section are met; P or

retaining EXCLUSION for FOOD EMPLOYEE who was ASYMPTOMATIC and is now ASYMPTOMATIC and works in FOOD ESTABLISHMENT serving HSP

(b) Retain the EXCLUSION for the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours and works in a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION, until the conditions for reinstatement as specified under Subparagraphs (D)(1) or (2) of this section are met. P

**Shigella spp. diagnosis**

(3) If a FOOD EMPLOYEE was diagnosed with an infection from Shigella spp. and EXCLUDED as specified under Subparagraph 2-201.12(A)(2):

adjusting EXCLUSION for FOOD EMPLOYEE who was symptomatic and is now ASYMPTOMATIC

(a) RESTRICT the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours and works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION, until the conditions for reinstatement as specified under Subparagraphs (E)(1) or (2) of this section are met; P or

retaining EXCLUSION for FOOD EMPLOYEE who was ASYMPTOMATIC and is now ASYMPTOMATIC

(b) Retain the EXCLUSION for the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours and works in a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION, until the conditions for reinstatement as specified under Subparagraphs (E)(1) or (2) , or (E)(1) and (3)(a) of this section are met. P

**STEC diagnosis**

(4) If a FOOD EMPLOYEE was diagnosed with an infection from SHIGA TOXIN-PRODUCING ESCHERICHIA COLI and EXCLUDED as specified under Subparagraph 2-201.12(A)(2):

adjusting EXCLUSION for FOOD EMPLOYEE who was symptomatic and is now ASYMPTOMATIC

(a) RESTRICT the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours and works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION, until the conditions for reinstatement as specified under Subparagraphs (F)(1) or (2) of this section are met; P or

retaining EXCLUSION for FOOD EMPLOYEE who was symptomatic and is now ASYMPTOMATIC and works in FOOD ESTABLISHMENT serving HSP

(b) Retain the EXCLUSION for the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours and works in a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION, until the conditions for reinstatement as specified under Subparagraphs (F)(1) or (2) are met. P

**Nontyphoidal Salmonella diagnosis**

(5) If a FOOD EMPLOYEE was diagnosed with an infection from Salmonella (nontyphoidal) and EXCLUDED as specified under Subparagraph 2-201.12(A)(2):

Adjusting EXCLUSION for FOOD EMPLOYEE who was symptomatic and is now ASYMPTOMATIC

(a) RESTRICT the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 30 days until conditions for reinstatement as specified under Subparagraphs (G)(1) or (2) of this section are met; P or

Retaining EXCLUSION for FOOD EMPLOYEE that remains symptomatic

(b) Retain the EXCLUSION for the FOOD EMPLOYEE who is SYMPTOMATIC, until conditions for reinstatement as specified under Paragraphs (G)(1) or (G)(2) of this section are met. P

**hepatitis A virus or jaundice diagnosis** - removing EXCLUSIONS

(B) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under ¶ 2-201.12(B) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY and one of the following conditions is met;

(1) The FOOD EMPLOYEE has been jaundiced for more than 7 calendar days; P

(2) The anicteric FOOD EMPLOYEE has been symptomatic with symptoms other than jaundice for more than 14 calendar days; P or

(3) The FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating that the FOOD EMPLOYEE is free of a hepatitis A virus infection. P

**Typhoid fever diagnosis - removing EXCLUSIONS**

(C) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under ¶ 2-201.12(C) if:

(1) The PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY; P and

(2) The FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER that states the FOOD EMPLOYEE is free from Typhoid fever. P

**Norovirus diagnosis - removing EXCLUSION or RESTRICTION**

(D) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under Subparagraphs 2-201.12(A)(2) or (D)(1) who was RESTRICTED under Subparagraph 2-201.12(D)(2) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY and one of the following conditions is met:

(1) The EXCLUDED or RESTRICTED FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating that the FOOD EMPLOYEE is free of a Norovirus infection; P

(2) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the FOOD EMPLOYEE became ASYMPTOMATIC; P or

(3) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED and did not develop symptoms and more than 48 hours have passed since the FOOD EMPLOYEE was diagnosed. P

**Shigella spp. diagnosis - removing EXCLUSION or RESTRICTION**

(E) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under Subparagraphs 2-201.12(A)(2) or (E)(1) or who was RESTRICTED under Subparagraph 2-201.12(E)(2) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY and one of the following conditions is met:

(1) The EXCLUDED or RESTRICTED FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating that the FOOD EMPLOYEE is free of a Shigella spp. infection based on test results showing 2 consecutive negative stool specimen cultures that are taken:

(a) Not earlier than 48 hours after discontinuance of antibiotics, [P] and

(b) At least 24 hours apart; [P]

(2) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED after symptoms of vomiting or diarrhea resolved, and more than 7 calendar days have passed since the FOOD EMPLOYEE became ASYMPTOMATIC; [P] or

(3) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED and did not develop symptoms and more than 7 calendar days have passed since the FOOD EMPLOYEE was diagnosed. [P]

**STEC diagnosis - removing exclusion or restriction**

(F) Reinstate a FOOD EMPLOYEE who was EXCLUDED or RESTRICTED as specified under Subparagraphs 2-201.12(A)(2) or (F)(1) or who was RESTRICTED under Subparagraph 2-201.12(F)(2) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY and one of the following conditions is met:

(1) The EXCLUDED or RESTRICTED FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating that the FOOD EMPLOYEE is free of an infection from SHIGA TOXIN-PRODUCING ESCHERICHIA COLI based on test results that show 2 consecutive negative stool specimen cultures that are taken:

(a) Not earlier than 48 hours after discontinuance of antibiotics; [P] and

(b) At least 24 hours apart; [P]

(2) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the FOOD EMPLOYEE became ASYMPTOMATIC; [P] or

(3) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED and did not develop symptoms and more than 7 days have passed since the FOOD EMPLOYEE was diagnosed. P

**nontyphoidal Salmonella - removing exclusion or restriction**

(G) Reinstate a food employee who was EXCLUDED as specified under Subparagraph 2-201.12(A)(2) or who was RESTRICTED as specified under ¶ 2-201.12(G) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY P and one of the following conditions is met:

(1) The EXCLUDED or RESTRICTED FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating that the FOOD EMPLOYEE is free of a Salmonella (nontyphoidal) infection based on test results showing 2 consecutive negative stool specimen cultures that are taken;

(a) Not earlier than 48 hours after discontinuance of antibiotics, P and

(b) At least 24 hours apart; P

(2) The FOOD EMPLOYEE was RESTRICTED after symptoms of vomiting or diarrhea resolved, and more than 30 days have passed since the FOOD EMPLOYEE became ASYMPTOMATIC; P or

(3) The FOOD EMPLOYEE was EXCLUDED or RESTRICTED and did not develop symptoms and more than 30 days have passed since the FOOD EMPLOYEE was diagnosed. P

**sore throat with fever - removing exclusion or restriction**

(H) Reinstate a FOOD EMPLOYEE who was EXCLUDED or RESTRICTED as specified under Subparagraphs 2-201.12(H)(1) or (2) if the FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating that the FOOD EMPLOYEE meets one of the following conditions:

(1) Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 hours; P

(2) Has at least one negative throat specimen culture for Streptococcus pyogenes infection; P or

(3) Is otherwise determined by a HEALTH PRACTITIONER to be free of a Streptococcus pyogenes infection. P

**uncovered infected wound or pustular boil - removing restriction**

(I) Reinstate a FOOD EMPLOYEE who was RESTRICTED as specified under ¶ 2-201.12(I) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(1) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist; P

(2) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; Por

(3) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body. P

exposure to foodborne pathogen and works in food establishment serving HSP – removing restriction

(J) Reinstate a FOOD EMPLOYEE who was RESTRICTED as specified under ¶ 2-201.12(J) and was exposed to one of the following pathogens as specified under Subparagraph 2-201.11(A)(4)(a-d) or 2-201.11(A)(5)(a-d):

**Norovirus**

(1) Norovirus and one of the following conditions is met:

(a) More than 48 hours have passed since the last day the FOOD EMPLOYEE was potentially exposed; P or

(b) More than 48 hours have passed since the FOOD EMPLOYEE'S household contact became ASYMPTOMATIC. P

**Shigella spp. or STEC**

(2) Shigella spp. or SHIGA TOXIN-PRODUCING ESCHERICHIA COLI and one of the following conditions is met:

(a) More than 3 calendar days have passed since the last day the FOOD EMPLOYEE was potentially exposed; P or

(b) More than 3 calendar days have passed since the FOOD EMPLOYEE'S household contact became ASYMPTOMATIC. P

**Typhoid fever (S. Typhi)**

(3) Typhoid fever (caused by Salmonella Typhi) and one of the following

conditions is met:

(a) More than 14 calendar days have passed since the last day the FOOD EMPLOYEE was potentially exposed; [P] or

(b) More than 14 calendar days have passed since the FOOD EMPLOYEE'S household contact became ASYMPTOMATIC. [P]

**hepatitis A**

(4) Hepatitis A virus and one of the following conditions is met:

(a) The FOOD EMPLOYEE is immune to hepatitis A virus infection because of a prior illness from hepatitis A;[P]

(b) The FOOD EMPLOYEE is immune to hepatitis A virus infection because of vaccination against hepatitis A;[P]

(c) The FOOD EMPLOYEE is immune to hepatitis A virus infection because of IgG administration; [P]

(d) More than 30 calendar days have passed since the last day the FOOD EMPLOYEE was potentially exposed; [P]

(e) More than 30 calendar days have passed since the FOOD EMPLOYEE'S household contact became jaundiced; [P] or

(f) The FOOD EMPLOYEE does not use an alternative procedure that allows bare hand contact with READY-TO-EAT FOOD until at least 30 days after the potential exposure, as specified in Subparagraphs (I)(4)(d) and (e) of this section, and the FOOD EMPLOYEE receives additional training about:

(i) Hepatitis A symptoms and preventing the transmission of infection, [P]

(ii) Proper handwashing procedures, [P] and

(iii) Protecting READY-TO-EAT FOOD from contamination introduced by bare hand contact. [P]

## 2-3 PERSONAL CLEANLINESS

### Subparts


2-301 Hands and Arms
2-302 Fingernails
2-303 Jewelry
2-304 Outer Clothing


## Hands and Arms

### 2-301.11 Clean Condition.

FOOD EMPLOYEES shall keep their hands and exposed portions of their arms clean. P

### 2-301.12 Cleaning Procedure.

(A) Except as specified in ¶ (D) of this section, FOOD EMPLOYEES shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least 20 seconds, using a cleaning compound in a HANDWASHING SINK that is equipped as specified under § 5-202.12 and Subpart 6-301. P

(B) FOOD EMPLOYEES shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

(1) Rinse under clean, running warm water; P

(2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer; P

(3) Rub together vigorously for at least 10 to 15 seconds while:

(a) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, P and

(b) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers; P

(4) Thoroughly rinse under clean, running warm water; P and

(5) Immediately follow the cleaning procedure with thorough drying using a method as specified under § 6-301.12. P

(C) To avoid recontaminating their hands or surrogate prosthetic devices, FOOD EMPLOYEES may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a HANDWASHING SINK or the handle of a restroom door.

(D) If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, an automatic handwashing facility may be used by FOOD EMPLOYEES to clean their hands or surrogate prosthetic devices.

### 2-301.13 Special Handwash Procedures.

Reserved.

### 2-301.14 When to Wash.

FOOD EMPLOYEES shall clean their hands and exposed portions of their arms as specified under § 2-301.12 immediately before engaging in FOOD preparation including working with exposed FOOD, clean EQUIPMENT and UTENSILS, and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES [P] and:

(A) After touching bare human body parts other than clean hands and clean, exposed portions of arms; [P]

(B) After using the toilet room; [P]

(C) After caring for or handling SERVICE ANIMALS or aquatic animals as specified in ¶ 2-403.11(B); [P]

(D) Except as specified in ¶ 2-401.11(B), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking; [P]

(E) After handling soiled EQUIPMENT or UTENSILS; [P]

(F) During FOOD preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks; [P]

(G) When switching between working with raw FOOD and working with READY-TO-EAT FOOD; [P]

(H) Before donning gloves to initiate a task that involves working with FOOD; [P] and

(I) After engaging in other activities that contaminate the hands. [P]

### 2-301.15 Where to Wash.

FOOD EMPLOYEES shall clean their hands in a HANDWASHING SINK or APPROVED automatic handwashing facility and may not clean their hands in a sink used for FOOD preparation or WAREWASHING, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste. [Pf]

### 2-301.16 Hand Antiseptics.

(A) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(1) Comply with one of the following:

(a) Be an APPROVED drug that is listed in the FDA publication **Approved Drug Products with Therapeutic Equivalence Evaluations** as an APPROVED drug based on safety and effectiveness; [Pf] or

(b) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, [Pf] and

(2) Consist only of components which the intended use of each complies with one of the following:

(a) A threshold of regulation exemption under 21 CFR 170.39 - Threshold of regulation for substances used in FOOD-contact articles; [Pf] or

(b) 21 CFR 178 - Indirect FOOD Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a FOOD ADDITIVE with conditions of safe use, [Pf] or

(c) A determination of generally recognized as safe (GRAS). Partial listings of substances with FOOD uses that are GRAS may be found in 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct FOOD Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 – Indirect FOOD Substances Affirmed as Generally Recognized as Safe for use in contact with FOOD, and in FDA's Inventory of GRAS Notices, [Pf] or

(d) A prior sanction listed under 21 CFR 181 – Prior Sanctioned FOOD Ingredients, [Pf] or

(e) a FOOD Contact Notification that is effective, [Pf] and

(3) Be applied only to hands that are cleaned as specified under § 2-301.12. [Pf]

(B) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under Subparagraph (A)(2) of this section, use shall be:

(1) Followed by thorough hand rinsing in clean water before hand contact with FOOD or by the use of gloves; [Pf] or

(2) Limited to situations that involve no direct contact with FOOD by the bare hands. [Pf]

(C) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 MG/L chlorine. [Pf]

## Fingernails

### 2-302.11 Maintenance.

(A) FOOD EMPLOYEES shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. [Pf]

(B) Unless wearing intact gloves in good repair, a FOOD EMPLOYEE may not wear fingernail polish or artificial fingernails when working with exposed FOOD. [Pf]

## Jewelry

### 2-303.11 Prohibition.

Except for a plain ring such as a wedding band, while preparing FOOD, FOOD EMPLOYEES may not wear jewelry including medical information jewelry on their arms and hands.

## Outer Clothing

### 2-304.11 Clean Condition.

FOOD EMPLOYEES shall wear clean outer clothing to prevent contamination of FOOD, EQUIPMENT UTENSILS, LINENS, and SINGLE SERVICE and SINGLE-USE ARTICLES.

## 2-4 HYGIENIC PRACTICES

### Subparts


2-401 Food Contamination Prevention
2-402 Hair Restraints
2-403 Animals


## Food Contamination Prevention

### 2-401.11 Eating, Drinking, or Using Tobacco.

(A) Except as specified in ¶ (B) of this section, an EMPLOYEE shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES; or other items needing protection cannot result.

(B) A FOOD EMPLOYEE may drink from a closed BEVERAGE container if the container is handled to prevent contamination of:

(1) The EMPLOYEE'S hands;

(2) The container; and

(3) Exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

### 2-401.12 Discharges from the Eyes, Nose, and Mouth.

FOOD EMPLOYEES experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; or unwrapped SINGLE-SERVICE or SINGLE-USE ARTICLES.

### 2-401.13 Use of Bandages, Finger Cots, or Finger Stalls

If used, an impermeable cover such as a bandage, finger cot or finger stall located on the wrist, hand or finger of a FOOD EMPLOYEE working with exposed FOOD shall be covered with a single-use glove.

## Hair Restraints

### 2-402.11 Effectiveness.

(A) Except as provided in ¶ (B) of this section, FOOD EMPLOYEES shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

(B) This section does not apply to FOOD EMPLOYEES such as counter staff who only serve BEVERAGES and wrapped or PACKAGED FOODS, hostesses, and wait staff if they present a minimal RISK of contaminating exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

## Animals

### 2-403.11 Handling Prohibition.

(A) Except as specified in ¶ (B) of this section, FOOD EMPLOYEES may not care for or handle animals that may be present such as patrol dogs, SERVICE ANIMALS, or pets that are allowed as specified in Subparagraphs 6-501.115(B)(2)-(5). [Pf]

(B) FOOD EMPLOYEES with SERVICE ANIMALS may handle or care for their SERVICE ANIMALS and FOOD EMPLOYEES may handle or care for FISH in aquariums or MOLLUSCAN SHELLFISH or crustacea in display tanks if they wash their hands as specified under § 2-301.12 and ¶ 2-301.14(C).

## 2-5 RESPONDING TO CONTAMINATION EVENTS

### Subpart

#### 2-501 Procedures for Responding

##### 2-501.11 Clean-up of Vomiting and Diarrheal Events.

A FOOD ESTABLISHMENT shall have written procedures for EMPLOYEES to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the FOOD ESTABLISHMENT. The procedures shall address the specific actions EMPLOYEES must take to minimize the spread of contamination and the exposure of EMPLOYEES, CONSUMERS, FOOD, and surfaces to vomitus or fecal matter. [Pf]

Chapter

# 3 Food

Parts


3-1 CHARACTERISTICS
3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS
3-3 PROTECTION FROM CONTAMINATION AFTER RECEIVING
3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN
3-5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN
3-6 FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING
3-7 CONTAMINATED FOOD
3-8 SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS


## 3-1 CHARACTERISTICS

Subparts


3-101 Condition


### Condition

#### 3-101.11 Safe, Unadulterated, and Honestly Presented.

FOOD shall be safe, unADULTERATED, and, as specified under § 3-601.12, honestly presented. P

## 3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS

**Subparts**


3-201 Sources
3-202 Specifications for Receiving
3-203 Original Containers and Records


## Sources

### 3-201.11 Compliance with Food Law.

(A) FOOD shall be obtained from sources that comply with LAW. P

(B) FOOD prepared in a private home may not be used or offered for human consumption in a FOOD ESTABLISHMENT. P

(C) PACKAGED FOOD shall be labeled as specified in LAW, including 21 CFR 101 FOOD Labeling, 9 CFR 317 Labeling, Marking Devices, and Containers, and 9 CFR 381 Subpart N Labeling and Containers, and as specified under §§ 3-202.17 and 3-202.18. Pf

(D) FISH, other than those specified in paragraph 3-402.11(B), that are intended for consumption in raw or undercooked form and allowed as specified in paragraph 3-401.11(D), may be offered for sale or service if they are obtained from a supplier that freezes the FISH as specified under § 3-402.11; or if they are frozen on the PREMISES as specified under § 3-402.11 and records are retained as specified under § 3-402.12.

(E) WHOLE-MUSCLE, INTACT BEEF steaks that are intended for consumption in an undercooked form without a CONSUMER advisory as specified in ¶ 3-401.11(C) shall be:

(1) Obtained from a FOOD PROCESSING PLANT that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of WHOLE-MUSCLE, INTACT BEEF, Pf or

(2) Deemed acceptable by the REGULATORY AUTHORITY based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of WHOLE-MUSCLE, INTACT BEEF, Pf and

(3) If individually cut in a FOOD ESTABLISHMENT:

(a) Cut from WHOLE-MUSCLE INTACT BEEF that is labeled by a FOOD

PROCESSING PLANT as specified in Subparagraph (E)(1) of this section or identified as specified in Subparagraph (E)(2) of this section, [P]

(b) Prepared so they remain intact, [Pf] and

(c) If PACKAGED for undercooking in a FOOD ESTABLISHMENT, labeled as specified in Subparagraph (E)(1) of this section or identified as specified in (E)(2) of this section. [Pf]

(F) MEAT and POULTRY that is not a READY-TO-EAT FOOD and is in a PACKAGED form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in LAW, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

(G) EGGS that have not been specifically treated to destroy all viable **Salmonellae** shall be labeled to include safe handling instructions as specified in LAW, including 21 CFR 101.17(h).

### 3-201.12 Food in a Hermetically Sealed Container.

FOOD in a HERMETICALLY SEALED CONTAINER shall be obtained from a FOOD PROCESSING PLANT that is regulated by the FOOD regulatory agency that has jurisdiction over the plant. [P]

### 3-201.13 Fluid Milk and Milk Products.

Fluid milk and milk products shall be obtained from sources that comply with GRADE A STANDARDS as specified in LAW. [P]

### 3-201.14 Fish.

(A) FISH that are received for sale or service shall be:

(1) Commercially and legally caught or harvested; [P] or

(2) APPROVED for sale or service.

(B) MOLLUSCAN SHELLFISH that are recreationally caught may not be received for sale or service. [P]

### 3-201.15 Molluscan Shellfish.

(A) MOLLUSCAN SHELLFISH shall be obtained from sources according to LAW and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. P

(B) MOLLUSCAN SHELLFISH shall be from sources that are listed in the Interstate Certified Shellfish Shippers List. P

### 3-201.16 Wild Mushrooms.

(A) Except as specified in ¶ (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a FOOD ESTABLISHMENT unless the FOOD ESTABLISHMENT has been APPROVED to do so. P

(B) This section does not apply to:

(1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the FOOD regulatory agency that has jurisdiction over the operation; or

(2) Wild mushroom species if they are in PACKAGED form and are the product of a FOOD PROCESSING PLANT that is regulated by the FOOD regulatory agency that has jurisdiction over the plant.

### 3-201.17 Game Animals.

(A) If GAME ANIMALS are received for sale or service they shall be:

(1) Commercially raised for FOOD P and:

(a) Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, P or

(b) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, P and

(c) Raised, slaughtered, and processed according to:

(i) LAWS governing MEAT and POULTRY as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, P and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an APPROVED veterinarian or veterinarian's designee; P

(2) Under a voluntary inspection program administered by the USDA for GAME ANIMALS such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and APPROVED" in accordance with 9 CFR 352 Exotic Animals; Voluntary Inspection or rabbits that are "inspected and certified" in accordance with 9 CFR 354 Voluntary Inspection of Rabbits and Edible Products Thereof; P

(3) As allowed by LAW, for wild GAME ANIMALS that are live-caught:

(a) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, P and

(b) Slaughtered and processed according to:

(i) LAWS governing MEAT and POULTRY as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, P and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an APPROVED veterinarian or veterinarian's designee; P or

(4) As allowed by LAW, for field-dressed wild GAME ANIMALS under a routine inspection program that ensures the animals:

(a) Receive a postmortem examination by an APPROVED veterinarian or veterinarian's designee, P or

(b) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, P and

(c) Are processed according to LAWS governing MEAT and POULTRY as

determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. P

(B) A GAME ANIMAL may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 Endangered and threatened wildlife and plants.

## Specifications for Receiving

### 3-202.11 Temperature.

(A) Except as specified in ¶ (B) of this section, refrigerated, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be at a temperature of 5°C (41°F) or below when received. P

(B) If a temperature other than 5°C (41°F) for a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is specified in LAW governing its distribution, such as LAWS governing milk and MOLLUSCAN SHELLFISH, the FOOD may be received at the specified temperature.

(C) Raw EGGS shall be received in refrigerated EQUIPMENT that maintains an ambient air temperature of 7°C (45°F) or less. P

(D) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked to a temperature and for a time specified under §§ 3-401.11 - 3-401.13 and received hot shall be at a temperature of 57°C (135°F) or above. P

(E) A FOOD that is labeled frozen and shipped frozen by a FOOD PROCESSING PLANT shall be received frozen. Pf

(F) Upon receipt, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be free of evidence of previous temperature abuse. Pf

### 3-202.12 Additives.

FOOD may not contain unAPPROVED FOOD ADDITIVES or ADDITIVES that exceed amounts specified in 21 CFR 170-180 relating to FOOD ADDITIVES, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR 180 Tolerances for pesticides chemicals in food, and exceptions. P

### 3-202.13 Eggs.

EGGS shall be received clean and sound and may not exceed the restricted EGG tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA. P

### 3-202.14 Eggs and Milk Products, Pasteurized.

(A) EGG PRODUCTS shall be obtained pasteurized. P

(B) Fluid and dry milk and milk products shall:

(1) Be obtained pasteurized; P and

(2) Comply with GRADE A STANDARDS as specified in LAW. P

(C) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135 - Frozen desserts. P

(D) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133 - Cheeses and related cheese products, for curing certain cheese varieties. P

### 3-202.15 Package Integrity.

FOOD packages shall be in good condition and protect the integrity of the contents so that the FOOD is not exposed to ADULTERATION or potential contaminants. Pf

### 3-202.16 Ice.

Ice for use as a FOOD or a cooling medium shall be made from DRINKING WATER. P

### 3-202.17 Shucked Shellfish, Packaging and Identification.

(A) Raw SHUCKED SHELLFISH shall be obtained in nonreturnable packages which bear a legible label that identifies the: Pf

(1) Name, address, and CERTIFICATION NUMBER of the shucker, packer or repacker of the MOLLUSCAN SHELLFISH; Pf and

(2) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. Pf

(B) A package of raw SHUCKED SHELLFISH that does not bear a label or which bears a label which does not contain all the information as specified under ¶ (A) of this section shall be subject to a hold order, as allowed by LAW, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan shellfish.

### 3-202.18 Shellstock Identification.

(A) SHELLSTOCK shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or DEALER that depurates, ships, or reships the SHELLSTOCK, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list: Pf

(1) Except as specified under ¶ (C) of this section, on the harvester's tag or label, the following information in the following order: Pf

(a) The harvester's identification number that is assigned by the SHELLFISH CONTROL AUTHORITY, Pf

(b) The date of harvesting, Pf

(c) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the SHELLFISH CONTROL AUTHORITY and including the abbreviation of the name of the state or country in which the shellfish are harvested, Pf

(d) The type and quantity of shellfish, Pf and

(e) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days"; Pf and

(2) Except as specified in ¶ (D) of this section, on each DEALER'S tag or label, the following information in the following order: Pf

(a) The DEALER'S name and address, and the CERTIFICATION NUMBER assigned by the SHELLFISH CONTROL AUTHORITY, Pf

(b) The original shipper's CERTIFICATION NUMBER including the abbreviation of the name of the state or country in which the shellfish are harvested, Pf

(c) The same information as specified for a harvester's tag under Subparagraphs (A)(1)(b)-(d) of this section, Pf and

(d) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days." Pf

(B) A container of SHELLSTOCK that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under ¶ (A) of this section shall be subject to a hold order, as allowed by LAW, or seizure and destruction in accordance with 25-2-6 NMSA 1978.

(C) If a place is provided on the harvester's tag or label for a DEALER's name, address, and CERTIFICATION NUMBER, the DEALER's information shall be listed first.

(D) If the harvester's tag or label is designed to accommodate each DEALER's identification as specified under Subparagraphs (A)(2)(a) and (b) of this section, individual DEALER tags or labels need not be provided.

### 3-202.19 Shellstock, Condition.

When received by a FOOD ESTABLISHMENT, SHELLSTOCK shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or SHELLSTOCK with badly broken shells shall be discarded.

## Commercially Processed

### 3-202.110 Juice Treated.

Pre-PACKAGED JUICE shall:

(A) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120 Hazard Analysis and Critical Control (HACCP) Systems; Pf and

(B) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24 Process Controls. P

## Original Containers and Records

### 3-203.11 Molluscan Shellfish, Original Container.

(A) Except as specified in ¶¶ (B) - (D) of this section, MOLLUSCAN SHELLFISH may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(B) For display purposes, SHELLSTOCK may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a CONSUMER may be removed from the display or display container and provided to the CONSUMER if:

(1) The source of the SHELLSTOCK on display is identified as specified under § 3-202.18 and recorded as specified under § 3-203.12; and

(2) The SHELLSTOCK are protected from contamination.

(C) SHUCKED SHELLFISH may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a CONSUMER'S request if:

(1) The labeling information for the shellfish on display as specified under § 3-202.17 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(2) The shellfish are protected from contamination.

(D) SHUCKED SHELLFISH may be removed from the container in which they were received and repacked in CONSUMER self service containers where allowed by LAW if:

(1) The labeling information for the shellfish is on each CONSUMER self service container as specified under § 3-202.17 and ¶¶ 3-602.11(A) and (B)(1) - (5);

(2) The labeling information as specified under § 3-202.17 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

(3) The labeling information and dates specified under Subparagraph (D)(2) of this section are maintained for 90 days; and

(4) The shellfish are protected from contamination.

### 3-203.12 Shellstock, Maintaining Identification.

(A) Except as specified under Subparagraph (C) (2) of this section, SHELLSTOCK tags or labels shall remain attached to the container in which the SHELLSTOCK are received until the container is empty. [Pf]

(B) The date when the last SHELLSTOCK from the container is sold or served shall be recorded on the tag or label. [Pf]

(C) The identity of the source of SHELLSTOCK that are sold or served shall be maintained by retaining SHELLSTOCK tags or labels for 90 calendar days from the date that is recorded on the tag or label, as specified under ¶ B of this section, by: [Pf]

(1) Using an APPROVED record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under ¶ B of this section; [Pf] and

(2) If SHELLSTOCK are removed from its tagged or labeled container:

(a) Preserving source identification by using a record keeping system as specified under Subparagraph (C)(1) of this section, [Pf] and

(b) Ensuring that SHELLSTOCK from one tagged or labeled container are not COMMINGLED with SHELLSTOCK from another container with different CERTIFICATION NUMBERS; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the CONSUMER. [Pf]

## 3-3 PROTECTION FROM CONTAMINATION AFTER RECEIVING

**Subparts**


| | |
|---|---|
| 3-301 | Preventing Contamination by Employees |
| 3-302 | Preventing Food and Ingredient Contamination |
| 3-303 | Preventing Contamination from Ice Used as a Coolant |
| 3-304 | Preventing Contamination from Equipment, Utensils, and Linens |
| 3-305 | Preventing Contamination from the Premises |
| 3-306 | Preventing Contamination by Consumers |
| 3-307 | Preventing Contamination from Other Sources |


### Preventing Contamination by Employees

#### 3-301.11 Preventing Contamination from Hands.

(A) FOOD EMPLOYEES shall wash their hands as specified under § 2-301.12.

(B) Except when washing fruits and vegetables as specified under §3-302.15 or as specified in ¶¶ (D) and (E) of this section, FOOD EMPLOYEES may not contact exposed, READY-TO-EAT FOOD with their bare hands and shall use suitable UTENSILS such as deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT. P

(C) FOOD EMPLOYEES shall minimize bare hand and arm contact with exposed FOOD that is not in a READY-TO-EAT form. Pf

(D) Paragraph (B) of this section does not apply to a FOOD EMPLOYEE that contacts exposed, READY-TO-EAT FOOD with bare hands at the time the READY-TO-EAT FOOD is being added as an ingredient to a FOOD that:

(1) contains a raw animal FOOD and is to be cooked in the FOOD ESTABLISHMENT to heat all parts of the FOOD to the minimum temperatures specified in ¶¶3-401.11(A)-(B) or §3-401.12; or

(2) does not contain a raw animal FOOD but is to be cooked in the FOOD ESTABLISHMENT to heat all parts of the FOOD to a temperature of at least 63°C (145°F).

(E) FOOD EMPLOYEES not serving a HIGHLY SUSCEPTIBLE POPULATION may contact exposed, READY-TO-EAT FOOD with their bare hands if:

(1) The PERMIT HOLDER obtains prior APPROVAL from the REGULATORY AUTHORITY;

(2) Written procedures are maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that include:

(a) For each bare hand contact procedure, a listing of the specific READY-TO-EAT FOODS that are touched by bare hands,

(b) Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under §§ 5-203.11, 5-204.11, 5-205.11, 6-301.11, 6-301.12, and 6-301.14, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;

(3) A written EMPLOYEE health policy that details how the FOOD ESTABLISHMENT complies with §§ 2-201.11, 2-201.12, and 2-201.13 including:

(a) Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through FOOD as specified under ¶ 2-201.11(A),

(b) Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge their responsibilities as specified under ¶ 2-201.11(E) and (F), and

(c) Documentation that the PERSON IN CHARGE acknowledges the responsibilities as specified under ¶¶ 2-201.11(B), (C) and (D), and §§ 2-201.12 and 2-201.13;

(4) Documentation that FOOD EMPLOYEES acknowledge that they have received training in:

(a) The RISKS of contacting the specific READY-TO-EAT FOODS with bare hands,

(b) Proper handwashing as specified under § 2-301.12,

(c) When to wash their hands as specified under § 2-301.14,

(d) Where to wash their hands as specified under § 2-301.15,

(e) Proper fingernail maintenance as specified under § 2-302.11,

(f) Prohibition of jewelry as specified under § 2-303.11, and

(g) Good hygienic practices as specified under §§2-401.11 and 2-401.12;

(5) Documentation that hands are washed before FOOD preparation and as necessary to prevent cross contamination by FOOD EMPLOYEES as specified under §§ 2-301.11, 2-301.12, 2-301.14, and 2-301.15 during all hours of operation when the specific READY-TO-EAT FOODS are prepared;

(6) Documentation that FOOD EMPLOYEES contacting READY-TO-EAT FOOD with bare hands use two or more of the following control measures to provide additional safeguards to HAZARDS associated with bare hand contact:

(a) Double handwashing,

(b) Nail brushes,

(c) A hand antiseptic after handwashing as specified under § 2-301.16,

(d) Incentive programs such as paid sick leave that assist or encourage FOOD EMPLOYEES not to work when they are ill, or

(e) Other control measures APPROVED by the REGULATORY AUTHORITY; and

(7) Documentation that CORRECTIVE ACTION is taken when Subparagraphs (E)(1) - (6) of this section are not followed.

### 3-301.12 Preventing Contamination When Tasting.

A FOOD EMPLOYEE may not use a UTENSIL more than once to taste FOOD that is to be sold or served. P

## Preventing Food and Ingredient Contamination

### 3-302.11 Packaged and Unpackaged Food - Separation, Packaging, and Segregation.

(A) FOOD shall be protected from cross contamination by:

(1) Except as specified in (1)(d) below, separating raw animal FOODS during storage, preparation, holding, and display from:

(a) Raw READY-TO-EAT FOOD including other raw animal FOOD such as FISH for sushi or MOLLUSCAN SHELLFISH, or other raw READY-TO-EAT FOOD such as fruits and vegetables, P

(b) Cooked READY-TO-EAT FOOD, P and

(c) Fruits and vegetables before they are washed; P

(d) Frozen, commercially processed and PACKAGED raw animal FOOD may be stored or displayed with or above frozen, commercially processed and packaged, READY-TO-EAT FOOD.

(2) Except when combined as ingredients, separating types of raw animal FOODS from each other such as beef, FISH, lamb, pork, and POULTRY during storage, preparation, holding, and display by:

(a) Using separate EQUIPMENT for each type, P or

(b) Arranging each type of FOOD in EQUIPMENT so that cross contamination of one type with another is prevented, P and

(c) Preparing each type of FOOD at different times or in separate areas; P

(3) Cleaning EQUIPMENT and UTENSILS as specified under ¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11;

(4) Except as specified under Subparagraph 3-501.15(B)(2) and in ¶ (B) of this section, storing the FOOD in packages, covered containers, or wrappings;

(5) Cleaning HERMETICALLY SEALED CONTAINERS of FOOD of visible soil before opening;

(6) Protecting FOOD containers that are received PACKAGED together in a case or overwrap from cuts when the case or overwrap is opened;

(7) Storing damaged, spoiled, or recalled FOOD being held in the FOOD ESTABLISHMENT as specified under § 6-404.11; and

(8) Separating fruits and vegetables, before they are washed as specified under § 3-302.15 from READY-TO-EAT FOOD.

(B) Subparagraph (A)(4) of this section does not apply to:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;

(2) PRIMAL CUTS, quarters, or sides of raw MEAT or slab bacon that are hung on clean, SANITIZED hooks or placed on clean, SANITIZED racks;

(3) Whole, uncut, processed MEATS such as country hams, and smoked or cured sausages that are placed on clean, SANITIZED racks;

(4) FOOD being cooled as specified under Subparagraph 3-501.15(B)(2); or

(5) SHELLSTOCK.

### 3-302.12 Food Storage Containers, Identified with Common Name of Food.

Except for containers holding FOOD that can be readily and unmistakably recognized such as dry pasta, working containers holding FOOD or FOOD ingredients that are removed from their original packages for use in the FOOD ESTABLISHMENT, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the FOOD.

### 3-302.13 Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes.

Pasteurized EGGS or EGG PRODUCTS shall be substituted for raw EGGS in the preparation of FOODS such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and EGG-fortified BEVERAGES that are not: P

(A) Cooked as specified under Subparagraphs 3-401.11(A)(1) or (2); P or

(B) Included in ¶ 3-401.11(D). P

### 3-302.14 Protection from Unapproved Additives.

(A) FOOD shall be protected from contamination that may result from the addition of, as specified in § 3-202.12:

(1) Unsafe or unAPPROVED FOOD or COLOR ADDITIVES; P and

(2) Unsafe or unAPPROVED levels of APPROVED FOOD and COLOR ADDITIVES. P

(B) A FOOD EMPLOYEE may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a FOOD considered to be a good source of vitamin $B_1$; P or

(2) Except for grapes, serve or sell FOOD specified under Subparagraph (B)(1) of this section that is treated with sulfiting agents before receipt by the FOOD ESTABLISHMENT. P

### 3-302.15 Washing Fruits and Vegetables.

(A) Except as specified in ¶ (B) of this section and except for whole, raw fruits and vegetables that are intended for washing by the CONSUMER before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in READY-TO-EAT form.

(B) Fruits and vegetables may be washed by using chemicals as specified under § 7-204.12.

(C) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR 173.315, Chemicals used in the washing or to assist in the peeling of fruits and vegetables, for the washing of raw, whole fruits and vegetables shall be used in accordance with the manufacturer's instructions. Pf

## Preventing Contamination from Ice Used as a Coolant

### 3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient.

After use as a medium for cooling the exterior surfaces of FOOD such as melons or FISH, PACKAGED FOODS such as canned BEVERAGES, or cooling coils and tubes of EQUIPMENT, ice may not be used as FOOD. P

### 3-303.12 Storage or Display of Food in Contact with Water or Ice.

(A) PACKAGED FOOD may not be stored in direct contact with ice or water if the FOOD is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water

(B) Except as specified in ¶¶ (C) and (D) of this section, unPACKAGED FOOD may not be stored in direct contact with undrained ice.

(C) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

(D) Raw poultry and raw FISH that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

## Preventing Contamination from Equipment, Utensils, and Linens

### 3-304.11 Food Contact with Equipment and Utensils.

FOOD shall only contact surfaces of:

(A) EQUIPMENT and UTENSILS that are cleaned as specified under Part 4-6 of this Code and SANITIZED as specified under Part 4-7 of this Code; P

(B) SINGLE-SERVICE and SINGLE-USE ARTICLES; P or

(C) LINENS, such as cloth napkins, as specified under § 3-304.13 that are laundered as specified under Part 4-8 of this Code. P

### 3-304.12 In-Use Utensils, Between-Use Storage.

During pauses in FOOD preparation or dispensing, FOOD preparation and dispensing UTENSILS shall be stored:

(A) Except as specified under ¶ (B) of this section, in the FOOD with their handles above the top of the FOOD and the container;

(B) In FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD with their handles above the top of the FOOD within containers or EQUIPMENT that can be closed, such as bins of sugar, flour, or cinnamon;

(C) On a clean portion of the FOOD preparation table or cooking EQUIPMENT only if the in-use UTENSIL and the FOOD-CONTACT surface of the FOOD preparation table or cooking EQUIPMENT are cleaned and SANITIZED at a frequency specified under §§ 4-602.11 and 4-702.11;

(D) In running water of sufficient velocity to flush particulates to the drain, if used with moist FOOD such as ice cream or mashed potatoes;

(E) In a clean, protected location if the UTENSILS, such as ice scoops, are used only with a FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

(F) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified under Subparagraph 4-602.11(D)(7).

### 3-304.13 Linens and Napkins, Use Limitation.

LINENS, such as cloth napkins, may not be used in contact with FOOD unless they are used to line a container for the service of FOODS and the LINENS and napkins are replaced each time the container is refilled for a new CONSUMER.

### 3-304.14 Wiping Cloths, Use Limitation.

(A) Cloths in-use for wiping FOOD spills from TABLEWARE and carry-out containers that occur as FOOD is being served shall be:

(1) Maintained dry; and

(2) Used for no other purpose.

(B) Cloths in-use for wiping counters and other EQUIPMENT surfaces shall be:

(1) Held between uses in a chemical sanitizer solution at a concentration specified under § 4-501.114; and

(2) Laundered daily as specified under ¶ 4-802.11(D).

(C) Cloths in-use for wiping surfaces in contact with raw animal FOODS shall be kept separate from cloths used for other purposes.

(D) Dry wiping cloths and the chemical sanitizing solutions specified in Subparagraph (B)(1) of this section in which wet wiping cloths are held between uses shall be free of FOOD debris and visible soil.

(E) Containers of chemical sanitizing solutions specified in Subparagraph (B)(1) of this section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, SINGLE-SERVICE, or SINGLE-USE ARTICLES.

(F) SINGLE-USE disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

### 3-304.15 Gloves, Use Limitation.

(A) If used, SINGLE-USE gloves shall be used for only one task such as working with READY-TO-EAT FOOD or with raw animal FOOD, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. P

(B) Except as specified in ¶ (C) of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with FOOD that is subsequently cooked as specified under Part 3-4 such as frozen FOOD or a PRIMAL CUT of MEAT.

(C) Slash-resistant gloves may be used with READY-TO-EAT FOOD that will not be subsequently cooked if the slash-resistant gloves have a SMOOTH, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a SMOOTH, durable, nonabsorbent glove, or a SINGLE-USE glove.

(D) Cloth gloves may not be used in direct contact with FOOD unless the FOOD is subsequently cooked as required under Part 3-4 such as frozen FOOD or a PRIMAL CUT of MEAT.

### 3-304.16 Using Clean Tableware for Second Portions and Refills.

(A) Except for refilling a CONSUMER'S drinking cup or container without contact between the pouring UTENSIL and the lip-contact area of the drinking cup or container, FOOD EMPLOYEES may not use TABLEWARE, including SINGLE-SERVICE ARTICLES, soiled by the CONSUMER, to provide second portions or refills.

(B) Except as specified in ¶ (C) of this section, self-service CONSUMERS may not be allowed to use soiled TABLEWARE, including SINGLE-SERVICE ARTICLES, to obtain additional FOOD from the display and serving EQUIPMENT.

(C) Drinking cups and containers may be reused by self-service CONSUMERS if refilling is a contamination-free process as specified under ¶¶ 4-204.13(A), (B), and (D).

### 3-304.17 Refilling Returnables.

(A) Except as specified in ¶¶ (B) - (E) of this section, empty containers returned to a FOOD ESTABLISHMENT for cleaning and refilling with FOOD shall

be cleaned and refilled in a regulated FOOD PROCESSING PLANT. P

(B) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with FOOD if the FOOD container is:

(1) Designed and constructed for reuse and in accordance with the requirements specified under Part 4-1 and 4-2; P

(2) One that was initially provided by the FOOD ESTABLISHMENT to the CONSUMER, either empty or filled with FOOD by the FOOD ESTABLISHMENT, for the purpose of being returned for reuse;

(3) Returned to the FOOD ESTABLISHMENT by the CONSUMER after use;

(4) Subject to the following steps before being refilled with FOOD:

(a) Cleaned as specified under Part 4-6 of this Code,

(b) SANITIZED as specified under Part 4-7 of this Code; P and

(c) Visually inspected by a FOOD EMPLOYEE to verify that the container, as returned, meets the requirements specified under Part 4-1 and 4-2. P

(C) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with BEVERAGE if:

(1) The BEVERAGE is not a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(2) The design of the container and of the rinsing EQUIPMENT and the nature of the BEVERAGE, when considered together, allow effective cleaning at home or in the FOOD ESTABLISHMENT;

(3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(4) The CONSUMER-owned container returned to the FOOD ESTABLISHMENT for refilling is refilled for sale or service only to the same CONSUMER; and

(5) The container is refilled by:

(a) An EMPLOYEE of the FOOD ESTABLISHMENT, or

(b) The owner of the container if the BEVERAGE system includes a contamination-free transfer process as specified under ¶¶ 4-204.13(A), (B), and (D) that cannot be bypassed by the container owner.

(D) Consumer-owned, personal take-out BEVERAGE containers, such as thermally insulated bottles, nonspill coffee cups, and promotional BEVERAGE glasses, may be refilled by EMPLOYEES or the CONSUMER if refilling is a contamination-free process as specified under ¶¶ 4-204.13(A), (B), and (D).

(E) CONSUMER-owned containers that are not FOOD-specific may be filled at a water VENDING MACHINE or system.

## Preventing Contamination from the Premises

### 3-305.11 Food Storage.

(A) Except as specified in ¶¶ (B) and (C) of this section, FOOD shall be protected from contamination by storing the FOOD:

(1) In a clean, dry location;

(2) Where it is not exposed to splash, dust, or other contamination; and

(3) At least 15 cm (6 inches) above the floor.

