32-13-667

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 8/7/13
Time 9:04a
Received by

AUG 02 2013

Office of the Secretary
Senator Tina Barnes
Date 8-06-13
Time 10:30
Received VB

Honorable Tina R. Muna-Barnes
Legislative Secretary
Mina' Trentai Dos Na Liheslaturan Guåhan
155 Hesler St.
Hagåtña, Guam 96910

2013 AUG 7 AM 9:16

Dear Senator Barnes:

Hafa Adai! Pursuant to §3131, Division 1, Chapter 3 of Title 5 GCA (Administrative Adjudication Law – "AAL"), the Department of Public Health and Social Services(DPHSS) held a public hearing to receive public comments on its adoption of the attached Guam Food Code, which will replace the existing "Rules and Regulations Relative to Eating and Drinking Establishments." The hearing was held on May 2, 2013 from 4:00 p.m. to 7:00 p.m. at the Castle Mall, Mangilao. All oral and written testimonies received were in support of the code's adoption. An economic impact statement was also prepared in accordance to the AAL and the proposal was reviewed by the Office of the Attorney General (OAG).

The proposed Guam Food Code closely mirrors the USFDA Model Food Code, which the Guam Food Safety Task Force (GFSTF) reviewed and approved for DPHSS' adoption. In addition to the May 2, 2013 public hearing, the Department had met with food industry representatives and several members of the Guam Hotel and Restaurant Association on multiple occasions to obtain their feedback about the proposal.

As noted in the OAG's review, they did not oppose the numbering system used in the Guam Food Code and DPHSS complied with the procedures of the AAL. Furthermore, DPHSS addressed the concerns that were raised by the OAG by adding additional language to the end of §1-103.10 of the proposal. The Department also inserted a provision where the actual enforcement of the Guam Food Code will commence a year after the code's official adoption. This was done to allow for the training and certification of DPHSS personnel in the effective implementation of the code and to provide sufficient time for the food industry to meet the new requirements.

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Eddie Baza Calvo

The Economic Impact Statement (EIS) showed that the adoption of the Guam Food Code will have a direct financial impact to the industry. However, the over-all benefits that will arise from the code's implementation will exceed that of the costs incurred by the food industry. The collective reduction of the economic burden derived from food-borne illness through the implementation of preventive measures mandated in the Guam Food Code will outweigh the actual and imagined costs that the industry will experience in the adoption of the code.

We have enclosed the following materials for your review:

- Hardcopy of the public hearing notices that were printed in the Marianas Variety Guam Edition on April 19, 2013 and May 2, 2013;
- Hardcopy of the proposed Guam Food Code and its Economic Impact Statement (EIS); and
- A digital audio copy of the Minutes of the May 2, 2013 public hearing.
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A computer disk with the electronic copy of the Guam Food Code and its EIS, and the audio copy of the Minutes is provided.

Should you have any questions regarding this matter, please contact Mr. James W. Gillan, the Director of the Department of Public Health and Social Services, at 735-7102, or Mr. Tom Nadeau of the department's Division of Environmental Health at 735-7221.

Senseramente,

EDDIE BAZA CALVO
I Maga'lahen Guåhan
Governor of Guam

Enclosures

GUAM FOOD CODE

REGULATIONS GOVERNING SAFE FOOD HANDLING AND THE SANITARY OPERATION OF FOOD ESTABLISHMENTS TO PREVENT FOODBORNE ILLNESS

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
DIVISION OF ENVIRONMENTAL HEALTH
123 CHALAN KARETA
MANGILAO, GUAM 96913-6403

Title 5 Guam Code Annotated, Chapter 9, Article 3
ECONOMIC IMPACT STATEMENT
GUAM FOOD CODE

SUMMARY

The Department of Public Health and Social Services (DPHSS) is proposing to adopt the Guam Food Code to replace the existing "*Rules and Regulations Relative to Eating and Drinking Establishments"* and apply this document for the regulation of all retail food facilities on Guam. Retail food facilities (RFF) are those commercial establishments which prepare and provide packaged and non-packaged foods directly to consumers; it does not include food manufacturers and distributors.

DPHSS issues approximately 3,000 Sanitary Permits annually to various health-regulated establishments, and just over half are for retail food facilities. In Fiscal Year 2011, 1,092 and 561 Sanitary Permits were issued to RFFs in the categories of Eating and Drinking Establishments and Food Establishments, respectively, for a total of 1,653 permits. If adopted, the Guam Food Code will govern the sanitary operation of these 1,653 facilities and the compliance inspections conducted by the Division of Environmental Health (DEH) of DPHSS.

Because the total financial impact is expected to exceed $500,000, this economic impact statement was prepared by DEH, pursuant to Article 3 of Title 5 GCA Chapter 9, using available local and national data and the collection of survey data from sampled establishments. A survey questionnaire was distributed to over 300 establishments that would be affected by the adoption of the Guam Food Code; one-hundred responses were received. The survey focused on four specific requirements of the code that DEH believes would have the biggest financial impact to the regulated facilities. These four provisions were the no bare-hands contact; consumer advisory; manager certification; and the reduced cold holding temperature requirements. DPHSS also reviewed the local morbidity reports of the past decade and national statistics on food-borne illnesses.

As a result of the survey, it is estimated that the adoption of the Guam Food Code will have a direct total financial impact of $1,888,914.80 to the industry and DEH in the first year of its implementation. In subsequent years, the financial cost will be reduced to about $1,142,943.30 a year as the one-time costs for the replacement of the refrigeration units and the training of industry by DEH will no longer be applicable.

- No bare-hands contact (Projected annual cost: $482,308.80)
- Consumer advisory (Projected annual cost: $478,804.50)
- Manager certification (Projected annual cost: $181,830)
- Reduced cold holding temperature (Projected one-time cost: $719,051.50)
- Training workshops (Projected one-time cost: *$26,920)

*$6,000 incurred by DPHSS for securing training venue sites

The anticipated costs given by the respondents in the survey were liberally interpreted by calculating the upper ends of their estimates. The projected one-time cost of $719,051.50 that may result from the implementation of the reduced cold-holding temperature provision of the code may actually be much less than reported by the survey respondents based on the observations of DEH personnel during inspections of these facilities and the findings of the State of North Carolina in their own economic impact study for their adoption of the FDA Food Code.

The economic impact to the industry is nominal ($3.07/day for the first year and $1.86/day the following years) if the costs are equally distributed to all the affected retail food facilities. Thus, it is unlikely the increased cost from implementing the Guam Food Code will be passed down to the employees or customers, or result in any substantial increase in the cost of business. Adverse impact to employment is also not expected. Instead, there may be an increase in employment as establishments may need to recruit a certified manager or additional certified managers to ensure one is on duty during the entire operation of the their establishments

While the increased costs that will result from the adoption of the Guam Food Code may be deemed as an adverse impact to the affected businesses, the overall impact will be beneficial to the economy and the health of the population from the expected reduction in the number of foodborne illness incidents on the island and its associated economic burden. The collective reduction of the economic burden derived from food-borne illness through the implementation of preventive measures mandated in the Guam Food Code will outweigh the actual and imagined cost that the industry will experience in the adoption of the code.

From the period of 2002-2011, there were 1,584 diseases reported in Guam that were of types associated with the consumption of contaminated food or water. The largest food-borne illness outbreak ever recorded on Guam in the past 20 years occurred in May 2011; it involved over 350 elementary school students in five public schools, and was linked to a regulated commercial food facility. The island also averages over 1,000 gastroenteritis cases a year, and if 20% of the infections are caused by the norovirus, as reported by U.S. Centers for Disease Control and Prevention, then it may be assumed that about 200 of the island's reported incidents are due to the virus. Norovirus infections account for nearly 60% of all known foodborne illnesses in the U.S.

The economic burden of food-borne diseases in the U.S. annually has been estimated to be $77.7 billion resulting from the 48 million food-borne illnesses occurring every year in America. This equates to $1,626 per case. If the annual estimate is applied to Guam using the island's 2010 census, Guam's share of the economic cost for food-borne illnesses would be approximately $41.3 million a year. The May 2011 outbreak at the five public schools is estimated to have had an economic burden of $257,150 from the health impact alone, and does not include the cost incurred by the government in responding to the outbreak. While the implementation of the Guam Food Code will not assure that all food-borne illnesses will be prevented on Guam, and thus eliminating the estimated $41.3 million economic burden, it will however reduce the potential for this type of illnesses from occurring. If the Guam Food Code can prevent even a single case of listeriosis on island, which has an economic burden that is estimated to be over $1

million a case, through the lowering of the cold holding temperature provision, then the code can theoretically offset much of the economic impact to Guam's retail food facilities.

I. Purpose and Need

The lawful operation of businesses regulated by the Department of Public Health and Social Services (DPHSS) requires the acquisition of a Sanitary Permit from the Division of Environmental Health (DEH) of the Department pursuant to Title 10 GCA Chapter 21. The issuance of a Sanitary Permit enables DEH to regulate the applicable establishments to ensure that these facilities are sanitary and operate in such a manner as to prevent the transmission of communicable diseases, which include food-borne illness, to the public. Businesses possessing a Sanitary Permit are required to allow the access and inspection of its regulated facility by DEH. One type of regulated business is the retail food facility (RFF), which provides food directly to consumers. RFF includes restaurants, bars, stall stands, caterers, cafeterias, grocery stores, mobile food carts, and other similar permanent and temporary establishments, but does not include wholesalers/distributors which do not provide food directly to consumers.

DEH conducts compliance inspections of RFF to ensure these establishments operate in a manner, and possess the physical assets, to prevent food-borne illness in those who consume their food products. These regulatory inspections are conducted through the implementation of adopted rules and regulations that provide the sanitary operation and physical requirements that RFF must comply with, such as:

- Construction and maintenance of the establishment
- Preparation, display, transportation, storage, and protection of food
- Health, personal cleanliness, clothing, and practices of food employees
- Equipment installation and usage
- Cleaning and sanitization of equipment and utensils
- Water supply and plumbing of the establishment
- Hand-washing and toilet facilities
- Waste removal
- Insect and rodent control
- Lighting and ventilation of the establishment

Currently, DEH imposes the "*Rules and Regulations Relative to Eating and Drinking Establishments*" and the "*Rules and Regulations Relative to Retail Food Store Sanitation*" for the regulatory control of all RFFs on Guam. The two regulatory documents were adopted in the years 1984 and 1987, respectively. Since the adoptions of the two regulations, over twenty years ago, there has been increased knowledge about food pathogens and improvements in the technology and practice of food safety. To incorporate and apply the new information and improved practices for the purpose of better protecting the public from food-borne diseases that could occur from consuming commercially available food products and meals, DEH seeks to update its existing rules and regulations by adopting the "Guam Food Code," which closely mirrors the Model Food Code that was developed by the U.S. Food and Drug Administration (FDA). The Model Food Code is a science-based guide for food protection that FDA encourages

all U.S. jurisdictions to adopt for uniformity. The document guide is reviewed every 2 years. Many states have adopted the model code in parts or in whole.

According to the U.S. Centers for Disease Control and Prevention (CDC), it is estimated that there are 48 million food-borne illnesses in the U.S. annually with 128,000 hospitalizations and about 3,000 deaths[1]. Norovirus accounts for the most food-borne illness (58%) in the U.S. for all known pathogens. It is also one of the leading food-borne pathogens that cause hospitalizations. The five known food-borne pathogens that cause the most deaths in the nation are *Salmonella*, *Toxoplasma*, *Listeria*, norovirus, and *Campylobacter*. Collectively, they contribute to 88% of all food-borne illness deaths.

From 2002 to 2011, Guam had 698 reported cases that were identified as "food poisoning" over the ten year period[2]. If other reported diseases, which can be acquired through the ingestion of contaminated food, water, or other vehicles, were included (i.e., cholera, Hepatitis A, *Vibrio*, etc.), this number would be 1,584 over the same period. These figures exclude the number of reported "gastroenteritis" cases, which averaged 1,093 *a year* (or 10,093 total cases) for the ten year time span[3]. In a March 21, 2013 press release, CDC reported that norovirus is now the leading cause of severe gastroenteritis in U.S. children[4]. The press release noted that 21% of the total acute gastroenteritis cases they examined were caused by norovirus.

The true number of food-borne illnesses recorded on Guam is likely much greater since most go unreported. Regardless of the actual number of incidents that may occur on Guam, food-borne illness is a significant public health concern and a single outbreak can include hundreds of individuals, such as the one that sickened over 350 students at five public schools in May 2011. It was the largest recorded food-borne illness outbreak on Guam in the last twenty years. Two more separate outbreaks involving more than 20 individuals each also occurred in 2011.

With the adoption of the Guam Food Code, the Department of Public Health and Social Services seeks to prevent and reduce the number of food-borne diseases occurring on island. Two specific provisions - reduced cold-holding temperature and no bare-hands contact - in the proposed code will place additional safeguards to protect the public from listeriosis and norovirus, respectively. The Guam Food Code will also ensure that managers of all RFFs become certified as possessing food safety knowledge and its application.

II. Financial Impact

The Department of Public Health and Social Services (DPHSS) issues approximately 3,000 Sanitary Permits annually to various regulated businesses on Guam. Of the total number of permits issued, nearly 75% are for food-related facilities, and of that, approximately three-fourths are retail food facilities (RFF). Therefore, over 1,600 permitted establishments would be governed, and thus impacted, by the adoption of the Guam Food Code.

The Guam Food Code (the "Code") essentially has the same requirements as the existing rules and regulations, but is much more detailed and comprehensive. More importantly, it also places additional safeguards, thus, further requirements on the industry, to protect consumers from

potential food-borne diseases. The most significant changes that would likely have the greatest financial impact to the RFF are the no bare-hand contact provision; reduction in cold-holding temperature; implementation of the consumer advisory; and the requirement of a managerial certification of all RFF managers on duty:

a. The Guam Food Code will prohibit the use of bare hands when handling ready-to-eat foods to reduce the likelihood of illnesses caused by those pathogens that have high infectivity and are associated with poor hygiene, such as norovirus and shigella. As a result, ready-to-eat meals cannot be touched with bare hands. Consequently, establishments will need to implement practices that may result in additional costs, such as procurement of (disposable) gloves and additional utensils.

b. The Code will lower the cold-holding temperature from 45 °F to 41 °F to control the growth of the pathogenic bacteria, *Listeria monocytogenes*, which can grow at temperatures lower than most pathogenic bacteria. To meet the new requirement, some establishments may need to retrofit, repair, or replace their refrigeration unit(s) so that it may keep food at lower temperatures than currently required. Such correction or change will cause the affected facilities to incur additional costs with the biggest financial impact to those possessing larger refrigeration units, such as the walk-in chillers.

c. Consumer advisory is a provision in the Guam Food Code that requires retail food establishments to inform their customers of the increased risk from pathogens if the establishment serves or sells raw or undercooked beef, egg, pork, fish, lamb, milk, poultry, or shellfish in a ready-to-eat form or as an ingredient of a food item in ready-to-eat form. Such notification must be in writing through brochures, label statements, menu advisory, placards, or other effective written manner. The cost of compliance will most likely derive from the printing of the notices or stickers and the manpower to place these notices on pre-packaged, retail products.

d. The proposed Code will require the person-in-charge to be present during all hours of operation of the RFF, and that the person-in-charge is a "certified food protection manager" who has passed a food protection manager certification program. The Code will be placing greater responsibilities on the manager of the RFF for its sanitary operation and the food it provides. The certified manager may be orally quizzed on his/her food safety knowledge by DEH staff during compliance inspections. The certification will require the manager to attend a brief course and pass its written examination. The cost of the certification course will be borne by the attendees, while the RFF may incur additional expenses from having its manager away from the worksite to attend the course.

To assess the direct financial impact the Guam Food Code may have on the 1,653 retail food facilities on island as a result of the adoption and implementation of the four specific provisions noted above, DPHSS conducted a survey. This survey, which was prepared in the form of a questionnaire (**Attachment A**), asked the following eleven questions of 312 randomly selected RFFs currently possessing a Sanitary Permit with the Department:

Part I: Consumer Advisory

1. Does your establishment serve or sell ready-to-eat undercooked meat, seafood, and poultry products?
2. If "YES" and the Guam Food Code is adopted, how do you plan to advise your customers?
3. What is the anticipated cost your business will incur in developing and providing the written advisory to your customers?

Part II: Manager's Certificate

4. What are your hours of operation at this location?
5. How many shifts do you have during these hours?
6. How many of your shift supervisors have a current Manager's Certificate?

Part III: Cold Holding

7. Does your facility have existing refrigeration equipment that is capable of maintaining food at 41 ºF or less?
8. If "No," how many refrigeration units will you need to purchase to be sufficient in number and capacity for your operation?
9. What is the total cost your business will likely incur to purchase new refrigeration equipment that is capable of maintaining food at 41 ºF?

Part IV: No Bare-Hands Contact

10. Do your employees use their bare hands when handling ready-to-eat foods?
11. What is the total monthly cost your business has incurred, or will likely incur, to implement the "no-bare hands" provision, including anticipated expenses to purchase items checked in #2 above and any other associated costs.

The methodology of the survey and the determination of the sampling size of 312 establishments from a total of 1,653 RFFs are provided in **Attachment B**. Anticipating no response from some of 312 sampled establishments, DPHSS distributed the questionnaire to an additional 88 other randomly selected establishments for a total of 400 surveys.

In the two weeks given to the establishments to submit their completed survey, DPHSS received 100 responses. Not all of the respondents answered every question or followed the instructions given. Because the number of responses received was well below the determined sampling size of 312, the results are not statistically reliable. However, the findings did provide insight into the possible financial impact the implementation of the proposed Guam Food Code would have on the retail food establishments. Graphical results of the survey are provided in **Attachment C**.

Consumer Advisory

- Seventy respondents (70%) indicated that their facility did not serve or sell ready-to-eat raw or undercooked meat, seafood, and poultry products. Two respondents

did not answer the question, which suggested they too did not serve or sell these types of item.

- Twenty-eight respondents (28%) that noted that their facilities did serve or sell ready-to-eat raw or undercooked meat, seafood, and poultry products revealed that the written advisory would be provided by the following means *(Note: Several respondents checked multiple answers)*:
  - Menu: 13
  - Placard: 7
  - Label: 23
  - Brochure: 4
  - Other: 5
- When asked what is the anticipated cost their business may incur to provide the written advisory to their customers, most (19 respondents – 57.6%) selected the cost-range of $0.00 - $499, which was followed by $500 - $999 (7 respondents – 21.2%). Around 9.1% (3 respondents) indicated that the impact would be from $1,000 to $1,499. Four respondents (12.1%) noted that their anticipated cost would be $1,500 or greater. Twenty-eight responses were expected for this question since that was the number of respondents who had indicated that they would need to provide written consumer advisory; however, thirty-three had actually responded to this question about the anticipated cost.

Based on the results of the survey, most retail food facilities do not serve or sell raw or undercooked ready-to-eat meat, seafood, or poultry products; thus, the majority would not be impacted by this particular provision. For those facilities affected, just over half would not expect to expend more than $500 to effectuate the provision, but because it was not made clear in the questionnaire, it is unknown if such cost is a monthly, yearly, or other date-related expense, or if this is a one-time cost. For those facilities needing, or wanting, to place its advisory on labels for their raw or undercooked RTE foods, such as grocery stores, the expenses will very likely be a recurring event.

Assuming that the reported, anticipated cost is a yearly expense and reflects the entire RFF population, the direct annual impact of the Consumer Advisory requirement to these facilities will be approximately $478,804 if the upper end of each cost range was used for the assessment, as determined from the survey (Table 1).

Cost Range	Respondents	Number of RFF	Financial Impact
$0.00 - $499	19 = (19/100) = 19%	19% x 1,653 = 314.1	$499 x 314.1 = $156,735.90
$500 - $999	7 = (7/100) = 7%	7% x 1,653 = 115.7	$999 x 115.7 = $115,584.30
$1,000 - $1,499	3 = (3/100) = 3%	3% x 1,653 = 49.6	$1,499 x 49.6 = $74,350.40
$1,500 and over	4 = (4/100) = 4%	4% x 1,653 = 66.1	$1,999 x 66.1 = $132,133.90
TOTAL	33%	545.9	$478,804.50

Table 1. Estimated financial impact to Guam's Retail Food Facilities (RFF) to implement the consumer advisory provision of the proposed Guam Food Code.

Manager's Certificate

- While some RFFs operate 3 hours a day, others remain open 24 hours, but on the average, the facilities operate 12 hours a day. Five respondents had failed to respond to the question.
- Between 35 - 48% of RFFs have two shifts in their operation, while 16% to 21% had only one shift. Eleven did not provide a response.
- Nineteen to twenty percent (19% - 20%) of the RFFs have one or two shift supervisors possessing a manager's certification of some kind. No response was received for this question from forty-six respondents.

The daily 12-hour operation of many RFFs was consistent with what's commonly observed in the food industry (open at 10:00 a.m. and close at 10:00 p.m.), which reflected the existence of two work shifts for several of the RFFs. Because over 70% of the respondents indicated the presence of 1 or 2 supervisors with a manager's certificate, it appears most RFFs have at least one certified manager on duty during half or full day of their operation. However, lack of response to the question by 46% of the participants may also suggest that nearly half of the RFFs operate without the presence of any certified manager.

Current DPHSS rules and regulations require food facilities with 5 or more employees to have present at all time when operating, a manager with a Manager's Certificate from the Guam Community College (GCC). This particular certification is valid for 3 years. With the implementation of the Guam Food Code, all RFFs, regardless of the number of employees, will require that a certified manager be present when in operation. Assuming that all 1,653 RFFs on island will need a certified manager, and each have two shifts, there will be a need for 3,306 certified managers, but since about half have at least one manager who is currently certified, it is expected that about 1,653 managers will require certification. With GCC assessing a fee of $110 per applicant for the certified manager course, DPHSS anticipates that the cost impact to the industry for this provision will be $181,940 in the first year:

- 1,653 total RFFs have two shifts on the average and each shift requires a certified manager:
  - 1,653 x 2 = 3,306 Certified Managers needed
- Nearly 50% of all RFFs have at least one certified manager
  - 3,306 ÷ 2 = 1,653 RFFs with one certified manager
- Remaining managers without certification
  - 1,653 x $110 per applicant = $181,830
  - $181,830 = Anticipated impact cost to RFFs

Cold Holding

- Eighty-one respondents (81%) revealed that their refrigeration unit(s) had the capability to maintain food at 41°F or less. Twelve percent (12%) did not answer this question. Seven percent (7%) responded that their refrigeration units were not able to hold food at 41°F or less.
- Half of the respondents (4 out of 8) to the question that had asked the number of refrigeration unit(s) they will need to purchase to comply with the proposed requirement replied that 1 unit will bought. *(Note: Although 7 responded that their units would not meet the new cold holding requirement, 8 answered the question on the number of units that will need to be purchased.)*
- One responded that as many as four 4 units would need to be purchased to meet the new requirement.
- Sixteen (16), instead of the expected 7, responded to the question about the anticipated cost to replace their refrigeration units.
  - 4 respondents indicated that the costs would be $5,000 or greater; however, three of them had not indicated that they would need to replace any refrigeration units in the previous question
    - The lone respondent who did answer the need to replace his/her refrigeration unit indicated that 2 units would need to be purchased
  - Three (3) indicated that the costs would be $1.00 to $499
    - Two of the three noted that they would need to replace 1 and 2 refrigeration units, while the third did not indicate such need
  - Remaining 9 respondents noted that their anticipated costs to replace 1 to 6 refrigeration units would be between $500 to $4,999

The majority of the respondents had indicated that their refrigeration units did have the capability to cool their food products to the proposed cold holding temperature of 41 °F or lower; this was not unexpected. It has been the observation of DPHSS' compliance officers that most, if not all, of the RFFs that have been inspected possess refrigeration units that are able to meet the new requirement, and those facilities that couldn't were utilizing equipment that were damaged or improperly maintained. Furthermore, not all RFFs would require refrigeration of their food products since they may carry only non-perishable foods (i.e., dry and canned goods), as suggested by the lack of response by 12% of the respondents to this particular question.

Refrigeration units observed in the island RFFs have ranged from a small tabletop refrigerator or reach-in chiller to the large industrial-grade walk-in chiller. Thus, the cost differences between one unit and another can be extremely wide and varied, which may explain the broad distribution of responses in the question about the anticipated cost to comply with this provision in the survey.

In determining the projected direct economic impact the RFFs will sustain in the implementation of this provision, the highest end of each price range (Question 3 of Part III) was multiplied by the number of affected RFFs, which was determined by the number of respondents for each range and its corresponding percentage to the total number of RFFs. For responses of "$5,000 and above," the lower end of the range was used in the calculation. As a result, it is estimated that the cost would be $719,051.50 based on the survey responses (Table 2).

Cost Range	Respondents	Number of RFF	Financial Impact
$1.00 - $499	3 = (3/100) = 3%	3% x 1,653 = 49.6	$499 x 49.6 = $24,750.40
$500 - $999	2 = (2/100) = 2%	2% x 1,653 = 33.1	$999 x 33.1 = $33,066.90
$1,000 - $1,499	2 = (2/100) = 2%	2% x 1,653 = 33.1	$1,499 x 33.1 = $49,616.90
$1,500 - $1,999	2 = (2/100) = 2%	2% x 1,653 = 33.1	$1,999 x 33.1 = $66,166.90
$2,000 - $2,999	1 = (1/100) = 1%	1% x 1,653 = 16.5	$2,999 x 16.5 = $49,483.50
$3,000 - $4,999	2 = (2/100) = 2%	2% x 1,653 = 33.1	$4,999 x 33.1 = $165,466.90
$5,000 and over	4 = (4/100) = 4%	4% x 1,653 = 66.1	$5,000 x 66.1 = $330,500
TOTAL	16%	264.7	$719,051.50

Table 2. Estimated financial impact to Guam's Retail Food Facilities (RFF) to implement the reduced hold holding temperature provision of the proposed Guam Food Code.

No Bare-Hands Contact

- Seventy-nine percent (79%) of those responding to the survey indicated that they did not use bare hands when handling ready-to-eat foods, while 14% acknowledged using bare hands. Seven respondents did not provide a response to this question.
- For those not using bare hands when handling ready-to-eat meals, most used either single-use gloves or utensils.
- More than half indicated that the cost to implement the no bare-hands practice is, or expected to be, less than $200 a month.

The direct financial impact that will be borne by the RFFs for implementing the no bare-hands contact provision will derive from the purchase of disposable gloves and/or additional utensils. The indirect cost associated with no bare-hands contact may occur through the expenditure of non-monetary resources (i.e., time and effort) by the RFFs seeking and receiving waivers from this requirement. Such establishments, which will likely include manufacturers and dining facilities that provide/serve sushi, will be required to implement alternate safeguards and the Hazard Analysis Critical Control Point (HACCP) that will require additional time and effort by the RFF.

Using the results of the survey, it is assumed that 14% of all RFFs (232) will need to begin implementing the no bare-hands requirement upon the adoption of the Guam Food Code. Further assuming that these affected 14% will be incurring costs for the purchase of disposable gloves and/or utensils at the same costs as the survey results,

the direct monetary effect to the island's RFFs will be about $38,266.80 per month. This equates to $482,308.80 a year (Table 3).

Cost Range	Respondents	Number of RFF	Financial Impact
$1 - $49	19 = (19/100) = 19%	19% *[(14%)*(1,653)] = 43.9	$49 x 43.9 = $2,151.10
$50 - $99	19 = (19/100) = 19%	19% *[(14%)*(1,653)] = 43.9	$99 x 43.9 = $4,346.10
$100 - $199	13 = (13/100) = 13%	13% *[(14%)*(1,653)] = 30.1	$199 x 30.1 = $5,989.90
$200 - $399	12 = (12/100) = 12%	12% *[(14%)*(1,653)] = 27.8	$399 x 27.8 = $11,092.20
$400 - $599	03 = (03/100) = 3%	3% *[(14%)*(1,653)] = 6.9	$599 x 6.9 = $4,133.10
$600 - Up	09 = (09/100) = 9%	9% *[(14%)*(1,653)] = 20.8	$600 x 20.8 = $12,480.00
TOTAL	75%	173.4	$40,192.40
$40,192.40 x 12 months = $482,308.80/year			

Table 3. Estimated financial impact to Guam's Retail Food Facilities (RFF) to implement the no bare-hands contact provision of the proposed Guam Food Code.

DPHSS Training

The financial impact to the Division of Environmental Health was also evaluated based on the multiple workshops the Division is expected to provide to the RFFs to orient and educate the industry on the Guam Food Code. Consequently, the monetary impact to the industry to participate in these workshops was also examined.

In September of 2011, DEH provided three separate training sessions to over 200 industry representatives on the provisions of the 2005 Model Food Code in preparation for the adoption of the Guam Food Code. All RFFs with Sanitary Permits with the Division were invited, and while not all took advantage of the free course most did attend. The Division anticipates that the same type of workshops will need to be provided once again upon the adoption of the Guam Food Code. In calculating the projected cost to provide these training workshops, DEH examined the resources that were expended in 2011 and determined that the cost to provide the same would be $6,000 for the rental of the venue sites to nearly 250 industry representatives:

- Number of expected industry participants: 250
- Number of full-day (8 hours) training sessions: 5
- Venue cost to accommodate 50 participants: $1,200
- Total cost: 5 x 1,200/50pax = $6,000

The total financial impact is applicable to only the first year of the Code's implementation. Further training of RFF representatives will occur through the required certification of managers who oversee the operation of their RFFs. The personnel cost incurred by DEH to provide the training workshops was not determined since such activity is part of the Division's mission and responsibilities.

Note: The 1,653 permitted RFFs will not reflect the total number of individuals that DEH is expecting to train because: some attendees will be representing multiple RFFs since their respective business owns/operates one or more facilities; many RFFs are

temporary establishments without permanent representatives; and some will not be taking advantage of the opportunity for whatever reason.

According to the U.S. Department of Labor, Bureau of Labor Statistics, the average wage of first-line supervisors in food preparation facilities, who are the probable participants of the training workshops, is $10.46 per hour[5]. Thus, the total financial impact to the industry of attending the training presented by DEH will be approximately $20,920:

- Number of hours attending the training: 8 hrs
- Number of participants: 250
- Total hours attending the training: 8 hrs. x 250 = 2,000 hours
- Average wage of attendee: $10.46/hr
- Total cost: $10.46/hr x 2,000 hours = $20,920

Summing the projected costs of DEH providing the training and the industry representatives attending the workshops, the total cost will be about $26,920.

Total Financial Impact

Among the four provisions of the proposed Guam Food Code evaluated in the survey, reduced cold-holding temperature requirement appears likely to have the greatest financial impact to the retail food facilities as 7% - 8% of all RFFs will need to purchase one or more refrigeration units at the total estimated cost of nearly $720,000 to meet the proposed new requirement. Consumer advisory is expected to cost 463 RFFs almost $480,000. This was followed by the annual cost of about $482,000 by 232 RFFs to comply with the no bare-hands contact provision. The manager's certification requirement will have the least monetary impact to the RFFs at $181,830.

The following year and thereafter, the amount will be reduced as the cost of the refrigeration units will no longer be applicable. Because these estimates are based on the results of the survey questionnaire, which did not represent the ideal sample number of the population, the data should be viewed only as an approximation.

The monetary impact to the Division of Environmental Health of DPHSS will occur through the training workshops the Division will be providing to the industry representatives to orient and train them in the Guam Food Code. The cost of hosting the five separate 8-hour workshops at a rented venue for 250 attendees by DEH personal, who will be providing the training, will have a financial impact of $6,000. For industry representatives to attend these workshops, they will experience an additional total cost of $20,920. Thus, the total cost to present and attend the training workshops will have a one-time economic impact of $26,920.

The grand total of the direct financial impact to the island for the adoption and implementation of the Guam Food Code is determined to be $1,888,914.80 in the first year and $1,142,943.30 in subsequent years (Table 4).

Total Direct Cost of Adopting the Guam Food Code		
Requirement	Anticipated Cost	Comments
Consumer Advisory	*$478,804.50	Requires retail food establishments to inform their customers of the increased risk from pathogens when consuming certain raw or undercooked foods
Manager's Certificate	$181,830.00	Person-in-Charge of a retail food establishment will be required to possess certification of his/her knowledge of food safety
Cold Holding	**$719,051.50	Cold holding temperature will be reduced from 45 °F to 41 °F to control the growth of the pathogenic bacteria, *Listeria monocytogenes*
No Bare-hands Contact	$482,308.80	Prohibits the use of bare hands when handling ready-to-eat foods to reduce the likelihood of illnesses caused by those pathogens that have high infectivity and are associated with poor hygiene
Training Workshops	**$26,920	DEH-DPHSS to provide five separate 8-hr training workshops to industry representatives on the Guam Food Code
ANTICIPATED TOTAL DIRECT COST IN THE FIRST YEAR = $1,888,914.80		
ANTICIPATED TOTAL DIRECT COST IN SUBSEQUENT YEARS = $1,142,943.30		

Table 4. Financial impact of adopting the proposed Guam Food Code based on the cost analyses of implementing the four significant requirements that would likely have the greatest economic impact to the industry and the training workshops that the Department of Public Health and Social Services will be providing to the industry on the new requirements. *The higher end of the cost range was utilized for the calculation. **One-time cost impact to RFFs and DPHSS.

Financial Impact: Guam Food Code vs. North Carolina Food Code

For comparative purposes, the survey results were measured against the fiscal impact evaluation conducted by the State of North Carolina in their adoption of the 2009 FDA Food Code[6]. Although there were several changes made to the 2005 FDA Food Code (that the Guam Food Code was mirrored after) in the development of the 2009 version, which North Carolina adopted, these changes were mostly enhancements to improve the language and the code's designation system. Thus, the changes were not overly significant and the two versions are quite similar, including the four provisions of the Guam Food Code that were surveyed by DPHSS.

North Carolina also examined the economic impact the consumer advisory, reduced cold-holding temperature, managerial certification, and the prohibition of bare hands would have on its food industry. The state also conducted an industry survey similar to DPHSS but through an online service. Of the 1,642 operators identified for the survey, North Carolina was able to get a completed response from 277, which represented 0.9% of the total ~31,000 food establishments in the state. DPHSS' survey response was much higher with 6.0% of the total RFFs.

In their findings, North Carolina concluded that total cost to the industry for requiring their managers to become certified would be $4,496,000 (Guam = $181,830). This figure was

applicable to all the persons-in-charge of their RFFs at an average cost of $125 per person. This came out to be about $145 per establishment ($4,496,000/31,000). For Guam, the cost would be less at $110 per RFF.

For preventing the contamination of ready-to-eat meals by hands (aka, No Bare-hands Contact), North Carolina identified the monetary impact to the industry as "unquantifiable" since the requirement can be readily addressed through the use of "*deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment,*" but they acknowledged that the use of gloves may be the only associated cost. In the state's industry survey, 78% of their respondents did not allow the use of bare-hands, which was nearly identical to Guam's survey results (79%). Guam's survey was able to elicit the estimated impact cost to implement this provision from the responders.

In North Carolina's economic impact report, the reduction of the cold-holding temperature from 45 °F to 41 °F was originally believed to cause a notable economic burden on the food service industry as many would need to purchase new equipment since older refrigeration units would be unable to meet the new requirement. However, their research had proven that only on rare circumstances will the purchase of new refrigeration be necessary. The state's report noted that according to the National Sanitation Foundation (NSF), *"most refrigerated storage units have been designed to achieve a 40 °F holding temperature since 1966."* Furthermore, in response to the development of the Model Food Code, NSF revised its standard in 1997 to conform to the code, thus any refrigeration equipment replaced since 1999 should meet the 41 °F standard. The report further concluded that an average life expectancy of reach-in units is 10-12 years while the larger walk-in chillers had a longer life expectancy. In determining the one-time expected cost to the industry, North Carolina made an assumption that 1% of their establishments (310) will be required to replace 1 unit for the total cost $855,600.

In the DPHSS' industry survey, 16% of the respondents indicated that they would need to replace their refrigeration unit(s). The large difference between North Carolina's assumption (1%) and Guam's survey results (16%) may suggest that many RFFs on island may possess refrigeration units that are: older, improperly working, inadequately sized, or a combination of the three. Furthermore, Guam's tropical climate may be adversely affecting the units' ability maintain the lower temperature. If the total economic burden resulting from this requirement was to be evenly distributed to its respective RFF population in North Carolina, each of the state's establishments would endure a financial impact of $28 ($855,600 ÷ 31,000), while each RFF on Guam would sustain an impact of $435 ($719,051.50 ÷ 1,653). The substantial difference of over $400 per each Guam RFF may further suggest that the respondents over-estimated the cost impact in Guam's survey, and thus, the economic impact of lowering the cold holding temperature may actually be considerably less.

North Carolina deemed the economic impact in applying the consumer advisory provision to their food industry as "unquantifiable." Guam expects this provision will have a direct economic impact to the local RFFs through the printing of the advisories.

The approximate cost determined by North Carolina for training the industry on their Food Code was $471,400. Their analysis was based on the estimated time and cost incurred by their State's

food establishment supervisors for the extra one-hour spent with a compliance officer in a "one-on-one training" during the establishment's initial compliance inspections after the code's adoption. Guam's analysis was based on the eight hours spent by each food establishment supervisor attending the training workshop. While North Carolina estimated the cost impact to its state and local governments for the enforcement of their code, DPHSS did not calculate such cost as the training and the implementation of the Guam Food Code are deemed part of DEH's regular duties and responsibilities in training the community on food safety.

North Carolina had conducted additional cost analyses, which included other provisions of their code. Nearly all were found to be either at "no cost", "little to no cost", or "unquantifiable cost" to the industry.

Economic Burden of Foodborne Diseases

In the U.S., the annual economic burden of food-borne diseases is calculated to be $77.7 billion based on the U.S. CDC estimates of 48 million food-borne illnesses occurring every year in America[7]. This equates to $1,618.75 per case. A case of Norovirus has been calculated to be $673 per case and $3.7 billion in total cost per year. *Vibrio vulnificus* had the highest per case cost at $1.28 million, while *Salmonella* (nontyphoidal) had the greatest total cost at a staggering $11 million a year. This study used economic estimates to include "*pain, suffering, and functional disability measure based on monetized quality-adjusted life year estimates*." However, it did not include costs of local, state, and county health departments' response to food-borne outbreak response, thus, the actual economic cost amount is actually greater. If Scharff's annual estimate was applied to Guam using the island's 2010 census, Guam's share of the economic cost for food-borne illnesses would be approximately $41.3 million a year.

A single case of listeriosis, an infection caused by the *Listeria monocytogenes* bacteria, which can cause miscarriage, premature delivery, serious infection of the newborn, or even stillbirth, has an estimated economic burden of $1.2 million a case. To retard the growth of *Listeria*, the proposed Guam Food Code will require that cold holding temperature be reduced to 41 °F.

Norovirus, the leading cause of food-borne illness in the U.S., has an economic burden that is significantly less than listeriosis per each case. However, the total burden of norovirus to the economy is more than twice than that of Listeria. The no bare-hands provision of the Guam Food Code will tackle the problem of norovirus by minimizing the potential contamination of food that can occur from using bare hands, the primary vehicle of the transmission.

As previously noted, from the period of 2002-2011, there were 1,584 diseases reported in Guam that were of types associated with the consumption of contaminated food or water. While it's uncertain what percentage of this total is attributed directly to foods, or even foods that originated from food facilities, it would not be unreasonable to assume that half of those which were true foodborne illness outbreaks were linked to commercial establishments. According to the Centers for Disease Control and Prevention, half of all foodborne illness outbreaks occurring in the United States are associated with restaurants[6]. These outbreaks, involving multiple

individuals per event, were cases that were documented as result of medical treatments they had received; it did not include cases which were not seen by local clinic or hospital and thus never reported. It is not uncommon for food-borne illnesses to have gone unreported if the symptoms were not severe enough for the afflicted individuals to seek medical treatment. Therefore, the data provided above for Guam is very likely to be significantly less than the actual number of food-borne diseases that occurred.

In 2006, over 100 elementary school students became ill at a local elementary school. The investigation alone cost DEH several hundred man-hours of work and the loss of 1-2 instructional days for over 200 students. The school cafeteria, regulated by DEH, which served lunch at the school, was implicated as the source of the outbreak. Five years later, on May 12, 2011, Guam experienced the largest food-borne illness outbreak recorded on Guam in the last twenty years; it involved 370 students, faculty, and staff from five public schools who became ill after consuming egg salad sandwiches contaminated with *Staphylococcus aureus* enterotoxin that were prepared and served by a vendor contracted by the local school department. The outbreak resulted in the activation of the emergency operation center by the Guam Office of Homeland Security with the involvement of several government agencies. The investigation took the Division of Environmental Health over a month to complete.

Using Scharff's study, which noted the average cost of $695 per case for *Staphylococcus aureus*, the financial burden of the outbreak that occurred at the five local schools alone in 2011 could have been $257,150 from just the health impact alone. The total amount would be much higher if government personnel, equipment, and other expended resources were included in the calculation.

Guam averages over 1,000 reported gastroenteritis cases a year, and if 20% of the infections are caused by the norovirus, as reported by CDC, then it may be assumed that 200 of the island's reported incidents are due to the virus. Furthermore, the number of actual food-borne illnesses linked to this estimated 200 annual gastroenteritis infections may be considerable since norovirus infections account for nearly 60% of all known foodborne illnesses in the U.S. The implementation of the no bare-hands contact provision may reduce the number of gastroenteritis occurring on Guam.

Also, if the Guam Food Code can prevent even a single case of *Listeria* through the lowering of the cold holding temperature, Guam can prevent the anticipated economic burden of $1,282,069 to treat the case. Thus, theoretically, the implementation of the Guam Food Code could essentially offset the total financial impact the Code will have on the industry if the island can prevent even a single case of *Listeria* infection that can arise from food.

The implementation of the Guam Food Code will not assure that all food-borne diseases will be prevented on Guam. However, it will reduce the potential of these illnesses from occurring, and thus, also reducing the estimated $41.3 million annual economic burden to the island.

III. Potential Increase or Decrease to Cost of Living or Price of good or service

The direct economic impact to the industry from the adoption of the Guam Food Code is estimated to be $1,882,914.80 (excluding the $6,000 financial impact to DPHSS) in the first year, which equals to $1,139.09 per each retail food facility, or $94.92 per month, and therefore, about $3.06 a day. The following years, the total annual impact to the industry will be reduced to $1,142,943.30, or $691.44 per facility for $57.62/mo. ($1.86/day).

It is unlikely the increased cost from implementing the Guam Food Code will be passed down to the employees or customers when the expected cost will be less than $2.00 per day after the first year. Larger businesses may be able to readily absorb the increased cost without hardship. Even the smaller businesses should be able to handle the nominal cost increase since their actual expenses resulting from the adoption of the code would be proportional to the size of their operation. The greatest cost impact of implementing the Guam Food Code derives from the need to replace the businesses' refrigeration unit. As noted earlier, the actual cost may be much less based on the observation of DEH inspectors and the findings of North Carolina's own economic impact study. Those retail food facilities in need of replacing their unit(s) would probably have to do so even without the adoption of the law since their existing unit(s) may not be properly functioning and/or insufficient to handle the current operation of the establishments.

A reduction in the cost of living that may result from the adoption of the Guam Food Code could be attributed to the decrease in the incidence of food-borne illness, or other diseases, caused by improved compliance inspections of regulated facilities. However, the confirmation of such consideration may require more thorough analysis.

IV. Direct or Indirect Impact of Employment

Adverse impact to employment is not expected from the adoption of the Guam Food Code. The direct impact may occur from businesses needing to hire additional managers to ensure their establishments have a certified supervisor or manager at all time during its operation. Indirect impact to employment could result from existing certified managers required to work longer or additional hours to comply with the Guam Food Code.

V. Increase or decrease in cost of business

The retail food facilities will be the primary entities that will experience increased cost of doing business from the adoption of the Guam Food Code. The additional expenses they will bear will derive from the procurement of supplies, such as gloves, utensils, labels, and other materials to meet the consumer advisory and no bare-hand contact provisions of the Code; replacement or retrofitting of their refrigeration unit(s) to meet the new cold holding temperature; and the training and certification of their supervisors or managers in food safety knowledge and its application in the workplace. The expenses the retail food facilities will incur will decrease after the first year of the Code's implementation.

Other businesses, whether dealing with food or other goods, are not expected to experience any direct increase in cost of business if the Guam Food Code is adopted.

VI. Adverse or beneficial economic impact

The adoption and implementation of the Guam Food Code will certainly have a financial impact on the industry as retail food facilities will be required to implement new practices in their operation and possibly replace one or more pieces of their equipment. While these additional costs may be deemed as an adverse impact to the affected businesses, the overall impact will be beneficial to the economy and the health of the population from the anticipated reduction in the number of foodborne illness incidents on the island and its associated economic burden.

Based on existing national figures and studies, the cost of treating food-borne illnesses can be enormous, and preventing just a fraction of the diseases, or even a single costly infection, can offset the costs the industry may incur as a whole. For example, preventing even one case of listeriosis through the implementation of the lowered cold-holding temperature, as required in the code, could reduce the financial burden that exceeds one million dollars per case. Guam has been fortunate that no listeriosis case been reported in the past decade, and the adoption of the Guam Food Code is one preventive measure that the island can readily put in practice.

The implementation of the no bare-hand contact provision of the Guam Food Code should also have beneficial economic impact to the island. As CDC has indicated, norovirus is now the leading cause of severe gastroenteritis in U.S. children, with 1 in 278 children being hospitalized by the illness by the time they turn 5 years of age. The nearly 1 million pediatric medical care visits in 2009-2010 in the U.S. amounted to hundreds of million dollars in treatment costs each year. Thus, with the Code's adoption it can be expected that the incidence of norovirus and its economic burden can be reduced in Guam's vulnerable population.

Studies have shown that the presence of a certified manager in a food facility reduces the number of critical violations, and restaurants with such managers will less likely be involved in foodborne disease outbreaks than were restaurants without managers certified in food safety[7,8]. According to the CDC, "*This finding is important because it suggests that restaurant manager food safety certification may provide a protective effect against foodborne illness.*" Consequently, a reduction in the number of food-borne illnesses translates to reduced economic burden to the population.

The anticipated reduction of foodborne illnesses on Guam, which is expected to occur from the implementation of the proposed Guam Food Code, should consequently reduce the economic burden these diseases have on the island and its people. These cost benefits should outweigh the actual and imagined costs that the industry may experience from the adoption of the Code.

REFERENCES

[1]Painter, JA; Hoekstra, RM; Ayers, T; Tauxe, RV; Braden, CR; Angulo, FJ; et al. Attribution of foodborne illnesses, hospitalizations, and deaths to food commodities by using outbreak data, United States, 1998–2008. Emerging Infectious Diseases [Internet]. 2013 Mar [*date cited*]. http://dx.doi.org/10.3201/eid1903.111866

[2]Haddock, Robert. Annual Summary of Notifiable Diseases, Guam - 2011. Office of Epidemiology and Research, Department of Public Health and Social Services. 2012.

[3]Haddock, Robert. Personal communication via email on March 24, 2013.

[4]Centers for Disease Control and Prevention. Norovirus is now the leading cause of severe gastroenteritis in U.S. Children. Press Release. March 21, 2013. http://www.cdc.gov/media/releases/2013/p0321_norovirus_children.html

[5]Bureau of Labor Statistics. May 2011 state occupational employment and wage estimates – Guam. Department of Labor. http://www.bls.gov/oes/current/oes_gu.htm

[6]Division of Public Health. Fiscal impact of 2009 FDA Food Code Adoption. North Carolina Department of Health and Human Services. February 2012. http://cph.publichealth.nc.gov/Rules/EnvHealth/FoodCodeOSBMapprovedDHHS_02102012.pdf

[7]Scharff, Robert L. Economic burden from health losses due to foodborne illness in the United States. Journal of Food Protection. Vol. 75, No. 1, pp. 123-131.

[8]Brown, Laura and Wigington, Pam. EHS-Net: Improving restaurant food safety one study at a time. Centers for Disease Control and Prevention. February 7, 2013. http://www.cdc.gov/nceh/ehs/Docs/CDC-Connects-EHS-Net.pdf

[9]Cates, SC; Muth MK; Karns, SA; Penne MA; Stone CN; Harrison JE; and Radke, VJ. Certified kitchen managers: do they improve restaurant inspection outcomes? Journal of Food Protection. Vol. 72, No. 2, 2009, pp. 384-391. http://www.cdc.gov/nceh/ehs/ehsnet/Docs/JFP_Certified_Kitchen_MGRs.pdf

[10]Hedberg, CW; Smith, SJ; Kirkland, E; Radke, V; Jones, TF; Selman, CA; et al. Systemic environmental evaluations to identify food safety differences between outbreak and nonoutbreak restaurants. Journal of Food Protection. Vol. 69, No. 11, pp. 2697-2702. http://www.cdc.gov/nceh/ehs/ehsnet/Docs/JFP_Sys_Env_Eval_Id_Food_Safety_bw_OB_NOB_Rest.pdf

Preface

1. FOODBORNE ILLNESS ESTIMATES, RISK FACTORS , AND INTERVENTIONS

Foodborne illness in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. The U.S. Centers for Disease Control and Prevention (2011) estimates that foodborne disease causes approximately 48 million illnesses, 128,000 hospitalizations, and 3,000 deaths in the United States each year.

For many victims, foodborne illnesses results only in discomfort or lost time from the job. For some, especially preschool age children, older adults in health care facilities, and those with impaired immune systems, foodborne illness is more serious and may be life threatening.

The annual cost of foodborne illness in terms of pain and suffering, reduced productivity, and medical costs are estimated to be $10 - $83 billion. While technological advances such as pasteurization and proper canning have all but eliminated some disease, new causes of foodborne illness have been identified. Surveillance of foodborne illness is complicated by several factors. The first is underreporting. Although foodborne illness can be severe or even fatal, milder cases are often not detected through routine surveillance. Second, many pathogens or agents that have not yet been identified and thus cannot be diagnosed, cause some proportion of foodborne illness.

Epidemiological outbreak data repeatedly identify five major risk factors related to employee behaviors and preparation practices in retail and food service establishments as contributing to foodborne illness:

- Improper holding temperatures,
- Inadequate cooking, such as undercooking raw shell eggs,
- Contaminated equipment,
- Food from unsafe sources, and
- Poor personal hygiene

The Guam Food Code addresses controls for risk factors and further establishes 5 key public health interventions to protect consumer health. Specifically, these 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. The first two interventions are found in Chapter 2 and the last three in Chapter 3.

2. PURPOSE AND AUTHORITY

(A) Purpose

The Guam Food Code (the "Code') will replace the existing "Rules and Regulations Relative to Eating and Drinking Establishments" which was adopted in 1984 to regulate the sanitary operation of commercial food facilities that provide food directly to consumers so to prevent food-borne illnesses from occurring. Since its adoption, there have been significant changes in how the public eats, where they eat, and what they eat. There have also been many advances in food science and technology. To keep up with the times and these transformations, the Division of Environmental Health of the Department of Public Health and Social Services has adopted the Code, which mirrors the Model Food Code that is developed and maintained by the U.S. Food and Drug Administration (USFDA).

The Model Food Code was created by the USFDA to assist food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail segment of the food industry. The retail segment includes those establishments or locations in the food distribution chain where the consumer takes possession of the food. The Model Food Code is neither federal law nor federal regulation and is not preemptive. Rather, it represents USFDA's best advice for a uniform system of regulation to ensure that food at retail is safe and properly protected and presented. Although not federal requirements, the Model Food Code provisions are designed to be consistent with federal food laws and regulations, and are written for ease of legal adoption at all levels of government.

Although much of the provisions of the (2005) Model Food Code were retained in the Guam Food Code, some changes were made to reflect the comments and inputs of the Guam Food Safety Task Force (GFSTF). The GFSTF was established in 2000 to develop a comprehensive food safety system for Guam, and one of its primary missions was for the adoption of the Model Food Code. The task force is comprised of representatives from the island's food industry, academia, local regulatory and water agencies, healthcare community, a social service organization, and the military.

(B) Authority

The Division of Environmental Health is authorized to promulgate rules and regulations for the control of food facilities pursuant to §21102, Chapter 21 of Title 10 Guam Code Annotated.

3. PUBLIC HEALTH AND CONSUMER EXPECTATIONS

It is a shared responsibility of the food industry and the government to ensure that food provided to the consumer is safe and does not become a vehicle in a disease outbreak or in the transmission of communicable disease. This shared responsibility extends to ensuring that consumer expectations are met and that food is unadulterated, prepared in a clean environment, and honestly presented.

Accordingly, the provisions of the Guam Food Code provide a system of prevention and overlapping safeguards designed to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food, nontoxic and cleanable equipment, and acceptable levels of sanitation on food establishment premises; and promote fair dealings with the consumer.

4. ADVANTAGE OF UNIFORM STANDARDS

The advantages of well-written, scientifically sound, and up-to-date model codes have long been recognized by industry and government officials. Industry conformance with acceptable procedures and practices is far more likely where regulatory officials "speak with one voice" about what is required to protect the public health, why it is important, and which alternatives for compliance may be accepted. The Guam Food Code, which mirrors the model code, will be useful to businesses in that it provides accepted standards that can be applied in training and quality assurance programs. Several states have adopted the model code in parts or in whole.

5. DISCUSSION OF HACCP AND THE GUAM FOOD CODE

A HACCP Plan under the Guam Food Code is required only under certain circumstances; it is not a general requirement. Thus, a HACCP Plan will not be required from the majority of all food facilities that will be governed by the Guam Food Code.

HACCP plans under the Guam Food Code variance process are provided to the Division of Environmental Health to enable the regulatory authority to assess whether the establishment has designed a system of controls sufficient to ensure the safety of the product. It must include flow diagrams, product formulations, training plans, and corrective action plan. The plans will be reviewed outside the food establishment and, in most cases, in the absence of any historical performance information for the product at that establishment. Therefore, the plan must contain sufficient detail to allow the regulator to fully understand the operations and the intended controls. Products requiring a variance are those which are deemed to be potentially hazardous (time/temperature control for safety) and for which retail production would otherwise be prohibited.

To assist food establishments in applying HACCP principles at retail, USFDA has issued a document entitled: *Managing Food Safety: A HACCP Principles Guide for Operators of Food Service, Retail Food Stores, and Other Food Establishments at the Retail Level*.

This document is available from FDA and can be found on the FDA Web Page at http://vm.cfsan.fda.gov/~ear/retail.html.

6. INFORMATION TO ASSIST THE USER

The Guam Food Code provisions address essentially four areas: personnel (Chapter 2), food (Chapter 3), equipment/facilities/supplies (Chapters 4-7), and compliance enforcement (Chapter 8). 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)

Code provisions are either appropriate for citing and debiting on an inspection report or they are not. Those not intended for citing/debiting are identified by the digits following the decimal point in the numbering system. These "nondebitable" provisions fall into two categories, those that end with two digits after the decimal point and the last digit is a zero, e.g., § 1-201.10; and those that end with three digits after the decimal point and the last 2 digits are zeroes, e.g., § 88-805.100.