(B) FOOD in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling EQUIPMENT as specified under § 4-204.122.

(C) Pressurized BEVERAGE containers, cased FOOD in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

### 3-305.12 Food Storage, Prohibited Areas.

FOOD may not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In dressing rooms;

(D) In garbage rooms;

(E) In mechanical rooms;

(F) Under sewer lines that are not shielded to intercept potential drips;

(G) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

(H) Under open stairwells; or

(I) Under other sources of contamination.

### 3-305.13 Vended Time/Temperature Control for Safety Food, Original Container.

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD dispensed through a VENDING MACHINE shall be in the PACKAGE in which it was placed at the FOOD ESTABLISHMENT or FOOD PROCESSING PLANT at which it was prepared.

### 3-305.14 Food Preparation.

During preparation, unPACKAGED FOOD shall be protected from environmental sources of contamination.

## Preventing Contamination by Consumers

### 3-306.11 Food Display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption, FOOD on display shall be protected from contamination by the use of PACKAGING; counter, service line, or salad bar FOOD guards; display cases; or other effective means. P

### 3-306.12 Condiments, Protection.

(A) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected FOOD displays provided with the proper UTENSILS, original containers designed for dispensing, or individual PACKAGES or portions.

(B) Condiments at a VENDING MACHINE LOCATION shall be in individual PACKAGES or provided in dispensers that are filled at an APPROVED location, such as the FOOD ESTABLISHMENT that provides FOOD to the VENDING MACHINE LOCATION, a FOOD PROCESSING PLANT that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the VENDING MACHINE LOCATION.

### 3-306.13 Consumer Self-Service Operations.

(A) Raw, unPACKAGED animal FOOD, such as beef, lamb, pork, POULTRY, and FISH may not be offered for CONSUMER self-service. P This paragraph does not apply to:

(1) CONSUMER self-service of READY-TO-EAT FOODS at buffets or salad bars that serve FOODS such as sushi or raw shellfish;

(2) Ready-to-cook individual portions for immediate cooking and consumption on the PREMISES such as CONSUMER-cooked MEATS or CONSUMER-selected ingredients for Mongolian barbecue; or

(3) Raw, frozen, shell-on shrimp, or lobster.

(B) CONSUMER self-service operations for READY-TO-EAT FOODS shall be provided with suitable UTENSILS or effective dispensing methods that protect the FOOD from contamination. Pf

(C) CONSUMER self-service operations such as buffets and salad bars shall be monitored by FOOD EMPLOYEES trained in safe operating procedures. Pf

### 3-306.14 Returned Food and Re-Service of Food.

(A) Except as specified in ¶ (B) of this section, after being served or sold and in the possession of a CONSUMER, FOOD that is unused or returned by the CONSUMER may not be offered as FOOD for human consumption. P

(B) Except as specified under ¶ 3-801.11(G), a container of FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be RE-SERVED from one CONSUMER to another if:

(1) The FOOD is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

(2) The FOOD, such as crackers, salt, or pepper, is in an unopened original PACKAGE and is maintained in sound condition.

## Preventing Contamination from Other Sources

### 3-307.11 Miscellaneous Sources of Contamination.

FOOD shall be protected from contamination that may result from a factor or source not specified under Subparts 3-301 - 3-306.

## 3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

**Subparts**


**3-401 Cooking**
**3-402 Freezing**
**3-403 Reheating**
**3-404 Other Methods**


## Cooking

### 3-401.11 Raw Animal Foods.

(A) Except as specified under ¶ (B) and in ¶¶ (C) and (D) of this section, raw animal FOODS such as EGGS, FISH, MEAT, POULTRY, and FOODS containing these raw animal FOODS, shall be cooked to heat all parts of the FOOD to a temperature and for a time that complies with one of the following methods based on the FOOD that is being cooked:

(1) 63ºC (145ºF) or above for 15 seconds for: P

(a) Raw EGGS that are broken and prepared in response to a CONSUMER'S order and for immediate service, P and

(b) Except as specified under Subparagraphs (A)(2) and (A)(3) and ¶ (B), and in ¶ (C) of this section, FISH and INTACT MEAT including GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3-201.17(A)(1) and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2); P

(2) 68ºC (155ºF) for 17 seconds or the temperature specified in the following chart that corresponds to the holding time for RATITES, MECHANICALLY TENDERIZED, and INJECTED MEATS; the following if they are COMMINUTED: FISH, MEAT, GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3-201.17(A)(1), and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2); and raw EGGS that are not prepared as specified under Subparagraph (A)(1)(a) of this section: P

| Minimum Temperature °C (°F) | Minimum Time |
|---|---|
| 63 (145) | 3 minutes |
| 66 (150) | 1 minute |
| 70 (158) | < 1 second (instantaneous) |

;or

(3) 74ºC (165ºF) or above for < 1 second (instantaneous) for POULTRY, BALUTS, wild GAME ANIMALS as specified under Subparagraphs 3-201.17(A)(3) and (4), stuffed FISH, stuffed MEAT, stuffed pasta, stuffed POULTRY, stuffed RATITES, or stuffing containing FISH, MEAT, POULTRY, or RATITES. P

(B) Whole MEAT roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

(1) As specified in the following chart, to heat all parts of the FOOD to a temperature and for the holding time that corresponds to that temperature: P

| Temperature °C (°F) | Time[1] in Minutes |
|---|---|
| 54.4 (130) | 112 |
| 55.0 (131) | 89 |
| 56.1 (133) | 56 |
| 57.2 (135) | 36 |
| 57.8 (136) | 28 |
| 58.9 (138) | 18 |
| 60.0 (140) | 12 |
| 61.1 (142) | 8 |
| 62.2 (144) | 5 |
| 62.8 (145) | 4 |

| Temperature °C (°F) | Time[1] in Seconds |
|---|---|
| 63.9 (147) | 134 |
| 65.0 (149) | 85 |
| 66.1 (151) | 54 |
| 67.2 (153) | 34 |
| 68.3 (155) | 22 |
| 69.4 (157) | 14 |
| 70.0 (158) | 0 |

[1]Holding time may include post oven heat rise.

; and

(2) If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature: [Pf]

**Oven Temperature Based on Roast Weight**

| Oven Type | Less than 4.5 kg (10 lbs) | 4.5 kg (10 lbs) or More |
|---|---|---|
| **Still Dry** | 177°C (350°F) or more | 121°C (250°F) or more |
| **Convection** | 163°C (325°F) or more | 121°C (250°F) or more |
| **High Humidity[1]** | 121°C (250°F) or less | 121°C (250°F) or less |

[1]Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.

(C) A raw or undercooked WHOLE-MUSCLE, INTACT BEEF steak may be served or offered for sale in a READY-TO-EAT form if:

(1) The FOOD ESTABLISHMENT serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION,

(2) The steak is labeled to indicate that it meets the definition of **"**WHOLE-MUSCLE, INTACT BEEF**"** as specified under ¶ 3-201.11(E), and

(3) The steak is cooked on both the top and bottom to a surface temperature of 63°C (145°F) or above and a cooked color change is achieved on all external surfaces.

(D) A raw animal FOOD such as raw EGG, raw FISH, raw-marinated FISH, raw MOLLUSCAN SHELLFISH, or steak tartare; or a partially cooked FOOD such as lightly cooked FISH, soft cooked EGGS, or rare MEAT other than WHOLE-MUSCLE, INTACT BEEF steaks as specified in ¶ (C) of this section, may be served or offered for sale upon CONSUMER request or selection in a READY-TO-EAT form if:

(1) As specified under ¶¶ 3-801.11(C)(1) and (2), the FOOD ESTABLISHMENT serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION;

(2) The FOOD, if served or offered for service by CONSUMER selection from a children's menu, does not contain COMMINUTED MEAT; [Pf] and

(3) The CONSUMER is informed as specified under § 3-603.11 that to ensure its safety, the FOOD should be cooked as specified under ¶ (A) or (B) of this section; or

(4) The REGULATORY AUTHORITY grants a VARIANCE from ¶ (A) or (B) of this section as specified in § 8-103.10 based on a HACCP PLAN that:

(a) Is submitted by the PERMIT HOLDER and APPROVED as specified under § 8-103.11,

(b) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe FOOD, and

(c) Verifies that EQUIPMENT and procedures for FOOD preparation and training of FOOD EMPLOYEES at the FOOD ESTABLISHMENT meet the conditions of the VARIANCE.

### 3-401.12 Microwave Cooking.

Raw animal FOODS cooked in a microwave oven shall be:

(A) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(B) Covered to retain surface moisture;

(C) Heated to a temperature of at least 74°C (165°F) in all parts of the FOOD; [P] and

(D) Allowed to stand covered for 2 minutes after cooking to obtain

temperature equilibrium.

### 3-401.13 Plant Food Cooking for Hot Holding.

Plant FOODS that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F). Pf

### 3-401.14 Non-Continuous Cooking of Raw Animal Foods.

Raw animal FOODS that are cooked using a NON-CONTINUOUS COOKING process shall be:

(A) Subject to an initial heating process that is no longer than sixty minutes in duration; P

(B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under ¶ 3-501.14(A); P

(C) After cooling, held frozen or cold, as specified for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under ¶ 3-501.16(A)(2); P

(D) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature and for a time as specified under ¶¶3-401.11 (A)-(C); P

(E) Cooled according to the time and temperature parameters specified for cooked TIME /TEMPERATURE CONTROL FOR SAFETY FOOD under ¶ 3-501.14(A) if not either hot held as specified under ¶3-501.16(A), served immediately, or held using time as a public health control as specified under §3-501.19 after complete cooking; P and

(F) Prepared and stored according to written procedures that:

(1) Have obtained prior APPROVAL from the REGULATORY AUTHORITY; Pf

(2) Are maintained in the FOOD ESTABLISHMENT and are available to the REGULATORY AUTHORITY upon request; Pf

(3) Describe how the requirements specified under ¶ (A)-(E) of this Section are to be monitored and documented by the PERMIT HOLDER and the corrective actions to be taken if the requirements are not met; Pf

(4) Describe how the FOODS, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as FOODS that must be cooked as specified under ¶ (D) of this section prior to being offered for sale or service; [Pf] and

(5) Describe how the FOODS, after initial heating but prior to cooking as specified under ¶(D) of this section, are to be separated from READY-TO-EAT FOODS as specified under ¶3-302.11 (A). [Pf]

**Freezing**

### 3-402.11 Parasite Destruction.

(A) Except as specified in ¶ (B) of this section, before service or sale in READY-TO-EAT form, raw, raw-marinated, partially cooked, or marinated-partially cooked FISH shall be:

(1) Frozen and stored at a temperature of -20°C (-4°F) or below for a minimum of 168 hours (7 days) in a freezer; [P]

(2) Frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for a minimum of 15 hours; [P] or

(3) Frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of 24 hours. [P]

(B) Paragraph (A) of this section does not apply to:

(1) MOLLUSCAN SHELLFISH;

(2) A scallop product consisting only of the shucked adductor muscle;

(3) Tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern); or

(4) Aquacultured FISH, such as salmon, that:

(a) If raised in open water, are raised in net-pens, or

(b) Are raised in land-based operations such as ponds or tanks, and

(c) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured FISH.

(5) FISH eggs that have been removed from the skein and rinsed.

### 3-402.12 Records, Creation and Retention.

(A) Except as specified in ¶ 3-402.11(B) and ¶ (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked FISH are served or sold in READY-TO-EAT form, the PERSON IN CHARGE shall record the freezing temperature and time to which the FISH are subjected and shall retain the records of the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH. Pf

(B) If the FISH are frozen by a supplier, a written agreement or statement from the supplier stipulating that the FISH supplied are frozen to a temperature and for a time specified under § 3-402.11 may substitute for the records specified under ¶ (A) of this section.

(C) If raw, raw-marinated, partially cooked, or marinated-partially cooked FISH are served or sold in READY-TO-EAT form, and the FISH are raised and fed as specified in Subparagraph 3-402.11(B)(4), a written agreement or statement from the supplier or aquaculturist stipulating that the FISH were raised and fed as specified in Subparagraph 3-402.11(B)(4) shall be obtained by the PERSON IN CHARGE and retained in the records of the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH. Pf

### 3-403.10 Preparation for Immediate Service.

Cooked and refrigerated FOOD that is prepared for immediate service in response to an individual CONSUMER order, such as a roast beef sandwich au jus, may be served at any temperature.

## Reheating

### 3-403.11 Reheating for Hot Holding.

(A) Except as specified under ¶¶ (B) and (C) and in ¶ (E) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 74°C (165°F) for 15 seconds. P

(B) Except as specified under ¶ (C) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD reheated in a microwave oven for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 74°C (165°F) and the FOOD is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating. P

(C) READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that has been commercially processed and PACKAGED in a FOOD PROCESSING PLANT that is inspected by the REGULATORY AUTHORITY that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) when being reheated for hot holding. P

(D) Reheating for hot holding as specified under ¶¶ (A) - (C) of this section shall be done rapidly and the time the FOOD is between 5°C (41°F) and the temperatures specified under ¶¶ (A) - (C) of this section may not exceed 2 hours. P

(E) Remaining unsliced portions of MEAT roasts that are cooked as specified under ¶ 3-401.11(B) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under ¶ 3-401.11(B).

## Other Methods

### 3-404.11 Treating Juice.

JUICE PACKAGED in a FOOD ESTABLISHMENT shall be:

(A) Treated under a HACCP PLAN as specified in §8-201.14 to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; P or

(B) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance: Pf

(1) As specified under § 3-602.11, Pf and

(2) As specified in 21 CFR 101.17(g) Food labeling, warning, notice, and safe handling statements, JUICES that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, “WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems.” Pf

## 3-5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

**Subparts**

**3-501 Temperature and Time Control**
**3-502 Specialized Processing Methods**

### Temperature and Time Control

#### 3-501.11 Frozen Food.

Stored frozen FOODS shall be maintained frozen.

#### 3-501.12 Time/Temperature Control for Safety Food, Slacking.

Frozen TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is slacked to moderate the temperature shall be held:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; or

(B) At any temperature if the FOOD remains frozen.

#### 3-501.13 Thawing.

Except as specified in ¶ (D) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be thawed:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; or

(B) Completely submerged under running water:

(1) At a water temperature of 21°C (70°F) or below,

(2) With sufficient water velocity to agitate and float off loose particles in an overflow, and

(3) For a period of time that does not allow thawed portions of READY-TO-EAT FOOD to rise above 5°C (41°F), or

(4) For a period of time that does not allow thawed portions of a raw animal FOOD requiring cooking as specified under ¶ 3-401.11(A) or (B) to be above 5ºC (41ºF), for more than 4 hours including:

(a) The time the FOOD is exposed to the running water and the time needed for preparation for cooking, or

(b) The time it takes under refrigeration to lower the FOOD temperature to 5ºC (41ºF);

(C) As part of a cooking process if the FOOD that is frozen is:

(1) Cooked as specified under ¶¶3-401.11(A) or (B) or § 3-401.12, or

(2) Thawed in a microwave oven and immediately transferred to conventional cooking EQUIPMENT, with no interruption in the process; or

(D) Using any procedure if a portion of frozen READY-TO-EAT FOOD is thawed and prepared for immediate service in response to an individual CONSUMER'S order.

(E) REDUCED OXYGEN PACKAGED FISH that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

(1) Prior to its thawing under refrigeration as specified in ¶(A) of this section; or

(2) Prior to, or Immediately upon completion of, its thawing using procedures specified in ¶ (B) of this section.

### 3-501.14 Cooling.

(A) Cooked TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cooled:

(1) Within 2 hours from 57ºC (135ºF) to 21ºC (70°F); [P] and

(2) Within a total of 6 hours from 57ºC (135ºF) to 5ºC (41°F) or less. [P]

(B) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cooled within 4 hours to 5ºC (41ºF) or less if prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna. [P]

(C) Except as specified under ¶ (D) of this section, a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD received in compliance with LAWS allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in ¶ 3-202.11(B), shall be cooled within 4 hours to 5°C (41°F) or less. [P]

(D) Raw EGGS shall be received as specified under ¶ 3-202.11(C) and immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 7°C (45°F) or less. [P]

### 3-501.15 Cooling Methods.

(A) Cooling shall be accomplished in accordance with the time and temperature criteria specified under § 3-501.14 by using one or more of the following methods based on the type of FOOD being cooled:

(1) Placing the FOOD in shallow pans; [Pf]

(2) Separating the FOOD into smaller or thinner portions; [Pf]

(3) Using rapid cooling EQUIPMENT; [Pf]

(4) Stirring the FOOD in a container placed in an ice water bath; [Pf]

(5) Using containers that facilitate heat transfer; [Pf]

(6) Adding ice as an ingredient; [Pf] or

(7) Other effective methods. [Pf]

(B) When placed in cooling or cold holding EQUIPMENT, FOOD containers in which FOOD is being cooled shall be:

(1) Arranged in the EQUIPMENT to provide maximum heat transfer through the container walls; and

(2) Loosely covered, or uncovered if protected from overhead contamination as specified under Subparagraph 3-305.11(A)(2), during the cooling period to facilitate heat transfer from the surface of the FOOD.

### 3-501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding.

(A) Except during preparation, cooking, or cooling, or when time is used as

the public health control as specified under §3-501.19, and except as specified under ¶ (B) and in ¶ (C ) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be maintained:

(1) At 57ºC (135ºF) or above, except that roasts cooked to a temperature and for a time specified in ¶ 3-401.11(B) or reheated as specified in ¶ 3-403.11(E) may be held at a temperature of 54ºC (130ºF) or above; P or
(2) At 5ºC (41ºF) or less. P

(B) EGGS that have not been treated to destroy all viable **Salmonellae** shall be stored in refrigerated EQUIPMENT that maintains an ambient air temperature of 7°C (45°F) or less. P

(C) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under ¶ (A) of this section, while contained within specially designed EQUIPMENT that complies with the design and construction requirements as specified under ¶ 4-204.13(E).

**on-premises preparation**

• prepare and hold cold

### 3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking.

(A) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under § 3-502.12, and except as specified in ¶¶ (E) and (F) of this section, refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and held in a FOOD ESTABLISHMENT for more than 24 hours shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded when held at a temperature of 5ºC (41ºF) or less for a maximum of 7 days. The day of preparation shall be counted as Day 1. Pf

**commercially processed food**

• open and hold cold

(B) Except as specified in ¶¶ (E) - (G) of this section, refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and PACKAGED by a FOOD PROCESSING PLANT shall be clearly marked, at the time the original container is opened in a FOOD ESTABLISHMENT and if the FOOD is held for more than 24 hours, to indicate the date or day by which the FOOD

shall be consumed on the PREMISES, sold, or discarded, based on the temperature and time combinations specified in ¶ (A) of this section and: [Pf]

(1) The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; [Pf] and

(2) The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on FOOD safety. [Pf]

(C) A refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD ingredient or a portion of a refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is subsequently combined with additional ingredients or portions of FOOD shall retain the date marking of the earliest-prepared or first-prepared ingredient. [Pf]

(D) A date marking system that meets the criteria stated in ¶¶ (A) and (B) of this section may include:

(1) Using a method APPROVED by the REGULATORY AUTHORITY for refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(2) Marking the date or day of preparation, with a procedure to discard the FOOD on or before the last date or day by which the FOOD must be consumed on the PREMISES, sold, or discarded as specified under ¶ (A) of this section;

(3) Marking the date or day the original container is opened in a FOOD ESTABLISHMENT, with a procedure to discard the FOOD on or before the last date or day by which the FOOD must be consumed on the PREMISES, sold, or discarded as specified under ¶ (B) of this section; or

(4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the REGULATORY AUTHORITY upon request.

(E) Paragraphs (A) and (B) of this section do not apply to individual meal portions served or rePACKAGED for sale from a bulk container upon a CONSUMER'S request.

(F) Paragraphs (A) and (B) of this section do not apply to SHELLSTOCK.

(G) Paragraph (B) of this section does not apply to the following FOODS prepared and PACKAGED by a FOOD PROCESSING PLANT inspected by a REGULATORY AUTHORITY:

(1) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110 Current good manufacturing practice in manufacturing, packing, or holding human food;

(2) Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;

(3) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;

(4) Cultured dairy products as defined in 21 CFR 131 Milk and cream, such as yogurt, sour cream, and buttermilk;

(5) Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 CFR 114 Acidified foods;

(6) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and

(7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

### 3-501.18 Ready-to-Eat, Time/Temperature Control for Safety Food, Disposition.

(A) A FOOD specified in ¶ 3-501.17(A) or (B) shall be discarded if it:

(1) Exceeds the temperature and time combination specified in ¶ 3-501.17(A), except time that the product is frozen; P

(2) Is in a container or PACKAGE that does not bear a date or day; P or

(3) Is inappropriately marked with a date or day that exceeds a temperature and time combination as specified in ¶ 3-501.17(A).P

(B) Refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared in a FOOD ESTABLISHMENT and dispensed through a VENDING MACHINE with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in ¶ 3-501.17(A). P

### 3-501.19 Time as a Public Health Control.

(A) Except as specified under ¶ (D) of this section, if time without temperature control is used as the public health control for a working supply of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD before cooking, or for READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is displayed or held for sale or service:

(1) Written procedures shall be prepared in advance, maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that specify: Pf

(a) Methods of compliance with Subparagraphs (B)(1)-(4) or (C)(1)-(5) of this section; Pf and

(b) Methods of compliance with § 3-501.14 for FOOD that is prepared, cooked, and refrigerated before time is used as a public health control. Pf

**Time – maximum up to 4 hours**

(B) If time without temperature control is used as the public health control up to a maximum of 4 hours:

(1) The FOOD shall have an initial temperature of 5ºC (41ºF) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control; P

(2) The FOOD shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the FOOD is removed from temperature control; Pf

(3) The FOOD shall be cooked and served, served at any temperature if READY-TO-EAT, or discarded, within 4 hours from the point in time when the FOOD is removed from temperature control; P and

(4) The FOOD in unmarked containers or PACKAGES, or marked to exceed a 4-hour limit shall be discarded. P

**Time – maximum up to 6 hours**

(C) If time without temperature control is used as the public health control up to a maximum of 6 hours:

(1) The FOOD shall have an initial temperature of 5ºC (41ºF) or less when removed from temperature control and the FOOD temperature may not exceed 21ºC (70ºF) within a maximum time period of 6 hours; P

(2) The FOOD shall be monitored to ensure the warmest portion of the FOOD does not exceed 21ºC (70ºF) during the 6-hour period, unless an ambient air temperature is maintained that ensures the FOOD does not exceed 21ºC (70ºF) during the 6-hour holding period; Pf

(3) The FOOD shall be marked or otherwise identified to indicate: Pf

(a) The time when the FOOD is removed from 5ºC (41ºF) or less cold holding temperature control, Pf and

(b) The time that is 6 hours past the point in time when the FOOD is removed from cold holding temperature control; Pf

(4) The FOOD shall be:

(a) Discarded if the temperature of the FOOD exceeds 21°C (70°F), P or

(b) Cooked and served, served at any temperature if READY-TO-EAT, or discarded within a maximum of 6 hours from the point in time when the FOOD is removed from 5ºC (41ºF) or less cold holding temperature control; P and

(5) The FOOD in unmarked containers or PACKAGES, or marked with a time that exceeds the 6-hour limit shall be discarded. P

(D) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not use time as specified under ¶¶ (A), (B) or (C) of this section as the public health control for raw EGGS.

## Specialized Processing Methods

### 3-502.11 Variance Requirement.

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the REGULATORY

AUTHORITY as specified in § 8-103.10 and under § 8-103.11 before: Pf

(A) Smoking FOOD as a method of FOOD preservation rather than as a method of flavor enhancement; Pf

(B) Curing FOOD; Pf

(C) Using FOOD ADDITIVES or adding components such as vinegar: Pf

(1) As a method of FOOD preservation rather than as a method of flavor enhancement, Pf or

(2) To render a FOOD so that it is not TIME/TEMPERATURE CONTROL OF SAFETY FOOD; Pf

(D) Packaging TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method except where the growth of and toxin formation by **Clostridium botulinum** and the growth of **Listeria monocytogenes** are controlled as specified under § 3-502.12; Pf

(E) Operating a MOLLUSCAN SHELLFISH life-support system display tank used to store or display shellfish that are offered for human consumption; Pf

(F) Preparing FOOD by another method that is determined by the REGULATORY AUTHORITY to require a VARIANCE; Pf or

(G) Sprouting seeds or beans. Pf

## Clostridium botulinum and Listeria monocytogenes Controls

### 3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3-502.11, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of **Clostridium botulinum** and the growth of **Listeria monocytogenes**. P

(B) Except as specified under ¶(F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall implement a HACCP PLAN that contains the information specified under ¶¶ 8-201.14 (C) and (D) and that: Pf

(1) Identifies the FOOD to be PACKAGED; Pf

(2) Except as specified under ¶¶ (C) - (E) of this section, requires that the PACKAGED FOOD shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria: Pf

(a) Has an $A_w$ of 0.91 or less, Pf

(b) Has a pH of 4.6 or less, Pf

(c) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact PACKAGE, Pf or

(d) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables; Pf

(3) Describes how the PACKAGE shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: Pf

(a) Maintain the FOOD at 5°C (41°F) or below, Pf and

(b) Discard the FOOD if within 30 calendar days of its PACKAGING if it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption; Pf

(4) Limits the refrigerated shelf life to no more than 30 calendar days from PACKAGING to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; P

(5) Includes operational procedures that:

(a) Prohibit contacting READY-TO-EAT FOOD with bare hands as specified under ¶ 3-301.11(B), Pf

(b) Identify a designated work area and the method by which: Pf

(i) Physical barriers or methods of separation of raw FOODS and READY-TO-EAT FOODS minimize cross contamination, Pf and

(ii) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential HAZARDS of the

operation, [Pf] and

(c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES; [Pf] and

(6) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the: [Pf]

(a) Concepts required for a safe operation, [Pf]

(b) EQUIPMENT and facilities, [Pf] and

(c) Procedures specified under Subparagraph (B)(5) of this section and ¶¶ 8-201.14 (C) and (D). [Pf]

(7) Is provided to the REGULATORY AUTHORITY prior to implementation as specified under ¶ 8-201.13(B).

Fish

(C) Except for FISH that is frozen before, during, and after PACKAGING and bears a label indicating that it is to be kept frozen until time of use, a FOOD ESTABLISHMENT may not PACKAGE FISH using a REDUCED OXYGEN PACKAGING method. [P]

Cook-Chill or Sous Vide

(D) Except as specified under ¶ (C) and ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a cook-chill or sous vide process shall:

(1) Provide to the REGULATORY AUTHORITY prior to implementation, a HACCP PLAN that contains the information as specified under ¶¶ 8-201.14 (C) and (D); [Pf]

(2) Ensure the FOOD is:

(a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES but within the same business entity with no distribution or sale of the PACKAGED product to another business entity or the CONSUMER, [Pf]

(b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11 (A), (B), and (C), [P]

(c) Protected from contamination before and after cooking as specified under Parts 3-3 and 3-4, P

(d) Placed in a PACKAGE with an oxygen barrier and SEALED before cooking, or placed in a PACKAGE and SEALED immediately after cooking and before reaching a temperature below 57°C (135°F), P

(e) Cooled to 5°C (41°F) in the SEALED PACKAGE or bag as specified under § 3-501.14 and: P

(i) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of PACKAGING; P

(ii) Held at 5°C (41°F) or less for no more than 7 days, at which time the FOOD must be consumed or discarded; P or

(iii) Held frozen with no shelf life restriction while frozen until consumed or used. P

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, Pf

(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, Pf and

(h) Labeled with the product name and the date PACKAGED; Pf and

(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP PLAN and:

(a) Make such records available to the REGULATORY AUTHORITY upon request, Pf and

(b) Hold such records for at least 6 months; Pf and

(4) Implement written operational procedures as specified under Subparagraph (B)(5) of this section and a training program as specified under Subparagraph (B)(6) of this section. Pf

Cheese

(E) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED OXYGEN PACKAGING method shall:

(1) Limit the cheeses PACKAGED to those that are commercially manufactured in a FOOD PROCESSING PLANT with no ingredients added in the FOOD ESTABLISHMENT and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses; P

(2) Have a HACCP PLAN that contains the information specified under ¶¶ 8-201.14 (C) and (D) and as specified under ¶¶ (B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section; Pf

(3) Labels the PACKAGE on the principal display panel with a “use by” date that does not exceed 30 days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; Pf and

(4) Discards the REDUCED OXYGEN PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within 30 calendar days of its PACKAGING. Pf

(F) A HACCP PLAN is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

(1) Labeled with the production time and date,

(2) Held at 5°C (41°F) or less during refrigerated storage, and

(3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.

## 3-6 FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING

**Subparts**


**3-601 Accurate Representation**
**3-602 Labeling**
**3-603 Consumer Advisory**


## Accurate Representation

### 3-601.11 Standards of Identity.

PACKAGED FOOD shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 Definitions and standards of identity or composition, and the general requirements in 21 CFR 130 – Food Standards: General and 9 CFR 319 Subpart A – General.

### 3-601.12 Honestly Presented.

(A) FOOD shall be offered for human consumption in a way that does not mislead or misinform the CONSUMER.

(B) FOOD or COLOR ADDITIVES, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a FOOD.

## Labeling

### 3-602.11 Food Labels.

(A) FOOD PACKAGED in a FOOD ESTABLISHMENT, shall be labeled as specified in LAW, including 21 CFR 101 - Food labeling, and 9 CFR 317 Labeling, marking devices, and containers.

(B) Label information shall include:

(1) The common name of the FOOD, or absent a common name, an adequately descriptive identity statement;

(2) If made from two or more ingredients, a list of ingredients and SUB-INGREDIENTS in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors and chemical preservatives, if contained in the FOOD;

(3) An accurate declaration of the net quantity of contents;

(4) The name and place of business of the manufacturer, packer, or distributor; and

(5) The name of the FOOD source for each MAJOR FOOD ALLERGEN contained in the FOOD unless the FOOD source is already part of the common or usual name of the respective ingredient. Pf

(6) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(q)(3) - (5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

(7) For any salmonid FISH containing canthaxanthin or astaxanthin as a COLOR ADDITIVE, the labeling of the bulk FISH container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

(C) Bulk FOOD that is available for CONSUMER self-dispensing shall be prominently labeled with the following information in plain view of the CONSUMER:

(1) The manufacturer's or processor's label that was provided with the FOOD; or

(2) A card, sign, or other method of notification that includes the information specified under Subparagraphs (B)(1), (2), and (6) of this section.

(D) Bulk, unPACKAGED FOODS such as bakery products and unPACKAGED FOODS that are portioned to CONSUMER specification need not be labeled if:

(1) A health, nutrient content, or other claim is not made;

(2) There are no state or local LAWS requiring labeling; and

(3) The FOOD is manufactured or prepared on the PREMISES of the FOOD ESTABLISHMENT or at another FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT that is owned by the same PERSON and is regulated by the FOOD regulatory agency that has jurisdiction.

### 3-602.12 Other Forms of Information.

(A) If required by LAW, CONSUMER warnings shall be provided.

(B) FOOD ESTABLISHMENT or manufacturers' dating information on FOODS may not be concealed or altered.

## Consumer Advisory

### 3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.

(A) Except as specified in ¶ 3-401.11(C) and Subparagraph 3-401.11(D)(4) and under ¶ 3-801.11(C), if an animal FOOD such as beef, EGGS, FISH, lamb, milk, pork, POULTRY, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT form or as an ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, as specified in ¶¶ (B) and (C) of this section using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means. Pf

(B) DISCLOSURE shall include:

(1) A description of the animal-derived FOODS, such as “oysters on the half shell (raw oysters),” “raw-EGG Caesar salad,” and “hamburgers (can be cooked to order)”; Pf or

(2) Identification of the animal-derived FOODS by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients. Pf

(C) REMINDER shall include asterisking the animal-derived FOODS requiring DISCLOSURE to a footnote that states:

(1) Regarding the safety of these items, written information is available upon request; Pf

(2) Consuming raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness; Pf or

(3) Consuming raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness, especially if you have certain medical conditions. Pf

## 3-7 CONTAMINATED FOOD

### Subpart

### 3-701 Disposition

**Disposition**

#### 3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

(A) A FOOD that is unsafe, ADULTERATED, or not honestly presented as specified under § 3-101.11 shall be discarded or reconditioned according to an APPROVED procedure. P

(B) FOOD that is not from an APPROVED source as specified under §§ 3-201.11 - .17 shall be discarded. P

(C) READY-TO-EAT FOOD that may have been contaminated by an EMPLOYEE who has been RESTRICTED or EXCLUDED as specified under § 2-201.12 shall be discarded. P

(D) FOOD that is contaminated by FOOD EMPLOYEES, CONSUMERS, or other PERSONS through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded. P

## 3-8 SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS

### Subpart

### 3-801 Additional Safeguards

## Additional Safeguards

### 3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

(A) The following criteria apply to JUICE:

(1) For the purposes of this paragraph only, children who are age 9 or less and receive FOOD in a school, day care setting, or similar facility that provides custodial care are included as HIGHLY SUSCEPTIBLE POPULATIONS;

(2) PrePACKAGED JUICE or a prePACKAGED BEVERAGE containing JUICE, that bears a warning label as specified in 21 CFR, 101.17(g) Food labeling, warning, notice, and safe handling statements, JUICES that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a PACKAGED JUICE or BEVERAGE containing JUICE, that bears a warning label as specified under ¶ 3-404.11(B) may not be served or offered for sale; [P] and

(3) UnPACKAGED JUICE that is prepared on the PREMISES for service or sale in a READY-TO-EAT form shall be processed under a HACCP PLAN that contains the information specified under §8-201.14 (C) - (E) and as specified in 21 CFR Part 120 – Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls. [P]

(B) Pasteurized EGGS or EGG PRODUCTS shall be substituted for raw EGGS in the preparation of: [P]

(1) FOODS such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG-fortified BEVERAGES, [P] and

(2) Except as specified in ¶ (F) of this section, recipes in which more

than one EGG is broken and the EGGS are combined; P

(C) The following FOODS may not be served or offered for sale in a READY-TO-EAT form: P

(1) Raw animal FOODS such as raw FISH, raw-marinated FISH, raw MOLLUSCAN SHELLFISH, and steak tartare, P

(2) A partially cooked animal FOOD such as lightly cooked FISH, rare MEAT, soft-cooked EGGS that are made from raw EGGS, and meringue; P and

(3) Raw seed sprouts. P

(D) FOOD EMPLOYEES may not contact READY-TO-EAT FOOD as specified under ¶¶ 3-301.11(B) and (E). P

(E) Time only, as the public health control as specified under ¶ 3-501.19(D), may not be used for raw EGGS. P

(F) Subparagraph (B)(2) of this section does not apply if:

(1) The raw EGGS are combined immediately before cooking for one CONSUMER'S serving at a single meal, cooked as specified under Subparagraph 3-401.11(A)(1), and served immediately, such as an omelet, soufflé, or scrambled EGGS;

(2) The raw EGGS are combined as an ingredient immediately before baking and the EGGS are thoroughly cooked to a READY-TO-EAT form, such as a cake, muffin, or bread; or

(3) The preparation of the food is conducted under a HACCP PLAN that:

(a) Identifies the FOOD to be prepared,

(b) Prohibits contacting READY-TO-EAT FOOD with bare hands,
(c) Includes specifications and practices that ensure:

(i) **Salmonella Enteritidis** growth is controlled before and after cooking, and

(ii) **Salmonella Enteritidis** is destroyed by cooking the EGGS according to the temperature and time specified

in Subparagraph 3-401.11(A)(2),

(d) Contains the information specified under ¶ 8-201.14(D) including procedures that:

(i) Control cross contamination of READY-TO-EAT FOOD with raw EGGS, and

(ii) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES, and

(e) Describes the training program that ensures that the FOOD EMPLOYEE responsible for the preparation of the FOOD understands the procedures to be used.

Re-service of Food

(G) Except as specified in paragraph (H) of this section, FOOD may be re-served as specified under Subparagraph 3-306.14(B)(1) and (2).

Prohibited Re-service of Food

(H) FOOD may not be re-served under the following conditions:

(1) Any FOOD served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.

(2) Packages of FOOD from any patients, clients, or other CONSUMERS should not be re-served to PERSONS in protective environment isolation.

Chapter

# 4 Equipment, Utensils, and Linens

**Parts**


4-1 MATERIALS FOR CONSTRUCTION AND REPAIR
4-2 DESIGN AND CONSTRUCTION
4-3 NUMBERS AND CAPACITIES
4-4 LOCATION AND INSTALLATION
4-5 MAINTENANCE AND OPERATION
4-6 CLEANING OF EQUIPMENT AND UTENSILS
4-7 SANITIZATION OF EQUIPMENT AND UTENSILS
4-8 LAUNDERING
4-9 PROTECTION OF CLEAN ITEMS


## 4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

**Subparts**


4-101 Multiuse
4-102 Single-Service and Single-Use


### Multiuse

#### 4-101.11 Characteristics.

Materials that are used in the construction of UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT may not allow the migration of deleterious substances or impart colors, odors, or tastes to FOOD and under normal use conditions shall be: P

(A) Safe; P

(B) Durable, CORROSION-RESISTANT, and nonabsorbent;

(C) Sufficient in weight and thickness to withstand repeated WAREWASHING;

(D) Finished to have a SMOOTH, EASILY CLEANABLE surface; and

(E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

### 4-101.12 Cast Iron, Use Limitation.

(A) Except as specified in ¶¶ (B) and (C) of this section, cast iron may not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT.

(B) Cast iron may be used as a surface for cooking.

(C) Cast iron may be used in UTENSILS for serving FOOD if the UTENSILS are used only as part of an uninterrupted process from cooking through service.

### 4-101.13 Lead, Use Limitation.

(A) Ceramic, china, and crystal UTENSILS, and decorative UTENSILS such as hand painted ceramic or china that are used in contact with FOOD shall be lead-free or contain levels of lead not exceeding the limits of the following UTENSIL categories: P

| UTENSIL Category | Ceramic Article Description | Maximum Lead MG/L |
|---|---|---|
| Beverage Mugs, Cups, Pitchers | Coffee Mugs | 0.5 |
| Large Hollowware (excluding pitchers) | Bowls ≥ 1.1 Liter (1.16 Quart) | 1 |
| Small Hollowware (excluding cups & mugs) | Bowls < 1.1 Liter (1.16 Quart) | 2.0 |
| Flat TABLEWARE | Plates, Saucers | 3.0 |

(B) Pewter alloys containing lead in excess of 0.05% may not be used as a FOOD-CONTACT SURFACE. P

(C) Solder and flux containing lead in excess of 0.2% may not be used as a FOOD-CONTACT SURFACE.

### 4-101.14 Copper, Use Limitation.

(A) Except as specified in ¶ (B) of this section, copper and copper alloys such as brass may not be used in contact with a FOOD that has a pH below 6 such as vinegar, fruit JUICE, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator. P

(B) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

### 4-101.15 Galvanized Metal, Use Limitation.

Galvanized metal may not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT that are used in contact with acidic FOOD. P

### 4-101.16 Sponges, Use Limitation.

Sponges may not be used in contact with cleaned and SANITIZED or in-use FOOD-CONTACT SURFACES.

### 4-101.17 Wood, Use Limitation.

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, wood and wood wicker may not be used as a FOOD-CONTACT SURFACE.

(B) Hard maple or an equivalently hard, close-grained wood may be used for:

(1) Cutting boards; cutting blocks; bakers' tables; and UTENSILS such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(2) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110°C (230°F) or above.

(C) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(D) If the nature of the FOOD requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw FOOD may be kept in:

(1) Untreated wood containers; or

(2) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for wood.

### 4-101.18 Nonstick Coatings, Use Limitation.

Multiuse KITCHENWARE such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching UTENSILS and cleaning aids.

### 4-101.19 Nonfood-Contact Surfaces.

NonFOOD-CONTACT SURFACES of EQUIPMENT that are exposed to splash, spillage, or other FOOD soiling or that require frequent cleaning shall be constructed of a CORROSION-RESISTANT, nonabsorbent, and SMOOTH material.

## Single-Service and Single-Use

### 4-102.11 Characteristics.

Materials that are used to make SINGLE-SERVICE and SINGLE-USE ARTICLES:

(A) May not:

(1) Allow the migration of deleterious substances, [P] or

(2) Impart colors, odors, or tastes to FOOD; and

(B) Shall be:

(1) Safe, [P] and

(2) Clean.

## 4-2 DESIGN AND CONSTRUCTION

### Subparts


4-201 Durability and Strength
4-202 Cleanability
4-203 Accuracy
4-204 Functionality
4-205 Acceptability


## Durability and Strength

### 4-201.11 Equipment and Utensils.

EQUIPMENT and UTENSILS shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

### 4-201.12 Food Temperature Measuring Devices.

FOOD TEMPERATURE MEASURING DEVICES may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used. [P]

## Cleanability

### 4-202.11 Food-Contact Surfaces.

(A) Multiuse FOOD-CONTACT SURFACES shall be:

(1) SMOOTH; [Pf]

(2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections; [Pf]

(3) Free of sharp internal angles, corners, and crevices; [Pf]

(4) Finished to have SMOOTH welds and joints; [Pf] and

(5) Except as specified in ¶ (B) of this section, accessible for cleaning and inspection by one of the following methods:

(a) Without being disassembled, [Pf]

(b) By disassembling without the use of tools, [Pf] or

(c) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches. [Pf]

(B) Subparagraph (A)(5) of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or BEVERAGE syrup lines or tubes.

### 4-202.12 CIP Equipment.

(A) CIP EQUIPMENT shall meet the characteristics specified under § 4-202.11 and shall be designed and constructed so that:

(1) Cleaning and SANITIZING solutions circulate throughout a fixed system and contact all interior FOOD-CONTACT SURFACES, [Pf] and

(2) The system is self-draining or capable of being completely drained of cleaning and SANITIZING solutions; and

(B) CIP EQUIPMENT that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior FOOD-CONTACT SURFACES throughout the fixed system are being effectively cleaned.

### 4-202.13 "V" Threads, Use Limitation.

Except for hot oil cooking or filtering EQUIPMENT, "V" type threads may not be used on FOOD-CONTACT SURFACES.

### 4-202.14 Hot Oil Filtering Equipment.

Hot oil filtering EQUIPMENT shall meet the characteristics specified under § 4-202.11 or § 4-202.12 and shall be readily accessible for filter replacement and cleaning of the filter.

### 4-202.15 Can Openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

### 4-202.16 Nonfood-Contact Surfaces.

NonFOOD-CONTACT SURFACES shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

### 4-202.17 Kick Plates, Removable.

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

(A) Removable by one of the methods specified under Subparagraph 4-202.11(A)(5) or capable of being rotated open; and

(B) Removable or capable of being rotated open without unlocking EQUIPMENT doors.

### 4-202.18 Ventilation Hood Systems, Filters.

Filters or other grease extracting EQUIPMENT shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

## Accuracy

### 4-203.11 Temperature Measuring Devices, Food.

(A) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to ±1°C in the intended range of use. Pf

(B) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to ±2°F in the intended range of use. Pf

### 4-203.12 Temperature Measuring Devices, Ambient Air and Water.

(A) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled in Celsius or dually scaled in Celsius and Fahrenheit

shall be designed to be easily readable and accurate to ±1.5°C in the intended range of use. [Pf]

(B) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to ±3°F in the intended range of use. [Pf]

### 4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water SANITIZING rinse shall have increments of 7 kilopascals (1 pound per square inch) or smaller and shall be accurate to ±14 kilopascals (±2 pounds per square inch) in the range indicated on the manufacturer's data plate.

## Functionality

### 4-204.11 Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in FOOD preparation and WAREWASHING areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

### 4-204.12 Equipment Openings, Closures and Deflectors.

(A) A cover or lid for EQUIPMENT shall overlap the opening and be sloped to drain.

(B) An opening located within the top of a unit of EQUIPMENT that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (two-tenths of an inch).

(C) Except as specified under ¶ (D) of this section, fixed piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending into EQUIPMENT shall be provided with a watertight joint at the point where the item enters the EQUIPMENT.

(D) If a watertight joint is not provided:

(1) The piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips,

and dust from openings into the FOOD; and

(2) The opening shall be flanged as specified under ¶ (B) of this section.