Two types of internal cross referencing are widely used throughout the Code 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 in to ¶ (A). Paragraph 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 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 Guam Food Code 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.

Portions of some sections are written in italics. These provisions are not requirements, but are provided to convey relevant information about specific exceptions and alternative means for compliance. Italics are pursuant to a preceding provision that states a requirement, to which the italics offer an exception or another possibility. Italicized sections usually involve the words *"except for," "may," "need not" or "does not apply.*" See ¶3-202.18(D).

Requirements contained in the Guam Food Code are presented as being in one of 3 categories of importance: critical; "swing" (i.e., those that may or may not be critical depending on the circumstances); and noncritical. An asterisk * after a tagline (which is the language immediately following section number that introduces the subject of the

section) indicates that all of the provisions within that section are critical unless otherwise indicated, as follows:

Any provisions that are "swing" items are followed by the bold, superscripted letter **S** and any provisions that are noncritical are followed by the bold, superscripted letter **N**.

Any unmarked provisions within a section that has an asterisked tagline are critical. All provisions following a tagline that is not marked with an asterisk are noncritical.

The following conventions are used in the Guam Food Code. "Shall" means that 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 Guam Food Code 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 contact. 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.

The annexes located at the back of the document can provide tremendous assistance to those charged with applying the Guam Food Code provisions. No reference is made in the text of a provision to the annexes which support its requirements. This is necessary in order to keep future laws or other requirements based on the model Food Code "clean." However, the annexes are provided specifically to assist the regulatory authority apply the provisions uniformly and effectively.

It is, therefore, important for users to preview the subject and essence of each of the annexes before using the document. Some of the annexes (e.g. Public Health Reasons) are structured to present the information by the specific Guam Food Code item number to which they apply. Other annexes provide information and materials intended to be helpful to the user such as model forms that can be used, a delineation of the principles of HACCP, guidelines for establishment inspection, and criteria for certain food processes for use in evaluating proposed HACCP plans.

Chapter

8 Compliance and Enforcement

Parts

8-1 CODE APPLICABILITY

Subparts

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) or upgraded or replaced as specified under ¶ 8-304.11(H).

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.**

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.

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;

(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; 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.

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; and

(B) Maintain and provide to the REGULATORY AUTHORITY, upon request, records specified under ¶¶ 8-201.14(D) and (E) that demonstrate that the following are routinely employed;

(1) Procedures for monitoring the CRITICAL CONTROL POINTS,

(2) Monitoring of the CRITICAL CONTROL POINTS,

(3) Verification of the effectiveness of the operation or process, and

(4) Necessary corrective actions if there is failure at a CRITICAL CONTROL POINT.

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.

A PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY properly prepared plans and specifications for review and approval before:

(A) The construction of a FOOD ESTABLISHMENT;

(B) The conversion of an existing structure for use as a FOOD ESTABLISHMENT; 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.

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 materials, and finish schedules;

(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 review a properly prepared a 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)(3), § 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; and

(4) FOOD ESTABLISHMENT that serves to elementary schools and HIGHLY SUSCEPTIBLE POPULATION, as determined by the REGULATORY AUTHORITY.

(B) A PERMIT applicant or PERMIT HOLDER shall have a properly prepared HACCP PLAN as specified under § 3-502.12.

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 plan and specifications shall indicate:

(A) A categorization of the types of POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) that are specified in the menu such as soups and sauces, salads, and bulk, solid FOODS such as MEAT roasts, or of other FOODS that are specified by the REGULATORY AUTHORITY;

(B) A flow diagram by specific FOOD or category type identifying CRITICAL CONTROL POINTS and providing information on the following:

(1) Ingredients, materials, and EQUIPMENT used in the preparation of that FOOD, and

(2) Formulations or recipes that delineate methods and procedural control measures that address the FOOD safety concerns involved;

(C) FOOD EMPLOYEE and supervisory training plan that addresses the FOOD safety issues of concern;

(D) A statement of standard operating procedures for the plan under consideration including clearly identifying:

(1) Each CRITICAL CONTROL POINT,

(2) The CRITICAL LIMITS for each CRITICAL CONTROL POINT,

(3) The method and frequency for monitoring and controlling each CRITICAL CONTROL POINT by the FOOD EMPLOYEE designated by the PERSON IN CHARGE,

(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,

(5) Action to be taken by the PERSON IN CHARGE if the CRITICAL LIMITS for each CRITICAL CONTROL POINT are not met, and

(6) Records to be maintained by the PERSON IN CHARGE to demonstrate that the HACCP PLAN is properly

operated and managed; and

(E) Additional scientific data or other information, as required by the REGULATORY AUTHORITY, supporting the determination that FOOD safety is not compromised by the proposal.

(F) HACCP PLAN required for submission to the REGULATORY AUTHORITY shall be developed or certified by a PERSON who has obtained a training and credentialing on HACCP from a program that has been evaluated and listed 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 pre-operational 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 PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY.

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. The REGULATORY AUTHORITY may accept an application for a PERMIT that is less than the minimum 30 calendar days before the date planned for opening a FOOD ESTABLISHMENT provided the necessary fees and other requirements established by the REGULATORY AUTHORITY are met by the applicant.

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 this Code;

(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 at the time the application is submitted.

8-302.14 Contents of the Application.

The application shall include:

(A) The name, birth date, 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, and

(2) Is an operation that includes one or more of the following:

(a) Prepares, offers for sale, or serves POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD):

(i) Only to order upon a CONSUMER'S request,

(ii) In advance in quantities based on projected CONSUMER demand and discards FOOD that is not sold or served at an APPROVED frequency, or

(iii) Using time as the public health control as specified under § 3-501.19,

(b) Prepares POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) in advance using a FOOD preparation method that involves two or more steps which may include combining POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing,

(c) Prepares FOOD as specified under Subparagraph (C)(2)(b) of this section for

delivery to and consumption at a location off the PREMISES of the FOOD ESTABLISHMENT where it is prepared,

(d) Prepares FOOD as under Subparagraph (C)(2)(b) of this section for service to a HIGHLY SUSCEPTIBLE POPULATION,

(e) Prepares only FOOD that is not POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL OF SAFETY FOOD), or

(f) Does not prepare, but offers for sale only prePACKAGED FOOD that is not POTENTIALLY HAZARDOUS (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 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.

8-303.20 Existing Establishments, Permit Renewal, and Change of Ownership.

The REGULATORY AUTHORITY may renew a PERMIT for an existing FOOD ESTABLISHMENT or may issue a PERMIT to a new owner of an existing FOOD ESTABLISHMENT after a properly completed application is submitted, reviewed, and APPROVED, the fees are paid, and an inspection shows that the establishment is in compliance with this Code.

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 inform the PERMIT HOLDER about the 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) Except as specified under ¶ (H) of this section, 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) Upgrade or replace refrigeration EQUIPMENT as specified under Subparagraph 3-501.16(A)(2)(b), if the circumstances specified under Subparagraphs (G)(1) - (3) of this section

do not occur first, and 5 years pass after the REGULATORY AUTHORITY adopts this Code;

(I) 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;

(J) Accept notices issued and served by the REGULATORY AUTHORITY according to LAW; and

(K) 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.

8-304.20 Permits Not Transferable.

A PERMIT shall 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 Access

8-403 Report of Findings

8-404 Imminent Health Hazard

8-405 Violation of Critical Item

8-406 Noncritical Violation

Frequency **8-401.10 Establishing Inspection Interval.**

(A) Except as specified in ¶¶ (B) and (C) of this section, the REGULATORY AUTHORITY shall inspect a FOOD ESTABLISHMENT at least once every 3 months.

(B) *The REGULATORY AUTHORITY may decrease the qualification of the inspection if:*

(1) *The FOOD ESTABLISHMENT is fully operating under an APPROVED and validated HACCP PLAN as specified under § 8-201.14 and ¶¶ 8-103.12(A) and (B);*

(2) The establishment's operation involves only coffee service and other unpackaged or prePACKAGED FOOD that is not POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) such as carbonated

BEVERAGES and snack FOOD such as chips, nuts, popcorn, and pretzels.

(C) The REGULATORY AUTHORITY shall periodically inspect throughout its PERMIT period a TEMPORARY FOOD ESTABLISHMENT and TEMPORARY FOOD SERVICE ESTABLISHMENT that prepares, sells, or serves unPACKAGED POTENTIALLY HAZARDOUS FOOD (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.

8-401.20 Performance- and Risk-Based.

Within the parameters specified in § 8-401.10, 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 critical;

(B) Past performance, for numerous or repeat violations of Code or HACCP PLAN requirements that are noncritical;

(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.

8-402.10 Competency of Inspectors.

An authorized representative of the REGULATORY AUTHORITY who inspects a FOOD ESTABLISHMENT or conducts plan review for compliance with this Code shall have the knowledge, skills, and ability to adequately perform the required duties.

Access

8-402.11 Allowed at Reasonable Times after Due Notice.

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 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.

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 of this Code,

(2) Access is a condition of the acceptance and retention of a FOOD ESTABLISHMENT PERMIT to operate as specified under ¶ 8-304.11(F), and

(3) If access is denied, the FOOD ESTABLISHMENT PERMIT may be suspended by the REGULATORY AUTHORITY.

(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 Refusal, Automatic Suspension of Permit.

If denied access to a FOOD ESTABLISHMENT for an authorized purpose and after complying with § 8-402.20, the REGULATORY AUTHORITY shall immediately suspend the PERMIT of the FOOD ESTABLISHMENT.

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 CRITICAL 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.

8-403.11 Grading of Food Establishment

(A) Every FOOD ESTABLISHMENT shall display in a place designated by the REGULATORY AUTHORITY, a placard stating the grade received at the time of the most

recent inspection of the establishment. Only the REGULATORY AUTHORITY may issue, move, or remove such placard.

(B) TEMPORARY FOOD ESTABLISHMENT shall not be subject to grading.

(C) Grades of FOOD ESTABLISHMENT shall be as follows:

1) Grade A. A FOOD ESTABLISHMENT having a demerit score of not more than ten (10).

2) Grade B. A FOOD ESTABLISHMENT having a demerit score of more than ten (10) but no more than twenty (20).

3) Grade C. A FOOD ESTABLISHMENT having a demerit score of more than twenty (20) but no more than forty (40).

4) Grade D. A FOOD ESTABLISHMENT having a demerit score of more than forty (40).

5) Notwithstanding the grade criteria established above, whenever a second consecutive violation of the same item of 2, 4, or 6 demerit points is discovered, the PERMIT may be suspended, or in lieu thereof, the FOOD ESTABLISHMENT shall be downgraded to the next lower grade.

(D) Immediately following such inspection, the REGULATORY AUTHORITY shall post the appropriate grade at the FOOD

ESTABLISHMENT.

8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.

At the conclusion of the inspection and according to LAW, the REGULATORY AUTHORITY shall provide a copy of the completed inspection report and the notice to correct violations 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) 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.

B) *A PERMIT HOLDER need not discontinue operations in an area of an establishment that is unaffected by the IMMINENT HEALTH HAZARD.*

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 Critical 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 CRITICAL ITEM of this Code and implement corrective actions for a HACCP PLAN provision that is not in compliance with its CRITICAL LIMIT

(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 10 calendar days after the inspection, for the PERMIT HOLDER to correct violations of a CRITICAL 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 CRITICAL ITEM or 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 CRITICAL 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.

Noncritical Violation

8-406.11 Time Frame for Correction.

(A) Except as specified in ¶ (B) of this section, the PERMIT HOLDER shall correct noncritical violations by a date and time agreed to or specified by the REGULATORY AUTHORITY but no later than 30 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.

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.

8-501.50 Examining, Sampling, and Testing Food.

The REGULATORY AUTHORITY may examine, sample, and test FOOD in order to determine its compliance with this Code.

Chapter

7 Poisonous or Toxic Materials

Parts

7-1 LABELING AND IDENTIFICATION

Subparts

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.

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.

7-2 OPERATIONAL SUPPLIES AND APPLICATIONS

Subparts

Storage **7-201.11 Separation.***

POISONOUS OR TOXIC MATERIALS shall be stored so they can not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(A) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning;[s] 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.

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.[S]

(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,

(3) The conditions of certification, if certification is required, for use of the pest control materials, 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, 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:

(a) Removing the items,

(b) Covering the items with impermeable covers, or

(c) Taking other appropriate preventive actions, and

(d) Cleaning and SANITIZING EQUIPMENT and UTENSILS after the application.

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.

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.

Chemicals **7-204.11 Sanitizers, Criteria.***

Chemical SANITIZERS and other chemical antimicrobials applied to FOOD-CONTACT SURFACES shall 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).

7-204.12 Chemicals for Washing Fruits and Vegetables, Criteria.*

Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 Chemicals used in washing or to assist in the peeling of fruits and vegetables.

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.

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,

(2) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,

(3) APPROVED for use as a drying agent under a prior

sanction specified in 21 CFR 181 - Prior-Sanctioned Food Ingredients,

(4) Specifically regulated as an indirect FOOD ADDITIVE for use as a drying agent as specified in 21 CFR Parts 175-178, or

(5) 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; and

(B) When SANITIZATION is with chemicals, the approval required under Subparagraph (A)(3) or (A)(5) of this section or the regulation as an indirect FOOD ADDITIVE required under Subparagraph (A)(4) of this section, shall be specifically for use with chemical SANITIZING solutions.

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.

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.

7-206.12 Rodent Bait Stations.*

Rodent bait shall be contained in a covered, tamper-resistant bait station.

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.

(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.[N]

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.

(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.

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; and

(B) Located so they are inaccessible to children.

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;[S] 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.[S]

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 can not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(A) Separating the POISONOUS or TOXIC MATERIALS by spacing or partitioning;s 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.

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Chapter

6 Physical Facilities

Parts

6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

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) Non absorbent 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 shall not be used for conducting FOOD ESTABLISHMENT operations.

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 or powder soap.

6-301.12 Hand Drying Provision.

Each HANDWASHING SINK or group of adjacent HANDWASHING SINKS shall be provided with:

(A) Individual, disposable towels;

(B) A continuous towel system that supplies the user with a clean towel; or

(C) A heated-air hand drying device.

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, shall 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 and shall be provided to the user in a manner that minimizes its contamination from dust, water, and other types of contamination.

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.

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 cannot 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.

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 under as specified § 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 shall 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 shall 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.

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 shall 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 and maintained and used as specified under § 5-205.11.

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 presence of insects, rodents, and other pests shall be controlled to minimize their presence on the PREMISES by:

(A) Routinely inspecting incoming shipments of FOOD and supplies;[N]

(B) Routinely inspecting the PREMISES for evidence of pests;[N]

(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; and

(D) Eliminating harborage conditions.[N]

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.

6-501.114.1.1 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 shall not be allowed on the PREMISES of a FOOD ESTABLISHMENT.

(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 crustacea on ice or under refrigeration, and shellfish and crustacea 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; and*

(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.

(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

5 Water, Plumbing, and Waste

Parts

5-1 WATER

Subparts

Source

5-101.11 Approved System.*

DRINKING WATER shall be obtained from an APPROVED source that is:

(A) A PUBLIC WATER SYSTEM; or

(B) A nonpublic WATER SYSTEM that is constructed, maintained,

and operated according to LAW.

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.

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.

Quality

5-102.11 Standards.*

Except as specified under § 5-102.12:

(A) Water from a PUBLIC WATER SYSTEM shall meet 40 CF141 - National Primary Drinking Water Regulations and state DRINKING WATER quality standards; and

(B) Water from a nonPUBLIC WATER SYSTEM shall meet state DRINKING WATER quality standards.

5-102.12 Nondrinking Water.*

(A) A nonDRINKING WATER supply shall be used only if its use is APPROVED.

(B) NonDRINKING WATER shall be used only for nonculinary purposes such as air conditioning, nonFOOD EQUIPMENT cooling, fire protection, and irrigation.

5-102.13 Sampling.

Except when used as specified under §5-102.12, water from a nonPUBLIC WATER SYSTEM shall be sampled and tested at least annually and as required by state water quality regulations.

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.

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the FOOD ESTABLISHMENT.

5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, EQUIPMENT, and non FOOD 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*.

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; or

(B) One or more of the following that shall be constructed, maintained, and operated according to LAW:

(1) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,

(2) Water transport vehicles, or

(3) Water containers.

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;

(B) One or more closed portable water containers;

(C) An enclosed vehicular water tank;

(D) An on-PREMISES water storage tank; or

(E) Piping, tubing, or hoses connected to an adjacent APPROVED source.

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.

(B) A water filter shall be made of SAFE MATERIALS.

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.

(B) A PLUMBING FIXTURE such as a HANDWASHING SINK, toilet, or urinal shall be EASILY CLEANABLE.[N]

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.

(B) A steam mixing valve shall 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 shall not be less than 25 mm (1 inch).

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.

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.

(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 one HANDWASHING SINK.*

(C) *If APPROVED, when FOOD exposure is limited and HANDWASHING SINKS are not conveniently available, such as in some mobile or TEMPORARY FOOD ESTABLISHMENTS or at some VENDING MACHINE LOCATIONS, EMPLOYEES may use chemically treated towelettes for handwashing.*

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.

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.

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; or

(B) Installing an APPROVED backflow prevention device as Specified under § 5-202.14.

5-203.15 Backflow Prevention Device, Carbonator.*

(A) If not provided with an air gap as specified under § 5-202.13, a double 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.

(B) *A single or double 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; and

(B) In, or immediately adjacent to, toilet rooms.

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.

(B) A HANDWASHING SINK shall not be used for purposes other than handwashing.

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.

5-205.12 Prohibiting a Cross Connection.*

(A) A PERSON shall not create a cross connection by connecting a pipe or conduit between the DRINKING WATER system and a non DRINKING WATER system or a water system of unknown quality.

(B) The piping of a nonDRINKING WATER system shall be durably identified so that it is readily distinguishable from piping that carries DRINKING WATER.[N]

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.

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; and

(2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under ¶(B) of this section, whichever is more stringent.

(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;

(2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and

(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution.

5-205.15 System Maintained in Good Repair.*

A PLUMBING SYSTEM shall be:

(A) Repaired according to LAW; and

(B) Maintained in good repair.[S]

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;

(B) Durable, CORROSION-RESISTANT, and nonabsorbent; and

(C) Finished to have a SMOOTH, EASILY CLEANABLE surface.

Design and **5-302.11 Enclosed System, Sloped to Drain.**

Construction 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;

(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.

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.

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.

(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

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).

design, construction, and installation

5-402.11 Backflow Prevention.*

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, a

direct connection shall not exist between the SEWAGE system and a drain originating from EQUIPMENT in which FOOD, portable EQUIPMENT, or UTENSILS are placed.

(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.

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.

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; or

(B) An individual SEWAGE disposal system that is sized, constructed, maintained, and operated according to LAW.

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

5-501.10 Indoor Storage Area.

Premises materials, design, construction, and installation

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 non absorbent.

(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 shall 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 shall 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;

(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

4 Equipment, Utensils, and Linens

Parts

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

Multiuse

4-101.11 Characteristics.*

Materials that are used in the construction of UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT shall not allow the migration of deleterious substances or impart colors, odors, or

tastes to FOOD and under normal use conditions shall be:

(A) Safe;

(B) Durable, CORROSION-RESISTANT, and nonabsorbent;[N]

(C) Sufficient in weight and thickness to withstand repeated WAREWASHING;[N]

(D) Finished to have a SMOOTH, EASILY CLEANABLE surface;[N] and

(E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.[N]

4-101.12 Cast Iron, Use Limitation.

(A) Except as specified in ¶¶ (B) and (C) of this section, cast iron shall 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:

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% shall not be used as a FOOD-CONTACT SURFACE.

(C) Solder and flux containing lead in excess of 0.2% shall 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 shall 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.

(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 shall not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT that are used in contact with acidic FOOD.

4-101.16 Sponges, Use Limitation.

Sponges shall 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 shall 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, or

(2) Impart colors, odors, or tastes to FOOD;[N] and

(B) Shall be:

(1) Safe, and

(2) Clean.[N]

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 shall 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*.

Cleanability

4-202.11 Food-Contact Surfaces.*

(A) Multiuse FOOD-CONTACT SURFACES shall be:

(1) SMOOTH;

(2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;

(3) Free of sharp internal angles, corners, and crevices;

(4) Finished to have SMOOTH welds and joints; 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,

(b) By disassembling without the use of tools, 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.

(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, 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 shall 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.

(B) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to ±2°F in the intended range of use.

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.

(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.

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 *potentially hazardous food (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*; and

(2) conform to the requirements for this *equipment* as specified in *NSF/ANSI 18-2006- Manual Food and Beverage Dispensing Equipment.*

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 POTENTIALLY HAZARDOUS (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, Leak proof.

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 shall not be installed in contact with stored ice.

4-204.17 Ice Units, Separation of Drains.

Liquid waste drain lines shall 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 shall not be used to 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.

(B) MOLLUSCAN SHELLFISH life-support system display tanks that are used to store and 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:

(1) Is submitted by the PERMIT HOLDER and APPROVED as specified under § 8-103.11; and

(2) Ensures that:

(a) Water used with FISH other than MOLLUSCAN

SHELLFISH does not flow into the molluscan tank,

(b) The safety and quality of the shellfish as they were received are not compromised by the use of the tank, and

(c) The identity of the source of the SHELLSTOCK is retained as specified under § 3-203.12.

4-204.111 Vending Machines, Automatic Shutoff.*

(A) A machine vending POTENTIALLY HAZARDOUS FOOD (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; 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.

(B) When the automatic shutoff within a machine vending potentially hazardous food (time/temperature control for

safety food) is activated:

(1) In a refrigerated vending machine, the ambient air temperature shall not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

(2) In a hot holding vending machine, the ambient air temperature shall not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

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 POTENTIALLY HAZARDOUS FOOD (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 cal rod 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.

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) Convey or speed for convey or 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; and

(B) As the water enters the hot water SANITIZING final rinse manifold or in the chemical SANITIZING solution tank.

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); and

(B) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

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; 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.

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 Drain boards, Self Draining.

Sinks and drain boards 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.** 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 of this chapter.

4-3 NUMBERS AND CAPACITIES

Subparts

4-301 Equipment

4-302 Utensils, Temperature Measuring Devices, and Testing Devices

Equipment **4-301.11 Cooling, Heating, and Holding Capacities.** 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.

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.

(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.

(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 shall 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 Drain boards.

Drain boards, 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,

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.

and Testing Devices

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.

(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.

4-302.13 Temperature Measuring Devices, Manual Warewashing.

In manual WAREWASHING operations, a TEMPERATURE MEASURING DEVICE shall be provided and readily accessible for frequently measuring the washing and SANITIZING temperatures.

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.

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 shall 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 drain boards or other EQUIPMENT used to substitute for drain boards 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 shall 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.

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.

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 shall not be less than:

(1) For a stationary rack, single temperature machine, 74°C (165°F);

(2) For a stationary rack, dual temperature machine, 66°C (150°F);

(3) For a single tank, conveyor, dual temperature machine, 71°C (160°F); or

(4) For a multitank, conveyor, multitemperature machine, 66°C (150°F).

(B) The temperature of the wash solution in spray-type warewashers that use chemicals to SANITIZE shall not be less than 49°C (120°F).

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.

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 shall not be more than 90°C, (194°F), or less than:

(1) For a stationary rack, single temperature machine, 74°C (165°F); or

(2) For all other machines, 82°C (180°F).

(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 shall 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 SANITZING solution for a manual or mechanical operation at exposure 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-approved manufacturer's label use instructions, 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;

Minimum Concentration	Minimum Temperature

	MG/L	PH 10 or less °C (°F)	PH 8 or less °C (°F)
	25	49 (120)	49 (120)
	50	38 (100)	24 (75)
	100	13 (55)	13 (55)

(B) An iodine solution shall have a:

(1) Minimum temperature of 24°C (75°F),

(2) PH of 5.0 or less or a PH no higher than the level for which the manufacturer specifies the solution is effective, and

(3) Concentration between 12.5 MG/L and 25 MG/L;

(C) A quaternary ammonium compound solution shall:

(1) Have a minimum temperature of 24°C (75°F),

(2) Have a concentration as specified under § 7-204.11 and as indicated by the manufacturer's use directions included in the labeling, 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 manufacturer's label;

(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; or

(E) If a chemical SANITIZER other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the manufacturer's use directions included in the labeling.

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.

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.

(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.

4-502.13 Single-Service and Single-Use Articles, Use Limitation.

(A) SINGLE-SERVICE and SINGLE-USE ARTICLES shall 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 shall 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.

(B) The FOOD-CONTACT SURFACES of cooking EQUIPMENT and pans shall be kept free of encrusted grease deposits and other soil accumulations.[N]

(C) NonFOOD-CONTACT SURFACES of EQUIPMENT shall be kept free of an accumulation of dust, dirt, FOOD residue, and other debris.[N]

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;

(2) Each time there is a change from working with raw FOODS to working with READY-TO-EAT FOODS;

(3) Between uses with raw fruits and vegetables and with POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);

(4) Before using or storing a FOOD TEMPERATURE MEASURING DEVICE; and

(5) At any time during the operation when contamination may have occurred.

(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 raw animal FOODS each requiring a higher cooking temperature as specified under §3-401.11 than the previous FOOD, such as preparing raw FISH followed by cutting raw poultry on the same cutting board*.

(C) Except as specified in ¶ (D) of this section, if used with POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be cleaned throughout the day at least every 4 hours.

(D) *Surfaces of UTENSILS and EQUIPMENT contacting*

POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) may be cleaned less frequently than every 4 hours if:

(1) *In storage, containers of POTENTIALLY HAZARDOUS FOOD (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 POTENTIALLY HAZARDOUS FOOD (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 POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cleaned:[N]

(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 POTENTIALLY HAZARDOUS (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 scrapped 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 agent 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 scrapped 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.

4-603.17 Returnables, Cleaning for Refilling.*

(A) Except as specified in ¶¶ (B) and (C) of this section, returned empty containers intended for cleaning and refilling with FOOD shall be cleaned and refilled in a regulated FOOD PROCESSING PLANT.

(B) *A FOOD-specific container for BEVERAGES may be refilled at a FOOD ESTABLISHMENT if:*

(1) *Only a BEVERAGE that is not a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) is used as specified under ¶ 3-304.17(A);*

(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 that cannot be bypassed by the container owner.*

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

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.

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;

(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; 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 by providing:

(1) Except as specified under Subparagraph (C)(2) of this section, an exposure time of at least 10 seconds for a chlorine solution specified under ¶ 4-501.114(A),

(2) An exposure 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 38°C (100°F) or a pH of 8 or less and a temperature of at least 24°C (75°F),

(3) An exposure time of at least 30 seconds for other chemical SANITIZING solutions, or

(4) An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields SANITIZATION as defined in Subparagraph 1-201.10(B).

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 and napkins 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) Shall 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 shall 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) TABLEWARE that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) When TABLEWARE is preset, exposed, unused settings shall be:

(1) Removed when a CONSUMER is seated; or

(2) Cleaned and SANITIZED before further use if the settings are not removed when a CONSUMER is seated.

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Chapter

3 Food

Parts

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.

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.

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

(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.

(D) Fish, other than MOLLUSCAN SHELLFISH, that are intended for consumption in their raw form and allowed as specified in Subparagraph 3-401.11(C)(1) 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 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, 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, 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.

(b) Prepared so they remain intact, 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.

(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.

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.

3-201.14 Fish.*

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

(1) Commercially and legally caught or harvested; or

(2) APPROVED for sale or service.

(B) MOLLUSCAN SHELLFISH that are recreationally caught shall

not be received for sale or service.

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.

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

3-201.16 Wild Mushrooms.*

(A) Except as specified in ¶ (B) of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an APPROVED mushroom identification expert.

(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 and:

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

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

(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;

(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, 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, 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; 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, 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, 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.

(B) A GAME ANIMAL shall 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, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be at a temperature of 5°C (41°F) or below when received.

(B) *If a temperature other than 5°C (41°F) for a POTENTIALLY HAZARDOUS FOOD (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.

(D) POTENTIALLY HAZARDOUS FOOD (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.

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

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

3-202.12 Additives.*

FOOD shall 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.

3-202.13 Eggs.*

EGGS shall be received clean and sound and shall 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.

3-202.14 Eggs and Milk Products, Pasteurized.*

(A) EGG PRODUCTS shall be obtained pasteurized.

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

(1) Be obtained pasteurized; and

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

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

(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.*

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.

3-202.16 Ice.*

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

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:

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

(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:

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

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

(b) The date of harvesting,

(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,

(d) The type and quantity of shellfish, 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;" and

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

the following order:

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

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

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

(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 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

(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.

3-202.110 Juice Treated.

Commercially Processed

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; 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.

3-203.11 Molluscan Shellfish, Original Container.

(A) Except as specified in ¶¶ (B) - (D) of this section, MOLLUSCAN SHELLFISH shall not be removed from the

container in which they are received other than immediately before sale or preparation for service.

Original Containers and Records

(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*

(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.

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

(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:

(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; 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, 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.

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) of this section,* FOOD EMPLOYEES shall 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.

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

(D) *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)

(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 (D)(1) - (6) of this section are not followed*.

3-301.12 Preventing Contamination When Tasting.*

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

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) 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, and

(b) Cooked 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, or

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

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

(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:

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

(B) Included in ¶ 3-401.11(D).

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; and

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

(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; 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.

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.*

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 shall not be used as FOOD.

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

(A) PACKAGED FOOD shall 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 shall 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; or

(B) SINGLE-SERVICE and SINGLE-USE ARTICLES.

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 POTENTIALLY HAZARDOUS (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 POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD); or

(F) In a container of water if the water is maintained at a temperature of at least 60°C (140°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 and napkins shall 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.

(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 shall 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 shall 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 shall 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) A take-home FOOD container returned to a FOOD ESTABLISHMENT shall not be refilled at a FOOD ESTABLISHMENT with a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD).

(B) Except as specified in ¶ (C), a take-home FOOD container refilled with FOOD that is not POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cleaned as specified under ¶ 4-603.17(B).

(C) *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)*.

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 shall 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 Potentially Hazardous Food (Time/Temperature Control for Safety Food),

Original Container

POTENTIALLY HAZARDOUS FOOD (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.

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 shall not be offered for CONSUMER self-service. *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.[N]

(C) CONSUMER self-service operations such as buffets and salad bars shall be monitored by FOOD EMPLOYEES trained in safe operating procedures.[N]

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 shall not be offered as FOOD for human consumption.

(B) Except as specified under ¶ 3-801.11(G), *a container of FOOD that is not POTENTIALLY HAZARDOUS (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) 63°C (145°F) or above for 15 seconds for:

(a) Raw EGGS that are broken and prepared in response to a CONSUMER'S order and for immediate service, and

(b) Except as specified under Subparagraphs (A)(2) and (A)(3) and ¶ (B), and in ¶ (C) of this section, FISH and 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);

(2) 68°C (155°F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for RATITES 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:

Minimum

Temperature °C (°F)	**Time**
63 (145)	3 minutes
66 (150)	1 minute
70 (158)	< 1 second (instantaneous)

;or

(3) 74°C (165°F) or above for 15 seconds 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.

(B) Whole MEAT roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

(1) In 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:

Oven Type	**Oven Temperature Based on Roast Weight**	
	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.

;and

(2) 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:

Temperature °C (°F)	**Time[1] in Minutes**	**Temperature °C (°F)**	**Time[1] in Seconds**
54.4 (130)	112	63.9(147)	134
55.0 (131)	89	65.0 (149)	85
56.1 (133)	56	66.1 (151)	54
57.2 (135)	36	67.2(153)	34

57.8 (136)	28	68.3(155)	22	
58.9 (138)	18	69.4 (157)	14	
60.0 (140)	12	70.0 (158)	0	
61.1 (142)	8			
62.2 (144)	5			
62.8 (145)	4			

[1]*Holding time may include postoven heat rise*.

(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; and*

(2) *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*

(3) *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; and

(D) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

3-401.13 Plant Food Cooking for Hot Holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 60°C (140°F)

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;

(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; 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.

(B) *Paragraph (A) of this section does not apply to*:

(1) *MOLLUSCAN SHELLFISH*;

(2) *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*

(3) *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*.

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.

(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)(3), 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)(3) 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.

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, POTENTIALLY HAZARDOUS FOOD (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.

(B) Except as specified under ¶ (C) of this section, POTENTIALLY HAZARDOUS FOOD (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.

(C) READY-TO-EAT FOOD taken from a commercially processed, HERMETICALLY SEALED CONTAINER, or from an intact package from a FOOD PROCESSING PLANT that is inspected by the FOOD REGULATORY AUTHORITY that has jurisdiction over the plant, shall be heated to a temperature of at least 60°C (140°F) for hot holding.

(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 shall not exceed 2 hours.

(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 ¶¶ 8-201.12(B) - (E) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

(B) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

(1) As specified under § 3-602.11, 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."

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 Potentially Hazardous Food Time/Temperature Control for Safety Food), Slacking.

Frozen POTENTIALLY HAZARDOUS FOOD (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, POTENTIALLY HAZARDOUS FOOD (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 5°C (41°F) 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 5°C (41°F);

(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.*

3-501.14 Cooling.*

(A) Cooked POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled:

(1) Within 2 hours from 57°C (135°F) to 21°C (70°F); and

(2) Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less.

(B) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled within 4 hours to 5°C (41°F) or less if prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna.

(C) Except as specified under ¶ (D) of this section, a POTENTIALLY HAZARDOUS FOOD (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.

(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.

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;

(2) Separating the FOOD into smaller or thinner portions;

(3) Using rapid cooling EQUIPMENT;

(4) Stirring the FOOD in a container placed in an ice water bath;

(5) Using containers that facilitate heat transfer;

(6) Adding ice as an ingredient; or

(7) Other effective methods.

(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 Potentially Hazardous Food (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, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be maintained:

(1) At 60°C (140°F) 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 54°C (130°F) or above; or

(2) At 5°C (41°F) or less.

(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.

(C) POTENTIALLY HAZARDOUS FOOD (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).*

3-501.17 Ready-to-Eat, Potentially Hazardous Food (Time/Temperature Control for Safety Food), Date Marking.*

on-premises preparation

- *prepare and hold cold*

(A) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under § 3-502.12, and except as specified in ¶¶ (D) and (E) of this section, refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (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 5°C (41°F) or less for a maximum of 7 days.

commercially Processed food

- *open and hold cold*

(B) Except as specified in ¶¶ (D) - (F) of this section, refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (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:

(1) The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; 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.

(C) A refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ingredient or a portion of a refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (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.

(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 POTENTIALLY HAZARDOUS FOOD (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 or on 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) *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 salami that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers, and which retain the original CASING on the product; and*

(7) *Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers*.

3-501.18 Ready-to-Eat, Potentially Hazardous Food (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 either of the temperature and time combinations specified in ¶ 3-501.17(A), except time that the product is frozen;

(2) Is in a container or PACKAGE that does not bear a date or day; or

(3) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in ¶ 3-501.17(A).

(B) Refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (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).

3-501.19 Time as a Public Health Control.*

Deleted.

Specialized Processing

3-502.11 Variance Requirement.*

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the

Methods REGULATORY AUTHORITY as specified in § 8-103.10 and under § 8-103.11 before:

(A) Smoking FOOD as a method of FOOD preservation rather than as a method of flavor enhancement;

(B) Curing FOOD;

(C) Using FOOD ADDITIVES or adding components such as vinegar:

(1) As a method of FOOD preservation rather than as a method of flavor enhancement, or

(2) To render a FOOD so that it is not POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL OF SAFETY FOOD);

(D) Packaging FOOD using a REDUCED OXYGEN PACKAGING method *except as specified under § 3-502.12 where a barrier to* ***Clostridium botulinum*** *in addition to refrigeration exists*;

(E) Operating a MOLLUSCAN SHELLFISH life-support system display tank used to store and display shellfish that are offered for human consumption;

(F) Custom processing animals that are for personal use as FOOD and not for sale or service in a FOOD ESTABLISHMENT;

(G) Preparing FOOD by another method that is determined by the REGULATORY AUTHORITY to require a VARIANCE; or

(H) Sprouting seeds or beans.

Clostridium botulinum and Listeria Monocytogenes Controls

3-502.12 Reduced Oxygen Packaging, Criteria.*

(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3-502.11 and except as specified under ¶¶ (C) and (E) and as specified in ¶ (D) of this section, a FOOD ESTABLISHMENT that PACKAGES POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) using a REDUCED OXYGEN PACKAGING method shall ensure that there are at least two barriers in place to control the growth and toxin formation of ***Clostridium botulinum*** and the growth of ***Listeria monocytogenes***.

(B) A FOOD ESTABLISHMENT that PACKAGES POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) using a REDUCED OXYGEN PACKAGING method shall have a HACCP PLAN that contains the information specified under ¶ 8-201.14(D) and that:

(1) Identifies the FOOD to be PACKAGED;

(2) Except as specified under ¶¶ (C) and (E) and as specified in ¶ (D) 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:

(a) Has an A_W of 0.91 or less,

(b) Has a pH of 4.6 or less,

(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, or

(d) Is a FOOD with a high level of competing organisms such as raw MEAT or raw POULTRY;

(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:

(a) Maintain the FOOD at 5°C (41°F) or below, and

(b) Discard the FOOD if within 14 calendar days of its PACKAGING it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption;

(4) Limits the refrigerated shelf life to no more than 14 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;

(5) Includes operational procedures that:

(a) Prohibit contacting FOOD with bare hands,

(b) Identify a designated work area and the method by which:

(i) Physical barriers or methods of separation of raw FOODS and READY-TO-EAT FOODS minimize cross contamination, and

(ii) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential HAZARDS of the operation, and

(c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES; and

(6) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the:

(a) Concepts required for a safe operation,

(b) EQUIPMENT and facilities, and

(c) Procedures specified under Subparagraph (B)(5) of this section and ¶ 8-201.14(D).

Fish

(C) *Except for FISH that is frozen before, during, and after PACKAGING*, a FOOD ESTABLISHMENT shall not PACKAGE FISH using a REDUCED OXYGEN PACKAGING method.

Cook-Chill or Sous Vide

(D) Except as specified under ¶ (C) of this section, a FOOD ESTABLISHMENT *may package* FOOD *using a cook-chill or sous vide process without obtaining a* VARIANCE *if:*

(1) *The* FOOD ESTABLISHMENT *implements a HACCP* PLAN *that contains the information as specified under ¶ 8-201.14(D);*

(2) *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 bagged product to another business entity or the* CONSUMER*,*

(b) *Cooked to heat all parts of the* FOOD *to a temperature and for a time as specified under § 3-401.11,*

(c) *Protected from contamination after cooking as*

specified under Part 3-4,

(d) *Placed in a package or bag with an oxygen barrier and sealed before cooking, or placed in a* PACKAGE *or bag and sealed immediately after cooking, and before reaching a temperature below 57°C (135°F),*

(e) *Cooled to 5°C (41°F) in the sealed* PACKAGE *or bag as specified under §3-501.14, and subsequently:*

(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 preparation;*

(ii) *Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F), removed from refrigeration equipment that maintains a 1°C (34°F) food temperature and then held at 5°C (41°F) or less for no more than 72 hours, at which time the* FOOD *must be consumed or discarded;*

(iii) *Cooled to 3°C (38°F) or less within 24*

hours of reaching 5°C (41°F) and held there for no more than 72 hours from packaging, at which time the food must be consumed or discarded; or

(iv) *Held frozen with no shelf life restriction while frozen until consumed or used.*

(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,*

(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, and*

(h) Labeled with the product name and the date PACKAGED; and

(3) *The records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP PLAN, are maintained and are:*

(a) *Made available to the REGULATORY AUTHORITY upon request, and*

(b) *Held for 6 months; and*

(4) *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 are implemented*.

Cheese (E) *A FOOD ESTABLISHMENT may PACKAGE cheese using a REDUCED OXYGEN PACKAGING method without obtaining a VARIANCE if it*:

(1) Limits 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;

(2) Has a HACCP PLAN that contains the information specified under ¶ 8-201.14(D);

(3) Except as specified under Subparagraphs (B)(2), (B)(3)(b), and (B)(4), complies with ¶ (B) of this section;

(4) Labels the PACKAGE on the principal display panel with a "use by" date that does not exceed 30 days or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

(5) Discards the REDUCED OXYGEN PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within 30 calendar days of its 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 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 shall 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 in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the FOOD;

(3) An accurate declaration of the 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 (Effective January 1, 2006).

(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 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.

(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 (5) 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 shall 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)(3) 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.

(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);" 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.

(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;

(2) Consuming raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness; 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.

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.

(B) FOOD that is not from an APPROVED source as specified under §§ 3-201.11 - .17 shall be discarded.

(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.

(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.

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) shall not be served or offered for sale; 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(B) - (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.

(B) Pasteurized EGGS or EGG PRODUCTS shall be substituted for raw EGGS in the preparation of:

(1) FOODS such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG-fortified BEVERAGES, and

(2) Except as specified in ¶ (F) of this section, recipes in which more than one EGG is broken and the EGGS are combined;

(C) The following FOODS shall not be served or offered for sale in a READY-TO-EAT form:

(1) Raw animal FOODS such as raw FISH, raw-marinated FISH, raw MOLLUSCAN SHELLFISH, and steak tartare,

(2) A partially cooked animal FOOD such as lightly cooked FISH, rare MEAT, soft-cooked EGGS that are

made from raw EGGS, and meringue; and

(3) Raw seed sprouts.

(D) FOOD EMPLOYEES shall not contact READY-TO-EAT FOOD as specified under ¶¶ 3-301.11(B) and (D).

(E) Reserved.

(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 shall 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 shall 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*.

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Chapter

2 Management and Personnel

Parts

2-1 SUPERVISION

Subparts

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.

(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.

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 CRITICAL ITEMS during the current inspection;

(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; 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;

(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;

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

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

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

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

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

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

(a) Cross contamination,

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

(c) Handwashing, and

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

(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.

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

(a) Sufficient in number and capacity, and

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

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

(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;

(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;

(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;

(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;

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

(a) FOOD EMPLOYEE,

(b) CONDITIONAL EMPLOYEE,

(c) PERSON IN CHARGE,

(d) REGULATORY AUTHORITY; and

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

2-102.20 Food Protection Manager Certification.

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), or a similar program approved by the REGULATORY AUTHORITY.

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;

(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;

(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;

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

(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;

(F) EMPLOYEES are properly cooking POTENTIALLY HAZARDOUS FOOD (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);

(G) EMPLOYEES are using proper methods to rapidly cool POTENTIALLY HAZARDOUS FOODS (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;

(H) 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;

(I) 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;

(J) 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;

(K) Except when APPROVAL is obtained from the REGULATORY AUTHORITY as specified in ¶ 3-301.11(D), 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;

(L) EMPLOYEES are properly trained in FOOD safety as it relates to their assigned duties; and

(M) FOOD EMPLOYEES and CONDITIONAL EMPLOYEES are informed 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).

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 Charge, 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,

(b) Diarrhea,

(c) Jaundice,

(d) Sore throat with fever, 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,*

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

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

reportable diagnosis

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

(a) Norovirus,

(b) Hepatitis A virus,

(c) *Shigella* spp.,

(d) ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*, or

(e) *Salmonella* Typhi;

reportable

(3) Had a previous illness, diagnosed by a

past illness HEALTH PRACTITIONER, within the past 3 months due to *Salmonella* Typhi, without having received antibiotic therapy, as determined by a HEALTH PRACTITIONER;

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,

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

(c) *Salmonella* Typhi within the past 14 days of the last exposure, or

(d) Hepatitis A virus within the past 30 days of the last exposure; 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,

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

(c) *Salmonella* Typhi within the past 14 days of the last exposure, or

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

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, or

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

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; 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(I).

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), or (G)(1) and in compliance with the provisions specified under ¶¶ 2-201.13(A) - (G); or

(2) RESTRICTED as specified under Subparagraphs 2-201.12 (D)(2), (E)(2), (F)(2), (G)(2), or ¶¶ 2-201.12(H) or (I) and in compliance with the provisions specified under ¶¶ 2-201.13(D) - (I).

responsibility of

(E) A FOOD EMPLOYEE or CONDITIONAL EMPLOYEE shall report to

food employees and conditional employees to report

the PERSON IN CHARGE the information as specified under ¶ (A) of this section.

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), or (G)(1) and with the provisions specified under ¶¶ 2-201.13(A) - (G); or

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

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; or

(2) Symptomatic with vomiting or diarrhea and diagnosed

with an infection from Norovirus, *Shigella* spp., or ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING *E. COLI*.

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;*

(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; or

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

diagnosed or reported previous infection due to S. Typhi

(C) EXCLUDE a FOOD EMPLOYEE who is diagnosed with an infection from *Salmonella* Typhi, or reports a previous infection with *Salmonella* Typhi within the past 3 months as specified under Subparagraph 2-201.11(A)(3).

diagnosed with an asymptomatic

(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

infection from Norovirus

ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; or

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

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; or

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

diagnosed with EHEC or STEC and asymptomatic

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

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

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

symptomatic with

(G) If a FOOD EMPLOYEE is ill with symptoms of acute onset of

sore throat with fever

sore throat with fever:

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

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

symptomatic with uncovered infected wound or pustular boil

(H) 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.

exposed to foodborne pathogen and works in food establishment serving HSP

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

Managing Exclusions and

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

The PERSON IN CHARGE shall adhere to the following conditions

Restrictions when removing, adjusting, or retaining the EXCLUSION or RESTRICTION of a FOOD EMPLOYEE:

(A) *Except when a FOOD EMPLOYEE is diagnosed with an infection from hepatitis A virus or Salmonella* Typhi:

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; or

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

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; or

retaining exclusion for food employee who

(b) Retain the EXCLUSION for the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 24 hours

was asymptomatic and is now asymptomatic and works in food establishment serving HSP

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.

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; 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.

EHEC or STEC Diagnosis

(4) If a FOOD EMPLOYEE was diagnosed with an infection from ENTEROHEMORRHAGIC or 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; 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.

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;

(2) The anicteric FOOD EMPLOYEE has been symptomatic

with symptoms other than jaundice for more than 14 calendar days; 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.

S. Typhi 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; 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 *S. Typhi* infection.

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;

(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; 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.

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, and

(b) At least 24 hours apart;

(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; 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.

EHEC or 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 ENTEROHEMORRHAGIC or 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; and

(b) At least 24 hours apart;

(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; 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.

sore throat with fever-removing exclusion or restriction

(G) Reinstate a FOOD EMPLOYEE who was EXCLUDED or RESTRICTED as specified under Subparagraphs 2-201.12(G)(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;

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

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

Uncovered infected wound or pustular

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

boil – removing restriction		(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;
		(2)	An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or
		(3)	A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.
exposure to foodborne pathogen and works in food establishment serving HSP – removing restriction	(I)	Reinstate a FOOD EMPLOYEE who was RESTRICTED as specified under ¶ 2-201.12(I) and was exposed to one of the following pathogens as specified under Subparagraph 2-201.11(A)(4) or (5):	
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; or
			(b) More than 48 hours have passed since the FOOD EMPLOYEE'S household contact became ASYMPTOMATIC.

Shigella spp., EHEC, or STEC	(2)	*Shigella* spp. or ENTEROHEMORRHAGIC 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; or (b) More than 3 calendar days have passed since the FOOD EMPLOYEE'S household contact became ASYMPTOMATIC.
S. Typhi	(3)	*S.* 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; or (b) More than 14 calendar days have passed since the FOOD EMPLOYEE'S household contact became ASYMPTOMATIC.
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; (b) The FOOD EMPLOYEE is immune to hepatitis A virus infection because of vaccination against

hepatitis A;

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

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

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

(ii) Proper handwashing procedures, and

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

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.

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.

(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;

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

(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, 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.

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

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

(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 and:

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

(B) After using the toilet room;

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

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

(E) After handling soiled EQUIPMENT or UTENSILS;

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

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

(H) Before donning gloves for working with FOOD; and

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

2-301.15 Where to Wash.

FOOD EMPLOYEES shall clean their hands in a HANDWASHING SINK or APPROVED automatic handwashing facility and shall 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.

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; or

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

(2) Comply with one of the following:

(a) Have components that are exempted from the requirement of being listed in federal FOOD

ADDITIVE regulations as specified in 21 CFR 170.39 - Threshold of regulation for substances used in food-contact articles; or

(b) Comply with and be listed in:

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

(ii) 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;

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

(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; or

(2) Limited to situations that involve no direct contact

with FOOD by the bare hands.

(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.

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.

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

Jewelry **2-303.11 Prohibition.**

Except for *a plain ring such as a wedding band,* while preparing FOOD, FOOD EMPLOYEES shall 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 can not 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 shall not work withexposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; or unwrapped SINGLE-SERVICE or SINGLE-USE ARTICLES.

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 shall 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).

(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).*

Chapter

1 Purpose and Definitions

Parts

1-1 TITLE, INTENT, SCOPE

Subparts

Title **1-101.10 Guam Food Code.**

These provisions shall be known as the Guam 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. Guam Food Code Annex 1, maintained by and publicly accessible at the Department of Public Health and Social Services, shall be the official interpretation and explanation of the provisions of this Code. The enforcement of the Guam Food Code by the REGULATORY AUTHORITY shall commence 365 days after the adoption of this Code, and in the interim, the regulations entitled "Rules and Regulations Relative to Eating and Drinking Establishments" shall continued to be enforced but repealed and replaced by this Code after the lapse of the 365 days when the enforcement of this Code begins.

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 a REGULATORY AUTHORITY.

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

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 Federal Food, Drug, and Cosmetic Act, § 402.

"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 or epidemiological analysis implicates a 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.

“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 or procedure in a specific FOOD system where loss of control may result in an unacceptable health RISK.

Critical Item.

(1) **“Critical item”** means a provision of this Code, that, if in noncompliance, is more likely than other violations to contribute to FOOD contamination, illness, or environmental health HAZARD.

(2) **“Critical item”** is an item that is denoted in this Code with an asterisk *.

“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 minimize the RISK that the identified FOOD safety HAZARD may occur.

“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.

"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.

(1) **"Drinking water"** means water that meets criteria as specified in 40CFR 141 National Primary Drinking Water Regulations.

(2) **"Drinking water"** is traditionally known as "potable water."

(3) **"Drinking water"** 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 "nondrinking" water*.

"Dry storage area" means a room or area designated for the storage of PACKAGED or containerized bulk FOOD that is not POTENTIALLY HAZARDOUS (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.

"Enterohemorrhagic *Escherichia coli*" (EHEC) means ***E. coli*** which cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. The term is typically used in association with ***E. coli*** that have the capacity to produce Shiga toxins and to cause attaching and effacing lesions in the intestine. EHEC is a subset of STEC, whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: ***E. coli***O157:H7; ***E. coli*** O157:NM; ***E. coli*** O26:H11; ***E. coli*** O145:NM; ***E. coli*** O103:H2; or ***E. coli*** O111:NM. *Also see* SHIGA TOXIN-PRODUCING ***E. COLI.***

"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 at FOOD ESTABLISHMENTS with PACKAGED, UNPACKAGED FOOD, FOOD EQUIPMENT or UTENSILS, or FOOD-CONTACT SURFACES.

Food Establishment.

(1) **“Food establishment”** means an operation that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides FOOD for human consumption:

(a) 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) That 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; and

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

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

(c) *A kitchen in a private home if only* FOOD *that is not* POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY) FOOD*, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by* LAW *and 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*;*

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

(e) *A kitchen in a private home, such as a small family day-care provider; or 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*; or*

(f) *A private home that receives catered or home-delivered* FOOD*.*

"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.

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.

"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 written document that delineates the formal procedures for following the HAZARD Analysis and CRITICAL CONTROL POINT principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

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.

"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 a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned FOODS, to maintain the commercial sterility of its contents after processing.

"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.

"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 a MEAT so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the MEAT such as by processes which may be referred to as "injecting," "pinning," or "stitch pumping."

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.

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).*

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

“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*.

Packaged.

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

(2) ***"Packaged"*** *does not include a wrapper, carry-out box, or other nondurable container used to containerize FOOD with the purpose of facilitating FOOD protection during service and receipt of the FOOD by the CONSUMER.*

"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.

Potentially Hazardous Food (Time/Temperature Control for Safety Food).

(1) **"Potentially hazardous food (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) **"Potentially hazardous food (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 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 that results in mixtures that do not 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 values		
	4.6 or less	> 4.6 - 5.6	> 5.6
≤0.92	non-PHF*/non-TCS FOOD**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS FOOD	PA	PA

* PHF means POTENTIALLY HAZARDOUS FOOD
** 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 values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-PHF*/non-TCS food**	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
0.88 – 0.90	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	PA***
> 0.90 – 0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	PA	PA
> 0.92	on-PHF/non-TCS food	PA	PA	PA

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

(3) ***"Potentially hazardous food (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 CONTAINER *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-PHF/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.*

"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.

"Public water system" has the meaning stated in 40 CFR 141 National Primary Drinking Water Regulations.

"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 (2); or

(c) Is prepared in accordance with a variance that is granted as specified in Subparagraphs 3-401.11(D) and (3); 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 POTENTIALLY HAZARDOUS FOOD (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.

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 cavengers 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 psychotropic pathogens; or

(e) Sous vide PACKAGING, in which raw or partially cooked FOOD is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

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

"Regulatory authority" means the Department of Public Health and Social Services and its authorized representatives having jurisdiction over the FOOD ESTABLISHMENT.

"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 activities of 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 or 706 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.

“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.

“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.

“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 or “Shiga-like” toxins). Examples of serotypes of STEC include both O157 and non-O157 ***E. coli***. *Also see* ENTEROHEMORRHAGIC ***ESCHERICHIA COLI.***

“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 Sections 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.

"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.

(1) **"Temporary food establishment"** means a FOOD ESTABLISHMENT that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

(2) **"Temporary food establishment" does not include:**

(a) A **"**temporary food service establishment**"** that is referenced in § 21102(f) of Chapter 21, Title 10 GCA, and is defined as a FOOD ESTABLISHMENT, that operates for a period of no more than 180 consecutive days in conjunction with a single event or celebration which shall meet all the requirements of this Code; or

(b) Any other FOOD ESTABLISHMENT that operates for a period of no more than 180 consecutive days but less than 365 consecutive days.

"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.

"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 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.

"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.

Guam Annex

1 *Public Health Reasons*

Chapter 1 Purpose and Definitions

Applicability and Terms Defined **1-201.10 Statement of Application and Listing of Terms.**

(B) ***Terms Defined***

The individual definitions in Chapter 1 are not numbered, consistent with current conventions regarding the use of plain language in drafting rules, and with use in national and international standards and some Federal regulations. This facilitates making changes to the definitions as they become necessary in subsequent editions of the Food Code. The intent of the definitions to be binding in terms of the application and interpretation of the Code is clearly stated in Chapter 1.