### 4-204.13 Dispensing Equipment, Protection of Equipment and Food.

In EQUIPMENT that dispenses or vends liquid FOOD or ice in unPACKAGED form:

(A) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the FOOD shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the FOOD;

(B) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(C) The delivery tube or chute and orifice of EQUIPMENT used to vend liquid FOOD or ice in unPACKAGED form to self-service CONSUMERS shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the EQUIPMENT is:

(1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or

(2) Available for self-service during hours when it is not under the full-time supervision of a FOOD EMPLOYEE; and

(D) The dispensing EQUIPMENT actuating lever or mechanism and filling device of CONSUMER self-service BEVERAGE dispensing EQUIPMENT shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(E) Dispensing EQUIPMENT in which TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form is maintained outside of the temperature control requirements as specified under §3-501.16(A) shall:

(1) be specifically designed and equipped to maintain the

commercial sterility of aseptically PACKAGED FOOD in a homogenous liquid form for a specified duration from the time of opening the PACKAGING within the EQUIPMENT; [P] and

(2) conform to the requirements for this EQUIPMENT as specified in NSF/ANSI 18-2006- Manual Food and Beverage Dispensing Equipment. [P]

### 4-204.14 Vending Machine, Vending Stage Closure.

The dispensing compartment of a VENDING MACHINE including a machine that is designed to vend prePACKAGED snack FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

(A) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(B) Available for self-service during hours when it is not under the full-time supervision of a FOOD EMPLOYEE.

### 4-204.15 Bearings and Gear Boxes, Leakproof.

EQUIPMENT containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES.

### 4-204.16 Beverage Tubing, Separation.

Except for cold plates that are constructed integrally with an ice storage bin, BEVERAGE tubing and cold-plate BEVERAGE cooling devices may not be installed in contact with stored ice.

### 4-204.17 Ice Units, Separation of Drains.

Liquid waste drain lines may not pass through an ice machine or ice storage bin.

### 4-204.18 Condenser Unit, Separation.

If a condenser unit is an integral component of EQUIPMENT, the condenser unit shall be separated from the FOOD and FOOD storage space by a dustproof barrier.

### 4-204.19 Can Openers on Vending Machines.

Cutting or piercing parts of can openers on VENDING MACHINES shall be protected from manual contact, dust, insects, rodents, and other contamination.

### 4-204.110 Molluscan Shellfish Tanks.

(A) Except as specified under ¶ (B) of this section, MOLLUSCAN SHELLFISH life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the CONSUMER that the shellfish are for display only. [P]

(B) MOLLUSCAN SHELLFISH life-support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a VARIANCE granted by the REGULATORY AUTHORITY as specified in § 8-103.10 and a HACCP PLAN that: [Pf]

(1) Is submitted by the PERMIT HOLDER and APPROVED as specified under § 8-103.11; [Pf] and

(2) Ensures that:

(a) Water used with FISH other than MOLLUSCAN SHELLFISH does not flow into the molluscan tank, [Pf]

(b) The safety and quality of the shellfish as they were received are not compromised by the use of the tank, [Pf] and

(c) The identity of the source of the SHELLSTOCK is retained as specified under § 3-203.12. [Pf]

### 4-204.111 Vending Machines, Automatic Shutoff.

(A) A machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall have an automatic control that prevents the machine from vending FOOD:

(1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain FOOD temperatures as specified under Chapter 3; [P] and

(2) If a condition specified under Subparagraph (A)(1) of this section occurs, until the machine is serviced and restocked with FOOD that has been maintained at temperatures specified under Chapter 3. [P]

(B) When the automatic shutoff within a machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is activated:

(1) In a refrigerated VENDING MACHINE, the ambient air temperature may not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; [P] or

(2) In a hot holding VENDING MACHINE, the ambient air temperature may not be less than 57 °C (135 °F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked. [P]

### 4-204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot FOOD storage unit, the sensor of a TEMPERATURE MEASURING DEVICE shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot FOOD storage unit.

(B) Except as specified in ¶ (C) of this section, cold or hot holding EQUIPMENT used for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be designed to include and shall be equipped with at least one integral or permanently affixed TEMPERATURE MEASURING DEVICE that is located to allow easy viewing of the device's temperature display.

(C) Paragraph (B) of this section does not apply to EQUIPMENT for which the placement of a TEMPERATURE MEASURING DEVICE is not a practical means for measuring the ambient air surrounding the FOOD because of the design, type, and use of the EQUIPMENT, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated FOOD transport containers, and salad bars.

(D) TEMPERATURE MEASURING DEVICES shall be designed to be easily readable.

(E) FOOD TEMPERATURE MEASURING DEVICES and water TEMPERATURE MEASURING DEVICES on WAREWASHING machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1°C or 2°F in the intended range of use. [Pf]

### 4-204.113 Warewashing Machine, Data Plate Operating Specifications.

A WAREWASHING machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(A) Temperatures required for washing, rinsing, and SANITIZING;

(B) Pressure required for the fresh water SANITIZING rinse unless the machine is designed to use only a pumped SANITIZING rinse; and

(C) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

### 4-204.114 Warewashing Machines, Internal Baffles.

WAREWASHING machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

### 4-204.115 Warewashing Machines, Temperature Measuring Devices.

A WAREWASHING machine shall be equipped with a TEMPERATURE MEASURING DEVICE that indicates the temperature of the water:

(A) In each wash and rinse tank; [Pf] and

(B) As the water enters the hot water SANITIZING final rinse manifold or in the chemical SANITIZING solution tank. [Pf]

### 4-204.116 Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for SANITIZATION in manual WAREWASHING operations, the SANITIZING compartment of the sink shall be:

(A) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); [Pf] and

(B) Provided with a rack or basket to allow complete immersion of EQUIPMENT and UTENSILS into the hot water. [Pf]

### 4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A WAREWASHING machine that is installed after adoption of this Code by the REGULATORY AUTHORITY, shall be equipped to:

(A) Automatically dispense detergents and SANITIZERS; [Pf] and

(B) Incorporate a visual means to verify that detergents and SANITIZERS are delivered or a visual or audible alarm to signal if the detergents and SANITIZERS are not delivered to the respective washing and SANITIZING cycles. [Pf]

### 4-204.118 Warewashing Machines, Flow Pressure Device.

(A) WAREWASHING machines that provide a fresh hot water SANITIZING rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the WAREWASHING machine; and

(B) If the flow pressure measuring device is upstream of the fresh hot water SANITIZING rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

(C) Paragraphs (A) and (B) of this section do not apply to a machine that uses only a pumped or recirculated SANITIZING rinse.

### 4-204.119 Warewashing Sinks and Drainboards, Self-Draining.

Sinks and drainboards of WAREWASHING sinks and machines shall be self-draining.

### 4-204.120 Equipment Compartments, Drainage.

EQUIPMENT compartments that are subject to accumulation of moisture due to conditions such as condensation, FOOD or BEVERAGE drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

### 4-204.121 Vending Machines, Liquid Waste Products.

(A) VENDING MACHINES designed to store BEVERAGES that are

PACKAGED in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

(B) VENDING MACHINES that dispense liquid FOOD in bulk shall be:

(1) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

(2) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

(C) Shutoff devices specified under Subparagraph (B)(2) of this section shall prevent water or liquid FOOD from continuously running if there is a failure of a flow control device in the water or liquid FOOD system or waste accumulation that could lead to overflow of the waste receptacle.

### 4-204.122 Case Lot Handling Apparatuses, Moveability.

Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of PACKAGED FOODS received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

### 4-204.123 Vending Machine Doors and Openings.

(A) VENDING MACHINE doors and access opening covers to FOOD and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch by:

(1) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or one-sixteenth inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;

(2) Being effectively gasketed;

(3) Having interface surfaces that are at least 13 millimeters or one-half inch wide; or

(4) Jambs or surfaces used to form an L-shaped entry path to the interface.

(B) VENDING MACHINE service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

## Acceptability

### 4-205.10 Food Equipment, Certification and Classification.

(A) FOOD EQUIPMENT, including new and replacement EQUIPMENT, shall be certified or classified for sanitation by an American National Standards Institute (ANSI) - accredited certification program. Such ACCREDITED PROGRAMS include, but are not limited to, the National Sanitation Foundation (NSF), Underwriters Laboratories (UL), Intertek ETL, or the Canadian Standards Administration (CSA).

(B) FOOD EQUIPMENT that is certified or classified for sanitation by an American National Standards Institute (ANSI) - accredited certification program is deemed to comply with Parts 4-1 and 4-2.

## 4-3 NUMBERS AND CAPACITIES

**Subparts**


**4-301 Equipment**
**4-302 Utensils, Temperature Measuring Devices, and Testing Devices**
**4-303 Cleaning Agents and Sanitizers**


### Equipment

#### 4-301.11 Cooling, Heating, and Holding Capacities.

(A) EQUIPMENT for cooling and heating FOOD, and holding cold and hot FOOD, shall be sufficient in number and capacity to provide FOOD temperatures as specified under Chapter 3. Pf

(B) Steam tables, slow cookers, and other hot holding devices shall not be used in cooking, heating or reheating food as specified under Subparts 3-401 and 3-403. Pf

#### 4-301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in ¶ (C) of this section, a sink with at least 3 compartments shall be provided for manually washing, rinsing, and SANITIZING EQUIPMENT and UTENSILS. Pf

(B) Sink compartments shall be large enough to accommodate immersion of the largest EQUIPMENT and UTENSILS. If EQUIPMENT or UTENSILS are too large for the WAREWASHING sink, a WAREWASHING machine or alternative EQUIPMENT as specified in ¶ (C) of this section shall be used. Pf

(C) Alternative manual WAREWASHING EQUIPMENT may be used when there are special cleaning needs or constraints and its use is APPROVED. Alternative manual WAREWASHING EQUIPMENT may include:

(1) High-pressure detergent sprayers;

(2) Low- or line-pressure spray detergent foamers;

(3) Other task-specific cleaning EQUIPMENT;

(4) Brushes or other implements;

(5) 2-compartment sinks as specified under ¶¶ (D) and (E) of this section; or

(6) Receptacles that substitute for the compartments of a multicompartment sink.

(D) Before a 2-compartment sink is used:

(1) The PERMIT HOLDER shall have its use APPROVED; and

(2) The PERMIT HOLDER shall limit the number of KITCHENWARE items cleaned and SANITIZED in the 2-compartment sink, and shall limit WAREWASHING to batch operations for cleaning KITCHENWARE such as between cutting one type of raw MEAT and another or cleanup at the end of a shift, and shall:

(a) Make up the cleaning and SANITIZING solutions immediately before use and drain them immediately after use, and

(b) Use a detergent-SANITIZER to SANITIZE and apply the detergent-SANITIZER in accordance with the manufacturer's label instructions and as specified under § 4-501.115, or

(c) Use a hot water SANITIZATION immersion step as specified under ¶ 4-603.16(C).

(E) A 2-compartment sink may not be used for WAREWASHING operations where cleaning and SANITIZING solutions are used for a continuous or intermittent flow of KITCHENWARE or TABLEWARE in an ongoing WAREWASHING process.

### 4-301.13 Drainboards.

Drainboards, UTENSIL racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary UTENSIL holding before cleaning and after SANITIZING.

### 4-301.14 Ventilation Hood Systems, Adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

### 4-301.15 Clothes Washers and Dryers.

(A) Except as specified in ¶ (B) of this section, if work clothes or LINENS are laundered on the PREMISES, a mechanical clothes washer and dryer shall be provided and used.

(B) If on-PREMISES laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under § 4-901.12, a mechanical clothes washer and dryer need not be provided.

## Utensils, Temperature Measuring Devices, and Testing Devices

### 4-302.11 Utensils, Consumer Self-Service.

A FOOD dispensing UTENSIL shall be available for each container displayed at a CONSUMER self-service unit such as a buffet or salad bar. [Pf]

### 4-302.12 Food Temperature Measuring Devices.

(A) FOOD TEMPERATURE MEASURING DEVICES shall be provided and readily accessible for use in ensuring attainment and maintenance of FOOD temperatures as specified under Chapter 3. [Pf]

(B) A TEMPERATURE MEASURING DEVICE with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH filets. [Pf]

### 4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing.

(A) In manual WAREWASHING operations, a TEMPERATURE MEASURING DEVICE shall be provided and readily accessible for frequently measuring the washing and SANITIZING temperatures. [Pf]

(B) In hot water mechanical WAREWASHING operations, an

irreversible registering temperature indicator shall be provided and readily accessible for measuring the UTENSIL surface temperature. [Pf]

#### 4-302.14 Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in MG/L of SANITIZING solutions shall be provided. [Pf]

### Cleaning Agents and Sanitizers

#### 4-303.11 Cleaning Agents and Sanitizers, Availability

(A) Cleaning agents that are used to clean EQUIPMENT and UTENSILS as specified under Part 4-6, shall be provided and available for use during all hours of operation.

(B) Except for those that are generated on-site at the time of use, chemical SANITIZERS that are used to sanitize EQUIPMENT and UTENSILS as specified under Part 4-7, shall be provided and available for use during all hours of operation.

## 4-4 LOCATION AND INSTALLATION

**Subparts**


**4-401 Location**
**4-402 Installation**


### Location

#### 4-401.11 Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention.

(A) Except as specified in ¶ (B) of this section, EQUIPMENT, a cabinet used for the storage of FOOD, or a cabinet that is used to store cleaned and SANITIZED EQUIPMENT, UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES may not be located:

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

(5) Under sewer lines that are not shielded to intercept potential drips;

(6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

(7) Under open stairwells; or

(8) Under other sources of contamination.

(B) A storage cabinet used for LINENS or SINGLE-SERVICE or SINGLE-USE ARTICLES may be stored in a locker room.

(C) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

## Installation

### 4-402.11 Fixed Equipment, Spacing or Sealing.

(A) EQUIPMENT that is fixed because it is not EASILY MOVABLE shall be installed so that it is:

(1) Spaced to allow access for cleaning along the sides, behind, and above the EQUIPMENT;

(2) Spaced from adjoining EQUIPMENT, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or

(3) SEALED to adjoining EQUIPMENT or walls, if the EQUIPMENT is exposed to spillage or seepage.

(B) COUNTER-MOUNTED EQUIPMENT that is not EASILY MOVABLE shall be installed to allow cleaning of the EQUIPMENT and areas underneath and around the EQUIPMENT by being:

(1) SEALED; or

(2) Elevated on legs as specified under ¶ 4-402.12(D).

### 4-402.12 Fixed Equipment, Elevation or Sealing.

(A) Except as specified in ¶¶ (B) and (C) of this section, floor-mounted EQUIPMENT that is not EASILY MOVABLE shall be SEALED to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the EQUIPMENT.

(B) If no part of the floor under the floor-mounted EQUIPMENT is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).

(C) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the CONSUMER shopping areas of a retail FOOD store, if the floor under the units is maintained clean.

(D) Except as specified in ¶ (E) of this section, COUNTER-MOUNTED EQUIPMENT that is not EASILY MOVABLE shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the

table and the EQUIPMENT.

(E) The clearance space between the table and COUNTER-MOUNTED EQUIPMENT may be:

(1) 7.5 centimeters (3 inches) if the horizontal distance of the table top under the EQUIPMENT is no more than 50 centimeters (20 inches) from the point of access for cleaning; or

(2) 5 centimeters (2 inches) if the horizontal distance of the table top under the EQUIPMENT is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

## 4-5 MAINTENANCE AND OPERATION

### Subparts


4-501 Equipment
4-502 Utensils and Temperature and Pressure Measuring Devices


## Equipment

### 4-501.11 Good Repair and Proper Adjustment.

(A) EQUIPMENT shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2.

(B) EQUIPMENT components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(C) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate FOOD when the container is opened.

### 4-501.12 Cutting Surfaces.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and SANITIZED, or discarded if they are not capable of being resurfaced.

### 4-501.13 Microwave Ovens.

Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10 Microwave ovens.

### 4-501.14 Warewashing Equipment, Cleaning Frequency.

A WAREWASHING machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing EQUIPMENT, UTENSILS, or raw FOODS, or laundering wiping cloths; and drainboards or other EQUIPMENT used to substitute for drainboards as specified under § 4-301.13 shall be cleaned:

(A) Before use;

(B) Throughout the day at a frequency necessary to prevent recontamination of EQUIPMENT and UTENSILS and to ensure that the EQUIPMENT performs its intended function; and

(C) If used, at least every 24 hours.

### 4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.

(A) A WAREWASHING machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

(B) A WAREWASHING machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

### 4-501.16 Warewashing Sinks, Use Limitation.

(A) A WAREWASHING sink may not be used for handwashing as specified under § 2-301.15.

(B) If a WAREWASHING sink is used to wash wiping cloths, wash produce, or thaw FOOD, the sink shall be cleaned as specified under § 4-501.14 before and after each time it is used to wash wiping cloths or wash produce or thaw FOOD. Sinks used to wash or thaw FOOD shall be SANITIZED as specified under Part 4-7 before and after using the sink to wash produce or thaw FOOD.

### 4-501.17 Warewashing Equipment, Cleaning Agents.

When used for WAREWASHING, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions. [Pf]

### 4-501.18 Warewashing Equipment, Clean Solutions.

The wash, rinse, and SANITIZE solutions shall be maintained clean.

### 4-501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual WAREWASHING EQUIPMENT shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions. [Pf]

### 4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

(A) The temperature of the wash solution in spray type warewashers that use hot water to SANITIZE may not be less than:

(1) For a stationary rack, single temperature machine, 74°C (165°F); [Pf]

(2) For a stationary rack, dual temperature machine, 66°C (150°F); [Pf]

(3) For a single tank, conveyor, dual temperature machine, 71°C (160°F); [Pf] or

(4) For a multitank, conveyor, multitemperature machine, 66°C (150°F). [Pf]

(B) The temperature of the wash solution in spray-type warewashers that use chemicals to SANITIZE may not be less than 49°C (120°F). [Pf]

### 4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.

If immersion in hot water is used for SANITIZING in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above. [P]

### 4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(A) Except as specified in ¶ (B) of this section, in a mechanical operation, the temperature of the fresh hot water SANITIZING rinse as it enters the manifold may not be more than 90°C (194°F), or less than: [Pf]

(1) For a stationary rack, single temperature machine, 74ºC (165ºF); [Pf] or

(2) For all other machines, 82ºC (180ºF). [Pf]

(B) The maximum temperature specified under ¶ (A) of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and SANITIZING of EQUIPMENT such as meat saws.

### 4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water SANITIZING rinse in a WAREWASHING machine, as measured in the water line immediately downstream or upstream from the fresh hot water SANITIZING rinse control value, shall be within the range specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch).

### 4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness.

A chemical SANITIZER used in a SANITIZING solution for a manual or mechanical operation at contact times specified under ¶4-703.11(C) shall meet the criteria specified under §7-204.11 Sanitizers, Criteria, shall be used in accordance with the EPA-registered label use instructions, [P] and shall be used as follows:

(A) A chlorine solution shall have a minimum temperature based on the concentration and PH of the solution as listed in the following chart; [P]

| **Concentration Range** (MG/L) | **Minimum Temperature** PH 10 or less **°C (°F)** | **Minimum Temperature** PH 8 or less **°C (°F)** |
|---|---|---|
| 25 – 49 | 49 (120) | 49 (120) |
| 50 – 99 | 38 (100) | 24 (75) |
| 100 | 13 (55) | 13 (55) |

(B) An iodine solution shall have a:

(1) Minimum temperature of 20°C (68°F), [P]

(2) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, [P] and

(3) Concentration between 12.5 MG/L and 25 MG/L; [P]

(C) A quaternary ammonium compound solution shall:

(1) Have a minimum temperature of 24°C (75°F), [P]

(2) Have a concentration as specified under § 7-204.11 and as indicated by the manufacturer's use directions included in the labeling, [P] and

(3) Be used only in water with 500 MG/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions; [P]

(D) If another solution of a chemical specified under ¶¶ (A) - (C) of this section is used, the PERMIT HOLDER shall demonstrate to the REGULATORY AUTHORITY that the solution achieves SANITIZATION and the use of the solution shall be APPROVED; [P]

(E) If a chemical SANITIZER other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions; [P] and

(F) If a chemical SANITIZER is generated by a device located on-site at the FOOD ESTABLISHMENT it shall be used as specified in ¶¶(A) - (D) of this section and shall be produced by a device that:

(1) Complies with regulation as specified in §§ 2(q)(1) and 12 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),[P]

(2) Complies with 40 CFR 152.500 Requirement for Devices and 40 CFR 156.10 Labeling Requirements, [P]

(3) Displays the EPA device manufacturing facility registration number on the device, [Pf] and

(4) Is operated and maintained in accordance with manufacturer's instructions [Pf].

### 4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers.

If a detergent-SANITIZER is used to SANITIZE in a cleaning and SANITIZING procedure where there is no distinct water rinse between the washing and SANITIZING steps, the agent applied in the SANITIZING step shall be the same detergent-SANITIZER that is used in the washing step.

### 4-501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration.

Concentration of the SANITIZING solution shall be accurately determined by using a test kit or other device. [Pf]

## Utensils and Temperature and Pressure Measuring Devices

### 4-502.11 Good Repair and Calibration.

(A) UTENSILS shall be maintained in a state of repair or condition that complies with the requirements specified under Parts 4-1 and 4-2 or shall be discarded.

(B) FOOD TEMPERATURE MEASURING DEVICES shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. [Pf]

(C) Ambient air temperature, water pressure, and water TEMPERATURE MEASURING DEVICES shall be maintained in good repair and be accurate within the intended range of use.

### 4-502.12 Single-Service and Single-Use Articles, Required Use.

A FOOD ESTABLISHMENT without facilities specified under Parts 4-6 and 4-7 for cleaning and SANITIZING KITCHENWARE and TABLEWARE shall provide only SINGLE-USE KITCHENWARE, SINGLE-SERVICE

ARTICLES, and SINGLE-USE ARTICLES for use by FOOD EMPLOYEES AND SINGLE-SERVICE ARTICLES for use by CONSUMERS. [P]

### 4-502.13 Single-Service and Single-Use Articles, Use Limitation.

(A) SINGLE-SERVICE and SINGLE-USE ARTICLES may not be reused.

(B) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

### 4-502.14 Shells, Use Limitation.

Mollusk and crustacea shells may not be used more than once as serving containers.

## 4-6 CLEANING OF EQUIPMENT AND UTENSILS

**Subparts**


**4-601 Objective**
**4-602 Frequency**
**4-603 Methods**


## Objective

### 4-601.11 Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be clean to sight and touch. Pf

(B) The FOOD-CONTACT SURFACES of cooking EQUIPMENT and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(C) NonFOOD-CONTACT SURFACES of EQUIPMENT shall be kept free of an accumulation of dust, dirt, FOOD residue, and other debris.

## Frequency

### 4-602.11 Equipment Food-Contact Surfaces and Utensils.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be cleaned:

(1) Except as specified in ¶ (B) of this section, before each use with a different type of raw animal FOOD such as beef, FISH, lamb, pork, or POULTRY; P

(2) Each time there is a change from working with raw FOODS to working with READY-TO-EAT FOODS; P

(3) Between uses with raw fruits and vegetables and with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; P

(4) Before using or storing a FOOD TEMPERATURE MEASURING DEVICE; P and

(5) At any time during the operation when contamination may have occurred. P

(B) Subparagraph (A)(1) of this section does not apply if the FOOD-CONTACT SURFACE or UTENSIL is in contact with a succession of different types of raw MEAT and POULTRY each requiring a higher cooking temperature as specified under § 3-401.11 than the previous type.

(C) Except as specified in ¶ (D) of this section, if used with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be cleaned throughout the day at least every 4 hours. P

(D) Surfaces of UTENSILS and EQUIPMENT contacting TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be cleaned less frequently than every 4 hours if:

(1) In storage, containers of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;

(2) UTENSILS and EQUIPMENT are used to prepare FOOD in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

(a) The UTENSILS and EQUIPMENT are cleaned at the frequency in the following chart that corresponds to the temperature; and

| Temperature | Cleaning Frequency |
|---|---|
| 5.0°C (41°F) or less | 24 hours |
| >5.0°C - 7.2°C (>41°F - 45°F) | 20 hours |
| >7.2°C - 10.0°C (>45°F - 50°F) | 16 hours |
| >10.0°C - 12.8°C (>50°F - 55°F) | 10 hours |

(b) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the FOOD ESTABLISHMENT.

(3) Containers in serving situations such as salad bars, delis, and cafeteria lines hold READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is maintained at the temperatures specified under Chapter 3, are intermittently combined with additional supplies of the same FOOD that is at the required temperature, and the containers are cleaned at least every 24 hours;

(4) TEMPERATURE MEASURING DEVICES are maintained in contact with FOOD, such as when left in a container of deli FOOD or in a roast, held at temperatures specified under Chapter 3;

(5) EQUIPMENT is used for storage of PACKAGED or unPACKAGED FOOD such as a reach-in refrigerator and the EQUIPMENT is cleaned at a frequency necessary to preclude accumulation of soil residues;

(6) The cleaning schedule is APPROVED based on consideration of:

(a) Characteristics of the EQUIPMENT and its use,

(b) The type of FOOD involved,

(c) The amount of FOOD residue accumulation, and

(d) The temperature at which the FOOD is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(7) In-use UTENSILS are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the UTENSILS and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(E) Except when dry cleaning methods are used as specified under § 4-603.11, surfaces of UTENSILS and EQUIPMENT contacting FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cleaned:

(1) At any time when contamination may have occurred;

(2) At least every 24 hours for iced tea dispensers and

CONSUMER self-service UTENSILS such as tongs, scoops, or ladles;

(3) Before restocking CONSUMER self-service EQUIPMENT and UTENSILS such as condiment dispensers and display containers; and

(4) In EQUIPMENT such as ice bins and BEVERAGE dispensing nozzles and enclosed components of EQUIPMENT such as ice makers, cooking oil storage tanks and distribution lines, BEVERAGE and syrup dispensing lines or tubes, coffee bean grinders, and water vending EQUIPMENT:

(a) At a frequency specified by the manufacturer, or

(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

### 4-602.12 Cooking and Baking Equipment.

(A) The FOOD-CONTACT SURFACES of cooking and baking EQUIPMENT shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering EQUIPMENT if it is cleaned as specified in Subparagraph 4-602.11(D)(6).

(B) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

### 4-602.13 Nonfood-Contact Surfaces.

NonFOOD-CONTACT SURFACES of EQUIPMENT shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

## Methods

### 4-603.11 Dry Cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only SURFACES that are soiled with dry FOOD residues that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(B) Cleaning EQUIPMENT used in dry cleaning FOOD-CONTACT SURFACES may not be used for any other purpose.

### 4-603.12 Precleaning.

(A) FOOD debris on EQUIPMENT and UTENSILS shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a WAREWASHING machine with a prewash cycle.

(B) If necessary for effective cleaning, UTENSILS and EQUIPMENT shall be preflushed, presoaked, or scrubbed with abrasives.

### 4-603.13 Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a WAREWASHING machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes the items to the unobstructed spray from all cycles; and

(B) Allows the items to drain.

### 4-603.14 Wet Cleaning.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

(B) The washing procedures selected shall be based on the type and purpose of the EQUIPMENT or UTENSIL, and on the type of soil to be removed.

### 4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment.

If washing in sink compartments or a WAREWASHING machine is impractical such as when the EQUIPMENT is fixed or the UTENSILS are too large, washing shall be done by using alternative manual WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C) in accordance with the following procedures:

(A) EQUIPMENT shall be disassembled as necessary to allow access of the detergent solution to all parts;

(B) EQUIPMENT components and UTENSILS shall be scraped or rough cleaned to remove FOOD particle accumulation; and

(C) EQUIPMENT and UTENSILS shall be washed as specified under ¶ 4-603.14(A).

### 4-603.16 Rinsing Procedures.

Washed UTENSILS and EQUIPMENT shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

(A) Use of a distinct, separate water rinse after washing and before SANITIZING if using:

(1) A 3-compartment sink,

(2) Alternative manual WAREWASHING EQUIPMENT equivalent to a 3-compartment sink as specified in ¶ 4-301.12(C), or

(3) A 3-step washing, rinsing, and SANITIZING procedure in a WAREWASHING system for CIP EQUIPMENT;

(B) Use of a detergent-SANITIZER as specified under § 4-501.115 if using:

(1) Alternative WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C) that is APPROVED for use with a detergent-SANITIZER, or

(2) A WAREWASHING system for CIP EQUIPMENT;

(C) Use of a nondistinct water rinse that is integrated in the hot water SANITIZATION immersion step of a 2-compartment sink operation;

(D) If using a WAREWASHING machine that does not recycle the SANITIZING solution as specified under ¶ (E) of this section, or alternative manual WAREWASHING EQUIPMENT such as sprayers, use of a nondistinct water rinse that is:

(1) Integrated in the application of the SANITIZING solution, and

(2) Wasted immediately after each application; or

(E) If using a WAREWASHING machine that recycles the SANITIZING solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the SANITIZING solution.

## 4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

**Subparts**


**4-701 Objective**
**4-702 Frequency**
**4-703 Methods**


## Objective

### 4-701.10 Food-Contact Surfaces and Utensils.

EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED.

## Frequency

### 4-702.11 Before Use After Cleaning.

UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT shall be SANITIZED before use after cleaning. P

## Methods

### 4-703.11 Hot Water and Chemical.

After being cleaned, EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED in:

(A) Hot water manual operations by immersion for at least 30 seconds and as specified under § 4-501.111; P

(B) Hot water mechanical operations by being cycled through EQUIPMENT that is set up as specified under §§ 4-501.15, 4-501.112, and 4-501.113 and achieving a UTENSIL surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; P or

(C) Chemical manual or mechanical operations, including the application of SANITIZING chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under § 4-501.114. Contact times shall be consistent with those on EPA-registered label use instructions by providing:

(1) Except as specified under Subparagraph (C)(2) of this section, a contact time of at least 10 seconds for a chlorine solution specified under ¶ 4-501.114(A), P

(2) A contact time of at least 7 seconds for a chlorine solution of 50 MG/L that has a PH of 10 or less and a temperature of at least 38ºC (100ºF) or a PH of 8 or less and a temperature of at least 24ºC (75ºF), P

(3) A contact time of at least 30 seconds for other chemical SANITIZING solutions, P or

(4) A contact time used in relationship with a combination of temperature, concentration, and PH that, when evaluated for efficacy, yields SANITIZATION as defined in ¶1-201.10(B).P

## 4-8 LAUNDERING

### Subparts


4-801 Objective
4-802 Frequency
4-803 Methods


### Objective

#### 4-801.11 Clean Linens.

Clean LINENS shall be free from FOOD residues and other soiling matter.

### Frequency

#### 4-802.11 Specifications.

(A) LINENS that do not come in direct contact with FOOD shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in ¶ 3-304.15(D) shall be laundered before being used with a different type of raw animal FOOD such as beef, FISH, lamb, pork or POULTRY.

(C) LINENS that are used as specified under § 3-304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of FOOD and clean serving UTENSILS.

### Methods

#### 4-803.11 Storage of Soiled Linens.

Soiled LINENS shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of FOOD, clean EQUIPMENT, clean UTENSILS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

### 4-803.12 Mechanical Washing.

(A) Except as specified in ¶ (B) of this section, LINENS shall be mechanically washed.

(B) In FOOD ESTABLISHMENTS in which only wiping cloths are laundered as specified in ¶ 4-301.15(B), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a WAREWASHING or FOOD preparation sink that is cleaned as specified under § 4-501.14.

### 4-803.13 Use of Laundry Facilities.

(A) Except as specified in ¶ (B) of this section, laundry facilities on the PREMISES of a FOOD ESTABLISHMENT shall be used only for the washing and drying of items used in the operation of the establishment.

(B) Separate laundry facilities located on the PREMISES for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering FOOD ESTABLISHMENT items.

## 4-9 PROTECTION OF CLEAN ITEMS

### Subparts


4-901 Drying
4-902 Lubricating and Reassembling
4-903 Storing
4-904 Preventing Contamination


## Drying

### 4-901.11 Equipment and Utensils, Air-Drying Required.

After cleaning and SANITIZING, EQUIPMENT and UTENSILS:

(A) Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface SANITIZING solutions), before contact with FOOD; and

(B) May not be cloth dried except that UTENSILS that have been air-dried may be polished with cloths that are maintained clean and dry.

### 4-901.12 Wiping Cloths, Air-Drying Locations.

Wiping cloths laundered in a FOOD ESTABLISHMENT that does not have a mechanical clothes dryer as specified in ¶ 4-301.15(B) shall be air-dried in a location and in a manner that prevents contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a SANITIZING solution as specified under § 4-501.114.

## Lubricating and Reassembling

### 4-902.11 Food-Contact Surfaces.

Lubricants as specified under § 7-205.11 shall be applied to FOOD-CONTACT SURFACES that require lubrication in a manner that does not contaminate FOOD-CONTACT SURFACES.

### 4-902.12 Equipment.

EQUIPMENT shall be reassembled so that FOOD-CONTACT SURFACES are not contaminated.

## Storing

### 4-903.11 Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.

(A) Except as specified in ¶ (D) of this section, cleaned EQUIPMENT and UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES shall be stored:

(1) In a clean, dry location;

(2) Where they are not exposed to splash, dust, or other contamination; and

(3) At least 15 cm (6 inches) above the floor.

(B) Clean EQUIPMENT and UTENSILS shall be stored as specified under ¶ (A) of this section and shall be stored:

(1) In a self-draining position that allows air drying; and

(2) Covered or inverted.

(C) SINGLE-SERVICE and SINGLE-USE ARTICLES shall be stored as specified under ¶ (A) of this section and shall be kept in the original protective PACKAGE or stored by using other means that afford protection from contamination until used.

(D) Items that are kept in closed PACKAGES may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under § 4-204.122.

### 4-903.12 Prohibitions.

(A) Except as specified in ¶ (B) of this section, cleaned and SANITIZED EQUIPMENT, UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES may not be stored:

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

(5) Under sewer lines that are not shielded to intercept potential drips;

(6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

(7) Under open stairwells; or

(8) Under other sources of contamination.

(B) Laundered LINENS and SINGLE-SERVICE and SINGLE-USE ARTICLES that are PACKAGED or in a facility such as a cabinet may be stored in a locker room.

## Preventing Contamination

### 4-904.11 Kitchenware and Tableware.

(A) SINGLE-SERVICE and SINGLE-USE ARTICLES and cleaned and SANITIZED UTENSILS shall be handled, displayed, and dispensed so that contamination of FOOD- and lip-contact surfaces is prevented.

(B) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by EMPLOYEES and by CONSUMERS if CONSUMER self-service is provided.

(C) Except as specified under ¶ (B) of this section, SINGLE-SERVICE ARTICLES that are intended for FOOD- or lip-contact shall be furnished for CONSUMER self-service with the original individual wrapper intact or from an APPROVED dispenser.

### 4-904.12 Soiled and Clean Tableware.

Soiled TABLEWARE shall be removed from CONSUMER eating and drinking areas and handled so that clean TABLEWARE is not contaminated.

### 4-904.13 Preset Tableware.

(A) Except as specified in ¶ (B) of this section, TABLEWARE that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) Preset TABLEWARE may be exposed if:

(1) Unused settings are removed when a CONSUMER is seated; or

(2) Settings not removed when a CONSUMER is seated are cleaned and SANITIZED before further use.

### 4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing.

After being cleaned and SANITIZED, EQUIPMENT and UTENSILS shall not be rinsed before air drying or use unless:

(A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under Subparts 4-204 and 4-501; and

(B) The rinse is applied only after the EQUIPMENT and UTENSILS have been SANITIZED by the application of hot water or by the application of a chemical SANITIZER solution whose EPA-registered label use instructions call for rinsing off the SANITIZER after it is applied in a commercial WAREWASHING machine.

Chapter

# 5 Water, Plumbing, and Waste

**Parts**


5-1 WATER
5-2 PLUMBING SYSTEM
5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK
5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER
5-5 REFUSE, RECYCLABLES, AND RETURNABLES


## 5-1 WATER

**Subparts**


5-101 Source
5-102 Quality
5-103 Quantity and Availability
5-104 Distribution, Delivery, and Retention


### Source

#### 5-101.11 Approved System.

DRINKING WATER shall be obtained from an APPROVED source that is:

(A) A PUBLIC WATER SYSTEM; [P] or

(B) A nonPUBLIC WATER SYSTEM that is constructed, maintained, and operated according to LAW. [P]

#### 5-101.12 System Flushing and Disinfection.

A DRINKING WATER system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system. [P]

### 5-101.13 Bottled Drinking Water.

BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources in accordance with 21 CFR 129 - Processing and Bottling of Bottled DRINKING WATER. P

## Quality

### 5-102.11 Standards.

Except as specified under § 5-102.12:

(A) Water from a PUBLIC WATER SYSTEM shall meet the construction and DRINKING WATER quality standards specified in 20.7.10 NMAC and; P and

(B) Water from a non- PUBLIC WATER SYSTEM shall meet: P

(1) The construction requirements and DRINKING WATER quality standards of a non-community water system as specified in 20.7.10 NMAC; and

(2) The DRINKING WATER source setback requirements as specified in 20.7.3 NMAC.

### 5-102.12 Nondrinking Water.

(A) A nonDRINKING WATER supply shall be used only if its use is APPROVED. P

(B) NonDRINKING WATER shall be used only for nonculinary purposes such as air conditioning, nonFOOD EQUIPMENT cooling, and fire protection. P

### 5-102.13 Sampling.

Except when used as specified under § 5-102.12, water from a non-PUBLIC WATER SYSTEM shall meet the sampling requirements of a non-community water system as specified in 20.7.10 NMAC. Pf

### 5-102.14 Sample Report.

The most recent sample report for the nonPUBLIC WATER SYSTEM shall be retained on file in the FOOD ESTABLISHMENT or the report shall be maintained as specified by state water quality regulations.

## Quantity and Availability

### 5-103.11 Capacity.

(A) The water source and system shall be of sufficient capacity to meet the peak water demands of the FOOD ESTABLISHMENT. [Pf]

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the FOOD ESTABLISHMENT. [Pf]

### 5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, EQUIPMENT, and nonFOOD EQUIPMENT that are required to use water except that water supplied as specified under ¶¶ 5-104.12(A) and (B) to a TEMPORARY FOOD ESTABLISHMENT or in response to a temporary interruption of a water supply need not be under pressure. [Pf]

## Distribution, Delivery, and Retention

### 5-104.11 System.

Water shall be received from the source through the use of:

(A) An APPROVED public water main; [Pf] or

(B) One or more of the following that shall be constructed, maintained, and operated according to LAW: [Pf]

(1) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances, [Pf]

(2) Water transport vehicles, [Pf] or

(3) Water containers. [Pf]

### 5-104.12 Alternative Water Supply.

Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a TEMPORARY FOOD ESTABLISHMENT without a permanent water supply, and for a FOOD ESTABLISHMENT with a temporary interruption of its water supply through:

(A) A supply of containers of commercially BOTTLED DRINKING WATER; [Pf]

(B) One or more closed portable water containers; [Pf]

(C) An enclosed vehicular water tank; [Pf]

(D) An on-PREMISES water storage tank; [Pf] or

(E) Piping, tubing, or hoses connected to an adjacent APPROVED source. [Pf]

## 5-2 PLUMBING SYSTEM

### Subparts


5-201 Materials
5-202 Design, Construction, and Installation
5-203 Numbers and Capacities
5-204 Location and Placement
5-205 Operation and Maintenance


### Materials

#### 5-201.11 Approved.

(A) A PLUMBING SYSTEM and hoses conveying water shall be constructed and repaired with APPROVED materials according to LAW. [P]

(B) A water filter shall be made of SAFE MATERIALS. [P]

### Design, Construction, and Installation

#### 5-202.11 Approved System and Cleanable Fixtures.

(A) A PLUMBING SYSTEM shall be designed, constructed, and installed according to LAW. [P]

(B) A PLUMBING FIXTURE such as a HANDWASHING SINK, toilet, or urinal shall be EASILY CLEANABLE.

#### 5-202.12 Handwashing Sink, Installation.

(A) A HANDWASHING SINK shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet. [Pf]

(B) A steam mixing valve may not be used at a HANDWASHING SINK.

(C) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(D) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

### 5-202.13 Backflow Prevention, Air Gap.

An air gap between the water supply inlet and the flood level rim of the PLUMBING FIXTURE, EQUIPMENT, or nonFOOD EQUIPMENT shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch). P

### 5-202.14 Backflow Prevention Device, Design Standard.

A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device. P

### 5-202.15 Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

## Numbers and Capacities

### 5-203.11 Handwashing Sinks.

(A) Except as specified in ¶¶ (B) and (C) of this section, at least 1 HANDWASHING SINK, a number of HANDWASHING SINKS necessary for their convenient use by EMPLOYEES in areas specified under § 5-204.11, and not fewer than the number of HANDWASHING SINKS required by LAW shall be provided. Pf

(B) If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, automatic handwashing facilities may be substituted for HANDWASHING SINKS in a FOOD ESTABLISHMENT that has at least 1 HANDWASHING SINK.

### 5-203.12 Toilets and Urinals.

At least 1 toilet and not fewer than the toilets required by LAW shall be provided. If authorized by LAW and urinals are substituted for toilets, the substitution shall be done as specified in LAW.

### 5-203.13 Service Sink.

(A) Except as specified in ¶ (C) of this section, at least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

(C) When no health HAZARD will exist, the REGULATORY AUTHORITY may APPROVE an alternative method.

### 5-203.14 Backflow Prevention Device, When Required.

A PLUMBING SYSTEM shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the FOOD ESTABLISHMENT, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by LAW, by:

(A) Providing an air gap as specified under § 5-202.13 [P]; or

(B) Installing an APPROVED backflow prevention device as specified under § 5-202.14. [P]

### 5-203.15 Backflow Prevention Device, Carbonator.

(A) If not provided with an air gap as specified under §5-202.13, a dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4 mm (100 mesh to 1 inch) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line. [P]

(B) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under ¶ (A) of this section.

## Location and Placement

### 5-204.11 Handwashing Sinks.

A HANDWASHING SINK shall be located:

(A) To allow convenient use by EMPLOYEES in FOOD preparation, FOOD dispensing, and WAREWASHING areas; [Pf] and

(B) In, or immediately adjacent to, toilet rooms. [Pf]

### 5-204.12 Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

### 5-204.13 Conditioning Device, Location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

## Operation and Maintenance

### 5-205.11 Using a Handwashing Sink.

(A) A HANDWASHING SINK shall be maintained so that it is accessible at all times for EMPLOYEE use. [Pf]

(B) A HANDWASHING SINK may not be used for purposes other than handwashing. [Pf]

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions. [Pf]

### 5-205.12 Prohibiting a Cross Connection.

(A) A PERSON may not create a cross connection by connecting a pipe or conduit between the DRINKING WATER system and a nonDRINKING WATER system or a water system of unknown quality. [P]

(B) The piping of a nonDRINKING WATER system shall be durably identified so that it is readily distinguishable from piping that carries DRINKING WATER. [Pf]

### 5-205.13 Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the PERSON IN CHARGE. [Pf]

### 5-205.14 Water Reservoir of Fogging Devices, Cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications; [P] and

(2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under ¶ (B) of this section, whichever is more stringent. [P]

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts; [P]

(2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution; [P]

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; [P] and

(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution. [P]

### 5-205.15 System Maintained in Good Repair.

A PLUMBING SYSTEM shall be:

(A) Repaired according to LAW; [P] and

(B) Maintained in good repair.

## 5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK

**Subparts**


5-301 Materials
5-302 Design and Construction
5-303 Numbers and Capacities
5-304 Operation and Maintenance


### Materials

#### 5-301.11 Approved.

Materials that are used in the construction of a mobile water tank, mobile FOOD ESTABLISHMENT water tank, and appurtenances shall be:

(A) Safe; P

(B) Durable, CORROSION-RESISTANT, and nonabsorbent; and

(C) Finished to have a SMOOTH, EASILY CLEANABLE surface.

### Design and Construction

#### 5-302.11 Enclosed System, Sloped to Drain.

A mobile water tank shall be:

(A) Enclosed from the filling inlet to the discharge outlet; and

(B) Sloped to an outlet that allows complete drainage of the tank.

#### 5-302.12 Inspection and Cleaning Port, Protected and Secured.

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

(A) Flanged upward at least 13 mm (one-half inch); and

(B) Equipped with a port cover assembly that is:

(1) Provided with a gasket and a device for securing the cover in place, and

(2) Flanged to overlap the opening and sloped to drain.

### 5-302.13 "V" Type Threads, Use Limitation.

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

### 5-302.14 Tank Vent, Protected.

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

(A) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or

(B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

### 5-302.15 Inlet and Outlet, Sloped to Drain.

(A) A water tank and its inlet and outlet shall be sloped to drain.

(B) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

### 5-302.16 Hose, Construction and Identification.

A hose used for conveying DRINKING WATER from a water tank shall be:

(A) Safe; [P]

(B) Durable, CORROSION-RESISTANT, and nonabsorbent;

(C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

(D) Finished with a SMOOTH interior surface; and

(E) Clearly and durably identified as to its use if not permanently attached.

## Numbers and Capacities

### 5-303.11 Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and DRINKING WATER system when compressed air is used to pressurize the water tank system. P

### 5-303.12 Protective Cover or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other APPROVED protective cover or device shall be provided for a water inlet, outlet, and hose.

### 5-303.13 Mobile Food Establishment Tank Inlet.

A mobile FOOD ESTABLISHMENT'S water tank inlet shall be:

(A) 19.1 mm (three-fourths inch) in inner diameter or less; and

(B) Provided with a hose connection of a size or type that will prevent its use for any other service.