Accredited Program.

Food protection manager *certification* occurs when *individuals* demonstrate through a certification program that they have met specified food safety knowledge standards.

Food protection certification program *accreditation* occurs when *certification organizations* demonstrate through an accreditation program that they have met specified program standards.

Accreditation is a conformity assessment process through which organizations that certify individuals may voluntarily seek independent evaluation and listing by an accrediting agency based upon the certifying organization meeting program accreditation standards. Such accreditation standards typically relate to such factors as the certifying organization's structure, mission, policies, procedures, and the defensibility of its examination processes. These standards are intended to affirm or enhance the quality and credibility of the certification process, minimize the potential for conflicts of interest, ensure fairness to candidates for certification and others, and thereby increase public health protection.

Program accreditation standards known to be relevant to food protection manager certification programs include those contained in the *Standards for Accreditation of Food Protection Manager Certification Programs* available from the Conference for Food Protection, 1085 Denio Avenue, Gilroy, CA 95020-9206 and found at http://www.foodprotect.org/pdf/standards.pdf.

Allowing food protection managers to demonstrate their required food safety knowledge “through passing a test that is part of an accredited program” is

predicated on the fact that their credentials have been issued by certifying organizations that have demonstrated conformance with rigorous and nationally recognized program standards.

Food Establishment *and a* food processing plant *located within the same premises of a* Food Establishment

Some food businesses perform operations that provide food directly to consumers as a "Food Establishment," and also supply food to other business entities as a "Food Processing Plant." Within such a business, those operations that provide food directly to consumers only should be considered part of a "Food Establishment" for the purposes of applying the Food Code while those operations that supply food to other business entities may be subject to other rules and regulations that apply to "Food Processing Plants." It is essential that the permit holder and persons in charge be aware that regulatory requirements and the appropriate operational practices for "Food Establishments" may differ from those for "Food Processing Plants."

Some facilities and functions may be subject to different regulatory requirements depending on whether that facility or function is regulated as a "Food Establishment" or as a "Food Processing Plant," or both. Those facilities and functions within a business that are shared by both the "Food Establishment" and "Food Processing Plant" operations, e.g., refrigeration units, dressing room and toilet facilities, food equipment, water and waste systems, pest control, might be subject to similar regulatory requirements. The Food Code is intended to apply to "food establishments."

Egg.

The definition of egg includes avian species' shell eggs known to be commercially marketed in the United States. Also included are the eggs of quail and ratites such as ostrich.

Not included are baluts. Baluts are considered a delicacy among Philippine and Vietnamese populations. They are derived from fertile eggs, typically duck eggs, subjected to incubation temperatures for a period of time less than necessary for the embryo to hatch resulting in a partially formed embryo within the shell. Under the Egg Products Inspection Act (EPIA), an egg is typically considered adulterated if it has been subjected to incubation. However, in 9 CFR 590.5, baluts are specifically exempted from inspection as eggs under the EPIA.

In producing baluts, fertile duck eggs are incubated for approximately 18 days at a temperature of 42.5°C (108.5°F) in incubators with a relatively high humidity. (Complete development and hatching would take place in 28 days.) Under these conditions, the potential for growth of transovarian *Salmonella* organisms such as *S.* Enteritidis within the shell, and the potential for an increase in pathogenic microflora on the shell itself, are increased. Where chicken eggs are used in preparing baluts, the incubation period may only be 14 days at an incubation temperature of 37°C (99°F). A balut is a potentially hazardous food (time/temperature control for safety food) subject to time/temperature management including proper cooking and hot and cold holding. Baluts are typically boiled and packed in salt before sale or service. Also, not included in this definition are the eggs of reptile species such as alligators and turtles. Alligator eggs are available for sale in some parts of the

southern United States. In restaurants, the menu item "Alligator Eggs" is sometimes made of alligator egg, but other times is simply a fanciful name for a menu item that may include seafood items such as shrimp, but contains no alligator egg.

Sea turtle eggs have been consumed in Asian and Latin American Countries. However, turtle eggs are not mentioned in the definitions section because sea turtles (Loggerhead, East Pacific Green, Leatherback, Hawksbill, Kemp's Ridley, and Olive Ridley) are protected by The Endangered Species Act of 1973 and therefore may not be sold or consumed. This Act, with respect to turtle eggs, is enforced by the United States Department of Interior, U.S. Fish and Wildlife Service, Washington, D.C.

Potentially Hazardous Food (Time/Temperature Control for Safety Food)

Potentially hazardous food (PHF/TCS food) is defined in terms of whether or not it requires time/temperature control for safety to limit pathogen growth or toxin formation. The term does not include foods that do not support growth but may contain a pathogenic microorganism or chemical or physical food safety hazard at a level sufficient to cause foodborne illness or injury. The progressive growth of all foodborne pathogens is considered whether slow or rapid.

The definition of PHF/TCS food takes into consideration pH, a_w, pH and a_w interaction, heat treatment, and packaging for a relatively simple determination of whether the food requires time/temperature control for safety. If the food is heat-treated to eliminate vegetative cells, it needs to be addressed differently than a raw product with no, or inadequate, heat treatment. In addition, if the food is packaged after heat treatment to destroy vegetative cells and subsequently packaged to

prevent re-contamination, higher ranges of pH and/or a_w can be tolerated because remaining spore-forming bacteria are the only microbial hazards of concern. While foods will need to be cooled slightly to prevent condensation inside the package, they must be protected from contamination in an area with limited access and packaged before temperatures drop below 57°C (135°F). In some foods, it is possible that neither the pH value nor the a_w value is low enough by itself to control or eliminate pathogen growth; however, the interaction of pH and a_w may be able to accomplish it. This is an example of a hurdle technology. Hurdle technology involves several inhibitory factors being used together to control or eliminate pathogen growth, when they would otherwise be ineffective if used alone.

In determining if time/temperature control is required, combination products present their own challenge. A combination product is one in which there are two or more distinct food components and an interface between the two components may have a different property than either of the individual components. A determination must be made about whether the food has distinct components such as pie with meringue topping, focaccia bread, meat salads, or fettuccine alfredo with chicken or whether it has a uniform consistency such as gravies, puddings, or sauces. In these products, the pH at the interface is important in determining if the item is a PHF/TCS food.

A well designed inoculation study or other published scientific research should be used to determine whether a food can be held without time/temperature control when:

- process technologies other than heat are applied to destroy foodborne pathogens (e.g., irradiation, high pressure processing, pulsed light, ozonation);
- combination products are prepared; or
- other extrinsic factors (e.g., packaging/atmospheres) or intrinsic factors (e.g., redox potential, salt content, antimicrobials) are used to control or eliminate pathogen growth.

Before using Tables A and B in paragraph 1-201.10(B) of the definition for "potentially hazardous food (time/temperature control for safety food)" in determining whether a food requires time/temperature control for safety (TCS), answers to the following questions should be considered:

- Is the intent to hold the food without using time or temperature control?
  - If the answer is No, no further action is required. The decision tree later in this Annex is not needed to determine if the item is a PHF/TCS food.
- Is the food raw, or is the food heat-treated?
- Does the food already require time/temperature control for safety by definition in paragraph 1-201.10(B)?
- Does a product history with sound scientific rationale exist indicating a safe history of use?
- Is the food processed and packaged so that it no longer requires TCS such as ultra high temperature (UHT) creamers or shelf-stable canned goods?

- What is the pH and a_w of the food in question using an independent laboratory and Association of Official Analytical Chemists (AOAC) methods of analysis?

A food designated as product assessment required (PA), in either table should be considered PHF/TCS Food until further study proves otherwise. The PA means that based on the food's pH and a_w and whether it was raw or heat-treated or packaged, it has to be considered PHF until inoculation studies or some other acceptable evidence shows that the food is a PHF/TCS food or not. The Food Code requires a variance request to the regulatory authority with the evidence that the food does not require time/temperature control for safety.

The Food Code definition designates certain raw plant foods as PHF/TCS food because they have been shown to support the growth of foodborne pathogens in the absence of temperature control and to lack intrinsic factors that would inhibit pathogen growth. Unless product assessment shows otherwise, these designations are supported by Tables A and B. For example:

For cut cantaloupe (pH 6.2-7.1, $a_w > 0.99$, not heat-treated), fresh sprouts (pH > 6.5, $a_w > 0.99$, not heat-treated), and cut tomatoes (pH 4.23 - 5.04, $a_w > 0.99$, not heat-treated), Table B indicates that they are considered PHF/TCS foods unless a product assessment shows otherwise. Maintaining these products under the temperature control requirements prescribed in this code for PHF/TCS food will limit the growth of pathogens that may be present in or on the food and may help prevent foodborne illness.

If a facility adjusts the pH of a food using vinegar, lemon juice, or citric acid for purposes other than flavor enhancement, a variance is required under ¶ 3-502.11(C). A HACCP plan is required whether the food is a PHF/TCS food as in subparagraph 3-502.11(C)(1) or not a PHF/TCS food, as in subparagraph 3-502.11(C)(2). A standardized recipe validated by lab testing for pH and a_w would be an appropriate part of the variance request with annual (or other frequency as specified by the regulatory authority) samples tested to verify compliance with the conditions of the variance.

More information can be found in the Institute of Food Technologists (IFT) Report, Evaluation and Definition of Potentially Hazardous Foods.

Instructions for using the following Decision Tree and Table A and Table B:

1. Does the operator want to hold the food without using time or temperature control?
    a. No – Continue holding the food at ≤5°C(41°F) or ≥57°C(135°F) for safety and/or quality.
    b. Yes – Continue using the decision tree to identify which table to use to determine whether time/temperature control for safety (TCS) is required.
2. Is the food heat-treated?
    a. No – The food is either raw, partially cooked (not cooked to the temperature specified in section 3-401.11 of the Food Code) or treated with some other method other than heat. Proceed to step #3.

b. Yes – If the food is heat-treated to the required temperature for that food as specified under section 3-401.11 of the Food Code, vegetative cells will be destroyed although spores will survive. Proceed to step #4.

3. Is the food treated using some other method?

a. No –The food is raw or has only received a partial cook allowing vegetative cells and spores to survive. Proceed to step #6.

b. Yes – If a method other than heat is used to destroy pathogens such as irradiation, high pressure processing, pulsed light, ultrasound, inductive heating, or ozonation, the effectiveness of the process needs to be validated by inoculation studies or other means. Proceed to step #5.

4. Is it packaged to prevent re-contamination?

a. No – Re-contamination of the product can occur after heat treatment because it is not packaged. Proceed to step #6.

b. Yes – If the food is packaged immediately after heat treatment to prevent re-contamination, higher ranges of pH and/or a_w can be tolerated because spore-forming bacteria are the only microbial hazard. Proceed to step #7.

5. Further product assessment or vendor documentation required.

a. The vendor of this product may be able to supply documentation that inoculation studies indicate the food can be safely held without time/temperature control for safety.

b. Food prepared or processed using new technologies may be held without time/temperature control provided the effectiveness of the use of such technologies is based on a validated inoculation study.

6. Using the food's known pH and/or a_w values, position the food in the appropriate table.

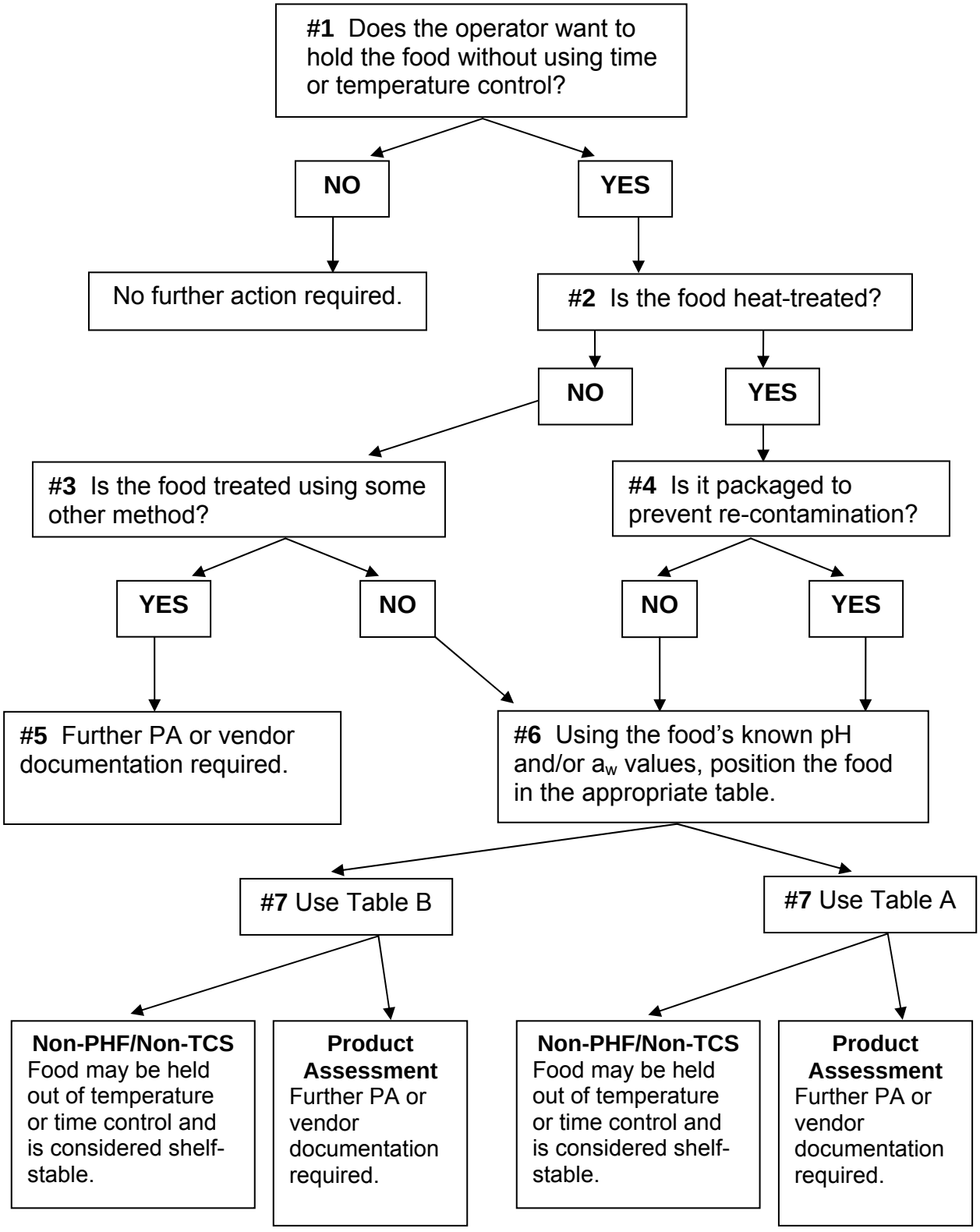
a. Choose the column under "pH values" that contains the pH value of the food in question.

b. Choose the row under "a_w values" that contains the a_w value of the food in question.

c. Note where the row and column intersect to identify whether the food is "non-PHF/non-TCS food" and therefore does not require time/temperature control, or whether further product assessment (PA) is required. Other factors such as redox potential, competitive microorganisms, salt content, or processing methods may allow the product to be held without time/temperature control but an inoculation study is required.

7. Use **Table A** for foods that are heat-treated and packaged **OR** use **Table B** for foods that are not heat-treated or heat-treated but not packaged.

8. Determine if the item is non-PHF/non-TCS or needs further product assessment (PA).


#1 Does the operator want to hold the food without using time or temperature control?
NO
YES
No further action required.
#2 Is the food heat-treated?
NO
YES
#3 Is the food treated using some other method?
#4 Is it packaged to prevent re-contamination?
YES
NO
NO
YES
#5 Further PA or vendor documentation required.
#6 Using the food's known pH and/or a_w values, position the food in the appropriate table.
#7 Use Table B
#7 Use Table A
Non-PHF/Non-TCS Food may be held out of temperature or time control and is considered shelf-stable.
Product Assessment Further PA or vendor documentation required.
Non-PHF/Non-TCS Food may be held out of temperature or time control and is considered shelf-stable.
Product Assessment Further PA or vendor documentation required.

1-201.10(B) – Table A and Table B

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 values		
	4.6 or less	> 4.6 - 5.6	> 5.6
≤0.92	non-PHF*/non-TCS FOOD**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS FOOD	PA	PA

* PHF means Potentially Hazardous Food

** 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 values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-PHF*/ non- TCS FOOD**	non-PHF/ non-TCS food	non-PHF/ non-TCS food	non-PHF/ non-TCS food
0.88 – 0.90	non-PHF/non-TCS FOOD	non-PHF/ non-TCS food	non-PHF/ non-TCS food	PA***
> 0.90 – 0.92	non-PHF/ non-TCS FOOD	non-PHF/ non-TCS food	PA	PA
> 0.92	non-PHF/ non-TCS FOOD	PA	PA	PA

* PHF means Potentially Hazardous Food

** TCS food means Time/Temperature Control for Safety food

*** PA means Product Assessment required

Chapter 2 Management and Personnel

Responsibility **2-101.11 Assignment.***

Designation of a person in charge during all hours of operations ensures the continuous presence of someone who is responsible for monitoring and managing all food establishment operations and who is authorized to take actions to ensure that the Code's objectives are fulfilled. During the day-to-day operation of a food establishment, a person who is immediately available and knowledgeable in both operational and Code requirements is needed to respond to questions and concerns and to resolve problems.

In cases where a food establishment has several departments on the premises (e.g., a grocery store with deli, seafood, and produce departments) and the regulatory authority has permitted those departments individually as separate food establishments, it may be unnecessary from a food safety standpoint to staff each department with a separate Person in Charge during periods when food is not being prepared, packaged or served. While activities such as moving food products from a refrigerated display case to the walk-in refrigerator, cleaning the floors, or doing inventory when the department is not busy, do take place during these times, a designated Person in Charge for multiple departments or the entire facility can oversee these operations and be ready to take corrective actions if necessary.

Knowledge **2-102.11 Demonstration.***

The designated person in charge who is knowledgeable about foodborne disease prevention, Hazard Analysis and Critical Control Point (HACCP) principles, and Code requirements is prepared to recognize conditions that may contribute to

foodborne illness or that otherwise fail to comply with Code requirements, and to take appropriate preventive and corrective actions.

There are many ways in which the person in charge can demonstrate competency. Many aspects of the food operation itself will reflect the competency of that person. A dialogue with the person in charge during the inspection process will also 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.

The Food Code does not require reporting of uninfected cuts or reporting of covered, protected infected cuts/lesions/boils since no bare hand contact with ready-to-eat (RTE) food is a Code requirement.

2-102.20 Food Protection Manager Certification.

Many food protection manager certification programs have shared a desire to have the food manager certificates they issue universally recognized and accepted by others – especially by the increasing number of regulatory authorities that require food manager certification.

Needed has been a mechanism for regulatory authorities to use in determining which certificates should be considered credible based on which certificate issuing programs meet sound organizational and certification procedures and use defensible processes in their test development and administration.

After a multi-year effort involving a diversity of stakeholder groups, the Conference for Food Protection (CFP) completed work on its ***Standards for Accreditation of Food Protection Manager Certification Programs*** found at

http://www.foodprotect.org/pdf/standards.pdf. In 2002 the Conference entered into a cooperative agreement with the American National Standards Institute (ANSI) to provide independent third-party evaluation and accreditation of certification bodies determined to be in conformance with these Conference standards. ANSI published its first listing of accredited certifiers in 2003.

The Acting Commissioner of the Food and Drug Administration, in his address before the 2004 biennial meeting of the Conference for Food Protection, commended this Conference achievement and encouraged universal acceptance based on the CFP/ANSI accreditation program.

Distributed at this meeting was the following letter addressed to the Conference Chair and signed by the Director of FDA's Center for Food Safety and Applied Nutrition. The letter puts forth the Agency's basis for its support of universal acceptance of food protection manager certifications.

> "The 2004 biennial meeting of the **Conference for Food Protection** is a fitting occasion for FDA's Center for Food Safety and Applied Nutrition to commend the Conference for its significant achievements in support of State and local food safety programs.
>
> The FDA in a Memorandum of Understanding recognizes the Conference for Food Protection as a voluntary national organization qualified to develop standards to promote food protection. Conference recommendations contribute to improvements in the model FDA Food Code and help jurisdictions justify, adopt and implement its provisions.
>
> Conference mechanisms involving active participation by representatives of

diverse stakeholder groups produce consensus standards of the highest quality. An excellent example is the Conference's ***Standards for Accreditation of Food Protection Manager Certification Programs***, and its announcement of the new on-line listing of accredited certifiers of industry food protection managers. Many years in their development, these Conference standards identify the essential components necessary for a credible certification program. Components cover a wide range of requirements such as detailed criteria for exam development and administration, and responsibilities of the certification organization to candidates and the public.

FDA applauds the Conference for this significant achievement, and encourages agencies at all levels of government to accept certificates issued by listed certifiers as meeting their jurisdictions' food safety knowledge and certification requirements. The American National Standards Institute (ANSI) has independently evaluated these certification programs under an agreement with the Conference for Food Protection. Governments and industry widely recognize and respect ANSI as an accrediting organization. ANSI has found certifiers it lists as accredited (http://www.ansi.org/) under "conformity assessment" – "personnel certification accreditation" to conform to the Conference's ***Standards for Accreditation of Food Protection Manager Certification Programs***.*

*ANSI's "***Directory of Accredited Personnel Certification Programs utilizing Conference for Food Protection (CFP) Standards***" may be viewed on-line by going to http://www.ansi.org. Select "Accreditation Services" in the menu on the left. Then select "ANSI Accredited Personnel Certification Bodies and Applicants" in the new left-hand menu under the heading "Personnel Certification Accreditation."

The Food Code states the person in charge of a food establishment is accountable for developing, carrying out, and enforcing procedures aimed at preventing food-borne illness. Section 2-102.11 states that one means by which a person in charge may demonstrate required knowledge of food safety is through certification as a food protection manager by passing an examination that is part of an accredited program.

FDA encourages food regulatory authorities and others evaluating credentials for food protection managers to recognize the Conference for Food Protection/ANSI means of accrediting certification programs. This procedure provides a means for universal acceptance of individuals who successfully demonstrate knowledge of food safety. The procedure provides officials assurance that food safety certification is based on valid, reliable, and legally defensible criteria. In addition, universal acceptance eliminates the inconvenience and unnecessary expense of repeating training and testing when managers work across jurisdictional boundaries.

FDA, along with State, local, tribal, and other Federal agencies and the food industry, share the responsibility for ensuring that our food supply is safe. It is anticipated that this new Conference for Food Protection/ANSI program will lead to enhanced consumer protection, improve the overall level of food safety, and be an important component of a seamless national food safety system."

Duties **2-103.11 Person in Charge.**

A primary responsibility of the person in charge is to ensure compliance with Code requirements. Any individual present in areas of a food establishment where food and food-contact items are exposed presents a potential contamination risk. By controlling who is allowed in those areas and when visits are scheduled and by assuring that all authorized persons in the establishment, such as delivery, maintenance and service personnel, and pest control operators, comply with the Code requirements, the person in charge establishes an important barrier to food contamination.

Tours of food preparation areas serve educational and promotional purposes; however, the timing of such visits is critical to food safety. Tours may disrupt standard or routine operational procedures, and the disruption could lead to unsafe food. By scheduling tours during nonpeak hours the opportunities for contamination are reduced.

Paragraph (L) "EMPLOYEES are properly trained in FOOD safety as it relates to their assigned duties" allows industry to develop and implement operational-specific training programs for food employees. It is not intended to require that all food employees pass a test that is part of an accredited program.

2-2 Employee Health

Overall goals

The purpose of this section of the Food Code is to reduce the likelihood that certain viral and bacterial agents will be transmitted from infected food workers into food. The agents of concern are known to be readily transmissible via food that has been contaminated by ill food workers, and so for that reason, are the primary focus of the

Employee Health section of the Food Code. However, there are different levels of risk associated with different levels of clinical illness. The structure of the restrictions and exclusions has, therefore, been designed in a tiered fashion depending on the clinical situation to offer the maximum protection to public health with the minimal disruption to employees and employers.

Four levels of illness or potential illness have been identified with the first level being the highest potential risk to public health and the fourth level being the lowest. The first level relates to employees who have specific symptoms (e.g., vomiting, diarrhea, jaundice) while in the workplace. These symptoms are known to be associated commonly with the agents most likely to be transmitted from infected food workers through contamination of food. The first level also relates to employees who have been diagnosed with typhoid fever or an infection with hepatitis A virus (within 14 days of symptoms). The second level relates to employees who have been diagnosed with the specific agents that are of concern, but who are not exhibiting symptoms of disease because their symptoms have resolved. The third level relates to employees who are diagnosed with the specific agents, but never develop any gastrointestinal symptoms. The fourth level relates to those individuals who are clinically well but who may have been exposed to a listed pathogen and are within the normal incubation period of disease.

The most significant degree of restriction and exclusion applies to the first level of food employee illness. Infected food employees in the first level are likely to be excreting high levels of their infectious pathogen, increasing the chance of

transmission to food products, and thus on to those consuming the food. The first level includes food employees who are:

- Experiencing active symptoms of diarrhea or vomiting – with no diagnosis,
- Experiencing jaundice within the last 7 days-- with no diagnosis,
- Diagnosed with typhoid fever,
- Diagnosed with hepatitis A within 7 days of jaundice or 14 days of any symptoms, or
- Experiencing active symptoms of diarrhea or vomiting, and diagnosed with Norovirus, ***E. coli*** O157:H7 or other Enterohemorrhagic ***Escherichia coli*** (EHEC) or Shiga toxin-producing ***Escherichia coli*** (STEC), or ***Shigella*** spp. infection.

Diagnosis with typhoid fever or hepatitis A virus is included in level 1 because employees diagnosed with these pathogens are likely to be shedding high levels of the pathogen in their stool without exhibiting gastrointestinal symptoms. Peak levels of hepatitis A viral shedding in the feces typically occurs before symptoms appear. Diarrhea and vomiting are reliable indicators of infection with Norovirus, ***E. coli*** O157:H7 or other EHEC, and ***Shigella*** spp., but are not typical symptoms of typhoid fever or hepatitis A. For example, employees diagnosed with typhoid fever are more likely to experience constipation, rather than diarrhea. Jaundice is also not always reliable as an indicator of a hepatitis A infection because employees can be infected with hepatitis A virus without experiencing jaundice (anicteric employees). Maximum protection to public health requires excluding food employees

suffering from typhoid fever, hepatitis A virus, or specific gastrointestinal symptoms associated with diseases identified as likely to be transmitted through contamination of food (See section 2-201.12, Tables 2-201.12 #1a and #1b in this Annex). This situation describes the highest level of risk in transmitting pathogens to food, or what we would find in the first level.

Food employees who have been diagnosed with one of the agents of concern, but are not symptomatic because their symptoms have resolved, are still likely to be carrying the infected agent in their intestinal tract. This makes such employees less likely to spread the agent into food than others who are actually symptomatic, but employees diagnosed with one of the agents of concern still pose an elevated threat to public health. For this reason, there are a series of exclusions (if the employees work in facilities serving highly susceptible populations (HSP)) and restrictions (for non-HSP facilities) depending on the agent involved (See section 2-201.12, Table #2). This situation describes the second level of risk in transmitting pathogens to food.

Diagnosed, asymptomatic food employees who never develop symptoms are typically identified during a foodborne illness outbreak investigation through microbiological testing. If infected and asymptomatic employees are not microbiologically tested, they will remain undetected and could therefore extend the duration of a foodborne illness outbreak through continued contamination of food. The Food Code provides restriction or exclusion guidelines for employees that are identified through microbiological testing with an infection from a listed foodborne pathogen, but are otherwise asymptomatic and clinically well (See section 2-201.12,

Table #3). The exclusion or restriction guidelines are applied until the identified food employees no longer present a risk for foodborne pathogen transmission. This situation describes the third level of risk in transmitting pathogens to food.

Some food employees or conditional employees may report a possible exposure to an agent. For example, a food employee may have attended a function at which the food employee ate food that was associated with an outbreak of shigellosis, but the employee remains well. Such individuals fall into the category of having had a potential exposure and present a lower risk to public health than someone who is either symptomatic or who has a definitive diagnosis. They present a level of risk to public health that is greater than if they had not had the exposure. The approach taken in the Food Code to food employees who have had a potential exposure is based on the incubation times (time between exposure and the onset of symptoms) of the various agents. The times chosen for restriction are the upper end of the average incubation periods for the specific agents. The reasoning is that this will restrict food employees only up to the time when it is unlikely they will develop symptoms. As a further protection to public health, it is recommended that such exposed food employees pay particular attention to personal hygiene and report the onset of any symptoms (See section 2-201.12, Table #4). This situation describes the fourth level of risk in transmitting pathogens to food.

This structured approach has linked the degree of exclusion and restriction to the degree of risk that an infected food worker will transmit an agent of concern into food. The approach strikes a balance between protecting public health and the needs of the food employee and employer.

The Food Code provisions related to employee health are aimed at removing highly infectious food employees from the work place. They were developed with recognition of the characteristics of the five important pathogens, and of the risk of disease transmission associated with symptomatic and asymptomatic shedders. The provisions also account for the increased risk associated with serving food to HSP's and the need to provide extra protection to those populations.

The Employee Health section was developed and revised with assistance and input from the Centers for Disease Control and Prevention (CDC) and the U.S. Equal Employment Opportunity Commission (EEOC). The exclusion and restriction criteria are based on communicable disease information, as required by the Americans with Disabilities Act of 1990, in the "The List of Infectious and Communicable Diseases Which are Transmitted through the Food Supply" published in the Federal Register on October 4, 2004, (Volume 69, Number 191) by the CDC, and from the Control of Communicable Diseases Manual, 18th Ed., David L. Heymann, MD, Editor, by the American Public Health Association, Washington D.C., 2004.

2-201 Infected Food Employees and Conditional Employees

Practical Applications of Using Subpart 2-201

The information provided in Subpart 2-201 is designed to assist food establishment managers and regulatory officials in removing infected food employees when they are at greatest risk of transmitting foodborne pathogens to food. Practical applications of the information in Subpart 2-201 by a food establishment manager may involve using Subpart 2-201 as a basis for obtaining information on the health status of food employees and can also be used as a basis in developing and

implementing an effective Employee Health Policy. Regulatory officials can benefit by using the information provided below as a basis for determining compliance with Subpart 2-201 during a facility food safety inspection.

The development and effective implementation of an employee health policy based on the provisions in Subpart 2-201 may help to prevent foodborne illness associated with contamination of food by ill or infected food employees. The person in charge and food employees should be familiar with and able to provide the following information through direct dialogue or other means when interviewed by facility managers or regulatory officials. Compliance must be based, however, on first hand observations or information and cannot be based solely on responses from the person in charge to questions regarding hypothetical situations or knowledge of the Food Code. Also, when designing and implementing an employee health policy, the following information should be considered and addressed:

1. Does the establishment have an Employee Health Policy? If so, are the food employees aware of the employee health policy, and is it available in written format and readily available for food employees? (Note: A written Employee Health Policy is not a Food Code requirement unless the facility is operating under a pre-approved alternative procedure specified under ¶ 3-301.11(D)).
2. Does the establishment require conditional employees and food employees to report certain illnesses, conditions, symptoms, and exposures?
3. Are the reporting requirements explained to all employees?

4. What are the reporting requirements for conditional employees, food employees, and the food establishment manager?
5. Are conditional employees asked if they are experiencing certain symptoms or illnesses upon offer of employment? If so, which symptoms or illnesses?
6. If a food employee reports a diagnosis with one of the 5 listed pathogens in the Food Code, what questions are asked of the food employee? (The first question every food manager should ask a food employee who reports diagnosis with a listed pathogen is if the employee is currently having any symptoms.)
7. Who does the establishment notify when a food employee reports a diagnosis with one of the listed pathogens?
8. What gastrointestinal symptoms would require exclusion of a food employee from the food establishment?
9. What history of exposure is a conditional employee or food employee required to report?
10. If a food employee reports a gastrointestinal symptom, what criteria are used to allow the employee to return to work?

Responsibilities and Reporting Symptoms and Diagnosis **2-201.11 Responsibility of the Person in Charge, Food Employees and Conditional Employees.***

Proper management of a food establishment operation begins with employing healthy people and instituting a system of identifying employees who present a risk of transmitting foodborne pathogens to food or to other employees. The person in charge is responsible for ensuring all food employees and conditional employees are knowledgeable and understand their responsibility to report listed symptoms, diagnosis with an illness from a listed pathogen, or exposure to a listed pathogen to the person in charge. The person in charge is also responsible for reporting to the regulatory official if a food employee reports a diagnosis with a listed pathogen.

This reporting requirement is an important component of any food safety program. A food employee who suffers from any of the illnesses or medical symptoms or has a history of exposure to a listed pathogen in this Code may transmit disease through the food being prepared. The person in charge must first be aware that a food employee or conditional employee is suffering from a disease or symptom listed in the Code before steps can be taken to reduce the chance of foodborne illness.

The person in charge may observe some of the symptoms that must be reported. However, food employees and conditional employees share a responsibility for preventing foodborne illness and are obligated to inform the person in charge if they are suffering from any of the listed symptoms, have a history of exposure to one of the listed pathogens, or have been diagnosed with an illness caused by a listed pathogen. Food employees must comply with restrictions or exclusions imposed upon them.

A conditional employee is a potential food employee to whom a job offer has been made, conditional on responses to subsequent medical questions or examinations.

A conditional employee becomes a food employee as soon as the employee begins working, even if only on a restricted basis. When a conditional employee reports a listed diagnosis or symptom, the person in charge is responsible for ensuring that the conditional employee is prohibited from becoming a food employee until the criteria for reinstatement of an exclusion are met (as specified under section 2-201.13 of the Food Code). When a symptomatic or diagnosed conditional employee has met the same criteria for reinstatement that apply to an excluded symptomatic or diagnosed food employee (as specified under section 2-201.13 of the Food Code), the conditional employee may then begin working as a food employee.

Reporting Symptoms:

In order to protect the health of consumers and employees, information concerning the health status of conditional employees and food employees must be disclosed to the person in charge. The symptoms listed in the Code cover the common symptoms experienced by persons suffering from the pathogens identified by CDC as transmissible through food by infected food employees. A food employee suffering from any of the symptoms listed presents an increased risk of transmitting foodborne illness.

The symptoms of vomiting, diarrhea, or jaundice serve as an indication that an individual may be infected with a fecal-oral route pathogen, and is likely to be excreting high levels of the infectious agent. When a food employee is shedding extremely high numbers of a pathogen through the stool or vomitus, there is greater chance of transmitting the pathogen to food products.

Sore throat with fever serves as an indication that the individual may be infected with *Streptococcus pyogenes. Streptococcus pyogenes* causes a common infection otherwise known as "streptococcal sore throat" or "strep throat." Streptococcal sore throat can spread from contaminated hands to food, which has been the source of explosive streptococcal sore throat outbreaks. Previous foodborne episodes with streptococcus sore throat have occurred in contaminated milk and egg products. Food products can be contaminated by infected food workers hands or from nasal discharges. Untreated individuals in uncomplicated cases can be communicable for 10-21 days, and untreated individuals with purulent discharges may be communicable for weeks or months.

Lesions containing pus that may occur on a food employee's hands, as opposed to such wounds on other parts of the body, represent a direct threat for introducing ***Staphylococcus aureus*** into food. Consequently, a double barrier is required to cover hand and wrist lesions. Pustular lesions on the arms are less of a concern when usual food preparation practices are employed and, therefore, a single barrier is allowed. However, if the food preparation practices entail contact of the exposed portion of the arm with food, a barrier equivalent to that required for the hands and wrists would be necessitated. Lesions on other parts of the body need to be

covered; but an impermeable bandage is not considered necessary for food safety purposes. Food employees should be aware that hands and fingers that contact pustular lesions on other parts of the body or with the mucous membrane of the nose also pose a direct threat for introducing ***Staphylococcus aureus*** into food.

If a food employee has an infected cut and bandages it and puts on a glove, the employee does not have to report the infected cut to the person in charge. However, if the employee does not bandage it, reporting is required.

Title I of the Americans with Disabilities Act of 1990 (ADA)

Title I of the Americans with Disabilities Act of 1990 (ADA) prohibits medical examinations and inquiries as to the existence, nature, or severity of a disability before extending a conditional offer of employment. In order for the permit holder and the person in charge to be in compliance with this particular aspect of the Code and the ADA, a conditional job offer must be made before making inquiries about the applicant's health status.

The ADA also requires that employers provide reasonable accommodation to qualified applicants and employees with disabilities. A reasonable accommodation is a change in the application process, in the way a job is done, or to other parts of the job that enables a person with a disability to have equal employment opportunities. ADA disabilities are serious, long-term conditions. Most people with diseases resulting from the pathogens listed in the Food Code do not have ADA disabilities because these diseases are usually short-term in duration. In addition, the gastrointestinal symptoms listed in the Food Code usually are not long-term and severe enough, in themselves, to be ADA disabilities. Of course, these symptoms

may be linked to other conditions that may be serious enough to be ADA disabilities, like Crohn's disease or cancer.

A food employer may exclude any employee under the Food Code upon initially learning that the employee has *Salmonella* Typhi, or has a gastrointestinal symptom listed in the Food Code. The excluded employee may then ask for an ADA reasonable accommodation instead of the exclusion. In response, the employer's first step should be to ask the employee to establish that the employee is disabled by the disease or symptom (or that the symptom is caused by another ADA disability). If the employee successfully proves that the employee has an ADA disability, then the employer may continue to exclude the employee under the Food Code if:

- there is no reasonable accommodation at work that would eliminate the risk of transmitting the disease while also allowing the employee to work in a food handling position, or
- all reasonable accommodations would pose an undue hardship on the employer's business; and
- there is no vacant position **not involving food handling** for which the employee is qualified and to which the employee can be reassigned.

Example 1: A food employee working in the café of a department store informs the employer that the employee has been diagnosed with a disease caused by *Salmonella* Typhi. The employer immediately excludes the employee under the requirements of the Food Code. The employee then establishes that the disease is an ADA disability because it is severe and long-term and the employee requests

reasonable accommodation instead of an exclusion. The employer determines that no reasonable accommodation would eliminate the risk of transmitting *Salmonella* Typhi through food and refuses to remove the exclusion. However, there is a vacant clerical position in another part of the store for which the employee is qualified. Unless the employer can establish that reassigning the employee to this position would be an undue hardship, the employer's failure to make the reassignment instead of continuing the exclusion would be a violation of the ADA.[1]

Example 2: A food employee has diarrhea and is excluded. The employee establishes that the diarrhea is caused by Crohn's disease. This employee also establishes a serious longstanding history of Crohn's disease and is an individual with an ADA disability. Crohn's disease is not a communicable disease and cannot be transmitted through food. No reasonable accommodation is needed to eliminate the risk of transmitting the disease through the food supply, so the Food Code exclusion should be removed. Of course, the Food Code's provisions on personal cleanliness for hands and arms apply as usual, requiring employees to clean hands and exposed portions of arms after using the toilet room and in other specified circumstances (Subpart 2-301).

Somewhat different rules apply to conditional employees. If a conditional employee reports a disease or symptom listed in the Food Code and shows that the disease or symptom makes the conditional employee an individual with an ADA disability, the employer may withdraw the job offer only if:

- The job involves food handling; and

[1] Whether or not the employee in question is an individual with an ADA disability, in those jurisdictions where the Code is adopted, Food Code exclusions or restrictions must be removed when requirements for removal under

- The employer determines that either there is no reasonable accommodation that would eliminate the risk of transmitting the disease through food, or any such accommodation would be an undue hardship to the business.
- There is no need to offer the conditional employee a vacant position not involving food handling as a reasonable accommodation.

It should be noted that the information provided here about the ADA is intended to alert employers to the existence of ADA and related CFR requirements. For a comprehensive understanding of the ADA and its implications, consult the references listed in Annex 2 that relate to this section of the Code or contact the U.S. Equal Employment Opportunity Commission. See the Equal Employment Opportunity Commission's *How to Comply with the Americans with Disabilities Act: A Guide for Restaurants and Other Food Service Employers*, found at http://www.eeoc.gov/facts/restaurant_guide.html or http://www.eeoc.gov/facts/restaurant_guide_summary.html for detailed information about the interaction between the FDA Food Code and the ADA.

The information required from applicants and food employees is designed to identify employees who may be suffering from a disease that can be transmitted through food. It is the responsibility of the permit holder to convey to applicants and employees the importance of notifying the person in charge of changes in their health status. Once notified, the person in charge can take action to prevent the likelihood of the transmission of foodborne illness. Applicants, to whom a conditional offer of employment is extended, and food employees are required to report their

§ 2-201.13 of the Code are met.

specific history of exposure, medical symptoms, and previous illnesses. The symptoms listed may be indicative of a disease that is transmitted through the food supply by infected food employees.

As required by the ADA, the CDC published in the Federal Register on October 4, 2004, (Volume 69, Number 191) a list of infectious and communicable diseases that are transmitted through food. The CDC updates the list annually.

See "List of Infectious and Communicable Diseases which are Transmitted through the Food Supply" at http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/pdf/04-22260.pdf). The list is divided into two parts: pathogens often transmitted and pathogens occasionally transmitted by infected persons who handle food.

The following Lists summarize the CDC list by comparing the common symptoms of each pathogen. Symptoms may include diarrhea, fever, vomiting, jaundice, and sore throat with fever. The CDC has no evidence that the HIV virus is transmissible via food. Therefore, a food employee positive for the HIV virus is not of concern unless suffering secondary illness listed below. The following Lists include all enterohemorrhagic or Shiga toxin-producing ***E. coli*** likely to occur in foods in the United States.

LIST I. Pathogens Often Transmitted by Food Contaminated by Infected Persons Who Handle Food, and Modes of Transmission of Such Pathogens.

	D	**F**	**V**	**J**	**S**
1. Noroviruses	D	F	V		
2. Hepatitis A virus	-	F	-	J	-
3. ***Salmonella* Typhi**	-	F	-	-	-

4. ***Shigella*** species	D	F	V	-	-
5. ***Staphylococcus aureus***	D	-	V	-	-
6.. ***Streptococcus pyogenes***	-	F	-	-	S

LIST II. Pathogens Occasionally Transmitted by Food Contaminated by Infected Persons Who Handle Food, But Usually Transmitted by Contamination at the Source or in Food Processing or by Non-foodborne Routes.

	D	**F**	**V**	**J**	**S**
1. ***Campylobacter jejuni***	D	F	V	-	-
2. ***Cryptosporidium parvum*** D	-	-	-	-	
3. ***Entamoeba histolytica***	D	F	-	-	-
4. Enterohemorrhagic ***Escherichia coli***	D	-	-	-	-
5. Enterotoxigenic ***Escherichia coli*** D	-	V	-	-	
6. ***Giardia lamblia***	D	-	-	-	-
7. Non-typhoidal ***Salmonella***	D	F	V	-	-
8. ***Taenia solium***	-	-	-	-	-
9. ***Vibrio cholerae*** 01	D	-	V	-	-
10. ***Yersinia enterocolitica***	D	F	V	-	-

KEY: D = Diarrhea V = Vomiting S = Sore throat with fever

F = Fever J = Jaundice

The 5 Listed Pathogens:

The CDC has designated the 5 organisms listed in the Food Code as having high infectivity via contamination of food by infected food employees. This designation is based on the number of confirmed cases reported that involved food employees infected with one of these organisms and/or the severity of the medical consequences to those who become ill.

The following is taken from information provided in the 18th Edition of Control of Communicable Diseases Manual, the CDC website, and the FDA Bad Bug Book, and is provided as background information on pathogen virulence, infectivity, and common symptoms exhibited with infection of each of the 5 listed pathogens.

NOROVIRUS

Noroviruses (genus Norovirus, family Caliciviridae) are a group of small (27-40nm), round structured, single-stranded RNA, nonenveloped viruses that cause acute gastroenteritis in humans. Norovirus has also been commonly known as "Norwalk-like virus," "Small Round-structured Virus," and "Winter Vomiting Disease."

The CDC estimates that Norovirus is the leading cause of foodborne illness in the United States. Transmission of Norovirus has been shown to occur most commonly through the fecal oral route, with contaminated food identified as a common vehicle of transmission. Exclusion of food employees exhibiting or reporting diarrhea symptoms is an essential intervention in controlling the transmission of Norovirus from infected food employees' hands to RTE food items. Norovirus also has a high secondary attack rate (> 50%) via person-to-person contact.

Norovirus has also been reported to cause infection by airborne transmission when individuals are in close physical proximity to an infected individual vomiting in the facility. Therefore, an infected individual vomiting in a food facility increases the risk of infecting employees and consumers. Foodborne illness outbreaks have occurred from consumers vomiting in the dining room, or employees vomiting on the premises. Removing food employees exhibiting or reporting vomiting symptoms

from the food facility protects consumers and fellow workers from infection with Norovirus.

Incubation Period: Generally between 24 and 48 hours (median in outbreaks 33 to 36 hours), but cases can occur within 12 hours of exposure.

Symptoms and Complications: Acute-onset explosive (or projectile) vomiting, watery non-bloody diarrhea with abdominal cramps, nausea, and occasionally, a low grade fever. Symptoms usually last 24 to 60 hours. Vomiting is more common in children. Recovery is usually complete and there is no evidence of any serious long-term sequelae. Among the young and the elderly, dehydration is a common complication. There is no long-term immunity to Norovirus and individuals may be repeatedly infected throughout their lifetimes. There is no specific therapy for viral gastroenteritis. Symptomatic therapy consists of replacement of fluid loss by the administration of liquids orally, and in rare instances, through parenteral intravenous fluid therapy. Earlier feeding studies conducted on Norovirus have found that as many as 30% of individuals infected with Norovirus are asymptomatic.

Infectivity: Noroviruses are highly contagious, and it is thought that an inoculum of as few as 10 viral particles may be sufficient to infect an individual. Although pre-symptomatic shedding may occur, shedding usually begins with onset of symptoms and may continue for 2 weeks after recovery. However, the degree of infectivity of prolonged shedding has not been determined. Norovirus is shed at high levels in the stool: 10^5 – 10^7/g or more.

***SALMONELLA* TYPHI**

Salmonella enterica subspecies *enterica* serovar Typhi (commonly *S*.Typhi) causes a systemic bacterial disease, with humans as the only host. This disease is relatively rare in the United States, with fewer than 500 sporadic cases occurring annually in the U.S. Worldwide, the annual estimated incidence of Typhoid fever is about 17 million cases with approximately 600,000 deaths. Currently, most cases of ***S.* Typhi** in industrialized nations are imported into the country from developing countries. Antibiotic-resistant strains have become prevalent in several areas of the world.

Incubation period: Depends on inoculum size and on host factors: from 3 days to over 60 days, with a usual range of 8 – 14 days.

Symptoms: Insidious onset of sustained fever, marked headache, malaise, anorexia, relative bradycardia, splenomegaly, and nonproductive cough in the early stage of the illness, rose spots on the trunk in 25% of white skinned patients and constipation more often than diarrhea in adults. The illness varies from mild illness with low-grade fever to severe clinical disease with abdominal discomfort and multiple complications.

Infectivity: The minimal infectious dose is estimated to be less than 1000 bacterial cells. An individual infected with ***S.* Typhi** is infectious as long as the bacilli appear in the excreta, usually from the first week throughout the convalescence; variable thereafter. About 10% of untreated typhoid fever patients will discharge bacilli for 3 months after onset of symptoms, and 2%-5% become permanent carriers; fewer persons affected with paratyphoid organisms may become permanent gallbladder carriers.

ENTEROHEMORRHAGIC OR SHIGA TOXIN-PRODUCING ESCHERICHIA *COLI*

E. coli O157:H7 is the most commonly identified strain of Enterohemorrhagic ***Escherichia coli*** (EHEC) or Shiga toxin-producing ***Escherichia coli*** (STEC) as a cause of foodborne illness in the United States. ***E. coli*** O157:H7 is a zoonotic disease derived from cattle and other ruminants. However, ***E. coli*** O157:H7 also readily transmits from person-to-person, so contaminated raw ingredients and ill food employees both can be sources of foodborne disease. Other EHEC or STEC serotypes have been identified as a source of foodborne illness in the United States, however not as frequently as ***E. coli*** O157:H7. The other serogroups most commonly implicated as a cause of foodborne illness in the United States are 026, 0111, 0103, 045, and 0121.

The Food Code definition of STEC covers all ***E. coli*** identified in clinical laboratories that produce Shiga toxins. Nearly 200 O:H combinations of ***E. coli*** have been shown to produce Shiga toxins. The Food Code definition includes all STEC, including those that have not been specifically implicated in human disease such as hemorrhagic colitis (i.e., bloody diarrhea) or hemolytic uremic syndrome (HUS). A subset of STEC that has the capacity to both produce Shiga toxin and cause "attaching and effacing" lesions in the intestine is classified as "enterohemorrhagic" (EHEC). EHEC ***E. coli*** cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Virtually all human isolates of ***E. coli*** O157:H7 serotypes are EHEC.

Incubation period: From 2-10 days, with a median of 3-4 days.

Symptoms: The illness is characterized by severe cramping (abdominal pain) and diarrhea with a range from mild and nonbloody to stools that are virtually all blood. Occasionally vomiting occurs. Some individuals exhibit watery diarrhea only. Lack of fever in most patients can help to differentiate this infection from other enteric pathogens. About 8% of individuals with ***E. coli*** O157:H7 diarrhea progress to HUS. This rate varies for other serotypes of Enterohemorrhagic ***E. coli.***

Infectivity: The infectious dose is for example ***E. coli*** O157:H7 can be as low as 10 bacterial cells. Children under 5 years old are most frequently diagnosed with infection and are at greatest risk of developing HUS. The elderly also experience a greater risk of complications. The duration of excretion of Enterohemorrhagic ***E. coli*** in the stool is typically 1 week or less in adults, but can be up to 3 weeks in one-third of infected children.

SHIGELLA SPP.

Causes an acute bacterial disease, known as shigellosis, and primarily occurs in humans, but also occurs in other primates such as monkeys and chimpanzees. An estimated 300,000 cases of shigellosis occur annually in the U.S. ***Shigella*** spp. consist of 4 species or serogroups, including ***S. flexneri***, ***S. boydii***, ***S. sonnei***, and ***S. dysenteriae***; which all differ in geographical distribution and pathogenicity. ***Shigella*** spp. are highly infectious and highly virulent. Outbreaks occur in overcrowding conditions, where personal hygiene is poor, including in institutions, such as prisons, mental hospitals, day care centers, and refugee camps, and also among men who have sex with men. Water and RTE foods contaminated by feces,

frequently from food workers' hands, are common causes of disease transmission. Multidrug-resistant ***Shigella*** (including ***S. dysenteriae*** 1) have appeared worldwide. Concern over increasing antimicrobial resistance has led to reduced use of antimicrobial therapy in treating shigellosis.

Incubation period: Usually 1 – 3 days, but ranges from 12 to 96 hours, and up to 1 week for ***S. dysenteriae*** 1.

Symptoms and Complications: Abdominal pain, diarrhea, fever, nausea, and sometimes vomiting, tenesmus, toxaemia, and cramps. The stools typically contain blood, pus, or mucus resulting from mucosal ulcerations. The illness is usually self-limited, with an average duration of 4-7 days. Infections are also associated with rectal bleeding, drastic dehydration, and convulsions in young children. The fatality rate for ***Shigella dysenteriae*** 1 may be as high as 20% among hospitalized cases. Other complications can also occur, such as Reiter's disease, reactive arthritis, intestinal perforation, and hemolytic uremic syndrome.

Infectivity: The infectious dose for humans is low, with as few as 10 bacterial cells depending on age and condition of the host. Infectivity occurs during acute infection and until the infectious agent is no longer present in feces, usually within 4 weeks after illness. Asymptomatic carriers may transmit infection; rarely, the carrier state may persist for months or longer.

HEPATITIS A VIRUS

Hepatitis A virus (HAV) is a 27-nanometer picornavirus (positive strand RNA, non-enveloped virus). The hepatitis A virus has been classified as a member of the family *Picornaviridae*. The exact pathogenesis of HAV infection is not understood,

but the virus appears to invade from the intestinal tract and is subsequently transported to the liver. The hepatocytes are the site of viral replication and the virus is thought to be shed via the bile.

HAV is most commonly spread by the fecal-oral route through person-to-person contact. Risk factors for reported cases of hepatitis A include personal or sexual contact with another case, illegal drug use, homosexual male sex contact, and travel to an endemic country. Common source outbreaks also can occur through ingestion of water or food that has fecal contamination. However, the source of infection is not identified for approximately 50% of reported cases.

HAV infection is endemic in developing countries, and less common in industrialized countries with good environmental sanitation and hygienic practices. In the developing world, nearly all HAV infections occur in childhood and are asymptomatic or cause a mild illness. As a result, hepatitis A (symptomatic infection with jaundice) is rarely seen in the developing world. More than 90% of adults born in many developing countries are seropositive.

Children play an important role in the transmission of HAV and serve as a source of infection for others, because most children have asymptomatic infections or mild, unrecognized HAV infections. In the United States, the disease is most common among school-aged children and young adults. After correction for under-reporting and undiagnosed infections, an estimated 61,000 HAV infections (includes cases of hepatitis A as well as asymptomatic infections) occurred in 2003.

HAV Immunization: Immune globulin can be used to provide passive pre-exposure immunoprophylaxis against hepatitis A. Protection is immediately conferred to an

exposed individual following administration of IG, and immunity is provided for 3-5 months following inoculation. IG is effective in preventing HAV infection when given as post-exposure immunoprophylaxis, if given within 14 days of exposure. When a food service worker with hepatitis A is identified, IG is often given to co-workers. Active immunoprophylaxis using hepatitis A vaccine (a formalin-inactivated, attenuated strain of HAV) has been shown to provid immunity in > 95% of those immunized, with minimal adverse reactions. Hepatitis A vaccination of food workers has been advocated, but has not been shown to be cost-effective and generally is not recommended in the United States, although it may be appropriate in some communities.

Incubation period: Average 28 – 30 days (range 15 – 50 days).