## Operation and Maintenance

### 5-304.11 System Flushing and Sanitization.

A water tank, pump, and hoses shall be flushed and SANITIZED before being placed in service after construction, repair, modification, and periods of nonuse. P

### 5-304.12 Using a Pump and Hoses, Backflow Prevention.

A PERSON shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

### 5-304.13 Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under § 5-303.12.

### 5-304.14 Tank, Pump, and Hoses, Dedication.

(A) Except as specified in ¶ (B) of this section, a water tank, pump, and hoses used for conveying DRINKING WATER shall be used for no

other purpose. P

(B) Water tanks, pumps, and hoses APPROVED for liquid FOODS may be used for conveying DRINKING WATER if they are cleaned and SANITIZED before they are used to convey water.

## 5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

### Subparts


5-401 Mobile Holding Tank
5-402 Retention, Drainage, and Delivery
5-403 Disposal Facility


## Mobile Holding Tank

### 5-401.11 Capacity and Drainage.

A SEWAGE holding tank in a MOBILE FOOD ESTABLISHMENT shall be:

(A) Sized 15 percent larger in capacity than the water supply tank; and

(B) Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

## Retention, Drainage, and Delivery

design, construction, and installation

### 5-402.10 Establishment Drainage System.

FOOD ESTABLISHMENT drainage systems, including grease traps, that convey SEWAGE shall be designed and installed as specified under ¶ 5-202.11(A).

### 5-402.11 Backflow Prevention.

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, a direct connection may not exist between the SEWAGE system and a drain originating from EQUIPMENT in which FOOD, portable EQUIPMENT, or UTENSILS are placed. P

(B) Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(C) If allowed by LAW, a WAREWASHING machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(D) If allowed by LAW, a WAREWASHING or culinary sink may have a direct connection.

location and placement

### 5-402.12 Grease Trap.

If used, a grease trap shall be located to be easily accessible for cleaning.

operation and maintenance

### 5-402.13 Conveying Sewage.

SEWAGE shall be conveyed to the point of disposal through an APPROVED sanitary SEWAGE system or other system, including use of SEWAGE transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to LAW. P

### 5-402.14 Removing Mobile Food Establishment Wastes.

SEWAGE and other liquid wastes shall be removed from a MOBILE FOOD ESTABLISHMENT at an APPROVED waste SERVICING AREA or by a SEWAGE transport vehicle in such a way that a public health HAZARD or nuisance is not created. Pf

### 5-402.15 Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

## Disposal Facility

design and construction

### 5-403.11 Approved Sewage Disposal System.

SEWAGE shall be disposed through an APPROVED facility that is:

(A) A public SEWAGE treatment plant; P or

(B) An individual SEWAGE disposal system that is sized, constructed, maintained, and operated according to LAW. P

### 5-403.12 Other Liquid Wastes and Rainwater.

Condensate drainage and other nonSEWAGE liquids and rainwater shall be drained from point of discharge to disposal according to LAW.

## 5-5 REFUSE, RECYCLABLES, AND RETURNABLES

### Subparts


5-501 Facilities on the Premises
5-502 Removal
5-503 Facilities for Disposal and Recycling


### Facilities on the Premises

materials, design, construction, and installation

#### 5-501.10 Indoor Storage Area.

If located within the FOOD ESTABLISHMENT, a storage area for REFUSE, recyclables, and returnables shall meet the requirements specified under §§ 6-101.11, 6-201.11 - 6-201.18, 6-202.15, and 6-202.16.

#### 5-501.11 Outdoor Storage Surface.

An outdoor storage surface for REFUSE, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be SMOOTH, durable, and sloped to drain.

#### 5-501.12 Outdoor Enclosure.

If used, an outdoor enclosure for REFUSE, recyclables, and returnables shall be constructed of durable and cleanable materials.

#### 5-501.13 Receptacles.

(A) Except as specified in ¶ (B) of this section, receptacles and waste handling units for REFUSE, recyclables, and returnables and for use with materials containing FOOD residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

(B) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the FOOD ESTABLISHMENT, or within closed outside receptacles.

### 5-501.14 Receptacles in Vending Machines.

Except for a receptacle for BEVERAGE bottle crown closures, a REFUSE receptacle may not be located within a VENDING MACHINE.

### 5-501.15 Outside Receptacles.

(A) Receptacles and waste handling units for REFUSE, recyclables, and returnables used with materials containing FOOD residue and used outside the FOOD ESTABLISHMENT shall be designed and constructed to have tight-fitting lids, doors, or covers.

(B) Receptacles and waste handling units for REFUSE and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

numbers and capacities

### 5-501.16 Storage Areas, Rooms, and Receptacles, Capacity and Availability.

(A) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold REFUSE, recyclables, and returnables that accumulate.

(B) A receptacle shall be provided in each area of the FOOD ESTABLISHMENT or PREMISES where REFUSE is generated or commonly discarded, or where recyclables or returnables are placed.

(C) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

### 5-501.17 Toilet Room Receptacle, Covered.

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

### 5-501.18 Cleaning Implements and Supplies.

(A) Except as specified in ¶ (B) of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water,

steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for REFUSE, recyclables, and returnables.

(B) If APPROVED, off-PREMISES-based cleaning services may be used if on-PREMISES cleaning implements and supplies are not provided.

location and placement

### 5-501.19 Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location.

(A) An area designated for REFUSE, recyclables, returnables, and, except as specified in ¶ (B) of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES and a public health HAZARD or nuisance is not created.

(B) A redeeming machine may be located in the PACKAGED FOOD storage area or CONSUMER area of a FOOD ESTABLISHMENT if FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES are not subject to contamination from the machines and a public health HAZARD or nuisance is not created.

(C) The location of receptacles and waste handling units for REFUSE, recyclables, and returnables may not create a public health HAZARD or nuisance or interfere with the cleaning of adjacent space.

operation and maintenance

### 5-501.110 Storing Refuse, Recyclables, and Returnables.

REFUSE, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

### 5-501.111 Areas, Enclosures, and Receptacles, Good Repair.

Storage areas, enclosures, and receptacles for REFUSE, recyclables, and returnables shall be maintained in good repair.

### 5-501.112 Outside Storage Prohibitions.

(A) Except as specified in ¶ (B) of this section, REFUSE receptacles

not meeting the requirements specified under ¶ 5-501.13(A) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with FOOD residue may not be stored outside.

(B) Cardboard or other packaging material that does not contain FOOD residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

### 5-501.113 Covering Receptacles.

Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be kept covered:

(A) Inside the FOOD ESTABLISHMENT if the receptacles and units:

(1) Contain FOOD residue and are not in continuous use; or

(2) After they are filled; and

(B) With tight-fitting lids or doors if kept outside the FOOD ESTABLISHMENT.

### 5-501.114 Using Drain Plugs.

Drains in receptacles and waste handling units for REFUSE, recyclables, and returnables shall have drain plugs in place.

### 5-501.115 Maintaining Refuse Areas and Enclosures.

A storage area and enclosure for REFUSE, recyclables, or returnables shall be maintained free of unnecessary items, as specified under § 6-501.114, and clean.

### 5-501.116 Cleaning Receptacles.

(A) Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, or SINGLE-SERVICE and SINGLE-USE ARTICLES, and waste water shall be disposed of as specified under § 5-402.13.

(B) Soiled receptacles and waste handling units for REFUSE, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

## Removal

### 5-502.11 Frequency.

REFUSE, recyclables, and returnables shall be removed from the PREMISES at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

### 5-502.12 Receptacles or Vehicles.

REFUSE, recyclables, and returnables shall be removed from the PREMISES by way of:

(A) Portable receptacles that are constructed and maintained according to LAW; or

(B) A transport vehicle that is constructed, maintained, and operated according to LAW.

## Facilities for Disposal and Recycling

### 5-503.11 Community or Individual Facility.

Solid waste not disposed of through the SEWAGE system such as through grinders and pulpers shall be recycled or disposed of in an APPROVED public or private community recycling or REFUSE facility; or solid waste shall be disposed of in an individual REFUSE facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to LAW.

Chapter

# 6 Physical Facilities

**Parts**


6-1 MATERIALS FOR CONSTRUCTION AND REPAIR
6-2 DESIGN, CONSTRUCTION, AND INSTALLATION
6-3 NUMBERS AND CAPACITIES
6-4 LOCATION AND PLACEMENT
6-5 MAINTENANCE AND OPERATION


## 6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

**Subparts**


6-101 Indoor Areas
6-102 Outdoor Areas


## Indoor Areas

### 6-101.11 Surface Characteristics.

(A) Except as specified in ¶ (B) of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

(1) SMOOTH, durable, and EASILY CLEANABLE for areas where FOOD ESTABLISHMENT operations are conducted;

(2) Closely woven and EASILY CLEANABLE carpet for carpeted areas; and

(3) Nonabsorbent for areas subject to moisture such as FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet rooms, mobile FOOD ESTABLISHMENT SERVICING AREAS, and areas subject to flushing or spray cleaning methods.

(B) In a TEMPORARY FOOD ESTABLISHMENT:

(1) If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other APPROVED materials that are effectively treated to control dust and mud; and

(2) Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

### Outdoor Areas

#### 6-102.11 Surface Characteristics.

(A) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(B) Exterior surfaces of buildings and mobile FOOD ESTABLISHMENTS shall be of weather-resistant materials and shall comply with LAW.

(C) Outdoor storage areas for REFUSE, recyclables, or returnables shall be of materials specified under §§ 5-501.11 and 5-501.12.

## 6-2 DESIGN, CONSTRUCTION, AND INSTALLATION

**Subparts**


6-201 Cleanability
6-202 Functionality


### Cleanability

#### 6-201.11 Floors, Walls, and Ceilings.

Except as specified under § 6-201.14 and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are SMOOTH and EASILY CLEANABLE.

#### 6-201.12 Floors, Walls, and Ceilings, Utility Lines.

(A) Utility service lines and pipes may not be unnecessarily exposed.

(B) Exposed utility service lines and pipes shall be installed so they

do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

### 6-201.13 Floor and Wall Junctures, Coved, and Enclosed or Sealed.

(A) In FOOD ESTABLISHMENTS in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1 mm (one thirty-second inch).

(B) The floors in FOOD ESTABLISHMENTS in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and SEALED.

### 6-201.14 Floor Carpeting, Restrictions and Installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, REFUSE storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under ¶ (A) of this section, it shall be:

(1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

### 6-201.15 Floor Covering, Mats and Duckboards.

Mats and duckboards shall be designed to be removable and EASILY CLEANABLE.

### 6-201.16 Wall and Ceiling Coverings and Coatings.

(A) Wall and ceiling covering materials shall be attached so that they are EASILY CLEANABLE.

(B) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and SEALED to provide a SMOOTH, nonabsorbent, EASILY CLEANABLE surface.

### 6-201.17 Walls and Ceilings, Attachments.

(A) Except as specified in ¶ (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be EASILY CLEANABLE.

(B) In a CONSUMER area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

### 6-201.18 Walls and Ceilings, Studs, Joists, and Rafters.

Except for TEMPORARY FOOD ESTABLISHMENTS, studs, joists, and rafters may not be exposed in areas subject to moisture.

## Functionality

### 6-202.11 Light Bulbs, Protective Shielding.

(A) Except as specified in ¶ (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; or unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

(B) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing FOOD in unopened packages, if:

(1) The integrity of the packages cannot be affected by broken glass falling onto them; and

(2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(C) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

### 6-202.12 Heating, Ventilating, Air Conditioning System Vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of FOOD, FOOD-CONTACT SURFACES, EQUIPMENT, or UTENSILS.

### 6-202.13 Insect Control Devices, Design and Installation.

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(B) Insect control devices shall be installed so that:

(1) The devices are not located over a FOOD preparation area; and

(2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

### 6-202.14 Toilet Rooms, Enclosed.

Except where a toilet room is located outside a FOOD ESTABLISHMENT and does not open directly into the FOOD ESTABLISHMENT such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the PREMISES shall be completely enclosed and provided with a tight-fitting and self-closing door.

### 6-202.15 Outer Openings, Protected.

(A) Except as specified in ¶¶ (B), (C), and (E) and under ¶ (D) of this section, outer openings of a FOOD ESTABLISHMENT shall be protected against the entry of insects and rodents by:

(1) Filling or closing holes and other gaps along floors, walls, and ceilings;

(2) Closed, tight-fitting windows; and

(3) Solid, self-closing, tight-fitting doors.

(B) Paragraph (A) of this section does not apply if a FOOD ESTABLISHMENT opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(C) Exterior doors used as exits need not be self-closing if they are:

(1) Solid and tight-fitting;

(2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the FOOD ESTABLISHMENT; and

(3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(D) Except as specified in ¶¶ (B) and (E) of this section, if the windows or doors of a FOOD ESTABLISHMENT, or of a larger structure within which a FOOD ESTABLISHMENT is located, are kept open for ventilation or other purposes or a TEMPORARY FOOD ESTABLISHMENT is not provided with windows and doors as specified under ¶ (A) of this section, the openings shall be protected against the entry of insects and rodents by:

(1) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;

(2) Properly designed and installed air curtains to control flying insects; or

(3) Other effective means.

(E) Paragraph (D) of this section does not apply if flying insects and other pests are absent due to the location of the ESTABLISHMENT, the weather, or other limiting condition.

### 6-202.16 Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs of a FOOD ESTABLISHMENT shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

### 6-202.17 Outdoor Food Vending Areas, Overhead Protection.

Except for machines that vend canned BEVERAGES, if located outside, a machine used to vend FOOD shall be provided with overhead protection.

### 6-202.18 Outdoor Servicing Areas, Overhead Protection.

Except for areas used only for the loading of water or the discharge of SEWAGE and other liquid waste, through the use of a closed system of hoses, SERVICING AREAS shall be provided with overhead protection.

### 6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.

Exterior walking and driving surfaces shall be graded to drain.

### 6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.

Outdoor REFUSE areas shall be constructed in accordance with LAW and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the REFUSE and from cleaning the area and waste receptacles.

### 6-202.111 Private Homes and Living or Sleeping Quarters, Use Prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting FOOD ESTABLISHMENT operations. [P]

### 6-202.112 Living or Sleeping Quarters, Separation.

Living or sleeping quarters located on the PREMISES of a FOOD ESTABLISHMENT such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for FOOD ESTABLISHMENT operations by complete partitioning and solid self-closing doors.

## 6-3 NUMBERS AND CAPACITIES

**Subparts**


6-301 Handwashing Sinks
6-302 Toilets and Urinals
6-303 Lighting
6-304 Ventilation
6-305 Dressing Areas and Lockers
6-306 Service Sinks


## Handwashing Sinks

### 6-301.10 Minimum Number.

HANDWASHING SINKS shall be provided as specified under § 5-203.11.

### 6-301.11 Handwashing Cleanser, Availability.

Each HANDWASHING SINK or group of 2 adjacent HANDWASHING SINKS shall be provided with a supply of hand cleaning liquid, powder, or bar soap. Pf

### 6-301.12 Hand Drying Provision.

Each HANDWASHING SINK or group of adjacent HANDWASHING SINKS shall be provided with:

(A) Individual, disposable towels; Pf

(B) A continuous towel system that supplies the user with a clean towel; Pf or

(C) A heated-air hand drying device; Pf or

(D) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. Pf

### 6-301.13 Handwashing Aids and Devices, Use Restrictions.

A sink used for FOOD preparation or UTENSIL washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids

and devices required for a HANDWASHING SINK as specified under §§ 6-301.11 and 6-301.12 and ¶ 5-501.16(C).

### 6-301.14 Handwashing Signage.

A sign or poster that notifies FOOD EMPLOYEES to wash their hands shall be provided at all HANDWASHING SINKS used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

### 6-301.20 Disposable Towels, Waste Receptacle.

A HANDWASHING SINK or group of adjacent HANDWASHING SINKS that is provided with disposable towels shall be provided with a waste receptacle as specified under ¶ 5-501.16(C).

## Toilets and Urinals

### 6-302.10 Minimum Number.

Toilets and urinals shall be provided as specified under § 5-203.12.

### 6-302.11 Toilet Tissue, Availability.

A supply of toilet tissue shall be available at each toilet. [Pf]

## Lighting

### 6-303.11 Intensity.

The light intensity shall be:

(A) At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry FOOD storage areas and in other areas and rooms during periods of cleaning;

(B) At least 215 lux (20 foot candles):

(1) At a surface where FOOD is provided for CONSUMER self-service such as buffets and salad bars or where fresh produce or PACKAGED FOODS are sold or offered for consumption,

(2) Inside EQUIPMENT such as reach-in and under-counter refrigerators; and

(3) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, WAREWASHING, and EQUIPMENT and UTENSIL storage, and in toilet rooms; and

(C) At least 540 lux (50 foot candles) at a surface where a FOOD EMPLOYEE is working with FOOD or working with UTENSILS or EQUIPMENT such as knives, slicers, grinders, or saws where EMPLOYEE safety is a factor.

## Ventilation

### 6-304.11 Mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

## Dressing Areas and Lockers

### 6-305.11 Designation.

(A) Dressing rooms or dressing areas shall be designated if EMPLOYEES routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of EMPLOYEES' clothing and other possessions.

## Service Sinks

### 6-306.10 Availability.

A service sink or curbed cleaning facility shall be provided as specified under ¶ 5-203.13(A).

## 6-4 LOCATION AND PLACEMENT

### Subparts


6-401 Handwashing Sinks
6-402 Toilet Rooms
6-403 Employee Accommodations
6-404 Distressed Merchandise
6-405 Refuse, Recyclables, and Returnables


### Handwashing Sinks

#### 6-401.10 Conveniently Located.

HANDWASHING SINKS shall be conveniently located as specified under § 5-204.11.

### Toilet Rooms

#### 6-402.11 Convenience and Accessibility.

Toilet rooms shall be conveniently located and accessible to EMPLOYEES during all hours of operation.

### Employee Accommodations

#### 6-403.11 Designated Areas.

(A) Areas designated for EMPLOYEES to eat, drink, and use tobacco shall be located so that FOOD, EQUIPMENT, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES can not occur.

### Distressed Merchandise

#### 6-404.11 Segregation and Location.

Products that are held by the PERMIT HOLDER for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES. [Pf]

## Refuse, Recyclables, and Returnables

### 6-405.10 Receptacles, Waste Handling Units, and Designated Storage Areas.

Units, receptacles, and areas designated for storage of REFUSE and recyclable and returnable containers shall be located as specified under § 5-501.19.

## 6-5 MAINTENANCE AND OPERATION

### Subpart

### 6-501 Premises, Structures, Attachments, and Fixtures - Methods

## Premises, Structures, Attachments, and Fixtures - Methods

### 6-501.11 Repairing.

PHYSICAL FACILITIES shall be maintained in good repair.

### 6-501.12 Cleaning, Frequency and Restrictions.

(A) PHYSICAL FACILITIES shall be cleaned as often as necessary to keep them clean.

(B) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of FOOD is exposed such as after closing.

### 6-501.13 Cleaning Floors, Dustless Methods.

(A) Except as specified in ¶ (B) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(B) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(1) Without the use of dust-arresting compounds; and

(2) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

### 6-501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

(A) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health HAZARD or nuisance or unLAWful discharge.

### 6-501.15 Cleaning Maintenance Tools, Preventing Contamination.

FOOD preparation sinks, HANDWASHING SINKS, and WAREWASHING EQUIPMENT may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes. Pf

### 6-501.16 Drying Mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, EQUIPMENT, or supplies.

### 6-501.17 Absorbent Materials on Floors, Use Limitation.

Except as specified in ¶ 6-501.13(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

### 6-501.18 Cleaning of Plumbing Fixtures.

PLUMBING FIXTURES such as HANDWASHING SINKS, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

### 6-501.19 Closing Toilet Room Doors.

Except during cleaning and maintenance operations, toilet room doors as specified under § 6-202.14 shall be kept closed.

### 6-501.110 Using Dressing Rooms and Lockers.

(A) Dressing rooms shall be used by EMPLOYEES if the EMPLOYEES regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be used for the orderly storage of EMPLOYEE clothing and other possessions.

### 6-501.111 Controlling Pests.

The PREMISES shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the PREMISES by:

(A) Routinely inspecting incoming shipments of FOOD and supplies;

(B) Routinely inspecting the PREMISES for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under §§ 7-202.12, 7-206.12, and 7-206.13; [Pf] and

(D) Eliminating harborage conditions.

### 6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the PREMISES at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

### 6-501.113 Storing Maintenance Tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES; and

(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

### 6-501.114 Maintaining Premises, Unnecessary Items and Litter.

The PREMISES shall be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as EQUIPMENT that is nonfunctional or no longer used; and

(B) Litter.

## 6-501.115 Prohibiting Animals.

(A) Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT. Pf

(B) Live animals may be allowed in the following situations if the contamination of FOOD, clean EQUIPMENT, UTENSILS, and LINENS, and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result:

(1) Edible FISH or decorative FISH in aquariums, shellfish or crustaceans on ice or under refrigeration, and shellfish and crustaceans in display tank systems;

(2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) In areas that are not used for FOOD preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;

(4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(a) Effective partitioning and self-closing doors separate the common dining areas from FOOD storage or FOOD preparation areas,

(b) Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

(c) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service;

(5) In areas that are not used for FOOD preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals; and

(6) Pet dogs in outdoor dining areas, if allowed by the FOOD ESTABLISHMENT, and

(A) Pet dogs are excluded from any area where FOOD is prepared;

(B) Pet dogs are kept on a leash and under reasonable control at all times;

(C) Pet dogs are not allowed on chairs, CONSUMER'S laps, tables, or other furnishings;

(D) CONSUMERS shall not feed pet dogs on FOOD ESTABLISHMENT TABLEWARE; and

(E) A sign APPROVED by the REGULATORY AUTHORITY is posted at each entrance to the designated outdoor dining area stating the conditions under which pet dogs are allowed and alerting patrons that pet dogs are allowed and may be present.

(C) Live or dead FISH bait may be stored if contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result.

Chapter

# 7 Poisonous or Toxic Materials

**Parts**


7-1 LABELING AND IDENTIFICATION
7-2 OPERATIONAL SUPPLIES AND APPLICATIONS
7-3 STOCK AND RETAIL SALE


## 7-1 LABELING AND IDENTIFICATION

**Subparts**


7-101 Original Containers
7-102 Working Containers


### Original Containers

#### 7-101.11 Identifying Information, Prominence.

Containers of POISONOUS OR TOXIC MATERIALS and PERSONAL CARE ITEMS shall bear a legible manufacturer's label. Pf

### Working Containers

#### 7-102.11 Common Name.

Working containers used for storing POISONOUS OR TOXIC MATERIALS such as cleaners and SANITIZERS taken from bulk supplies shall be clearly and individually identified with the common name of the material. Pf

## 7-2 OPERATIONAL SUPPLIES AND APPLICATIONS

### Subparts


7-201 Storage
7-202 Presence and Use
7-203 Container Prohibitions
7-204 Chemicals
7-205 Lubricants
7-206 Pesticides
7-207 Medicines
7-208 First Aid Supplies
7-209 Other Personal Care Items


## Storage

### 7-201.11 Separation.

POISONOUS OR TOXIC MATERIALS shall be stored so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(A) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning; [P] and

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE or SINGLE-USE ARTICLES. This paragraph does not apply to EQUIPMENT and UTENSIL cleaners and SANITIZERS that are stored in WAREWASHING areas for availability and convenience if the materials are stored to prevent contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES. [P]

## Presence and Use

### 7-202.11 Restriction.

(A) Only those POISONOUS OR TOXIC MATERIALS that are required for the operation and maintenance of a FOOD ESTABLISHMENT, such as for the cleaning and SANITIZING of EQUIPMENT and UTENSILS and the control of insects and rodents, shall be allowed in a FOOD ESTABLISHMENT. [Pf]

(B) Paragraph (A) of this section does not apply to PACKAGED POISONOUS OR TOXIC MATERIALS that are for retail sale.

### 7-202.12 Conditions of Use.

POISONOUS OR TOXIC MATERIALS shall be:

(A) Used according to:

(1) LAW and this Code,

(2) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a FOOD ESTABLISHMENT, P

(3) The conditions of certification, if certification is required, for use of the pest control materials, P and

(4) Additional conditions that may be established by the REGULATORY AUTHORITY; and

(B) Applied so that:

(1) A HAZARD to EMPLOYEES or other PERSONS is not constituted, P and

(2) Contamination including toxic residues due to drip, drain, fog, splash or spray on FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES is prevented, and for a RESTRICTED USE PESTICIDE, this is achieved by: P

(a) Removing the items, P

(b) Covering the items with impermeable covers, P or

(c) Taking other appropriate preventive actions, P and

(d) Cleaning and SANITIZING EQUIPMENT and UTENSILS after the application. P

(C) A RESTRICTED USE PESTICIDE shall be applied only by an applicator certified as defined in 7 USC 136 Definitions, (e) Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act, or a PERSON under the direct supervision of a certified applicator. Pf

## Container Prohibitions

### 7-203.11 Poisonous or Toxic Material Containers.

A container previously used to store POISONOUS OR TOXIC MATERIALS may not be used to store, transport, or dispense FOOD. [P]

## Chemicals

### 7-204.11 Sanitizers, Criteria.

Chemical SANITIZERS, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to FOOD-CONTACT SURFACES shall:

(A) Meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)[P], or

(B) Meet the requirements as specified in 40 CFR 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations. [P]

### 7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.

Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables shall:

(A) Be an approved food additive listed for this intended use in 21 CFR 173, [P] or

(B) Be generally recognized as safe (GRAS) for this intended use, [P] or

(C) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), [P] and

(D) Meet the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices. [P]

### 7-204.13 Boiler Water Additives, Criteria.

Chemicals used as boiler water ADDITIVES shall meet the requirements specified in 21 CFR 173.310 Boiler water additives. [P]

### 7-204.14 Drying Agents, Criteria.

Drying agents used in conjunction with SANITIZATION shall:

(A) Contain only components that are listed as one of the following:

(1) Generally recognized as safe for use in FOOD as specified in 21 CFR 182 - Substances Generally Recognized as Safe, or 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, [P]

(2) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe, [P]

(3) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to FOOD as described in 21 CFR 170.30 Eligibility for classification as generally recognized as safe (GRAS),[P]

(4) Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h),[P]

(5) APPROVED for use as a drying agent under a prior sanction as described in the Federal Food Drug and Cosmetic Act (FFDCA) § 201(s)(4); [P]

(6) Specifically regulated as an indirect FOOD ADDITIVE for use as a drying agent as specified in 21 CFR Parts 174-178, [P] or

(7) APPROVED for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; [P] and

(B) When SANITIZATION is with chemicals, the approval required under Subparagraph (A)(5) or (A)(7) of this section or the regulation as an indirect FOOD ADDITIVE required under Subparagraph (A)(6) of this section, shall be specifically for use with chemical SANITIZING solutions. P

## Lubricants

### 7-205.11 Incidental Food Contact, Criteria.

Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on FOOD-CONTACT SURFACES, on bearings and gears located on or within FOOD-CONTACT SURFACES, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES. P

## Pesticides

### 7-206.11 Restricted Use Pesticides, Criteria.

RESTRICTED USE PESTICIDES specified under ¶ 7-202.12(C) shall meet the requirements specified in 40 CFR 152 Subpart I - Classification of Pesticides. P

### 7-206.12 Rodent Bait Stations.

Rodent bait shall be contained in a covered, tamper-resistant bait station. P

### 7-206.13 Tracking Powders, Pest Control and Monitoring.

(A) Except as specified in ¶ (B) of this section, a tracking powder pesticide may not be used in a FOOD ESTABLISHMENT. P

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

## Medicines

### 7-207.11 Restriction and Storage.

(A) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of EMPLOYEES shall be allowed in a FOOD ESTABLISHMENT. Pf

(B) Medicines that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be labeled as specified under § 7-101.11 and located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES. [P]

### 7-207.12 Refrigerated Medicines, Storage.

Medicines belonging to EMPLOYEES or to children in a day care center that require refrigeration and are stored in a FOOD refrigerator shall be:

(A) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; [P] and

(B) Located so they are inaccessible to children. [P]

## First Aid Supplies

### 7-208.11 Storage.

First aid supplies that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be:

(A) Labeled as specified under § 7-101.11; [Pf] and

(B) Stored in a kit or a container that is located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, and LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES. [P]

## Other Personal Care Items

### 7-209.11 Storage.

Except as specified under §§ 7-207.12 and 7-208.11, EMPLOYEES shall store their PERSONAL CARE ITEMS in facilities as specified under ¶ 6-305.11(B).

## 7-3 STOCK AND RETAIL SALE

### Subpart

### 7-301 Storage and Display

## Storage and Display

### 7-301.11 Separation.

POISONOUS or TOXIC MATERIALS shall be stored and displayed for retail sale so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(A) Separating the POISONOUS or TOXIC MATERIALS by spacing or partitioning; [P] and

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE or SINGLE-USE ARTICLES. [P]

Chapter

# 8 Compliance and Enforcement

**Parts**


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## 8-1 CODE APPLICABILITY

**Subparts**


| | |
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| 8-101 | Use for Intended Purpose |
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### Use for Intended Purpose

#### 8-101.10 Public Health Protection.

(A) The REGULATORY AUTHORITY shall apply this Code to promote its underlying purpose, as specified in § 1-102.10, of safeguarding public health and ensuring that FOOD is safe, unADULTERATED, and honestly presented when offered to the CONSUMER.
(B) In enforcing the provisions of this Code, the REGULATORY AUTHORITY shall assess existing facilities or EQUIPMENT that were in

use before the effective date of this Code based on the following considerations:

(1) Whether the facilities or EQUIPMENT are in good repair and capable of being maintained in a sanitary condition;

(2) Whether FOOD-CONTACT SURFACES comply with Subpart 4-101;

(3) Whether the capacities of cooling, heating, and holding EQUIPMENT are sufficient to comply with § 4-301.11; and

(4) The existence of a documented agreement with the PERMIT HOLDER that the facilities or EQUIPMENT will be replaced as specified under ¶ 8-304.11(G).

## Additional Requirements

### 8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.

(A) If necessary to protect against public health HAZARDS or nuisances, the REGULATORY AUTHORITY may impose specific requirements in addition to the requirements contained in this Code that are authorized by LAW.

(B) The REGULATORY AUTHORITY shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the PERMIT applicant or PERMIT HOLDER and a copy shall be maintained in the REGULATORY AUTHORITY'S file for the FOOD ESTABLISHMENT.

## Variances

### 8-103.10 Modifications and Waivers.

(A) The REGULATORY AUTHORITY may grant a VARIANCE by modifying or waiving the requirements of this Code if in the opinion of the REGULATORY AUTHORITY a health HAZARD or nuisance will not result from the VARIANCE. If a VARIANCE is granted, the REGULATORY AUTHORITY shall retain the information specified under § 8-103.11 in its records for the FOOD ESTABLISHMENT.

(B) The REGULATORY AUTHORITY shall grant the VARIANCE, grant the VARIANCE subject to conditions, or deny the VARIANCE within 15

working days following the receipt of the VARIANCE request and payment of the applicable variance application fee as specified under Subparagraph 8-303.15(A)(3).

### 8-103.11 Documentation of Proposed Variance and Justification.

Before a VARIANCE from a requirement of this Code is APPROVED, the information that shall be provided by the PERSON requesting the VARIANCE and retained in the REGULATORY AUTHORITY'S file on the FOOD ESTABLISHMENT includes:

(A) A statement of the proposed VARIANCE of the Code requirement citing relevant Code section numbers; Pf

(B) An analysis of the rationale for how the potential public health HAZARDS and nuisances addressed by the relevant Code sections will be alternatively addressed by the proposal; Pf and

(C) A HACCP PLAN if required as specified under ¶ 8-201.13(A) that includes the information specified under § 8-201.14 as it is relevant to the VARIANCE requested. Pf

### 8-103.12 Conformance with Approved Procedures.

If the REGULATORY AUTHORITY grants a VARIANCE as specified in § 8-103.10, or a HACCP PLAN is otherwise required as specified under § 8-201.13, the PERMIT HOLDER shall:

(A) Comply with the HACCP PLANs and procedures that are submitted as specified under § 8-201.14 and APPROVED as a basis for the modification or waiver; P and

(B) Maintain and provide to the REGULATORY AUTHORITY, upon request, records specified under § 8-201.14 (D) and (E)(3) that demonstrate that the following are routinely employed;

(1) Procedures for MONITORING the CRITICAL CONTROL POINTS, Pf

(2) MONITORING of the CRITICAL CONTROL POINTS, Pf

(3) VERIFICATION of the effectiveness of the operation or process, Pf and

(4) Necessary CORRECTIVE ACTIONS if there is failure at a CRITICAL CONTROL POINT. Pf

## 8-2 PLAN SUBMISSION AND APPROVAL

### Subparts


8-201 Facility and Operating Plans
8-202 Confidentiality
8-203 Construction Inspection and Approval


## Facility and Operating Plans

### 8-201.11 When Plans Are Required.

Except for TEMPORARY FOOD ESTABLISHMENTS, a PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY the applicable plan review application fee as specified under Subparagraphs 8-303.15 (A)(4)-(5), properly prepared plans and specifications for review and approval at least 30 calendar days before:

(A) The construction of a FOOD ESTABLISHMENT; [Pf]

(B) The conversion of an existing structure for use as a FOOD ESTABLISHMENT; [Pf] or

(C) The remodeling of a FOOD ESTABLISHMENT or a change of type of FOOD ESTABLISHMENT or FOOD operation as specified under ¶ 8-302.14(C) if the REGULATORY AUTHORITY determines that plans and specifications are necessary to ensure compliance with this Code; or [Pf]

(D) Opening or changing ownership of an existing FOOD ESTABLISHMENT, if current plans and specifications are not on file with the REGULATORY AUTHORITY.

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### 8-201.12 Contents of the Plans and Specifications.

The plans and specifications for a FOOD ESTABLISHMENT, including a FOOD ESTABLISHMENT specified under § 8-201.13, shall include, as required by the REGULATORY AUTHORITY based on the type of operation, type of FOOD preparation, and FOODS prepared, the following information to demonstrate conformance with Code provisions:

(A) Intended menu;

(B) Anticipated volume of FOOD to be stored, prepared, and sold or served;

(C) Proposed layout, mechanical schematics, construction

(D) Proposed EQUIPMENT types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;

(E) Evidence that standard procedures that ensure compliance with the requirements of this Code are developed or are being developed; and

(F) Other information that may be required by the REGULATORY AUTHORITY for the proper review of the proposed construction, conversion or modification, and procedures for operating a FOOD ESTABLISHMENT.

### 8-201.13 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP PLAN, a PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY for approval a properly prepared HACCP PLAN as specified under § 8-201.14 and the relevant provisions of this Code if:

(1) Submission of a HACCP PLAN is required according to LAW;

(2) A VARIANCE is required as specified under Subparagraph 3-401.11(D)(4), § 3-502.11, or ¶ 4-204.110(B);

(3) The REGULATORY AUTHORITY determines that a FOOD preparation or processing method requires a VARIANCE based on a plan submittal specified under § 8-201.12, an inspectional finding, or a VARIANCE request.

(B) Before engaging in REDUCED OXYGEN PACKAGING without a VARIANCE as specified under § 3-502.12, a PERMIT applicant or PERMIT HOLDER shall submit a properly prepared HACCP PLAN to the REGULATORY AUTHORITY.

### 8-201.14 Contents of a HACCP Plan.

For a food establishment that is required under § 8-201.13 to have a

HACCP PLAN, the PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY a properly prepared HACCP PLAN that includes:

(A) General information such as the name of the PERMIT applicant or PERMIT HOLDER, the FOOD ESTABLISHMENT address, and contact information;

(B) A categorization of the types of TIME/TEMPERATURE CONTROL FOR SAFETY FOODS that are to be controlled under the HACCP PLAN; Pf

(C) A flow diagram or chart for each specific FOOD or category type that identifies:

(1) Each step in the process; Pf

(2) The HAZARDS and controls for each step in the flow diagram or chart; Pf

(3) The steps that are CRITICAL CONTROL POINTS; Pf

(4) The ingredients, materials, and equipment used in the preparation of that FOOD; Pf and

(5) Formulations or recipes that delineate methods and procedural control measures that address the FOOD safety concerns involved. Pf

(D) A CRITICAL CONTROL POINTS summary for each specific FOOD or category type that clearly identifies:

(1) Each CRITICAL CONTROL POINT, Pf

(2) The CRITICAL LIMITS for each CRITICAL CONTROL POINT, Pf

(3) The method and frequency for MONITORING and controlling each CRITICAL CONTROL POINT by the designated FOOD EMPLOYEE or the PERSON IN CHARGE, Pf

(4) The method and frequency for the PERSON IN CHARGE to routinely verify that the FOOD EMPLOYEE is following STANDARD OPERATING PROCEDURES and MONITORING CRITICAL CONTROL POINTS, Pf

(5) Action to be taken by the designated FOOD EMPLOYEE or PERSON IN CHARGE if the CRITICAL LIMITS for each CRITICAL CONTROL POINT are not met, [Pf] and

(6) Records to be maintained by the PERSON IN CHARGE to demonstrate that the HACCP PLAN is properly operated and managed; [Pf]

(E) Supporting documents such as:

(1) FOOD EMPLOYEE and supervisory training plan that addresses the FOOD safety issues of concern; [Pf]

(2) Copies of blank records forms that are necessary to implement the HACCP PLAN; [Pf]

(3) Additional scientific data or other information, as required by the REGULATORY AUTHORITY, supporting the determination that FOOD safety is not compromised by the proposal. [Pf]

(F) Any other information required by the REGULATORY AUTHORITY.

## Confidentiality

### 8-202.10 Trade Secrets.

The REGULATORY AUTHORITY shall treat as confidential in accordance with LAW, information that meets the criteria specified in LAW for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under §§ 8-201.12 and 8-201.14.

## Construction Inspection and Approval

### 8-203.10 Preoperational Inspections.

The REGULATORY AUTHORITY shall conduct one or more preoperational inspections to verify that the FOOD ESTABLISHMENT is constructed and equipped in accordance with the APPROVED plans and APPROVED modifications of those plans, has established STANDARD OPERATING PROCEDURES as specified under ¶ 8-201.12(E), and is in compliance with LAW and this Code.

## 8-3 PERMIT TO OPERATE

### Subparts


8-301 Requirement
8-302 Application Procedure
8-303 Issuance
8-304 Conditions of Retention


## Requirement

### 8-301.11 Prerequisite for Operation.

(A) A PERSON may not operate a FOOD ESTABLISHMENT or SERVICING AREA without a valid PERMIT to operate issued by the REGULATORY AUTHORITY. Pf

(B) Except as specified in ¶¶ (C) and (D) of this section, when more than a single FOOD ESTABLISHMENT is operated on the PREMISES, each one shall be separately permitted.

(C) Bars operating in conjunction with a FOOD ESTABLISHMENT do not require a separate PERMIT.

(D) A FOOD ESTABLISHMENT used as a SERVICING AREA does not require a separate PERMIT.

(E) Prior to the issuance of a PERMIT or the renewal of a PERMIT, the REGULATORY AUTHORITY shall make inspections of the FOOD ESTABLISHMENT or FOOD PROCESSING PLANT as it deems necessary.

### 8-301.12 Responsibility for Operation.

(A) Except as specified in ¶¶ (B) and (C) of this section, the PERMIT HOLDER shall be responsible for all FOOD operations conducted on the PREMISES for which a PERMIT is issued. Pf

(B) PERMIT HOLDERS shall not be responsible for food operations on the PREMISES when another PERMIT HOLDER is operating with a permit.

(C) Each PERMIT HOLDER shall be responsible for shared facilities or EQUIPMENT on the PREMISES.

## Application Procedure

### 8-302.11 Submission 30 Calendar Days Before Proposed Opening.

An applicant shall submit an application for a PERMIT at least 30 calendar days before the date planned for opening a FOOD ESTABLISHMENT, MOBILE FOOD ESTABLISHMENT, FOOD PROCESSING PLANT, or HOME-BASED FOOD PROCESSING OPERATION.

### 8-302.12 Form of Submission.

A PERSON desiring to operate a FOOD ESTABLISHMENT shall submit to the REGULATORY AUTHORITY a written application for a PERMIT on a form provided by the REGULATORY AUTHORITY.

### 8-302.13 Qualifications and Responsibilities of Applicants.

To qualify for a PERMIT, an applicant shall:

(A) Be an owner of the FOOD ESTABLISHMENT or an officer of the legal ownership;

(B) Comply with the requirements of 7.6.2 NMAC;

(C) As specified under § 8-402.11, agree to allow access to the FOOD ESTABLISHMENT and to provide required information; and

(D) Pay the applicable PERMIT fees when approval to open is granted by the REGULATORY AUTHORITY.

### 8-302.14 Contents of the Application.

The application shall include:

(A) The name, mailing address, telephone number, and signature of the PERSON applying for the PERMIT and the name, mailing address, and location of the FOOD ESTABLISHMENT;

(B) Information specifying whether the FOOD ESTABLISHMENT is owned by an association, corporation, individual, partnership, or other legal entity;

(C) A statement specifying whether the FOOD ESTABLISHMENT:

(1) Is mobile or stationary and temporary or permanent;

(2) Prepares, offers for sale, or serves TIME/TEMPERATURE CONTROL FOR SAFETY FOOD:

(a) Only to order upon a CONSUMER'S request,

(b) In advance in quantities based on projected CONSUMER demand and discards FOOD that is not sold or served at an APPROVED frequency, or

(c) Using time as the public health control as specified under § 3-501.19,

(3) Prepares TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in advance using a FOOD preparation method that involves two or more steps which may include combining TIME/TEMPERATURE CONTROL FOR SAFETY FOOD ingredients, cooking, cooling, reheating, hot or cold holding, freezing or thawing,

(4) Prepares FOOD as specified under Subparagraph (C)(3) of this section for delivery to and consumption at a location off the PREMISES of the FOOD ESTABLISHMENT where it is prepared,

(5) Prepares FOOD as specified under Subparagraph (C)(3) of this section for service to a HIGHLY SUSCEPTIBLE POPULATION,

(6) Prepares only FOOD that is not TIME/TEMPERATURE CONTROL OF SAFETY FOOD, or

(7) Does not prepare, but offers for sale only prePACKAGED FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(D) The name, title, address, and telephone number of the PERSON directly responsible for the FOOD ESTABLISHMENT;

(E) The name, title, address, and telephone number of the PERSON who functions as the immediate supervisor of the PERSON specified under ¶ (D) of this section such as the zone, district, or regional supervisor;

(F) The names, titles, and addresses of:

(1) The PERSONS comprising the legal ownership as specified under ¶ (B) of this section including the owners and officers, and

(2) The local resident agent if one is required based on the type of legal ownership;

(G) A statement signed by the applicant that:

(1) Attests to the accuracy of the information provided in the application, and

(2) Affirms that the applicant will:

(a) Comply with this Code, and

(b) Allow the REGULATORY AUTHORITY access to the FOOD ESTABLISHMENT as specified under § 8-402.11 and to the records specified under §§ 3-203.12 and 5-205.13 and Subparagraph 8-201.14(D)(6); and

(H) Other information required by the REGULATORY AUTHORITY.

## Issuance

### 8-303.10 New, Converted, or Remodeled Establishments.

For FOOD ESTABLISHMENTS that are required to submit plans as specified under § 8-201.11 the REGULATORY AUTHORITY shall issue a PERMIT to the applicant after:

(A) A properly completed application is submitted;

(B) The required fee is submitted;

(C) The required plans, specifications, and information are reviewed and APPROVED; and

(D) A preoperational inspection as specified in § 8-203.10 shows that the establishment is built or remodeled in accordance with the APPROVED plans and specifications and that the establishment is in compliance with this Code.

## 8-303.15 Fees and Expiration Dates.

(A) Except as specified in ¶ (B) of this section, fees shall be:

(1) $200.00 permit fee for FOOD ESTABLISHMENTS, MOBILE FOOD ESTABLISHMENTS, SERVICING AREAS, and FOOD PROCESSING PLANTS;

(2) $25.00 permit fee for TEMPORARY FOOD ESTABLISHMENTS for each single event or celebration;

(3) $400.00 variance application fee;

(4) Plan review application fee, FOOD ESTABLISHMENT:
$300.00 – 0 - 1000 square feet of kitchen, storage and ware washing areas;

$600.00 – 1001 - 2000 square feet of kitchen, storage and ware washing areas;

$900.00 – 2001+ square feet of kitchen, storage and ware washing areas.

(5) Plan review application fee, FOOD PROCESSING PLANT:

$400.00 – 0 - 1000 square feet of processing, storage and ware washing areas;

$900.00 – 1001 - 2000 square feet of processing, storage and ware washing areas;

$1,400.00 – 2001+ square feet of processing, storage and ware washing areas.