Symptoms and Complications: Illness usually begins with symptoms such as nausea/vomiting, diarrhea, abdominal pain, fever, headache, and/or fatigue. Jaundice, dark urine or light colored stools might be present at onset, or follow illness symptoms within a few days. HAV infection of older children and adults is more likely to cause clinical illness with jaundice (i.e., hepatitis A); onset of illness is usually abrupt. In young adults, 76-97% have symptoms and 40-70% are jaundiced. Jaundice generally occurs 5-7 days after the onset of gastrointestinal symptoms. For asymptomatic infections, evidence of hepatitis may be detectable only through laboratory tests of liver infections such as alanine aminotransferase (ALT) tests. The disease varies in severity from a mild illness to a fulminant hepatitis, ranging from 1-2 weeks to several months in duration. In up to 10-15% of the reported cases, prolonged, relapsing hepatitis for up to 6 months occurs. The

degree of severity often increases with age; however, most cases result in complete recovery, without sequelae or recurrence. The reported case fatality rate is 0.1% - 0.3% and can reach 1.8% for adults over 50 years old.

Diagnosis: Diagnosis of HAV infection requires specific serological testing for IgM anti-HAV. IgM anti-HAV becomes undetectectable within 6 months of illness onset for most persons; however, some persons can remain IgM anti-HAV positive for years after acute infection. Total anti-HAV (the only other licensed serologic test) can be detected during acute infection but remains positive after recovery and for the remainder of the person's life.

Infectivity: Evidence indicates maximum infectivity during the latter half of the incubation period, continuing for a few days after onset of jaundice. Most cases are probably noninfectious after the first week of jaundice. Chronic shedding of HAV in feces has not been reported. HAV is shed at peak levels in the feces, one to two weeks before onset of symptoms, and shedding diminishes rapidly after liver dysfunction or symptoms appear. Liver dysfunction or symptoms occur at the same time circulating antibodies to HAV first appear. Immunity after infection probably lasts for life; immunity after vaccination is estimated to last for at least 20 years.

Reporting History of Exposure:

The reporting requirements for history of exposure are designed to identify employees who may be incubating an infection due to Norovirus, ***Shigella*** spp., ***E. coli*** O157:H7 or other EHEC/STEC, typhoid fever, or HAV.

Which employees who report exposure are restricted?

- Employees who work in a food establishment serving a highly susceptible population (HSP) facility.

What constitutes exposure?

- Consuming a food that caused illness in another consumer due to infection with Norovirus, ***Shigella*** spp., ***E. coli*** O157:H7 or other EHEC/STEC, typhoid fever, or HAV.
- Attending an event or working in a setting where there is a known disease outbreak.
- Close contact with a household member who is ill and is diagnosed with a listed pathogen.

Why are other guidelines provided, in addition to restriction for employees serving an HSP who report exposure to hepatitis A virus?

- Employees who have had a hepatitis A illness in the past are most likely protected from infection by life-time immunity to hepatitis A infection.
- Immunity developed through immunization or IgG inoculation prevents hepatitis A infection in exposed employees.
- Our standard definition of HSP doesn't apply very well to HAV. Children under 6 years old who become infected with HAV are generally asymptomatic, and while a higher proportion of susceptible elderly who become infected have serious illness, most institutionalized elderly are protected from HAV by prior infection.

What is the period of restriction?

- The period of restriction begins with the most recent time of foodborne or household member exposure and lasts for the usual incubation period of the pathogen as defined in the Control of Communicable Diseases Manual. This is the time that the employee is most likely to begin shedding the pathogen.
    - For Norovirus, 48 hours after the most recent exposure
    - For ***Shigella*** spp., 3 days after the most recent exposure
    - For ***E. coli*** O157:H7 or other EHEC/STEC, 3 days after the most recent exposure
    - For typhoid fever (***S.* Typhi**), 14 days after the most recent exposure
    - For HAV, 30 days after the most recent exposure

What is the period of restriction when exposed to a diagnosed, ill household member?

- While the household member is symptomatic with an infection due to Norovirus, ***Shigella*** spp., ***E coli*** O157:H7 or other EHEC/STEC, typhoid fever (***S.* Typhi**) or HAV;
- Plus during the usual incubation period of the pathogen of concern:
    - For Norovirus, symptomatic period plus 48 hours
    - For ***Shigella*** spp., symptomatic period plus 3 days
    - For ***E. coli*** O157:H7 or other EHEC/STEC, symptomatic period plus 3 days
    - For typhoid fever (***S.* Typhi**), symptomatic period plus 14 days

- For HAV, onset of jaundice plus 30 days

What is the appropriate response to a report of exposure to other food employees?

- Employees who report a history of exposure but who do not work in a HSP facility should be reminded of the requirements for reporting illness, avoidance of bare hand contact with RTE foods, and proper hand washing and personal hygiene.

2-201.12 Exclusions and Restrictions.[2]

Refer to public health reasons for § 2-201.11 for actions to take with conditional employees.

It is necessary to exclude food employees symptomatic with diarrhea, vomiting, or jaundice, or suffering from a disease likely to be transmitted through contamination of food, because of the increased risk that the food being prepared will be contaminated such as with a pathogenic microorganism. However, if the food employee is suffering from vomiting or diarrhea symptoms, and the condition is from a non-infectious condition, Crohn's disease or an illness during early stages of a pregnancy, the risk of transmitting a pathogenic microorganism is minimal. In this case, the food employee may remain working in a full capacity if they can substantiate that the symptom is from a noninfectious condition. The food employee can substantiate this through providing to the person in charge medical documentation or other documentation proving that the symptom is from a noninfectious condition.

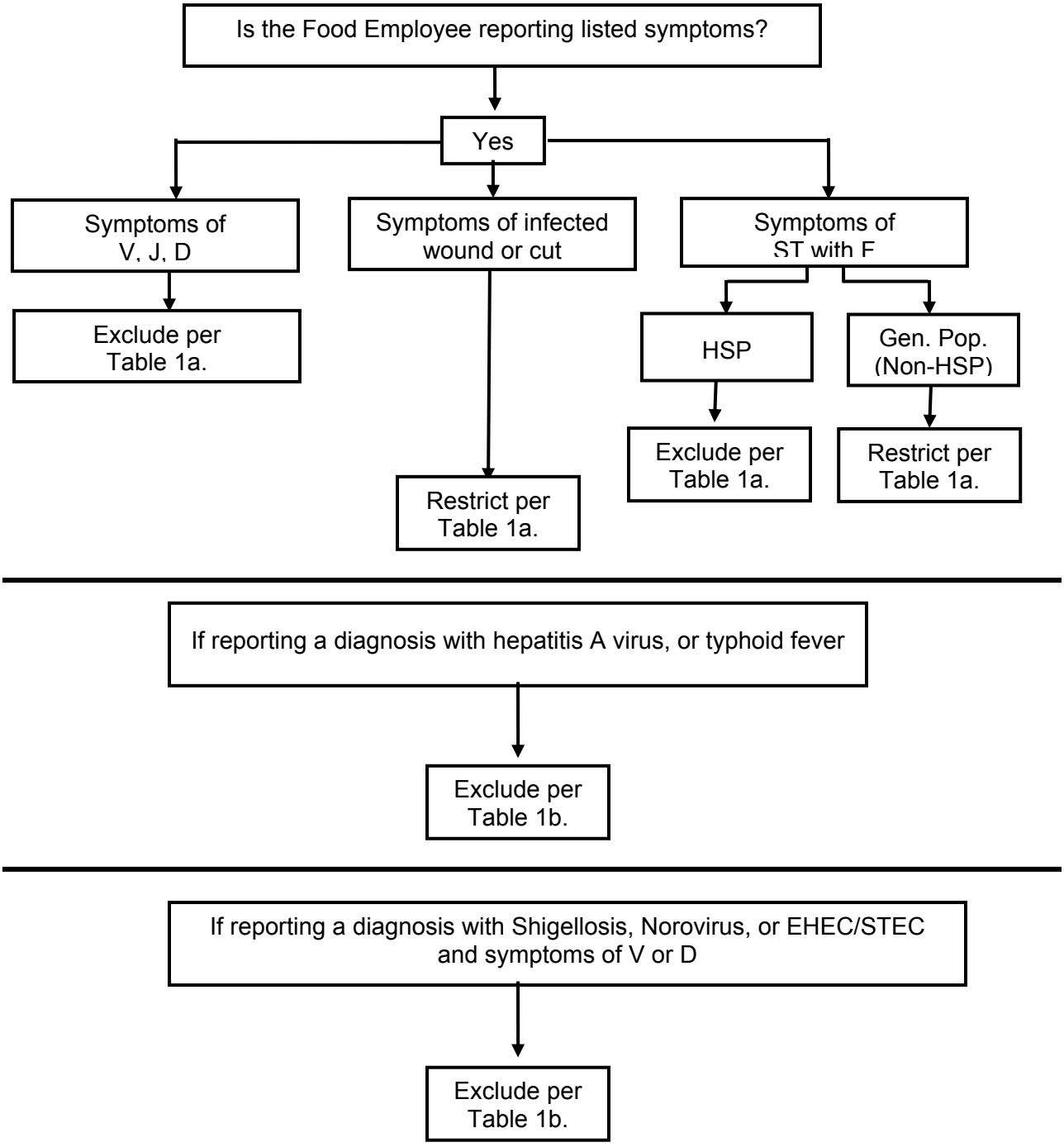
Because of the high infectivity (ability to invade and multiply) and/or virulence (ability to produce severe disease), of typhoid fever (***Salmonella* Typhi**) and hepatitis A virus, a food employee diagnosed with an active case of illness caused by either of these two pathogens, whether asymptomatic or symptomatic, must be excluded from food establishments. The exclusion is based on the high infectivity, and/or the

[2]In order to comply with Title I of the Americans with Disabilities Act, an exclusion must also be removed if the employee is entitled to a reasonable accommodation that would eliminate the risk of transmitting the disease. Reasonable accommodation may include reassignment to another position in which the individual would not work around food. The steps an employer must take when an excluded employee requests reasonable accommodation are briefly described in Annex 3, § 2-201.11. However, it is not possible to explain all relevant aspects of the ADA within this Annex. When faced with an apparent conflict between ADA and the Food Code's exclusion and restriction requirements, employers should contact the U.S. Equal Employment Opportunity Commission.

severe medical consequences to individuals infected with these organisms. A food employee diagnosed with an active case of illness caused by Norovirus, ***Shigella*** spp., or ***E. coli*** O157:H7 or other EHEC/STEC, is excluded if exhibiting symptoms of vomiting and diarrhea, and then allowed to work as the level of risk of pathogen transmission decreases (See section 2-201.12, Tables #1b, #2 and #3).

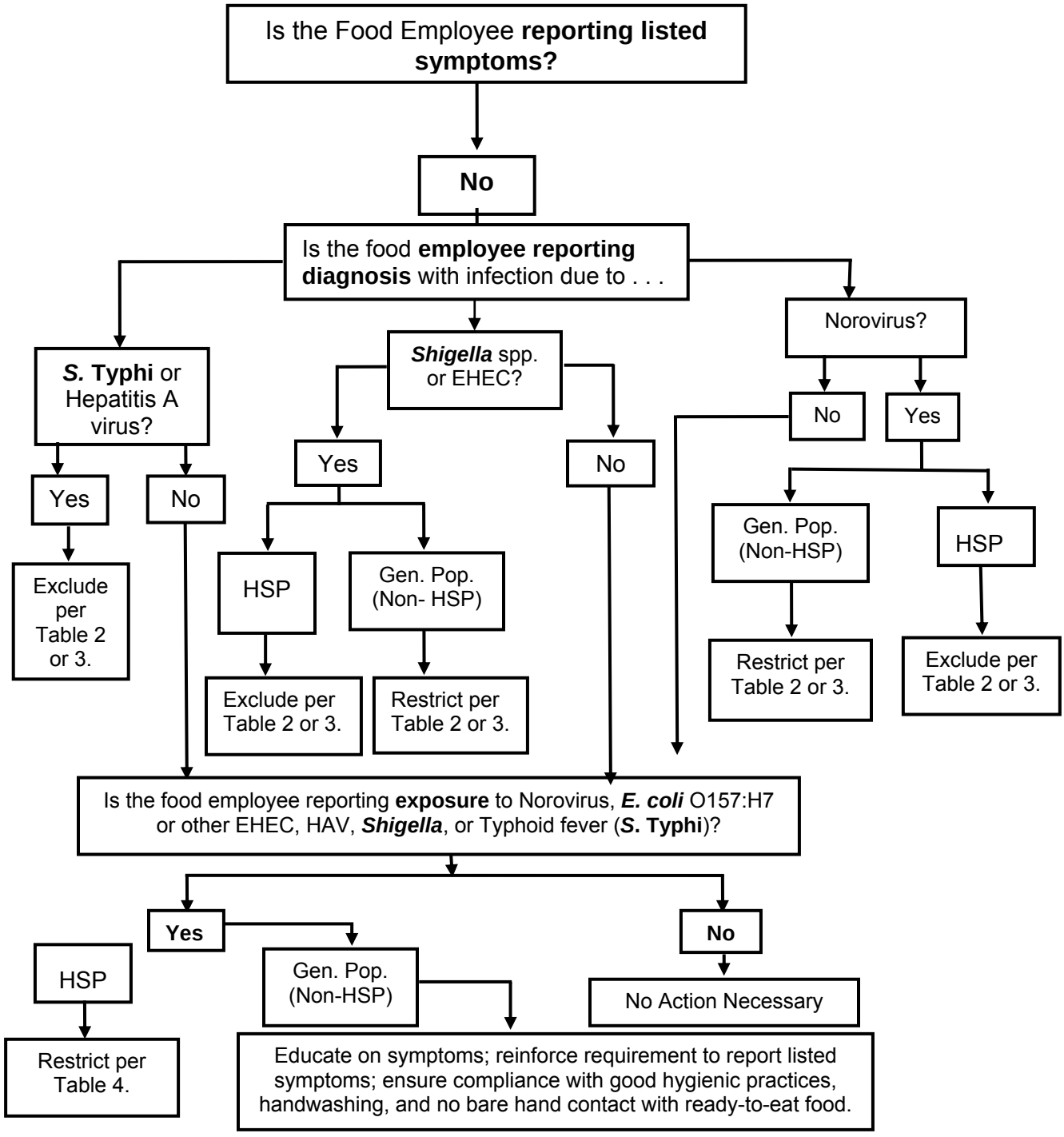
The degree of risk for a food employee or conditional employee who is diagnosed with an infection but asymptomatic with regard to symptoms, to transmit a foodborne pathogen decreases with the resolution of symptoms. This risk decreases even further for those employees that are diagnosed with a listed pathogen, but never developed symptoms. The decrease in risk is taken under consideration when excluding and restricting diagnosed food employees and results in a slight difference in the way food employees diagnosed with Norovirus, but asymptomatic with respect to gastrointestinal symptoms are handled (See section 2-201.12, Table #2).

2-201.11 / 2-201.12 Decision Tree 1. When to Exclude or Restrict a Food Employee Who Reports a Symptom and When to Exclude a Food Employee Who Reports a Diagnosis with Symptoms Under the Food Code



Key:
Listed Symptoms for Reporting: (V) Vomiting; (J) Jaundice; (D) Diarrhea; (ST with F) Sore Throat with Fever; (HSP) Highly Susceptible Population; (Gen. Pop.) General Population

2-201.11 / 2-201.12 Decision Tree 2. When to Exclude or Restrict a Food Employee Who is Asymptomatic and Reports a Listed Diagnosis and When to Restrict a Food Employee Who Reports a Listed Exposure Under the Food Code



Key:
(HSP) Highly Susceptible Population; (Gen. Pop.) General Population

2-201.12 Table 1a: Summary of Requirements for Symptomatic Food Employees

Food employees and conditional employees shall report symptoms immediately to the person in charge

The person in charge shall prohibit a conditional employee that reports a listed symptom from becoming a food employee until meeting the criteria listed in section 2-201.13 of the Food Code, for reinstatement of a symptomatic food employee.

Symptom	EXCLUSION/ OR RESTRICTION		Removing symptomatic food employees from exclusion or restriction	RA Approval Needed to Return to Work?
	Facilities Serving a HSP	Facilities not serving a HSP		
Vomiting	**EXCLUDE** 2-201.12(A)(1)	**EXCLUDE** 2-201.12(A)(1)	When the excluded food employee has been asymptomatic for at least 24 hours or provides medical documentation -201.13(A)(1). ***Exceptions:*** If diagnosed with Norovirus***, Shigella*** spp.***, E. coli*** O157:H7 or other EHEC, HAV, or typhoid fever ***(S.* Typhi*)*** *(*see Tables 1b & 2).	No if not diagnosed
Diarrhea	**EXCLUDE** 2-201.12(A)(1)	**EXCLUDE** 2-201.12(A)(1)	When the excluded food employee has been asymptomatic for at least 24 hours or provides medical documentation 2-201.13(A). ***Exceptions:*** If Diagnosed with Norovirus, ***E. coli*** O157:H7 or other EHEC, HAV, or ***S.* Typhi** (see Tables 1b & 2).	No if not diagnosed
Jaundice	**EXCLUDE** 2-201.12(B)(1) if the onset occurred within the last 7 days	**EXCLUDE** 2-201.12(B)(1) if the onset occurred within the last 7 days	When approval is obtained from the RA 2-201.13 (B), and: • Food employee has been jaundiced for more than 7 calendar days 2-201.13(B)(1), or • Provides medical documentation 2-201.13(B)(3).	Yes
Sore Throat with Fever	**EXCLUDE** 2-201.12(G)(1)	**RESTRICT** 2-201.12(G)(2)	When food employee provides written medical documentation 201.13(G) (1)-(3).	No
Infected wound or pustular boil	**RESTRICT** 2-201.12(H)	**RESTRICT** 2-201.12(H)	When the infected wound or boil is properly covered 2-201.13(H)(1)-(3).	No

Key for Tables 1, 2, 3, and 4:
RA = Regulatory Authority
EHEC = Enterohemorrhagic, or Shiga toxin-producing *Escherichia coli*
HAV = Hepatitis A virus
HSP = Highly Susceptible Population

2-201.12 Table 1b: Summary of Requirements for Diagnosed, Symptomatic Food Employees

Food employees and conditional employees shall report a listed diagnosis with symptoms immediately to the person in charge

The person in charge shall notify the RA when a food employee is jaundiced or reports a listed diagnosis

The person in charge shall prohibit a conditional employee that reports a listed diagnosis with symptoms from becoming a food employee until meeting the criteria listed in section 2-201.13 of the Food Code, for reinstatement of a diagnosed, symptomatic food employee.

Diagnosis	EXCLUSION Facilities Serving HSP or not Serving HSP	Removing diagnosed, symptomatic food employees from exclusion	RA Approval Needed to Return to Work?
Hepatitis A virus	**EXCLUDE** if within 14 days of any symptom, or within 7 days of jaundice 2-201.12(B)(2)	When approval is obtained from the RA 2-201.13(B), and: • The food employee has been jaundiced for more than 7 calendar days 2-201.13 (B)(1), or • The anicteric food employee has had symptoms or more than 14 days 2-201.13(B)(2), or • The food employee provides medical documentation 2-201.13(B)(3) (also see Table 2).	Yes
Typhoid Fever (***S.* Typhi**)	**EXCLUDE** 2-201.12(C)	When approval is obtained from the RA 2-201.13(C)(1), and: • Food employee provides medical documentation, that states the food employee is free of a ***S.* Typhi** infection 2-201.13(C)(2) (also see Table 2).	Yes
E. coli O157:H7 or other EHEC/ STEC	**EXCLUDE** Based on vomiting or diarrhea symptoms, under 2-201.12(A)(2)	1. Serving Non-HSP facility: 2-201.13(A)(4)(a): Shall only work on a restricted basis 24 hours after symptoms resolve and remains restricted until meeting the requirements listed below: 2. Serving HSP facility: 2-201.13(A)(4)(b): Remains excluded until meeting the requirements listed below: • Approval is obtained from RA 2-201.13(F), and • Medically cleared 2-201.13(F)(1), or • More than 7 calendar days have passed since the food employee became asymptomatic 2-201.13(F)(2) (also see Table 2).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility

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2-201.12 Table 1b: Summary of Requirements for Diagnosed, Symptomatic Food Employees (continued)

Diagnosis	EXCLUSION Facilities Serving HSP or not Serving HS	Removing diagnosed, symptomatic food employees from exclusion	RA Approval Needed to Return to Work?
Norovirus	**EXCLUDE** Based on vomiting or diarrhea symptoms, under 2-201.12(A)(2)	1. Serving Non-HSP facility: 2-201.13(A)(2)(a): Shall only work on a restricted basis 24 hours after symptoms resolve and remains restricted until meeting the requirements listed below: 2. Serving HSP facility: 2-201.13(A)(2)(b): Remains excluded until meeting the requirements listed below: • Approval is obtained from RA 2-201.13(D), and • Medically cleared 2-201.13(D)(1), or • More than 48 hours have passed since the food employee became asymptomatic 2-201.13(D)(2) (also see Table 2).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility
Shigella spp.	**EXCLUDE** Based on vomiting or diarrhea symptoms, under 2-201.12(A)(2)	1. Serving Non-HSP facility: 2-201.13(A)(3)(a): Shall only work on a restricted basis 24 hours after symptoms resolve, and remains restricted until meeting the requirements listed below: 2. Serving HSP facility: 2-201.13(A)(3)(b): Remains excluded until meeting the requirements listed below: • Approval is obtained from RA 2-201.13(E), and • Medically cleared 2-201.13(E)(1), or • More than 7 calendar days have passed since the food employee became asymptomatic 2-201.13(E)(2) (also see Table 2).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility

2-201.12 Table 2: Summary of Requirements for Diagnosed Food Employees with Resolved Symptoms

Food employees and conditional employees shall report a listed diagnosis immediately to the person in charge

The person in charge shall notify the RA when a food employee reports a listed diagnosis

The person in charge shall prohibit a conditional employee that reports a listed diagnosis from becoming a food employee until meeting the criteria listed in section 2-201.13 of the Food Code, for reinstatement of a diagnosed food employee.

Pathogen Diagnosis	Facilities Serving HSP	Facilities Not Serving HSP	Removing Diagnosed Food Employees with Resolved Symptoms from Exclusion or Restriction	RA Approval Return to Work?
Typhoid fever (***S.* Typhi**) including previous illness with ***S.*Typhi** (see 2-201.11 (A)(3)	**EXCLUDE** 2-201.12(C)	**EXCLUDE** 2-201.12(C)	When approval is obtained from the RA 2-201.13(C)(1), and: • Food employee provides medical documentation, that states the food employee is free of a ***S.* Typhi** infection 2-201.13)(C)(2) (also see Table 1b).	Yes
Shigella spp.	**EXCLUDE** 2-201.12(E)(1)	**RESTRICT** 2-201.12(E)(2)	1. Serving Non-HSP facility: 2-201.13(A)(3)(a): Shall only work on a restricted basis 24 hours after symptoms resolve, and remains restricted until meeting the requirements listed below: 2. Serving HSP facility: 2-201.13(A)(3)(b): Remains excluded until meeting the requirements listed below: • Approval is obtained from the RA 2-201.13(E), and: • Medically cleared 2-201.13(E)(1), or • More than 7 calendar days have passed since the food employee became asymptomatic 2-201.13(E)(3)(a) (also see Table 1b).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility

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2-201.12 Table 2: Summary of Requirements for Diagnosed Food Employees with Resolved Symptoms (continued)

Pathogen Diagnosis	Facilities Serving HSP	Facilities Not Serving HSP	Removing Diagnosed Food Employees with Resolved Symptoms from Exclusion or Restriction	RA Approval Return to Work?
Norovirus	**EXCLUDE** 2-201.12(D)(1)	**RESTRICT** 2-201.12(D)(2)	1. Serving Non-HSP facility: 2-201.13(A)(2)(a): Shall only work on a restricted basis 24 hours after symptoms resolve, and remains restricted until meeting the requirements listed below: 2. Serving HSP facility: 2-201.13(A)(2)(b): Remains excluded until meeting the requirements listed below: • Approval is obtained from the RA 2-201.13(D), and: • Medically cleared 2-201.13(D)(1), or passed since the food employee became asymptomatic 2-201.13(D)(2) (also see Table 1b).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility
E. coli O157:H7 or other EHEC/ STEC	**EXCLUDE** 2-201.12(F)(1)	**RESTRICT** 2-201.12(F)(2)	1. Serving Non-HSP facility: 2-201.13(A)(4)(a): Shall only work on a restricted basis 24 hours after symptoms resolve, and remains restricted until meeting the requirements listed below: 2. Serving HSP facility: 2-201.13(A)(4)(b): Remains excluded until meeting the requirements listed below: • Approval is obtained from the RA 2-201.13(F), and: • Medically cleared 2-201.13(F)(1), or • More than 7 calendar days have passed since the food employee became asymptomatic 2-201.13(F)(2).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility

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2-201.12 Table 2: Summary of Requirements for Diagnosed Food Employees with Resolved Symptoms (continued)

Pathogen Diagnosis	Facilities Serving HSP	Facilities Not Serving HSP	Removing Diagnosed Food Employees with Resolved Symptoms from Exclusion or Restriction	RA Approval Return to Work?
Hepatitis A virus	**EXCLUDE** if within 14 days of any symptom, or within 7 days of jaundice 2-201.12(B)(2)	**EXCLUDE** if within 14 days of any symptom, or within 7 days of jaundice 2-201.12(B)(2)	When approval is obtained from the RA 2-201.13(B), and: • The food employee has been jaundiced for more than 7 calendar days 2-201.13(B)(1), or • The anicteric food employee has had symptoms for more than 14 days 2-201.13(B)(2), or • The food employee provides medical documentation 2-201.13(B)(3) (see also Table 1b).	Yes

2-201.12 Table 3: Summary of Requirements for Diagnosed Food Employees Who Never Develop Gastrointestinal Symptoms

Food employees and conditional employees shall report a listed diagnosis immediately to the person in charge

The person in charge shall notify the RA when a food employee reports a listed diagnosis

The person in charge shall prohibit a conditional employee that reports a listed diagnosis from becoming a food employee until meeting the criteria listed in section 2-201.13 of the Food Code, for reinstatement of a diagnosed food employee

Pathogen Diagnosis	Facilities Serving HSP	Facilities Not Serving HSP	Removing Diagnosed Food Employees Who Never Develop Gastrointestinal Symptoms from Exclusion or Restriction	RA Approval Return to Work?
Typhoid fever (***S.* Typhi**) including previous illness with ***S.*Typhi** (see 2-201.11 (A)(3))	**EXCLUDE** 2-201.12(C)	**EXCLUDE** 2-201.12(C)	When approval is obtained from the RA 2-201.13(C)(1), and: Food employee provides medical documentation, specifying that the food employee is free of a ***S*. Typhi** infection 2-201.13(C)(2).	Yes
Shigella spp.	**EXCLUDE** 2-201.12(E)(1)	**RESTRICT** 2-201.12(E)(2)	Remains excluded or restricted until approval is obtained from the RA, and: • Medically cleared 2-201.13(E)(1), or • More than 7 calendar days have passed since the food employee was last diagnosed 2-201.13(E)(3).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility
Norovirus	**EXCLUDE** 2-201.12(D)(1)	**RESTRICT** 2-201.12(D)(2)	Remains excluded or restricted until approval is obtained from the RA 2-201.13(D), and • Medically cleared 2-201.13(D)(1), or • More than 48 hours have passed since the food employee was last diagnosed 2-201.13(D)(3).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility

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2-201.12 Table 3: Summary of Requirements for Diagnosed Food Employees Who Never Develop Gastrointestinal Symptoms (continued)

Pathogen Diagnosis	Facilities Serving HSP	Facilities Not Serving HSP	Removing Diagnosed Food Employees Who Never Develop Gastrointestinal Symptoms from Exclusion or Restriction	RA Approval Return to Work?
E. coli O157:H7 or other EHEC/ STEC	**EXCLUDE** 2-201.12(F)(1)	**RESTRICT** 2-201.12(F)(2)	Remains excluded or restricted until approval is obtained from the RA 2-201.13(F), and • Medically cleared 2-201.13(F)(1), or • More than 7 calendar days have passed since the food employee was last diagnosed 2-201.13(F)(3).	Yes to return to HSP or to return unrestricted; Not required to work on a restricted basis in a non-HSP facility
Hepatitis A virus	**EXCLUDE** 2-201.12(B)(3)	**EXCLUDE** 2-201.12(B)(3)	When approval is obtained from the RA 2-201.13(B), and • The anicteric food employee has had symptoms for more than 14 days 2-201.13(B)(2), or • The food employee provides medical documentation 2-201.13(B)(3).	Yes

Key for Tables 1, 2, 3, and 4:
RA = Regulatory Authority
EHEC = Enterohemorrhagic, or Shiga toxin-producing *Escherichia coli*
HAV = Hepatitis A virus
HSP = Highly Susceptible Population

2-201.12 Table 4: History of Exposure, and Absent Symptoms or Diagnosis

Food employees and conditional employees shall report a listed exposure to the person in charge The person in charge shall prohibit a conditional employee who reports a listed exposure from becoming a food employee in a facility serving a HSP until meeting the criteria listed in section 2-201.13 of the Food Code, for reinstatement of an exposed food employee

The person in charge shall reinforce and ensure compliance with good hygienic practices, symptom reporting requirements, proper handwashing and no BHC with RTE foods for all food employees that report a listed exposure

Pathogen Diagnosis	Facilities Serving HSP	Facilities Not Serving HSP	When Can the Restricted Food Employee Return Work?	RA Approval needed
Typhoid Fever (***S.* Typhi**)	**RESTRICT** 2-201.12(I)	Educate food employee on symptoms to watch for and ensure compliance with GHP, handwashing and no BHC with RTE foods.	2-201.13(I)(3) When 14 calendar days have passed since the last exposure, or more than 14 days has passed since the food employee's household contact became asymptomatic.	No
Shigella spp.	**RESTRICT** 2-201.12(I)	Educate food employee on symptoms to watch for and ensure compliance with GHP, handwashing and no BHC with RTE foods.	2-201.13(I)(2) When more than 3 calendar days have passed since the last exposure, or more than 3 days have passed since the food employee's household contact became asymptomatic.	No
Norovirus	**RESTRICT** 2-201.12(I)	Educate food employee on symptoms to watch for and ensure compliance with GHP, handwashing and no bare hand contact with RTE foods.	2-201.13(I)(1) When more than 48 hours have passed since the last exposure, or more than 48 hours has passed since the food employee's household contact became asymptomatic	No
E. coli O157:H7 or other EHEC/ STEC	**RESTRICT** 2-201.12(I)	Educate food employee on symptoms to watch for and ensure compliance with GHP, handwashing and no bare hand contact with RTE foods.	2-201.13(I)(2) When more than 3 calendar days have passed since the last exposure, or more than 3 calendar days has passed since the food employee's household contact became asymptomatic.	No
Hepatitis A virus	**RESTRICT** 2-201.12(I)	Educate food employee on symptoms to watch for and ensure compliance with GHP, handwashing and no bare hand contact with RTE foods.	2-201.13(I)(4) When any of the following conditions is met: * The food employee is immune to HAV infection because of a prior illness from HAV, vaccination against HAV, or IgG administration; or * More than 30 calendar days have passed since the last exposure; or since the food employee's household contact became jaundiced; or * The food employee does not use an alternative procedure that allows BHC with RTE food until at least 30 days after the potential exposure, and the employee receives additional training	No

Key for Table 4: GHP = Good Hygienic Practices; RTE = Ready-to-Eat foods; BHC = Bare Hand Contact

2-201.12 Exclusion and Restrictions (continued)[3]

Restrictions and exclusions vary according to the population served because highly susceptible populations have increased vulnerability to foodborne illness. For example, foodborne illness in a healthy individual may be manifested by mild flu-like symptoms. The same foodborne illness may have serious medical consequences in immunocompromised individuals. This point is reinforced by statistics pertaining to deaths associated with foodborne illness caused by ***Salmonella*** **Enteritidis**. Over 70% of the deaths in outbreaks attributed to this organism occurred among individuals who for one reason or another were immunocompromised. This is why the restrictions and exclusions listed in the Code are especially stringent for food employees serving highly susceptible populations.

Periodic testing of food employees for the presence of diseases transmissible through food is not cost effective or reliable. Therefore, restriction and exclusion provisions are triggered by the active gastrointestinal symptoms, followed by diagnosis and history of exposure.

The history of exposure that must be reported applies only to the 5 organisms listed.

Upon being notified of the history of exposure, the person in charge should immediately:

1. Discuss the traditional modes of transmission of fecal-oral route pathogens.

[3]In order to comply with Title I of the Americans with Disabilities Act, an exclusion must also be removed if the employee is entitled to a reasonable accommodation that would eliminate the risk of transmitting the disease. Reasonable accommodation may include reassignment to another position in which the individual would not work around food. The steps an employer must take when an excluded employee requests reasonable accommodation are briefly described in Annex 3, § 2-201.11. However, it is not possible to explain all relevant aspects of the ADA within this Annex. When faced with an apparent conflict between the ADA and the Food Code's exclusion and restriction requirements, employers should contact the U.S. Equal Employment Opportunity Commission.

2. Advise the food employee to observe good hygienic practices both at home and at work. This includes a discussion of proper handwashing, as described in the Code, after going to the bathroom, changing diapers, or handling stool-soiled material.
3. Review the symptoms listed in the Code that require immediate exclusion from the food establishment.
4. Remind food employees of their responsibility as specified in the Code to inform the person in charge immediately upon the onset of any of the symptoms listed in the Code.
5. Ensure that the food employee stops work immediately if any of the symptoms described in the Code develop and reports to the person in charge.

A restricted food employee may work in an area of the food establishment that houses packaged food, wrapped single-service or single-use articles, or soiled food equipment or utensils. Examples of activities that a restricted person might do include working at the cash register, seating patrons, bussing tables, stocking canned or other packaged foods, or working in a non-food cleaning or maintenance capacity consistent with the criteria in the definition of the term “restricted.” A food employee who is restricted from working in one food establishment may not work in an unrestricted capacity in another food establishment, but could work unrestricted in another retail store that is not a food establishment. A restricted food employee may enter a food establishment as a consumer.

An excluded individual may not work as a food employee on the premises of any food establishment.

2-201.13 Removal of Exclusions and Restrictions.[4]

Food employees diagnosed with Norovirus, hepatitis A virus, ***Shigella*** spp., ***E. coli*** O157:H7 or other EHEC, and symptomatic with diarrhea, vomiting, or jaundice, are excluded under subparagraph 2-201.12 (A)(2) or 2-201.12(B)(2). owever, these symptomatic, diagnosed food employees differ from symptomatic, undiagnosed food employees in the requirements that must be met before returning to work in a full capacity after symptoms resolve.

The person in charge may allow undiagnosed food employees who are initially symptomatic and whose symptoms have resolved to return to work in a full capacity 24 hours after symptoms resolve.

However, diagnosis with a listed pathogen invokes additional requirements before the person in charge may allow diagnosed food employees to return to work in full capacity.

Asymptomatic food employees diagnosed with Norovirus, ***Shigella*** spp., ***E. coli*** O157:H7 or other EHEC may not return to work in a full capacity for at least 24 hours after symptoms resolve. The person in charge shall only allow these food employees to work on a restricted basis 24 hours after symptoms resolve and they shall only allow this if not in a food establishment that serves a highly susceptible

[4]In order to comply with Title I of the Americans with Disabilities Act, an exclusion must also be removed if the employee is entitled to a reasonable accommodation that would eliminate the risk of transmitting the disease. Reasonable accommodation may include reassignment to another position in which the individual would not work around food. The steps an employer must take when an excluded employee requests reasonable accommodation are briefly described in Annex 3, § 2-201.11. However, it is not possible to explain all relevant aspects of the ADA within this Annex. When faced with an apparent conflict between the ADA and the Food Code's exclusion and restriction requirements, employers should contact the U.S. Equal Employment Opportunity Commission.

population. These restricted food employees remain restricted until they are medically cleared or otherwise meet the criteria for removal from restriction as specified under subparagraphs 2-201.13(D) (1)-(2); 2-201.13(E)(1)-(2); or 2-201.13(F)(1)-(2).

In a food establishment that serves a highly susceptible population, food employees who are diagnosed with Norovirus, ***Shigella*** spp., ***E. coli*** O157:H7 or other EHEC and initially symptomatic with vomiting or diarrhea, shall not work on a restricted basis after being asymptomatic for at least 24 hours. These food employees must remain excluded until they are medically cleared or otherwise meet the criteria for removal from exclusion from a highly susceptible population under subparagraph 2-201.13(D) (1)-(2), 2-201.13(E)(1)-(2), or 2-201.13 (F)(1)-(2).

Food employees diagnosed with **hepatitis A virus** are always excluded if diagnosed within 14 days of exhibiting any illness symptom, until at least 7 days after the onset of jaundice, or until medically cleared as specified under subparagraphs 2-201.13(B)(1)-(4).

Food employees diagnosed with **hepatitis A virus** are always excluded if diagnosed within 14 days of exhibiting any illness symptom, until at least 7 days after the onset of jaundice, or until medically cleared as specified under subparagraph 2-201.13(B)(1)-(3). A food employee with an anicteric infection with the hepatitis A virus has a mild form of hepatitis A without jaundice. Food employees diagnosed with an anicteric infection with the hepatitis A virus are excluded if they are within 14 days of any symptoms. Anicteric, diagnosed food employees shall be removed from

exclusion if more than 14 days have passed since they became symptomatic, or if medically cleared. Asymptomatic food employees diagnosed with an active infection with the hepatitis A virus are also excluded until medically cleared.

Hands and Arms **2-301.11 Clean Condition.***

The hands are particularly important in transmitting foodborne pathogens. Food employees with dirty hands and/or fingernails may contaminate the food being prepared. Therefore, any activity which may contaminate the hands must be followed by thorough handwashing in accordance with the procedures outlined in the Code.

Even seemingly healthy employees may serve as reservoirs for pathogenic microorganisms that are transmissible through food. Staphylococci, for example, can be found on the skin and in the mouth, throat, and nose of many employees. The hands of employees can be contaminated by touching their nose or other body parts.

2-301.12 Cleaning Procedure.*

Handwashing is a critical factor in reducing fecal-oral pathogens that can be transmitted from hands to RTE food as well as other pathogens that can be transmitted from environmental sources. Many employees fail to wash their hands as often as necessary and even those who do may use flawed techniques.

In the case of a food worker with one hand or a hand-like prosthesis, the Equal Employment Opportunity Commission has agreed that this requirement for thorough handwashing can be met through reasonable accommodation in accordance with the Americans with Disabilities Act. Devices are available which can be attached to

a lavatory to enable the food worker with one hand to adequately generate the necessary friction to achieve the intent of this requirement.

The greatest concentration of microbes exists around and under the fingernails of the hands. The area under the fingernails, known as the “subungal space,” has by far the largest concentration of microbes on the hand and this is also the most difficult area of the hand to decontaminate. Fingernail brushes, if used properly, have been found to be effective tools in decontaminating this area of the hand. Proper use of single-use fingernail brushes, or designated individual fingernail brushes for each employee, during the handwashing procedure can achieve up to a 5-log reduction in microorganisms on the hands.

There are two different types of microbes on the hands, transient and resident microbes. Transient microbes consist of contaminating pathogens which are loosely attached to the skin surface and do not survive or multiply. A moderate number of these organisms can be removed with adequate handwashing. Resident microbes consist of a relatively stable population that survive and multiply on the skin and they are not easily washed off the hands. Resident microbes on the hands are usually not a concern for potential contamination in food service.

All aspects of proper handwashing are important in reducing microbial transients on the hands. However, friction and water have been found to play the most important role. This is why the amount of time spent scrubbing the hands is critical in proper handwashing. It takes more than just the use of soap and running water to remove the transient pathogens that may be present. It is the abrasive action obtained by vigorously rubbing the surfaces being cleaned that loosens the

transient microorganisms on the hands.

Research has shown a minimum 10-15 second scrub is necessary to remove transient pathogens from the hands and when an antimicrobial soap is used, a minimum of 15 seconds is required. Soap is important for the surfactant effect in removing soil from the hands and a warm water temperature is important in achieving the maximum surfactant effect of the soap.

Every stage in handwashing is equally important and has an additive effect in transient microbial reduction. Therefore, effective handwashing must include scrubbing, rinsing, and drying the hands. When done properly, each stage of handwashing further decreases the transient microbial load on the hands. It is equally important to avoid recontaminating hands by avoiding direct hand contact with heavily contaminated environmental sources, such as manually operated handwashing sink faucets, paper towel dispensers, and rest room door handles after the handwashing procedure. This can be accomplished by obtaining a paper towel from its dispenser before the handwashing procedure, then, after handwashing, using the paper towel to operate the hand sink faucet handles and restroom door handles.

Handwashing done properly can result in a 2-3 log reduction in transient bacteria and a 2-log reduction in transient viruses and protozoa. With heavy contamination of transient microbial pathogens, (i.e., > 10^4 microbes, as found on hands contaminated with bodily wastes and infected bodily fluids) handwashing may be ineffective in completely decontaminating the hands. Therefore, a further intervention such as a barrier between hands and ready-to-eat food is necessary.

2-301.13 Special Handwash Procedures.*

This section is reserved.

In earlier editions of the Code, FDA's model contained a provision for a Special Procedure in certain situations. Pursuant to a 1996 Conference for Food Protection (CFP) Recommendation, the text of this Code provision is removed and the section is reserved. It is FDA's intent to further research the matter and to submit the findings to the CFP for reconsideration of the matter.

2-301.14 When to Wash.*

The hands may become contaminated when the food employee engages in specific activities. The increased risk of contamination requires handwashing immediately after the activities listed. The specific examples listed in this Code section are not intended to be all inclusive. Employees must wash their hands after any activity which may result in contamination of the hands.

2-301.15 Where to Wash.

Effective handwashing is essential for minimizing the likelihood of the hands becoming a vehicle of cross contamination. It is important that handwashing be done only at a properly equipped handwashing facility in order to help ensure that food employees effectively clean their hands. Handwashing sinks are to be conveniently located, always accessible for handwashing, maintained so they provide proper water temperatures and pressure, and equipped with suitable hand cleansers, nail brushes, and disposable towels and waste containers, or hand dryers. It is inappropriate to wash hands in a food preparation sink since this may result in avoidable contamination of the sink and the food prepared therein. Service

sinks may not be used for food employee handwashing since this practice may introduce additional hand contaminants because these sinks may be used for the disposal of mop water, toxic chemicals, and a variety of other liquid wastes. Such wastes may contain pathogens from cleaning the floors of food preparation areas and toilet rooms and discharges from ill persons.

2-301.16 Hand Antiseptics.

In the 2005 Food Code, the use of the term "hand sanitizer" was replaced by the term "hand antiseptic" to eliminate confusion with the term "sanitizer," a defined term in the Food Code, and to more closely reflect the terminology used in the FDA Tentative Final Monograph for Health-Care Antiseptic Drug Products for OTC Human Use, Federal Register: June 17, 1994.

The term "sanitizer" is typically used to describe control of bacterial contamination of inert objects or articles, or equipment and utensils, and other cleaned food-contact surfaces. The Food Code definition of "sanitizer" requires a minimum microbial reduction of 5 logs, which is equal to a 99.999% reduction. The FDA bases the 5-log reduction on the AOAC International's "Official Methods of Analysis 2003," which requires a minimum 5-log reduction in microorganisms to achieve "sanitization."

Sanitizers used to disinfect food-contact equipment and utensils can easily achieve the 5-log reduction of microorganisms and often far exceed this minimum requirement. However, removing microorganisms from human skin is a totally different process and sterilization of human skin is nearly impossible to achieve without damaging the skin. Many antimicrobial hand agents typically achieve a much smaller reduction in microorganisms than the 5-log reduction required for

"sanitization." Therefore, the effect achieved from using antimicrobial hand agents is not consistent with the definition of "sanitization" in the Food Code.

The word "antiseptic" is a Greek term, meaning "against putrefaction," and eventually evolved into a second definition, meaning, "a substance used to destroy pathogenic microorganisms." The term "antiseptic" is often used to describe agents used on skin to prevent infection of the skin.

"Antiseptic" is defined under section 201 (o) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 (o), as: "The representation of a drug, in its labeling, as an antiseptic shall be considered to be a representation of a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body."

Section 333.403 of the FDA Tentative Final Monograph for Health-Care Antiseptic Drug Products for OTC Human Use, Federal Register: June 17, 1994, defines a "health-care antiseptic" as an antiseptic-containing drug product applied topically to the skin to help prevent infection or to help prevent cross contamination. An "antiseptic handwash" or "health-care personnel handwash drug product" is defined in Section 333.403 of the Monograph as an antiseptic containing preparation designed for frequent use; it reduces the number of transient microorganisms on intact skin to an initial baseline level after adequate washing, rinsing, and drying; it is a broad spectrum, and persistent antiseptic containing preparation that significantly reduces the number of microorganisms on intact skin.

Replacing the term “hand sanitizer” with the term “hand antiseptic” allows the use of a more scientifically appropriate term that is used to describe reduction of microorganisms on the skin and will improve clarification and regulation of these products.

The provisions of § 2-301.16 are intended to ensure that an antimicrobial product applied to the hands is 1) safe and effective when applied to human skin, and 2) a safe food additive when applied to bare hands that will come into direct contact with food. Because of the need to protect workers and to ensure safe food, hand antiseptics must comply with both the human drug and the food safety provisions of the law. The prohibition against bare hand contact contained in 3-301.11(B) applies only to an exposed ready-to-eat food.

<u>As a Drug Product</u>

There are two means by which a hand antiseptic is considered to be safe and effective when applied to human skin:

1. A hand antiseptic may be approved by FDA under a new drug application based on data showing safety and effectiveness and may be listed in the publication *Approved Drug Products with Therapeutic Equivalence Evaluations*. This document is maintained by the Food and Drug Administration, Center for Drug Evaluation and Research, Office of Pharmaceutical Science, Office of Generic Drugs. Also known as the “Orange Book,” this document provides “product-specific” listings rather than listings by compound. It is published annually with monthly supplements and is available at http://www.fda.gov/cder/ob/default.htm. However, as of the

end of 1998, no hand antiseptics are listed in this publication since no new drug applications have been submitted and approved for these products.

2. A hand antiseptic active ingredient may be identified by FDA in the monograph for OTC (over-the-counter) Health-Care Antiseptic Drug Products under the antiseptic handwash category. Since hand anti septic products are intended and labeled for topical antimicrobial use by food employees in the prevention of disease in humans, these products are “drugs” under the Federal Food, Drug, and Cosmetic Act § 201(g). As drugs, hand antiseptics and dips must be manufactured by an establishment that is duly registered with the FDA as a drug manufacturer; their manufacturing, processing, packaging, and labeling must be performed in conformance with drug Good Manufacturing Practices (GMP's); and the product must be listed with FDA as a drug product.

Products having the same formulation, labeling, and dosage form as those that existed in the marketplace on or before December 4, 1975, for hand antiseptic use by food handlers, are being evaluated under the Over-the-Counter (OTC) Drug Review by FDA’s Center for Drug Evaluation and Research. However, as of May 2005, a final OTC drug monograph for these products has not been finalized. Therefore, FDA has not made a final determination that any of these products are generally recognized as safe and effective (GRAS/E).

GRAS/E antimicrobial ingredients for hand sanitizer use by food handlers will be identified in a future final monograph issued under the OTC Drug Review. Information about whether a specific product is covered by the proposed monograph

may be obtained from the tentative final monograph (TFM) for "Health Care Antiseptic Drug Products for OTC Human Use; Proposed Rule." This TFM, which was published in the ***Federal Register*** of June 17, 1994 (59 FR 31402), describes the inclusion of hand sanitizers in this Review on page 31440 under Comment 28 of Part II. Information about whether a specific product is included in this proposed monograph may also be available from the manufacturer.

Questions regarding acceptability of a hand antiseptic with respect to OTC compliance may be directed to the Division of New Drugs and Labeling Compliance (HFD-310), Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 11919 Rockville Pike, Rockville, MD 20852. Specific product label/promotional information and the formulation are required for determining a product's regulatory status.

<u>As a Food Additive</u>

To be subject to regulation under the food additive provisions of the Federal Food, Drug, and Cosmetic Act, the substances in a hand antiseptic must *reasonably* be expected to become a component of food based upon the product's intended use. Where the substances in a hand antiseptic are reasonably expected to become a component of food based upon the product's intended use, circumstances under which those substances may be legally used include the following:

1. The intended use of a substance may be exempted from regulation

as a food additive under 21 CFR 170.39. *Threshold of regulation for substances used in food-contact articles*. A review by FDA's Center for Food Safety and Applied Nutrition is required in order to determine whether such an exemption can be granted.

2. A substance may be regulated for the intended use as a food additive under 21 CFR 174 – *Indirect Food Additives – General*, and be listed along with conditions of safe use in 21 CFR 178 – *Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers*.

3. The intended use of a substance, including substances that contact food such as those in hand antiseptics, may be "generally recognized as safe (GRAS)" within the meaning of the FFDCA. A partial listing of substances with food uses that are generally recognized as safe may be found in CFR Parts 182, 184, and 186. These lists are not exhaustive because the FFDCA allows for independent GRAS determinations.

For the use of a substance to be GRAS within the meaning of the FFDCA, there must be publicly available data that demonstrate that the substance is safe for its intended use. There also must be a basis to conclude that there is a consensus among qualified experts that these publicly available data establish safety. If the use of a substance in food is GRAS, it is not subject to premarket review by FDA. While there is no legal requirement to notify FDA of an independent GRAS determination, a number of firms have chosen to do so with the expectation of receiving a response letter from FDA (see FDA's Inventory of GRAS Notices at http://www.cfsan.fda.gov/~rdb/opa-

gras.html. Although such a letter does not affirm the independent GRAS determination, it is an opportunity for the firm to receive comment from FDA regarding the materials supporting its determination.

4. A substance may be the subject of a Food Contact Substance Notification that became effective in accordance with the FFDCA Section 409 (h). Substances that are the subject of an effective food-contact substance notification are listed, along with conditions of safe use, in the FDA Inventory of Effective Premarket Notifications for Food Contact Substances. This list is available on-line at http://www.cfsan.fda.gov/~dms/opa-fcn.html. A food-contact substance that is the subject of an effective notification submitted under FFDCA 409(h) does not include similar or identical substances manufactured or prepared by any person other than the manufacturer identified in that notification.

The Division of Food Contact Substance Notifications does not certify or provide approvals for specific products. However, if the intended use of a substance in contact with food meets the requirements of 21 CFR 170.39 *Threshold of regulation for substances used in food-contact articles*, FDA may provide a letter to a firm stating that the intended use of this product is exempt from regulation as a food additive. However, the product must be the subject of a new drug application or under FDA's OTC Drug Review to be legally marketed.

Questions regarding the regulatory status of substances in hand antiseptics as food additives may be directed to the Division of Food Contact Substance Notifications, HFS-275, 5100 Paint Branch Parkway, College Park, MD 20740. It may be helpful

or necessary to provide label/promotional information when inquiring about a specific substance.

Fingernails **2-302.11 Maintenance.**

The requirement for fingernails to be trimmed, filed, and maintained is designed to address both the cleanability of areas beneath the fingernails and the possibility that fingernails or pieces of the fingernails may end up in the food due to breakage. Failure to remove fecal material from beneath the fingernails after defecation can be a major source of pathogenic organisms. Ragged fingernails present cleanability concerns and may harbor pathogenic organisms.

Jewelry **2-303.11 Prohibition.**

Items of jewelry such as rings, bracelets, and watches may collect soil and the construction of the jewelry may hinder routine cleaning. As a result, the jewelry may act as a reservoir of pathogenic organisms transmissible through food.

The term “jewelry” generally refers to the ornaments worn for personal adornment and medical alert bracelets do not fit this definition. However, the wearing of such bracelets carries the same potential for transmitting disease-causing organisms to food. If a food worker wears a medical alert or medical information bracelet, the conflict between this need and the Food Code’s requirements can be resolved through reasonable accommodation in accordance with the Americans with Disabilities Act. The person in charge should discuss the Food Code requirement with the employee and together they can work out an acceptable alternative to a bracelet. For example, the medical alert information could be worn in the form of a necklace or anklet to provide the necessary medical information without posing a

risk to food. Alternatives to medical alert bracelets are available through a number of different companies (e.g., an internet search using the term “medical alert jewelry” leads to numerous suppliers).

An additional hazard associated with jewelry is the possibility that pieces of the item or the whole item itself may fall into the food being prepared. Hard foreign objects in food may cause medical problems for consumers, such as chipped and/or broken teeth and internal cuts and lesions.

Outer Clothing **2-304.11 Clean Condition.**

Dirty clothing may harbor diseases that are transmissible through food. Food employees who inadvertently touch their dirty clothing may contaminate their hands. This could result in contamination of the food being prepared. Food may also be contaminated through direct contact with dirty clothing. In addition, employees wearing dirty clothes send a negative message to consumers about the level of sanitation in the establishment.

Food **2-401.11 Eating, Drinking, or Using Tobacco.***

Contamination

Prevention

Proper hygienic practices must be followed by food employees in performing assigned duties to ensure the safety of the food, prevent the introduction of foreign objects into the food, and minimize the possibility of transmitting disease through food. Smoking or eating by employees in food preparation areas is prohibited because of the potential that the hands, food, and food-contact surfaces may become contaminated. Insanitary personal practices such as scratching the head, placing the fingers in or about the mouth or nose, and indiscriminate and uncovered sneezing or coughing may result in food contamination. Poor hygienic practices by employees may also adversely affect consumer confidence in the establishment. Food preparation areas such as hot grills may have elevated temperatures and the excessive heat in these areas may present a medical risk to the workers as a result of dehydration. Consequently, in these areas food employees are allowed to drink from closed containers that are carefully handled.

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

Discharges from the eyes, nose, or mouth through persistent sneezing or coughing by food employees can directly contaminate exposed food, equipment, utensils, linens, and single-service and single-use articles. When these poor hygienic practices cannot be controlled, the employee must be assigned to duties that minimize the potential for contaminating food and surrounding surfaces and objects.

Hair Restraints **2-402.11 Effectiveness.**

Consumers are particularly sensitive to food contaminated by hair. Hair can be both a direct and indirect vehicle of contamination. Food employees may contaminate their hands when they touch their hair. A hair restraint keeps dislodged hair from ending up in the food and may deter employees from touching their hair.

Animals **2-403.11 Handling Prohibition.***

Dogs and other animals, like humans, may harbor pathogens that are transmissible through food. Handling or caring for animals that may be legally present is prohibited because of the risk of contamination of food employee hands and clothing.

Chapter 3 Food

Condition Sources **3-101.11 Safe, Unadulterated, and Honestly Presented.***

3-201.11 Compliance with Food Law.*

Refer to the public health reason for § 3-401.11.

Source

A primary line of defense in ensuring that food meets the requirements of § 3-101.11 is to obtain food from approved sources, the implications of which are discussed below. However, it is also critical to monitor food products to ensure that, after harvesting and processing, they do not fall victim to conditions that endanger their safety, make them adulterated, or compromise their honest presentation. The regulatory community, industry, and consumers should exercise vigilance in controlling the conditions to which foods are subjected and be alert to signs of abuse. FDA considers food in hermetically sealed containers that are swelled or

leaking to be adulterated and actionable under the Federal Food, Drug, and Cosmetic Act. Depending on the circumstances, rusted and pitted or dented cans may also present a serious potential hazard.

Food, at all stages of production, is susceptible to contamination. The source of food is important because pathogenic microorganisms may be present in the breeding stock of farm animals, in feeds, in the farm environment, in waters used for raising and freezing aquatic foods, and in soils and fertilizers in which plant crops are grown. Chemical contaminants that may be present in field soils, fertilizers, irrigation water, and fishing waters can be incorporated into food plants and animals.

Sources of molluscan shellfish are a particular concern because shellfish are frequently consumed raw or in an undercooked state and thus receive neither heat treatment nor any other process that would destroy or inactivate microbial pathogens. For safety, these foods must be accompanied by certification that documents that they have been harvested from waters that meet the water quality standards contained in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. Certification also provides confidence that processing, packaging, and shipping have been conducted under sanitary conditions.

Food should be purchased from commercial supplies under regulatory control. Home kitchens, with their varieties of food and open entry to humans and pet animals, are frequently implicated in the microbial contamination of food. Because commercial items seldom are eaten right away, the home kitchen's limited capacity

for maintaining food at proper temperatures may result in considerable microbial growth and toxin production by microorganisms introduced through the diverse sources of contamination. Controlled processing is required for the safe preparation of food entering commerce.

Labeling – General

Sources of packaged food must be labeled in accordance with law. Proper labeling of foods allows consumers to make informed decisions about what they eat. Many consumers, as a result of an existing medical condition, may be sensitive to specific foods or food ingredients. This sensitivity may result in dangerous medical consequences should certain foods or ingredients be unknowingly consumed. In addition, consumers have a basic right to be protected from misbranding and fraud. Except for certain species of large tuna and raw molluscan shellfish, if fish are intended for raw consumption, they must be properly frozen before they are served. If this process is done off-premises, purchase specifications ensuring that proper freezing techniques are used to destroy parasites must be provided. Labeling should accompany the product to advise as to whether the product was frozen properly. This is necessary because fish from natural bodies of water may carry parasitic worms that can infect and injure consumers who eat such raw fish dishes as sushi, ceviche, green (lightly marinated) herring, and cold-smoked salmon. The worms are often deeply imbedded inside fish muscle. Thorough freezing kills these worms if the fish are subjected to a low enough temperature for a long enough time.

Labeling for Fish

Except for certain species of large tuna and raw molluscan shellfish, if fish are intended for raw consumption, they must be properly frozen before they are served. If this process is done off-premises, purchase specifications ensuring that proper freezing techniques are used to destroy parasites must be provided. Labeling or other information should accompany the product to advise as to whether the product was frozen properly. This is necessary because fish from natural bodies of water may carry parasitic worms that can infect and injure consumers who eat such raw fish dishes as sushi, ceviche, green (lightly marinated) herring, and cold-smoked salmon. The worms are often deeply imbedded inside fish muscle. Thorough freezing kills these worms if the fish are subjected to a low enough temperature for a long enough time.

Labeling for Juice

On July 8, 1998, FDA announced in the Federal Register a final rule that revised its food labeling regulations to require a warning statement on fruit and vegetable juice products that have not been processed to prevent, reduce, or eliminate pathogenic microorganisms that may be present. FDA took this action to inform consumers, particularly those at greatest risk, of the hazard posed by such juice products. FDA expects that providing this information to consumers will allow them to make informed decisions on whether to purchase and consume such juice products, thereby reducing the incidence of foodborne illnesses and deaths caused by the consumption of these juices.

On July 18, 2001, FDA announced a final rule designed to improve the safety of fruit and vegetable juice and juice products. Under the rule, juice processors must

use Hazard Analysis and Critical Control Point (HACCP) principles for juice processing. Processors making shelf-stable juices or concentrates that use a single thermal processing step are exempt from the microbial hazard requirements of the HACCP regulation. Retail establishments where packaged juice is made and only sold directly to consumers (such as juice bars) are not required to comply with this regulation.

Rather, the Food Code requires fresh fruit or vegetable juices that are packaged at retail (untreated juices or beverages containing untreated juices that are offered to consumers as prepackaged foods) to be processed under HACCP with a 5 log reduction in pathogens of concern OR bear the warning statement as specified in 21 CFR Section 101.17(g). That statement is: "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." Refer to Chapter 1 for the definition of juice. It is important to note that the definition of "juice" includes puréed fruits and vegetables, which are commonly prepared for service to highly susceptible populations.

Food establishments that serve a highly susceptible population (HSP) cannot serve prepackaged juice that bears the warning label and they must serve only pasteurized juice. For juice only, this population includes children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care.

Unpackaged juice (glasses of juice prepared at a juice bar, for example) does not require the 5 log reduction nor a warning statement or other consumer advisory

(juice is not an animal food and therefore not covered by section 3-603.11) when prepared and served at retail. Usually the juice is served by the glass or in small batches compared to a commercial juice processor. The risk of using "drops" and damaged fruits or vegetables is much less at retail because of buyer specs that provide higher quality produce, meaning that fruits for juicing are less likely to be of a lower quality or damaged.

Additional information is available in the document, "Guidance for Industry. Warning and Notice Statement: Labeling of Juice Products, Small Entity Compliance Guide" which can be found on the FDA website http://www.cfsan.fda.gov/~dms/juicguid.html or obtained from the FDA Office of Nutritional Products Labeling and Dietary Supplements.

Labeling for Meat and Poultry

Retail food establishments that process and package meat or poultry in a form that is not ready-to-eat, are obligated by Federal regulation to label the product with safe food handling instructions. The intent of this requirement is to ensure that all consumers are alerted to the fact that such products may contain bacteria and that food safety hinges upon their thoroughly cooking the product, regardless of where they obtain the products. That is, the labeling would exist if they obtain their meat and poultry at an establishment that handles only prepackaged and prelabeled products or if they obtain their meat or poultry at an operation such as a supermarket with a meat processing operation or from a small neighborhood butcher.

Labeling Guidance for Irradiated Raw Meat and Meat Products

In December 1999, the U.S. Department of Agriculture, Food Safety and Inspection Service (USDA/FSIS) issued a final regulation to permit the use of ionizig radiation to reduce foodborne pathogens, including *Escherichia coli O*157:H7, and extend the shelf life of raw refrigerated and frozen meat and meat products (Irradiation of Meat Food Products 64 *Federal Register* 72150, December 23, 1999).

The final regulations are published in Title 9 of the Code of Federal Regulations (9 CFR 424.21 Use of food ingredients and sources of radiation) and provide that raw refrigerated products may receive a maximum absorbed dose of no more than 4.5 kGy, and that frozen products receive no more than 7.0 kGy, in accordance with the FDA restrictions provided for in Title 21 of the Code of Federal Regulations (21 CFR 179.26(a) Ionizing radiation for the treatment of food, (a) Energy sources). The regulations further require that all irradiated meat and meat products bear labeling that reflects that the product was irradiated, or that the product contains an irradiated meat or poultry product. This labeling requirement is applicable even at retail facilities where irradiated coarse ground beef might be finely ground for retail sale, or in cases where irradiated product is combined with other non-irradiated meat or poultry product for retail sale.

In cases where the entire package of product is irradiated, the labeling must include both a statement and the international symbol, called the radura. Additionally, the product name must include the word “irradiated,” or the labeling must bear a disclosure statement such as, “treated with radiation” or “treated by irradiation.” If either statement is used, the logo must be placed in conjunction with the statement.

If an irradiated meat or meat product is used to formulate a multi-ingredient product

with other non-irradiated components, the irradiated meat ingredient must be identified as such in the ingredients statement, but the logo is not required. For example, the ingredients statement for a Chicken and Beef Sausage product that contains irradiated beef would be, Ingredients: chicken, irradiated beef, seasonings (salt, pepper, spice), and the logo would not be required to be present.

All labels for products produced at federally inspected establishments bearing statements about irradiation must be submitted to USDA/FSIS for evaluation and approval prior to use.

Optional labeling statements about the purpose of the irradiation process may be included on the labeling of irradiated products provided they are not false or misleading and have been evaluated first by USDA/FSIS. If such statements indicate a specific benefit from irradiation, such as a reduction of microbial pathogens, such statements must be substantiated by processing documentation and validated through the processing and Hazard Analysis and Critical Control Point (HACCP) system. Such validation and documentation of the HACCP system would only be applicable in federally inspected establishments.

Because irradiation can substantially reduce and, in some situations, eliminate any detectable level of pathogenic bacteria, it is important that the meat products be held at the proper refrigerated temperatures to prevent growth of any pathogens present, and that the packaging is not compromised. Although commingling irradiated beef with non-irradiated meat or poultry is not prohibited under the current regulations, USDA/FSIS believes that such a process would decrease the benefit of irradiation by potentially exposing the irradiated product to pathogenic bacteria.

While FSIS considers such commingling to be highly unlikely, if it did occur, a statement advising the consumer that the product contains both irradiated and non-irradiated components would be required.

The Radura, International Symbol:

Further information about labeling irradiated raw meat is available through Directive 7700.1, Irradiation of Meat and Poultry Products, on the USDA/FSIS website at http://www.fsis.usda.gov/oppde/rdad/fsisdirectives/7700-1.htm. Irradiation Questions & Answers can be found at http://www.fsis.usda.gov/oppde/larc/policies/iradqa.pdf.

Labeling for Raw Shell Eggs

The Code of Federal Regulations 21 CFR 101.17 **Food Labeling warning, notice, and safe handling statements**, paragraph (h) *Shell* eggs state in subparagraph (1), "The label of all shell eggs, whether in intrastate or interstate commerce, shall bear the following statement: 'SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria; keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.'" Further, in subparagraph (4) it states, "Shell eggs that have been, before distribution to consumers, specifically processed to destroy all

viable *Salmonella* shall be exempt from the requirements of paragraph (h) of this section."

Labeling for Whole-muscle, Intact Beef Steaks

In order for a food establishment operator to know that a steak is a whole-muscle, intact cut of beef that can therefore be undercooked and served without a consumer advisory, the incoming product must be labeled. Processors can accommodate this need at the retail level by developing proposed labels, obtaining the necessary USDA Food Safety Inspection Service review and approval, and appropriately affixing the labels to their products.

Refer also to public health reason for § 3-602.11.

3-201.12 Food in a Hermetically Sealed Container.*

Processing food at the proper high temperature for the appropriate time is essential to kill bacterial spores that, under certain conditions in an airtight container, begin to grow and produce toxin. Of special concern is the lethal toxin of ***Clostridium botulinum***, an organism whose spores (i.e., survival stages for non-growth conditions) are found throughout the environment. Even slight underprocessing of low acid food which is canned can be dangerous, because spoilage microbes are killed and there are no signs to warn consumers that botulinum spores have germinated into vegetative cells and produced their toxin. If these foods are not processed to be commercially sterile, they must be received frozen or under proper refrigeration.

Refer also to the public health reason for §§ 3-101.11 and 3-201.11.

3-201.13 Fluid Milk and Milk Products.*

Milk, which is a staple for infants and very young children with incomplete immunity to infectious diseases, is susceptible to contamination with a variety of microbial pathogens such as Shiga toxin-producing ***Escherichia coli***, ***Salmonella*** spp., and ***Listeria monocytogenes***, and provides a rich medium for their growth. This is also true of milk products. Pasteurization is required to eliminate pathogen contamination in milk and products derived from milk. Dairy products are normally perishable and must be received under proper refrigeration conditions.

3-201.14 Fish.*

After December 18, 1997, all processors of fish are required by 21 CFR 123 to have conducted a hazard analysis of their operation, identify each hazard that is reasonably likely to occur, and implement a HACCP plan to control each identified hazard. Retailers should assure that their seafood suppliers have complied with this requirement. Hazards known to be associated with specific fish species are discussed in the FDA Fish and Fishery Products Hazards and Controls Guide, available from the FDA Office of Seafood. Species-related hazards include pathogens, parasites, natural toxins, histamine, chemicals, and drugs.

The seafood implicated in histamine poisoning are the scombroid toxin-forming species, defined in 21 CFR 123.3(m) as meaning bluefish, mahi-mahi, tuna, and other species, whether or not in the family **Scombridae**, in which significant levels of histamine may be produced in the fish flesh by decarboxylation of free histidine as a result of exposure of the fish after capture to temperatures that allow the growth of mesophilic bacteria.

Ciguatera toxin is carried to humans by contaminated fin fish from the extreme southeastern U.S., Hawaii, and subtropical and tropical areas worldwide. In the south Florida, Bahamian, and Caribbean regions, barracuda, amberjack, horse-eye jack, black jack, other large species of jack, king mackerel, large groupers, and snappers are particularly likely to contain ciguatoxin. Many other species of large predatory fishes may be suspect. In Hawaii and throughout the central Pacific, barracuda, amberjack, and snapper are frequently ciguatoxic, and many other species both large and small are suspect. Mackerel and barracuda are frequently ciguatoxic from mid to northeastern Australian waters.

RECREATIONALLY CAUGHT FISH

Recreationally caught fish received for sale or service may be approved by the regulatory authority. The EPA recognizes that fish are a healthy part of our diet and recognizes fishing as an all-American recreational pastime, however, they add the cautionary note that some individuals, such as pregnant women and small children, may need to limit their intake of certain noncommercial fish. Recreationally caught fish may contain possible contaminants that may pose health risks. Fish advisories can be found in EPA Listing of Fish Advisories the EPA website at: http://www.epa.go/waterscience/fish.

States issue fish consumption advisories if elevated concentrations of chemicals such as mercury or dioxin are found in local fish. For most people, the risk from mercury by eating fish is not a health concern. Yet, some fish and shellfish contain higher levels of mercury that may harm an unborn baby or young child's developing nervous system. Therefore, the FDA and the EPA recently advised women who

may become pregnant, pregnant women, nursing mothers, and young children to avoid some types of fish and eat fish and shellfish that are lower in mercury. (http://www.epa.gov/waterscience/fishadvice/advice.html).

State-issued advisories apply primarily to non-commercial fish obtained through sport, recreation, and subsistence activities. Each advisory is different; it may recommend unrestricted, limited, or totally restricted consumption; may be targeted to everyone or limited to women, children, or other people at risk; and may apply to certain species or sizes of fish or a specific waterbody.

States may issue safe-eating guidelines in addition to issuing fish advisories. A fish advisory is issued to warn the public of the potential human health risks from chemical contamination of certain species from particular types of waterbodies such as lakes, rivers, and/or coastal waters within the State. In contrast, a safe-eating guideline is issued to inform the public that fish from specific waterbodies have been tested for chemical contaminants and the fish from these waters are safe to eat without consumption restrictions.

Regulatory authorities are encouraged to monitor and review the National Listing of Fish Advisories (See August 2004 EPA Fact Sheet at http://www.epa.gov/waterscience/fish/advisories/factsheet.pdf as well as the local listings, as part of the decision-making process regarding the approval of recreationally caught fish being used in food establishments.

3-201.15 Molluscan Shellfish.*

Pathogens found in waters from which molluscan shellfish are harvested can cause disease in consumers. Molluscan shellfish include: 1) oysters; 2) clams; 3)

mussels; and, 4) scallops, except where the final product is the shucked adductor muscle only. The pathogens of concern include both bacteria and viruses.

Pathogens from the harvest area are of particular concern in molluscan shellfish because: 1) environments in which molluscan shellfish grow are commonly subject to contamination from sewage, which may contain pathogens, and to naturally occurring bacteria, which may also be pathogens; 2) molluscan shellfish filter and concentrate pathogens that may be present in surrounding waters; and, 3) molluscan shellfish are often consumed whole, either raw or partially cooked.

To minimize the risk of molluscan shellfish containing pathogens of sewage origin, State and foreign government agencies, called Shellfish Control Authorities, classify waters in which molluscan shellfish are found, based, in part, on an assessment of water quality. As a result of these classifications, molluscan shellfish harvesting is allowed from some waters, not from others, and only at certain times or under certain restrictions from others. Shellfish Control Authorities then exercise control over the molluscan shellfish harvesters to ensure that harvesting takes place only when and where it has been allowed.

Significant elements of Shellfish Control Authorities' efforts to control the harvesting of molluscan shellfish include: 1) a requirement that containers of in-shell molluscan shellfish (shellstock) bear a tag that identifies the type and quantity of shellfish, harvester, harvest location, and date of harvest; and, 2) a requirement that molluscan shellfish harvesters be licensed; 3) a requirement that processors that shuck molluscan shellfish or ship, reship, or repack the shucked product be certified;

and, 4) a requirement that containers of shucked molluscan shellfish bear a label with the name, address, and certification number of the shucker-packer or repacker. Pathogens, such as ***Vibrio vulnificus***, ***Vibrio parahaemolyticus***, ***Vibrio cholerae***, and ***Listeria monocytogenes*** that may be present in low numbers at the time that molluscan shellfish are harvested, may increase to more hazardous levels if they are exposed to time/temperature abuse. To minimize the risk of pathogen growth, Shellfish Control Authorities place limits on the time between harvest and refrigeration. The length of time is dependant upon either the month of the year or the average monthly maximum air temperature (AMMAT) at the time of harvest, which is determined by the Shellfish Control Authority.

Paralytic shellfish poisoning (PSP) results from shellfish feeding upon toxic microorganisms such as dinoflagellates. In the U.S., PSP is generally associated with the consumption of molluscan shellfish from the northeast and northwest coastal regions of the U.S. PSP in other parts of the world has been associated with molluscan shellfish from environments ranging from tropical to temperate waters. In addition, in the U.S., PSP toxin has recently been reported from the viscera of mackerel, lobster, dungeness crabs, tanner crabs, and red rock crabs.

Neurotoxic shellfish poisoning (NSP) in the U.S. is generally associated with the consumption of molluscan shellfish harvested along the coast of the Gulf of Mexico, and, sporadically, along the southern Atlantic coast. There has been a significant occurrence of toxins similar to NSP in New Zealand, and some suggestions of occurrence elsewhere.

For diarrhetic shellfish poisoning there has been no documented occurrence to date in the U.S. However, instances have been documented in Japan, southeast Asia, Scandinavia, western Europe, Chile, New Zealand, and eastern Canada.

Amnesic shellfish poisoning (ASP) is generally associated with the consumption of molluscan shellfish from the northeast and northwest coasts of North America. It has not yet been a problem in the Gulf of Mexico, although the algae that produce the toxin have been found there. ASP toxin has recently been identified as a problem in the viscera of dungeness crab, tanner crab, red rock crab, and anchovies along the west coast of the United States.

Marine toxins are not ordinarily a problem in scallops if only the adductor muscle is consumed. However, products such as roe-on scallops and whole scallops do present a potential hazard for natural toxins.

To reduce the risk of illness associated with raw shellfish consumption, the Food and Drug Administration (FDA) administers the National Shellfish Sanitation Program (NSSP). The NSSP is a tripartite, cooperative action plan involving Federal and State public health officials and the shellfish industry. Those groups work together to improve shellfish safety. States regularly monitor waters to ensure that they are safe before harvesting is permitted. FDA routinely audits the States' classification of shellfish harvesting areas to verify that none pose a threat to public health. Patrolling of closed shellfishing waters minimizes the threat of illegal harvesting or “bootlegging” from closed waters. Bootlegging is a criminal activity and a major factor in shellfish-borne illnesses. Purchases from certified dealers that adhere to NSSP controls is essential to keep risks to a minimum.

3-201.16 Wild Mushrooms.*

Over 5000 species of fleshy mushrooms grow naturally in North America. The vast majority have never been tested for toxicity. It is known that about 15 species are deadly and another 60 are toxic to humans whether they are consumed raw or cooked. An additional 36 species are suspected of being poisonous, whether raw or cooked. At least 40 other species are poisonous if eaten raw, but are safe after proper cooking.

Some wild mushrooms that are extremely poisonous may be difficult to distinguish from edible species. In most parts of the country there is at least one organization that include individuals who can provide assistance with both identification and program design. Governmental agencies, universities, and mycological societies are examples of such groups. If a food establishment chooses to sell wild mushrooms, management must recognize and address the need for a sound identification program for providing safe wild mushrooms.

Regulatory authorities have expressed their difficulty in determining what constitutes a “wild mushroom identification expert” and enforcing the Food Code provisions associated with it. In 1998, the Conference for Food Protection (CFP) attempted to alleviate this problem through the formation of a committee that was charged with determining what constitutes a wild mushroom expert. However, the committee was unable to provide this information in a practical, useful manner for State and local regulators within the constraints of the Food Code. The 2000 CFP recommended and FDA accepted the committee’s alternative solution that a brochure be developed that will provide information on what constitutes a wild mushroom expert,

and to replace “identification by a wild mushroom expert” with “written buyer specifications.”

The CFP’s recommendation attempts to provide the necessary information in a practical, useful manner for all stakeholders, and yet still convey the highest level of public health protection. The CFP committee suggested that written buyer specifications place more responsibility on the food establishment to ensure that wild mushrooms are obtained from a safe source, and also provides State and local regulators a template to use in ensuring wild mushrooms sold at retail are obtained from a safe source.

However, the recommendation for written buyer specifications will not replace Food Code paragraph 3-201.16(A) until the brochure is developed and accepted by the CFP and FDA. In the interim, the following guidance is provided regarding the identification of wild mushrooms:

A food establishment that sells or serves mushroom species picked in the wild shall have a written buyer specification that requires identification of:

(1) The Latin binomial name, the author of the name, and the common name of the mushroom species,

(2) That the mushroom was identified while in the fresh state,

(3) The name of the person who identified the mushroom,

(4) A statement as to the qualifications and training of the identifier, specifically related to mushroom identification.

Additional information can be found on the California Poison Control website: http://www.calpoison.org/public/mushrooms.html.

Refer also to the public health reason for §§ 3-101.11 and 3-201.11.

3-201.17 Game Animals.*

The primary concern regarding game animals relates to animals obtained in the wild. Wild game animals may be available as a source of food only if a regulatory inspection program is in place to ensure that wild animal products are safe. This is important because wild animals may be carriers of viruses, rickettsiae, bacteria, or parasites that cause illness (zoonoses) in humans. Some of these diseases can be severe in the human host. In addition to the risk posed to consumers of game that is not subject to an inspection program, there is risk to those who harvest and prepare wild game because they may contract infectious diseases such as rabies or tularemia.

Specifications for Receiving

3-202.11 Temperature.*

Temperature is one of the prime factors that controls the growth of bacteria in food. Many, though not all, types of pathogens and spoilage bacteria are prevented from multiplying to microbiologically significant levels in properly refrigerated foods that are not out of date. USDA published a final rule (63 FR 45663, August 27, 1998 Shell Eggs; Refrigeration and Labeling Requirements) to require that shell eggs packed for consumer use be stored and transported at an ambient temperature not to exceed 7.2ºC (45ºF).

High temperatures for a long enough time, such as those associated with thorough cooking, kill or inactivate many types of microorganisms. However, cooking does not always destroy the toxins produced in foods by certain bacteria (such as the

enterotoxins of ***Staphylococcus aureus***). Cooking or hot holding that follows temperature abuse may not make the food safe. Keeping cooked foods hot as required in the Code prevents significant regrowth of heat-injured microorganisms and prevents recontamination with bacteria that are newly introduced.

3-202.12 Additives.*

It is imperative for safety that food supplies come from sources that are in compliance with laws regarding chemical additives and contaminants.

Food additives are substances which, by their intended use, become components of food, either directly or indirectly. They must be strictly regulated. In excessive amounts or as a result of unapproved application, additives may be harmful to the consumer. Unintentional contaminants or residues also find their way into the food supply. The tolerances or safe limits designated for these chemicals are determined by risk assessment evaluations based on toxicity studies and consumption estimates.

Food and Color additives must be used in compliance with a federal food, or color additive regulation, an effective food-contact notification, or a threshold of regulation exemption. Such regulations, notifications, and exemptions are generally composed of three parts: the *identity* of the substance, *specifications* including purity or physical properties, and *limitations* on the conditions of use. In order for a food, or color additive use to be in compliance, the use must comply with all three criteria.

Federal Food Additive regulations are found in Title 21 CFR, Parts 172-180. Color additive regulations are found in Title 21 CFR Parts 73-Subpart A, 74-Subpart A, 81 and 82. Effective food-contact notifications are listed at

http://vm.cfsan.fda.gov/~dms/opa-fcn.html, and threshold of regulation exemptions are listed at http://www.cfsan.fda.gov/~dms/opa-torx.html.

Other substances that are added to food include those prior sanctioned for use in food by either the FDA or USDA, or those generally recognized as safe for their intended use in food. Some of these are listed in Title 21 CFR Parts 181-186, Title 9 CFR Section 424.21(b) and at http://www.cfsan.fda.gov/~rdb/opa-gras.html. Tolerances and exemptions from tolerance for pesticide chemical residues in or on food are found in Title 40 CFR Part 180. Substances that are prohibited from use in human food are listed in Title 21 CFR Part 189.

3-202.13 Eggs.*

Damaged shells permit the entry of surface bacteria to the inside of eggs. Eggs are an especially good growth medium for many types of bacteria. Damaged eggs must not be used as food.

The Definition of "Restricted Egg" contains several terms that are explained in this paragraph. An egg may be restricted because it is a/an:

(i) "Check" meaning an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(ii) "Dirty egg or Dirties" meaning an egg that has a shell that is unbroken and has adhering dirt, foreign material, or prominent stains.

(iii) "Incubator reject" meaning an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(iv) "Inedible" meaning eggs of the following descriptions: Black rots,

yellow rots, white rots, mixed rots, sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(v) "Leaker" meaning an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(vi) "Loss" meaning an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

On December 5, 2000, Federal regulations were amended to require that shell egg cartons bear safe handling instructions and be placed under refrigeration at 45°F or lower upon delivery at retail establishments (65 FR 76091, December 5, 2000, Food Labeling, Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution). The amended provisions include:

- 21 CFR Part 16 Regulatory Hearing before the Food and Drug Administration, § 16.5 Inapplicability and limited applicability, (4) A hearing on an order for re-labeling, diversion or destruction of shell eggs…
- 21 CFR Part 101 Food Labeling §101.17 Food labeling warning, notice, and safe handling statements, (h) *Shell eggs*.

- 21 CFR Part 115 Shell Eggs, § 115.50. Refrigeration of shell eggs held for retail distribution.

The labeling rule became effective September 4, 2001, and the refrigeration rule became effective June 4, 2001. These rules are one part of a larger farm-to-table approach for ensuring the safety of our nation's egg supply. The public health goal is a 50 percent reduction in all salmonellosis and a 50 percent reduction in ***Salmonellae*** **Enteritidis** illnesses by 2010.

3-202.14 Eggs and Milk Products, Pasteurized.*

Liquid egg, fluid milk, and milk products are especially good growth media for many types of bacteria and must be pasteurized. Pasteurization is a heat process that will kill or inactivate bacteria and other harmful microorganisms likely to be in these potentially hazardous foods (time/temperature control for safety foods). Freezing and drying of unpasteurized products will stop microbial growth and may reduce their bacterial populations; however, some organisms will survive because neither process invariably kills bacteria. Under certain conditions, freezing and drying may preserve microbes. An alternative to pasteurization may be applicable to certain cheese varieties cured or aged for a specified amount of time prior to marketing for consumption.

3-202.15 Package Integrity.*

Damaged or incorrectly applied packaging may allow the entry of bacteria or other contaminants into the contained food. If the integrity of the packaging has been compromised, contaminants such as ***Clostridium botulinum*** may find their way into the food. In anaerobic conditions (lack of oxygen), botulism toxin may be formed.

Packaging defects may not be readily apparent. This is particularly the case with low acid canned foods. Close inspection of cans for imperfections or damage may reveal punctures or seam defects. In many cases, suspect packaging may have to be inspected by trained persons using magnifying equipment. Irreversible and even reversible swelling of cans (hard swells and flippers) may indicate can damage or imperfections (lack of an airtight, i.e., hermetic seal). Swollen cans may also indicate that not enough heat was applied during processing (underprocessing). Suspect cans must be returned and not offered for sale.

3-202.16 Ice.*

Freezing does not invariably kill microorganisms; on the contrary, it may preserve them. Therefore, ice that comes into contact with food to cool it or that is used directly for consumption must be as safe as drinking water that is periodically tested and approved for consumption.

3-202.17 Shucked Shellfish, Packaging and Identification.

Plastic containers commonly used throughout the shellfish industry for shucked product bear specific information regarding the source of the shellfish as required by the NSSP Guide for the Control of Molluscan Shellfish. These containers must be nonreturnable so that there is no potential for their subsequent reuse by shellfish packers which could result in shucked product that is inaccurately identified by the label. The reuse of these containers within the food establishment must be assessed on the basis of the Food Code's criteria for multi-use containers and the likelihood that they will be properly relabeled to reflect their new contents.

3-202.18 Shellstock Identification.*

Accurate source identification of the harvesting area, harvester, and dealers must be contained on molluscan shellstock identification tags so that if a shellfish-borne disease outbreak occurs, the information is available to expedite the epidemiological investigation and regulatory action.

3-202.19 Shellstock, Condition.

Dirty, damaged, or dead shellstock can contaminate and degrade live and healthy shellstock and lead to foodborne illness. Harvesters have the primary responsibility for culling shellstock, but this responsibility continues throughout the distribution chain.

3-202.110 Juice Treated.

Refer to public health reason for § 3-801.11.

Original Containers and Records

3-203.11 Molluscan Shellfish, Original Container.

Lot separation is critical to isolating shellfish implicated in illness outbreaks and tracking them to their source. Proper identification is needed for tracing the origin and determining conditions of shellfish processing and shipment. If the lots are commingled at retail, traceability is undermined and the root of the problem may remain undetected. If no causative factors are identified in the food establishment, tracing the incriminated lot helps in identifying products that need to be recalled or growing waters that may need to be closed to harvesting.

When shucked shellfish are prepackaged in consumer self service containers, the labeling information as specified under section 3-202.17 must be recorded on a log sheet to correlate with the date of sale of the consumer sized containers.

3-203.12 Shellstock, Maintaining Identification.*

Accurate records that are maintained in a manner that allows them to be readily matched to each lot of shellstock provide the principal mechanism for tracing shellstock to its original source. If an outbreak occurs, regulatory authorities must move quickly to close affected growing areas or take other appropriate actions to prevent further illnesses. Records must be kept for 90 days to allow time for hepatitis A virus infections, which have an incubation period that is significantly longer than other shellfish-borne diseases, to come to light. The 90 day requirement is based on the following considerations:

Shelf-life of the product	14 days
Incubation period	56 days
Medical diagnosis and confirmation	5 days
Reporting	5 days
Epidemiological investigation	10 days
Total	90 days

In reality and as stated in the provision, the 90-day “clock” starts at the time the container of shellstock is emptied. Starting from the date of harvest is not correct because the shellstock may be sold/consumed in less than the

14 days of shelf life cited in the chart above. Therefore, the 90 days may expire and the tag discarded before an illness is reported and investigated.

Shellstock could be frozen in the food establishment during the 14-day estimated shelf life period, which would effectively stop the clock on the shelf life. The shellstock could be thawed and consumed past the 14-day shelf life. In this case, the 90 days would expire before consumption if the clock started 90 days from the harvest date.

Freezing shellstock in the food establishment is not usually done because, although oysters-in-the-shell can be frozen with fair results, they do not have the same texture and appearance of a fresh oyster when thawed. Commercially frozen oysters are frozen rapidly to retain product quality.

Preventing Contamination by Employees

3-301.11 Preventing Contamination from Hands.*

In November 1999, the National Advisory Committee for Microbiological Criteria for Foods (NACMCF) concluded that bare hand contact with ready-to-eat foods can contribute to the transmission of foodborne illness and agreed that the transmission could be interrupted. The NACMCF recommended exclusion/restriction of ill food workers as the first preventative strategy and recognized that this intervention has limitations, such as trying to identify and manage asymptomatic food workers.

The three interdependent critical factors in reducing foodborne illness transmitted through the fecal-oral route, identified by the NACMCF, include exclusion/restriction

of ill food workers; proper handwashing; and no bare hand contact with ready-to-eat foods. Each of these factors is inadequate when utilized independently and may not be effective. However, when all three factors are combined and utilized properly, the transmission of fecal-oral pathogens can be controlled. Depending on the microbial contamination level on the hands, handwashing with plain soap and water, as specified in the Food Code, may not be an adequate intervention to prevent the transmission of pathogenic microbes to ready-to-eat foods via hand contact with ready-to-eat foods. Handwashing as specified in the Food Code will reduce microbial contamination of the hands by 2-3 logs.

Food employees and conditional employees infected with fecal-oral pathogens can shed viral and protozoan pathogens in the feces at levels up to 10^8 viral particles or oocysts per gram of feces. Having a high potential contamination level on the hands combined with a very low infectious dose necessary to cause infection are the reasons that FDA believes that handwashing alone is not an effective single barrier in the transmission of these fecal-oral pathogens. The infective dose for ***Giardia*** and ***Cryptosporidium*** is believed to be as low as 1-10 oocysts, and as few as 10 virus particles can infect an individual with Norovirus or hepatitis A.

The CDC now estimates that Norovirus is the leading cause of foodborne illness in the United States. Contaminated hands are a significant factor in the transmission of enteric viruses, including Norovirus and hepatitis A virus. Further, contamination of food by an infected food worker is the most

common mode of transmission of hepatitis A in foodborne disease outbreaks. Research has shown the viral transfer rate from contaminated hands to ready-to-eat food to be about 10% and that proper handwashing will significantly reduce the chance of transmitting pathogenic viruses. However, with heavy initial contamination of the hands, especially in the subungal space of the fingers, a basic 2-3 log reduction handwash procedure may not be adequate to prevent the transmission of viral foodborne illness.

Even though bare hands should never contact exposed, ready-to-eat food, thorough handwashing is important in keeping gloves or other utensils from becoming vehicles for transferring microbes to the food.

Refer to the public health reasons for §§ 2-301.11, 2-301.12, and 2-301.14.

3-301.11(D) Prior Approval for Food Employees to Touch Ready-to-Eat Food with Bare Hands

Infected food employees are the source of contamination in approximately one in five foodborne disease outbreaks reported in the United States with a bacterial or viral cause.[1] Most of these outbreaks involve enteric, i.e., fecal-oral agents. These are organisms that employees were shedding in their stools at the time the food was prepared. Because of poor or nonexistent handwashing procedures, workers spread these organisms to the food. In addition, infected cuts, burns, or boils on hands can also result in contamination of food. Viral, bacterial, and parasitic agents can be involved.

[1]Based on CDC Summary Surveillance for Foodborne-Disease Outbreaks – United States, 1988-1992 and New York State Department of Health data 1980-1991 published: Weingold, Guzewich, Fudala, 1994, Use of Foodborne Disease Data for HACCP Risk Assessment. J. Food Prot. 53: 820-830.

Traditionally, food regulations have required two methods of preventing the spread of foodborne disease by this mode of transfer, i.e., they have prohibited food workers from preparing food when they are infectious and have required thorough and frequent handwashing. In order to strengthen fecal-oral transmission interventions, the Food Code provides focused and specific guidance about ill workers and when handwashing must occur. As a final barrier, bare-hand contact with ready-to-eat food (i.e., food that is edible without washing or is not subsequently subjected to a pathogen kill step) is prohibited and suitable utensils such as spatulas, tongs, single-use gloves, or dispensing equipment are required to be used. Any alternative to this requirement must convincingly address how food employees will be managed to preclude food contamination and how management will ensure that thorough handwashing occurs after employees use the toilet.

Because highly susceptible populations include persons who are immunocompromised, the very young and elderly, establishments serving these populations may not use alternatives to the no bare hand contact with ready-to-eat food requirement.

Acceptability of an alternative procedure to no bare hand contact requires prior approval from the regulatory authority based on the food establishment having a written employee health policy that details how the establishment complies with management of ill employees as specified under sections 2-201.11 - .13 and management of handwashing practices as specified under

Part 2-3 of the Code. The approval should also be based on evidence provided through written procedures and documentation that at least all of the following are addressed:

(A) **Personal Cleanliness, i.e., handwashing** procedures, including frequency and methodology of handwashing that ensure food employees keep their hands and fingertips clean and handwashing occurs at the times specified in section 2-301.14, including after using the toilet and between tasks that may recontaminate the hands.

(B) **Hygienic Practices** as specified in Part 2-4.

(C) **Employee Health** regarding:

(1) **Reporting of diseases and medical conditions,** and

(2) **Exclusions and restrictions,** i.e., that food employees and conditional employees report their health status as specified in section 2-201.11; ill food employees are restricted or excluded as specified in section 2-201.12; and the exclusions and restrictions are removed as specified in section 2-201.13;

(D) **How the alternative practices and procedures will control the hazard through an active managerial control program.** Such a program includes monitoring and verifying the institution of the provisions described in paragraphs A-C above and satisfies the following:

(1) The public health hazard associated with bare hand contact specific to the food establishment operation is identified and understood. The regulatory authority needs assurance that the permit holder

recognizes that the hazard being addressed is the possible contamination of ready-to-eat food by viral and parasitic as well as bacterial pathogens that are transferred from employees' hands.

(2) The ready-to-eat foods that will be contacted with bare hands are identified and both procedures and practices are in place so that food employees wash their hands before returning to their work station and cross-contamination from touching raw and ready-to-eat food is precluded.

For example, identifying the specific type of food to be prepared, such as tacos, and the specific location, such as a situation where a food employee is assigned solely to the designated taco work station. The work station is located immediately adjacent to the taco assembly unit and the employee will be preparing only the specified ready-to-eat food using bare hands.

Another example could be a food employee who is responsible solely for assembling a variety of ready-to-eat foods.

(3) Institution of an effective training program for food employees that emphasizes not working when ill with any of the gastrointestinal symptoms listed in the Code, and explains good hygienic practices, proper handwashing procedures, and safe food preparation procedures. This should include a documented training plan that specifies how management responsibility for training has been designated, training

program content, and the frequency of administration including periodic refresher sessions.

(E) The alternative procedure should clearly describe monitoring, documentation, and verification actions to ensure that the practices and procedures are followed. Corrective actions need to be predetermined for situations where the practices and procedures are not followed, e.g., an ill employee is found preparing foods.

(F) Documentation of the practices, procedures, and corrective actions related to an alternative to no bare hand contact with ready-to-eat food must be maintained and readily available at the food establishment at all times for use by the person in charge and for review by the regulatory authority.

Preventing Food and Ingredient Contamination

3-302.11 Packaged and Unpackaged Food – Protection Separation, Packaging, and Segregation.*

With regard to the storage of raw animal foods as specified under subparagraph 3-302.11(A)(2), it is the intent of this Code to require separation based on anticipated microbial load and raw animal food type (species). Raw animal foods shall be separated based on a succession of cooking temperatures since cooking temperatures as specified under § 3-401.11 are based on thermal destruction data and anticipated microbial load. For example, to prevent cross-contamination, fish and pork, which are required to be cooked to an internal temperature of 145°F for 15 seconds, shall be stored above or away

from raw poultry, which is required to be cooked to an internal temperature of 165°F for 15 seconds due to its considerably higher anticipated microbial load. In addition, raw animal foods having the same cooking temperature, such as pork and fish, shall be separated from one another during storage and preparation by maintaining adequate spacing or by placing the food in separate containers because of the potential for allergen cross-contamination or economic adulteration via inadvertent species substitution.

Food that is inadequately packaged or contained in damaged packaging could become contaminated by microbes, dust, or chemicals introduced by products or equipment stored in close proximity or by persons delivering, stocking, or opening packages or overwraps. Packaging must be appropriate for preventing the entry of microbes and other contaminants such as chemicals. These contaminants may be present on the outside of containers and may contaminate food if the packaging is inadequate or damaged, or when the packaging is opened. The removal of food product overwraps may also damage the package integrity of foods under the overwraps if proper care is not taken.

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

Certain foods may be difficult to identify after they are removed from their original packaging. Consumers may be allergic to certain foods or ingredients.

The mistaken use of an ingredient, when the consumer has specifically requested that it not be used, may result in severe medical consequences. The mistaken use of food from unlabeled containers could result in chemical poisoning. For example, foodborne illness and death have resulted from the use of unlabeled salt, instead of sugar, in infant formula and special dietary foods. Liquid foods, such as oils, and granular foods that may resemble cleaning compounds are also of particular concern.

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

Raw or undercooked eggs that are used in certain dressings or sauces are particularly hazardous because the virulent organism ***Salmonella*** **Enteritidis** may be present in raw shell eggs. Pasteurized eggs provide an egg product that is free of pathogens and is a ready-to-eat food. The pasteurized product should be substituted in a recipe that requires raw or undercooked eggs.

3-302.14 Protection from Unapproved Additives.*

Refer to the public health reason for § 3-202.12.

Use of unapproved additives, or the use of approved additives in amounts exceeding those allowed by food additive regulations could result in foodborne illness, including allergic reactions. For example, many adverse reactions have occurred because of the indiscriminate use of sulfites to retard "browning" of fruits and vegetables or to cause ground meat to look "redder" or fresher. The concern for misuse of additives also applies to food establishments operating under a variance and to Annex 6 Food Processing Criteria of Model

Food Code which addresses the use of sodium nitrite or other curing agents in smoking and curing operations. However, if this process is done incorrectly, it could cause illness or death because of excessive nitrite or because the food is insufficiently preserved.

3-302.15 Washing Fruits and Vegetables.

Pathogenic organisms and chemicals may be present on the exterior surfaces of raw fruits and vegetables. Washing removes the majority of organisms and/or chemicals present. If nondrinking water is used, the fruits and vegetables could become contaminated.

Toxic or undesirable residues could be present in or on the food if chemicals used for washing purposes are unapproved or applied in excessive concentrations.

On October 26, 1998, a voluntary guidance document which addresses practices commonly used by fresh fruit and vegetable producers was issued jointly by FDA, USDA, and CDC. This voluntary guidance contains useful information related to washing fruits and vegetables as well as the application of antimicrobial agents. The "Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables" is available from FDA's Food Safety Initiative staff and also on the Internet at http://www.fda.gov/dms/prodguid.html.

Preventing Contamination from Ice Used

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

as a Coolant

Ice that has been in contact with unsanitized surfaces or raw animal foods may contain pathogens and other contaminants. For example, ice used to store or display fish or packaged foods could become contaminated with microbes present on the fish or packaging. If this ice is then used as a food ingredient, it could contaminate the final product.

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

Packages that are not watertight may allow entry of water that has been exposed to unsanitary exterior surfaces of packaging, causing the food to be contaminated. This may also result in the addition of water to the food that is unclaimed in the food's formulation and label.

Unpackaged foods such as fresh fish are often stored and/or displayed on ice. A potential for increasing the microbial load of a food exists because, as the ice melts, pathogens from one food may be carried by water to other foods. The potential for contamination is reduced by continuous draining of melting ice.

Preventing Contamination From Equipment, Utensils, and Linens

3-304.11 Food Contact with Equipment and Utensils.*

Pathogens can be transferred to food from utensils that have been stored on surfaces which have not been cleaned and sanitized. They may also be

passed on by consumers or employees directly, or indirectly from used tableware or food containers.

Some pathogenic microorganisms survive outside the body for considerable periods of time. Food that comes into contact directly or indirectly with surfaces that are not clean and sanitized is liable to such contamination. The handles of utensils, even if manipulated with gloved hands, are particularly susceptible to contamination.

Probe-type price or identification tags are defined as a utensil. This means that if such tags are for multiuse, they must meet the criteria listed in Parts 4-1 Materials for Construction and Repair, and 4-2 Design and Construction. Probe-type price or product identification tags can cause microbial, chemical, or physical contamination if not properly designed, constructed, and maintained. The Food Code defines gloves as a "utensil" and therefore gloves must meet the applicable requirements related to utensil construction, cleaning, and storage.

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

Refer to the public health reason for § 3-304.11.

Once a food employee begins to use a utensil such as a ladle, spatula, or knife, that has been previously cleaned and sanitized, it is then considered an in-use utensil. In-use utensils, used on a continuous or intermittent basis during preparation or dispensing, must be cleaned and sanitized on a schedule that precludes the growth of pathogens that may have been introduced onto utensil surfaces. In-use utensils may be safely stored in hot

water maintained at 135°F or above during intermittent use because microbial growth is controlled at such temperatures.

A food utensil should be designed and used to prevent bare hand contact with ready-to-eat food or to minimize contact with food that is not in a ready-to-eat form. On-site evaluations can be made to determine if a utensil is improperly designed for the task or whether a food employee is misusing an appropriately designed utensil.

3-304.13 Linens and Napkins, Use Limitation.

Because of their absorbency, linens and napkins used as liners that contact food must be replaced whenever the container is refilled. Failure to replace such liners could cause the linens or napkins to become fomites.

3-304.14 Wiping Cloths, Use Limitation.

Soiled wiping cloths, especially when moist, can become breeding grounds for pathogens that could be transferred to food. Any wiping cloths that are not dry (except those used once and then laundered) must be stored in a sanitizer solution at all times, with the proper sanitizer concentration in the solution. Wiping cloths soiled with organic material can overcome the effectiveness of, and neutralize, the sanitizer. The sanitizing solution must be changed as needed to minimize the accumulation of organic material and sustain proper concentration. Proper sanitizer concentration should be ensured by checking the solution periodically with an appropriate chemical test kit.

3-304.15 Gloves, Use Limitation.

Refer to the public health reason for § 3-304.11.

Gloves used in touching ready-to-eat food are defined as a "utensil" and must meet the applicable requirements related to utensil construction, good repair, cleaning, and storage.

Multiuse gloves, especially when used repeatedly and soiled, can become breeding grounds for pathogens that could be transferred to food. Soiled gloves can directly contaminate food if stored with ready-to-eat food or may indirectly contaminate food if stored with articles that will be used in contact with food. Multiuse gloves must be washed, rinsed, and sanitized between activities that contaminate the gloves. Hands must be washed before donning gloves. Gloves must be discarded when soil or other contaminants enter the inside of the glove.

Slash-resistant gloves are not easily cleaned and sanitized. Their use with ready-to-eat foods could contaminate the food.

Natural Rubber Latex (NRL) Gloves

Natural rubber latex gloves have been reported to cause allergic reactions in some individuals who wear latex gloves during food preparation, and even in individuals eating food prepared by food employees wearing latex gloves (refer to Annex 2, 3-304.15 of the 2005 Model Food Code). This information should be taken into consideration when deciding whether single-use gloves made of latex will be used during food preparation.

Although many allergic reactions occur as a result of occupational exposure, CFSAN is actively reviewing its current policy on the use of disposable NRL gloves in food operations in light of the possible transmission of the latex protein via food. To

gain additional information regarding allergic reactions allegedly due to the ingestion of food contaminated by NRL in retail settings, CFSAN has been collecting reports of such reactions from consumers who have contacted the Agency. Several offices within CFSAN will continue to collaborate in reviewing incoming data. The results of these activities and other related efforts will be used to determine if policy changes regarding the use of latex in food operations, based on food safety considerations, are warranted.

The FDA, Office of Food Additive Safety, Division of Food Contact Notification, reviews gloves submitted for food-contact use in the food industry on the basis of the glove's formulation or components. FDA regulates NRL gloves used for medical purposes only.

FDA is aware of the following information related to occupational hazards (not food safety hazards) associated with the use of NRL gloves:

- The National Institute for Occupational Safety and Health (NIOSH) published a 1997 Alert titled "Preventing Allergic Reactions to Natural Rubber Latex in the Workplace" (NIOSH publication number 97-135) which is found at http://www.cdc.gov/niosh/latexalt.html.
- The American College of Allergy, Asthma and Immunology (ACAAI) and the American Academy of Allergy Asthma and Immunology (AAAAI) issued a joint statement discouraging the routine use of NRL gloves by food handlers. (1997) http://www.acaal.org/public/physicians/joint.htm.

  The AAAAI provides information on latex allergies on the web at http://www.aaaai.org/patients/resources/fastfacts/latex_allergy.stm.

The ACAAI provides information on latex allergies on the web at http://www.acaai.org/public/facts/latex.htm.

- An OSHA Technical Information Bulletin recommends reducing allergy potential by reducing unnecessary exposure to NRL. Stating "Food service workers ... do not need to use NRL gloves for food handling..." (1999) http://www.osha.gov/dts/tib/tib_data/tib19990412.html.

OSHA addresses gloves in the following Federal regulation, which can be found at:

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9788.

OSHA Regulations (Standards - 29 CFR)

Standard Number: 1910.138

Standard Title: Hand Protection.

SubPart Number: I

SubPart Title: Personal Protective Equipment

(a) General requirements. Employers shall select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Selection. Employers shall base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

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

Refer to the public health reason for § 3-304.11.

3-304.17 Refilling Returnables.

Refer to the public health reason for § 3-304.11.

Preventing Contamination from the Premises

3-305.11 Food Storage.

3-305.12 Food Storage, Prohibited Areas.

Pathogens can contaminate and/or grow in food that is not stored properly. Drips of condensate and drafts of unfiltered air can be sources of microbial contamination for stored food. Shoes carry contamination onto the floors of food preparation and storage areas. Even trace amounts of refuse or wastes in rooms used as toilets or for dressing, storing garbage or implements, or housing machinery can become sources of food contamination. Moist conditions in storage areas promote microbial growth.

3-305.13 Vended Potentially Hazardous Food (Time/Temperature Control for Safety Food), Original Container.

The possibility of product contamination increases whenever food is exposed. Changing the container(s) for machine vended potentially hazardous food (time/temperature control for safety food) allows microbes that may be present an opportunity to contaminate the food. Pathogens could be present on the hands of the individual packaging the food, the equipment used, or

the exterior of the original packaging. In addition, many potentially hazardous foods (time/temperature control for safety foods) are vended in a hermetically sealed state to ensure product safety. Once the original seal is broken, the food is vulnerable to contamination.

3-305.14 Food Preparation.

Food preparation activities may expose food to an environment that may lead to the food's contamination. Just as food must be protected during storage, it must also be protected during preparation. Sources of environmental contamination may include splash from cleaning operations, drips form overhead air conditioning vents, or air from an uncontrolled atmosphere such as may be encountered when preparing food in a building that is not constructed according to Food Code requirements.

Preventing **3-306.11 Food Display.**

Contamination

by Consumers

During display, food can be contaminated even when there is no direct hand contact. Many microbes can be conveyed considerable distances on air currents through fine sprays or aerosols. These may originate from people breathing or sneezing, water sprays directed at drains, or condensate from air conditioners. Even wind gusts across sewage deposits and fertilized fields have been known to contaminate food in adjacent establishments where food was unprotected.

3-306.12 Condiments, Protection.

Unpackaged condiments are exposed to contamination by consumers who could be suffering from a disease transmissible through food. Once the condiments are contaminated, subsequent consumers using the condiments may be exposed to pathogens. Condiments in individual packages are protected from consumer contamination.

On- or off-site facilities for refilling condiment dispensers must be adequately equipped to ensure that the filling operation does not introduce contaminants.

3-306.13 Consumer Self-Service Operations.*

Raw foods of animal origin usually contain pathogens. In addition, these foods, if offered for consumer self-service, could cross contaminate other foods stored in the same display. Because raw foods of animal origin are assumed to be contaminated and do provide an ideal medium for the growth of pathogenic organisms, they should not be available for consumer self-service. Self-service operations of ready-to-eat foods also provide an opportunity for contamination by consumers. The risk of contamination can be reduced by supplying clean utensils and dispensers and by employee monitoring of these operations to ensure that the utensils and dispensers are properly used. Bean sprouts that are displayed in produce areas for consumer self-service are potentially hazardous foods (time/temperature control for safety foods) and appropriate refrigeration must be maintained. However, they are not considered ready-to-eat since they are intended to be washed by the consumer before consumption.

3-306.14 Returned Food and Re-Service or Sale.*

Food can serve as a means of person-to-person transmission of disease agents such as hepatitis A virus. Any unpackaged foods, even bakery goods in a bread basket that are not potentially hazardous (time/temperature control safety foods) and that have been served to a consumer, but not eaten, can become vehicles for transmitting pathogenic microorganisms from the initial consumer to the next if the food is served again.

Preventing Contamination from Other Sources

3-307.11 Miscellaneous Sources of Contamination.

This Code section provides a category in which to capture sources of contamination not specifically delineated in Subparts 3-301 through 306. Codes prior to 1993 had such a provision for addressing food contamination for reasons other than those elsewhere specified. Regardless of its specificity, a Code can not anticipate all the diverse means by which food can become contaminated after receipt.

Cooking

3-401.11 Raw Animal Foods.*

3-401.12 Microwave Cooking.*

3-401.13 Plant Food Cooking for Hot Holding.

Cooking, to be effective in eliminating pathogens, must be adjusted to a number of factors. These include the anticipated level of pathogenic bacteria in the raw product, the initial temperature of the food, and the food's bulk

which affects the time to achieve the needed internal product temperature. Other factors to be considered include post-cooking heat rise and the time the food must be held at a specified internal temperature.

Greater numbers and varieties of pathogens generally are found on poultry than on other raw animal foods. Therefore, a higher temperature, in combination with the appropriate time is needed to cook these products.

To kill microorganisms, food must be held at a sufficient temperature for the specified time. Cooking is a scheduled process in which each of a series of continuous time/temperature combinations can be equally effective. For example, in cooking a beef roast, the microbial lethality achieved at 112 minutes after it has reached 54.4°C (130°F) is the same lethality attained as if it were cooked for 4 minutes after it has reached 62.8°C (145°F). Cooked beef and roast beef, including sectioned and formed roasts, chunked and formed roasts, lamb roasts and cooked corned beef can be prepared using one of the time and temperature combinations listed in the chart in § 3-401.11 to meet a 6.5-$\log_{10}$ reduction of Salmonella. The stated temperature is the minimum that must be achieved and maintained in all parts of each piece of meat for a least the stated time. The source of the time and temperature parameters is from the USDA/FSIS Appendix A. Compliance Guidelines For Meeting Lethality Performance Standards For Certain Meat And Poultry Products found at http://www.fsis.usda.gov/oa/fr/95033F-a.htm.

Cooking requirements are based in part on the biology of pathogens. The thermal destruction of a microorganism is determined by its ability to survive

heat. Different species of microorganisms have different susceptibilities to heat. Also, the growing stage of a species (such as the vegetative cell of bacteria, the trophozoite of protozoa, or the larval form of worms) is less resistant than the same organism's survival form (the bacterial spore, protozoan cyst, or worm egg).

Food characteristics also affect the lethality of cooking temperatures. Heat penetrates into different foods at different rates. High fat content in food reduces the effective lethality of heat. High humidity within the cooking vessel and the moisture content of food aid thermal destruction.

Heating a large roast too quickly with a high oven temperature may char or dry the outside, creating a layer of insulation that shields the inside from efficient heat penetration. To kill all pathogens in food, cooking must bring *all* parts of the food up to the required temperatures for the correct length of time.