(B) PERMIT fees shall be waived for:

(1) FOOD ESTABLISHMENTS, MOBILE FOOD ESTABLISHMENTS, and TEMPORARY FOOD ESTABLISHMENTS that provide FOOD to CONSUMERS at no charge; or

(2) TEMPORARY FOOD ESTABLISHMENTS that:

(a) Serve only non-TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

(b) Operate no more than 2 days in a calendar month.

(C) In addition to the permit fees specified in Subparagraphs (A) (1)-

(2) of this section, a $175.00 late fee shall be added to the PERMIT fee if the PERMIT is not renewed on or before the expiration date of the PERMIT.

(D) A re-inspection fee of $500.00 shall be assessed by the REGULATORY AUTHORITY and paid by the operator when a re-inspection is scheduled by the REGULATORY AUTHORITY as specified in ¶ 8-401.10(C).

(E) If a PERMIT is not renewed as specified in § 8-303.20, and applicable re-inspection fees are not paid within 30 days after the expiration of the PERMIT, a new PERMIT shall not be issued except upon completion of requirements specified in § 8-303.10 of the Food Code and the plan review application fee is paid.

(F) PERMITS issued by the REGULATORY AUTHORITY shall include an expiration date, which shall be:

(1) The last day of the anniversary month of the date of original issue for FOOD ESTABLISHMENTS, MOBILE FOOD ESTABLISHMENTS, SERVICING AREAS, and FOOD PROCESSING PLANTS; or

(2) The last day of the single event or celebration for TEMPORARY FOOD ESTABLISHMENTS.

(G) No discount or refund shall be made for any fees paid to the REGULATORY AUTHORITY.

(H) Any persons who violate NMAC Title 7, Chapter 6 are subject to administrative compliance costs in addition to civil penalties under Section 25-1-12 NMSA 1978, and any other remedies available under law.

## 8-303.20 Existing Establishments, Permit Renewal, and Change of Ownership.

(A) The REGULATORY AUTHORITY may renew a PERMIT for an existing FOOD ESTABLISHMENT upon submission of a renewal form provided by the REGULATORY AUTHORITY and the required fee(s) as specified in § 8-303.15 prior to the expiration date of the PERMIT. PERMIT renewals that are not submitted before the expiration date shall be assessed a late fee as specified in § 8-303.15, regardless of whether a PERMIT fee is required.

(B) The REGULATORY AUTHORITY may issue a PERMIT to a new owner of an existing FOOD ESTABLISHMENT, MOBILE FOOD ESTABLISHMENT, SERVICING AREA, or FOOD PROCESSING PLANT upon completion of requirements as specified in §§ 8-201.11 and 8-302.11 and an inspection shows it is in compliance with the 7.6.2 NMAC.

### 8-303.30 Denial of Application for Permit, Notice.

If an application for a PERMIT to operate is denied, the REGULATORY AUTHORITY shall provide the applicant with a notice that includes:

(A) The specific reasons and Code citations for the PERMIT denial;

(B) The actions, if any, that the applicant must take to qualify for a PERMIT; and

(C) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in LAW.

## Conditions of Retention

### 8-304.10 Responsibilities of the Regulatory Authority.

(A) At the time a PERMIT is first issued, the REGULATORY AUTHORITY shall provide to the PERMIT HOLDER a copy of this Code so that the PERMIT HOLDER is notified of the compliance requirements and the conditions of retention, as specified under § 8-304.11, that are applicable to the PERMIT.

(B) Failure to provide the information specified in ¶ (A) of this section does not prevent the REGULATORY AUTHORITY from taking authorized action or seeking remedies if the PERMIT HOLDER fails to comply with this Code or an order, warning, or directive of the REGULATORY AUTHORITY.

### 8-304.11 Responsibilities of the Permit Holder.

Upon acceptance of the PERMIT issued by the REGULATORY AUTHORITY, the PERMIT HOLDER in order to retain the PERMIT shall:

(A) Post the PERMIT in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS;

(B) Comply with the provisions of this Code including the

conditions of a granted VARIANCE as specified under § 8-103.12, and APPROVED plans as specified under § 8-201.12;

(C) If a FOOD ESTABLISHMENT is required under § 8-201.13 to operate under a HACCP PLAN, comply with the plan as specified under § 8-103.12;

(D) Immediately contact the REGULATORY AUTHORITY to report an illness of a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE as specified under ¶ 2-201.11(B);

(E) Immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist as specified under § 8-404.11;

(F) Allow representatives of the REGULATORY AUTHORITY access to the FOOD ESTABLISHMENT as specified under § 8-402.11;

(G) Replace existing facilities and EQUIPMENT specified in § 8-101.10 with facilities and EQUIPMENT that comply with this Code if:

(1) The REGULATORY AUTHORITY directs the replacement because the facilities and EQUIPMENT constitute a public health HAZARD or nuisance or no longer comply with the criteria upon which the facilities and EQUIPMENT were accepted,

(2) The REGULATORY AUTHORITY directs the replacement of the facilities and EQUIPMENT because of a change of ownership, or

(3) The facilities and EQUIPMENT are replaced in the normal course of operation;

(H) Comply with directives of the REGULATORY AUTHORITY including time frames for CORRECTIVE ACTIONS specified in inspection reports, notices, orders, warnings, and other directives issued by the REGULATORY AUTHORITY in regard to the PERMIT HOLDER'S FOOD ESTABLISHMENT or in response to community emergencies;

(I) Accept notices issued and served by the REGULATORY AUTHORITY according to LAW; and

(J) Be subject to the administrative, civil, injunctive, and criminal

remedies authorized in LAW for failure to comply with this Code or a directive of the REGULATORY AUTHORITY, including time frames for CORRECTIVE ACTIONS specified in inspection reports, notices, orders, warnings, and other directives.

(K) Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the REGULATORY AUTHORITY.

### 8-304.20 Permits Not Transferable.

A PERMIT may not be transferred from one PERSON to another PERSON, from one FOOD ESTABLISHMENT to another, or from one type of operation to another if the FOOD operation changes from the type of operation specified in the application as specified under ¶ 8-302.14(C) and the change in operation is not APPROVED.

## 8-4 INSPECTION AND CORRECTION OF VIOLATIONS

### Subparts


| | |
|---|---|
| 8-401 | Frequency |
| 8-402 | Competency and Access |
| 8-403 | Report of Findings |
| 8-404 | Imminent Health Hazard |
| 8-405 | Violation of Priority Item or Priority Foundation Item |
| 8-406 | Core Item Violation |
| 8-407 | Emblem Posting |


## Frequency

### 8-401.10 Establishing Inspection Interval.

(A) Except as specified in ¶ (B) of this section, the REGULATORY AUTHORITY shall inspect a FOOD ESTABLISHMENT, MOBILE FOOD ESTABLISHMENT, FOOD PROCESSING PLANT, or HOME-BASED FOOD PROCESSING OPERATION at least annually to determine compliance with the Food Service Sanitation Act, the New Mexico Food Act, and 7.6.2 NMAC.

(B) The REGULATORY AUTHORITY may periodically inspect throughout its PERMIT period a TEMPORARY FOOD ESTABLISHMENT that prepares, sells, or serves unpackaged TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and that:

(1) Has improvised rather than permanent facilities or EQUIPMENT for accomplishing functions such as handwashing, FOOD preparation and protection, FOOD temperature control, WAREWASHING, providing DRINKING WATER, waste retention and disposal, and insect and rodent control; or

(2) Has inexperienced FOOD EMPLOYEES.

(C) When an inspection conducted by the REGULATORY AUTHORITY reveals a violation of a PRIORITY ITEM, or repeat violation of a PRIORITY FOUNDATION ITEM or CORE ITEM within the last 25 months of 7.6.2 NMAC and a re-inspection is scheduled by the REGULATORY AUTHORITY, a re-inspection fee shall be assessed by the REGULATORY AUTHORITY and paid by the operator as specified in § 8-303.15(D).

### 8-401.20 Performance- and Risk-Based.

The REGULATORY AUTHORITY shall prioritize, and conduct more frequent inspections based upon its assessment of a FOOD ESTABLISHMENT'S history of compliance with this Code and the establishment's potential as a vector of foodborne illness by evaluating:

(A) Past performance, for nonconformance with code or HACCP PLAN requirements that are PRIORITY ITEMS or PRIORITY FOUNDATION ITEMS;

(B) Past performance, for numerous or repeat violations of this Code or HACCP PLAN requirements that are CORE ITEMS;

(C) Past performance, for complaints investigated and found to be valid;

(D) The HAZARDS associated with the particular FOODS that are prepared, stored, or served;

(E) The type of operation including the methods and extent of FOOD storage, preparation, and service;

(F) The number of people served; and

(G) Whether the population served is a HIGHLY SUSCEPTIBLE POPULATION.

## Competency

### 8-402.10 Competency of Inspectors.

(A) An authorized representative of the REGULATORY AUTHORITY who inspects a FOOD ESTABLISHMENT or conducts plan review for compliance with this Code shall have knowledge, skills and ability to adequately perform the required duties.

(B) The REGULATORY AUTHORITY shall ensure that authorized representatives who inspect a FOOD ESTABLISHMENT or conduct plan review for compliance with this Code have access to training and continuing education as needed to properly identify violations and apply the Code.

## Access

### 8-402.11 Allowed at Reasonable Times after Due Notice.

(A) After the REGULATORY AUTHORITY presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the REGULATORY AUTHORITY to determine if the FOOD ESTABLISHMENT, MOBILE FOOD ESTABLISHMENT, FOOD PROCESSING PLANT, or HOME-BASED FOOD PROCESSING OPERATION is in compliance with this Code by allowing access to the establishment, allowing inspection, and providing information and records specified in this Code and to which the REGULATORY AUTHORITY is entitled according to law, during the FOOD ESTABLISHMENT'S hours of operation and other reasonable times.

(B) The REGULATORY AUTHORITY shall be allowed to copy any records pertaining to the manufacture, processing, packing, distribution, receipt, holding, or importation of FOOD maintained by or on behalf of a FOOD ESTABLISHMENT, MOBILE FOOD ESTABLISHMENT, FOOD PROCESSING PLANT, or HOME-BASED FOOD PROCESSING OPERATION in any format, including paper and electronic formats, and at any location. Proprietary documents shall be protected by the REGULATORY AUTHORITY as specified in § 8-202.10.

### 8-402.20 Refusal, Notification of Right to Access, and Final Request for Access.

If a PERSON denies access to the REGULATORY AUTHORITY, the REGULATORY AUTHORITY shall:

(A) Inform the PERSON that:

(1) The PERMIT HOLDER is required to allow access to the REGULATORY AUTHORITY as specified under § 8-402.11,

(2) Access is a condition of the acceptance and retention of a FOOD ESTABLISHMENT PERMIT to operate as specified under § 8-304.11,

(3) If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to LAW, and

(4) refusal to allow access is grounds for immediate PERMIT suspension or revocation; and

(B) Make a final request for access.

### 8-402.30 Refusal, Reporting.

If after the REGULATORY AUTHORITY presents credentials and provides notice as specified under § 8-402.11, explains the authority upon which access is requested, and makes a final request for access as specified in § 8-402.20, the PERSON IN CHARGE continues to REFUSE access, the REGULATORY AUTHORITY shall provide details of the denial of access on an inspection report form.

### 8-402.40 Inspection Order to Gain Access.

If denied access to a FOOD ESTABLISHMENT for an authorized purpose and after complying with § 8-402.20, the REGULATORY AUTHORITY may issue, or apply for the issuance of, an inspection order to gain access as provided in LAW.

## Report of Findings

### 8-403.10 Documenting Information and Observations.

The REGULATORY AUTHORITY shall document on an inspection report form:

(A) Administrative information about the FOOD ESTABLISHMENT'S legal identity, street and mailing addresses, type of establishment and operation as specified under ¶ 8-302.14(C), inspection date, and other information such as type of water supply and SEWAGE disposal, status of the PERMIT, and personnel certificates that may be required; and

(B) Specific factual observations of violative conditions or other DEVIATIONS from this Code that require correction by the PERMIT HOLDER including:

(1) Failure of the PERSON IN CHARGE to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Code as

specified under § 2-102.11,

(2) Failure of FOOD EMPLOYEES, CONDITIONAL EMPLOYEES, and the PERSON IN CHARGE to report a disease or medical condition as specified under ¶¶ 2-201.11(B) and (D),

(3) Nonconformance with PRIORITY ITEMS OR PRIORITY FOUNDATION ITEMS of this Code,

(4) Failure of the appropriate FOOD EMPLOYEES to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, MONITORING, VERIFICATION, and CORRECTIVE ACTION practices required by the REGULATORY AUTHORITY as specified under § 8-103.12,

(5) Failure of the PERSON IN CHARGE to provide records required by the REGULATORY AUTHORITY for determining conformance with a HACCP PLAN as specified under Subparagraph 8-201.14(D)(6), and

(6) Nonconformance with CRITICAL LIMITS of a HACCP PLAN.

### 8-403.20 Specifying Time Frame for Corrections.

The REGULATORY AUTHORITY shall specify on the inspection report form the time frame for correction of the violations as specified under §§ 8-404.11, 8-405.11, and 8-406.11.

### 8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.

The REGULATORY AUTHORITY shall provide a copy of the completed inspection report and the notice to correct violations, as soon as possible after the inspection, to the PERMIT HOLDER or to the PERSON IN CHARGE, and request a signed acknowledgment of receipt.

### 8-403.40 Refusal to Sign Acknowledgment.

The REGULATORY AUTHORITY shall:

(A) Inform a PERSON who declines to sign an acknowledgment of receipt of inspectional findings as specified in § 8-403.30 that:

(1) An acknowledgment of receipt is not an agreement with

findings,

(2) Refusal to sign an acknowledgment of receipt will not affect the PERMIT HOLDER'S obligation to correct the violations noted in the inspection report within the time frames specified, and

(3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the REGULATORY AUTHORITY'S historical record for the FOOD ESTABLISHMENT; and

(B) Make a final request that the PERSON IN CHARGE sign an acknowledgment receipt of inspectional findings.

### 8-403.50 Public Information.

Except as specified in § 8-202.10, the REGULATORY AUTHORITY shall treat the inspection report as a public document and shall make it available for DISCLOSURE to a PERSON who requests it as provided in LAW.

## Imminent Health Hazard

### 8-404.11 Ceasing Operations and Reporting.

(A) Except as specified in ¶ (B) and (C) of this section, a PERMIT HOLDER shall immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, SEWAGE backup, misuse of POISONOUS OR TOXIC MATERIALS, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health. P

(B) A PERMIT HOLDER need not discontinue operations in an area of an establishment that is unaffected by the IMMINENT HEALTH HAZARD.

(C) Considering the nature of the potential HAZARD involved and the complexity of the CORRECTIVE ACTION needed, the REGULATORY AUTHORITY may agree to continuing operations in the event of an extended interruption of electrical or water service if:

(1) A written emergency operating plan has been APPROVED;

(2) Immediate CORRECTIVE ACTION is taken to eliminate, prevent, or control any FOOD safety risk and IMMINENT HEALTH HAZARD associated with the electrical or water service interruption; and

(3) The REGULATORY AUTHORITY is informed upon implementation of the written emergency operating plan.

### 8-404.12 Resumption of Operations.

If operations are discontinued as specified under § 8-404.11 or otherwise according to LAW, the PERMIT HOLDER shall obtain approval from the REGULATORY AUTHORITY before resuming operations.

## Violation of Priority Item or Priority Foundation Item

### 8-405.11 Timely Correction.

(A) Except as specified in ¶ (B) of this section, a PERMIT HOLDER shall at the time of inspection correct a violation of a PRIORITY ITEM or PRIORITY FOUNDATION ITEM of this Code and implement CORRECTIVE ACTIONS for a HACCP PLAN provision that is not in compliance with its CRITICAL LIMIT. [Pf]

(B) Considering the nature of the potential HAZARD involved and the complexity of the CORRECTIVE ACTION needed, the REGULATORY AUTHORITY may agree to or specify a longer time frame, not to exceed:

(1) 72 hours after the inspection, for the PERMIT HOLDER to correct violations of a PRIORITY ITEM; or

(2) 10 calendar days after the inspection, for the PERMIT HOLDER to correct violations of a PRIORITY FOUNDATION ITEM or HACCP PLAN DEVIATIONS.

### 8-405.20 Verification and Documentation of Correction.

(A) After observing at the time of inspection a correction of a violation of a PRIORITY ITEM or PRIORITY FOUNDATION ITEM or a HACCP PLAN DEVIATION, the REGULATORY AUTHORITY shall enter the violation and information about the CORRECTIVE ACTION on the inspection report.

(B) As specified under ¶ 8-405.11(B), after receiving notification that the PERMIT HOLDER has corrected a violation of a PRIORITY ITEM OR

PRIORITY FOUNDATION ITEM or HACCP PLAN DEVIATION, or at the end of the specified period of time, the REGULATORY AUTHORITY shall verify correction of the violation, document the information on an inspection report, and enter the report in the REGULATORY AUTHORITY'S records.

## Core Item Violation

### 8-406.11 Time Frame for Correction.

(A) Except as specified in ¶ (B) of this section, the PERMIT HOLDER shall correct CORE ITEMS by a date and time agreed to or specified by the REGULATORY AUTHORITY but no later than 90 calendar days after the inspection.

(B) The REGULATORY AUTHORITY may approve a compliance schedule that extends beyond the time limits specified under ¶ (A) of this section if a written schedule of compliance is submitted by the PERMIT HOLDER and no health HAZARD exists or will result from allowing an extended schedule for compliance.

## Emblem Posting

### 8-407.11 Posting of Compliance Emblems.

(A) Except as specified in ¶ (E) of this section, an emblem indicating the compliance status of a FOOD ESTABLISHMENT shall be posted in a conspicuous place at each entrance to the FOOD ESTABLISHMENT where it can be easily seen by CONSUMERS and shall be posted or removed only by the REGULATORY AUTHORITY.

(B) An "APPROVED" emblem shall be posted at a FOOD ESTABLISHMENT that is operated in compliance with this Code.

(C) An "Unsatisfactory" emblem may be posted at a FOOD ESTABLISHMENT when any priority items are out of compliance during an inspection; or any PRIORITY ITEM, PRIORITY FOUNDATION ITEM, or CORE ITEM is out of compliance on a repeated basis within the last 25 months.

(D) Removal, defacing, or obstruction of an emblem by any PERSON other than the REGULATORY AUTHORITY shall result in immediate PERMIT suspension or revocation.

(E) FOOD PROCESSING PLANTS and TEMPORARY FOOD ESTABLISHMENTS are exempt from the posting of compliance emblems.

## 8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

### Subpart

#### 8-501 Investigation and Control

### Investigation and Control

#### 8-501.10 Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis.

The REGULATORY AUTHORITY shall act when it has reasonable cause to believe that a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through FOOD; may be a carrier of infectious agents that cause a disease that is transmissible through FOOD; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(A) Securing a confidential medical history of the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE suspected of transmitting disease or making other investigations as deemed appropriate; and

(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected FOOD EMPLOYEE or CONDITIONAL EMPLOYEE.

#### 8-501.20 Restriction or Exclusion of Food Employee, or Summary Suspension of Permit.

Based on the findings of an investigation related to a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE who is suspected of being infected or diseased, the REGULATORY AUTHORITY may issue an order to the suspected FOOD EMPLOYEE, CONDITIONAL EMPLOYEE or PERMIT HOLDER instituting one or more of the following control measures:

(A) RESTRICTING the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE;

(B) EXCLUDING the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE; or

(C) Closing the FOOD ESTABLISHMENT by summarily suspending a PERMIT to operate in accordance with LAW.

### 8-501.30 Restriction or Exclusion Order: Warning or Hearing Not Required, Information Required in Order.

Based on the findings of the investigation as specified in § 8-501.10 and to control disease transmission, the REGULATORY AUTHORITY may issue an order of RESTRICTION or EXCLUSION to a suspected FOOD EMPLOYEE or the PERMIT HOLDER without prior warning, notice of a hearing, or a hearing if the order:

(A) States the reasons for the RESTRICTION or EXCLUSION that is ordered;

(B) States the evidence that the FOOD EMPLOYEE or PERMIT HOLDER shall provide in order to demonstrate that the reasons for the RESTRICTION or EXCLUSION are eliminated;

(C) States that the suspected FOOD EMPLOYEE or the PERMIT HOLDER may request an appeal hearing by submitting a timely request as provided in LAW; and

(D) Provides the name and address of the REGULATORY AUTHORITY representative to whom a request for an appeal hearing may be made.

### 8-501.40 Removal of Exclusions and Restrictions.

The REGULATORY AUTHORITY shall release a FOOD EMPLOYEE, OR CONDITIONAL EMPLOYEE from RESTRICTION or EXCLUSION according to LAW and the conditions specified under § 2-201.13.

## 8-6 CONSTITUTIONAL PROTECTION

### Subparts


8-601 Procedural Safeguards
8-602 Judicial Review


## Procedural Safeguards

### 8-601.10 Preservation of Rights.

The REGULATORY AUTHORITY shall justly apply the remedies according to LAW and this Code, to preserve the rights to equal protection and due process of a PERSON to whom the remedies are applied.

## Judicial Review

### 8-602.10 Rights of Recipients of Orders or Decisions.

A recipient of a REGULATORY AUTHORITY order or decision may file a petition for judicial review in a court of competent jurisdiction after available administrative appeal remedies are exhausted.

## 8-7 AUTHORITY

Omitted

## 8-8 NOTICES

Subpart

8-801 Service of Notice

### Service of Notice

#### 8-801.10 Proper Methods.

A notice issued in accordance with this Code shall be considered to be properly served if it is served by one of the following methods:

(A) The notice is personally served by the REGULATORY AUTHORITY, a LAW enforcement officer, or a person authorized to serve a civil process to the PERMIT HOLDER, the PERSON IN CHARGE, or PERSON operating a FOOD ESTABLISHMENT without a PERMIT; or

(B) The notice is sent by the REGULATORY AUTHORITY to the last known address of the PERMIT HOLDER or the PERSON operating a FOOD ESTABLISHMENT without a PERMIT, by registered or certified mail or by other public means so that a written acknowledgment of receipt may be acquired.

#### 8-801.20 Restriction or Exclusion Order, Hold Order or Summary Suspension.

An EMPLOYEE RESTRICTION or EXCLUSION order, an order to hold and not distribute FOOD, such as a hold, detention, embargo, or seizure order which is hereinafter referred to as a hold order, or an immediate suspension order shall be:

(A) Served as specified in ¶ 8-801.10(A); or

(B) Clearly posted by the REGULATORY AUTHORITY at a public entrance to the FOOD ESTABLISHMENT and a copy of the notice sent by first class mail to the PERMIT HOLDER or to the owner or custodian of the FOOD, as appropriate.

### 8-801.30 When Notice is Effective.

Service is effective at the time of the notice's receipt or if service is made as specified in ¶ 8-801.20(B), at the time of the notice's posting.

### 8-801.40 Proof of Proper Service.

Proof of proper service may be made by affidavit of the PERSON making service or by admission of the receipt signed by the PERMIT HOLDER, the PERSON operating a FOOD ESTABLISHMENT without a PERMIT to operate, or an authorized agent.

## 8-9 REMEDIES

### Subparts


8-901 Criteria for Seeking Remedies

Administrative

8-902 Inspection Orders
8-903 Holding, Examination, and Destruction of Food
8-904 Summary Permit Suspension
8-905 Hearings Administration
8-906 Omitted
8-907 Rights of Parties and Evidence
8-908 Settlement

Judicial

8-909 Inspection Orders
8-910 Omitted
8-911 Omitted
8-912 Omitted
8-913 Omitted


## Criteria for Seeking Remedies

### 8-901.10 Conditions Warranting Remedy.

The REGULATORY AUTHORITY may seek an administrative or judicial remedy to achieve compliance with the provisions of this Code if a PERSON operating a FOOD ESTABLISHMENT or EMPLOYEE:

(A) Fails to have a valid PERMIT to operate a FOOD ESTABLISHMENT as specified under § 8-301.11;

(B) Violates any term or condition of a PERMIT as specified under § 8-304.11;

(C) Allows repeated violations of the Food Service Sanitation Act, Chapter 25, Article 1 NMSA 1978; the New Mexico Food Act, Chapter 25, Article 2 NMSA 1978; or serious or repeated violations of this Code to reoccur or remain uncorrected beyond time frames

for correction APPROVED, directed, or ordered by the REGULATORY AUTHORITY;

(D) Fails to comply with a REGULATORY AUTHORITY order issued as specified in Section 8-501.20 of this Code concerning an EMPLOYEE or CONDITIONAL EMPLOYEE suspected of having a disease transmissible through FOOD by infected persons ;

(E) Fails to comply with a hold order as specified in § 8-903.10;

(F) Fails to comply with an order issued as a result of a hearing for an administrative remedy as specified in § 8-906.40; or

(G) Fails to comply with an immediate suspension order issued by the REGULATORY AUTHORITY as specified in §§ 8-801.20 and 8-904.10.

### 8-901.201 Permit Suspension and Revocation.

(A) The REGULATORY AUTHORITY may suspend or revoke a PERMIT for reasons specified in § 8-901.10.

(B) The REGULATORY AUTHORITY shall conduct a hearing as specified in Subpart 8-905 prior to suspending or revoking a PERMIT.

(C)The PERMIT HOLDER shall be notified of the hearing at least 7 days prior to the hearing as specified in § 8-905.60.

(D)Failure by the PERMIT HOLDER to appear shall result in immediate suspension or revocation of the PERMIT.

(E) The suspension of a PERMIT shall remain in effect until the conditions leading to the suspension no longer exist and their elimination has been confirmed by the REGULATORY AUTHORITY through re-inspection and other means as appropriate.

(F)A PERMIT shall only be revoked if a PERMIT has previously been suspended.

(G) A PERMIT that has been revoked shall not be considered for reapplication until the PERMIT HOLDER has demonstrated to the satisfaction of the REGULATORY AUTHORITY that the FOOD ESTABLISHMENT will comply with this Code.

## Administrative

### Inspection Orders

#### 8-902.10 Gaining Access to Premises and Records.

**(Note: Adoption of this section provides the basis for Subparagraph 8-402.20(A)(3) and § 8-402.40 and would be cited there.)**

The REGULATORY AUTHORITY may order access for one or more of the following purposes, subject to LAW for gaining access:

(A) If admission to the PREMISES of a FOOD ESTABLISHMENT is denied or other circumstances exist that would justify an inspection order under LAW, to make an inspection including taking photographs;

(B) To examine and sample the FOOD; and

(C) To examine the records on the PREMISES relating to FOOD purchased, received, or used by the FOOD ESTABLISHMENT.

#### 8-902.20 Omitted – Contents of Inspection Order.

### Holding, Examination, and Destruction of Food

#### 8-903.10 Hold Order, Justifying Conditions and Removal of Food.

(A) The REGULATORY AUTHORITY may place a hold order on a FOOD that:

(1) Originated from an un-APPROVED source;

(2) May be unsafe, ADULTERATED, or not honestly presented;

(3) Is not labeled according to LAW, or, if raw MOLLUSCAN SHELLFISH, is not tagged or labeled according to LAW; or

(4) Is otherwise not in compliance with 7.6.2 NMAC.

(B) If the REGULATORY AUTHORITY has reasonable cause to believe that the hold order will be violated, of finds that the order is violated, the REGULATORY AUTHORITY may remove the FOOD that is subject to the order to a place of safekeeping.

### 8-903.20 Hold Order, Warning or Hearing Not Required

(A) The REGULATORY AUTHORITY may issue a hold order to a PERMIT HOLDER or to a PERSON who owns or controls the FOOD, as specified in § 8-903.10, without prior warning, notice of a hearing, or a hearing on the hold order.

(B) If the suspected FOOD has been distributed, the PERMIT HOLDER shall be given the opportunity to RECALL the FOOD voluntarily at the PERMIT HOLDER'S expense.

(C) If the PERMIT HOLDER refuses to RECALL the suspected FOOD, the REGULATORY AUTHORITY may order a mandatory RECALL of the suspected FOOD at the PERMIT HOLDER'S expense.

### 8-903.30 Hold Order, Contents.

The hold order notice shall:

(A) State that FOOD subject to the order may not be used, sold, moved from the FOOD ESTABLISHMENT, or destroyed without a written release of the order from the REGULATORY AUTHORITY;

(B) State the specific reasons for placing the FOOD under the hold order with reference to the applicable provisions of this Code and the HAZARD or adverse effect created by the observed condition;

(C) Completely identify the FOOD subject to the hold order by the common name, the label information, a container description, the quantity, REGULATORY AUTHORITY'S tag or identification information, and location;

(D) State that the PERMIT HOLDER has the right to an appeal hearing and may request a hearing by submitting a timely request as specified in §§ 8-905.10 and 8-905.20;

(E) State that the REGULATORY AUTHORITY may order the destruction of the FOOD if a timely request for an appeal hearing is not received; and

(F) Provide the name and address of the REGULATORY AUTHORITY representative to whom a request for an appeal hearing may be made.

### 8-903.40 Hold Order, Official Tagging of Food.

(A) The REGULATORY AUTHORITY shall securely place an official tag or label on the FOOD or containers or otherwise conspicuously identify FOOD subject to the hold order.

(B) The tag or other method used to identify a FOOD that is the subject of a hold order shall include a summary of the provisions specified in § 8-903.30 and shall be signed and dated by the REGULATORY AUTHORITY.

### 8-903.51 Hold Order, Food May Not Be Used or Moved.

(A) Except as specified in ¶ (B) of this section, a FOOD placed under a hold order may not be used, sold, served, or moved from the establishment by any PERSON.

(B) The REGULATORY AUTHORITY may allow the PERMIT HOLDER the opportunity to store the FOOD in an area of the FOOD ESTABLISHMENT if the FOOD is protected from subsequent deterioration and the storage does not restrict operations of the establishment.

### 8-903.60 Examining, Sampling, and Testing Food.

The REGULATORY AUTHORITY may examine, sample, and test FOOD in order to determine its compliance with the Food Service Sanitation Act, Chapter 25, Article 1 NMSA 1978; the New Mexico Food Act, Chapter 25, Article 2 NMSA 1978; and this Code.

### 8-903.70 Hold Order, Removing the Official Tag.

Only the REGULATORY AUTHORITY may remove hold order tags, labels, or other identification from FOOD subject to a hold order.

### 8-903.80 Destroying or Denaturing Food.

When any FOOD is found, by examination or laboratory analysis, to be in violation of safe health standards, the REGULATORY AUTHORITY may order condemnation and disposal of the product lot, at the expense of the PERMIT HOLDER.

### 8-903.90 Releasing Food from Hold Order.

The REGULATORY AUTHORITY shall issue a notice of release from a hold

order and shall remove hold tags, labels, or other identification from the FOOD if the hold order is vacated.

## Summary Permit Suspension

### 8-904.10 Conditions Warranting Action.

The REGULATORY AUTHORITY may immediately suspend a PERMIT if it determines through inspection, or examination of EMPLOYEE, FOOD records, or other means as specified in this Code, that an IMMINENT HEALTH HAZARD exists.

### 8-904.20 Summary Suspension, Warning or Hearing Not Required.

The REGULATORY AUTHORITY may immediately suspend a PERSON'S PERMIT as specified in § 8-904.10 by providing written notice as specified in § 8-801.20 of the immediate suspension to the PERMIT HOLDER or PERSON IN CHARGE, without prior warning, notice of a hearing, or a hearing.

### 8-904.30 Contents of the Notice.

An immediate suspension notice shall state:

(A) That the FOOD ESTABLISHMENT PERMIT is immediately suspended and that all FOOD operations shall immediately cease;

(B) The reasons for the immediate suspension with reference to the provisions of this Code that are in violation;

(C) The name and address of the REGULATORY AUTHORITY representative to whom a written request for re-inspection may be made and who may certify that reasons for the suspension are eliminated; and

(D) That the PERMIT HOLDER may request an appeal hearing by submitting a timely request as specified in §§ 8-905.10 and 8-905.20.

### 8-904.40 Time Frame for Reinspection.

After receiving a written request from the PERMIT HOLDER stating that the conditions cited in the summary suspension order no longer exist, the REGULATORY AUTHORITY shall conduct a reinspection of the FOOD ESTABLISHMENT for which the PERMIT was summarily suspended within 2 business days, which means 2 days during which the REGULATORY AUTHORITY'S office is open to the public.

### 8-904.50 Term of Suspension, Reinstatement of Permit.

(A) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the REGULATORY AUTHORITY through reinspection and other means as appropriate.

(B) The suspended PERMIT shall be reinstated immediately if the REGULATORY AUTHORITY determines that the public health HAZARD or nuisance no longer exists. A notice of reinstatement shall be provided to the PERMIT HOLDER or PERSON IN CHARGE.

## Hearings Administration

### 8-905.10 Response to Notice of Hearing or Request for Hearing, Basis and Time Frame.

**(Note: Adoption of this section provides the basis for ¶¶ 8-303.30(C) and 8-501.30(C). ¶ 8-905.10(C) would be cited there.)**

(A) A PERMIT applicant may request a hearing regarding the disposition of an application for a new or revised PERMIT if the REGULATORY AUTHORITY does not issue or deny the PERMIT within the time frame specified in this Code.

(B) A PERMIT HOLDER may request a hearing to address concerns about the REGULATORY AUTHORITY'S denial of application for a PERMIT or request for a VARIANCE, or compliance actions, except that a hearing request does not stay the REGULATORY AUTHORITY'S RESTRICTION or EXCLUSION of EMPLOYEES specified in § 8-904.10.

(C) A PERSON desiring a hearing in response to a denial of an application for PERMIT or an adverse administrative determination shall submit a hearing request to the REGULATORY AUTHORITY within 10

calendar days of the date of the denial, inspection, or compliance action.

### 8-905.20 Response to a Notice of Hearing or Request for Hearing, Required Form and Contents.

A request for hearing as specified in § 8-905.10 of this Code shall be in written form and contain the following information:

(A) If a request for hearing:

(1) A statement of the issue of fact specified in ¶ 8-905.30(B) for which the hearing is requested; and

(2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.

(B) If either a response to notice of hearing or a request for a hearing:

(1) A statement indicating whether the presence of witnesses for the REGULATORY AUTHORITY is required; and

(2) The name and address of the respondent's or requestor's legal counsel, if any.

### 8-905.30 Omitted – Provided Upon Request.

### 8-905.40 Omitted – Provided In Accordance with Law.

### 8-905.50 Omitted - Timeliness, Appeal Proceeding Within 5 Business Days, Other Proceeding Within 30 Calendar Days.

### 8-905.60 Notice, Contents.

A notice of hearing shall contain the following information:

(A) Time, date and place of the hearing;

(B) Purpose of the hearing;

(C) The rights of the respondent, including the right to be represented by counsel and to present witnesses and evidence on the respondent's behalf as specified in § 8-907.10; and

(D) The consequences of failing to appear at the hearing.

**8-905.70 Omitted – Proceeding Commences Upon Notification.**

**8-905.80 Omitted – Procedure, Expeditious and Impartial.**

**8-905.90 Omitted – Confidential.**

**8-905.100 Record of Proceeding**.

A complete digital recording of a hearing shall be made and maintained as part of the REGULATORY AUTHORITY'S records.

## Hearing Officer, Purpose Qualifications, Appointment, and Powers

**8-906.10 Omitted – Appointment by Regulatory Authority and Purpose.**

**8-906.20 Omitted – Qualifications.**

**8-906.30 Omitted – Powers, Administration of Hearings.**

**8-906.40 Omitted – Powers, Administration, Remedies.**

## Rights of Parties and Evidence

**8-907.10 Rights of Parties.**

(A) The Rules of Civil Procedure and the Rules of Evidence shall not apply, but a hearing shall be conducted so that all relevant views, arguments, and testimony are amply and fairly presented.

(B) Parties to a hearing may be represented by counsel, examine and cross examine witnesses, and present evidence in support of their position.

**8-907.20 Evidence to be Presented by the Regulatory Authority.**

The REGULATORY AUTHORITY shall present at the hearing its evidence, orders, directives, and reports related to the proposed or appealed administrative remedy.

### 8-907.30 Evident to be Excluded

Evidence shall be EXCLUDED that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of evidentiary privilege.

### 8-907.40 Testimony under Oath.

Testimony of parties and witnesses shall be made under oath or affirmation administered by a duly authorized official.

### 8-907.50 Written Evidence.

Written evidence may be received if it will expedite the hearing without substantial prejudice to a party's interests.

### 8-907.60 Documentary Evidence.

Documentary evidence may be received in the form of a copy or excerpt.

## Settlement

### 8-908.10 Authorization.

The REGULATORY AUTHORITY may settle a case after a notice of hearing is served by providing a respondent with an opportunity to request a settlement before a hearing commences on the matter and by entering into a consent agreement with the respondent.

### 8-908.20 Respondent Acceptance of Consent Agreement Is Waiver of Right to Appeal.

Respondents accepting a consent agreement waive their right to a hearing on the matter.

## Judicial

## Inspection Orders

### 8-909.10 Gaining Access to Premises and Records.

**(Note: Adoption of this section provides the basis for Subparagraph 8-402.20(A)(3) and § 8-402.40 and would be cited there.)**

The REGULATORY AUTHORITY may seek access for one or more of the following purposes, according to LAW for gaining access:

(A) If admission to the PREMISES of a FOOD ESTABLISHMENT, MOBILE FOOD ESTABLISHMENT, TEMPORARY FOOD ESTABLISHMENT, FOOD PROCESSING PLANT, or HOME-BASED FOOD PROCESSING OPERATION is denied or other circumstances exist that would justify an inspection order under LAW, to make an inspection including taking photographs;

(B) To examine and sample the FOOD or other substances found on the PREMISES; and

(C) To examine and copy the records on the PREMISES relating to FOOD as specified under § 8-402.11.

**8-909.20 Omitted – Contents of Court Petition.**

**8-909.30 Omitted – Sworn Statement of Denied Access.**

**8-909.40 Omitted – Contents of an Order.**

**8-909.50 Omitted – Optional Contents of an Order.**

**8-910.10 Omitted – Institution of Proceedings.**

**8-911.10 Omitted – Authorities, Methods, Fines, and Sentences.**

**8-912.10 Omitted – Petitions of Injunction.**

**8-913.10 Omitted – Petitions, Penalties, and Continuing Violations.**

Chapter

# 9 Mobile Food Establishment Requirements

**Chapter 9 is based upon 7.6.2.9 NMAC**

A. In addition to meeting the applicable requirements of Chapters 1-8, with the exception of § 5-203.12, MOBILE FOOD ESTABLISHMENTS shall comply with the requirements specified in this Chapter.

B. The REGULATORY AUTHORITY may impose additional requirements for MOBILE FOOD ESTABLISHMENTS as specified in § 8-102.10. Additional requirements may include, but are not limited to:

(1) Limiting or restricting the number and type of FOOD items to be prepared and served.
(2) Limiting or restricting preparation steps.
(3) Limiting or restricting hours of operation, or hours of operation before returning to a SERVICING AREA.
(4) Require a SERVICING AREA or MOBILE SUPPORT UNIT.

C. The REGULATORY AUTHORITY may modify or waive requirements for MOBILE FOOD ESTABLISHMENTS as specified in §§ 8-103.10 and 8-103.11.

D. MOBILE FOOD ESTABLISHMENTS shall provide the following required information as specified in ¶ 8-201.12(F):

(1) The location of the potable water source;
(2) The location and method of solid and liquid waste disposal; and
(3) The identifying system used to distinguish the permitted unit from others.

E. MOBILE FOOD ESTABLISHMENTS shall have adequate electrical and/or fuel capacity, as determined by the REGULATORY AUTHORITY, to allow proper operation of EQUIPMENT. The electrical and/or fuel source shall be adequately supplied at all times when FOOD temperature control is required.

F. MOBILE FOOD ESTABLISHMENTS shall be operated within 200 feet of toilet facilities as specified in §§ 5-203.11 and 5-203.12 of this Code whenever the unit is stopped to operate for more than a 2 hour period.

G. The operation of MOBILE FOOD ESTABLISHMENTS shall be conducted within the enclosure of the permitted unit. During a single event or celebration, certain operations (e.g., additional covered storage, additional FOOD preparation area, outdoor serving counter) may be conducted outside of the enclosure, when APPROVED. If APPROVED, an additional TEMPORARY FOOD ESTABLISHMENT PERMIT shall be required.

H. MOBILE FOOD ESTABLISHMENTS shall provide only SINGLE-SERVICE ARTICLES for use by CONSUMERS.

I. SELF-CONTAINED MOBILE FOOD ESTABLISHMENT Requirements.

SELF-CONTAINED MOBILE FOOD ESTABLISHMENTS shall:

(1) Meet all of the EQUIPMENT requirements of Chapters 1-8;
(2) Include adequate storage facilities on the unit for all FOOD, EQUIPMENT, UTENSILS, supplies, potable water, and waste water used in the operation of the unit;
(3) Be capable of accomplishing all steps of the operation, including required FOOD preparation and WAREWASHING, within the enclosure of the unit;
(4) Provide, as specified in ¶ 8-201.12(F), how and where the unit will be cleaned and serviced and where it will be stored during non-operating hours; and
(5) Notify the REGULATORY AUTHORITY office of jurisdiction at least 24 hours in advance before operating in a jurisdictional area outside of the permitting office.

J. NON SELF-CONTAINED MOBILE UNIT and PUSHCART Requirements.

(1) NON SELF-CONTAINED MOBILE UNITS and PUSHCARTS shall:
    (a) Provide, as specified in ¶ 8-201.12(F), an agreement between the operator and the SERVICING AREA that includes:
        i. The days and hours the SERVICING AREA will be used,
        ii. The extent of support services to be provided, and
        iii. A copy of the current SERVICING AREA PERMIT.
(2) Prior to discontinuing use of a SERVICING AREA, the operator shall provide a revised agreement as specified in (1) above for a new SERVICING AREA. MOBILE FOOD ESTABLISHMENTS shall not operate prior to the approval of a new SERVICING AREA.
(3) Operate within a reasonable distance, and report at least daily, to the SERVICING AREA for support services.
(4) Notify the REGULATORY AUTHORITY in writing and receive prior approval to operate outside of a reasonable distance of the SERVICING AREA.

K. Additional PUSHCART Requirements:

(1) PUSHCARTS are limited to:

(a) Serving non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS or drinks

(b) Serving individually commercially PACKAGED TIME/TEMPERATURE CONTROL FOR SAFETY FOODS in the original packaging and maintained at proper temperatures, and

(c) Assembling and serving of pre-cooked sausage (e.g., hot dog, bratwurst, frankfurter) with commercially prepared toppings (e.g., chili, sauerkraut, relish).

(2) Pre-preparation, such as washing, slicing, peeling, cutting of FOOD intended for use on a PUSHCART, shall occur at the SERVICING AREA.

(3) FOOD handling shall be conducted under an overhead protective cover.

(4) Grills shall include a protective lid that can be readily closed.

(5) Operators of PUSHCARTS shall ensure the following are contained on, or within, the cart in sufficient supply for daily operation:

(a) FOOD, UTENSILS, SINGLE SERVICE ARTICLE, and cleaning supplies;

(b) HANDWASHING SINK as specified in § 5-202.12 with a minimum of 5 gallons of potable water; and

(c) Wastewater holding tank meeting the requirements of § 5-401.11.

(6) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD served on PUSHCARTS shall not be subsequently cooled and reheated.

(7) Ice chests may be utilized for PACKAGED FOOD provided that they are continuously drained in an APPROVED manner and the FOOD is maintained at temperatures as specified in § 3-202.11.

Chapter

# 10 Temporary Food Establishment Requirements

**Chapter 10 is based upon 7.6.2.10 NMAC**

A. In addition to meeting the applicable requirements of Chapters 1-8, with the exception of § 5-203.12, TEMPORARY FOOD ESTABLISHMENTS shall comply with the requirements specified in this Chapter.

B. The REGULATORY AUTHORITY may impose additional requirements for TEMPORARY FOOD ESTABLISHMENTS as specified in § 8-102.10
   (1) Require FOOD safety training for EMPLOYEES prior to issuing a PERMIT;
   (2) RESTRICT the number and type of FOOD items to be prepared and served;
   (3) RESTRICT preparation steps;
   (4) RESTRICT hours of operation;
   (5) Require a SERVICING AREA for advanced preparation of FOOD.

C. The REGULATORY AUTHORITY may modify or waive requirements for TEMPORARY FOOD ESTABLISHMENTS as specified in §§ 8-103.10 and 8-103.11.

D. TEMPORARY FOOD ESTABLISHMENTS shall:
   (1) Serve only FOOD that has been APPROVED.
   (2) Conduct all FOOD operations within the APPROVED enclosure. TEMPORARY FOOD ESTABLISHMENTS may, after APPROVAL, store and/or prepare FOOD at an offsite FOOD ESTABLISHMENT prior to operation when:
      (a) The FOOD ESTABLISHMENT has adequate EQUIPMENT for the type and volume of FOOD and preparation steps required; and;
      (b) The TEMPORARY FOOD ESTABLISHMENT operator provides to the REGULATORY AUTHORITY a letter of agreement between the operator and the FOOD ESTABLISHMENT that includes:
         i. The days and hours the FOOD ESTABLISHMENTS will be used,
         ii. A list of tasks that will be performed at the FOOD

ESTABLISHMENTS; and

iii. A copy of the current FOOD ESTABLISHMENT PERMIT.