The temperature and time combination criteria specified in Part 3-4 of this Code are based on the destruction of *Salmonellae*. This organism, if present in raw shell eggs, is generally found in relatively low numbers. Other foods, uncomminuted fish and meats including commercially raised game animal meat, specified as acceptable for cooking at this temperature and time parameter are expected to have a low level of internal contamination. The parameters are expected to provide destruction of the surface contaminants on these foods. Part 3-4 includes temperature and time parameters that provide “D” values (decimal log reduction values) that may surpass 7D. For example, at 63^{o}C

(145°F), a time span of 15 seconds will provide a 3D reduction of ***Salmonella* Enteritidis** in eggs.

The requirements specified under ¶ 3-401.11(D) acknowledge the rights of an informed consumer to order and consume foods as preferred by that consumer based on the consumer's health status and understanding of the risks associated with eating raw or partially-cooked animal foods.

In consumer self-service operations, such as buffets, salad bars, sushi bars, or display cases, the consumer advisory as specified under section 3-603.11 must be posted or available at the self-service unit where the raw or partially cooked food is held for service and readily accessible to consumers prior to making their food selections. In a catered situation, such as a wedding reception, guests are responsible for making their own requests or selections.

Slow-cooked roasts - Heating Deviations and Slow Come Up Time

(Source: USDA/FSIS Appendix A Compliance Guidelines For Meeting Lethality Performance Standards For Certain Meat And Poultry Products found at **http://www.fsis.usda.gov/oa/fr/95033F-a.htm**

Heating deviations, which most often involve slow come-up time or an inordinate dwell time within the optimum temperature range for microorganism growth can foster the multiplication of many pathogens. This multiplication sometimes can be so prodigious that even recooking may be ineffective in rendering the product safe. Also, certain toxigenic bacteria can release toxins into the product. Some of these toxins, such as those of ***Staphylococcus aureus***, are extremely heat stable and are not inactivated

by normal recooking temperatures.

Further, the sampling of product following a heating deviation may not yield sufficient information to determine the safety of the product in question. Heating deviations can favor the multiplication of many types of bacteria. It would be difficult and expensive to sample for all of them. Depending on the circumstances, establishments may want to use computer modeling to estimate the relative multiplication of bacteria. For example, in a past incident involving an extreme heating deviation, product was put in an oven in which the temperature was inadvertently set to 95°F for about 12 hours. Computer modeling was easily applied in this case because much of the dwell time was at one temperature. The USDA/FSIS determined that within a 6-hour time frame (with other growth conditions assumed to be favorable), the relative multiplication of many pathogens of concern could have exceeded 5-logs. Clearly the product could not be salvaged by reprocessing and was therefore destroyed. Under changing conditions of temperature, however, computer modeling becomes more difficult. One approach is to average lag/log times over small increments such as 5° and add these times to get an approximation of possible total relative growth over a larger increment of time. Establishments must keep in mind that the population of bacteria before processing is generally unknown and that assumptions in the high range often are used as input parameters in the modeling.

Seared Steak

The provision for allowing seared steaks was reviewed by the National Advisory Committee for Microbiological Criteria for Foods (NACMCF) and USDA. Paragraph 3-401.11(C) includes their recommendations.

USDA comments included, "For the purposes of this discussion, steak is a whole beef muscle. It does not include whole beef muscle that has been pinned, injected, or chopped and formed. It may be cut cross grain, such as sirloin, chuck, or porterhouse; or it may be cut with the grain, such as flank, skirt, or Chateaubriand. Other species, such as poultry, pork, and lamb are not included."

NACMCF comments included, "Due to the low probability of pathogenic organisms being present in or migrating from the external surface to the interior of beef muscle, cuts of intact muscle (steaks) should be safe if the external surfaces are exposed to temperatures sufficient to effect a cooked color change. In addition, the cut (exposed) surfaces must receive additional heat to effect a complete sear across the cut surfaces. Grill or char marks may be applied to the complete surface searing. The meat should be seared on both top and bottom surfaces utilizing a heating environment (e.g., grill or broiling oven) that imparts a temperature at the surface of the intact steak of at least 145^{o}F to achieve a cooked color change on all external surfaces. The searing of all surfaces should be continuous until the desired degree of doneness and appearance are attained. This is considered a ready-to-eat food."

As reflected in the definition of "whole-muscle, intact beef steak," marination is a food safety concern when the fascia (exterior surface) of the steak is

broken by scoring or other means which allows the marinade to penetrate, and potentially contaminate, the interior of the steak. In such cases, the Code allowance for undercooking without a consumer advisory is negated.

Pork

In pork, ***Trichinella spiralis***, ***Toxoplasma gondii***, and ***Taenia solium,*** parasites causing foodborne illness, are inactivated at temperatures below 145°F. Therefore, pork roasts can be cooked like beef roasts (e.g., 145°F for 3 minutes) and pork chops cooked like steaks to achieve an internal temperature of 145°F for 15 seconds.

Based on the Goodfellow and Brown study, a 5D reduction of organisms is achieved at 68°C (155°F) for 15 seconds for the following foods: ratites and injected meats and comminuted: fish, meat, game animals commercially raised for food, and game animals that come under a USDA voluntary inspection program. Ratites such as ostrich, emu, and rhea are included in this list of raw animals foods because when cooked to a temperature greater than 68°C (155°F), ratites exhibit a (metallic) "off" taste.

When USDA established the time and temperature parameters for 9 CFR 318.23 Heat-Processing and Stabilization Requirements for Uncured Meat Patties (known as the "patty rule"), the Agency based the 5D for Salmonella on extrapolations applied to the research done by Goodfellow and Brown to account for the lack of a "come up, come down" time in the thin, small mass beef patties. Consequently, there is no linear relationship between the patty rule and roast beef time and temperature parameters. The patty rule also

provided for an 8D reduction in the number of Shiga toxin-producing ***Escherichia coli***. The time and temperature requirements in the Food Code for comminuted meats are comparable to the USDA requirements.

Temperature for Comminuted Meat at Less Than 1 Second

In the "Report of the Task Force on Technical Issues Arising from the National Advisory Committee for Microbiological Criteria for Foods (NACMCF) Review of the Meat Patty Proposal" (undated), it is stated on page 7, in Option (A), that:

> "Based on the 1998 research data ... and an assumption that instantaneous is defined as eight seconds, manufacturers would be required to process fully-cooked meat patties at a temperature of 157°F. Given the lack of any significant margin of safety in this process, there should be no deviation below the 158°F requirement."

In November, 1997, the NACMCF Meat and Poultry Subcommittee revisited the time and temperatures for cooking hamburger and advised FDA that cooking hamburger to 158°F for less than one second is an adequate cook based on the following:

1. The cooking recommendations contained in the Food Code and in USDA guidance provide a large margin of safety for killing vegetative enteric pathogens;
2. The concept of integrated lethality (the kill imparted during the entire heating and cooling process) adds to the margin of safety; and

3. The time component of the time and temperature requirement will be exceeded before the temperature can be determined.

The parameters for cooking poultry, wild game animal meats, stuffed food products, etc., of 74°C (165°F) or above for 15 seconds yield greater than a 7D reduction.

3-401.12 Microwave Cooking.*

The rapid increase in food temperature resulting from microwave heating does not provide the same cumulative time and temperature relationship necessary for the destruction of microorganisms as do conventional cooking methods. In order to achieve comparable lethality, the food must attain a temperature of 74°C (165°F) in all parts of the food. Since cold spots may exist in food cooking in a microwave oven, it is critical to measure the food temperature at multiple sites when the food is removed from the oven and then allow the food to stand covered for two minutes post microwave heating to allow thermal equalization and exposure. Although some microwave ovens are designed and engineered to deliver energy more evenly to the food than others, the important factor is to measure and ensure that the final temperature reaches 74°C (165°F) throughout the food.

"The factors that influence microwave thermal processes include many of the same factors that are important in conventional processes (mass of objects, shape of objects, specific heat and thermal conductivity, etc.). However, other factors are unique in affecting microwave heating, due to the nature of the

electric field involved in causing molecular friction. These factors are exemplified by moisture and salt contents of foods, which play a far more important role in microwave than conventional heating." (Reference: Heddelson and Doores, see 2005 Model Food Code Annex 2)

3-401.13 Plant Food Cooking for Hot Holding.

Fruits and vegetables that are fresh, frozen, or canned and that are heated for hot holding need only to be cooked to the temperature required for hot holding. These foods do not require the same level of microorganism destruction as do raw animal foods since these fruits and vegetables are ready-to-eat at any temperature. Cooking to the hot holding temperature of 57°C (135°F) prevents the growth of pathogenic bacteria that may be present in or on these foods. In fact, the level of bacteria will be reduced over time at the specified hot holding temperature.

Freezing 3-402.11 Parasite Destruction.*

Refer to the public health reason for § 3-201.11.

Lightly cooked, raw, raw-marinated, and cold-smoked fish may be desired by consumers for taste or perceived nutritional reasons. In order to ensure destruction of parasites, fish may be frozen before service as an alternative public health control to that which is provided by adequate cooking. Candling or other visual inspection techniques are not adequate to avoid the risk of parasites from fish which have not been frozen.

The recommended control strategies refer to the ambient air temperature during freezing and to the length of time that the fish is held at the appropriate freezer temperature, or the length of time that the fish is held after it is solid frozen, whichever is appropriate. The parasite hazard is not considered to be reasonably likely to occur if the finished product is fish eggs that have been removed from the skein (the tissue that contains the egg mass) and rinsed.

In response to information provided to the FDA Office of Seafood, the Fish and Fisheries Products Hazards and Controls Guidance lists certain species of tuna as not being susceptible to parasites of concern and therefore exempted from the freezing requirements that apply to other fish species that are consumed raw.

The Fish and Fisheries Products Hazards and Controls Guidance states that species that normally have parasites as a result of consuming infected prey, apparently do not have the same parasite hazard when raised on pelleted food in an aquaculture operation. On the other hand, aquacultured fish that are fed processing waste and by-catch fish may have a parasite hazard, even when wild caught fish of that species do not normally have a parasite hazard. Feed must not contain any live parasites. For example, the use of fresh fish meat in feed could transmit such parasites. Only heat treated feed or feed otherwise produced in a manner that would kill parasite intermediate stages infective to the aquacultured fish, such as most pelleted feeds, should be used.

3-402.12 Records, Creation and Retention.

Records must be maintained to verify that the critical limits required for food safety are being met. Records provide a check for both the operator and the regulator in determining that monitoring and corrective actions have taken place.

While the Country of Origin Labeling requirements, http://www.ams.usda.gov/COOL/ effective Sept. 30, 2004, mandate identification of wild and farm-raised fish and shellfish, the requirements do not address contents of pelleted feed used in the aquaculture operation. Documentation must be available in the food establishment from the source-through-purchase specifications or labeling that pelleted feed used did not contain fresh fish or plankton. Follow the guidance provided in The Fish and Fisheries Products Hazards and Controls Guidance Table #3-1 - Potential Vertebrate Species Related Hazards and Table #3-2 - Potential Invertebrate Species Related Hazards.

Reheating **3-403.11 Reheating for Hot Holding.***

When food is held, cooled, and reheated in a food establishment, there is an increased risk from contamination caused by personnel, equipment, procedures, or other factors. If food is held at improper temperatures for enough time, pathogens have the opportunity to multiply to dangerous numbers. Proper reheating provides a major degree of assurance that pathogens will be eliminated. It is especially effective in reducing the numbers of ***Clostridium perfringens*** that may grow in meat, poultry, or gravy if these products were improperly cooled. Vegetative cells of ***C. perfringens*** can cause foodborne illness when they grow to high numbers. Highly resistant ***C. perfringens*** spores will survive cooking and

hot holding. If food is abused by being held at improper holding temperatures or improperly cooled, spores can germinate to become rapidly multiplying vegetative cells.

Although proper reheating will kill most organisms of concern, some toxins such as that produced by ***Staphylococcus aureus***, cannot be inactivated through reheating of the food. It is imperative that food contamination be minimized to avoid this risk.

The potential for growth of pathogenic bacteria is greater in reheated cooked foods than in raw foods. This is because spoilage bacteria, which inhibit the growth of pathogens by competition on raw product, are killed during cooking. Subsequent recontamination will allow pathogens to grow without competition if temperature abuse occurs.

Refer also to the public health reason for § 3-401.12.

3-404.11 Treating Juice.

Refer to the public health reason for § 3-801.11.

Temperature and **3-501.11 Frozen Food.**

Time Control **3-501.12 Potentially Hazardous Food (Time/Temperature Control for Safety Food), Slacking.**

3-501.13 Thawing.

Freezing prevents microbial growth in foods, but usually does not destroy all microorganisms. Improper thawing provides an opportunity for surviving bacteria to grow to harmful numbers and/or produce toxins. If the food is then refrozen, significant numbers of bacteria and/or all preformed toxins are preserved.

3-501.14 Cooling.*

Safe cooling requires removing heat from food quickly enough to prevent microbial growth. Excessive time for cooling of potentially hazardous foods (time/temperature control for safety foods) has been consistently identified as one of the leading contributing factors to foodborne illness. During slow cooling, potentially hazardous foods (time/temperature control for safety foods) are subject to the growth of a variety of pathogenic microorganisms. A longer time near ideal bacterial incubation temperatures, 21°C - 52°C (70°F - 125°F), is to be avoided. If the food is not cooled in accordance with this Code requirement, pathogens may grow to sufficient numbers to cause foodborne illness.

The Food Code provision for cooling provides for cooling from 135ºF to 41°F or 45°F in 6 hours, with cooling from 135ºF to 70°F in 2 hours. The 6-hour cooling parameter, with an initial 2-hour rapid cool, allows for greater flexibility in

meeting the Code. The initial 2-hour cool is a critical element of this cooling process. An example of proper cooling might involve cooling from 135ºF to 70ºF in 1 hour, in which case 5 hours remain for cooling from 70ºF to 41ºF or 45ºF. Conversely, if cooling from 135ºF to 41°F or 45°F is achieved in 6 hours, but the initial cooling to 70ºF took 3 hours, the food safety hazards may not be adequately controlled.

If the cooking step prior to cooling is adequate and no recontamination occurs, all but the spore-forming organisms such as ***Clostridium perfringens*** or ***Bacillus cereus*** should be killed or inactivated. However, under substandard sanitary conditions, other pathogens such as ***Salmonella*** or ***Listeria monocytogenes*** may be reintroduced. Thus, cooling requirements are based on growth characteristics of organisms that may survive or be a post-cook contaminate and grow rapidly under temperature abuse conditions.

Shell Eggs

FDA has approved the use of ionizing radiation for shell eggs. This approval means that FDA has <u>not</u> found the ionizing radiation process to be unsafe for shell eggs. However, shell eggs that have been subjected to the approved ionizing radiation process are not considered to have been pasteurized. Shell egg pasteurization requires the egg to have been subjected to a 5-log kill process for ***Salmonella*** **Enteritidis**, while the approved ionizing radiation process may deliver only 2 or 3 logs reduction. Therefore, eggs treated by ionizing radiation process alone must be held under refrigeration, as it cannot be guaranteed that ***Salmonella*** **Enteritidis** will be

eliminated in all treated eggs. Further, irradiated eggs must be labeled in accordance with 21 CFR 179.26 Ionizing radiation for the treatment of food. Hard-boiled eggs with shell intact may be cooled in ambient air and are not considered to be a potentially hazardous food (time/temperature control for safety food) after cooling. Hard-boiled eggs may be cooled in drinking water but are considered to be a potentially hazardous food (time/temperature control for safety food) after cooling because pathogens, which may be present in the water, may pass through the egg shell during cooling.

***Salmonella* Enteritidis** has been shown to have an extended lag phase in shell eggs due to inhibitory characteristics of the albumen. Research indicates that the organisms are physically located near the exterior of the yolk membrane, in contact with the bacteriostatic components. Growth does not appear until the yolk membrane is weakened by age or physically breached and the yolk nutrients, such as iron, become available to the organisms.

Federal regulations effective August 27, 1999, require shell eggs to be transported and distributed under refrigeration at an ambient temperature not to exceed 45°F. Packed shell eggs must be labeled indicating that refrigeration is required. Imported shell eggs packed for consumer use are required to include a certification that the eggs, at all times after packing, have been stored and transported at an ambient temperature of no greater than 45°F.

On December 5, 2000, federal regulations were amended to require that shell egg cartons bear safe handling instructions and be placed under refrigeration

at 45° F or lower upon delivery at retail establishments (65 FR 76091, December 5, 2000, Food Labeling, Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution). The amended provisions include:

- 21 CFR Part 16 Regulatory Hearing before the Food and Drug Administration, § 16.5. Inapplicability and limited applicability, (4) A hearing on an order for re-labeling, diversion or destruction of shell eggs…
- 21 CFR Part 101 Food Labeling § 101.17. Food labeling warning, notice, and safe handling statements, (h) *Shell eggs*.
- 21 CFR Part 115 Shell Eggs, § 115.50 Refrigeration of shell eggs held for retail distribution.

Shell eggs must be placed immediately after receipt in refrigerated equipment that is capable of maintaining an ambient air temperature of 45°F. With the newly established Federal requirement for eggs to be in an ambient storage and transportation temperature of 45°F, and with refrigeration of eggs at retail as described above, the overall time that eggs are stored at temperatures that allow the growth of ***Salmonella*** spp. should be shortened. Additionally, this requirement negates the need to "cool" shell eggs upon receipt, although food establishment operators should maximize the circulation of cooled air in refrigeration units by separating flats, cases, and multiple cartons of eggs.

CFSAN/FSIS Joint Position Paper on Cooling

The processing of most ready-to-eat products includes a heat treatment or

cooking step to eliminate pathogenic and spoilage microorganisms. However, this heat treatment does not eliminate spores of ***Clostridium botulinum*** and ***Clostridium perfringens*** and other spore-forming bacteria. Furthermore, these organisms can thrive in the warm product since other competing organisms have been eliminated. Non-refrigerated, anaerobic conditions are conducive to their growth and multiplication.

To prevent the growth and multiplication of spore-forming organisms, product should be cooled rapidly after cooking. When there is inadequate cooling, spores can germinate and the resulting vegetative cells can multiply to hazardous levels. The presence of sufficient numbers of ***C. botulinum*** or other spore-forming organisms may lead to production of harmful toxins. Therefore, ensuring no growth of these organisms will provide the greatest amount of safety. The USDA/FSIS Performance Standards for the Production of Certain Meat and Poultry Products require a stabilization step (cooling) after the lethality step. The stabilization requirements allow for no growth of ***C. botulinum*** and no more than 1 log growth of ***C. perfringens***. The performance standard of no more than 1 log growth of ***C. perfringens*** was based on the following reasons:

1. The Centers for Disease Control and Prevention (CDC) suggested viable counts of 10^5 or greater of ***C. perfringens*** per gram as one of the criteria for incriminating ***C. perfringens*** as a causative agent of foodborne illness in finished product. However, foods responsible for ***C. perfringens*** outbreaks were found usually to contain 10^6 vegetative ***C. perfringens*** cells per gram.

In FSIS microbiological raw product surveys, samples were found to contain more than 1000 ***C. perfringens*** per gram. There is some probability that greater than 10^4 ***C. perfringens*** per gram can occur in the raw product on rare occasions. It is a conservative assumption that the great majority of ***C. perfringens*** in the raw product are spores.

2. Heating activates spores that, during cooling, become vegetative cells that can multiply to hazardous levels. If there are more than 10^4 ***C. perfringens*** (spores) per gram on raw product, it is possible that there may be more than 10^4 vegetative ***C. perfringens*** per gram in the product if it is improperly cooled after cooking.
3. Based on the CDC recommended upper limit of 10^5 which should not be exceeded, it was determined that a limit of no more than 1 $\log_{10}$ growth of ***C. perfringens*** would be appropriate to ensure that there would be no more than 10^5 ***C. perfringens*** per gram on the finished product after cooling.
4. The performance standard was discussed with experts on clostridia research. The experts agreed that limiting the relative growth of ***C. perfringens*** to no more than 1 $\log_{10}$ would be reasonable and somewhat conservative with respect to product safety. (64 FR 732, January 6, 1999, Performance Standards for the Production of Certain Meat and Meat Products).

The FSIS compliance guideline for the cooling performance standards, which can be found at http://www.fsis.usda.gov/oa/fr/95033F-b.htm Compliance

Guidelines for Cooling Heat-Treated Meat and Poultry Products (Stabilization), is that product must be cooled from 130ºF to 80°F in 1.5 hours and from 80ºF to 40°F in 5 hours. This cooling rate can be applied universally to cooked products like partially cooked or fully cooked, intact or non-intact meat and poultry products. The guideline results in continuous and rapid cooling of the product in the temperature range where the spore-forming organisms can grow rapidly.

The former USDA guideline of cooling from 120ºF to 55°F in no more than 6 hours is also included in the new compliance guidelines. In using this guideline, chilling should begin within 90 minutes after the cooking cycle is completed, and cooling should continue until product reaches 40°F. The 6-hour rule begins when the product reaches 120ºF, and product should not be shipped until the product reaches 40°F. This older cooling guideline results in a significantly smaller margin of safety, especially if the product is non-intact. In using this older guideline, the establishment has to ensure that cooling is as rapid as possible, especially between 120ºF and 80°F, and should monitor the cooling closely to prevent any deviation. If product remains between these temperatures for more than an hour, compliance with the performance standard is less certain.

The FSIS cooling guideline **for meat and poultry products containing 100 ppm added nitrite** is 130ºF to 80°F in 5 hours and from 80ºF to 45°F in 10 hours, a total of 15 hours cooling time. This cooling process provides a narrow margin of safety. In case of cooling deviations, the establishment should

assume that their process has exceeded the performance standard for controlling the growth of ***C. perfringens***, and should take corrective action. However, the **presence of nitrite** should ensure compliance with the performance standard for ***C. botulinum***.

The Food Code provision for cooling is similar, though not identical to the FSIS cooling compliance guidelines. It provides for cooling from 135ºF to 70°F in 2 hours and from 135ºF to 41°F or 45°F in 6 hours and is based on the same food safety concerns as FSIS' guidance. The Food Code provides prescriptive cooling time/temperature combinations without a HACCP plan in place. Federally inspected meat and poultry establishments are required to implement a HACCP plan for their operations.

The Conference for Food Protection (CFP) at its 2000 meeting recommended that FSIS and FDA ask the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) to review the data on safe cooling times for cooked, potentially hazardous foods (time/temperature control for safety foods). The review would include data from a study, submitted to the CFP, showing that cooling of a meat product from 130ºF to 45°F can safely take place in 15 hours based on a study by V.K. Juneja, et al., 1994. According to the authors of the study, continuous cooling of a meat product from 130ºF to 45°F in 15 hours permitted about 1 log growth of ***C. perfringens***.

In response to the CFP recommendation, the FSIS Administrator and CFSAN agreed that the data referenced in the CFP recommendation do not support a change in the FSIS guidance or the Food Code § 3-501.14 and considered

it inadvisable to ask the NACMCF to undertake the task requested for several reasons:

1. The study did not address growth of ***C. botulinum.***
2. The results are from a carefully controlled laboratory study in which cooling of the product was steady and continuous, conditions difficult to maintain in most commercial processing or retail environments even with data loggers and other control mechanisms in place.
3. The study was done only on ground beef and may not be applicable to other meat and poultry or to other potentially hazardous foods (time/temperature control for safety foods).

As an alternative response, CFSAN and FSIS advised CFP that they would provide this written position paper to clarify their joint position on the cooling issues.

3-501.15 Cooling Methods.

Large food items, such as roasts, turkeys, and large containers of rice or refried beans, take longer to cool because of the mass and volume from which heat must be removed. By reducing the volume of the food in an individual container, the rate of cooling is dramatically increased and opportunity for pathogen growth is minimized. If the hot food container is tightly covered, the rate of heat transfer is reduced, i.e., the time required for cooling and the time the food is exposed to optimal temperatures for bacterial multiplication or toxin production are increased.

Alternatives to conventional methods include avoiding the need to cool

larger masses by preparing smaller batches closer to periods of service or chilling while stirring hot food in containers within an ice water bath. Commercial refrigeration equipment is designed to hold cold food temperatures, not cool large masses of food. Rapid chilling equipment is designed to cool the food to acceptable temperatures quickly by using very low temperatures and high rates of air circulation.

3-501.16 Potentially Hazardous Food (Time/Temperature Control for Safety Food), Hot and Cold Holding.*

Bacterial growth and/or toxin production can occur if potentially hazardous food (time/temperature control for safety food) remains in the temperature "Danger Zone" of 5°C to 57°C (41°F to 135°F) too long. Up to a point, the rate of growth increases with an increase in temperature within this zone. Beyond the upper limit of the optimal temperature range for a particular organism, the rate of growth decreases. Operations requiring heating or cooling of food should be performed as rapidly as possible to avoid the possibility of bacterial growth.

Cold Holding

Except for raw shell eggs, control of the growth of ***Listeria monocytogenes*** (*Lm*) is the basis for the list of cold holding temperature and time combinations in paragraph 3-501.17(A). The list addresses time, in addition to temperature, as a control for the growth of *Lm* in refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food). The Code provisions for cold holding focus on environmental conditions that allow

1 1 log of growth of *Lm*, and do not set an acceptable number of *Lm* in
2 food. Neither do they imply that *Lm* is in the product.
3 The times and temperatures in the 1999 Food Code were based on the
4 USDA Pathogen Modeling Program (PMP), which is conservative in
5 estimating how soon *Lm* begins to grow and how fast. The PMP was
6 based largely on observations of microbial growth in broth cultures, but
7 some observations in specific foods were also included. The PMP allows for
8 some variation in temperature, pH, and water activity, and gives a
9 conservative estimate of safe times and temperatures for holding foods. The
10 1999 Food Code estimated safe times and temperatures that would allow 3
11 logs of growth, based on the PMP.
12 During 2000, CFSAN researched published literature and compiled a listing
13 of the growth potential of *Lm* in various food commodities using real food
14 data. Based on this information, the 1999 Food Code times and
15 temperatures of 41ºF for 7 days and 45ºF for 4 days were validated, but the
16 underlying performance standard changed for the commodities studied. The
17 research-based, food-specific times and temperatures allow no more than 1
18 log of growth instead of the 3 log growth predicted in the PMP. This more
19 stringent performance standard of 1 log is consistent with the USDA/FSIS
20 performance standard and the fact that the infectious dose of *Lm* remains
21 unknown.
22 FDA concluded that the 1999 Code time/temperature criteria hold true and
23 provide both a greater level of safety and a more realistic basis for regulatory

requirements without compromising public health protection.

In October 2003, FDA, in cooperation with the USDA/FSIS and CDC, released the Quantitative Assessment of the Relative Risk to Public Health from Foodborne *Listeria monocytogenes* Among Selected Categories of Ready-to-Eat Foods (risk assessment). This initiative included the development of 23 separate risk assessments and analysis of the relative risks of serious illness and death associated with consumption of 23 categories of ready-to-eat foods. These categories included: seafood, produce, meats, dairy products, and deli salads.

The risk assessment identified several broad factors that affect consumer exposure to *Lm* at the time of food consumption. Two of these factors, refrigerated storage temperature and duration of refrigerated storage before consumption, have a direct bearing on cold holding time/temperature combinations used in food establishments.

FDA continues to have concerns about the potential for growth of *Lm* in refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food), prepared and packaged in a food processing plant and held in a food establishment. Data from the risk assessment (see the following Annex 3 3-501.16 Table 1) show a significant reduction in the projected cases of listeriosis when refrigerated storage is limited to 41ºF. Based on these data and conclusions from the risk assessment, FDA continues to recommend that food establishments limit the cold storage of potentially hazardous

(time/temperature control for safety), ready-to-eat foods to a maximum temperature of 41ºF.

3-501.16 – Table 1. Estimated Reduction of Cases of Listeriosis from Limits on Refrigeration Temperatures*

Maximum Refrigerator Temperature	Cases of Listeriosis[a]		
	Median	**5th Percentile**	**95th Percentile**
Baseline[b]	2105	3/4[c]	3/4[c]
7 ˚C (45 ˚F) maximum	656	331	761
5 ˚C (41 ˚F) maximum	28	1	126

[a]Values for the median, upper and lower uncertainty levels.
[b]The baseline uses the full empirical distribution of refrigerator temperatures from the Audits International (1999) survey.
[c]The baseline number of cases of listeriosis is fixed based on CDC surveillance data.
*The scenario assumed the distribution of storage times is the same for all three temperature sets.
Source: Quantitative Assessment of the Relative Risk to Public Health from Foodborne *Listeria monocytogenes* Among Selected Categories of Ready-to-Eat Foods September 2003. Table VI-1. Estimated Reduction of Cases of Listeriosis from Limits on Refrigeration Temperatures.

Regarding shell eggs, USDA published a final rule (63 FR 45663, August 27, 1998 Refrigeration and Labeling Requirements for Shell Eggs) to require that shell eggs packed for consumer use be stored and transported at an ambient temperature not to exceed 7ºC (45ºF). This regulation, however, does not apply to eggs while held at all retail establishments. FDA is concerned that without continued refrigeration up until the time that the eggs are cooked, there would be an opportunity for the egg's defenses to degrade and growth of ***Salmonella* Enteritidis** to occur. The agency reviewed research indicating that ***Salmonella Enteritidis*** multiplies at temperatures of 10ºC (50ºF) and above but can be inhibited at lower temperatures, e.g., 8ºC (46ºF), 7ºC (45ºF), and 4ºC (39ºF).

Based on this research and USDA's temperature requirement during transport, FDA implemented regulations that establish a maximum ambient air temperature of 7ºC (45ºF) for eggs stored and displayed at retail establishments. Amended Federal regulations 21 CFR Part 115.50 issued on December 5, 2000 and became effective on June 4, 2001.

Although Congress did not expressly preempt State law in this area, FDA found preemption is needed because State and local laws that are less stringent than the Federal requirements will not support the important public health goals of these regulations. FDA does not believe that preemption of State and local refrigeration and labeling requirements that are the same as or more stringent than the requirements of these regulations is necessary, as enforcement of such State and local requirements will support the food safety goals of these regulations. Accordingly, the preemptive effect of this rule is limited to State or local requirements that are not as stringent as the requirements of these regulations; requirements that are the same as or more stringent than FDA's requirements remain in effect.

Hot Holding

In a January 2001 report, the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) recommended that the minimum hot holding temperature specified in the Food Code:

- Be greater than the upper limit of the range of temperatures at which ***Clostridium perfringens*** and ***Bacillus cereus*** may grow; and

- Provide a margin of safety that accounts for variations in food matrices, variations in temperature throughout a food product, and the capability of hot holding equipment to consistently maintain product at a desired target temperature.

C. perfringens has been reported to grow at temperatures up to 52°C (126°F). Growth at this upper limit requires anaerobic conditions and follows a lag phase of at least several hours. The literature shows that lag phase duration and generation times are shorter at incubation temperatures below 49°C (120°F) than at 52°C (125°F). Studies also suggest that temperatures that preclude the growth of ***C. perfringens*** also preclude the growth of ***B. cereus***. CDC estimates that approximately 250,000 foodborne illness cases can be attributed to ***C. perfringens*** and ***B. cereus*** each year in the United States. These spore-forming pathogens have been implicated in foodborne illness outbreaks associated with foods held at improper temperatures. This suggests that preventing the growth of these organisms in food by maintaining adequate hot holding temperatures is an important public health intervention. Taking into consideration the recommendations of NACMCF and the 2002 Conference for Food Protection meeting, FDA believes that maintaining food at a temperature of 57°C (135°F) or greater during hot holding is sufficient to prevent the growth of pathogens and is therefore an effective measure in the prevention of foodborne illness.

3-501.17 Ready-to-Eat, Potentially Hazardous Food (Time/Temperature Control for Safety Food),

Date Marking.*

3-501.18 Ready-to-Eat, Potentially Hazardous Food (Time/Temperature Control for Safety Food), Disposition.*

Refer to Annex 7, Chart 4-C.

Refrigeration prevents food from becoming a hazard by significantly slowing the growth of most microbes. The growth of some bacteria, such as ***Listeria monocytogenes***, is significantly slowed but not stopped by refrigeration. Over a period of time, this and similar organisms may increase their risk to public health in ready-to-eat foods.

The date by which the food must be consumed takes into consideration the differences in growth of ***Listeria monocytogenes*** at 5°C (41°F) and 7°C (45°F). Based on a predictive growth curve modeling program for ***Listeria monocytogenes***, ready-to-eat, potentially hazardous food (time/temperature control for safety food) may be kept at 5°C (41°F) a total of 7 days or at 7°C (45°F) a total of 4 days. Therefore, the period of time allowed before consumption is shortened for food in refrigerators incapable of maintaining food at 5°C (41°F) but capable of maintaining it at 7°C (45°F) or below. Food which is prepared and held, or prepared, frozen, and thawed must be controlled by date marking to ensure its safety based on the total amount of time it was held at refrigeration temperature, and the opportunity for ***Listeria monocytogenes*** to multiply, before freezing and after thawing. Potentially hazardous (time/temperature

control for safety) refrigerated foods must be consumed, sold or discarded by the expiration date.

Date marking is the mechanism by which the Food Code requires active managerial control of the temperature and time combinations for cold holding. Industry must implement a system of identifying the date or day by which the food must be consumed, sold, or discarded. Date marking requirements apply to containers of processed food that have been opened and to food prepared by a food establishment, in both cases if held for more than 24 hours, and while the food is under the control of the food establishment. This provision applies to both bulk and display containers. It is not the intent of the Food Code to require date marking on the labels of consumer size packages.

A date marking system may be used which places information on the food, such as on an overwrap or on the food container, which identifies the first day of preparation, or alternatively, may identify the last day that the food may be sold or consumed on the premises. A date marking system may use calendar dates, days of the week, color-coded marks, or other effective means, provided the system is disclosed to the Regulatory Authority upon request, during inspections.

FDA/USDA/CDC *Listeria monocytogenes* Risk Assessment

In September, 2003, FDA, in cooperation with USDA/FSIS and CDC, released the Quantitative Assessment of the Relative Risk to Public Health from Foodborne *Listeria monocytogenes* Among Selected Categories of Ready-to-Eat Foods. This initiative included the development of 23 separate risk assessments

and analysis of the relative risks of serious illness and death associated with consumption of 23 categories of ready-to-eat foods. These categories included: seafood, produce, meats, dairy products, and deli salads.

In examining these closely, FDA showed that 5 factors are important in measuring the public health impact to consumers from foodborne listeriosis. These factors are: (1) amounts and frequency of consumption of a ready-to-eat food; (2) frequency and levels of ***L. monocytogenes*** in a ready-to-eat food; (3) potential of the food to support growth of the bacterium during refrigeration; (4) refrigerated storage temperature; and (5) duration of refrigerated storage before consumption. Based on these 5 factors, the 23 categories of ready-to-eat foods were ranked according to their relative risk of contamination and growth of ***Listeria monocytogenes***. The risk categories used were: very high risk; high risk; moderate risk; low risk; and very low risk.

Impact of the Listeria monocytogenes Risk Assessment on Date Marking

Based on the results of the risk assessment and the recommendations from the 2004 Conference for Food Protection meeting, it was necessary to re-evaluate date marking in an effort to focus the provision on very high and high risk foods, while at the same time, exempting foods that present a very low, or low risk of contamination and growth of ***Listeria monocytogenes***. Based on this evaluation, date marking provisions of the Food Code do not apply to the following foods:

Deli Salads Prepared and Packaged in a Food Processing Plant

Examples of deli salads include ham salad, chicken salad, egg salad, seafood salad, pasta salad, potato salad, and macaroni salad, manufactured according to 21 CFR 110. According to data from the risk assessment, deli salads prepared and packaged by a food processing plant contain sufficient acidity, along with the addition of preservatives (e.g., sorbate, benzoates), to prevent the growth of ***Listeria monocytogenes***. There are estimates that 85% of all deli salads are prepared and packaged in a food processing plant and do not support growth. Based on discussions with deli salad manufacturers and trade associations, it is a nearly universal practice for food processing plants preparing and packaging deli salads to add one or more preservatives that inhibit the growth of ***Listeria monocytogenes***. Based on their wide use within this segment of the industry and their effectiveness at inhibiting the growth of ***Listeria monocytogenes***, all deli salads prepared and packaged in a food processing plant are exempt from date marking. However, all deli salads prepared in a food establishment require date marking.

Hard and Semi-Soft Cheeses

In December, 1999, FDA issued an exemption from date marking for certain types of hard and semi-soft cheeses (http://www.cfsan.fda.gov/~ear/ret-chdt.html), based on the presence of several factors that may control the growth of ***Listeria monocytogenes***. These factors may include organic acids, preservatives, competing microorganisms, pH, water activity, or salt concentration. The results of

the risk assessment support this interpretation and therefore, hard and semi-soft cheeses each manufactured according to 21 CFR 133 are exempt from date marking.

List of Some Hard and Semi-Soft Cheeses Exempt from Datemarking

Asadero	Asiago soft
Abertam	Battelmatt
Appenzeller	Bellelay (blue veined)
Asiago medium or old	Blue
Bra	Brick
Cheddar	Camosum
Cristalina	Chantelle
Colby	Edam
Cotija Anejo	Fontina
Cotija	Gorgonzola (blue veined)
Coon	Gouda
Derby	Havarti
Emmentaler	Konigskase
English Dairy	Limburger
Gex (blue veined)	Milano
Gloucester	Manchego
Gjetost	Monterey
Gruyere	Muenster
Herve	Oka
Lapland	Port du Salut
Lorraine	Provolone
Oaxaca	Queso de Bola
Parmesan	Queso de la Tierra
Pecorino	Robbiole
Queso Anejo	Roquefort (blue veined)
Queso Chihuahua	Samsoe
Queso de Prensa	Tilsiter
Romanello	Trappist
Romano	
Reggiano	
Sapsago	
Sassenage (blue veined)	
Stilton (blue veined)	
Swiss	
Tignard (blue veined)	
Vize	
Wensleydale (blue veined)	

Cultured Dairy Products

Cultured dairy products include yogurt, sour cream, and buttermilk, each manufactured according to 21 CFR 131. Many of these products often are

low pH foods manufactured with lactic acid fermentation. Data from the risk assessment show that ***Listeria monocytogenes*** does not grow in these foods and therefore, these products are exempt from date marking.

Preserved Fish Products

Preserved fish products include pickled herring and dried, or salted cod, and other acidified fish products, manufactured according to 21 CFR 114. Data from the risk assessment show that the high salt and/or acidity of these products does not allow for the growth of ***Listeria monocytogenes*** and therefore, these products are exempt from date marking. This exemption does not apply to hot or cold smoked fish products, nor does it apply to fish products that are dried, marinated, or otherwise preserved on-site, in a food establishment, such as ceviche.

USDA-regulated products

Date marking provisions of the Food Code do not apply to shelf stable ready-to-eat meat and poultry products. Shelf stable ready-to-eat meat and poultry products are not required by USDA to be labeled "Keep Refrigerated." For these products, the nitrite and salt in the cure and the lower pH resulting from fermentation give additional protection against microbial growth. Some fermented sausages and salt-cured products are shelf stable, do not require refrigeration, and do not bear the label "Keep Refrigerated." To be shelf stable, a product manufactured under USDA inspection must have a process that results in a product that meets one of the recognized objective criteria for shelf stability, such as water activity, moisture-protein ratio (MPR), or combination of MPR and

pH (acidity). Therefore they are exempt from the Food Code date marking requirements.

Shelf stable fermented sausages such as pepperoni and dry salami do not have to be refrigerated or date marked. Shelf stable salt-cured products such as prosciutto, country cured ham, or Parma ham do not require refrigeration or Food Code date marking. Other salt-cured products include basturma, breasaola, coppa, and capocolla.

Some ready-to-eat fermented sausages and salt-cured products must be refrigerated and therefore bear the USDA-required label “Keep Refrigerated.” Examples of these products are cooked bologna, cooked salami, and sliced country ham which are ready-to-eat fermented products that need refrigeration. Bologna is a cooked, perishable sausage and there are other salamis, e.g., cotto that are perishable.

Regarding the exemption from date marking for shelf-stable sausages in a casing, the exemption does not apply if the casing is removed. The intact casing on shelf-stable sausages may be overwrapped to protect the cut face of the sausage. With shelf stable (not potentially hazardous (time/temperature control safety)) sausages, the intact casing provides a barrier to contamination (although not an absolute one), the exposed face is likely to be sliced again within 4 or 7 days, and contamination is minimized because only the face is exposed. The coagulated protein that occurs on the surface of some nonshelf stable cooked sausages is not a casing.

Slices of cured and fermented sausages that require refrigeration and are kept for 24 hours or longer do need to be date marked.

If open dating information is applied to lunchmeats at a federally inspected meat or poultry establishment, the information must comply with the requirements in 9 CFR 317.8 and 381.129. However, such dating is not required by USDA/FSIS and if applied, would not supercede or replace date marking requirements established by the Food Code or by State/local authorities that apply after the food is opened in a retail establishment.

Manufacturer's use-by dates

It is not the intent of this provision to give a product an extended shelf life beyond that intended by the manufacturer. Manufacturers assign a date to products for various reasons, and spoilage may or may not occur before pathogen growth renders the product unsafe. Most, but not all, sell-by or use-by dates are voluntarily placed on food packages.

Although most use-by and sell-by dates are not enforceable by regulators, the manufacturer's use-by date is its recommendation for using the product while its quality is at its best. Although it is a guide for quality, it could be based on food safety reasons. It is recommended that food establishments consider the manufacturer's information as good guidance to follow to maintain the quality (taste, smell, and appearance) and salability of the product. If the product becomes inferior quality-wise due to time in storage, it is possible that safety concerns are not far behind.

It is not the intention of this provision that either the manufacturer's date or

the date marked by the food establishment be placed on consumer packages.

3-501.19 Using Time as a Public Health Control.*

The 2000 Conference for Food Protection (CFP) meeting recommended that FDA ask the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) to review the Food Code provision that addresses using time alone as a public health control, section 3-501.19. In response to the CFP recommendation, FDA in consultation with USDA/FSIS, determined that there is sufficient scientific information available to support the current provision in the Food Code without requesting consideration by the NACMCF. As an alternative response, FDA informed the CFP that it would provide the following position paper on using time alone as a public health control.

Position Paper

Food Code section 3-501.19 allows potentially hazardous food (time/temperature control for safety) food that is ready-to-eat (RTE) to be stored without temperature control for up to 4 hours, after which it must be discarded or consumed or for up to 6 hours for refrigerated food, if the food is 5°C (41°F) when initially removed from temperature control, and as long as the food temperature does not exceed 21°C (70°F). The following information is provided to explain the reasoning in allowing time alone to be used as a public health control for food safety.

<u>Background information</u>

Food kept without temperature control allows product to warm or cool as it

equilibrates with the environment. Each temperature scenario incurs different risks in regard to the type of foodborne pathogens able to grow and the rate of growth likely to occur. For both cooling and warming conditions, growth depends on the amount of time the food spends in an optimum growth temperature range during its equilibration with its surroundings. Several factors influence the rate of temperature change in a food, such as the type of food, thickness of the food, and temperature differential between the food and its surroundings. When evaluating the safety of a 4-hour limit for food with no temperature control, products and environmental parameters must be selected to create a worst-case scenario for pathogens growth and possible toxin production.

Holding Cold Food Without Temperature Control

When a food is removed from refrigerated storage and begins to warm to room temperature, ***Listeria monocytogenes*** is a primary organism of concern. Even while food is held at refrigeration temperatures, the growth potential of ***L. monocytogenes*** warrants concern for potentially hazardous (time/temperature control for safety foods) RTE foods. Although the FDA and USDA have a zero tolerance for ***L. monocytogenes*** in RTE food, conditions are permitted in the Food Code that would allow ***L. monocytogenes*** cells 1 log of growth (3.3 generations). ***Salmonella*** is also a concern especially with products containing eggs. However, ***L. monocytogenes*** grows more rapidly than ***Salmonella*** at refrigeration and room temperatures. By ensuring minimal ***Listeria*** growth in food, the threat from ***Salmonella*** would be negligible. Warming conditions will allow

food to remain exposed to temperatures that allow ***B. cereus*** to produce emetic toxin. However, the 4-hour time constraint in the Food Code is sufficient to prevent any toxin formation.

For food refrigerated at 41ºF or 45°F then transferred to an ambient temperature of 75°F for 4 hours, the growth rate of ***L. monocytogenes*** remains slow enough to ensure that the critical limit of 1 log growth is not reached. Published generation times at 75°F for ***L. monocytogenes*** in food were not found, however published values at 68ºF and 70°F in egg and milk products confirmed slow ***L. monocytogenes*** growth at room temperatures.

Using the USDA Pathogen Modeling Program (PMP) and assuming the optimum conditions of pH 6.8, 0.5% NaCl, 0.0% nitrite, ***L. monocytogenes*** would require more than 4 hours to grow 1 log at 75°F. The PMP is based on broth studies and not on food products. Therefore, the growth rates reported at various temperatures by the PMP are faster than growth rates in most food products. Another factor exaggerating the growth rate in this warming scenario as predicted by the PMP is the assumption that the food product spent all 4 hours at 75°F. Obviously food equilibrates with the surrounding environment at a gradual rate and would not equilibrate instantly.

Unfortunately there are no models that take changing temperatures into consideration when predicting growth. Likewise there are very few published papers dealing with the growth of organisms in food during warming. The conservative nature of the 4-hour limit for keeping foods without temperature control allows for a needed margin of safety if the temperature of the environment is higher than

75°F.

It is important to note that potentially hazardous (time/temperature control for safety) foods held without cold holding temperature control for a period of 4 hours do not have any temperature control or monitoring. These foods can reach any temperature when held at ambient air temperatures as long as they are discarded or consumed within the four hours.

Holding Hot Food without Temperature Control

The second scenario for food without temperature control exists when food is cooked according to Food Code recommendations, then kept at room temperature for 4 hours before discarding. Foodborne pathogens of concern for an uncontrolled temperature scenario are sporeformers including ***Clostridium perfringens*** and ***Bacillus cereus***. Food cooked according to Food Code guidelines should be free of vegetative cells. However, the heat requirements are not sufficient to kill spores of ***C. perfringens*** or ***B. cereus*** and may actually serve as a heat shock that activates the spores. ***B. cereus*** is found commonly in outbreaks attributed to inadequate hot holding of starchy foods like rice, and has been isolated in a multitude of food products. ***C. perfringens*** is found commonly in outbreaks attributed to inadequate hot holding of beef and poultry. Despite the prevalence of both spores in nature, ***C. perfringens*** cases are estimated to be more numerous than ***B. cereus*** cases by a factor of 10.

B. cereus can produce emetic toxin in food, and the optimum temperature for the production of toxin is between 77°F and 86°F. However, the time needed to produce the toxin is longer than the time the food will be exposed to any

temperature range with a 4-hour holding limit. Both ***C. perfringens*** and ***B. cereus*** produce enterotoxin inside the intestine of the infected host if substantial numbers of vegetative cells are present in the food (10^{5-7} CFU/g). Although the reported levels of both spores in raw foods vary in the literature, generally the level expected in food can be assumed to be low (around 10-1000 CFU/g). This implies that conditions allowing 1 log growth of either spore could be tolerated in food.

During the time without temperature control, the temperature of the food could decrease slowly enough to expose spores of both organisms to optimal growth conditions for a significant length of time. Like warming, several variables exist that determine the rate of heat transfer. Because of the wide variety of foods prepared it would be impossible to generalize how fast a typical product loses temperature after cooking. As with warming, it is prudent to imagine a worst-case scenario where heat loss is slowed. A beef roast slow cooked to 130°F for the appropriate time according to the Food Code was used as consideration for possible spore growth. Cooking roast beef to 130°F can create an anaerobic environment in both the meat and gravy. The low internal temperature creates a small temperature differential with the environment (assumed at 75°F), allowing for a slower decrease in the food's temperature.

After evaluating published studies as well as data collected at the FDA, the surface of a roast beef or rolled meat product would lose heat quickly enough to discourage significant growth of either ***C. perfringens*** or ***B. cereus***. If all spores were distributed on the surface of the product by either pre- or

post-cooking contamination, storing this product for 4 hours at room conditions would be considered safe. Likewise, products that are stirred or products that lose heat faster than a roast would also be considered safe.

FDA intends to do research regarding food products that may have spores in the center of the product, and further evaluate if there are potential hazards that may be associated with them while held without temperature control for 4 hours.

---------- End of position paper ---------

At the 2004 meeting of the CFP, a committee submitted and the Conference accepted a document that examined scientific research related to the growth of ***Listeria monocytogenes***, and the influence of time and temperature on its growth. The CFP committee report is found at http://www.foodprotect.org/doc/04_issues/folder_attachments/III-008a%finalreport-timeasapublichealthcontrol.pdf.

The 2004 CFP report stated that the USDA-PMP program can be used as a tool to estimate time periods for a 1-log increase in growth for ***Listeria monocytogenes*** in ideal (laboratory media) growth conditions. Using this modeling approach, at 41°F, 45°F, and 50°F, the time for a 1-log increase was, 87.8, 53.9, and 34.7 hours, respectively. At room temperature (70°F) a 1-log increase was noted at 5.2 hours and at ideal growth temperatures (95°F), the reported time for a 1-log increase was 3.0 hours. In general, the

data from the USDA-PMP program provides very conservative growth data and, in most cases, growth would be expected to be less rapid in a food system. This table does provide comparative information relative to growth rates at different holding temperatures in the event that time was used as a factor in managing food safely.

The report further recommended that food could safely be held for up to 6 hours without external temperature control as long as the food temperature did not exceed 70°F. Based on that report and data from the Quantitative Assessment of the Relative Risk to Public Health from Foodborne *Listeria monocytogenes* Among Selected Categories of Ready-to-Eat Foods September 2003, the Food Code allows potentially hazardous food (time/temperature control for safety) food to be stored up to 6 hours without external temperature control provided that the food temperature does not exceed 70°F and the food is discarded or consumed at the end of the 6 hours.

Raw eggs

Recipes in which more than one egg is combined carry an increased risk of illness and possible serious consequences for certain people. It is due to this increased risk, and documented occurrences of foodborne illness and death among highly susceptible populations from temperature-abused raw shell eggs contaminated with ***Salmonella* Enteritidis**, that the use of time as a public health control in institutional settings is not allowed.

Specialized Processing **3-502.11 Variance Requirement.***

Methods

Specific food processes that require a variance have historically resulted in more foodborne illness than standard processes. They present a significant health risk if not conducted under strict operational procedures. These types of operations may require the person in charge and food employees to use specialized equipment and demonstrate specific competencies. The variance requirement is designed to ensure that the proposed method of operation is carried out safely.

The concept of variances may be new to some regulatory authorities. Some jurisdictions may not have a formal process to respond to industry requests for variances, although informal allowances may have been allowed in specific situations. Recognizing the opportunity to use the variance process may require additional rulemaking, or at least policy development, at the jurisdictional level. Rulemaking can be used to outline the procedures for a variance request, including the information required in section 8-103.11. In addition, the rulemaking process can address the regulatory authority's responsibility to consider an industry's variance application and an appeals process in case a variance is not given due consideration or is denied. The Conference for Food Protection Variance Committee recommended that regulatory agencies adopt a variance review process. General guidance regarding administrative procedures is given below. Regulatory authorities considering implementing variances have encountered issues relating to their authority or technical, scientific ability to evaluate or validate a variance request. From any variance request there may emerge a set of complex issues and scientific competencies beyond the ability of the regulatory

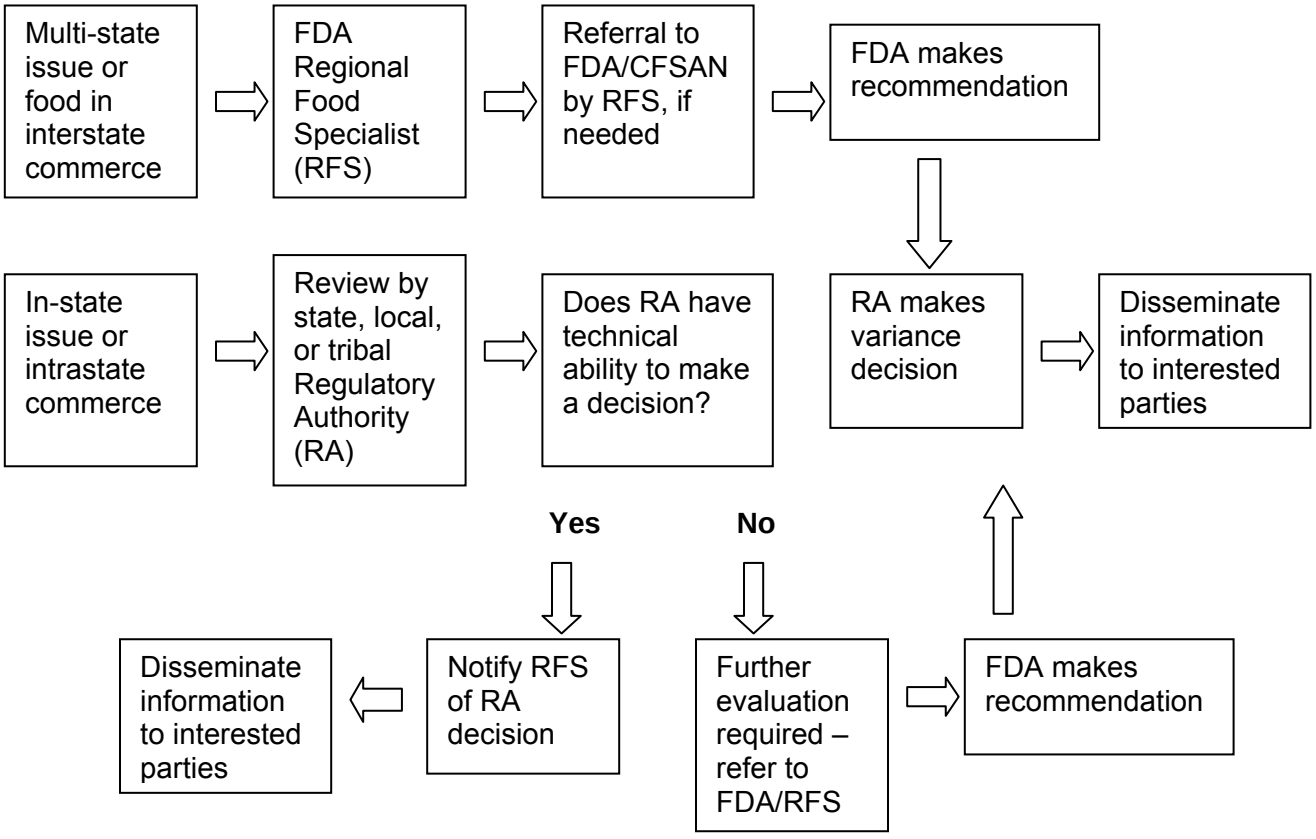
authority to validate. The Conference for Food Protection Variance Committee recommended that rulemaking should reflect a multi-level matrix of regulatory agencies ranging from local regulatory authorities through FDA and reflected that recommendation in the following flow chart. The regulatory authority is encouraged to seek input and guidance from authoritative sources such as processing authorities, professional associations, or academia. Within the Variance Committee's model, the process for seeking FDA advice begins with the Regional Food Specialists.

Except for the Interstate Travel Program, FDA generally does not directly regulate retail and food service establishments, including entertaining variances for that segment of the industry. FDA is still exploring processes for handling variances on a national basis such as those received from national chain businesses. In conjunction with the 2000 CFP Variance Committee, FDA will continue to explore ways to provide assistance and guidance to regulators regarding access to scientific and technical resources in order to make science-based decisions regarding variances.

FDA recommends that regulatory authorities develop a written administrative process that is consistent with, and addresses the information contained in, Food Code sections 8-103.10, 8-103.11, and 8-103.12, and follow a process consistent with the recommendations of the CFP Variance Committee as shown in its flow chart.

3-501.11 Chart 1 – A Model Flow Process for State Regulators to Address Variances

Developed by the CFP Variance Committee



Model Administrative Procedures for Regulators to Address Variances

1) Designate an agency team and assign a leader to address variance requests.
2) Establish an agency review process leading to approval or denial of variance applications. For food safety issues, include recommendations for consulting with food processing authorities, food scientists, academia, professional organizations, other government agencies including the FDA Regional Food Specialist, or other experts external to the agency.
3) Set reasonable timelines for decision making. Determine of the variance application addresses an intrastate or interstate issue.
    a) For variances that have interstate or national implications, especially those that address food safety, regulators are urged to contact and work closely with their FDA Regional Food Specialist to determine if a national policy related to the issue exists. Regulators are encouraged to be consistent with national policies, guidelines, or opinions.
    b) For variances that address intrastate issues, regulators are also encouraged to determine if other State or national guidance exists, and to stay consistent with it.
4) Make the agency's decision. Inform the applicant.
    a) If the variance request is approved, determine the starting date and document all special provisions with which the applicant must comply.
    b) If the variance request is denied, inform the applicant as to the reasons for the denial, the applicant's right to appeal, and the appeal process.
5) Inform other interested parties, including the FDA Regional Food Specialist.

a) For variances having interstate or national implications, especially those that address food safety, regulators are urged to inform their FDA Regional Food Specialist so that FDA is aware of, and can appropriately disseminate the information regarding food safety variances that may affect food establishments in other jurisdictions, such as national chains.

b) For variances that address intrastate issues, regulators are encouraged to share the information as if it were an interstate issue.

6) Document all agency actions and decisions in the facility's file. Consider including documentation of special variance provisions on the establishment's permit to operate.

7) If the variance is approved, inform the inspector assigned to that facility and train the inspector on the variance provisions, including the implementation of the industry's HACCP plan, if required.

8) Establish procedures to periodically review the status of the variance, determine if it successfully accomplishes its public health objective, and ensure that a health hazard or nuisance does not result from its implementation.

9) Establish written procedures for withdrawing approval of the variance if it is not successful.

3-502.12 Reduced Oxygen Packaging, Criteria.*

Reduced oxygen packaging (ROP) encompasses a large variety of packaging methods where the internal environment of the package contains less than the normal ambient oxygen level (typically 21% at sea level), including vacuum

packaging (VP), modified atmosphere packaging (MAP), controlled atmosphere packaging (CAP), cook chill processing (CC), and sous vide (SV). Using ROP methods in food establishments has the advantage of providing extended shelf life to many foods because it inhibits spoilage organisms that are typically aerobic.

This state of reduced oxygen is achieved in different ways. Oxygen can be withdrawn from the package (VP) with or without having another gas such as nitrogen or carbon dioxide replacing it (MAP). Fresh produce and raw meat or poultry continue to respire and use oxygen after they are packaged. Bacterial activity also plays a role here. Packaging material that readily allow the transmission of oxygen is usually designated by an Oxygen Transfer Rate of 10,000 $cm^2/m^3/24$ hours or greater. A reduced oxygen atmosphere will result with an Oxygen Transmission rate of 10-100. The process of cooking drives off oxygen (the bubbling is oxygen gas coming off) and leaves a reduced oxygen level in the food, thus, microenvironments of reduced oxygen are possible even without packaging that has a barrier to oxygen transmission.

Most foodborne pathogens are anaerobes or facultative anaerobes able to multiply under either aerobic or anaerobic conditions, therefore special controls are necessary to control their growth. Refrigerated storage temperatures of 5°C (41°F) may be adequate to prevent growth and/or toxin production of some pathogenic microorganisms but non-proteolytic ***C. botulinum*** and ***L. monocytogenes*** are able to multiply well below 5°C (41°F). For this reason, ***C. botulinum*** and ***L. monocytogenes*** become the pathogens of concern for

ROP. Controlling their growth will control the growth of other foodborne pathogens as well.

The control of ***C. botulinum*** *or* ***L. monocytogenes*** when using ROP is usually accomplished using multiple hurdles or barriers to growth. Subparagraph 3-502.12(B)(2) identifies secondary barriers that will control the growth of ***C. botulinum*** and ***L. monocytogenes*** when used in conjunction with a food storage temperature of 5°C (41°F) or less. They include a_w of 0.91 or less; pH of 4.6 or less; cured, USDA inspected meat or poultry products using substances specified in 9 CFR 424.21; or high levels of competing microorganisms. ***C. botulinum*** will not produce toxin below an a_w of 0.91. Nitrite, used in meat and poultry curing, inhibits the outgrowth of ***C. botulinum*** spores. Most foodborne pathogens do not compete well with other microorganisms, therefore foods that have a high level of spoilage organisms or lactic acid bacteria can safely be packaged using ROP.

Naturally fermented cheeses, as identified in ¶ 3-502.12(E), that meet the Standards of Identity for hard, pasteurized process, and semisoft cheeses in 21 CFR 133.150, 21 CFR 133.169, or 21 CFR 133.187, respectively, contain various intrinsic factors, often acting synergistically, that together act as a secondary barrier to pathogen growth along with refrigerated storage at 5°C (41°F) or less. This combination of factors could include some or all of the following: a lower pH, production of organic acids, and natural antibiotics or bacteriocins such as nisin by lactic acid bacteria, salt (NaCl) added during processing, low moisture content, added preservatives, and live competing cultures. Very few outbreaks have

occurred that were associated with cheese. The few outbreaks of foodborne illness associated with cheeses or cheese products could be traced in large part to temperature abuse with storage at uncontrolled ambient air temperatures. Examples of cheeses that may be packaged under ROP include Asiago medium, Asiago old, Cheddar, Colby, Emmentaler, Gruyere, Parmesan, Reggiano, Romano, Sapsago, Swiss, pasteurized process cheese, Asiago fresh and soft, Blue, Brick, Edam, Gorgonzola, Gouda, Limburger, Monterey, Monterey Jack, Muenster, Provolone, and Roquefort. Soft cheeses such as Brie, Camembert, Cottage, and Ricotta may not be packaged under reduced oxygen because of their ability to support the growth of ***L. monocytogenes*** under modified atmosphere conditions.

When the food to be packaged under reduced oxygen conditions cannot reliably depend on secondary barriers such as a_w, pH, nitrite in cured meat products, high levels of competing microorganisms or intrinsic factors in certain cheeses, time/temperature becomes the critical controlling factor for growth of ***C. botulinum*** and ***L. monocytogenes***. In ¶ 3-502.12(D), cook-chill processing where food is cooked then sealed in a barrier bag while still hot and sous vide processing where food is sealed in a barrier bag and then cooked, both depend on time/temperature alone as the only barrier to pathogenic growth. Therefore, monitoring critical limits including those established for cooking to destroy vegetative cells, cooling to prevent outgrowth of spores/toxin production, and maintaining cold storage temperatures of 1°C (34°F) or less to inhibit growth and/or toxin production of any surviving pathogens is essential. Since there are

no other controlling factors for ***C. botulinum*** and ***L. monocytogenes*** in a cook-chill or sous vide packaging system, temperature control must be continuously monitored electronically and visually examined twice daily to verify that refrigeration temperatures are adequate.

New technology makes it relatively easy to continuously and electronically monitor temperatures of refrigeration equipment used to hold cook chill and sous vide products at 1°C (34°F) or less. Thermocouple data loggers can connect directly with commonly available thermocouple probes. Recording charts are also commonly used. Temperature monitors and alarm systems will activate an alarm or dialer if temperatures rise above preset limits. Nickel-sized data loggers are available to record temperatures which can be displayed using computer software. Since surveys have shown that temperature control in home kitchens is not always adequate, food packaged using cook chill or sous vide processing methods cannot be distributed outside the control of the food establishment doing the packaging.

Time is also a factor that must be considered in ROP. The 14 day "use by" date is required label information for VP, MAP, and CAP products and cannot exceed the manufacturer's "sell by" or "use by" date. This is considered a safe time period because two barriers to growth are required to be present. When these ROP products are frozen, there is no longer a restricted 14 day shelf life. The 30 day shelf life for cook chill and sous vide is based on killing all vegetative cells in the cooking process, preventing recontamination, and then refrigerating at 34°F or less with stringent temperature monitoring and recording requirements. These

criteria allow both institutional-sized cook chill operations that may feed thousands daily, often including transportation to their satellite locations, and individual restaurants without ice banks and tumble or blast chillers to safely use cook chill processes.

The extended shelf life for vacuum packaged hard and semisoft cheeses is based on many intrinsic factors in these cheeses plus the normal refrigeration temperature of 41°F or less to maintain safety.

A Hazard Analysis Critical Control Point (HACCP) plan is essential when using ROP processing procedures. ***C. botulinum*** and ***L. monocytogenes*** are potential hazards which must be controlled in most foods unless the food is a low acid canned food produced under 21 CFR Part 108 or 113 or an acidified food produced under 21 CFR 114. Critical control points, critical limits, monitoring, record keeping, corrective actions, and verification procedures will vary based on the type of food and type of ROP technology used.

When a food establishment intends to use ROP technology but does not use one of the secondary barriers defined in section 3-502.12 (a single barrier of 34°F combined with the criteria specified in paragraph 3-502.12(D), or hard or semisoft cheeses manufactured using Standards of Identity for those cheeses), the operator must submit an application for a variance under 3-502.11 providing evidence that the ROP methodology intended for use is safe.

Unfrozen raw fish and other seafood are specifically excluded from ROP because of these products' natural association with ***C. botulinum*** type E which grows

at or above 3°C (37-38°F). Fish and seafood that are frozen before, during and after the ROP packaging process are allowed.

Accurate	**3-601.11**	**Standards of Identity.**
Representation	**3-601.12**	**Honestly Presented.**
Labeling	**3-602.11**	**Food Labels.**
	3-602.12	**Other Forms of Information.**

The identity of a food in terms of origin and composition is important for instances when a food may be implicated in a foodborne illness and for nutritional information requirements. Ingredient information is needed by consumers who have allergies to certain food or ingredients. The appearance of a food should not be altered or disguised because it is a cue to the consumer of the food's identity and condition.

Recent illnesses and deaths from Shiga toxin-producing ***Escherichia coli*** have occurred across the United States as a result of people eating hamburgers that were contaminated and then undercooked. USDA issued final rules on August 8, 1994 requiring all raw meat or poultry products have a safe-handling label or sticker or be accompanied by a leaflet that contains information on proper handling and cooking procedures.

Certain requirements in the CFR relating to aspects of nutrition labeling became effective in May, 1997. The following attempts to provide guidance regarding those requirements and exemptions as they relate to the retail environment and to alert regulators to authority that has been given to them by the Nutrition Labeling and Education Act (NLEA) of 1990. The statute

and the CFR should be reviewed to ensure a comprehensive understanding of the labeling requirements.

I. The following foods need not comply with nutrition labeling in the CFR referenced in subparagraph 3-602.11(B)(5) if they do not bear a nutrient claim, health claim, or other nutrition information:

(A) Foods packaged in a food establishment if:

(1) The food establishment has total annual sales to consumers of no more than $500,000 (or no more than $50,000 in food sales alone), and

(2) The label of the food does not bear a reference to the manufacturer or processor other than the food establishment;

(B) Low-volume food products if:

(1) The annual sales are less than 100,000 units for which a notification claiming exemption has been filed with FDA's Office of Nutritional Products Labeling and Dietary Supplements Food Labeling by a small business with less than 100 full-time equivalent employees, or

(2) The annual sales are less than 10,000 units by a small business with less than 10 full-time equivalent employees;

(C) Foods served in food establishments with facilities for immediate consumption such as restaurants, cafeterias, and mobile food establishments, and foods sold only in those establishments;

(D) Foods similar to those specified in the preceding bullet but that are sold by food establishments without facilities for immediate consumption such as bakeries and grocery stores if the food is:

(1) Ready-to-eat but not necessarily for immediate consumption,

(2) Prepared primarily in the food establishment from which it is sold, and

(3) Not offered for sale outside the food establishment;

(E) Foods of no nutritional significance such as coffee;

(F) Bulk food for further manufacturing or repacking; and

(G) Raw fruits, vegetables, and fish.

II. Game animal meats shall provide nutrition information which may be provided by labeling displayed at the point of purchase such as on a counter card, sign, tag affixed to the food, or some other appropriate device.

III. Food packaged in a food processing plant or another food establishment, shall meet the requirements specified in § 3-602.11 and enforcement by the regulatory authority is authorized in the NLEA, Section 4. State Enforcement.

In 1998, 21 CFR Part 73, Section 73.75 was amended to address canthaxanthin as a color additive for salmonid fish. According to the FDA Regulatory Fish Encyclopedia, the family Salmonidae includes pink salmon, coho salmon, sockeye salmon, chinook salmon, Atlantic salmon, chum salmon,

rainbow trout, cutthroat trout, and brown trout. This color additive may be in the feed that is fed to aquacultured fish, and when those fish are placed into a bulk container for shipment, the bulk container must bear a label declaring the presence of canthaxanthin. That same label information must be displayed at retail when those fish are offered for sale.

The 21 CFR Section 73.75(d)(4) requires that the presence of the color additive in salmonid fish that have been fed feeds containing canthaxanthin be declared in accordance with 21 CFR 101.22(b), (c), and (k)(2) and 101.100(a)(2). For additional information, see the Federal Register announcement 63 FR 14814, March 27, 1998, Listing of Color Additives Exempt from Certification; Canthaxanthin.

On August 2, 2004, President Bush signed into law the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282). This new law amended Sections 201 and 403 of the Federal Food, Drug, and Cosmetic Act to establish food allergen labeling requirements for all packaged foods regulated by FDA. The new provisions require that all affected packages of food labeled on or after January 1, 2006 must identify on the label the names of the food sources of any major food allergens (i.e., the following eight foods and any protein derived from them: milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans) used as ingredients in the food. The names of the food sources are the same as the names of the eight foods that are major food allergens, with the exception that for fish, crustacean shellfish, and tree nuts, their respective food source names are the specific species of fish

(e.g., bass, flounder, or cod), the specific species of crustacean shellfish (e.g., crab, lobster, or shrimp), and the specific types of tree nuts (e.g., almonds, pecans, or walnuts).

Consumer Advisory **3-603.11 Consumption of Raw or Undercooked Animal Foods.***

Refer to the public health reason for § 3-401.11.

Purpose:

At issue is the role of government agencies, the regulated industry, and others in providing notice to consumers that animal-derived foods that are not subjected to adequate heat treatment pose a risk because they may contain biological agents that cause foodborne disease. The deliverance of a balanced message that communicates fairly to all consumers and, where epidemiologically supported, attempts to place risk in perspective based on the consumer's health status and the food being consumed is part of the challenge. Notification of risk must be achieved via a meaningful message and in a manner that is likely to affect behavior. The following information is to alert the reader to the options available to food establishments in advising consumers of the increased possibility of foodborne illness when animal-derived foods are eaten raw or undercooked.

Background:

Although no specific advisory language was recommended, beginning with the 1993 Food Code, FDA included a codified provision for a point-of-purchase consumer advisory and stated in Annex 3:

"FDA has requested comments and will consider the responses as well as other information that is available related to the risks involved and methods of risk communication to determine what action may be necessary by FDA to effectively inform consumers."

Consumer Focus Groups:

During 1996 - 1998, FDA conducted two different consumer focus group studies. Because the first set of focus groups (conducted before the 1997 Code) were not receptive to the language recommended at the 1996 Conference for Food Protection (CFP) meeting, that language was not included in the 1997 Code. Before the 1998 CFP meeting, the Agency convened a second set of focus groups with a modified approach. The latter set expressed similar thoughts as those in the earlier set and a pattern for consumer acceptance and receptiveness to menu-based advisories emerged.

It became apparent that there is a general appreciation for "**disclosure"** of what consumers view as "hidden ingredients," for example, whether a particular menu item contains raw egg. In addition to disclosure being viewed as helpful, consumers are accepting, if not appreciative, of a "**reminder"** that consuming raw or undercooked animal-derived foods carries an increased risk of foodborne illness. In the food establishment venue, consumers are less willing to accept a message that extends beyond a reminder and becomes a lesson or an educational message.

Satisfactory Compliance:

FDA submitted to the 1998 CFP meeting an Issue that asked the Conference to discuss an approach that incorporated the knowledge obtained from the consumer testing. It was the consensus of the CFP that **satisfactory compliance with the Code's consumer advisory provision is fulfilled when both a disclosure and reminder are provided**, as described in § 3-603.11 of the Code. **Disclosure is** achieved when there is clear identification of animal-derived foods that are sold or served raw or undercooked, and of items that either contain or may contain (to allow for ingredient substitution) such raw or undercooked ingredients. A third option for the consumer "reminder" was added later. The **reminder is** a notice about the relationship between thorough cooking and food safety.

Two options were endorsed for disclosure and two for the reminder. One of the reminder options is a menu statement that advises consumers that food safety information about the disclosed items is available upon request. Essential criteria for such written information are available, with a downloadable model brochure, on the CFSAN website at http://www.cfsan.fda.gov/~fc99guid.html. All brochures must meet these essential criteria. The other option is a short notice alerting consumers to the increased risk of consuming the disclosed menu items.

In response to concerns raised by the Interstate Shellfish Sanitation Conference (ISSC) in an October 8, 1998 letter to FDA, a third option has been added to allow for a statement that links an increased risk of illness to consumption of raw or undercooked animal foods by persons with certain medical conditions.

The information contained in both the disclosure and reminder should be publicly available and readable so that consumers have benefit of the total message (disclosure and reminder) before making their order selections.

It is not possible to anticipate all conceivable situations. Therefore, there will always be need for discussion between the food establishment and the Regulatory Authority as to the most effective way to meet the objectives of satisfactory compliance.

The *Implementation Guidance for the Consumer Advisory Provision of the FDA Food Code* (section 3-603.11 in the FDA Model Food Code), is a resource intended to assist regulators and industry in the implementation of the Consumer Advisory provision. It is recommended that it be used in conjunction with the FDA Food Code. It is available on the FDA/CFSAN website at http://www.cfsan.fda.gov/~dms/fc99guid.html.

Locating the Advisory:

Disclosure of raw or undercooked animal-derived foods or ingredients and reminders about the risk of consuming such foods belong at the point where the food is selected by the consumer. Both the disclosure and the reminder need to accompany the information from which the consumer makes a selection. That information could appear in many forms such as a menu, a placarded listing of available choices, or a table tent.

Educational Messages:

Educational messages are usually longer, more didactic in nature, and targeted to consumers who have been alerted to the food safety concern and

take the initiative to obtain more detailed information. It is expected that, in most cases, educational messages that are provided pursuant to § 3-603.11 (i.e., in situations where the option for referring the consumer to additional information is chosen), will be embodied in brochures that will not be read at the site where the immediate food choice is being made. Nonetheless, such messages are viewed as an important facet of arming consumers with the information needed to make informed decisions and, because the information is being requested by the consumer, it would be expected to play a role in subsequent choices.

Applicability:

Food Establishments:

The consumer advisory is intended to apply to all food establishments where raw or undercooked animal foods or ingredients are sold or served for human consumption in a raw or undercooked form. This includes all types of food establishments whenever there is a reasonable likelihood that the food will be consumed without subsequent, thorough cooking - such as restaurants, raw bars, quick-service operations, carry-outs, and sites where groceries are obtained that have operations such as delicatessens or seafood departments.

"...Otherwise Processed to Eliminate Pathogens...":

This phrase is included in § 3-603.11 to encompass new technologies and pathogen control/reduction regimens as they are developed and validated as fulfilling a specific performance standard for pathogens of concern. Pasteurization of milk is an example of a long-standing validated process. For purposes of the Food Code,

the level of pathogen reduction that is required before a raw or undercooked animal food is allowed to be offered without a consumer advisory must be equivalent to the levels provided by § 3-401.11 for the type of food being prepared.

The absorbed dose levels of radiation approved by FDA on December 3, 1997 for red meat are insufficient to reduce the level of most vegetative pathogens to a point that is equivalent to the reductions achieved in ¶¶ 3-401.11(A) and (B). Irradiated poultry provides a 3D kill which does not provide the level of protection of the 7D kill that results from the cooking regimen in the Food Code. Therefore, irradiated meat and poultry are not allowed to be offered in a ready-to-eat form without a consumer advisory. It is intended that future Food Code revisions will address time/temperature requirements that take into consideration the pathogen reduction that occurs with irradiated foods.

Recognition of Other Processes:

Animal-derived foods may undergo validated processes that target a specific pathogen. In such instances, along with the required consumer advisory may appear additional language that accurately describes the process and what it achieves. For example, a technology for reducing ***Vibrio vulnificus*** in oysters to nondetectable levels has been validated. FDA concurs that shellfish subjected to that process can be labeled with a truthful claim that appropriately describes the product. That is, a statement could be made such as, "pasteurized to reduce ***Vibrio vulnificus***" or "temperature treated to reduce ***Vibrio vulnificus.***" Such a claim must be in accordance with labeling laws and regulations, accurate, and not misleading. The claim would not, however, negate the need for a

consumer advisory because the treatment only reduces the level of one pathogenic organism.

Product-specific Advisories:

Consumer advisories may be tailored to be product-specific if a food establishment either has a limited menu or offers only certain animal-derived foods in a raw or undercooked ready-to-eat form. For example, a raw bar serving molluscan shellfish on the half shell, but no other raw or undercooked animal food, could elect to confine its consumer advisory to shellfish. The raw bar could also choose reminder, option #3, which would highlight the increased risk incurred when persons with certain medical conditions ingest shellfish that has not been adequately heat treated.

Terminology:

It should be noted that the actual on-site (e.g., on-the-menu) advisory language differs from the language in the codified provision, § 3-603.11. In the insert page for § 3-603.11, the **Reminder** options 2 and 3 use terms for foods that are less specific than the terms used in the actual code section. That is, the words “meat” rather than “beef, lamb, and pork” and “seafood” rather than “fish” are used. Categorical terms like “meat” are simpler and may be more likely used in conversation, making them suitable for purposes of a menu notice.

Milk:

In addition, "milk" is not mentioned in the actual on-site advisory language. The sale or transportation of final packaged form of unpasteurized milk into interstate commerce is specifically prohibited by 21 CFR 1240.61. Also the consumption of raw milk is not recommended by FDA (this statement is in the form of an official FDA position statement found at http://www.cfsan.fda.gov/~ear/mi-03-4.html. Nonetheless, approximately 27 states allow unpasteurized milk in intrastate commerce which usually involves direct dairy farm-to-consumer procurement.

In the event that a food establishment governed by § 3-603.11 of this Code operates in conjunction with a dairy farm in a State that allows the in-State sale or service of unpasteurized milk, or in the case where a State allows unpasteurized milk to be marketed via retail-level food establishments, consumers need to be advised of the risk associated with drinking unpasteurized milk. In these situations, the actual advisory language needs to be amended to include milk (refer to Consumer Advisory Reminder, paragraph 3-603.11(C), options 2 or 3).

Molluscan Shellstock:

In addition to areas of retail food stores such as delis in supermarkets, the consumer advisory is to be provided when a seafood department or seafood market offers raw molluscan shellstock for sale or service. There is a risk of death from ***Vibrio*** infections from consuming raw molluscan shellstock for persons who have certain medical conditions.

Disposition **3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.***

Pathogens may be transmitted from person to person through contaminated food. The potential l spread of illness is limited when food is discarded if it may have been contaminated by employees who are infected, or are suspected of being infected, or by any person who otherwise contaminates it.

Additional Safeguards **3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.***

Refer to the public health reason for § 3-201.11.

The Code provisions that relate to highly susceptible populations are combined in this section for ease of reference and to add emphasis to special food safety precautions that are necessary to protect those who are particularly vulnerable to foodborne illness and for whom the implications of such illness can be dire.

As a safeguard for highly susceptible populations from the risk of contracting foodborne illness from juice, prepackaged juice is required to be obtained pasteurized or in a commercially sterile, shelf-stable form in a hermetically sealed container. It is important to note that the definition of a "juice" means it is served as such or used as an ingredient in beverages. Puréed fruits and vegetables, which are commonly prepared as food for service to highly susceptible populations, are not juices and do not require HACCP plans or compliance with 21 CFR Part 120. There are documented cases of foodborne illness throughout the United States that were associated with the consumption of various juice

products contaminated with microorganisms such as ***Cryptosporidium***, Shiga toxin-producing ***Escherichia coli***, ***Salmonella*** spp., and ***Vibrio cholera***. As new information becomes available, the Food Code will be modified or interim interpretive guidance will be issued regarding foodborne illness interventions for on-site juicing and puréeing.

The 21 CFR 120 regulation applies to products sold as juice or used as an ingredient in beverages. This includes fruit and vegetable purées that are used in juices and beverages, but is not intended to include freshly prepared fruit or vegetable purées that are prepared on-site in a facility for service to a highly susceptible population.

In lieu of meeting the requirements of 21 CFR 120, juices that are produced as commercially sterile products (canned juices) are acceptable for service to a highly susceptible population. Persons providing puréed meals to highly susceptible populations may also wish to use fruit and vegetables that are produced as commercially sterile products (canned fruit or vegetables) as a means of enhancing food safety.

Salmonella often survives traditional preparation techniques. It survives in a lightly cooked omelet, French toast, stuffed pasta, and meringue pies. In 1986 there was a large multistate outbreak of ***Salmonella*** **Enteritidis** traced to stuffed pasta made with raw eggs and labeled “fully cooked.” Eggs remain a major source of these infections, causing large outbreaks when they are combined and undercooked as was the case in the 1986 outbreak linked to stuffed pasta.

Therefore, special added precautions need to be in place with those most susceptible to foodborne illness.

Operators of food establishments serving highly susceptible populations may wish to discuss buyer specifications with their suppliers. Such specifications could stipulate eggs that are produced only by flocks managed under a ***Salmonella*** **Enteritidis** control program that is recognized by a regulatory agency that has animal health jurisdiction. Such programs are designed to reduce the presence of ***Salmonella*** **Enteritidis** in raw shell eggs. In any case, the food establishment operator must use adequate time and temperature controls within the establishment to minimize the risk of a foodborne illness outbreak relating to ***Salmonella*** **Enteritidis**.

Since 1995, raw seed sprouts have emerged as a recognized source of foodborne illness in the United States. The FDA and CDC have issued health advisories that persons who are at a greater risk for foodborne disease should avoid eating raw alfalfa sprouts until such time as intervention methods are in place to improve the safety of these products. Further information is available at the FDA website, http://www.fda.gov, by entering "sprouts" in the search window.

Although the Code's allowance for the Regulatory Authority to grant a variance (refer to §§ 8-103.10 - .12, 8-201.14, and 8-304.11) is applicable to all Code provisions, variance requests related to the preparation of food for highly susceptible populations must be considered with particular caution and scrutiny. With all variances, the hazard(s) must be clearly identified and controlled by a HACCP plan that is instituted in conjunction with a standard operating plan that implements

good retail practices. Variances that will impact a highly susceptible population must be considered in light of the fact that such a population is at a significantly higher risk of contracting foodborne illnesses and suffering serious consequences including death from those illnesses, than is the general population.

Subparagraph 3-801.11(F)(3) requires a HACCP plan for the use of raw shell eggs when eggs are combined in food establishments serving highly susceptible populations. A variance is not required since the HACCP plan criteria are specific, prescriptive, and conservative and require a cooking temperature and time to ensure destruction of ***Salmonella*** **Enteritidis**.

3-801.11(G) and (H) Re-service of food

The Food Code addresses two issues concerning persons in isolation:

1. Contamination from an isolated patient to others outside.

The re-service of any food including unopened, original, intact packages in sound condition, of non-potentially hazardous food (temperature controlled for safety) from a person in isolation or quarantine for use by anyone else (other patients, clients, or consumers) is <u>not</u> permitted. The “isolation or quarantine” terminology in the Code text refers to a patient-care setting that isolates the patient, thereby preventing spread of key pathogens to other patients and healthcare workers. Once food packages come to a contact isolation room, they stay there until the patient uses or discards them. If packages of food are still in the room when the patient is discharged or moved from isolation, they must be discarded.

2. Contamination from the outside into a room with a patient in a "protective environment" isolation setting which protects the patient from contacting pathogens from other patients, healthcare workers, or other persons.

Packages of food from any patients, clients or other consumers should not be re-served to persons in protective environment isolation. Precautions similar to the isolation setting apply to this setting, i.e., once an unopened, original, intact package of condiment is delivered to this patient, the package stays there until used or discarded. New (not re-served) packages of food should be delivered to this patient each time.

To summarize the key difference between the two scenarios:

- Food packages served to patients in contact isolation may not be re-served to other patients because of the potential for disease transmission to other patients.
- Patients in protective environments should not be re-served with food packages from other patients because of the potential for disease transmission to the protective environment patient.

Chapter 4 Equipment, Utensils, and Linens

Multiuse 4-101.11 Characteristics.*

Multiuse equipment is subject to deterioration because of its nature, i.e., intended use over an extended period of time. Certain materials allow harmful chemicals to be transferred to the food being prepared which could lead to foodborne illness. In addition, some materials can affect the taste of the food being prepared. Surfaces that are unable to be routinely cleaned and sanitized because

of the materials used could harbor foodborne pathogens. Deterioration of the surfaces of equipment such as pitting may inhibit adequate cleaning of the surfaces of equipment, so that food prepared on or in the equipment becomes contaminated.

Inability to effectively wash, rinse and sanitize the surfaces of food equipment may lead to the buildup of pathogenic organisms transmissible through food. Studies regarding the rigor required to remove biofilms from smooth surfaces highlight the need for materials of optimal quality in multiuse equipment.

4-101.12 Cast Iron, Use Limitation.

Equipment and utensils constructed of cast iron meet the requirement of durability as intended in section 4-101.11. However, the surface characteristics of cast iron tend to be somewhat porous which renders the material difficult to clean. On the other hand, when cast iron use is limited to cooking surfaces the residues in the porous surface are not of significant concern as heat destroys potential pathogens that may be present.

4-101.13 Lead, Use Limitation.

Historically, lead has been used in the formulation or decoration of these types of utensils. Specifically, lead-based paints that were used to decorate the utensils such as color glazes have caused high concentrations of lead to leach into the food they contain.

Lead poisoning continues to be an important public health concern due to the seriousness of associated medical problems. Lead poisoning is particularly harmful to the young and has caused learning disabilities and medical

problems among individuals who have consumed high levels. The allowable levels of lead are specific to the type of utensil, based on the average contact time and properties of the foods routinely stored in each item listed.

FDA has established maximum levels (see FDA Compliance Policy Guide Section 545.450 Pottery (Ceramics); Imported and Domestic – Lead Contamination (CPG 7117.07) for leachable lead in ceramicware, and pieces that exceed these levels are subject to recall or other agency enforcement action. The levels are based on how frequently a piece of ceramicware is used, the type and temperature of the food it holds, and how long the food stays in contact with the piece. For example, cups, mugs, and pitchers have the most stringent action level, 0.5 parts per million, because they can be expected to hold food longer, allowing more time for lead to leach. Also, a pitcher may be used to hold fruit juice. And a coffee mug is generally used every day to hold a hot acidic beverage, often several times a day.

The FDA allows use of lead glazes because they're the most durable, but regulates them tightly to ensure their safety. Commercial manufacturers employ extremely strict and effective manufacturing controls that keep the lead from leaching during use. Small potters often can't control the firing of lead glazes as well so their ceramics are more likely to leach illegal lead levels, although many do use lead-free glazes.

In 21 CFR 109.16, FDA requires high-lead-leaching decorative ceramicware to be permanently labeled that it's not for food use and may poison food. Such

items bought outside the United States may not be so labeled, potentially posing serious risk if used for food.

Pewter refers to a number of silver-gray alloys of tin containing various amounts of antimony, copper, and lead. The same concerns about the leaching of heavy metals and lead that apply to brass, galvanized metals, copper, cast iron, ceramics, and crystal also apply to pewter. As previously stated, the storage of acidic moist foods in pewter containers could result in food poisoning (heavy metal poisoning).

Solder is a material that is used to join metallic parts and is applied in the melted state to solid metals. Solder may be composed of tin and lead alloys.

4-101.14 Copper, Use Limitation.*

High concentrations of copper are poisonous and have caused foodborne illness. When copper and copper alloy surfaces contact acidic foods, copper may be leached into the food. Carbon dioxide may be released into a water supply because of an ineffective or nonexistent backflow prevention device between a carbonator and copper plumbing components. The acid that results from mixing water and carbon dioxide leaches copper from the plumbing components and the leachate is then transferred to beverages, causing copper poisoning. Backflow prevention devices constructed of copper and copper alloys can cause, and have resulted in, the leaching of both copper and lead into carbonated beverages.

Brass is an alloy of copper and zinc and contains lead which is used to combine the two elements. Historically, brass has been used for items such as

pumps, pipe fitting, and goblets. All 3 constituents are subject to leaching when they contact acidic foods, and food poisoning has resulted from such contact.

The steps in beer brewing include malting, mashing, fermentation, separation of the alcoholic beverage from the mash, and rectification. During mashing, it is essential to lower the pH from its normal 5.8 in order to optimize enzymatic activity. The pH is commonly lowered to 5.1-5.2, but may be adjusted to as low as 3.2. The soluble extract of the mash (wort) is boiled with hops for 1 to 22 hours or more. After boiling, the wort is cooled, inoculated with brewers yeast, and fermented. The use of copper equipment during the prefermentation and fermentation steps typically result in some leaching of copper.

Because copper is an essential nutrient for yeast growth, low levels of copper are metabolized by the yeast during fermentation. However, studies have shown that copper levels above 0.2 mg/L are toxic or lethal to the yeast. In addition, copper levels as low as 3.5 mg/L have been reported to cause symptoms of copper poisoning in humans. Therefore, the levels of copper necessary for successful beer fermentation (i.e., below 0.2 mg/L) do not reach a level that would be toxic to humans.

Today, domestic beer brewers typically endeavor to use only stainless steel or stainless steel-lined copper equipment (piping, fermenters, filters, holding tanks, bottling machines, keys, etc.) in contact with beer following the hot brewing steps in the beer making process. Some also use pitch-coated oak vats or glass-lined steel vats following the hot brewing steps. Where copper equipment is not used

in beer brewing, it is common practice to add copper (along with zinc) to provide the nutrients essential to the yeast for successful fermentation.

4-101.15 Galvanized Metal, Use Limitation.*

Galvanized means iron or steel coated with zinc, a heavy metal that may be leached from galvanized containers into foods that are high in water content. The risk of leaching increases with increased acidity of foods contacting the galvanized container.

4-101.16 Sponges, Use Limitation.

Sponges are difficult, if not impossible, to clean once they have been in contact with food particles and contaminants that are found in the environment. Because of their construction, sponges provide harborage for any number and variety of microbiological organisms, many of which may be pathogenic. Therefore, sponges are to be used only where they will not contaminate cleaned and sanitized or in-use, food-contact surfaces such as for cleaning equipment and utensils before rinsing and sanitizing.

4-101.17 Wood, Use Limitation.

The limited acceptance of the use of wood as a food-contact surface is determined by the nature of the food and the type of wood used. Moist foods may cause the wood surface to deteriorate and the surface may become difficult to clean. In addition, wood that is treated with preservatives may result in illness due to the migration of the preservative chemicals to the food; therefore, only specific preservatives are allowed.

4-101.18 Nonstick Coatings, Use Limitation.

Perfluorocarbon resin is a tough, nonporous and stable plastic material that gives cookware and bakeware a surface to which foods will not stick and that cleans easily and quickly. FDA has approved the use of this material as safe for food-contact surfaces. The Agency has determined that neither the particles that may chip off nor the fumes given off at high temperatures pose a health hazard. However, because this nonstick finish may be scratched by sharp or rough-edged kitchen tools, the manufacturer's recommendations should be consulted and the use of utensils that may scratch, abrasive scouring pads, or cleaners avoided.

4-101.19 Nonfood-Contact Surfaces.

Nonfood-contact surfaces of equipment routinely exposed to splash or food debris are required to be constructed of nonabsorbent materials to facilitate cleaning. Equipment that is easily cleaned minimizes the presence of pathogenic organisms, moisture, and debris and deters the attraction of rodents and insects.

Single-Service and Single-Use **4-102.11 Characteristics.***

The safety and quality of food can be adversely affected through single service and single use articles that are not constructed of acceptable materials. The migration of components of those materials to food they contact could result in chemical contamination and illness to the consumer. In addition, the use of unacceptable materials could adversely affect the quality of the food because of odors, tastes, and colors transferred to the food.

Durability and Strength **4-201.11 Equipment and Utensils.**

Equipment and utensils must be designed and constructed to be durable and capable of retaining their original characteristics so that such items can continue to fulfill their intended purpose for the duration of their life expectancy and to maintain their easy cleanability. If they can not maintain their original characteristics, they may become difficult to clean, allowing for the harborage of pathogenic microorganisms, insects, and rodents. Equipment and utensils must be designed and constructed so that parts do not break and end up in food as foreign objects or present injury hazards to consumers. A common example of presenting an injury hazard is the tendency for tines of poorly designed single service forks to break during use.

4-201.12 Food Temperature Measuring Devices.*

Food temperature measuring devices that have glass sensors or stems present a likelihood that glass will end up in food as a foreign object and create an injury hazard to the consumer. In addition, the contents of the temperature measuring device, e.g., mercury, may contaminate food or utensils.

Cleanability **4-202.11 Food-Contact Surfaces.***

The purpose of the requirements for multiuse food-contact surfaces is to ensure that such surfaces are capable of being easily cleaned and accessible for cleaning. Food-contact surfaces that do not meet these requirements provide a potential harbor for foodborne pathogenic organisms. Surfaces which have imperfections such as cracks, chips, or pits allow microorganisms to attach and form biofilms. Once established, these biofilms can release pathogens to food. Biofilms are highly resistant to cleaning and sanitizing efforts. The requirement for

easy disassembly recognizes the reluctance of food employees to disassemble and clean equipment if the task is difficult or requires the use of special, complicated tools.

4-202.12 CIP Equipment.

Certain types of equipment are designed to be cleaned in place (CIP) where it is difficult or impractical to disassemble the equipment for cleaning. Because of the closed nature of the system, CIP cleaning must be monitored via access points to ensure that cleaning has been effective throughout the system.

The CIP design must ensure that all food-contact surfaces of the equipment are contacted by the circulating cleaning and sanitizing solutions. Dead spots in the system, i.e., areas which are not contacted by the cleaning and sanitizing solutions, could result in the buildup of food debris and growth of pathogenic microorganisms. There is equal concern that cleaning and sanitizing solutions might be retained in the system, which may result in the inadvertent adulteration of food. Therefore, the CIP system must be self-draining.

4-202.13 "V" Threads, Use Limitation.

V-type threads present a surface which is difficult to clean routinely; therefore, they are not allowed on food-contact surfaces. The exception provided for hot oil cooking fryers and filtering systems is based on the high temperatures that are used in this equipment. The high temperature in effect sterilizes the equipment, including debris in the "V" threads.

4-202.14 Hot Oil Filtering Equipment.

To facilitate and ensure effective cleaning of this equipment, Code requirements, §§ 4-202.11 and 4-202.12 must be followed. The filter is designed to keep the oil free of undesired materials and therefore must be readily accessible for replacement. Filtering the oil reduces the likelihood that off-odors, tastes, and possibly toxic compounds may be imparted to food as a result of debris buildup. To ensure that filtering occurs, it is necessary for the filter to be accessible for replacement.

4-202.15 Can Openers.

Once can openers become pitted or the surface in any way becomes uncleanable, they must be replaced because they can no longer be adequately cleaned and sanitized. Can openers must be designed to facilitate replacement.

4-202.16 Nonfood-Contact Surfaces.

Hard-to-clean areas could result in the attraction and harborage of insects and rodents and allow the growth of foodborne pathogenic microorganisms. Well-designed equipment enhances the ability to keep nonfood-contact surfaces clean.

4-202.17 Kick Plates, Removable.

The use of kick plates is required to allow access for proper cleaning. If kick plate design and installation does not meet Code requirements, debris could accumulate and create a situation that may attract insects and rodents.

Accuracy **4-203.11 Temperature Measuring Devices, Food.**

The Metric Conversion Act of 1975 (amended 1988, 1996, and 2004, 15 USC 205a et seq) requires that all Federal government regulations use the Celsius Scale for temperature measurement. The Fahrenheit scale is included in the Code for those jurisdictions using the Fahrenheit scale for temperature measurement.

The small margin of error specified for thermometer accuracy is due to the lack of a large safety margin in the temperature requirements themselves. The accuracy specified for a particular food temperature measuring device is applicable to its entire range of use, that is, from refrigeration through cooking temperatures if the device is intended for such use.

4-203.12 Temperature Measuring Devices, Ambient Air and Water.

A temperature measuring device used to measure the air temperature in a refrigeration unit is not required to be as accurate as a food thermometer because the unit's temperature fluctuates with repeated opening and closing of the door and because accuracy in measuring internal food temperatures is of more significance.

The Celsius scale is the federally recognized scale based on The Metric Conversion Act of 1975 (amended 1988, 1996, and 2004, 15 USC 205a et seq) which requires the use of metric values. The ±1.5°C requirement is more stringent than the 3°F previously required since ±1.5°C is equivalent to ±2.7°F. The more rigid accuracy results from the practical application of metric equivalents to the temperature gradations of Celsius thermometers.

If Fahrenheit thermometers are used, the 3°F requirement applies because of the calibrated intervals of Fahrenheit thermometers.

The accuracy specified for a particular air or water temperature measuring device is applicable to its intended range of use. For example, a cold holding unit may have a temperature measuring device that measures from a specified frozen temperature to 20°C (68°F). The device must be accurate to specifications within that use range.

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

Flow pressure is a very important factor with respect to the efficacy of sanitization. A pressure below the design pressure results in inadequate spray patterns and incomplete coverage of the utensil surfaces to be sanitized. Excessive flow pressure will tend to atomize the water droplets needed to convey heat into a vapor mist that cools before reaching the surfaces to be sanitized.

Functionality **4-204.11 Ventilation Hood Systems, Drip Prevention.**

The dripping of grease or condensation onto food constitutes adulteration and may involve contamination of the food with pathogenic organisms. Equipment, utensils, linens, and single service and single use articles that are subjected to such drippage are no longer clean.

4-204.12 Equipment Openings, Closures and Deflectors.

Equipment openings and covers must be designed to protect stored or prepared food from contaminants and foreign matter that may fall into the food. The requirement for an opening to be flanged upward and for the cover to overlap the

opening and be sloped to drain prevents contaminants, especially liquids, from entering the food-contact area.

Some equipment may have parts that extend into the food-contact areas. If these parts are not provided with a watertight joint at the point of entry into the food-contact area, liquids may contaminate the food by adhering to shafts or other parts and running or dripping into the food.

An apron on parts extending into the food-contact area is an acceptable alternative to the watertight seal. If the apron is not properly designed and installed, condensation, drips, and dust may gain access to the food.

4-204.13 Dispensing Equipment, Protection of Equipment and Food.

This requirement is intended to protect both the machine-dispensed, unpackaged, liquid foods and the machine components from contamination. Barriers need to be provided so that the only liquid entering the food container is the liquid intended to be dispensed when the machine's mechanism is activated. Recessing of the machine's components and self-closing doors prevent contamination of machine ports by people, dust, insects, or rodents. If the equipment components become contaminated, the product itself will be exposed to possible contamination.

A direct opening into the food being dispensed allows dust, vermin, and other contaminants access to the food.

4-204.14 Vending Machine, Vending Stage Closure.

Since packaged foods dispensed from vending machines could attract insects and rodents, a self-closing door is required as a barrier to their entrance.

4-204.15 Bearings and Gear Boxes, Leakproof.

It is not unusual for food equipment to contain bearings and gears. Lubricants necessary for the operation of these types of equipment could contaminate food or food-contact surfaces if the equipment is not properly designed and constructed.

4-204.16 Beverage Tubing, Separation.

Beverage tubing and coldplate cooling devices may result in contamination if they are installed in direct contact with stored ice. Beverage tubing installed in contact with ice may result in condensate and drippage contaminating the ice as the condensate moves down the beverage tubing and ends up in the ice.

The presence of beverage tubing and/or coldplate cooling devices also presents cleaning problems. It may be difficult to adequately clean the ice bin if they are present. Because of the high moisture environment, mold and algae may form on the surface of the ice bins and any tubing or equipment stored in the bins.

4-204.17 Ice Units, Separation of Drains.

Liquid waste drain lines passing through ice machines and storage bins present a risk of contamination due to potential leakage of the waste lines and the possibility that contaminants will gain access to the ice through condensate migrating along the exterior of the lines.

Liquid drain lines passing through the ice bin are, themselves, difficult to clean and create other areas that are difficult to clean where they enter the unit as well as where they abut other surfaces. The potential for mold and algal growth in this area is very likely due to the high moisture environment. Molds and algae that

form on the drain lines are difficult to remove and present a risk of contamination to the ice stored in the bin.

4-204.18 Condenser Unit, Separation.

A dust-proof barrier between a condenser and food storage areas of equipment protects food and food-contact areas from contamination by dust that is accumulated and blown about as a result of the condenser's operation.

4-204.19 Can Openers on Vending Machines.

Since the cutting or piercing surfaces of a can opener directly contact food in The container being opened, these surfaces must be protected from contamination.

4-204.110 Molluscan Shellfish Tanks.

Shellfish are filter feeders allowing concentration of pathogenic microorganisms that may be present in the water. Due to the number of shellfish and the limited volume of water used, display tanks may allow concentration of pathogenic viruses and bacteria.

Since many people eat shellfish either raw or lightly cooked, the potential for increased levels of pathogenic microorganisms in shellfish held in display tanks is of concern. If shellfish stored in molluscan shellfish tanks are offered for consumption, certain safeguards must be in place as specified in a detailed HACCP plan that is approved by the regulatory authority. Opportunities for contamination must be controlled or eliminated. Procedures must emphasize strict monitoring of the water quality of the tank including the filtering and disinfection system.

4-204.111 Vending Machines, Automatic Shutoff.*

Failure to store potentially hazardous (time/temperature control for safety) food at safe temperatures in a vending machine could result in the growth of pathogenic microorganisms that may result in foodborne illness. The presence of an automatic control that prevents the vending of food if the temperature of the unit exceeds Code requirements precludes the vending of foods that may not be safe.

It is possible and indeed very likely that the temperature of the storage area of a vending machine may exceed Code requirements during the stocking and servicing of the machine. The automatic shut off, commonly referred to as the "public health control," provides a limited amount of time that the ambient temperature of a machine may exceed Code requirements. Strict adherence to the time requirements can limit the growth of pathogenic microorganisms.

4-204.112 Temperature Measuring Devices.

The placement of the temperature measuring device is important. If the device is placed in the coldest location in the storage unit, it may not be representative of the temperature of the unit. Food could be stored in areas of the unit that exceed Code requirements. Therefore, the temperature measuring device must be placed in a location that is representative of the actual storage temperature of the unit to ensure that all potentially hazardous (time/temperature control for safety) foods are stored at least at the minimum temperature required in Chapter 3.

Installing an air thermometer in some open display refrigerators can be difficult without physically impairing the usability of the case and interfering with cleaning and sanitation. Use of a temperature monitoring system that uses probe-like

sensors that are placed in material resembling the density of food is an acceptable alternative. Thus, the direct temperature of the substitute product is measured by use of this product mimicking method.

A permanent temperature measuring device is required in any unit storing potentially hazardous (time/temperature control for safety) food because of the potential growth of pathogenic microorganisms should the temperature of the unit exceed Code requirements. In order to facilitate routine monitoring of the unit, the device must be clearly visible.

The exception to requiring a temperature measuring device for the types of equipment listed is primarily due to equipment design and function. It would be difficult and impractical to permanently mount a temperature measuring device on the equipment listed. The futility of attempting to measure the temperature of unconfined air such as with heat lamps and, in some cases, the brief period of time the equipment is used for a given food negate the usefulness of ambient temperature monitoring at that point. In such cases, it would be more practical and accurate to measure the internal temperature of the food.

The importance of maintaining potentially hazardous (time/temperature control for safety) foods at the specified temperatures requires that temperature measuring devices be easily readable. The inability to accurately read a thermometer could result in food being held at unsafe temperatures.

Temperature measuring devices must be appropriately scaled per Code requirements to ensure accurate readings.

The required incremental gradations are more precise for food measuring

devices than for those used to measure ambient temperature because of the significance at a given point in time, i.e., the potential for pathogenic growth, versus the unit's temperature. The food temperature will not necessarily match the ambient temperature of the storage unit; it will depend on many variables including the temperature of the food when it is placed in the unit, the temperature at which the unit is maintained, and the length of time the food is stored in the unit.

4-204.113 Warewashing Machine, Data Plate Operating Specifications.

The data plate provides the operator with the fundamental information needed to ensure that the machine is effectively washing, rinsing, and sanitizing equipment and utensils. The warewashing machine has been tested, and the information on the data plate represents the parameters that ensure effective operation and sanitization and that need to be monitored.

4-204.114 Warewashing Machines, Internal Baffles.

The presence of baffles or curtains separating the various operational cycles of a warewashing machine such as washing, rinsing, and sanitizing are designed to reduce the possibility that solutions from one cycle may contaminate solutions in another. The baffles or curtains also prevent food debris from being splashed onto the surface of equipment that has moved to another cycle in the procedure.

4-204.115 Warewashing Machines, Temperature Measuring Devices.

The requirement for the presence of a temperature measuring device in each tank of the warewashing machine is based on the importance of temperature in

the sanitization step. In hot water machines, it is critical that minimum temperatures be met at the various cycles so that the cumulative effect of successively rising temperatures causes the surface of the item being washed to reach the required temperature for sanitization. When chemical sanitizers are used, specific minimum temperatures must be met because the effectiveness of chemical sanitizers is directly affected by the temperature of the solution.

4-204.116 Manual Warewashing Equipment, Heaters and Baskets.

Hot water sanitization is accomplished in water of not less than 77^{o}C (170^{o}F) and an integral heating device is necessary to ensure that the minimum temperature is reached.

The rack or basket is required in order to safely handle the equipment and utensils being washed and to ensure immersion. Water at this temperature could result in severe burns to employees operating the equipment.

4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

The presence of adequate detergents and sanitizers is necessary to effect clean and sanitized utensils and equipment. The automatic dispensing of these chemical agents, plus a method such as a flow indicator, flashing light, buzzer, or visible open air delivery system that alerts the operator that the chemicals are no longer being dispensed, ensures that utensils are subjected to an efficacious cleaning and sanitizing regimen.

4-204.118 Warewashing Machines, Flow Pressure Device.

Flow pressure is a very important factor impacting the efficacy of sanitization in

machines that use fresh hot water at line-pressure as a final sanitization rinse. (See discussion in Public Health Reason for section 4-203.13.) It is important that the operator be able to monitor, and the food inspector be able to check, final sanitization rinse pressure as well as machine water temperatures. ANSI/NSF Standard #3, a national voluntary consensus standard for Commercial Spray-Type Dishwashing Machines, specifies that a pressure gauge or similar device be provided on this type machine and such devices are shipped with machines by the manufacturer. Flow pressure devices installed on the upstream side of the control (solenoid) valve are subject to damage and failure due to the water hammer effect caused throughout the dishwashing period each time the control valve closes. The IPS valve provides a ready means for checking line-pressure with an alternative pressure measuring device. A flow pressure device is not required on machines that use only a pumped or recirculated sanitizing rinse since an appropriate pressure is ensured by a pump and is not dependent upon line-pressure.

4-204.121 Vending Machines, Liquid Waste Products.

The presence of internal waste containers allows for the collection of liquids that spill within the vending machine. Absence of a waste container or, where required, a shutoff valve which controls the incoming liquids could result in wastes spilling within the machine, causing a condition that attracts insects and rodents and compounds cleaning and maintenance problems.

4-204.122 Case Lot Handling Equipment, Moveability.

Proper design of case lot handling equipment facilitates moving case lots for cleaning and for surveillance of insect or rodent activity.

4-204.123 Vending Machine Doors and Openings.

The objective of this requirement is to provide a barrier against the entrance into vending machines of insects, rodents, and dust. The maximum size of the openings deters the entrance of common pests.

Acceptability **4-205.10 Food Equipment, Certification and Classification.**

Under ANSI document CA-1 ANSI Policy and Criteria for Accreditation of Certification Programs, it has been stipulated that:

"For food equipment programs, standards that establish sanitation requirements shall be specified government standards or standards that have been ratified by a public health approval step. ANSI shall verify that this requirement has been met by communicating with appropriate standards developing organizations and governmental public health bodies."

The term certified is used when an item of food equipment has been evaluated against an organization's own standard. The term classified is used when one organization evaluates an item of food equipment against a standard developed by another organization.

Equipment **4-301.11 Cooling, Heating, and Holding Capacities.**

The ability of equipment to cool, heat, and maintain potentially hazardous (time/temperature control for safety) foods at Code-required temperatures is critical to food safety. Improper holding and cooking temperatures continue to be major contributing factors to foodborne illness. Therefore, it is very important to have adequate hot or cold holding equipment with enough capacity to meet the

heating and cooling demands of the operation.

4-301.12 Manual Warewashing, Sink Compartment Requirements.

The 3 compartment requirement allows for proper execution of the 3-step manual warewashing procedure. If properly used, the 3 compartments reduce the chance of contaminating the sanitizing water and therefore diluting the strength and efficacy of the chemical sanitizer that may be used.

Alternative manual warewashing equipment, allowed under certain circumstances and conditions, must provide for accomplishment of the same 3 steps:

1. Application of cleaners and the removal of soil;
2. Removal of any abrasive and removal or dilution of cleaning chemicals; and
3. Sanitization.