(3) Provide, in writing, to the REGULATORY AUTHORITY for approval the:
   (a) Location of the APPROVED potable water source,
   (b) Location and method of solid waste disposal; and
   (c) Location and method of liquid waste disposal.

(4) Supply a HANDWASHING SINK, located as specified in § 5-204.11, for EMPLOYEE handwashing. At a minimum, a HANDWASHING SINK shall consist of a container with a faucet-type spigot filled with warm water and a catch bucket for the wastewater. The water shall be maintained at a minimum of 100°F as specified in § 5-202.12.

(5) Maintain an adequate supply of liquid soap and single use paper towels at the HANDWASHING SINK at all times.

(6) Provide a WAREWASHING station as specified in § 4-301.12. Extra UTENSILS may be APPROVED in lieu of a WAREWASHING station as specified in Chart 10-1.

(7) Maintain an adequate supply of potable water at all times during operation for tasks such as: handwashing; FOOD preparation; and washing, rinsing, and SANITIZING of surfaces, UTENSILS, and EQUIPMENT. Except as specified in Chart 10-1, auxiliary heating units capable of producing an adequate supply of hot water for such purposes shall be provided.

(8) Provide an adequate supply of ice, as necessary, to maintain TIME/TEMPERATURE CONTROL FOR SAFETY FOOD at temperatures as specified in Subparagraph 3-501.16(A)(2).

(9) Not store PACKAGED FOOD in undrained ice or iced water, except for pressurized containers of non-TIME/TEMPERATURE CONTROL FOR SAFETY FOOD BEVERAGES. The water or ice shall contain at least 10 ppm of available chlorine and shall be changed as necessary to keep the water and container clean. Ice used to store FOOD shall not be used as FOOD.

(10) Not store raw MEAT, POULTRY, FISH, or EGGS in the same ice chests as READY-TO-EAT FOOD when ice chests are APPROVED for use to store FOOD as specified in Chart 10-1.

(11) Transport FOOD at temperatures as specified in § 3-501.16 and protect FOOD from contamination as specified in Part 3-3.

(12) Not carry over previously heated or cooked FOOD from one day to the next. This requirement may be waived for Type 3 TEMPORARY FOOD ESTABLISHMENTS (as identified in Chart 10-1) or for FOOD prepared in advance at an offsite FOOD ESTABLISHMENT.

(13) Operate on a surface that is SMOOTH, EASILY CLEANABLE, and nonabsorbent (e.g., concrete, machine laid asphalt). Grass may be APPROVED as specified in Chart 10-1;

(14) Operate under a weather-resistant covering that is SMOOTH, EASILY CLEANABLE and nonabsorbent to protect the operation from overhead contamination;

(15) Be constructed in a manner that prevents the entrance of insects or other vermin and adequately protects FOOD from CONSUMERS and environmental contamination;

(16) Provide separation (e.g. table) to keep CONSUMERS from entering the FOOD operation;

(17) Provide walls that are SMOOTH, EASILY CLEANABLE, and nonabsorbent. This requirement may be waived when flying insects and other pests are absent due to location, weather, or other limiting conditions. Except as specified in Chart 10-1, walls shall meet the following requirements:

(a) Cover tightly from ceiling to floor,

(b) Use an APPROVED counter-serving opening with tight fitting screened doors or air curtain. Counter-serving openings shall be kept closed, except when in use; and

(c) When APPROVED for use, screening shall be 16 mesh to 1 inch.

(18) In conjunction with the requirements specified in this Chapter, a TEMPORARY FOOD ESTABLISHMENT shall, based upon RISK, be classified as a Type 1, 2 or 3 TEMPORARY FOOD ESTABLISHMENT and meet the corresponding requirements specified in Chart 10-1.

## Chart 10-1

| | Type 1 | Type 2 | Type 3 |
|---|---|---|---|
| Menu | • Unpackaged non-TCS<br>• Commercially processed Packaged TCS in original package (receive-store-hold) | • No Cook (receive-store-minimum prep*-hold-serve)<br>• Same Day Prep (receive-store-minimum prep*-cook-hold-serve)<br>• Reheat Commercially Processed (receive-store-reheat-hold-serve) | • Complex Food Prep (receive-store-prep-cook-cool-reheat-hot hold-serve)<br>• Serving Highly Susceptible Population |
| Handwashing | Gravity Fed<br>• <= 4 hrs – insulated container or auxiliary heating source<br>• > 4 hrs – auxiliary heating source | Same as Type 1 | Hot & cold running water under pressure |
| 3-Compartment Sink | Unpackaged non-TCS<br>• <= 4 hrs – 3-comp or extra Utensils<br>• > 4 hrs – 3-comp required<br>Packaged TCS: not required | Same as Type 1 unpackaged non-TCS | 3-comp required w/ hot & cold running water under pressure |
| Refrigeration | Unpackaged non-TCS: not required<br>Packaged TCS:<br>• <= 1 day – insulated ice chest w/drained ice<br>• 2-3 days – mechanical Equipment<br>• > 3 days – mechanical ANSI Equipment only | Same as Type 1 Packaged TCS | Mechanical ANSI Equipment only |

| | **Type 1** | **Type 2** | **Type 3** |
|---|---|---|---|
| Cold Holding (e.g., prep table, display case) | Unpackaged non-TCS: not required<br>Packaged TCS:<br>• Ice bath<br>• 2-3 days – mechanical Equipment recommended<br>• > 3 days – mechanical ANSI Equipment recom. | Same as Type 1 Packaged TCS | Same as Type 1 Packaged TCS |
| Hot Holding | Not allowed | Covered non-ANSI Equipment allowed** | Covered ANSI Equipment only |
| Cooking/ Reheating | Not allowed | Covered non-ANSI Equipment allowed** | Covered ANSI Equipment only |
| Flooring | Grass; Smooth, durable, Easily Cleanable such as: concrete, machine-laid asphalt, Sealed wood, tile, impermeable tarp | • <= 2 days – same as Type 1<br>• > 2 days – same as Type 1, no grass | • <= 3 days – same as Type 1, no grass<br>• > 3 days – constructed flooring |
| Walls | Unpackaged non-TCS<br>• <= 3 days – no sides, ability to cover solid<br>• > 3 days – 3.5 side screening, ability to cover solid<br>• Packaged TCS: not required | • <= 1 day – no sides, ability to cover solid<br>• 1 to 3 days – 3.5 side screening, ability to cover solid<br>• > 3 days – complete enclosure w/Approved opening | Complete enclosure w/Approved opening |
| Training | As required by Regulatory Authority | As required by Regulatory Authority | Certified FOOD protection manager required |

*Minimum preparation includes activities such as: slicing/cutting fruits and vegetables, opening commercially PACKAGED TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, and seasoning TIME/TEMPERATURE CONTROL FOR SAFETY FOOD. Minimum preparation does not include activities such as: cutting, slicing, or forming raw MEAT, POULTRY, or FISH; assembly of complex menu items.

**Chafing dishes may be allowed for events of 4 hours or less. Insulated ice chests and slow cookers are not allowed for hot holding. Slow cookers are not allowed for heating, cooking, or reheating.

Chapter

# 11 General Food Processing Requirements

**Chapter 11 is based upon 7.6.2.11 NMAC**

7.6.2.11 GENERAL FOOD PROCESSING REQUIREMENTS:

A. Food processing plant permit requirements.

(1) All FOOD PROCESSING PLANTS SHALL comply with all applicable provisions of Chapters 1-8.

(2) No PERSON shall operate a FOOD PROCESSING PLANT without a PERMIT issued by the REGULATORY AUTHORITY.

(3) When a FOOD ESTABLISHMENT has an adjunct/additional FOOD PROCESSING PLANT, each such business may be permitted separately.

(4) Adoption of 21 CFR 117 Subparts A, B, and F. Except as otherwise provided, Subparts A, B, and F of the United States code of federal regulations, title 21, part 117 are hereby adopted and incorporated in their entirety.

(5) Modifications. Except as otherwise provided, the following modifications are made to the incorporated subparts of 21 CFR 117:

(a) 117.301: All records required by this part are subject to all requirements of this subpart;

(b) 117.315(c): Offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location; and

(c) 117.320: All records required by this part must be made promptly available to the REGULATORY AUTHORITY for official review and copying upon oral or written request.

(6) Omissions. The following provisions are omitted from the incorporated subparts of 21 CFR 117:

(a) 117.1;

(b) 117.5;

(c) 117.7;

(d) 117.8;

(e) 117.310;
(f) 117.315(d);
(g) 117.325; and
(h) 117.335.

B. Sale of adulterated or misbranded food.
(1) No PERSON shall sell or offer, or expose for sale, or have in possession with intent to sell, any processed and PACKAGED FOOD product that is ADULTERATED or MISBRANDED.
(2) ADULTERATED or MISBRANDED FOOD products shall be reconditioned, condemned or destroyed in accordance with Section 25-2-6 NMSA 1978.

C. Labeling requirements.
(1) All PACKAGED FOOD shall be labeled in accordance with the applicable requirements of the Federal Food, Drug and Cosmetic Act as amended, the Fair Packaging and Labeling Act, regulations developed thereunder, and the New Mexico Food Act. Details concerning type, size and location of required labels are contained in FDA regulations covering the requirements of the federal acts (Code of Federal Regulation, Title 21, Part 101.)
(2) At least the following information shall appear on the label of any PACKAGED FOOD:
(a) the name, street address, city, state and zip code of either the manufacturer, packer, or distributor;
(b) an accurate statement of the net amount of FOOD in the package, in terms of weight measure, volume measure (listed in both “English” and metric units) or numerical count;
(c) the common or usual name of the FOOD contained in the package; and
(d) ingredients of the FOOD, listed by their common names, in order of their predominance by weight.
(3) If the label of a FOOD bears representation in a foreign language, the label must bear all the required statements in the foreign language, as well as in English. This requirement does not apply to Spanish names that are commonly used in New Mexico.
(4) Any FOOD product that does not comply with all applicable labeling requirements shall be deemed to be MISBRANDED.

D. Standards of identity.
(1) STANDARDS OF IDENTITY define what a given FOOD product is, its name and the ingredients that must be used, or are allowed to be used, and

the ones that must be declared on the label. FDA FOOD standards govern both labeling and composition of such FOODS, and must be consulted for detailed specifications. The standards are published in the annual editions of the Code of Federal Regulations (CFR), Title 21, Parts 103 through 169.

(2) Any FOOD product that is represented as, or purports to be, a FOOD for which a STANDARD OF IDENTITY has been promulgated, must comply with the specifications of the standard in every respect. A FOOD product that does not comply fully with the applicable standard is MISBRANDED, unless its label bears the word "imitation" or meets the descriptive label requirements in the CFR, Title 21, Part 101.

E. Low acid canned foods and acidified foods.

(1) All processors of LOW ACID canned FOODS or FOODS that have been ACIDIFIED must comply with specific federal regulations contained in the CFR, Title 21, Parts 108, 113, and 114.

(2) All processors of LOW ACID canned FOODS and ACIDIFIED FOODS are required by federal regulation to register their FOOD PROCESSING PLANTS and file processing information for all products with the FDA using appropriate forms.

(3) Any LOW ACID canned FOOD product that does not comply with the federal requirements will be considered ADULTERATED.

F. Operational plans.

(1) FOOD PROCESSING PLANTS shall, at the time of application for a PERMIT for review and acceptance by the REGULATORY AUTHORITY, provide the following information for the product(s) to be manufactured and distributed:

(a) names of the ingredient(s);
(b) the final product PH if appropriate;
(c) the final product water activity ($A_W$) if appropriate;
(d) names of preservative(s);
(e) the type of packaging to be used and whether the packaging is integral to product stability (e.g. the vacuum packing of fresh meat); and
(f) the complete operational procedure for product formulation, using a flow chart to show at what stage(s) each ingredient is added.

(2) FOOD PROCESSING PLANTS shall, at the time of application for a PERMIT for review and acceptance by the REGULATORY AUTHORITY, provide the following information about product distribution:

(a) the intended distribution and use condition of the product;

(b) if the product is to be distributed at ambient, refrigerated or frozen temperature;
(c) the expected shelf life during distribution, retail storage, and in the hands of the ultimate CONSUMER;
(d) how the product should be prepared for consumption; and
(e) what mishandling of the product might occur in the merchandising channels or in the hands of the CONSUMER.

(3) FOOD PROCESSING PLANTS shall, at the time of application for a PERMIT for review and acceptance by the REGULATORY AUTHORITY, state the intended process (cooking time and temperatures). This information may be included in the flow chart required in Subparagraph (f) of Paragraph (1) of Subsection F of 7.6.2.11 NMAC. Consideration must be given to those steps that lead to the destruction or inhibition of disease causing or spoilage organisms if done properly, or the growth of such organisms if done improperly.

(4) FOOD PROCESSING PLANTS SHALL, at the time of application for a PERMIT for review and acceptance by the REGULATORY AUTHORITY, submit product labels that comply with all requirements of Subsection C of 7.6.2.11 NMAC.

(5) Prior to adding any new product to the product line, or changing the manufacturing process or product distribution for any existing product in the product line, the FOOD processor shall provide to the REGULATORY AUTHORITY:
(a) for each new product, the same information as specified for the initial application in Paragraphs (1), (2), (3) and (4) of Subsection F of 7.6.2.11 NMAC; and
(b) for each existing product for which a change will be made in the manufacturing process or product distribution, the applicable changes to the information previously submitted pursuant to Paragraphs (1), (2), (3) and (4) of Subsection F of 7.6.2.11 NMAC.

(6) All FOOD PROCESSING PLANTS shall design, maintain and use a coding system that will identify the date and place of manufacture of each product on the product label, or securely affixed to the body of the container. A description of the proposed coding system shall be included in the application.

(7) The REGULATORY AUTHORITY may require that the FOOD PROCESSING PLANT'S processes be reviewed by a competent PROCESS AUTHORITY to approve all critical factors of public health significance as defined in the CFR, Title 21, Sections 114.83 and 114.89.

(8) In lieu of a PROCESS AUTHORITY, the REGULATORY AUTHORITY may accept those processes which comply with Paragraphs (1) and (2) of Subsection E of 7.6.2.11 NMAC.

(9) RECALL procedures shall be prepared and must be on file at the FOOD PROCESSING PLANT. Procedures shall include plans for recalling products which may be injurious to human health; for identifying products which may be injurious to human health; for identifying, collecting, warehousing, and controlling products; for determining the effectiveness of RECALLS; for notifying the REGULATORY AUTHORITY, FDA, and United States department of agriculture (USDA) of any recalls; and for implementing RECALL programs.

(10) Whenever the REGULATORY AUTHORITY finds or has probable cause to believe that any FOOD PROCESSING PLANT'S product fails to meet standards or is ADULTERATED with any substance that may be injurious to human health, the suspected lot of product shall be embargoed or detained at the FOOD PROCESSING PLANT, if not yet distributed to CONSUMERS or retail outlets, until a determination of ultimate disposition is made.

(11) If the suspected lot has been distributed, the FOOD PROCESSING PLANT shall be given the opportunity to RECALL the product voluntarily at the processor's expense.

(12) If a FOOD PROCESSING PLANT refuses to conduct a voluntary RECALL, the secretary of the New Mexico environment department may order a mandatory RECALL of the suspected product lot at the processor's expense.

(13) When any FOOD product is found, by examination or laboratory analysis, to be in violation of the standards of Subsections B, D or E, of 7.6.2.11 NMAC, the secretary of the New Mexico environment department may order condemnation and disposal of the product lot at the FOOD PROCESSING PLANT'S expense.

G. Compliance with accepted operational procedures.

(1) A copy of the accepted process and procedures shall be on file at the FOOD PROCESSING PLANT. It shall be available for review by the REGULATORY AUTHORITY at all times. A FOOD PROCESSING PLANT shall not deviate from the accepted process and operational procedures without written consent of the REGULATORY AUTHORITY.

(2) Samples of ingredients, materials obtained from selected points during the course of processing or handling, and final products shall be examined for pathogenic microorganisms as often as necessary for quality assurance. FOOD products may also be tested for organisms

that are indicative of the possible presence of pathogens or for specific spoilage organisms. The secretary of the New Mexico environment department may request that certain FOODS be examined for specific pathogenic microorganisms or their toxins.

(3) Routine inspections of facilities, EQUIPMENT and operations will be conducted as specified in this section. In addition, HACCP evaluations will be conducted by the REGULATORY AUTHORITY or the FOOD PROCESSING PLANT as needed to identify HAZARDS, CRITICAL CONTROL POINTS, and daily MONITORING requirements.

# 21 CFR 117 as adopted in 7.6.2 NMAC

***The following outlines the adopted, modified, and omitted portions of 21 CFR 117 in an easier to read format. This is not the official version of 21 CFR 117. If a discrepancy between this and 21 CFR 117 is discovered, the requirements of 21 CFR 117 as adopted, modified, and omitted in 7.6.2 NMAC shall apply.***

[Code of Federal Regulations]
[Title 21, Volume 2]
[Revised as of April 1, 2018]
[CITE: 21CFR117]

TITLE 21--FOOD AND DRUGS
CHAPTER I--FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
SUBCHAPTER B--FOOD FOR HUMAN CONSUMPTION

PART 117 CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR HUMAN FOOD

**Subpart A--General Provisions**

Sec. 117.1 Applicability and status. – **Omitted**

**Sec. 117.3 Definitions.**

The definitions and interpretations of terms in section 201 of the Federal Food, Drug, and Cosmetic Act apply to such terms when used in this part. The following definitions also apply:

Acid foods or acidified foods means foods that have an equilibrium pH of 4.6 or below.

Adequate means that which is needed to accomplish the intended purpose in keeping with good public health practice.

Affiliate means any facility that controls, is controlled by, or is under common control with another facility.

Allergen cross-contact means the unintentional incorporation of a food allergen into a food.

Audit means the systematic, independent, and documented examination (through observation, investigation, records review, discussions with employees of the audited entity, and, as appropriate, sampling and laboratory analysis) to assess an audited entity's food safety processes and procedures.

Batter means a semifluid substance, usually composed of flour and other ingredients, into which principal components of food are dipped or with which they are coated, or which may be used directly to form bakery foods.

Blanching, except for tree nuts and peanuts, means a prepackaging heat treatment of foodstuffs for an adequate time and at an adequate temperature to partially or completely inactivate the naturally occurring enzymes and to effect other physical or biochemical changes in the food.

Calendar day means every day shown on the calendar.

Correction means an action to identify and correct a problem that occurred during the production of food, without other actions associated with a corrective action procedure (such as actions to reduce the likelihood that the problem will recur, evaluate all affected food for safety, and prevent affected food from entering commerce).

Critical control point means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

Defect action level means a level of a non-hazardous, naturally occurring, unavoidable defect at which FDA may regard a food product "adulterated" and subject to enforcement action under section 402(a)(3) of the Federal Food, Drug, and Cosmetic Act.

Environmental pathogen means a pathogen capable of surviving and persisting within the manufacturing, processing, packing, or holding environment such that food may be contaminated and may result in foodborne illness if that food is consumed without treatment to significantly minimize the environmental pathogen. Examples of environmental pathogens for the purposes of this part include Listeria monocytogenes and

Salmonella spp. but do not include the spores of pathogenic sporeforming bacteria.

Facility means a domestic facility or a foreign facility that is required to register under section 415 of the Federal Food, Drug, and Cosmetic Act, in accordance with the requirements of part 1, subpart H of this chapter.

Farm means farm as defined in 1.227 of this chapter.

FDA means the Food and Drug Administration.

Food means food as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act and includes raw materials and ingredients.

Food allergen means a major food allergen as defined in section 201(qq) of the Federal Food, Drug, and Cosmetic Act.

Food-contact surfaces are those surfaces that contact human food and those surfaces from which drainage, or other transfer, onto the food or onto surfaces that contact the food ordinarily occurs during the normal course of operations. "Food-contact surfaces" includes utensils and food-contact surfaces of equipment.

Full-time equivalent employee is a term used to represent the number of employees of a business entity for the purpose of determining whether the business qualifies for the small business exemption. The number of full-time equivalent employees is determined by dividing the total number of hours of salary or wages paid directly to employees of the business entity and of all of its affiliates and subsidiaries by the number of hours of work in 1 year, 2,080 hours (i.e., 40 hours * 52 weeks). If the result is not a whole number, round down to the next lowest whole number.

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (e.g., foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

Hazard means any biological, chemical (including radiological), or physical agent that has the potential to cause illness or injury.

Hazard requiring a preventive control means a known or reasonably foreseeable hazard for which a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would, based on the outcome of a hazard analysis (which includes an assessment of the severity of the illness or injury if the hazard were to occur and the probability that the hazard will occur in the absence of preventive controls), establish one or more preventive controls to significantly minimize or prevent the hazard in a food and components to manage those controls (such as monitoring, corrections or corrective actions, verification, and records) as appropriate to the food, the facility, and the nature of the preventive control and its role in the facility's food safety system.

Holding means storage of food and also includes activities performed incidental to storage of a food (e.g., activities performed for the safe or effective storage of that food, such as fumigating food during storage, and drying/dehydrating raw agricultural commodities when the drying/dehydrating does not create a distinct commodity (such as drying/dehydrating hay or alfalfa)). Holding also includes activities performed as a practical necessity for the distribution of that food (such as blending of the same raw agricultural commodity and breaking down pallets), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Holding facilities could include warehouses, cold storage facilities, storage silos, grain elevators, and liquid storage tanks.

Known or reasonably foreseeable hazard means a biological, chemical (including radiological), or physical hazard that is known to be, or has the potential to be, associated with the facility or the food.

Lot means the food produced during a period of time and identified by an establishment's specific code.

Manufacturing/processing means making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients. Examples of manufacturing/processing activities include: Baking, boiling, bottling, canning, cooking, cooling, cutting, distilling, drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), evaporating, eviscerating, extracting juice, formulating, freezing, grinding, homogenizing, irradiating, labeling, milling, mixing, packaging (including modified atmosphere packaging), pasteurizing, peeling, rendering, treating to manipulate ripening, trimming, washing, or waxing. For farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing,

or holding.

Microorganisms means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are pathogens. The term "undesirable microorganisms" includes those microorganisms that are pathogens, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated.

Mixed-type facility means an establishment that engages in both activities that are exempt from registration under section 415 of the Federal Food, Drug, and Cosmetic Act and activities that require the establishment to be registered. An example of such a facility is a "farm mixed-type facility," which is an establishment that is a farm, but also conducts activities outside the farm definition that require the establishment to be registered.

Monitor means to conduct a planned sequence of observations or measurements to assess whether control measures are operating as intended.

Packing means placing food into a container other than packaging the food and also includes re-packing and activities performed incidental to packing or re-packing a food (e.g., activities performed for the safe or effective packing or re-packing of that food (such as sorting, culling, grading, and weighing or conveying incidental to packing or re-packing)), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act.

Pathogen means a microorganism of public health significance.

Pest refers to any objectionable animals or insects including birds, rodents, flies, and larvae.

Plant means the building or structure or parts thereof, used for or in connection with the manufacturing, processing, packing, or holding of human food.

Preventive controls means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis.

Preventive controls qualified individual means a qualified individual who has successfully completed training in the development and application of risk-based preventive controls at

least equivalent to that received under a standardized curriculum recognized as adequate by FDA or is otherwise qualified through job experience to develop and apply a food safety system.

Qualified auditor means a person who is a qualified individual as defined in this part and has technical expertise obtained through education, training, or experience (or a combination thereof) necessary to perform the auditing function as required by 117.180(c)(2). Examples of potential qualified auditors include:

(1) A government employee, including a foreign government employee; and

(2) An audit agent of a certification body that is accredited in accordance with regulations in part 1, subpart M of this chapter.

Qualified end-user, with respect to a food, means the consumer of the food (where the term consumer does not include a business); or a restaurant or retail food establishment (as those terms are defined in 1.227 of this chapter) that:

(1) Is located:

(i) In the same State or the same Indian reservation as the qualified facility that sold the food to such restaurant or establishment; or

(ii) Not more than 275 miles from such facility; and

(2) Is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

Qualified facility means (when including the sales by any subsidiary; affiliate; or subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate) a facility that is a very small business as defined in this part, or a facility to which both of the following apply:

(1) During the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed or held at such facility that is sold directly to qualified end-users (as defined in this part) during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers; and

(2) The average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation.

Qualified facility exemption means an exemption applicable to a qualified facility under 117.5(a).

Qualified individual means a person who has the education, training, or experience (or a combination thereof) necessary to manufacture, process, pack, or hold clean and safe food as appropriate to the individual's assigned duties. A qualified individual may be, but is not required to be, an employee of the establishment.

Quality control operation means a planned and systematic procedure for taking all actions necessary to prevent food from being adulterated.

Raw agricultural commodity has the meaning given in section 201(r) of the Federal Food, Drug, and Cosmetic Act.

Ready-to-eat food (RTE food) means any food that is normally eaten in its raw state or any other food, including a processed food, for which it is reasonably foreseeable that the food will be eaten without further processing that would significantly minimize biological hazards.

Receiving facility means a facility that is subject to subparts C and G of this part and that manufactures/processes a raw material or other ingredient that it receives from a supplier.

Rework means clean, unadulterated food that has been removed from processing for reasons other than insanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as food.

Safe-moisture level is a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished product under the intended conditions of manufacturing, processing, packing, and holding. The safe moisture level for a food is related to its water activity (aw). An aw will be considered safe for a food if adequate data are available that demonstrate that the food at or below the given aw will not support the growth of undesirable microorganisms.

Sanitize means to adequately treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

Significantly minimize means to reduce to an acceptable level, including to eliminate.

Small business means, for purposes of this part, a business (including any subsidiaries and affiliates) employing fewer than 500 full-time equivalent employees.

Subsidiary means any company which is owned or controlled directly or indirectly by another company.

Supplier means the establishment that manufactures/processes the food, raises the animal, or grows the food that is provided to a receiving facility without further manufacturing/processing by another establishment, except for further manufacturing/processing that consists solely of the addition of labeling or similar activity of a de minimis nature.

Supply-chain-applied control means a preventive control for a hazard in a raw material or other ingredient when the hazard in the raw material or other ingredient is controlled before its receipt.

Unexposed packaged food means packaged food that is not exposed to the environment.

Validation means obtaining and evaluating scientific and technical evidence that a control measure, combination of control measures, or the food safety plan as a whole, when properly implemented, is capable of effectively controlling the identified hazards.

Verification means the application of methods, procedures, tests and other evaluations, in addition to monitoring, to determine whether a control measure or combination of control measures is or has been operating as intended and to establish the validity of the food safety plan.

Very small business means, for purposes of this part, a business (including any subsidiaries and affiliates) averaging less than $1,000,000, adjusted for inflation, per year, during the 3-year period preceding the applicable calendar year in sales of human food plus the market value of human food manufactured, processed, packed, or held without sale (e.g., held for a fee).

Water activity (aw) is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Written procedures for receiving raw materials and other ingredients means written procedures to ensure that raw materials and other ingredients are received only from suppliers approved by the receiving facility (or, when necessary and appropriate, on a temporary basis from unapproved suppliers whose raw materials or other ingredients are subjected to adequate verification activities before acceptance for use).

You means, for purposes of this part, the owner, operator, or agent in charge of a facility.

[80 FR 56145, Sept. 17, 2015, as amended at 81 FR 3715, Jan. 22, 2016]

**Sec. 117.4 Qualifications of individuals who manufacture, process, pack, or hold food.**

(a) Applicability. (1) The management of an establishment must ensure that all individuals who manufacture, process, pack, or hold food subject to subparts B and F of this part are qualified to perform their assigned duties.

(2) The owner, operator, or agent in charge of a facility must ensure that all individuals who manufacture, process, pack, or hold food subject to subpart C, D, E, F, or G of this part are qualified to perform their assigned duties.

(b) Qualifications of all individuals engaged in manufacturing, processing, packing, or holding food. Each individual engaged in manufacturing, processing, packing, or holding food (including temporary and seasonal personnel) or in the supervision thereof must:

(1) Be a qualified individual as that term is defined in 117.3--i.e., have the education, training, or experience (or a combination thereof) necessary to manufacture, process, pack, or hold clean and safe food as appropriate to the individual's assigned duties; and

(2) Receive training in the principles of food hygiene and food safety, including the importance of employee health and personal hygiene, as appropriate to the food, the facility and the individual's assigned duties.

(c) Additional qualifications of supervisory personnel. Responsibility for ensuring compliance by individuals with the requirements of this part must be clearly assigned to supervisory personnel who have the education, training, or experience (or a combination thereof) necessary to supervise the production of clean and safe food.

(d) Records. Records that document training required by paragraph (b)(2) of this section must be established and maintained.

Sec. 117.5 Exemptions. – **Omitted**

Sec. 117.7 Applicability of subparts C, D, and G of this part to a facility solely engaged in the storage of unexposed packaged food. – **Omitted**

Sec. 117.8 Applicability of subpart B of this part to the off-farm packing and holding of raw agricultural commodities. – **Omitted**

**Sec. 117.9 Records required for this subpart.**

(a) Records that document training required by 117.4(b)(2) must be established and maintained.

(b) The records that must be established and maintained are subject to the requirements of subpart F of this part.

**Subpart B--Current Good Manufacturing Practice**

**Sec. 117.10 Personnel.**

The management of the establishment must take reasonable measures and precautions to ensure the following:

(a) Disease control. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which there is a reasonable possibility of food, food-contact surfaces, or food-packaging materials becoming contaminated, must be excluded from any operations which may be expected to result in such contamination until the condition is corrected, unless conditions such as open lesions, boils, and infected wounds are adequately covered (e.g., by an impermeable cover). Personnel must be instructed to report such health conditions to their supervisors.

(b) Cleanliness. All persons working in direct contact with food, food-contact surfaces, and food-packaging materials must conform to hygienic practices while on duty to the extent necessary to protect against allergen cross-contact and against contamination of food. The methods for maintaining cleanliness include:

(1) Wearing outer garments suitable to the operation in a manner that protects against allergen cross-contact and against the contamination of food, food-contact surfaces, or food-packaging materials.

(2) Maintaining adequate personal cleanliness.

(3) Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

(4) Removing all unsecured jewelry and other objects that might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during

periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the food, food-contact surfaces, or food-packaging materials.

(5) Maintaining gloves, if they are used in food handling, in an intact, clean, and sanitary condition.

(6) Wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints.

(7) Storing clothing or other personal belongings in areas other than where food is exposed or where equipment or utensils are washed.

(8) Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco.

(9) Taking any other necessary precautions to protect against allergen cross-contact and against contamination of food, food-contact surfaces, or food-packaging materials with microorganisms or foreign substances (including perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin).

**Sec. 117.20 Plant and grounds.**

(a) Grounds. The grounds about a food plant under the control of the operator must be kept in a condition that will protect against the contamination of food. The methods for adequate maintenance of grounds must include:

(1) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant that may constitute an attractant, breeding place, or harborage for pests.

(2) Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed.

(3) Adequately draining areas that may contribute contamination to food by seepage, foot-borne filth, or providing a breeding place for pests.

(4) Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed.

(5) If the plant grounds are bordered by grounds not under the operator's control and not maintained in the manner described in paragraphs (a)(1) through (4) of this section, care must be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of food contamination.

(b) Plant construction and design. The plant must be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-production purposes (i.e., manufacturing, processing, packing, and holding). The plant must:

(1) Provide adequate space for such placement of equipment and storage of materials as is necessary for maintenance, sanitary operations, and the production of safe food.

(2) Permit the taking of adequate precautions to reduce the potential for allergen cross-contact and for contamination of food, food-contact surfaces, or food-packaging materials with microorganisms, chemicals, filth, and other extraneous material. The potential for allergen cross-contact and for contamination may be reduced by adequate food safety controls and operating practices or effective design, including the separation of operations in which allergen cross-contact and contamination are likely to occur, by one or more of the following means: location, time, partition, air flow systems, dust control systems, enclosed systems, or other effective means.

(3) Permit the taking of adequate precautions to protect food in installed outdoor bulk vessels by any effective means, including:

(i) Using protective coverings.

(ii) Controlling areas over and around the vessels to eliminate harborages for pests.

(iii) Checking on a regular basis for pests and pest infestation.

(iv) Skimming fermentation vessels, as necessary.

(4) Be constructed in such a manner that floors, walls, and ceilings may be adequately cleaned and kept clean and kept in good repair; that drip or condensate from fixtures, ducts and pipes does not contaminate food, food-contact surfaces, or food-packaging materials; and that aisles or working spaces are provided between equipment and walls and are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating food, food-contact surfaces, or food-packaging materials with clothing or personal contact.

(5) Provide adequate lighting in hand-washing areas, dressing and locker rooms, and toilet rooms and in all areas where food is examined, manufactured, processed, packed, or held

and where equipment or utensils are cleaned; and provide shatter-resistant light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or otherwise protect against food contamination in case of glass breakage.

(6) Provide adequate ventilation or control equipment to minimize dust, odors and vapors (including steam and noxious fumes) in areas where they may cause allergen cross-contact or contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for allergen cross-contact and for contaminating food, food-packaging materials, and food-contact surfaces.

(7) Provide, where necessary, adequate screening or other protection against pests.

**Sec. 117.35 Sanitary operations.**

(a) General maintenance. Buildings, fixtures, and other physical facilities of the plant must be maintained in a clean and sanitary condition and must be kept in repair adequate to prevent food from becoming adulterated. Cleaning and sanitizing of utensils and equipment must be conducted in a manner that protects against allergen cross-contact and against contamination of food, food-contact surfaces, or food-packaging materials.

(b) Substances used in cleaning and sanitizing; storage of toxic materials. (1) Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures must be free from undesirable microorganisms and must be safe and adequate under the conditions of use. Compliance with this requirement must be verified by any effective means, including purchase of these substances under a letter of guarantee or certification or examination of these substances for contamination. Only the following toxic materials may be used or stored in a plant where food is processed or exposed:

(i) Those required to maintain clean and sanitary conditions;

(ii) Those necessary for use in laboratory testing procedures;

(iii) Those necessary for plant and equipment maintenance and operation; and

(iv) Those necessary for use in the plant's operations.

(2) Toxic cleaning compounds, sanitizing agents, and pesticide chemicals must be identified, held, and stored in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials.

(c) Pest control. Pests must not be allowed in any area of a food plant. Guard, guide, or pest-detecting dogs may be allowed in some areas of a plant if the presence of the dogs is

unlikely to result in contamination of food, food-contact surfaces, or food-packaging materials. Effective measures must be taken to exclude pests from the manufacturing, processing, packing, and holding areas and to protect against the contamination of food on the premises by pests. The use of pesticides to control pests in the plant is permitted only under precautions and restrictions that will protect against the contamination of food, food-contact surfaces, and food-packaging materials.

(d) Sanitation of food-contact surfaces. All food-contact surfaces, including utensils and food-contact surfaces of equipment, must be cleaned as frequently as necessary to protect against allergen cross-contact and against contamination of food.

(1) Food-contact surfaces used for manufacturing/processing, packing, or holding low-moisture food must be in a clean, dry, sanitary condition before use. When the surfaces are wet-cleaned, they must, when necessary, be sanitized and thoroughly dried before subsequent use.

(2) In wet processing, when cleaning is necessary to protect against allergen cross-contact or the introduction of microorganisms into food, all food-contact surfaces must be cleaned and sanitized before use and after any interruption during which the food-contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the utensils and food-contact surfaces of the equipment must be cleaned and sanitized as necessary.

(3) Single-service articles (such as utensils intended for one-time use, paper cups, and paper towels) must be stored, handled, and disposed of in a manner that protects against allergen cross-contact and against contamination of food, food-contact surfaces, or food-packaging materials.

(e) Sanitation of non-food-contact surfaces. Non-food-contact surfaces of equipment used in the operation of a food plant must be cleaned in a manner and as frequently as necessary to protect against allergen cross-contact and against contamination of food, food-contact surfaces, and food-packaging materials.

(f) Storage and handling of cleaned portable equipment and utensils. Cleaned and sanitized portable equipment with food-contact surfaces and utensils must be stored in a location and manner that protects food-contact surfaces from allergen cross-contact and from contamination.

**Sec. 117.37 Sanitary facilities and controls.**

Each plant must be equipped with adequate sanitary facilities and accommodations including:

(a) Water supply. The water supply must be adequate for the operations intended and must be derived from an adequate source. Any water that contacts food, food-contact surfaces, or food-packaging materials must be safe and of adequate sanitary quality. Running water at a suitable temperature, and under pressure as needed, must be provided in all areas where required for the processing of food, for the cleaning of equipment, utensils, and food-packaging materials, or for employee sanitary facilities.

(b) Plumbing. Plumbing must be of adequate size and design and adequately installed and maintained to:

(1) Carry adequate quantities of water to required locations throughout the plant.

(2) Properly convey sewage and liquid disposable waste from the plant.

(3) Avoid constituting a source of contamination to food, water supplies, equipment, or utensils or creating an unsanitary condition.

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(5) Provide that there is not backflow from, or cross-connection between, piping systems that discharge waste water or sewage and piping systems that carry water for food or food manufacturing.

(c) Sewage disposal. Sewage must be disposed of into an adequate sewerage system or disposed of through other adequate means.

(d) Toilet facilities. Each plant must provide employees with adequate, readily accessible toilet facilities. Toilet facilities must be kept clean and must not be a potential source of contamination of food, food-contact surfaces, or food-packaging materials.

(e) Hand-washing facilities. Each plant must provide hand-washing facilities designed to ensure that an employee's hands are not a source of contamination of food, food-contact surfaces, or food-packaging materials, by providing facilities that are adequate, convenient, and furnish running water at a suitable temperature.

(f) Rubbish and offal disposal. Rubbish and any offal must be so conveyed, stored, and disposed of as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pests, and protect against contamination of food, food-contact surfaces, food-packaging materials, water supplies,

and ground surfaces.

Sec. 117.40 Equipment and utensils.
(a)(1) All plant equipment and utensils used in manufacturing, processing, packing, or holding food must be so designed and of such material and workmanship as to be adequately cleanable, and must be adequately maintained to protect against allergen cross-contact and contamination.

(2) Equipment and utensils must be designed, constructed, and used appropriately to avoid the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(3) Equipment must be installed so as to facilitate the cleaning and maintenance of the equipment and of adjacent spaces.

(4) Food-contact surfaces must be corrosion-resistant when in contact with food.

(5) Food-contact surfaces must be made of nontoxic materials and designed to withstand the environment of their intended use and the action of food, and, if applicable, cleaning compounds, sanitizing agents, and cleaning procedures.

(6) Food-contact surfaces must be maintained to protect food from allergen cross-contact and from being contaminated by any source, including unlawful indirect food additives.

(b) Seams on food-contact surfaces must be smoothly bonded or maintained so as to minimize accumulation of food particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms and allergen cross-contact.

(c) Equipment that is in areas where food is manufactured, processed, packed, or held and that does not come into contact with food must be so constructed that it can be kept in a clean and sanitary condition.

(d) Holding, conveying, and manufacturing systems, including gravimetric, pneumatic, closed, and automated systems, must be of a design and construction that enables them to be maintained in an appropriate clean and sanitary condition.

(e) Each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms must be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment.

(f) Instruments and controls used for measuring, regulating, or recording temperatures, pH,

acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in food must be accurate and precise and adequately maintained, and adequate in number for their designated uses.

(g) Compressed air or other gases mechanically introduced into food or used to clean food-contact surfaces or equipment must be treated in such a way that food is not contaminated with unlawful indirect food additives.

**Sec. 117.80 Processes and controls.**

(a) General. (1) All operations in the manufacturing, processing, packing, and holding of food (including operations directed to receiving, inspecting, transporting, and segregating) must be conducted in accordance with adequate sanitation principles.

(2) Appropriate quality control operations must be employed to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable.

(3) Overall sanitation of the plant must be under the supervision of one or more competent individuals assigned responsibility for this function.

(4) Adequate precautions must be taken to ensure that production procedures do not contribute to allergen cross-contact and to contamination from any source.

(5) Chemical, microbial, or extraneous-material testing procedures must be used where necessary to identify sanitation failures or possible allergen cross-contact and food contamination.

(6) All food that has become contaminated to the extent that it is adulterated must be rejected, or if appropriate, treated or processed to eliminate the contamination.

(b) Raw materials and other ingredients. (1) Raw materials and other ingredients must be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into food and must be stored under conditions that will protect against allergen cross-contact and against contamination and minimize deterioration. Raw materials must be washed or cleaned as necessary to remove soil or other contamination. Water used for washing, rinsing, or conveying food must be safe and of adequate sanitary quality. Water may be reused for washing, rinsing, or conveying food if it does not cause allergen cross-contact or increase the level of contamination of the food.

(2) Raw materials and other ingredients must either not contain levels of microorganisms that may render the food injurious to the health of humans, or they must be pasteurized or

otherwise treated during manufacturing operations so that they no longer contain levels that would cause the product to be adulterated.

(3) Raw materials and other ingredients susceptible to contamination with aflatoxin or other natural toxins must comply with FDA regulations for poisonous or deleterious substances before these raw materials or other ingredients are incorporated into finished food.

(4) Raw materials, other ingredients, and rework susceptible to contamination with pests, undesirable microorganisms, or extraneous material must comply with applicable FDA regulations for natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing food.

(5) Raw materials, other ingredients, and rework must be held in bulk, or in containers designed and constructed so as to protect against allergen cross-contact and against contamination and must be held at such temperature and relative humidity and in such a manner as to prevent the food from becoming adulterated. Material scheduled for rework must be identified as such.

(6) Frozen raw materials and other ingredients must be kept frozen. If thawing is required prior to use, it must be done in a manner that prevents the raw materials and other ingredients from becoming adulterated.

(7) Liquid or dry raw materials and other ingredients received and stored in bulk form must be held in a manner that protects against allergen cross-contact and against contamination.

(8) Raw materials and other ingredients that are food allergens, and rework that contains food allergens, must be identified and held in a manner that prevents allergen cross-contact.

(c) Manufacturing operations. (1) Equipment and utensils and food containers must be maintained in an adequate condition through appropriate cleaning and sanitizing, as necessary. Insofar as necessary, equipment must be taken apart for thorough cleaning.

(2) All food manufacturing, processing, packing, and holding must be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms, allergen cross-contact, contamination of food, and deterioration of food.

(3) Food that can support the rapid growth of undesirable microorganisms must be held at temperatures that will prevent the food from becoming adulterated during manufacturing, processing, packing, and holding.

(4) Measures such as sterilizing, irradiating, pasteurizing, cooking, freezing, refrigerating, controlling pH, or controlling aw that are taken to destroy or prevent the growth of undesirable microorganisms must be adequate under the conditions of manufacture, handling, and distribution to prevent food from being adulterated.

(5) Work-in-process and rework must be handled in a manner that protects against allergen cross-contact, contamination, and growth of undesirable microorganisms.

(6) Effective measures must be taken to protect finished food from allergen cross-contact and from contamination by raw materials, other ingredients, or refuse. When raw materials, other ingredients, or refuse are unprotected, they must not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in allergen cross-contact or contaminated food. Food transported by conveyor must be protected against allergen cross-contact and against contamination as necessary.

(7) Equipment, containers, and utensils used to convey, hold, or store raw materials and other ingredients, work-in-process, rework, or other food must be constructed, handled, and maintained during manufacturing, processing, packing, and holding in a manner that protects against allergen cross-contact and against contamination.

(8) Adequate measures must be taken to protect against the inclusion of metal or other extraneous material in food.

(9) Food, raw materials, and other ingredients that are adulterated:

(i) Must be disposed of in a manner that protects against the contamination of other food; or

(ii) If the adulterated food is capable of being reconditioned, it must be:

(A) Reconditioned (if appropriate) using a method that has been proven to be effective; or

(B) Reconditioned (if appropriate) and reexamined and subsequently found not to be adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act before being incorporated into other food.

(10) Steps such as washing, peeling, trimming, cutting, sorting and inspecting, mashing, dewatering, cooling, shredding, extruding, drying, whipping, defatting, and forming must be performed so as to protect food against allergen cross-contact and against contamination. Food must be protected from contaminants that may drip, drain, or be drawn into the food.

(11) Heat blanching, when required in the preparation of food capable of supporting

microbial growth, must be effected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent manufacturing without delay. Growth and contamination by thermophilic microorganisms in blanchers must be minimized by the use of adequate operating temperatures and by periodic cleaning and sanitizing as necessary.

(12) Batters, breading, sauces, gravies, dressings, dipping solutions, and other similar preparations that are held and used repeatedly over time must be treated or maintained in such a manner that they are protected against allergen cross-contact and against contamination, and minimizing the potential for the growth of undesirable microorganisms.

(13) Filling, assembling, packaging, and other operations must be performed in such a way that the food is protected against allergen cross-contact, contamination and growth of undesirable microorganisms.

(14) Food, such as dry mixes, nuts, intermediate moisture food, and dehydrated food, that relies principally on the control of aw for preventing the growth of undesirable microorganisms must be processed to and maintained at a safe moisture level.

(15) Food, such as acid and acidified food, that relies principally on the control of pH for preventing the growth of undesirable microorganisms must be monitored and maintained at a pH of 4.6 or below.

(16) When ice is used in contact with food, it must be made from water that is safe and of adequate sanitary quality in accordance with 117.37(a), and must be used only if it has been manufactured in accordance with current good manufacturing practice as outlined in this part.

**Sec. 117.93 Warehousing and distribution.**

Storage and transportation of food must be under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of food, as well as against deterioration of the food and the container.

**Sec. 117.95 Holding and distribution of human food by-products for use as animal food.**

(a) Human food by-products held for distribution as animal food without additional manufacturing or processing by the human food processor, as identified in 507.12 of this chapter, must be held under conditions that will protect against contamination, including the following:

(1) Containers and equipment used to convey or hold human food by-products for use as animal food before distribution must be designed, constructed of appropriate material, cleaned as necessary, and maintained to protect against the contamination of human food by-products for use as animal food;

(2) Human food by-products for use as animal food held for distribution must be held in a way to protect against contamination from sources such as trash; and

(3) During holding, human food by-products for use as animal food must be accurately identified.

(b) Labeling that identifies the by-product by the common or usual name must be affixed to or accompany human food by-products for use as animal food when distributed.

(c) Shipping containers (e.g., totes, drums, and tubs) and bulk vehicles used to distribute human food by-products for use as animal food must be examined prior to use to protect against contamination of the human food by-products for use as animal food from the container or vehicle when the facility is responsible for transporting the human food by-products for use as animal food itself or arranges with a third party to transport the human food by-products for use as animal food.

[80 FR 56337, Sept. 17, 2015]

**Sec. 117.110 Defect action levels.**

(a) The manufacturer, processor, packer, and holder of food must at all times utilize quality control operations that reduce natural or unavoidable defects to the lowest level currently feasible.

(b) The mixing of a food containing defects at levels that render that food adulterated with another lot of food is not permitted and renders the final food adulterated, regardless of the defect level of the final food. For examples of defect action levels that may render food adulterated, see the Defect Levels Handbook, which is accessible athttp://www.fda.gov/pchfrule and athttp://www.fda.gov .

**Subpart F--Requirements Applying to Records That Must Be Established and Maintained**

**Sec. 117.301 Records subject to the requirements of this subpart.**

All records required by this part are subject to all requirements of this subpart.

**Sec. 117.305 General requirements applying to records.**

Records must:

(a) Be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records;

(b) Contain the actual values and observations obtained during monitoring and, as appropriate, during verification activities;

(c) Be accurate, indelible, and legible;

(d) Be created concurrently with performance of the activity documented;

(e) Be as detailed as necessary to provide history of work performed; and

(f) Include:

(1) Information adequate to identify the plant or facility (e.g., the name, and when necessary, the location of the plant or facility);

(2) The date and, when appropriate, the time of the activity documented;

(3) The signature or initials of the person performing the activity; and

(4) Where appropriate, the identity of the product and the lot code, if any.

(g) Records that are established or maintained to satisfy the requirements of this part and that meet the definition of electronic records in 11.3(b)(6) of this chapter are exempt from the requirements of part 11 of this chapter. Records that satisfy the requirements of this part, but that also are required under other applicable statutory provisions or regulations, remain subject to part 11 of this chapter.

Sec. 117.310 Additional requirements applying to the food safety plan. – **Omitted**

**Sec. 117.315 Requirements for record retention.**

(a)(1) All records required by this part must be retained at the plant or facility for at least 2 years after the date they were prepared.

(2) Records that a facility relies on during the 3-year period preceding the applicable calendar year to support its status as a qualified facility must be retained at the facility as long as necessary to support the status of a facility as a qualified facility during the applicable calendar year.

(b) Records that relate to the general adequacy of the equipment or processes being used by a facility, including the results of scientific studies and evaluations, must be retained by the facility for at least 2 years after their use is discontinued (e.g., because the facility has updated the written food safety plan (117.126) or records that document validation of the written food safety plan (117.155(b)));

(c) Offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location.

(d) Ommited

**Sec. 117.320 Requirements for official review.**

All records required by this part must be made promptly available to the regulatory authority for official review and copying upon oral or written request.

Sec. 117.325 Public disclosure. – **Omitted**

**Sec. 117.330 Use of existing records.**

(a) Existing records (e.g., records that are kept to comply with other Federal, State, or local regulations, or for any other reason) do not need to be duplicated if they contain all of the required information and satisfy the requirements of this subpart. Existing records may be supplemented as necessary to include all of the required information and satisfy the requirements of this subpart.

(b) The information required by this part does not need to be kept in one set of records. If existing records contain some of the required information, any new information required by this part may be kept either separately or combined with the existing records.

Sec. 117.335 Special requirements applicable to a written assurance. – **Omitted**

Chapter

# 12 Jerky Requirements

**Chapter 12 is based upon 7.6.2.12 NMAC**

7.6.2.12 JERKY MANUFACTURED FOOD REQUIREMENTS:

A. In addition to complying with the requirements of Chapter 11, FOOD PROCESSING PLANTS that produce JERKY shall comply with the requirements specified in this section.

B. FOOD PROCESSING PLANTS that produce JERKY shall have the appropriate APPROVED EQUIPMENT to measure and MONITOR FOOD safety factors related to the production of JERKY.

C. Cooking. The following parameters shall be achieved in a SEALED oven, for a minimum of one hour, and no less than fifty percent of the cooking time, during the JERKY cooking process:
   (1) a minimum internal temperature of 145 degrees Fahrenheit for four minutes for MEAT and 165 degrees Fahrenheit instantaneous for POULTRY; and
   (2) maintain a steady or increasing relative humidity level throughout the cooking process.

D. In lieu of complying with the cooking parameters specified in Subsection C of 7.6.2.12 NMAC the REGULATORY AUTHORITY may approve alternative methods for treating product provided that the proposed method is scientifically-based and adequately documented by data developed according to an experimental protocol.

E. Food establishments that produce jerky shall:
   (1) meet the requirements of Subsections B and C of 7.6.2.12 NMAC;
   (2) have an APPROVED OPERATIONAL PLAN for each product produced;
   (3) keep the OPERATIONAL PLAN on file at the FOOD ESTABLISHMENT;
   (4) follow the APPROVED OPERATIONAL PLAN and not deviate from it without approval from the REGULATORY AUTHORITY; and
   (5) MONITOR and record FOOD safety factors, including but not limited to, time, temperature, and humidity and make the records available to the REGULATORY AUTHORITY.

Chapter

# 13 Bottled Drinking Water Requirements

**Chapter 13 is based upon 7.6.2.13 NMAC**

7.6.2.13 BOTTLED DRINKING WATER MANUFACTURED FOOD REQUIREMENTS:

A. In addition to meeting the requirements of Chapter 11, FOOD PROCESSING PLANTS that produce BOTTLED DRINKING WATER shall comply with the requirements specified in this section.

B. Bottled drinking water processing operational requirements and standards.

(1) The BOTTLED DRINKING WATER plant shall follow generally accepted GOOD MANUFACTURING PRACTICE such as contained in 21 CFR Part 129 or the international bottled water association bottled water code of practice.

(2) BOTTLED DRINKING WATER which is bottled through lines or EQUIPMENT used for FOOD or milk products shall demonstrate (assure) that the cleaning process prevents ADULTERATION of the bottled water. BOTTLED DRINKING WATER shall not be transported or stored in bulk tanks used for any non-FOOD product, nor processed or bottled through EQUIPMENT or lines used for any non-FOOD product.

C. BOTTLED DRINKING WATER labeling requirements. All BOTTLED DRINKING WATER labels shall meet the requirements specified in Subsection C of 7.6.2.11 NMAC.

D. Analytical requirements. Unless otherwise provided, samples shall be collected, prepared, and examined using the most current methods for the examination of drinking water listed in 40 CFR Part 141 or by other methods for the examination of drinking water APPROVED by the United States environmental protection agency. Examination of samples shall be performed by an APPROVED laboratory.

E. Monitoring requirements.

(1) BOTTLED DRINKING WATER plants shall be required to submit one microbiological sample per finished product per week. A copy of the microbiological analysis report shall be submitted within 10 working

days of analysis to the REGULATORY AUTHORITY. Any coliform or fecal coliform positive result shall require the plant owner or operator to notify the REGULATORY AUTHORITY within 24 hours and to submit to resampling guidelines specified in 20.7.10 NMAC.

(2) BOTTLED DRINKING WATER plants that know that a maximum contaminant level, as specified in 20.7.10 NMAC, has been exceeded or who have reason to believe circumstances exist that may adversely affect the safety of BOTTLED DRINKING WATER, including but not limited to source contamination, spills, accidents, natural disasters, or breakdowns in treatment, shall notify the REGULATORY AUTHORITY within 24 hours.

Chapter

# 14 Shellfish Requirements

**Chapter 14 is based upon 7.6.2.14 NMAC**

7.6.2.14 SHELLFISH REQUIREMENTS:

Adoption of National Shellfish Sanitation Program (NSSP) guide for control of MOLLUSCAN SHELLFISH. Except as otherwise provided, the 2023 NSSP guide for control of MOLLUSCAN SHELLFISH is hereby adopted and incorporated in its entirety.

Chapter

# 15 [Reserved]

Chapter

# 16 Catering Food Establishments

**Chapter 16 is based upon 7.6.2.16 NMAC**

7.6.2.16 CATERING FOOD ESTABLISHMENTS:

A. In addition to complying with the requirements specified in 7.6.2.8 NMAC FOOD ESTABLISHMENTS that cater shall comply with the requirements specified in the section.

B. Catering food establishments shall:

(1) operate from a permitted FOOD ESTABLISHMENT or servicing area,

(2) be permitted and operated separately from other permitted FOOD ESTABLISHMENTS or servicing areas,

(3) upon request by the REGULATORY AUTHORITY, provide a schedule of events to be catered, and

(4) supply a HANDWASHING SINK and adequate supply of liquid soap and single use paper towels as specified in Paragraph (4) and (5) of Subsection D of 7.6.2.10 NMAC when the catering activity includes preparation, delivery, and/or display, service, and restocking of FOOD that is not PACKAGED.

## Guide

## 3-B Instructions for Marking the Food Establishment Inspection Report, Including References for Factors/Interventions and Good Retail Practices

Guide 3-B is intended to be used during inspections to ensure that observations of the provisions of the Code are not overlooked during the inspection and accurately recorded on the NMED Establishment Inspection Report form.

The major headings from the Food Establishment Inspection Report form are condensed in Guide 3-B into key word phrases to assist the person conducting inspections in locating the citation of this Code that corresponds to a given violation and recording inspectional observations. The risk designations (Priority (P), Priority Foundation (Pf) and Core (C)) have been added to each applicable code section for reference when recording observations in the inspection report.

### A. GENERAL MARKING INSTRUCTIONS

**HEADER INFORMATION –** Completely fill out the header section on all pages.

### B. RISK FACTORS AND INTERVENTIONS

Risk factors are food preparation practices and employee behaviors most commonly reported to the Centers for Disease Control and Prevention (CDC) as contributing factors in foodborne illness outbreaks. Risk factors include: Food from Unsafe Sources, Improper Holding Temperatures, Inadequate Cooking, Contaminated Equipment, and Poor Personal Hygiene. These items are prominent on the Food Establishment Inspection Report because maintaining these items in compliance is vital to preventing foodborne illness. Additionally, five key public health interventions were introduced in the 1993 Food Code that supplemented the other interventions long-established by the Food and Drug Administration (FDA) model codes and guidances to protect consumer health. The five key interventions are: Demonstration of Knowledge, Employee Health Controls, Controlling Hands as a Vehicle of Contamination, Time and Temperature Parameters for Controlling Pathogens, and the Consumer Advisory.

For each item on the inspection report form in the Foodborne Illness Risk Factors and Public Health Interventions section, the inspector should indicate one of the following for **COMPLIANCE STATUS: "IN"** which means that the item is in compliance; **"OUT"** which means that the item is not in compliance; "**N.O."** which means that the item was not observed during the inspection; or **"N.A."** which means that the item is not applicable for the facility. If N.A. or N.O. is not listed as an option for a particular item, this means that this item must be evaluated during the inspection and a compliance status must be determined. **If the item is marked "OUT", document details of each violation for the item number in the "Observations and Corrective Actions" section on the second page of the inspection report.** Compliance status should be determined as a result of observations that establish a pattern of non-compliance. Consideration should be given to the seriousness of the observation with regard to prevention of foodborne illness.

For items marked **"OUT**,**"** further indicate the status of the violation by marking an **"X"** in the corresponding box for Corrected On-Site (**COS)** during the inspection and/or Repeat violation **(R)**. Marking **COS** indicates that all violations cited under that particular item number have been corrected and verified before completing the inspection. The actual corrective action taken for each violation should be documented in the

"Observations and Corrective Actions" section of the inspection report. For example, Item #10 Handwashing sink is marked out of compliance because the establishment does not have soap and paper towels at the handwashing sink. The person in charge partially corrects the problem by putting soap at the sink, but does not replace the paper towels or provide any other effective means for drying hands. The corrective action taken for the soap is documented in the narrative on the form, but **COS** is **not** marked for Item #10 because all violations under that item were not corrected. Marking **R** indicates that the same violation under a particular item number was cited on the last inspection report. Using the same scenario, on the subsequent inspection if the provision of soap and paper towels is not in violation, but employees are not washing hands in the correct sink (which is also cited under Item #8 Handwashing sink), **R** would **not** be marked because this is a new violation which was not cited on the previous inspection report.

**C. MARKING INSTRUCTIONS FOR EACH RISK FACTOR AND INTERVENTION ON THE INSPECTION REPORT**

## Supervision

**1. PIC present, demonstrates knowledge, and performs duties**

**IN/OUT** This item must be marked IN or OUT of compliance. The person in charge (PIC) has three assigned responsibilities – Presence; Demonstration of Knowledge; and Duties. This item is marked OUT of compliance if any **one** of the responsibilities is not met.

A. **Person in charge** is present. This item is marked OUT of compliance if there is no PIC per 2-101.11(A) and (B).

B. Demonstration of Knowledge. The PIC has three options for demonstrating knowledge. This item is marked IN compliance if the PIC meets at least **one** of the options. The three options for demonstration of knowledge allowed by this Code are:
   1. Certification by an ACCREDITED PROGRAM as specified in 2-102-20.
   2. Complying with this Code by having no violations of priority items during the current inspection; or
   3. Correct responses to the inspector's questions regarding public health practices and principles applicable to the operation. The inspector should assess this item by asking open-ended questions that would evaluate the PIC's knowledge in each of the areas enumerated in ¶ 2-102.11(C)(1), (4)-(16). Questions can be asked during the initial interview, menu review, or throughout the inspection as appropriate. The Inspector should ask a sufficient number of questions to enable the inspector to make an informed decision concerning the PIC's knowledge of the Code requirements and public health principles as they apply to the operation. The dialogue should be extensive enough to reveal whether or not that person is enabled by a clear understanding of the Code and its public health principles to follow sound food safety practices and to produce foods that are safe, wholesome, unadulterated, and accurately represented.

C. Duties of the **PIC**. This item must be marked IN or OUT of compliance based on the interaction and observation with the PIC and food employee. The inspector needs to determine the systems or controls the PIC has put into practice regarding oversight and/or routine monitoring of the Duties listed in § 2-103.11. This is accomplished by 1) discussion with the PIC, and 2) verified through observation that the systems or controls are actually being implemented. This concept is commonly referred to as Active Managerial Control. This item must be marked OUT of compliance when there is a pattern of non-compliance and obvious failure by the PIC to ensure employees are complying with the duties listed in §

2-103.11. Since marking this item out of compliance requires judgment, it is important that this item not be marked for an isolated incident, but rather for an overall evaluation of the PIC's ability to ensure compliance with the duties described in § 2-103.11.

**N.A.** **Do Not Mark** this item N.A.
**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Section:**

| | |
|---|---|
| 2-101.11 | Assignment (Pf) |
| 2-102.11(A), B) and (C)(1), (4)-(16) | Demonstration (Pf) |
| 2-103.11 (A)-(P) | Person-In-Charge-Duties (Pf) |

**2. Certified Food Protection Manager**

**IN/OUT** This item must be marked IN or OUT of compliance. This item is marked IN compliance when it is observed that the person in charge is a certified food protection manager. This item is marked OUT when it is observed that there is no person in charge that is deemed a certified food protection manager or the certified food protection manager certificate is deemed not to be from an accredited program.

**N.A.** This item may be marked N.A. if the establishment is deemed by the Regulatory Authority to not apply due to the minimal risk of causing, or contributing to foodborne illness based on the nature of the operation and extent of food operation.

**N.O.** **Do NOT MARK** this item N.O.

**Applicable Code Section:**

2-102.12(A) Certified Food Protection Manager (C)

## Employee Health/Responding to Contamination Events

**3. Management and food employee knowledge, and conditional employee; responsibilities and reporting.**

**IN/OUT** This item must be marked IN or OUT of compliance. This item is marked IN compliance when the following criteria are met:

1. The PIC is aware of his or her responsibility to inform food employees and conditional employees of their responsibility to report certain symptoms or diagnosed diseases to the person in charge and for the PIC to report to the regulatory authority as specified under ¶ 2-103.11 (O) and ¶¶ 2-201.11 (A),(B), (C), and (E) of this Code; **and**

2. The PIC provides documentation or otherwise satisfactorily demonstrates during the inspection, that all food employees and conditional employees are informed of their responsibility to report to management information about their health and activities as it relates to diseases that are transmissible through food, as specified under ¶ 2-201.11(A). Satisfactory compliance may be documented by completion of Form 1-B, Conditional Employees or Food Employees Reporting Agreement, in Annex 7 of the 2017 Food Code for each employee or other similar State or local form containing the same information; **or**

3. In lieu of Form 1-B, compliance may be demonstrated by:

   a) Presenting evidence such as a curriculum and attendance rosters documenting that each employee has completed a training program which includes all the information required on Form 1-B regarding their reporting responsibilities; **or**

   b) Implementation of an employee health policy which includes a system of employee notification using a combination of training, signs, pocket cards, or other means to convey all of the required information on Form 1-B to all food employees and conditional employees. A signed acknowledgement by the employee should be part of any employee health policy.

The regulatory authority is encouraged to establish a policy of selecting one employee at random during each inspection and requesting the PIC verify, by one of the previously listed methods, that the selected employee has been **informed** of his or her responsibility to report symptoms, exposures, and diagnosed illnesses to management. The PIC is not expected to quote symptoms and diseases from memory, but should be able to locate that information on Form 1-B or similar documents used to demonstrate compliance.

Additional information is provided in Annex 3 of the Public Health Reasons for Subpart 2-201, including a number of questions, which may be used as a reference to assist the regulatory authority in determining compliance with this item.

**N.A.** **Do Not Mark** this item N.A.
**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

| | |
|---|---|
| 2-102.11(C)(2),(3) and (17) | Demonstration (Pf) |
| 2-103.11 (O) | Person in Charge-Duties (Pf) |
| 2-201.11(A), (B), (C), & (E) | Responsibility of Permit Holder, Person in Charge, and Conditional Employees (P,Pf) |

**4. Proper use of restriction and exclusion**

**IN/OUT** This item must be marked IN or OUT of compliance. Compliance must be based on first hand observations or information and cannot be based solely on responses from the PIC to questions regarding hypothetical situations or knowledge of this Code. This item is marked IN when the following criteria are observed at the time of the inspection:

- There are no ill employees.
- There are no employees experiencing symptoms with or without a diagnosis that require reporting, or reason for the PIC to exclude or restrict an employee
- A food employee who works in a food establishment serving a HSP or non-HSP, is restricted due to diagnoses with an infection from nontyphoidal Salmonella and is asymptomatic

This item should be marked OUT of compliance when:

- The inspector observes a working employee with specific reportable symptoms (subparagraph 2-201.11 (A)(1)); or
- The inspector becomes aware that an employee has reported information about his or her health and activities as it relates to diseases that are transmissible through food and the PIC has not acted to restrict/exclude an employee as required by this Code (§2-201.12 & §2-201.13); or

- The inspector becomes aware that the PIC has not notified the Regulatory Authority that an employee is jaundiced or diagnosed with an illness due to a pathogen as specified under subparagraphs 2-201.11 (A)(2)(a)-(f) of this Code.
- There are food employees working in the food establishment that have been diagnosed with an illness as specified in paragraphs 2-201.11(A)(2-5); Additionally, in food establishments exclusively serving a highly susceptible population, there are to be no food employees with an active sore throat with a fever working in the food establishment.

**N.A.** **Do Not Mark** this item N.A.
**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

| | |
|---|---|
| 2-201.11 (D) and (F) | Responsibility of Permit Holder, Person in Charge, and Conditional Employees Responsibility of the PIC to Exclude or Restrict (P,) |
| 2-201.12 | Exclusions & Restrictions (P) |
| 2-201.13 | Removal, Adjustment, or Retention of Exclusions & Restrictions (P) |

**5. Clean-up of Vomiting and Diarrheal Events**

**IN/OUT** This item should be marked IN or OUT of compliance. This items is marked IN compliance when it is demonstrated that the food establishment has written procedures available for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. Refer to the Public Health Reasons (§2-501.11 Cleanup of Vomiting and Diarrheal Events) for suggested recommendations as to what the food establishment can include within their plan (this is not an exhaustive list).

This item is marked OUT of compliance if the establishment does not demonstrate the ability to provide written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment.

**N.A.** **Do Not Mark** this item N.A.
**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Section:**

| | |
|---|---|
| 2-501.11 | Clean-up of Vomiting and Diarrheal Events (Pf) |

## EMPLOYEES

**6. Food handler cards**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of: Food Handler Cards on the person of each Food Employee or copies of Food Handler Cards kept on file in the establishment. This item should be marked IN compliance when all Employees functioning as Food Employees at the time of inspection have a valid Food Handler Card. This item should be marked OUT of compliance when any Employee functioning as Food Employee at the time of inspection does not have a valid Food Handler Card.

**N.A.** This item may be marked N.A. if the establishment is deemed by the Regulatory Authority to not apply due to the minimal risk of causing, or contributing to foodborne illness based on the nature of the operation and extent of food operation.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Section:**

2-104.11(A) (C) (E) Food Handler Card (Pf)

## Good Hygienic Practices

**7. Proper eating, tasting, drinking, or tobacco use**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations or discussions of the appropriate hygienic practices of food employees. This item should be marked IN compliance when a food employee is observed drinking from a closed beverage container subsequently stored on a non-food-contact surface and separate from exposed food, clean equipment, and unwrapped single- service and single-use articles. This item should be marked OUT of compliance when food employees are observed improperly tasting food, eating, drinking, or smoking, or there is supporting evidence of these activities taking place in non-designated areas of the establishment. An open container of liquid in the kitchen preparation area does not necessarily constitute marking this item OUT. Further discussion with a food employee or the PIC may be needed to determine if the liquid, if labeled, is used as an ingredient in food, or may be an employee beverage that is consumed in another designated area. If the liquid is an open beverage that is consumed in a designated area, it must still be stored in a manner to prevent the contamination of food, equipment, utensils, linens and single-service/single-use articles.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** This item may be marked N.O. for retail operations only in the **RARE** case when there are no food workers present at the time of inspection.

**Applicable Code Sections:**

2-401.11 Eating, Drinking, or Using Tobacco (C)
3-301.12 Preventing Contamination When Tasting (P)

**8. No discharge from eyes, nose, and mouth**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of food employees. This item should be marked IN compliance when no food employees are observed having persistent sneezing, coughing, or a runny nose that causes discharge from the eyes, nose or mouth. This item should be marked OUT of compliance when a food employee has persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose or mouth, subjecting food and food-contact surfaces to potential contamination.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** This item may be marked N.O. for retail operations only in the **RARE** case when there are no food workers present at the time of inspection.

**Applicable Code Sections:**

2-401.12 Discharges from the Eyes, Nose, and Mouth (C)

## Control of Hands as a Vehicle of Contamination

**9. Hands clean and properly washed**

**IN/OUT** This item should be marked IN or OUT of compliance. This item is marked IN compliance only when employees are observed using proper handwashing techniques at appropriate times and

places. Hands are not required to be washed between each change of gloves, if it is observed that there was no change in the task being performed and no activities which could potentially result in cross contamination.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** This item may be marked N.O. for retail operations only in the **RARE** case when there are no food workers present at the time of inspection. (If there are no food workers present, but the PIC accompanies the inspector on the inspection and touches food, clean equipment, or utensils without washing his/her hands, this item is marked OUT.)

**Applicable Code Sections:**

2-301.11 Clean condition-Hands and Arms (P)
2-301.12 Cleaning Procedure (P, C)
2-301.14 When to Wash (P)
2-301.15 Where to Wash (Pf)
2-301.16 Hand Antiseptics (Pf)

**10. No bare hand contact with RTE foods or a pre-approved alternate properly followed**

**IN/OUT** This item should be marked IN or OUT of compliance. This item is marked IN compliance only when food employees are observed using suitable utensils or gloves to prevent bare hand (or arm) contact with ready-to-eat foods or if the food employee contacts exposed RTE food with bare hands at the time the RTE food is being added as an ingredient to a food that:

- Contains a raw animal food and is to be cooked in the food establishment to heat all parts of the

food to minimum temperatures specified in ¶¶3-401.11(A)-(B) or §3-401.12; or

- Does not contain a raw animal food but is to be cooked in the food establishment to heat all parts

of the food to a temperature of at least 63°C (145°F).

This item is also marked IN compliance when food employees are observed properly following a pre-approved alternative procedure to no bare hand contact.

This item should be marked OUT of compliance if one food employee is observed ready-to-eat food with their bare hands in the absence of a prior approval and written procedures for bare hand contact. Refer to subparagraph 3-301.11 (E)(1)-(7) for a listing of conditions that must be met in order to receive prior approval by the Regulatory Authority. Bare hand contact by food employees serving a Highly Susceptible Population is prohibited and no alternative to bare hand contact is allowed. This item is also marked OUT when food employees contact exposed RTE food with bare hands that is to be added as ingredients to a food that is not properly heat treated as specified in Sub-¶3-301.11(D)(1)-(2).

**N.A.** This item may be marked N.A. for establishments that provide only packaged, or bulk food items that are not ready-to-eat**.**

**N.O.** This item may be marked N.O. for establishments that prepare ready-to-eat foods only, but no food preparation is performed at the time of inspection.

**Applicable Code Sections:**

3-301.11 Preventing Contamination from Hands (P, Pf, C)
3-801.11(D) Pasteurized Foods, Prohibited Re-Service, and Prohibited Foods (P)

**11. Adequate handwashing sinks, properly supplied and accessible**

**IN/OUT** This item must be marked IN or OUT of compliance based on observations in determining that handwashing sinks are properly equipped and conveniently located for employee use in food

preparation, food dispensing and warewashing areas as well as in or immediately adjacent to toilet rooms. This item must be marked OUT of compliance when the facility is not stocked with soap, hand drying provisions or equipped with the required signage. In addition, if the handwashing sink is not located to be available to employees who are working in a food preparation area, food dispensing and warewashing areas and is blocked by portable equipment or stacked full of soiled utensils or other items, or the facility is unavailable for regular employee use, this item must be marked OUT of compliance.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

5-202.12 Handwashing Sinks, Installation (Pf, C)
5-203.11 Handwashing Sinks-Numbers and Capacities (Pf)
5-204.11 Handwashing Sinks-Location and Placement (Pf)
5-205.11 Using a Handwashing Sink-Operation and Maintenance (Pf)
6-301.11 Handwashing Cleanser, Availability (Pf)
6-301.12 Hand Drying Provision (Pf)
6-301.13 Handwashing Aids and Devices, Use Restrictions (C)
6-301.14 Handwashing Signage (C)

## Approved Source

**12. Food obtained from approved source**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of food products, food labels and packaging, water analyses, and discussion with the PIC or other food employees. This item should be marked IN compliance when the regulatory authority is able to determine approved food sources. A review of supplier names, shipment invoices, buyer specification plans, molluscan shellfish tags, proof of regulatory permit/licensure of a food source, etc. can be used to document approved food sources. Wild harvested mushrooms if sold or served have been approved by the regulatory authority. Milk and milk products must comply with Grade A Standards. This item should be marked OUT of compliance when an approved food source cannot be determined and if the regulatory authority did not approve the sale or service of wild harvested mushrooms and it is observed in the food establishment for sale and service.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-201.11 Compliance with Food Law (P, Pf, C)
3-201.12 Food in a Hermetically Sealed Container (P)
3-201.13 Fluid Milk and Milk Products (P)
3-201.14 Fish (P)
3-201.15 Molluscan Shellfish (P)
3-201.16 Wild Mushrooms (P)
3-201.17 Game Animals (P, C)
3-202.13 Eggs (P)
3-202.14 Eggs and Milk Products, Pasteurized (P)
3-202.110 Juice Treated-Commercially Processed (P, Pf)
5-101.13 Bottled Drinking Water (P)

**13. Food received at proper temperature**

**IN/OUT** This item should be marked IN or OUT of compliance based on actual food temperature measurements of TCS foods being received. This item should be marked IN compliance when food is received and found at proper temperatures during the inspection (i.e. catered meal for child care center arrives during the inspection and the regulatory authority verifies receiving temperature). This item should be marked OUT of compliance if food is received and accepted, but an actual food temperature measurement of a TCS food by the regulatory authority at the time of delivery exceeds the temperature specifications for receiving as prescribed by the Code.

**N.A.** This item may be marked N.A. for retail operations when the establishment receives only foods that are not TCS food and that are not frozen.

**N.O.** This item may be marked N.O. if food is not received during the inspection.

**Applicable Code Sections:**

3-202.11 Temperature (P, Pf)

**14. Food in good condition, safe and unadulterated**

**IN/OUT** This item must be marked IN or OUT of compliance based on direct observations of the integrity of product packaging, wholesomeness, and signs of adulteration. This item must be marked IN compliance when a dent in a canned food has not compromised the hermetic seal; cuts made in outer cardboard packaging during opening of the case do not enter the inner product packaging; the true appearance, color, or quality of a food is not misrepresented; and food is honestly presented. This item must be marked OUT of compliance when the integrity of food packaging has been compromised or the true appearance, color, or quality of a food has been intentionally altered.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-101.11 Safe, Unadulterated and Honestly Presented (P)

3-202.15 Package Integrity (Pf)

**15. Required records available: shellstock tags, parasite destruction**

**IN/OUT** This item should be marked IN or OUT of compliance~~.~~ based on direct observations of fish in storage, shellstock tags, and/or records of freezing of fish for parasite destruction. This item should be marked IN compliance if the permit holder provides a statement from supplier(s) identifying that fish sold as raw, raw-marinated or undercooked is frozen by supplier for parasite destruction; or there are freeze records maintained by the permit holder when fish are frozen for parasite destruction on the premises. This item should be marked OUT of compliance if there are no shellstock tags available, when the shellstock tags are incomplete, when there is evidence of commingling of shellstock, or when no records of freezing of fish for parasite destruction are available. Fish exempt from freezing requirements are found in paragraph 3-402.11(B).

**N.A.** This item may be marked N.A. when shellstock are not used in the establishment and the only fish sold as raw, raw-marinated or undercooked is the tuna species or aquacultured fish listed as exempted from freezing in this Code.

**N.O.** This item may be marked N.O. when shellstock or raw, raw-marinated and undercooked fish are sold periodically in the establishment, but are not being sold at the time of inspection and prior compliance through tags, invoices, or purchase records cannot be verified.

**Applicable Code Sections:**

3-202.18 Shellstock Identification (Pf, C)

3-203.12 Shellstock, Maintaining Identification (Pf)
3-402.11 Parasite Destruction (P, C)
3-402.12 Records, Creation, & Retention (Pf)

## Protection from Contamination

**16. Proper disposition of returned, previously served, reconditioned, and unsafe food**

**IN/OUT** This item must be marked IN or OUT of compliance. This item is marked OUT of compliance if food is found unsafe, adulterated, not honestly presented, from an unapproved source, or if ready-to-eat food is contaminated by employees and is not discarded or reconditioned according to an approved procedure, or if previously served unwrapped, unprotected food is observed being re-served.

**N.A.** **Do Not Mark** this item N.A.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-306.14 Returned Food and Re-service of Food (P)
3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food (P)

**17. Food-contact surfaces: cleaned and sanitized**

**IN/OUT** This item must be marked IN or OUT of compliance based on direct observations of food-contact surfaces of equipment and utensils; actual measurements/readings of chemical sanitizer concentration, hot water sanitizing temperature, pH, hardness, water pressure, etc. using test strips, heat-sensitive tapes, and equipment gauges; observations of cleaning and sanitizing procedures; and discussion of cleaning and sanitizing procedures and frequency with the PIC or other food employees. This item must be marked IN compliance when manual and/or mechanical methods of cleaning and sanitizing are effective, and performed at the prescribed frequency. There should be an overall assessment of the food-contact surfaces of equipment and utensils in clean storage and in use to determine compliance. For example, this item is not marked OUT of compliance based on one visibly soiled utensil, such as a plate or knife. This item must be marked OUT of compliance when manual and/or mechanical methods of cleaning and sanitizing food-contact surfaces of equipment and utensils are ineffective, or if one multiuse piece of equipment such as a slicer or can opener is visibly soiled and being used at the time of the inspection. This item is also marked OUT if it is observed that equipment or utensils that have come into contact with a major food allergen such as fish was not cleaned and sanitized prior to use for other types of raw animal foods.

**N.A.** This item may be marked N.A. only when there is no requirement to clean equipment and utensils such as when only prepackaged foods are sold.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures (P)
4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures (Pf)
4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure (C)
4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization-Temperature, pH, Concentration and Hardness (P, Pf)
4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers (C)
4-601.11(A) Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils (Pf)
4-602.11 Equipment Food-Contact Surfaces and Utensils-Frequency (P, C)
4-602.12 Cooking and Baking Equipment (C)

4-702.11 Before Use After Cleaning (P)
4-703.11 Hot Water and Chemical-Methods (P)

**18. Food separated and protected**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of food storage and food handling practices. This item should be marked OUT of compliance when ready-to-eat foods are subject to potential contamination by raw animal foods; raw animal foods are observed not separated by type based on minimum cook temperatures by spacing or placing in separate containers; unpackaged comminuted or otherwise non intact meats are stored above unpackaged whole muscle intact cuts of meat; food is not packaged or covered during storage (unless in the process of cooling); or food is in contact with soiled equipment and utensils; or single-use gloves used for more than one task.

**N.A**. This item may be marked N.A. when there are no raw animal foods used in the facility and only prepackaged foods are sold.

**N.O.** This item is marked N.O. when raw animal foods are used or served seasonally and you are unable to determine compliance.

**Applicable Code Sections:**

3-302.11 Packaged and Unpackaged Food-Separation, Packaging, and Segregation (P, C)
3-304.11 Food Contact with Equipment, Utensils, and Linens (P)
3-304.15(A) Gloves, Use Limitation (P)
3-306.13(A) Consumer Self-Service Operations (P)

## Time Temperature Control for Safety Food (TCS Food)

**19. Proper cooking time and temperatures**

**NOTE:** The cooking temperatures of foods must be measured to determine compliance or noncompliance. Do not rely upon discussions with managers or cooks to make a determination of compliance or noncompliance. The temperature of raw animal foods in each species cooked during the inspection should be taken. For instance, if the facility fries chicken, scrambles eggs, bakes fish, grills hamburgers, and slow-roasts prime rib during the inspection – the cook temperatures of all of the products should be measured and recorded. Temperatures, both IN compliance and OUT of compliance, should be recorded in the "Temperature Observations" section of the inspection report. If there is insufficient space for the number of temperatures taken, additional temperatures should be documented in the "Observations and Corrective Actions" section on the second page of the inspection report. The time of inspections should be varied so that cooking can be observed.

**IN/OUT** This item should be marked IN or OUT of compliance. This item should be marked OUT of compliance if the items checked do not meet the temperature requirements for cooking and the employee doing the cooking attempts to serve the product without returning the product to the cooking process. If a food is cooked below the required temperature but the facility has an approved Consumer Advisory or an approved variance with HACCP plan for that food item, mark the item IN compliance, record the temperature and document the reason it is IN compliance. Foods cooked with a non-continuous cooking process are marked OUT of compliance if the food item does not meet the time/temperature requirements for cooking as specified in 3-401.11(A)-(C) and if written procedures describing how the foods are prepared and stored after initial heating but prior to cooking for sale or service are not available for review.

**N.A.** This item may be marked N.A. when no raw animal foods are cooked in the establishment.

**N.O.** This item may be marked N.O. when you are unable to determine the cooking temperature of any

food. The inspection should be arranged at an optimum time for measuring at least one cooked item.

**Internal Cooking Temperature Specifications for Raw Animal Foods**

| Internal Cooking Temperature | Raw Animal Foods |
|---|---|
| **145°F for 15 seconds** | • Raw eggs cooked for immediate service<br>• Fish, except as listed below<br>• Intact Meat<br>• Commercially raised game animals, rabbits |
| **155°F for 17 seconds:** | • Ratites (Ostrich, Rhea and Emu)<br>• Injected meats<br>• Mechanically tenderized meats<br>• Raw eggs not for immediate service<br>• Comminuted meat, fish, or commercially raised game animals |
| **165°F for <1 second (instantaneous):** | • Wild game animals<br>• Poultry<br>• Stuffed fish, meat, pork, pasta, ratites & poultry<br>• Stuffing containing fish, meat, ratites & poultry |

*** Whole Meat Roasts:** Refer to cooking charts in this Code ¶ 3-401.11(B)

**Applicable Code Sections:**
3-401.11 Raw Animal Foods-Cooking (P, Pf, C)
3-401.12 Microwave Cooking (P, C)
3-401.14 Non-Continuous Cooking of Raw Animal Foods (P, Pf)

**20. Proper reheating procedures for hot holding**

**NOTE:** The reheating temperatures of foods must be taken to determine compliance or noncompliance. Do not rely solely upon discussions with managers or cooks to determine compliance or noncompliance. Temperatures IN and OUT of compliance should be recorded in the "Temperature Observations" section of the inspection report. If there is insufficient space for the number of temperatures taken, additional temperatures should be documented in the "Observations and Corrective Actions" section of the inspection report.

**IN/OUT** This item should be marked IN or OUT of compliance based on actual temperature measurements of foods upon completion of the reheating process and prior to being placed in hot holding using a calibrated food temperature measuring device. This item should be marked OUT of compliance if the items checked are not reheated to the required temperatures or within 2 hours prior to hot holding.

**N.A.** This item may be marked N.A. when foods are not held over for a second service and/or reheating for hot holding is not performed in the establishment.

**N.O.** This item may be marked N.O. such as when foods are held over for a second service, but no foods are reheated during the time of inspection.

**Applicable Code Sections:**
3-403.11 Reheating for Hot Holding (P)

**21. Proper cooling time and temperatures**

**NOTE:** The requirement for cooling cooked TCS food, is that the food must be cooled from 135°F to 41°F or less in 6 hrs provided that the food is cooled from 135°F to 70°F within the first 2 hours. For example, if a facility cools chili from 135°F to 70°F in 1.5 hours; they then have 4.5 hours to get it from 70°F to 41°F or less. There are two critical limits that must be met with cooling. Discussions with the person in charge along with observations should be used to determine compliance. For instance, during discussion the person in charge says that a food product was cooled overnight in the walk-in cooler. The product is checked and the temperature is 50°F. Eight hours have elapsed from closing to opening. This item should be marked OUT because the product did not cool from 135°F to 70°F within two hours and from 135°F to 41°F or less within a total of 6 hours. Temperatures IN compliance and OUT of compliance should be recorded in the "Temperature Observations" section of the inspection report. If there is insufficient space for the number of temperatures taken, additional temperatures should be documented in the "Observations and Corrective Actions" section of the inspection report. Because the entire cooling process is difficult to observe during an inspection, at the onset of the inspection a determination of whether foods are currently being cooled should be made. If cooling is taking place, temperatures should be taken to make a determination of whether proper cooling is possible with procedures being used.

**IN/OUT** This item should be marked IN or OUT of compliance based on actual temperatures of TCS foods in the cooling process. The basis for determining IN or OUT of compliance can also be supported through discussion and/or record review which would provide the inspector reliable data of the "start time" for cooling from 135°F. See above NOTE for an example of using actual temperature and discussion with the PIC in determining OUT of compliance without actually being at the establishment during the entire cooling of TCS process, from start to finish.

**N.A.** This item may be marked N.A. when the establishment does **not** receive raw eggs, shellstock, or milk, prepares **no** TCS food from ambient temperature ingredients that require cooling, and does **not** cool cooked TCS food.

**N.O.** This item may be marked N.O. when the establishment does cool TCS food, but proper cooling per the prescribed temperature and time parameters cannot be determined during the length of the inspection.

**Applicable Code Sections:**
3-501.14 Cooling (P)

**22. Proper hot holding temperatures**

**NOTE:** Temperatures IN compliance and OUT of compliance should be recorded in the "Temperature Observations" section of the inspection report. If there is insufficient space for the number of temperatures taken, additional temperatures should be documented in the "Observations and Corrective Action" section of the inspection report.

**IN/OUT** This item should be marked IN or OUT of compliance based on actual food temperature measurements using a calibrated food temperature measuring device. This item should be marked IN compliance when the regulatory authority determines that, of the TCS food temperature measurements taken during the inspection, no hot holding temperatures are less than prescribed by the Code. This item is marked OUT of compliance if one TCS food is found out of temperature, unless Time as a Public Health Control (TPHC) is used for that TCS food.

**N.A** This item may be marked N.A. when the establishment does not hot hold food.

**N.O.** This item may be marked N.O. when the establishment does hot hold foods, but no foods are being held hot during the time of inspection. Inspections should be conducted during a time when

hot holding temperatures can be taken.

**Applicable Code Sections:**
3-501.16(A)(1) Time/Temperature Control for Safety Food, Hot and Cold Holding (P)

**23. Proper cold holding temperatures**

**NOTE:** Temperatures IN compliance and OUT of compliance should be recorded in the "Temperature Observations" section of the inspection report. If there is insufficient space for the number of temperatures taken, additional temperatures should be documented in the "Observations and Corrective Action" section of the inspection report.

**IN/OUT** This item should be marked IN or OUT of compliance based on actual food temperature measurements using a calibrated food temperature measuring device. Discussions should be made with the PIC to determine if a food is in the process of cooling, TPHC is used, or there is an approved method to render a food so that it is not TCS food. This item should be marked IN compliance when the regulatory authority determines that, of the temperature measurements taken during the inspection, no cold holding temperatures are greater than prescribed by the Code. This item should be marked OUT of compliance if one TCS food is found out of temperature, with supportive evidence, unless TPHC is used for that TCS food.

**N.A.** This item may be marked N.A. when the establishment does **not** cold hold food.

**N.O** This item may be marked N.O. when the establishment does cold hold food, but no foods are being held cold during the time of inspection. Inspections should be conducted during a time when hot holding temperatures can be taken.

**Applicable Code Sections:**
3-501.16(A)(2) and (B) Time/Temperature Control for Safety Food, Hot and Cold Holding (P)

**24. Proper date marking and disposition**

**IN/OUT** This item should be marked IN or OUT of compliance. This item would be IN compliance when there is a system in place for date marking all foods that are required to be date marked and is verified through observation. If date marking applies to the establishment, the PIC should be asked to describe the methods used to identify product shelf-life or "consume-by" dating. The regulatory authority must be aware of food products that are listed as exempt from date marking. For disposition, mark IN when foods are all within date marked time limits or food is observed being discarded within date marked time limits or OUT of compliance, such as when date marked food exceeds the time limit or date-marking is not done.

**N.A.** This item may be marked N.A. when there is no ready-to-eat, TCS food prepared on-premise and held, or commercial containers of ready-to-eat, TCS food opened and held, over 24 hours in the establishment.

**N.O.** This item may be marked N.O. when the establishment does handle foods requiring date marking, but there are no foods requiring date marking in the facility at the time of inspection.

**Applicable Code Sections:**
3-501.17 Ready-To-Eat Time/Temperature Control for Safety Food, Date Marking (Pf)
3-501.18 Ready-To-Eat Time/Temperature Control for Safety Food, Disposition (P)

**25. Time as a Public Health Control: procedures and records**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations, record review, a discussion with the PIC, and the review of any standard operating procedures to determine if the intent of the Code for use of TPHC is met. This provision only applies if it is the

actual intention or conscious decision by the PIC to store TCS food out of temperature control using TPHC; otherwise, it may be a cold or hot holding issue. This item should be marked IN compliance if there is a written procedure at the food establishment that identifies the types of food products that will be held using time only, describes the procedure for how TPHC will be implemented, and if applicable delineates how food items, previously cooked and cooled before time is used, are properly cooled; and food items (marked or identified) do not exceed the 4-hour limit at any temperature or 6-hour limit at 70°F or less. This item should be marked OUT of compliance when the PIC implies the use of TPHC but does not have an effective mechanism for indicating the point in time when the food is removed from temperature control to the 4 or 6-hour discard time, or a written procedure or an effective mechanism for using TPHC is not present at the facility.

**N.A** This item may be marked N.A. when the establishment does not use time only as the public health control.

**N.O.** This item may be marked N.O. when the establishment uses time only as the public health control, but is not using this practice at the time of inspection.

**Applicable Code Sections:**

3-501.19 Time as a Public Health Control (P, Pf, C)

## Consumer Advisory

**26. Consumer advisory provided for raw or undercooked food**

**IN/OUT** This item should be marked IN or OUT of compliance based on a thorough review with the PIC of the posted, written and special/daily menus, to determine if untreated shell eggs, meats, fish, or poultry are used as an ingredient or ordered as a raw, raw-marinated, partially cooked, or undercooked food. The advisory also applies to shellstock offered for sale from a retail service case. This item should be marked IN compliance if the establishment provides an advisory that meets the intent of this Code for both the disclosure and reminder components. This item should be marked OUT of compliance when raw or undercooked foods are served or sold and there is no consumer advisory, the food item is not **disclosed**, or there is no **reminder** statement. The consumer advisory does not exempt the requirement for freezing for parasite control, nor should it be used for foods that have only gone through the initial heating and cooling stages of a non-continuous cooking process.

**N.A.** This item may be marked N.A. when a food establishment does not serve a ready-to-eat food that necessitates an advisory, i.e., an animal food that is raw, undercooked, or not otherwise processed to eliminate pathogens.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens (Pf)

## Highly Susceptible Population

**27. Pasteurized foods used; prohibited foods not offered**

**NOTE:** Discussions with the PIC and employees regarding whether or not certain foods are served or certain practices occur in the establishment, along with observations should be used to determine compliance.

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations and discussions with the PIC and food employees regarding whether or not certain foods are served or certain practices occur in an establishment serving a highly susceptible population. Violations of bare hand contact by food employees serving a highly susceptible population ¶ 3-801.11(D) is marked under Item #9. This item should be marked IN compliance if only treated/pasteurized juices/juice beverages are served; only pasteurized eggs are used in recipes if eggs are undercooked and if eggs are combined, unless there is a cook step or HACCP plan to control Salmonella enteriditis; no raw or partially cooked animal foods or raw seed sprouts are served; and no unopened packaged food is re-served following service to patients in medical isolation or quarantine.

**N.A.** This item may be marked N.A. if a highly susceptible population is not served.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-801.11(A), (B), (C), (E) and (G) Pasteurized Foods, Prohibited Re-Service, and Prohibited Food (P, C)

## Food/Color Additives and Toxic Substances

**28. Food additives: approved and properly used**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of food ingredients in storage and listed as product ingredients supplemented by discussion with the PIC. This item is marked IN compliance if approved food and color additives are on site and used properly or if sulfites are on the premises, and they are not applied to fresh fruits/vegetables for raw consumption. Approved food additives are listed and have threshold limits in accordance with the CFRs, and does not apply to food additives that are considered Generally Recognized as Safe (GRAS), such as salt, pepper, etc. This item is marked OUT of compliance if unapproved additives are found on the premises or approved additives are improperly used, such as sulfites being applied to fresh fruits or vegetables.

**N.A.** This item may be marked N.A. if the food establishment does **not** use any additives or sulfites on the premises.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-202.12 Additives (P)

3-302.14 Protection from Unapproved Additives (P)

**29. Toxic substances properly identified, stored, and used; held for retail sale, properly Stored**

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of food labeling, storage, reconstitution, and application of bulk and working containers of cleaning agents and sanitizers, personal care items, first aid supplies, medicines, pesticides, and potential toxic and poisonous substances. This item should be marked IN compliance when bulk and working containers of cleaning agents and sanitizers are labeled; sanitizing solutions are not exceeding the maximum concentrations; personal care items, first aid supplies, medicines, and chemicals are stored separate from and not above food, equipment, utensils, linens, and single-service and single-use articles; and restricted use pesticides are applied only by or under the supervision of a certified applicator. This item should be marked OUT of compliance if a cleaning agent or sanitizer is not properly identified and stored; if a sanitizing solution has a higher concentration than prescribed and medicines and first aid kits are improperly labeled and stored.

Violations of solutions exceeding the recommended concentration in chemical washes for fruits and vegetables (§7-204.12) would be marked under Item #42.

**N.A.** This item may be marked N.A. if the establishment does not hold poisonous or toxic materials for retail sale.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

7-101.11 Identifying Information, Prominence-Original Containers (Pf)
7-102.11 Common Name-Working Containers (Pf)
7-201.11 Separation-Storage (P)
7-202.11 Restriction-Presence and Use (Pf)
7-202.12 Conditions of Use (P, Pf, C)
7-203.11 Poisonous or Toxic Material Containers-Container Prohibitions (P)
7-204.11 Sanitizers, Criteria-Chemicals (P)
7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria (P,)
7-204.13 Boiler Water Additives, Criteria (P)
7-204.14 Drying Agents, Criteria (P)
7-205.11 Incidental Food Contact, Criteria-Lubricants (P)
7-206.11 Restricted Use Pesticides, Criteria (P)
7-206.12 Rodent Bait Stations (P)
7-206.13 Tracking Powders, Pest Control and Monitoring (P, C)
7-207.11 Restriction and Storage-Medicines (P, Pf)
7-207.12 Refrigerated Medicines, Storage (P)
7-208.11 Storage-First Aid Supplies (P, Pf)
7-209.11 Storage-Other Personal Care Items (C)
7-301.11 Separation-Storage and Display, Stock and Retail Sale (P)

## Conformance with Approved Procedures

**30. Compliance with variance, specialized process, reduced oxygen packaging criteria or HACCP plan**

**NOTE** Except for fish a HACCP plan is not required when a TCS food is packaged using a reduced oxygen packaging method and is labeled with production time and date, held at required cold holding temperature, and removed from ROP packaging within 48 hours after packaging at the food establishment.

**IN/OUT** This item should be marked IN or OUT of compliance based on direct observations of food preparation and storage, a discussion with the PIC to determine if there are specialized food processes [i.e. smoking food, curing food, reduced oxygen packaging, using food additives to render a food so that it is not TCS food, cook chill, sous vide, etc.] and the record review of standard operating procedures and HACCP documentation. This item should be marked IN compliance when observations of food operations and review of available records indicate compliance is being met with regards to specialized food processes and HACCP plans were submitted to the regulatory authority prior to conducting a ROP operation that conforms to procedures within §3-502.12.This item should be marked OUT of compliance if the inspection reveals specialized food processes that are not approved by the regulatory authority are performed or not conducted in accordance with the approved variance or a HACCP plan was not submitted to the regulatory authority prior to engaging in a ROP operation without a variance.

**N.A.** This item may be marked N.A. if the establishment is not required by the regulatory authority to have a variance or HACCP plan, juice is not packaged or reduced oxygen packaging is not done on the premises.

**N.O.** **Do Not Mark** this item N.O.

**Applicable Code Sections:**

3-404.11 Treating Juice (P, Pf)
3-502.11 Variance Requirement (Pf)
3-502.12 Reduced Oxygen Packaging, Criteria (P, Pf)
4-204.110(B) Molluscan Shellfish Tanks (Pf)
8-103.12 Conformance with Approved Procedures (P, Pf)
8-201.13 When a HACCP Plan is Required (C)
8-201.14 Contents of a HACCP Plan (Pf)

## Good Retail Practices (GRPs)

### D. MARKING INSTRUCTIONS FOR EACH GOOD RETAIL PRACTICE (GRP) ON THE INSPECTION REPORT

Good Retail Practices (GRPs) are systems to control basic operational and sanitation conditions within a facility, and if not controlled, either directly or indirectly subject to in-place manual cleaning without the use of an enclosed band saws, slicers, or mixers,

GRPs are the methods used in, or the facilities or controls used for, the receiving, preparation, storage, serving, packaging or holding of food which are designed to assure unsanitary conditions do not lead to the introduction of hazards or unintentional substances into the end product. differentiation between IN, OUT, N.A. and N.O. is not made in this area, with a few exceptions noted below. For marking the GRPs section, place an “X” in the box to the left of the numbered item if a code provision under that item is **OUT** of compliance. Document each violation of the code provision for the item number in the “Observations and Corrective Actions” section on the second page of the inspection report. For items marked **OUT** of compliance, further indicate the **VIOLATION STATUS** by marking an **“X”** in the corresponding box**: COS** = Corrected on site during inspection and **R =** Repeat violation per the same instructions as given in the Risk Factor section. References to the appropriate provisions of this Code that can be debited under each numbered GRP item are listed in Guide 3-B.

**Note:** Items 30, 32, and 33 will allow for either three or four marking options. Item 30 allows for IN OUT or N.A., and items 32 and 33 allow for IN, OUT, N.A .or N.O. For marking in the GRP Section place an “A” in the box to the left of the numbered item if the code provision under that item is **not applicable** or and “O” for **not observed**.

### E. TEMPERATURE OBSERVATIONS

Item/location

Record the common name of the food as well as the condition, process, and location of the food at the time of monitoring e.g. hot holding, refrigerator, prep-table. Temperatures in compliance and out of compliance should be documented. If there is insufficient space for the number of temperatures taken, record the additional temperatures in the “Observations and Corrective Actions” section of the inspection report.

Food Temperature

Record the temperature indicated on the inspector's thermometer. Specify the measurement in °F or °C. (Note: Food temperature measuring devices that are scaled only in Fahrenheit should be accurate to ±2°F in the intended range of use. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit should be accurate to ± 1°C in the intended range of use.)

**F. OBSERVATIONS AND CORRECTIVE ACTIONS**

Include here specific descriptions of violations observed and recorded in the Risk Factors and Interventions section and Good Retail Practices check boxes. Also include corrective actions for the noted violations and temperatures if there is insufficient space in the allotted section for temperature recordings.

**G. SIGNATURE BLOCK**

| | |
|---|---|
| Person in Charge | The PIC is the individual present at a food establishment who is responsible for the operation at the time of the inspection. |
| Inspector | The Inspector is the individual conducting the inspection. |
| Date | The date the inspection is completed. |
| Follow-up | The determination of whether to conduct a reinspection or other enforcement action. |
| Follow-up Date | The date the follow-up inspection will be conducted. |

## Safe Food and Water

**31. Pasteurized eggs used where required**
Certain menu items use eggs as an ingredient in the preparation of RTE foods, such as Caesar salad, Hollandaise sauce, etc. This is verified by discussion with the PIC and food employees regarding the substitution of pasteurized egg products for raw eggs in uncooked foods, unless allowed under ¶ 3-401.11(D)(2).

**Applicable Code Section:**
3-302.13 Pasteurized Eggs Substituted for Raw Eggs for Certain Recipes (P)

**32. Water and ice from approved source**
There are two types of systems: Public Water System or Non-Public Water System. Regardless of its source, it must meet drinking water standards established by EPA and applicable state drinking water quality standards. If a non-public system is used as Drinking water, the water is sampled / tested at least yearly and records retained on file at the food establishment or per state regulations. Consideration must be given to the supply containers, piping, hoses, etc., connected to the APPROVED source when water is made available for mobile and/or temporary food establishment without a permanent supply.

**Applicable Code Sections:**
3-202.16 Ice (P)
5-101.11 Approved System-Source (P)
5-102.11 Standards-Quality (P)
5-102.12 Nondrinking Water (P)
5-102.13 Sampling (Pf)
5-102.14 Sample Report (C)

5-104.12 Alternative Water Supply (Pf)

**33. Variance obtained for specialized processing methods**
When a Food Establishment wants to deviate from a requirement in the code, utilizes Specialized Processing Methods as specified in § 3-502.11 such as Smoking Food for Preservation, curing food etc. a variance must first be obtained from the regulatory authority. A HACCP plan may also be required as listed in ¶ 8-201.13(A) as part of the variance request.

**N.A.** This item may be marked N.A. if the establishment is not engaged in a specialized processing method, other operation requiring a variance and a HACCP plan or a process or processing method determined by the regulatory authority to require a variance and a HACCP plan.

**Applicable Code Section:**
8-103.11 Documentation of Proposed Variance and Justification (Pf)

## Food Temperature Control

**34. Proper cooling methods used; adequate equipment for temperature control**
A determination must first be made that cooling food is part of the processing step. To assess whether or not the methods used facilitate the cooling criteria specified under § 3-501.14, a discussion with the PIC should support actual observations used in cooling foods. There should be enough equipment with sufficient capacity used for the cooling, heating and hot/cold holding of foods requiring temperature control as specified in Chapter 3 to meet the demands of the operation. Observations must support the determination of compliance status. Frozen food is solid to the touch.

**Applicable Code Sections:**
3-501.11 Frozen Food (C)
3-501.15 Cooling Methods (Pf, C)
4-301.11 Cooling, Heating, and Holding Capacities-Equipment (Pf)

**35. Plant food properly cooked for hot holding**
In determining compliance, observation along with an actual cooking temperature must be obtained.

**N.A.** This item may be marked N.A. if vegetables and fruits are **not** cooked for hot holding in the establishment.
**N.O.** This item may be marked N.O. when plant foods are cooked for hot holding, but are not available for observation during the inspection.

**Applicable Code Section:**
3-401.13 Plant Food Cooking for Hot Holding (Pf)

**36. Approved thawing methods used**
Observing and then gaining an understanding of the establishment's thawing method(s) will help in determining whether a violation exists from the approved thawing methods found under § 3-501.13 as well as the level of risk imposed. Keep in mind that various food products especially those destined for deep-fat frying are often slacked (not thawed) prior to cooking.

**Applicable Code Sections:**
3-501.12 Time/Temperature Control for Safety Food, Slacking (C)
3-501.13 Thawing (C)

**N.A.** This item may be marked N.A. if TCS food are **not** thawed.
**N.O.** This item may be marked N.O. if this food is thawed, but thawing was not observed during the inspection.

**37. Thermometers provided and accurate**
Thermometers provide a means for assessing active managerial control of TCS food temperatures. Determine compliance by observing the in-use storage location and verifying the scaling of the temperature measuring devices in the range of use to measure food, water, or ambient air temperatures. Food thermometers must be calibrated at a frequency to ensure accuracy. Food thermometers should be accessible for use by employees and have a probe size appropriate to the food item.

**Applicable Code Sections:**
4-203.11 Temperature Measuring Devices, Food-Accuracy (Pf)
4-203.12 Temperature Measuring Devices, Ambient Air and Water-Accuracy (Pf)
4-204-112 Temperature Measuring Devices-Functionality (Pf, C)
4-302.12 Food Temperature Measuring Devices (Pf)
4-502.11(B) Good Repair and Calibration (Pf)

## Food Identification

**38. Food properly labeled; original container**
Packaged foods are required to conform to specific labeling laws. Foods packaged within the food establishment must also conform to the appropriate labeling laws, with considerations given to accuracy as well as not being misleading. In addition, all major food allergens, if present, must be accurately declared on the package. Working containers and bulk foods removed from their original packaging require some level of assessment as to how recognizable the food is without labeling by its common name. Molluscan shellfish and vended TCS foods must specifically be assessed based on their specific packaging and labeling requirements.

**Applicable Code Sections:**
3-202.17 Shucked Shellfish, Packaging and Identification (Pf, **C)**
3-203.11 Molluscan Shellfish, Original Container (C)
3-302.12 Food Storage Containers Identified with Common Name of Food (C)
3-305.13 Vended Time/Temperature Control for Safety Food, Original Container (C)
3-601.11 Standards of Identity (C)
3-601.12 Honestly Presented (C)
3-602.11 Food Labels (Pf, C)
3-602.12 Other Forms of Information (C)

## Prevention of Food Contamination

**39. Insects, rodents and animals not Present**
An assessment is made through observation and discussion with the PIC for measures taken to control the presence of pests in the food establishment, including elimination of entry points and harborage areas, and removal of pests and its evidence. Insect trapping devices must not be located over food preparation areas.

**Applicable Code Sections:**
2-403.11 Handling Prohibition-Animals (Pf)
6-202.13 Insect Control Devices, Design and Installation (C)

6-202.15 Outer Openings, Protected (C)
6-202.16 Exterior Walls and Roofs, Protective Barrier (C)
6-501.111 Controlling Pests (Pf, C)
6-501.112 Removing Dead or Trapped Birds, Insects, Rodents and other Pest (C)
6-501.115 Prohibiting Animals (Pf)

**40. Contamination prevented during food preparation, storage and display**
The observation and understanding of the flow of food items from the point of receipt to the point of sale, service or distribution is necessary to determine whether a violation exists. Food is subject to direct and indirect sources of contamination in the establishment. Sources may be related to the working environment, packaging, adequacy of storage facilities, and exposure of food on display to contamination (i.e. salad bars).

**Applicable Code Sections:**
3-202.19 Shellstock, Condition (C)
3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient (P)
3-303.12 Storage or Display of Food in Contact with Water or Ice (C)
3-304.13 Linens and Napkins, Use Limitations (C)
3-305.11 Food Storage-Preventing Contamination from the Premises (C)
3-305.12 Food Storage, Prohibited Areas (C)
3-305.14 Food Preparation (C)
3-306.11 Food Display-Preventing Contamination by Consumers (P)
3-306.12 Condiments, Protection (C)
3-306.13(B) and (C) Consumer Self-Service Operations (Pf)
3-307.11 Miscellaneous Sources of Contamination (C)
6-404.11 Segregation and Location-Distressed Merchandise (Pf)

**41. Personal cleanliness**
Observation of facility personnel for clean outer clothing, effective hair restraints, prohibited jewelry and the condition or protection of fingernails must be made. This includes the use of single-use gloves over an impermeable bandage, finger cot or finger stall.

**Applicable Code Sections:**
2-302.11 Maintenance-Fingernails (Pf)
2-303.11 Prohibition-Jewelry (C)
2-304.11 Clean Condition-Outer Clothing (C)
2-401.13 Use of Bandages, Finger Cots, or Finger Stalls(C)
2-402.11 Effectiveness-Hair Restraints (C)

**42. Wiping cloths; properly used and stored**
Wiping cloths are to be used for a designated purpose and properly used. When stored in solution, the solutions should be reasonably clean and maintained at the proper sanitizer concentration (§4-501.114). Solutions exceeding the recommended sanitizer concentrations would be marked on the Inspection Form under item #28, Toxic substances properly identified, stored, and used. Sponges, if present, are not to be used in contact with clean/sanitized food contact surfaces.

**Applicable Code Sections:**
3-304.14 Wiping Cloths, Use Limitation (C)
4-101.16 Sponges Use Limitation (C)
4-901.12 Wiping Cloths, Air Drying Location (C)

**43. Washing fruits and vegetables**
Raw fruits and vegetables are to be washed prior to their preparation or offered as RTE. Chemicals are allowed for washing fruits and vegetables, along with simply washing them in water. Chemicals that are used in the wash water for fruits and vegetables must be listed and approved with threshold limits in accordance with the CFR's. Refer to the label or labeling of the additive for adequate directions and to assure safe use. Discussion with the PIC and food employees will help determine the establishment's practice.

**Applicable Code Sections:**
3-302.15 Washing Fruits and Vegetables (Pf, C)
7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria (P )

**44. In-use utensils; properly stored**
Based on the type of operation, there are a number of methods available for storage of in-use utensils during pauses in food preparation or dispensing, such as in the food, clean and protected, or under running water to prevent bacterial growth. If stored in a container of water, the water temperature must be at least 135°F. In-use utensils may not be stored in chemical sanitizer or ice between uses. Ice scoops may be stored handles up in an ice bin except for an ice machine.

**Applicable Code Sections:**
3-304.12 In-Use Utensils, Between-Use Storage (C)

**45. Utensils, equipment and linens; properly stored, dried, handled**
An assessment is made of the overall storage practices and handling of clean equipment and utensils, including tableware located in the various areas within an establishment, including the basement, wait station and dining room. Equipment must be air dried prior to storage, and linens must be properly cleaned and stored.

**Applicable Code Sections:**
4-801.11 Clean Linens (C)
4-802.11 Specifications-Laundering Frequency (C)
4-803.11 Storage of Soiled Linens (C)
4-803.12 Mechanical Washing (C)
4-901.11 Equipment and Utensils, Air-Drying Required (C)
4-903.11(A), (B) and (D) Equipment, Utensils, Linens and Single-Service and Single-Use Articles-Storing(C)
4-903.12 Prohibitions (C)
4-904.11 Kitchenware and Tableware-Preventing Contamination (C)
4-904.12 Soiled and Clean Tableware (C)
4-904.13 Preset Tableware (C)
4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing(C)

**46. Single-use/single-service articles; properly stored, used**
These items are not designed to be cleaned and re-used; therefore, they must be properly stored and protected to prevent from possible contamination. Food establishments without facilities for cleaning and sanitizing kitchenware and tableware shall provide only single-use and single-service articles.

**Applicable Code Sections:**
4-502.12 Single-Service and Single-Use Articles, Required Use (P)

| | |
|---|---|
| 4-502.13 | Single-Service and Single-Use Articles-Use Limitations (C) |
| 4-502.14 | Shells, Use Limitations (C) |
| 4-903.11(A) and (C) | Equipment, Utensils, Linens and Single-Service and Single-Use Articles-Storing(C) |
| 4-903.12 | Prohibitions (C) |
| 4-904.11 | Kitchenware and Tableware-Preventing Contamination (C) |

**47. Gloves used properly**
The observation of food preparation activities and glove-use by food employees is necessary. There should be a discussion with the PIC on how gloves are used, if applicable, in food preparation activities. Gloves may serve as a source of cross-contamination if misused.

**Applicable Code Sections:**

| | |
|---|---|
| 3-304.15(B)-(D) | Gloves, Use Limitations (C) |

## Utensils, Equipment and Vending

**48. Food and non-food-contact surfaces cleanable, properly designed, constructed and used**
Equipment and utensils must be properly designed and constructed, and in good repair. Proper installation and location of equipment in the food establishment are important factors to consider for ease of cleaning in preventing accumulation of debris and attractants for insects and rodents. The components in a vending machine must be properly designed to facilitate cleaning and protect food products (e.g., equipped with automatic shutoff, etc.) from potential contamination. Equipment must be properly used and in proper adjustment, such as calibrated food thermometers.

**Applicable Code Sections:**

| | |
|---|---|
| 3-304.16 | Using Clean Tableware for Second Portions and Refills (C) |
| 3-304.17 | Refilling Returnables (P, C) |
| 4-101.11 | Characteristics-Materials for Construction and Repair (P, C) |
| 4-101.12 | Cast Iron, Use Limitations (C) |
| 4-101.13 | Lead, Use Limitation (P, C) |
| 4-101.14 | Copper Use Limitation (P) |
| 4-101.15 | Galvanized Metal, Use Limitation (P) |
| 4-101.17 | Wood, Use Limitation (C) |
| 4-101.18 | Nonstick Coatings, Use Limitation (C) |
| 4-101.19 | Nonfood-Contact Surfaces (C) |
| 4-102.11 | Characteristics-Single-Service and Single-Use (P, C) |
| 4-201.11 | Equipment and Utensils-Durability and Strength (C) |
| 4-201.12 | Food Temperature Measuring Devices (P) |
| 4-202.11 | Food-Contact Surfaces-Cleanability (Pf) |
| 4-202.12 | CIP Equipment (Pf, C) |
| 4-202.13 | “V” Threads, Use Limitation (C) |
| 4-202.14 | Hot Oil Filtering Equipment (C) |
| 4-202.15 | Can Openers (C) |
| 4-202.16 | Nonfood-Contact Surfaces (C) |
| 4-202.17 | Kick Plates Removable (C) |
| 4-204.12 | Equipment Openings, Closures and Deflectors (C) |
| 4-204.13 | Dispensing Equipment, Protection of Equipment and Food (P, C) |
| 4-204.14 | Vending Machine Vending Stage Closure (C) |
| 4-204.15 | Bearings and Gear Boxes, Leakproof (C) |

4-204.16 Beverage Tubing, Separation(C)
4-204.17 Ice Units, Separation of Drains (C)
4-204.18 Condenser Unit, Separation (C)
4-204.19 Can Openers on Vending Machines (C)
4-204.110(A) Molluscan Shellfish Tanks (P)
4-204.111 Vending Machines, Automatic Shutoff (P)
4-204.120 Equipment Compartments, Drainage (C)
4-204.121 Vending Machines, Liquid Waste Products (C)
4-204.122 Case Lot Handling Apparatuses, Movability (C)
4-204.123 Vending Machine Doors and Openings (C)
4-205.10 Food Equipment, Certification, and Classification (C)
4-302.11 Utensils, Consumer Self-Service (Pf)
4-401.11 Equipment, Clothes Washers, Dryers and Storage Cabinets, Contamination Prevention-Location (C)
4-402.11 Fixed Equipment, Spacing or Sealing-Installation (C)
4-402.12 Fixed Equipment, Elevation or Sealing (C)
4-501.11 Good Repair and Proper Adjustment-Equipment (C)
4-501.12 Cutting Surfaces (C)
4-501.13 Microwave Ovens (C)
4-502.11(A) and (C) Good Repair and Calibration-Utensils and Temperature and Pressure Measuring Devices (C)
4-603.11 Dry Cleaning-Methods (C)
4-902.11 Food-Contact Surfaces-Lubricating and Reassembling (C)
4-902.12 Equipment-Lubricating and Reassembling (C)

**49. Warewashing facilities, installed, maintained, used, test strips**

Adequate warewashing facilities must be available and used for the cleaning and sanitization of food-contact surfaces, including the availability of means to monitor its use and the effectiveness of sanitization. For example, an irreversible registering temperature indicator is provided and readily accessible for measuring the utensil surface temperature for establishments that have a hot water mechanical warewashing operation. Observation of manual and mechanical warewashing methods are made to **assess** the procedure for cleaning and sanitizing equipment and utensils. This item is marked OUT of compliance when cleaners and sanitizers are not available for use within the food establishment.

**Applicable Code Sections:**

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment (C)
4-204.113 Warewashing Machine, Data Plate Operation Specifications (C)
4-204.114 Warewashing Machines, Internal Baffles (C)
4-204.115 Warewashing Machines, Temperature Measuring Devices (Pf)
4-204.116 Manual Warewashing Equipment, Heaters and Baskets (Pf)
4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers (Pf)
4-204.118 Warewashing Machines, Flow Pressure Device (C)
4-204.119 Warewashing Sinks and Drainboards, Self-Draining (C)
4-301.12 Manual Warewashing, Sink Compartment Requirements (Pf, C)
4-301.13 Drainboards (C)
4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing (Pf)
4-302.14 Sanitizing Solutions, Testing Devices (Pf)
4-303.11 Cleaning Agents and Sanitizers, Availability (Pf)

4-501.14 Warewashing Equipment, Cleaning Frequency (C)
4-501.15 Warewashing Machines, Manufacturers' Operating Instructions (C)
4-501.16 Warewashing Sinks, Use Limitation (C)
4-501.17 Warewashing Equipment, Cleaning Agents (Pf)
4-501.18 Warewashing Equipment, Clean Solutions (C)
4-501.19 Manual Warewashing Equipment, Wash Solution Temperature (Pf)
4-501.110 Mechanical Warewashing Equipment, Determining Chemical Sanitizer Concentration (Pf)
4-603.12 Precleaning (C)
4-603.13 Loading of Soiled Items, Warewashing Machines (C)
4-603.14 Wet Cleaning (C)
4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment (C)
4-603.16 Rinsing Procedures (C)

**50. Non-food-contact surfaces clean**
Observations should be made to determine if the frequency of cleaning is adequate to prevent soil accumulations on non-food-contact surfaces.

**Applicable Code Sections:**
4-601.11(B) and (C) Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils (C)
4-602.13 Nonfood Contact Surfaces (C)

## Physical Facilities

**51. Hot and cold water available; adequate pressure**
Regardless of the supply system, the distribution of water to the facility must be protected and operated according to law. Adequate pressure is to be maintained at all fixtures during peak demand including the capacity to provide hot water at peak hot water demand.

**Applicable Code Sections:**
5-103.11 Capacity-Quantity and Availability (Pf)
5-103.12 Pressure (Pf)
5-104.11 System-Distribution, Delivery, and Retention (Pf)

**52. Plumbing installed; proper backflow devices**
The observation of an approved plumbing system, installed and maintained, including the equipment and devices connected to the potable water supply, is necessary to determine whether a violation exists. An assessment of the layout of the establishment and the water distribution system is made to determine if there are any points at which the potable water supply is subject to contamination or is in disrepair.

**Applicable Code Sections:**
5-101.12 System Flushing and Disinfection (P)
5-201.11 Approved-Materials (P)
5-202.11 Approved System and Cleanable Fixtures (P, C)
5-202.13 Backflow Prevention, Air Gap (P)
5-202.14 Backflow Prevention Device, Design Standard (P)
5-202.15 Conditioning Device, Design (C)
5-203.13 Service Sink (C)
5-203.14 Backflow Prevention Device, When Required (P)
5-203.15 Backflow Prevention Device. Carbonator (P)
5-204.12 Backflow Prevention Device, Location (C)

5-204.13 Conditioning Device, Location (C)
5-205.12 Prohibiting a Cross Connection (P, Pf)
5-205.13 Scheduling Inspection and Service for a Water System Device (Pf)
5-205.14 Water Reservoir of Fogging Devices, Cleaning (P)
5-205.15 System Maintained in Good Repair (P, C)
5-301.11 Approved-Materials, Mobile Water Tank and Mobile Food Establishment Water Tank (P, C)
5-302.11 Enclosed System, Sloped to Drain (C)
5-302.12 Inspection and Cleaning Port, Protected and Secured (C)
5-302.13 "V" Type Threads, Use Limitation (C)
5-302.14 Tank Vent, Protected (C)
5-302.15 Inlet and Outlet, Sloped to Drain (C)
5-302.16 Hose, Construction and Identification (P, C)
5-303.11 Filter, Compressed Air (P)
5-303.12 Protective Cover or Device (C)
5-303.13 Mobile Food Establishment Tank Inlet (C)
5-304.11 System Flushing and Sanitization-Operation and Maintenance (P)
5-304.12 Using a Pump and Hoses, Backflow Prevention (C)
5-304.13 Protecting Inlet, Outlet and Hose Fitting (C)
5-304.14 Tank, Pump and Hoses, Dedication (P)

**53. Sewage and waste water properly disposed**

There are two types of systems: public sewage treatment plant and an individual sewage disposal system. Observations of the facilities overall sewage and wastewater system is necessary to determine if a violation exists. Indications that a system is not functioning properly may include the presence of sewage back-up into the establishment or outdoors on the ground. Condensate drippage and other non-sewage wastes must be drained to a system in accordance to LAW, and backflow prevention, if required, installed between the sewage system and drain of equipment holding food or utensils. Mobile wastewater holding tanks must also be assessed for capacity and maintenance.

**Applicable Code Sections:**

5-401.11 Capacity and Drainage (C)
5-402.11 Backflow Prevention (P)
5-402.12 Grease Trap (C)
5-402.13 Conveying Sewage (P)
5-402.14 Removing Mobile Food Establishment Wastes (Pf)
5-402.15 Flushing a Waste Retention Tank (C)
5-403.11 Approved Sewage Disposal System (P)
5-403.12 Other Liquid Wastes and Rainwater (C)

**54. Toilet facilities: properly constructed, supplied, clean**

A toilet facility should be assessed to determine if: it is not an attractant to insects; the number of fixtures are adequate; toilet tissue and a covered trash receptacle (ladies room only) are provided; fixtures are not being kept clean; and the door self-closes to prevent recontamination of hands.

**Applicable Code Sections:**

5-203.12 Toilets and Urinals (C)
5-501.17 Toilet Room Receptacle, Covered (C)
6-202.14 Toilet Rooms, Enclosed (C)
6-302.11 Toilet Tissue, Availability (Pf)

6-402.11 Conveniently Located (C)
6-501.18 Cleaning of Plumbing Fixtures (C)
6-501.19 Closing Toilet Room Doors (C)

**55. Garbage/refuse properly disposed; facilities maintained**
The assessment of the refuse collection and disposal areas for proper receptacles and maintenance is necessary to determine whether a violation exists. Since refuse areas may attract and harbor insects and pests, as well as create a public health nuisance, particular attention must be paid to the maintenance of the refuse facilities and area.

**Applicable Code Sections:**
5-501.11 Outdoor Storage Surface (C)
5-501.12 Outdoor Enclosure (C)
5-501.13 Receptacles (C)
5-501.14 Receptacles in Vending Machines (C)
5-501.15 Outside Receptacles (C)
5-501.16 Storage Areas, Rooms and Receptacles, Capacity and Availability (C)
5-501.18 Cleaning Implements and Supplies (C)
5-501.19 Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location(C)
5-501.110 Storage Refuse, Recyclables and Returnables (C)
5-501.111 Area, Enclosures and Receptacles, Good Repair (C)
5-501.112 Outside Storage Prohibitions (C)
5-501.113 Covering Receptacles (C)
5-501.114 Using Drain Plugs (C)
5-501.115 Maintaining Refuse Areas and Enclosures(C)
5-501.116 Cleaning Receptacles (C)
5-502.11 Frequency-Removal (C)
5-502.12 Receptacles or Vehicles (C)
5-503.11 Community or Individual Facility (C)
6-202.110 Outdoor refuse Areas, Curbed and Graded to Drain (C)

**56. Physical facilities installed, maintained, and clean**
Observations are made of the overall conditions or practices related to the physical facility (e.g., materials used, good repair, and maintained). I of the physical facility conditions to determine the level of compliance and the potential public health impact involved if compliance is not met. Storage of maintenance tools, use of laundry facilities, if applicable, disposal of mop water and separate living/sleeping quarters are included in this section.

**Applicable Code Sections:**
4-301.15 Clothes Washers and Dryers (C)
4-401.11(C) Equipment, Cloths, Washers and Dryers, and Storage Cabinets, Contamination Prevention (C)
4-803.13 Use of Laundry Facilities (C)
6-101.11 Surface Characteristics-Indoor Areas (C)
6-102.11 Surface Characteristics-Outdoor Areas (C)
6-201.11 Floors, Walls and Ceilings-Cleanability (C)
6-201.12 Floors, Walls, and Ceilings, Utility Lines (C)
6-201.13 Floor and Wall Junctures, Coved, and Enclosed or Sealed (C)
6-201.14 Floor Carpeting, Restrictions and Installation (C)
6-201.15 Floor Covering, Mats and Duckboards (C)

6-201.16 Wall and Ceiling Coverings and Coatings (C)
6-201.17 Walls and Ceilings, Attachments (C)
6-201.18 Walls and Ceilings, Studs, Joists, and Rafters (C)
6-202.17 Outdoor Food Vending Areas. Overhead Protection (C)
6-202.18 Outdoor Servicing Areas, Overhead Protection (C)
6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain (C)
6-202.111 Private Homes and Living or Sleeping Quarters, Use Prohibition (P)
6-202.112 Living or Sleeping Quarters, Separation (C)
6-501.11 Repairing-Premises, Structures, Attachments, and Fixtures-Methods (C)
6-501.12 Cleaning, Frequency and Restrictions (C)
6-501.13 Cleaning Floors, Dustless Methods (C)
6-501.15 Cleaning Maintenance Tools, Preventing Contamination (Pf)
6-501.16 Drying Mops(C)
6-501.17 Absorbent Materials on Floors, Use Limitation (C)
6-501.113 Storing Maintenance Tools (C)
6-501.114 Maintaining Premises, Unnecessary Items and Litter (C)

**57. Adequate ventilation and lighting; designated areas used**
Observations should be made to ensure that the ventilation is adequately preventing an accumulation of condensation, grease or other soil from potentially contaminating food and the surrounding environment and that lights are at an adequate light intensity, and personal belongings are properly stored to maintain clean and sanitary facility and protect food and equipment.

**Applicable Code Sections:**
4-202.18 Ventilation Hood Systems, Filters (C)
4-204.11 Ventilation Hood Systems, Drip Prevention (C)
4-301.14 Ventilation Hood Systems, Adequacy (C)
6-202.11 Light Bulbs, Protective Shielding (C)
6-202.12 Heating, Ventilation, Air Conditioning System Vents (C)
6-303.11 Intensity-Lighting (C)
6-304.11 Mechanical-Ventilation (C)
6-305.11 Designation-Dressing Areas and Lockers (C)
6-403.11 Designated Areas-Employee Accommodations for eating/drinking/smoking (C)
6-501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition (C)
6-501.110 Using Dressing Rooms and Lockers (C)

**Mobile Food Establishment References 7.6.2.9**
The letter "O" after an item means it is cited under observations on the inspection form. Observations are made of the overall conditions or practices related to the mobile food establishment.

D. Provides (C):
(1) Location of potable water source **(Item 32)**
(2) Location and method of liquid and solid waste disposal **(Item 53)**
(3) Distinguishes identity form other mobiles **(O)**
E. Has adequate electrical and fuel capacity **(O)** (Pf)
F. Operates within 200 feet of toilet facilities **(Item 54)** (C)
G. Operates within permitted enclosure **(O)** (Pf)
H. Provides single-service articles for consumers **(Item 46)** (C)
I. Self-contained mobile requirements:

(1) Meets all equipment requirements of this Code **(O)** (Pf)
(2) Adequate storage facilities for all food, equipment, utensils, supplies, potable water & waste water **(O)** (Pf)
(3) Accomplishes all operations within unit enclosure **(O)** (Pf)
(4) Provides how & where unit is cleaned and serviced and where stored during non-operating hours **(O)** (C)
(5) Gives 24 hour advanced notification outside of permitted office Area **(O)** (C)

J. Servicing Area Requirements (Non Self-contained & Pushcarts) **(O)** (Pf)
K. Additional pushcart requirements (Pf)
(1) Pushcart limitations **(O)**
(2) Pre-preparation at Servicing Area (Pushcarts) **(O)**
(3) Operates under protective cover **(Item 56)**
(4) Grill has protective lid **(Item 40)**
(5) Items contained on or within pushcart **(O)**
(6) TCS food not cooled & later reheated **(O)**
(7) If used, complies with ice chest use requirements **(O)**

**Temporary Food Establishment References 7.6.2.10**

The letter "O" after an item means it is cited under observations on the inspection form. Observations are made of the overall conditions or practices related to the temporary food establishment.

D. Temporary food establishment requirements:
(1) Serves only Approved Food **(O)** (C)
(2) Conducts all operations within approved enclosure **(O)** (Pf)
(3) Location approved for (C):
(a)Potable water, **(Item 32)**
(b) Liquid waste disposal, **(Item 53)**
(c) Solid waste disposal approved **(Item 55)**
(4) Handwashing sink provided **(Item 11)** (P)
(5) Soap & paper towels well supplied **(Item 11)** (Pf)
(6) Warewashing facilities or extra utensils provided **(Item 49)** (Pf)
(7) Adequate supply of potable water **(Item 51)** (Pf)
(8) Adequate supply of ice **(O)** (Pf)
(9) Food not stored in undrained ice **(Item 40)** (C)
(10) Raw meats not stored with RTE foods **(Item 40)** (P)
(11) Food maintained at temperature & protected from contamination during transport **(Items 22 or 23 or 40)** (P)
(12) Previously cooked foods not carried over to next day **(O)** (Pf)
(13) Operates on approved surface **(Item 56)** (C)
(14) Weather-Resistant covering **(Item 56)** (C)
(15) Constructs booth to protect against insects, consumers & environmental contamination **(Item 56)** (C)
(16) Provides separation to prevent consumer entry **(Item 56)** (C)
(17) Walls smooth, easily cleanable, non-absorbent **(Item 56)** (C)

(18) Table 10-1 requirements met **(O)** (Pf)

**Catering Food Establishment References NMAC 7.6.2.16**

1. Operate from a permitted food establishment or servicing area 7.6.2.16.B(1) (P)
2. Provide schedule of events 7.6.2.16.B(3) (C)
3. Supply handwashing sink 7.6.2.16 B(4) (Pf)

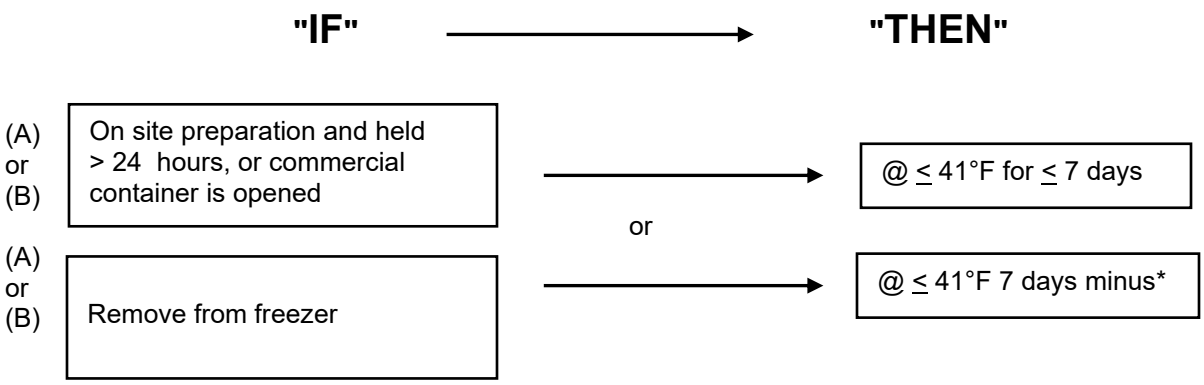
**Chart 4-A Summary Chart for Minimum Cooking Food Temperatures and Holding Times Required by Chapter 3**

| Food | Minimum Temperature | Minimum Holding Time at the Specified Temperature |
|---|---|---|
| **Raw Eggs** prepared for immediate service<br>**Commercially Raised Game Animals and Exotic Species of Game Animals**<br>**Fish, Pork, and Meat** Not Otherwise Specified in this Chart or in ¶ 3-401.11(B) | 63ºC (145ºF) | 15 seconds |
| **Raw Eggs** not prepared for immediate service<br>**Comminuted**<br>**Commercially Raised Game Animals and Exotic Species of Game Animals**<br>**Comminuted Fish and Meats**<br>**Injected Meats**<br>**Mechanically Tenderized Meats** | 70ºC (158ºF)<br>68ºC (155ºF)<br>66ºC (150ºF)<br>63ºC (145ºF) | < 1 second<br>17 seconds<br>1 minute<br>3 minutes |
| **Poultry**<br>**Baluts**<br>**Stuffed Fish; Stuffed Meat;**<br>**Stuffed Pasta;**<br>**Stuffed Poultry; Stuffed Ratites**<br>**Stuffing Containing Fish, Meat, Poultry, or Ratites**<br>**Wild Game Animals** | 74ºC (165ºF) | < 1 second, Instantaneous |
| **Food Cooked in A Microwave Oven** | 74ºC (165ºF) | and hold for 2 minutes after removing from microwave oven |

**Chart 4-B Summary Chart for Minimum Food Temperatures and Holding Times Required by Chapter 3 for Reheating Foods for Hot Holding**

| Food | Minimum Temperature | Minimum Holding Time at the Specified Temperature | Maximum Time to Reach Minimum Temperature |
|---|---|---|---|
| ¶ 3-403.11(A) and (D) Food that is cooked, cooled, and reheated | 74°C (165°F) | 15 seconds | 2 hours |
| ¶ 3-403.11(B) and (D) Food that is reheated in a microwave oven | 74°C (165°F) | and hold for 2 minutes after reheating | 2 hours |
| ¶ 3-403.11(C) and (D) Food that is taken from a commercially processed, hermetically sealed container or intact package | 57°C (135°F) | No time specified | 2 hours |
| **Roasts:** Option A<br>¶ 3-403.11(E) Unsliced portions of meat roasts cooked as specified under ¶ 3-401.11(B) | Same oven parameters and minimum time and temperature conditions as specified under ¶ 3-401.11(B) | Same oven parameters and minimum time and temperature conditions as specified under ¶ 3-401.11(B) | Not applicable |
| **Roasts:** Option B<br>¶ 3-403.11(E) Unsliced portions of meat roasts cooked as specified under ¶ 3-403.11(A) | 74°C (165°F) | 15 seconds | 2 hours |

## Chart 4-C Summary Chart Ready-to-Eat, Time/temperature Control for Safety Food) Date Marking § 3-501.17(A) – (E) and Disposition § 3-501.18




***Time from preparation, or opening commercial container, to freezing.**

Example: The morning of October 1, a chicken was cooked, then cooled, refrigerated for 2 days at 41°F and then frozen. If the chicken is thawed October 10, the food must be consumed or discarded no later than midnight of October 14.

| Date | Shelf Life Day | Action |
|---|---|---|
| Oct. 1 | 1 | cook/cool |
| Oct. 2 | 2 | cold hold at 41°F |
| Oct. 3 | | freeze |
| Oct. 10 | 3 | thaw to 41°F |
| Oct. 11 | 4 | cold hold |
| Oct. 12 | 5 | cold hold |
| Oct. 13 | 6 | cold hold |
| Oct. 14 | 7 | consume or discard |

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