Refer also to the public health reason for § 4-603.16.

4-301.13 Drainboards.

Drainboards or equivalent equipment are necessary to separate soiled and cleaned items from each other and from the food preparation area in order to preclude contamination of cleaned items and of food.

Drainboards allow for the control of water running off equipment and utensils that have been washed and also allow the operator to properly store washed equipment and utensils while they air-dry.

4-301.14 Ventilation Hood Systems, Adequacy.

If a ventilation system is inadequate, grease and condensate may build up on the floors, walls and ceilings of the food establishment, causing an insanitary condition and possible deterioration of the surfaces of walls and ceilings. The accumulation of grease and condensate may contaminate food and food-contact surfaces as well as present a possible fire hazard.

Refer also to the public health reason for § 4-204.11.

4-301.15 Clothes Washers and Dryers.

To protect food, soiled work clothes or linens must be efficiently laundered. The only practical way of efficiently laundering work clothes on the premises is with the use of a mechanical washer and dryer.

Refer also to the public health reason for § 4-401.11.

Utensils, Temperature Measuring Devices, and Testing Devices

4-302.11 Utensils, Consumer Self-Service.

Appropriate serving utensils provided at each container will, among other things, reduce the likelihood of food tasting, use of fingers to serve food, use of fingers to remove the remains of one food on the utensil so that it may be used for another, use of soiled tableware to transfer food, and cross contamination between foods, including a raw food to a cooked potentially hazardous (time/temperature control for safety) food.

4-302.12 Food Temperature Measuring Devices.

The presence and accessibility of food temperature measuring devices is critical to the effective monitoring of food temperatures. Proper use of such devices provides the operator or person in charge with important information with which to determine if temperatures should be adjusted or if foods should be discarded. When determining the temperature of thin foods, those having a thickness less than 13 mm (1/2 inch), it is particularly important to use a temperature sensing probe designed for that purpose. Bimetal, bayonet style thermometers are not suitable for accurately measuring the temperature of thin foods such as hamburger patties because of the large diameter of the probe and the inability to accurately sense the temperature at the tip of the probe. However, temperature measurements in thin foods can be accurately determined using a small-diameter probe 1.5 mm (0.059 inch), or less, connected to a device such as thermocouple thermometer.

4-302.13 Temperature Measuring Devices, Manual Warewashing.

Water temperature is critical to sanitization in warewashing operations. This is

particularly true if the sanitizer being used is hot water. The effectiveness of cleaners and chemical sanitizers is also determined by the temperature of the water used. A temperature measuring device is essential to monitor manual warewashing and ensure sanitization.

4-302.14 Sanitizing Solutions, Testing Devices.

Testing devices to measure the concentration of sanitizing solutions are required for 2 reasons:

1. The use of chemical sanitizers requires minimum concentrations of the sanitizer during the final rinse step to ensure sanitization; and
2. Too much sanitizer in the final rinse water could be toxic.

Location **4-401.11 Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention.**

Food equipment and the food that contacts the equipment must be protected from sources of overhead contamination such as leaking or ruptured water or sewer pipes, dripping condensate, and falling objects. When equipment is installed, it must be situated with consideration of the potential for contamination from such overhead sources.

If a clothes washer and dryer are installed adjacent to exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles, it could result in those items becoming contaminated from soiled laundry. The reverse is also true, i.e., items being laundered could become contaminated from the surrounding area if the washer and dryer are not properly located.

Installation **4-402.11 Fixed Equipment, Spacing or Sealing.**

This section is designed to ensure that fixed equipment is installed in a way that:

1. Allows accessibility for cleaning on all sides, above, and underneath the units or minimizes the need for cleaning due to closely abutted surfaces;
2. Ensures that equipment that is subject to moisture is sealed;
3. Prevents the harborage of insects and rodents; and
4. Provides accessibility for the monitoring of pests.

4-402.12 Fixed Equipment, Elevation or Sealing.

The inability to adequately or effectively clean areas under equipment could create a situation that may attract insects and rodents and accumulate pathogenic microorganisms that are transmissible through food.

The effectiveness of cleaning is directly affected by the ability to access all areas to clean fixed equipment. It may be necessary to elevate the equipment. When elevating equipment is not feasible or prohibitively expensive, sealing to prevent contamination is required.

The economic impact of the requirement to elevate display units in retail food stores, coupled with the fact that the design, weight, and size of such units are not conducive to casters or legs, led to the exception for certain units located in consumer shopping areas, provided the floor under the units is kept clean. This exception for retail food store display equipment including shelving, refrigeration,

and freezer units in the consumer shopping areas requires a rigorous cleaning schedule.

***Equipment* 4-501.11 Good Repair and Proper Adjustment.**

Proper maintenance of equipment to manufacturer specifications helps ensure that it will continue to operate as designed. Failure to properly maintain equipment could lead to violations of the associated requirements of the Code that place the health of the consumer at risk. For example, refrigeration units in disrepair may no longer be capable of properly cooling or holding potentially hazardous (time/temperature control for safety) foods at safe temperatures.

The cutting or piercing parts of can openers may accumulate metal fragments that could lead to food containing foreign objects and, possibly, result in consumer injury.

Adequate cleaning and sanitization of dishes and utensils using a warewashing machine is directly dependent on the exposure time during the wash, rinse, and sanitizing cycles. Failure to meet manufacturer and Code requirements for cycle times could result in failure to clean and sanitize. For example, high temperature machines depend on the buildup of heat on the surface of dishes to accomplish sanitization. If the exposure time during any of the cycles is not met, the surface of the items may not reach the time-temperature parameter required for sanitization. Exposure time is also important in warewashing machines that use a chemical sanitizer since the sanitizer must contact the items long enough for sanitization to occur. In addition, a chemical sanitizer will not sanitize a dirty dish;

therefore, the cycle times during the wash and rinse phases are critical to sanitization.

4-501.12 Cutting Surfaces.

Cutting surfaces such as cutting boards and blocks that become scratched and scored may be difficult to clean and sanitize. As a result, pathogenic microorganisms transmissible through food may build up or accumulate. These microorganisms may be transferred to foods that are prepared on such surfaces.

4-501.13 Microwave Ovens.

Failure of microwave ovens to meet the CFR standards could result in human exposure to radiation leakage, resulting in possible medical problems to consumers and employees using the machines.

4-501.14 Warewashing Equipment, Cleaning Frequency.

With the passage of the Food Quality Protection Act of 1996 and the related Antimicrobial Regulation Technical Correction Act of 1998, federal regulatory responsibility for chemical hard surface sanitizers was moved from FDA (CFSAN/OFAS) to EPA (Office of Pesticides Programs, Antimicrobial Division). As a result, the relevant Federal regulation has moved from 21 CFR 178.1010 to 40 CFR 180.940.

During operation, warewashing equipment is subject to the accumulation of food wastes and other soils or sources of contamination. In order to ensure the proper cleaning and sanitization of equipment and utensils, it is necessary to clean

the surface of warewashing equipment before use and periodically throughout the day.

With respect to chemical sanitization, section 4-501.114 addresses the proper make-up of the sanitizing solution, i.e., chemical concentration, pH, and temperature at the required minimum levels specified when considered together and, with respect to quaternary ammonium compounds (quats), the maximum hardness level. If these minimums (maximum hardness) are not as specified, then this provision is violated.

By contrast, paragraph 4-703.11(C) addresses exposure time in seconds. For chemical sanitization, this paragraph is only violated when the specified exposure time is not met.

Section 7-204.11 addresses two additional considerations. The first is whether or not the chemical agent being applied as a sanitizer is approved and listed for that use under 40 CFR 180.940. If the chemical used is not thus listed, this section is violated.

The second consideration under this section is whether the product, if approved and listed, is being used in accordance with the "Limits" provided for that product under its 40 CFR 180.940 listing. The concern here is an indirect food additives concern, since chemical sanitizing solutions are not rinsed off in this country. For example, 40 CFR 180.940(a) lists several quaternary ammonium compounds as approved for "food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils," each listing adding a Limit that states, "When ready for use, the end-use concentration of all quaternary

chemicals in the solution is not to exceed 200 ppm of active quaternary compound. If a sanitarian determined that a solution of any of these quats was at 600 ppm, section 7-204.11 would be violated.

To summarize, a too weak sanitizing solution would be a violation of section 4- 501.114. A too strong solution would be a violation of section 7-204.11. Section 7-202.12 would not be violated due to the existence of section 7-204.11 that specifically addresses the use chemical sanitizers.

4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.

To ensure properly cleaned and sanitized equipment and utensils, warewashing machines must be operated properly. The manufacturer affixes a data plate to the machine providing vital, detailed instructions about the proper operation of the machine including wash, rinse, and sanitizing cycle times and temperatures which must be achieved.

4-501.16 Warewashing Sinks, Use Limitation.

If the wash sink is used for functions other than warewashing, such as washing wiping cloths or washing and thawing foods, contamination of equipment and utensils could occur.

4-501.17 Warewashing Equipment, Cleaning Agents.

Failure to use detergents or cleaners in accordance with the manufacturer's label instructions could create safety concerns for the employee and consumer. For example, employees could suffer chemical burns, and chemical residues could find their way into food if detergents or cleaners are used carelessly.

Equipment or utensils may not be cleaned if inappropriate or insufficient amounts of cleaners or detergents are used.

4-501.18 Warewashing Equipment, Clean Solutions.

Failure to maintain clean wash, rinse, and sanitizing solutions adversely affects the warewashing operation. Equipment and utensils may not be sanitized, resulting in subsequent contamination of food.

4-501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The wash solution temperature required in the Code is essential for removing organic matter. If the temperature is below 110^{o}F, the performance of the detergent may be adversely affected, e.g., animal fats that may be present on the dirty dishes would not be dissolved.

4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

The wash solution temperature in mechanical warewashing equipment is critical to proper operation. The chemicals used may not adequately perform their function if the temperature is too low. Therefore, the manufacturer's instructions must be followed. The temperatures vary according to the specific equipment being used.

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.*

If the temperature during the hot water sanitizing step is less than 77°C (171°F), sanitization will not be achieved. As a result, pathogenic organisms may survive and be subsequently transferred from utensils to food.

4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

The temperature of hot water delivered from a warewasher sanitizing rinse manifold must be maintained according to the equipment manufacturer's specifications and temperature limits specified in this section to ensure surfaces of multiuse utensils such as kitchenware and tableware accumulate enough heat to destroy pathogens that may remain on such surfaces after cleaning.

The surface temperature must reach at least 71ºC (160ºF) as measured by an irreversible registering temperature measuring device to affect sanitization. When the sanitizing rinse temperature exceeds 90ºC (194ºF) at the manifold, the water becomes volatile and begins to vaporize reducing its ability to convey sufficient heat to utensil surfaces. The lower temperature limits of 74ºC (165ºF) for a stationary rack, single temperature machine, and 82ºC (180ºF) for other machines are based on the sanitizing rinse contact time required to achieve the 71ºC (160ºF) utensil surface temperature.

4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

If the flow pressure of the final sanitizing rinse is less than that required, dispersion of the sanitizing solution may be inadequate to reach all surfaces of

equipment or utensils.

4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness.*

With the passage of the Food Quality Protection Act of 1996 and the related Antimicrobial Regulation Technical Correction Act of 1998, Federal regulatory responsibility for chemical hard surface sanitizers was moved from FDA (CFSAN/OFAS) to EPA (Office of Pesticides Programs, Antimicrobial Division). As a result, the relevant Federal regulation has moved from 21 CFR 178.1010 to 40 CFR 180.940.

The effectiveness of chemical sanitizers can be directly affected by the temperature, pH, concentration of the sanitizer solution used, and hardness of the water. All sanitizers approved for use under 40 CFR 180.940 must be used under water conditions stated on the label to ensure efficacy. Therefore, it is critical to sanitization that the sanitizers are used properly and the solutions meet the minimum standards required in the Code.

With respect to chemical sanitization, section 4-501.114 addresses the proper make-up of the sanitizing solution, i.e., chemical concentration, pH, and temperature at the required maximum levels specified when considered together and, with respect to quaternary ammonium compounds (quats), the maximum hardness level. If these minimums (maximum hardness) are not as specified, then this provision is violated.

By contrast, paragraph 4-703.11(C) addresses exposure time in seconds. For chemical sanitization, this paragraph is only violated when the specified exposure

time is not met.

Section 7-204.11 addresses two additional considerations. The first is whether or not the chemical agent being applied as a sanitizer is approved and listed for that use under 40 CFR 180.940. If the chemical used is not thus listed, this section is violated.

The second consideration under this section is whether the product, if approved and listed, is being used in accordance with the "Limits" provided for that product under its 40 CFR 180.940 listing. The concern here is an indirect food additives concern, since chemical sanitizing solutions are not rinsed off in this country. For example, 40 CFR 180.940(a) lists several quaternary ammonium compounds as approved for "food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils," each listing adding a Limit that states, "When ready for use, the end-use concentration of all quaternary chemicals in the solution is not to exceed 200 ppm of active quaternary compound." If a sanitarian determined that a solution of any of these quats was at 600 ppm, section 7-204.11 would be violated.

To summarize, a too weak sanitizing solution would be a violation of section 4-501.114. A too strong solution would be a violation of section 7-204.11. Section 7-202.12 would not be violated due to the existence of section 7-204.11 that specifically addresses the use chemical sanitizers.

4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers.

Some chemical sanitizers are not compatible with detergents when a 2 compartment operation is used. When using a sanitizer that is different from the detergent-sanitizer of the wash compartment, the sanitizer may be inhibited by carry-over, resulting in inadequate sanitization.

4-501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration.

The effectiveness of chemical sanitizers is determined primarily by the concentration and pH of the sanitizer solution. Therefore, a test kit is necessary to accurately determine the concentration of the chemical sanitizer solution.

Utensils and Temperature and Pressure Measuring Devices

4-502.11 Good Repair and Calibration.

A utensil or food temperature measuring device can act as a source of contamination to the food it contacts if it is not maintained in good repair. Also, if temperature or pressure measuring devices are not maintained in good repair, the accuracy of the readings is questionable. Consequently, a temperature problem may not be detected, or conversely, a corrective action may be needlessly taken.

4-502.12 Single-Service and Single-Use Articles, Required Use.*

In situations in which the reuse of multiuse items could result in foodborne illness to consumers, single-service and single-use articles must be used to ensure safety.

4-502.13 Single-Service and Single-Use Articles, Use Limitation.

Articles that are not constructed of multiuse materials may not be reused as they are unable to withstand the rigors of multiple uses, including the ability to be subjected to repeated washing, rinsing, and sanitizing.

4-502.14 Shells, Use Limitation.

The reuse of mollusk and crustacean shells as multiuse utensils is not allowed in food establishments. This prohibition does not apply to the removal of the oyster or other species from the shell for preparation, then returning the same animal to the same shell for service.

The shell itself may be potentially unsafe for use as a food utensil because of residues from natural and environmental contamination occurring after the mollusk or crustacean is removed. In addition, natural shells are not durable or easily cleanable as specified under section 4-502.13. When mollusk or crustacean shells (from commercial sources) are re-used by filling them with shucked shellfish, the food is considered misleading and not honestly presented.

Objective **4-601.11 Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.***

The objective of cleaning focuses on the need to remove organic matter from food-contact surfaces so that sanitization can occur and to remove soil from nonfood contact surfaces so that pathogenic microorganisms will not be allowed to accumulate and insects and rodents will not be attracted.

Frequency **4-602.11 Equipment Food-Contact Surfaces and Utensils.***

Microorganisms may be transmitted from a food to other foods by utensils, cutting boards, thermometers, or other food-contact surfaces. Food-contact surfaces and equipment used for potentially hazardous (time/temperature control for safety) foods should be cleaned as needed throughout the day but must be cleaned no less than every 4 hours to prevent the growth of microorganisms on those surfaces.

Refrigeration temperatures slow down the generation time of bacterial pathogens, making it unnecessary to clean every four hours. However, the time period between cleaning equipment and utensils may not exceed 24 hours. A time-temperature chart is provided in subparagraph 4-602.11(D)(2) to accommodate operations that use equipment and utensils in a refrigerated room or area that maintains a temperature between 41°F or less and 55°F.

Surfaces of utensils and equipment contacting food that is not potentially hazardous (time/temperature control for safety food) such as iced tea dispensers, carbonated beverage dispenser nozzles, beverage dispensing circuits or lines, water vending equipment, coffee bean grinders, ice makers, and ice bins must be cleaned on a routine basis to prevent the development of slime, mold, or soil residues that may contribute to an accumulation of microorganisms. Some equipment manufacturers and industry associations, e.g., within the tea industry, develop guidelines for regular cleaning and sanitizing of equipment. If the manufacturer does not provide cleaning specifications for food-contact surfaces of equipment that are not readily visible, the person in charge should develop a

cleaning regimen that is based on the soil that may accumulate in those particular items of equipment.

Regarding the possible adulteration from one species of meat to another between cleaning of food-contact surfaces, USDA/FSIS does not automatically consider species adulteration as a health hazard. FSIS stated in an Advance Notice of Proposed Rulemaking that species adulteration falls into a gray area between safety and economic adulteration (65 FR 14486, March 17, 2000, Other Consumer Protection Activities). FSIS will review public comments received on the species adulteration issue and further review the scientific literature and risk assessment mechanisms before declaring species adulteration a health hazard. Meanwhile, species adulteration is generally considered by FSIS as an economic issue. However, investigations by FSIS of species adulteration incidents may include a determination regarding the impact of species adulteration as a health hazard on a case-by-case basis.

4-602.12 Cooking and Baking Equipment.

Food-contact surfaces of cooking equipment must be cleaned to prevent encrustations that may impede heat transfer necessary to adequately cook food. Encrusted equipment may also serve as an insect attractant when not in use. Because of the nature of the equipment, it may not be necessary to clean cooking equipment as frequently as the equipment specified in § 4-602.11.

4-602.13 Nonfood-Contact Surfaces.

The presence of food debris or dirt on nonfood contact surfaces may provide a suitable environment for the growth of microorganisms which employees may

inadvertently transfer to food. If these areas are not kept clean, they may also provide harborage for insects, rodents, and other pests.

Methods **4-603.11 Dry Cleaning.**

Dry cleaning methods are indicated in only a few operations, which are limited to dry foods that are not potentially hazardous (time/temperature control for safety foods). Under some circumstances, attempts at wet cleaning may create microbiological concerns.

4-603.12 Precleaning.

Precleaning of utensils, dishes, and food equipment allows for the removal of grease and food debris to facilitate the cleaning action of the detergent. Depending upon the condition of the surface to be cleaned, detergent alone may not be sufficient to loosen soil for cleaning. Heavily soiled surfaces may need to be presoaked or scrubbed with an abrasive.

4-603.13 Loading of Soiled Items, Warewashing Machines.

Items to be washed in a warewashing machine must receive unobstructed exposure to the spray to ensure adequate cleaning. Items which are stacked or trays which are heavily loaded with silverware cannot receive complete distribution of detergent, water, or sanitizer and cannot be considered to be clean. **4-603.14 Wet Cleaning.**

Because of the variety of cleaning agents available and the many different types of soil to be removed it is not possible to recommend one cleaning agent to fit all situations. Each of the different types of cleaners works best under different conditions (i.e., some work best on grease, some work best in warm water, others work best in hot water). The specific chemical selected should be compatible with any other chemicals to be used in the operation such as a sanitizer or drying agent.

4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment.

Some pieces of equipment are fixed or too large to be cleaned in a sink. Nonetheless, cleaning of such equipment requires the application of cleaners for the removal of soil and rinsing for the removal of abrasive and cleaning chemicals, followed by sanitization.

4-603.16 Rinsing Procedures.

It is important to rinse off detergents, abrasive, and food debris after the wash step to avoid diluting or inactivating the sanitizer.

4-603.17 Returnables, Cleaning for Refilling.*

The refilling of consumer-owned beverage containers introduces the possibility of contamination of the filling equipment or product by improperly cleaned containers or the improper operation of the equipment. To prevent this contamination and possible health hazards to the consumer, the refilling of consumer-owned containers is limited to beverages that are not potentially hazardous (time/temperature control

for safety) foods. Equipment must be designed to prevent the contamination of the equipment and means must be provided to clean the containers at the facility.

Objective **4-701.10 Food-Contact Surfaces and Utensils.**

Effective sanitization procedures destroy organisms of public health importance that may be present on wiping cloths, food equipment, or utensils after cleaning, or which have been introduced into the rinse solution. It is important that surfaces be clean before being sanitized to allow the sanitizer to achieve its maximum benefit.

Frequency **4-702.11 Before Use After Cleaning.***

Sanitization is accomplished after the warewashing steps of cleaning and rinsing so that utensils and food-contact surfaces are sanitized before coming in contact with food and before use.

Methods **4-703.11 Hot Water and Chemical.***

Efficacious sanitization depends on warewashing being conducted within certain parameters. Time is a parameter applicable to both chemical and hot water sanitization. The time hot water or chemicals contact utensils or food-contact surfaces must be sufficient to destroy pathogens that may remain on surfaces after cleaning. Other parameters, such as rinse pressure, temperature, and chemical concentration are used in combination with time to achieve sanitization.

When surface temperatures of utensils passing through warewashing machines using hot water for sanitizing do not reach the required 71ºC (160ºF), it is important to understand the factors affecting the decreased surface temperature. A comparison should be made between the machine manufacturer's operating

instructions and the machine's actual wash and rinse temperatures and final rinse pressure. The actual temperatures and rinse pressure should be consistent with the machine manufacturer's operating instructions and within limits specified in §§ 4-501.112 and 4-501.113.

If either the temperature or pressure of the final rinse spray is higher than the specified upper limit, spray droplets may disperse and begin to vaporize resulting in less heat delivery to utensil surfaces. Temperatures below the specified limit will not convey the needed heat to surfaces. Pressures below the specified limit will result in incomplete coverage of the heat-conveying sanitizing rinse across utensil surfaces.

Objective **4-801.11 Clean Linens.**

Linens that are not free from food residues and other soiling matter may carry pathogenic microorganisms that may cause illness.

Frequency **4-802.11 Specifications.**

Linens, cloth gloves, and cloth napkins are to be laundered between uses to prevent the transfer of pathogenic microorganisms between foods or to food-contact surfaces. The laundering of wet wiping cloths before being used with a fresh solution of cleanser or sanitizer is designed to reduce the microbiological load in the cleanser and sanitizer and thereby reduce the possible transfer of microorganisms to food and nonfood-contact surfaces.

Methods **4-803.11 Storage of Soiled Linens**.

Soiled linens may directly or indirectly contaminate food. Proper storage will reduce the possibility of contamination of food, equipment, utensils, and single-service and single-use articles.

4-803.12 Mechanical Washing.

Proper laundering of wiping cloths will significantly reduce the possibility that pathogenic microorganisms will be transferred to food, equipment, or utensils.

4-803.13 Use of Laundry Facilities.

Washing and drying items used in the operation of the establishment on the premises will help prevent the introduction of pathogenic microorganisms into the environment of the food establishment.

Drying **4-901.11 Equipment and Utensils, Air-Drying Required.**

Items must be allowed to drain and to air-dry before being stacked or stored. Stacking wet items such as pans prevents them from drying and may allow an environment where microorganisms can begin to grow. Cloth drying of equipment and utensils is prohibited to prevent the possible transfer of microorganisms to equipment or utensils.

4-901.12 Wiping Cloths, Air-Drying Locations.

Cloths that are air-dried must be dried so that they do not drip on food or utensils and so that the cloths are not contaminated while air-drying.

Lubricating and **4-902.11 Food-Contact Surfaces.**

Reassembling

Food-contact surfaces must be lubricated in a manner that does not introduce contaminants to those surfaces.

4-902.12 Equipment.

Equipment must be reassembled in a way that food-contact surfaces are not contaminated.

Storing **4-903.11 Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.**

Clean equipment and multiuse utensils which have been cleaned and sanitized, laundered linens, and single-service and single-use articles can become contaminated before their intended use in a variety of ways such as through water leakage, pest infestation, or other insanitary condition.

4-903.12 Prohibitions.

The improper storage of clean and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may allow contamination before their intended use. Contamination can be caused by moisture from absorption, flooding, drippage, or splash. It can also be caused by food debris, toxic materials, litter, dust, and other materials. The contamination is often related to unhygienic employee practices, unacceptable high-risk storage locations, or improper construction of storage facilities.

Preventing **4-904.11 Kitchenware and Tableware.**

Contamination **4-904.12 Soiled and Clean Tableware.**

4-904.13 Preset Tableware.

The presentation or setting of single-service and single-use articles and cleaned and sanitized utensils shall be done in a manner designed to prevent the contamination of food- and lip-contact surfaces.

Chapter 5 Water, Plumbing, and Waste

Source **5-101.11 Approved System.***

Water, unless it comes from a safe supply, may serve as a source of contamination for food, equipment, utensils, and hands. The major concern is that water may become a vehicle for transmission of disease organisms. Water can also become contaminated with natural or man-made chemicals. Therefore, for the protection of consumers and employees, water must be obtained from a source regulated by law and must be used, transported, and dispensed in a sanitary manner.

5-101.12 System Flushing and Disinfection.*

During construction, repair, or modification, water systems may become contaminated with microbes from soil because pipes are installed underground or by chemicals resulting from soldering and welding. Floods and other incidents may also cause water to become contaminated. Chemical contaminants such as oils may also be present on or in the components of the system. To render the water safe, the system must be properly flushed and disinfected before being placed into service.

5-101.13 Bottled Drinking Water.*

Bottled water is obtained from a public water system or from a private source such as a spring or well. Either means of production must be controlled by public health law to protect the consumer from contaminated water.

Quality **5-102.11 Standards.***

Bacteriological and chemical standards have been developed for public drinking water supplies to protect public health. All drinking water supplies must meet standards required by law.

5-102.12 Nondrinking Water.*

Food establishments may use nondrinking water for purposes such as air-conditioning or fire protection. Nondrinking water is not monitored for bacteriological or chemical quality or safety as is drinking water. Consequently, certain safety precautions must be observed to prevent the contamination of food, drinking water, or food-contact surfaces. Identifying the piping designated as nondrinking waterlines and inspection for cross connections are examples of safety precautions.

5-102.13 Sampling.

Wells and other types of individual water supplies may become contaminated through faulty equipment or environmental contamination of ground water. Periodic sampling is required by law to monitor the safety of the water and to detect any change in quality. The controlling agency must be able to ascertain that this sampling program is active and that the safety of the water is in conformance with the appropriate standards. Laboratory results are only as accurate as the sample submitted. Care must be taken not to contaminate samples. Proper sample

collection and timely transportation to the laboratory are necessary to ensure the safety of drinking water used in the establishment.

5-102.14 Sample Report.

The most recent water sampling report must be kept on file to document a safe water supply.

Quantity and Availability **5-103.11 Capacity.***

Availability of sufficient water is a basic requirement for proper sanitation within a food establishment. An insufficient supply of safe water will prevent the proper cleaning of items such as equipment and utensils and of food employees' hands.

Hot water required for washing items such as equipment and utensils and employees' hands, must be available in sufficient quantities to meet demand during peak water usage periods. Booster heaters for warewashers that use hot water for sanitizing are designed to raise the temperature of hot water to a level that ensures sanitization. If the volume of water reaching the booster heater is not sufficient or hot enough, the required temperature for sanitization can not be reached. Manual washing of food equipment and utensils is most effective when hot water is used. Unless utensils are clean to sight and touch, they cannot be effectively sanitized.

5-103.12 Pressure.

Inadequate water pressure could lead to situations that place the public health at risk. For example, inadequate pressure could result in improper handwashing

or equipment operation. Sufficient water pressure ensures that equipment such as mechanical warewashers operate according to manufacturer's specifications.

Distribution, Delivery, and Retention **5-104.11 System.**

Inadequate water systems may serve as vehicles for contamination of food or food- contact surfaces. This requirement is intended to ensure that sufficient volumes of water are provided from supplies shown to be safe, through a distribution system which is protected.

5-104.12 Alternative Water Supply.

Water from an approved source can be contaminated if inappropriately conveyed. Improperly constructed and maintained water mains, pumps, hoses, connections, and other appurtenances, as well as transport vehicles and containers, may result in contamination of safe water and render it hazardous to human health.

Materials **5-201.11 Approved.***

Plumbing systems and hoses conveying water must be made of approved materials and be smooth, durable, nonabsorbent, and corrosion-resistant. If not, the system may constitute a health hazard because unsuitable surfaces may harbor disease organisms or it may be constructed of materials that may, themselves, contaminate the water supply.

Design, Construction, and Installation **5-202.11 Approved System and Cleanable Fixtures.***

Water within a system will leach minute quantities of materials out of the components of the system. To make sure none of the leached matter is toxic or in a form that may produce detrimental effects, even through long-term use, all materials and components used in water systems must be of an approved type. New or replacement items must be tested and approved based on current standards.

Improperly designed, installed, or repaired water systems can have inherent deficiencies such as improper access openings, dead spaces, and areas difficult or impossible to clean and disinfect. Dead spaces allow water quality to degrade since they are out of the constant circulation of the system. Fixtures such as warewashing sinks that are not easily cleanable may lead to the contamination of food products.

5-202.12 Handwashing Facility, Installation.

Warm water is more effective than cold water in removing the fatty soils encountered in kitchens. An adequate flow of warm water will cause soap to lather and aid in flushing soil quickly from the hands. ASTM Standards for testing the efficacy of handwashing formulations specify a water temperature of 40°C $\pm$ 2°C (100 to 108°F).

An inadequate flow or temperature of water may lead to poor handwashing practices by food employees. A mixing valve or combination faucet is needed to provide properly tempered water for handwashing. Steam mixing valves are not allowed for this use because they are hard to control and injury by scalding is a possible hazard.

5-202.13 Backflow Prevention, Air Gap.*

During periods of extraordinary demand, drinking water systems may develop negative pressure in portions of the system. If a connection exists between the system and a source of contaminated water during times of negative pressure, contaminated water may be drawn into and foul the entire system. Standing water in sinks, dipper wells, steam kettles, and other equipment may become contaminated with cleaning chemicals or food residue. To prevent the introduction of this liquid into the water supply through back siphonage, various means may be used.

The water outlet of a drinking water system must not be installed so that it contacts water in sinks, equipment, or other fixtures that use water. Providing an air gap between the water supply outlet and the flood level rim of a plumbing fixture or equipment prevents contamination that may be caused by backflow.

5-202.14 Backflow Prevention Device, Design Standard.

In some instances an air gap is not practical such as is the case on the lower rinse arm for the final rinse of warewashers. This arm may become submerged if the machine drain becomes clogged. If this failure occurs, the machine tank would fill to the flood level rim, which is above the rinse arm. A backflow prevention device is used to avoid potential backflow of contaminated water when an air gap is not practical. The device provides a break to the atmosphere in the event of a negative pressure within the system. Minerals contained in water and solid particulate matter carried in water may coat moving parts of the device or become lodged between them over time. This may render the device

inoperative. To minimize such an occurrence, only devices meeting certain standards of construction, installation, maintenance, inspection, and testing for that application may be used. The necessary maintenance can be facilitated by installing these devices in accessible locations.

5-202.15 Conditioning Device, Design.

Water conditioning devices must be designed for easy disassembly for servicing so that they can be maintained in a condition that allows them to perform the function for which they were designed.

Numbers and Capacities

5-203.11 Handwashing Facilities.*

Because handwashing is such an important factor in the prevention of foodborne illness, sufficient facilities must be available to make handwashing not only possible, but likely.

5-203.12 Toilets and Urinals.*

Adequate, sanitary toilet facilities are necessary for the proper disposal of human waste, which carries pathogenic microorganisms, and for preventing the spread of disease by flies and other insects.

Toilet facilities must be of sanitary design and kept clean and in good repair to prevent food contamination and to motivate employees to use sanitary practices in the establishment.

5-203.13 Service Sink.

Mop water and similar liquid wastes are contaminated with microorganisms and other filth. Waste water must be disposed of in a sanitary manner that will not

contaminate food or food equipment. A service sink or curbed cleaning facility with a drain allows for such disposal.

5-203.14 Backflow Prevention Device, When Required.*

The delivery end of hoses attached to hose bibbs on a drinking water line may be dropped into containers filled with contaminated water or left in puddles on the floor or in other possible sources of contamination. A backflow prevention device must be installed on the hose bibb to prevent the back siphonage of contaminated liquid into the drinking water system during occasional periods of negative pressure in the water line.

5-203.15 Backflow Prevention Device, Carbonator.*

When carbon dioxide is mixed with water, carbonic acid, a weak acid, is formed.

Carbonators on soft drink dispensers form such acids as they carbonate the water to be mixed with the syrups to produce the soft drinks. If carbon dioxide backs up into a copper water line, carbonic acid will dissolve some of the copper. The water containing the dissolved copper will subsequently be used in dispensing soft drinks and the first few customers receiving the drinks are likely to suffer with the symptoms of copper poisoning.

An air gap or a vented backflow prevention device meeting ASSE Standard No. 1022 will prevent this occurrence, thereby reducing incidences of copper poisoning.

Location and Placement **5-204.11 Handwashing Sinks.***

Hands are probably the most common vehicle for the transmission of pathogens to foods in an establishment. Hands can become soiled with a variety of contaminants during routine operations. Some employees are unlikely to wash their hands unless properly equipped handwashing facilities are accessible in the immediate work area. Facilities which are improperly located may be blocked by portable equipment or stacked full of soiled utensils and other items, rendering the facility unavailable for regular employee use. Nothing must block the approach to a handwashing facility thereby discouraging its use, and the facility must be kept clean and well stocked with soap and sanitary towels to encourage frequent use.

5-204.12 Backflow Prevention Device, Location.

Backflow prevention devices are meant to protect the drinking water system from contamination caused by backflow. If improperly placed, backflow prevention devices will not work. If inconveniently located, these devices may not be accessed when systems are extended, altered, serviced, or replaced. Over a period of time, unserviced devices may fail and system contamination may occur.

5-204.13 Conditioning Device, Location.

When not located for easy maintenance, conditioning devices will be inconvenient to access and devices such as filters, screens, and water softeners will become clogged because they are not properly serviced.

Operation and Maintenance **5-205.11 Using a Handwashing Sink.**

Facilities must be maintained in a condition that promotes handwashing and restricted for that use. Convenient accessibility of a handwashing facility encourages timely handwashing which provides a break in the chain of contamination from the hands of food employees to food or food-contact surfaces. Sinks used for food preparation and warewashing can become sources of contamination if used as handwashing facilities by employees returning from the toilet or from duties which have contaminated their hands.

5-205.12 Prohibiting a Cross Connection.*

Nondrinking water may be of unknown or questionable origin. Waste water is either known or suspected to be contaminated. Neither of these sources can be allowed to contact and contaminate the drinking water system.

5-205.13 Scheduling Inspection and Service for a Water System Device.

Water system devices, such as filters and backflow preventers, are affected by the water in the system. How devices are affected depends on water quality, especially pH, hardness, and suspended particulate matter in the water. Complexity of the device is also a factor. Manufacturer recommendations, as well as inspection and maintenance schedules for these devices, must be strictly followed to prevent failure during operation.

Cleaning **5-205.14 Water Reservoir of Fogging Devices, Cleaning.***

Water reservoirs that have poor water exchange rates, such as reservoirs for some humidifiers or aerosol or fogging devices, and that are directly or indirectly open to the atmosphere, may be contaminated with respiratory pathogens such as ***Legionella pneumophila.*** This organism is extremely infectious and can be transmitted through very small droplets of a fogger or humidifier. It is important that the manufacturer's cleaning and maintenance schedule be scrupulously followed to prevent a reservoir from colonization by this bacterium.

5-205.15 System Maintained in Good Repair.*

Improper repair or maintenance of any portion of the plumbing system may result in potential health hazards such as cross connections, backflow, or leakage. These conditions may result in the contamination of food, equipment, utensils, linens, or single-service or single-use articles. Improper repair or maintenance may result in the creation of obnoxious odors or nuisances, and may also adversely affect the operation of warewashing equipment or other equipment which depends on sufficient volume and pressure to perform its intended functions.

Materials **5-301.11 Approved.**

Materials used in the construction of a mobile water tank are affected by the water they contact. Tank liners may deteriorate and flake. Metals or platings can be toxic. To prevent the degradation of the quality of the water, it is important that the materials used in the construction of the tank are suitable for such use.

Design and Construction

5-302.11 Enclosed System, Sloped to Drain.

5-302.12 Inspection and Cleaning Port, Protected and Secured.

The tank must be a closed system from the filling inlet to the outlet to prevent contamination of water. It is important that the bottom of the tank be sloped to the outlet to allow the tank to drain completely, to facilitate the proper cleaning and disinfection of the tank, and to prevent the retention of water or solutions after cleaning.

Some tanks are designed with an access opening to facilitate the cleaning and servicing of the water tank. The access must be constructed to prevent the opening from becoming a source of contamination of the water.

5-302.13 "V" Type Threads, Use Limitation.

V-type threads are difficult to clean if contaminated with food or waste. To prevent the contamination of the drinking water, this type of thread should only be used on water tank inlets and outlets if the connection is permanent which eliminates exposed, difficult-to-clean threads.

5-302.14 Tank Vent, Protected.

Water tanks are equipped with a vent to preclude distortion during filling or draining. The vent should be equipped with a suitable screen or filter to protect the tank against the entry of insects or other vermin that may contaminate the water supply.

5-302.15 Inlet and Outlet, Sloped to Drain.

Both the inlet and outlet must be sloped to drain to prevent the pooling of possibly contaminated water or sanitizing solution.

5-302.16 Hose, Construction and Identification.

Hoses used to fill potable water tanks should be dedicated for that one task and should be identified for that use only to prevent contaminating the water. Hoses must be made of a material that will not leach detrimental substances into the water.

Numbers and Capacities **5-303.11 Filter, Compressed Air.**

Compressor pistons are lubricated with oil to minimize wear. Some of the oil is carried into the air lines and if not intercepted may contaminate the tank and water lines.

5-303.12 Protective Cover or Device.

Protective equipment provided for openings of the water supply must be in use to prevent contamination which may be present where the supply is exposed to the environment, i.e., at water inlets or outlets or the ends of transfer hoses.

5-303.13 Mobile Food Establishment Tank Inlet.

Mobile units may be particularly vulnerable to environmental contamination if soiled hose connections are coupled to the tank inlet.

Operation and Maintenance **5-304.11 System Flushing and Disinfection.***

Contaminants of various types may be introduced into a water system during construction or repair or other incidents. The system must be flushed and sanitized after maintenance and before it is placed into service to prevent contamination of the water introduced into the tank.

5-304.12 Using a Pump and Hoses, Backflow Prevention.

When a water system includes a pump, or a pump is used in filling a water tank, care must be taken during hookup to prevent negative pressure on the supplying water system. Backflow prevention to protect the water supply is especially necessary during cleaning and sanitizing operations on a mobile system.

5-304.13 Protecting Inlet, Outlet, and Hose Fitting.

When not connected for use, water inlets, outlets, and hose fittings should be closed to the environment. Unless capped or otherwise protected, filling inlets, outlets, and hoses may become contaminated by dust or vermin.

5-304.14 Tank, Pump, and Hoses, Dedication.

Hoses, pumps, and tanks used for food or water may not be used for other liquids because this may contaminate the water supply. If a hose, tank, or pump has been used to transfer liquid food, the equipment must be cleaned and sanitized before using it for water delivery. Failure to properly clean and sanitize the equipment would introduce nutrients, and possibly bacteria, into the water as well as inactivate residual chlorine from public water supplies.

Mobile **5-401.11 Capacity and Drainage.**

Holding Tank

Liquid waste from a mobile or temporary food establishment must be stored in a properly constructed waste tank to discourage the attraction of flies and other vermin. The waste tank must be 15% larger than the water storage tank to allow for storage of wastes and used water from the drinking water supply tank. The drain from the waste tank must be larger than the filling hose to prevent the use of the drinking water filling hose to drain the waste tank.

Retention, Drainage, and Delivery

5-402.10 Establishment Drainage System.

The drainage system must be designed and installed properly to prevent the backup of sewage and the possible contamination of foods or food-contact surfaces in the establishment.

5-402.11 Backflow Prevention.*

Improper plumbing installation or maintenance may result in potential health hazards such as cross connections, back siphonage or backflow. These conditions may result in the contamination of food, utensils, equipment, or other food-contact surfaces. It may also adversely affect the operation of equipment such as warewashing machines.

The exception in paragraph 5-402.11(B) allows for a direct connection to the sanitary sewer system for floor drains originating in refrigerated spaces that are constructed as an integral part of the building structure. Examples of

refrigerated spaces that are considered an integral part of the building include refrigerated prep rooms, meat cutting rooms, and refrigerated storage rooms. The exception specifically targets refrigerated spaces that are considered an integral part of the building. It does not apply to prefabricated walk-in refrigerators and freezers with prefabricated floors. It is not intended to apply to pieces of equipment, including those which may be located in a refrigerated room and which indirectly drain to a floor drain within the room. Drainage from equipment is addressed under paragraph 5-402.11(A).

5-402.12 Grease Trap.

Failure to locate a grease trap so that it can be properly maintained and cleaned could result in the harborage of vermin and/or the failure of the sewage system.

5-402.13 Conveying Sewage.*

5-402.14 Removing Mobile Food Establishment Waste.

Improper disposal of waste provides a potential for contamination of food, utensils, and equipment and, therefore, may cause serious illness or disease outbreaks. Proper removal is required to prevent contamination of ground surfaces and water supplies, or creation of other insanitary conditions that may attract insects and other vermin.

5-402.15 Flushing a Waste Retention Tank.

Thoroughly flushing the liquid waste retention tank will prevent the buildup of deposits within the tank which could affect the proper operation of the tank.

Disposal **5-403.11 Approved Sewage Disposal System.***

Facility

Many diseases can be transmitted from one person to another through fecal contamination of food and water. This transmission can be indirect. Proper disposal of human wastes greatly reduces the risk of fecal contamination. This Code provision is intended to ensure that wastes will not contaminate ground surfaces or water supplies; pollute surface waters; be accessible to children or pets; or allow rodents or insects to serve as vectors of disease from this source.

5-403.12 Other Liquid Waste and Rainwater.

Liquid food wastes and rainwater can provide a source of bacterial contamination and support populations of pests. Proper storage and disposal of wastes and drainage of rainwater eliminate these conditions.

Facilities	**5-501.10**	**Indoor Storage Area.**
on	**5-501.11**	**Outdoor Storage Surface.**
the Premises	**5-501.12**	**Outdoor Enclosure.**
	5-501.13	**Receptacles.**
	5-501.14	**Receptacles in Vending Machines.**
	5-501.15	**Outside Receptacles.**
	5-501.16	**Storage Areas, Rooms, and Receptacles, Capacity and Availability.**
	5-501.17	**Toilet Room Receptacle, Covered.**
	5-501.18	**Cleaning Implements and Supplies.**

5-501.19 Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location.

5-501.110 Storage Refuse, Recyclables, and Returnables.

5-501.111 Areas, Enclosures, and Receptacles, Good Repair.

5-501.112 Outside Storage Prohibitions.

5-501.113 Covering Receptacles.

5-501.114 Using Drain Plugs.

5-501.115 Maintaining Refuse Areas and Enclosures.

5-501.116 Cleaning Receptacles.

Proper storage and disposal of garbage and refuse are necessary to minimize the development of odors, prevent such waste from becoming an attractant and harborage or breeding place for insects and rodents, and prevent the soiling of food preparation and food service areas. Improperly handled garbage creates nuisance conditions, makes housekeeping difficult, and may be a possible source of contamination of food, equipment, and utensils.

Storage areas for garbage and refuse containers must be constructed so that they can be thoroughly cleaned in order to avoid creating an attractant or harborage for insects or rodents. In addition, such storage areas must be large enough to accommodate all the containers necessitated by the operation in order to prevent scattering of the garbage and refuse.

All containers must be maintained in good repair and cleaned as necessary in order to store garbage and refuse under sanitary conditions as well as to prevent the breeding of flies.

Garbage containers should be available wherever garbage is generated to aid in the proper disposal of refuse.

Outside receptacles must be constructed with tight-fitting lids or covers to prevent the scattering of the garbage or refuse by birds, the breeding of flies, or the entry of rodents. Proper equipment and supplies must be made available to accomplish thorough and proper cleaning of garbage storage areas and receptacles so that unsanitary conditions can be eliminated.

Removal **5-502.11 Frequency.**

5-502.12 Receptacles or Vehicles.

Refuse, recyclables, and returnable items, such as beverage cans and bottles, usually contain a residue of the original contents. Spillage from these containers soils receptacles and storage areas and becomes an attractant for insects, rodents, and other pests. The handling of these materials entails some of the same problems and solutions as the handling of garbage and refuse. Problems are minimized when all of these materials are removed from the premises at a reasonable frequency.

Facilities **5-503.11 Community or Individual Facility.**

for Disposal

and Recycling

Alternative means of solid waste disposal must be conducted properly to prevent environmental consequences and the attraction of insects, rodents, and other pests.

Chapter 6 Physical Facilities

Indoor Areas **6-101.11 Surface Characteristics.**

Floors, walls, and ceilings that are constructed of smooth and durable surface materials are more easily cleaned.

Floor surfaces that are graded to drain and consist of effectively treated materials will prevent contamination of foods from dust and organisms from pooled moisture.

The special requirements for carpeting materials and nonabsorbent materials in areas subject to moisture are intended to ensure that the cleanability of these surfaces is retained.

Although food served from temporary food establishments is subject to the same potential for contamination as food served in permanent establishments, the limited capabilities and short duration of operation are recognized by less stringent requirements for surface characteristics.

Outdoor Areas **6-102.11 Surface Characteristics.**

The requirements concerning surface characteristics of outdoor areas are intended to facilitate maintenance and minimize the accumulation of dust and mud on walking and driving areas, provide durable exterior building surfaces,

and prevent the attracting, harboring, or breeding of insects, rodents, and other pests where refuse, recyclables, or returnables are stored.

Cleanability **6-201.11 Floors, Walls, and Ceilings.**

6-201.12 Floors, Walls, and Ceilings, Utility Lines.

Floors that are of smooth, durable construction and that are nonabsorbent are more easily cleaned. Requirements and restrictions regarding floor coverings, utility lines, and floor/wall junctures are intended to ensure that regular and effective cleaning is possible and that insect and rodent harborage is minimized.

6-201.13 Floor and Wall Junctures, Coved, and Enclosed or Sealed.

When cleaning is accomplished by spraying or flushing, coving and sealing of the floor/wall junctures is required to provide a surface that is conducive to water flushing.

Grading of the floor to drain allows liquid wastes to be quickly carried away, thereby preventing pooling which could attract pests such as insects and rodents or contribute to problems with certain pathogens such as ***Listeria monocytogenes***.

6-201.14 Floor Carpeting, Restrictions and Installation.

Requirements and restrictions regarding floor carpeting are intended to ensure that regular and effective cleaning is possible and that insect harborage is minimized. The restrictions for areas not suited for carpeting materials are designed to ensure cleanability of surfaces where accumulation of moisture or waste is likely.

6-201.15 Floor Covering, Mats and Duckboards.

Requirements regarding mats and duckboards are intended to ensure that regular and effective cleaning is possible and that accumulation of dirt and waste is prevented.

6-201.16 Wall and Ceiling Coverings and Coatings.

6-201.17 Walls and Ceilings, Attachments.

6-201.18 Walls and Ceilings, Studs, Joists, and Rafters.

Walls and ceilings that are of smooth construction, nonabsorbent, and in good repair can be easily and effectively cleaned. Special requirements related to the attachment of accessories and exposure of wall and ceiling studs, joists, and rafters are intended to ensure the cleanability of these surfaces.

Functionality **6-202.11 Light Bulbs, Protective Shielding.**

Shielding of light bulbs helps prevent breakage. Light bulbs that are shielded, coated, or otherwise shatter-resistant are necessary to protect exposed food, clean equipment, utensils and linens, and unwrapped single-service and single-use articles from glass fragments should the bulb break.

6-202.12 Heating, Ventilating, Air Conditioning System Vents.

Heating and air conditioning system vents that are not properly designed and located may be difficult to clean and result in the contamination of food, food preparation surfaces, equipment, or utensils by dust or other accumulated soil from the exhaust vents.

6-202.13 Insect Control Devices, Design and Installation.

Insect electrocution devices are considered supplemental to good sanitation practices in meeting the Code requirement for controlling the presence of flies

and other insects in a food establishment.

Improper design of the device and dead insect collection tray could allow dead insect parts and injured insects to escape, rendering the device itself a source of contamination.

Exposed food and food-contact surfaces must be protected from contamination by insects or insect parts. Installation of the device over food preparation areas or in close proximity to exposed food and/or food-contact surfaces could allow dead insects and/or insect parts to be impelled by the electric charge, fall, or be blown from the device onto food or food-contact surfaces.

6-202.14 Toilet Rooms, Enclosed.

Completely enclosed toilet facilities minimize the potential for the spread of disease by the movement of flies and other insects between the toilet facility and food preparation areas.

6-202.15 Outer Openings, Protected.

Insects and rodents are vectors of disease-causing microorganisms which may be transmitted to humans by contamination of food and food-contact surfaces. The presence of insects and rodents is minimized by protecting outer openings to the food establishment.

In the National Fire Protection Association's NFPA 101, Life Safety Code, 2003 Edition, doors to exit enclosures such as stairs, horizontal exits, or exit passageways

are required to be self closing. The Life Safety Code does not require exterior doors used as exits to be self closing, but they can be.

The intent of subparagraph 6-202.15(A)(3) is to protect food establishments from the entry of insects and rodents by keeping doors closed when not in use. Self-closing devices allow a door to return to its closed position after use. If an exterior door is not routinely used for entry or exit because its use is restricted by the fire protection authority for emergency use only, it is not a portal for the entry of pests and does not need a self-closing device. Doors not requiring a self-closing device include exterior emergency exit doors that open into a public way from a fire and that meet the criteria in ¶ 6-202.15(C).

6-202.16 Exterior Walls and Roofs, Protective Barrier.

Walls and roofs provide a barrier to protect the interior and foods from the weather, windblown dirt and debris, and flying insects.

6-202.17 Outdoor Food Vending Areas, Overhead Protection.

The potential for contamination from airborne dust and particulates or inclement weather is present in outside areas. Overhead protection minimizes the potential for contamination of food under such conditions.

6-202.18 Outdoor Servicing Areas, Overhead Protection.

Pooled water, which may result if overhead protection is not provided for outdoor servicing areas, attracts wild animals and birds and creates a condition suitable for the breeding of insects.

6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.

If foot traffic is allowed to occur from undrained areas, contamination will be tracked into the establishment. Surfaces graded to drain minimize these conditions. Pooled water on exterior walking and driving surfaces may also attract rodents and breed insects.

6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.

If refuse areas are not graded properly, waste water will pool and attract insects and rodents.

6-202.111 Private Homes and Living or Sleeping Quarters, Use Prohibited.

6-202.112 Living or Sleeping Quarters, Separation.

Areas or facilities that are not compatible with sanitary food establishment operations must be located or separated from other areas of the establishment to preclude potential contamination of food and food-contact surfaces from poisonous or toxic materials, dust or debris, the presence of improperly designed facilities and equipment, and the traffic of unauthorized and/or unnecessary persons or pets.

Further, Article IV of the Amendments to the U.S. Constitution ensures the right of persons to be secure in their homes against unreasonable search and seizure. This provision could hinder the regulatory authority's access to conduct routine inspections of a food establishment operated in the living area of a private home. A search warrant may be the only mechanism by which to gain entry; yet, it may be difficult to obtain and might not authorize the necessary inspectional activities.

Handwashing **6-301.10 Minimum Number.**

Sinks

Refer to the public health reason for § 5-203.11.

6-301.11 Handwashing Cleanser, Availability.

Hand cleanser must always be present to aid in reducing microorganisms and particulate matter found on hands.

6-301.12 Hand Drying Provision.

Provisions must be provided for hand drying so that employees will not dry their hands on their clothing or other unclean materials.

6-301.14 Handwashing Signage.

A sign or poster is required to remind food employees to wash their hands.

6-301.20 Disposable Towels, Waste Receptacle.

Waste receptacles at handwashing sinks are required for the collection of disposable towels so that the paper waste will be contained, will not contact food directly or indirectly, and will not become an attractant for insects or rodents.

Toilets and Urinals **6-302.10 Minimum Number.**

Refer to the public health reason for § 5-203.12.

6-302.11 Toilet Tissue, Availability.

To minimize hand contact with fecal waste, toilet tissue is necessary for hygienic cleaning following use of toilet facilities. Toilet tissue must be supplied to meet the demand.

Lighting **6-303.11 Intensity.**

Lighting levels are specified so that sufficient light is available to enable employees to perform certain functions such as reading labels; discerning the color of substances; identifying toxic materials; recognizing the condition of food, utensils, and supplies; and safely conducting general food establishment operations and clean-up. Properly distributed light makes the need for cleaning apparent by making accumulations of soil conspicuous.

Ventilation **6-304.11 Mechanical.**

When mechanical ventilation is necessary, it must have adequate capacity to ensure that soiling of walls, ceilings, and other equipment is minimized; obnoxious odors or toxic fumes are effectively removed; and no hazards or nuisances involving accumulation of fats, oils, and similar wastes are created.

Balancing of the exhaust and make-up air must be ensured so that the system can operate efficiently.

Dressing Areas **6-305.11 Designation.**

and Lockers

Street clothing and personal belongings can contaminate food, food equipment, and food-contact surfaces. Proper storage facilities are required for articles such as purses, coats, shoes, and personal medications.

Service Sinks **6-306.10 Availability.**

A service sink or curbed facility is required so that the cleanliness of the food establishment can be maintained, attractants for insects and rodents minimized, and contamination of food and equipment by accumulated soil prevented. Liquid wastes generated during cleaning must be disposed of in a sanitary

manner to preclude contamination of food and food equipment. A service sink is provided to prevent the improper disposal of wastes into other sinks such as food preparation and handwashing sinks.

Handwashing Sinks **6-401.10 Conveniently Located.**

Facilities must be located in or adjacent to toilet rooms and convenient to the different work stations of the food employee for proper and routine handwashing to prevent contamination of the food and food-contact surfaces.

Toilet Rooms **6-402.11 Convenience and Accessibility.**

Toilet rooms must be conveniently accessible to food employees at all times to encourage employee use of appropriate facilities for the disposing of human wastes as needed followed by the washing of hands.

Employee Accommodations **6-403.11 Designated Areas**.

Because employees could introduce pathogens to food by hand-to-mouth-to-food contact and because street clothing and personal belongings carry contaminants, areas designated to accommodate employees' personal needs must be carefully located. Food, food equipment and utensils, clean linens, and single-service and single-use articles must not be in jeopardy of contamination from these areas.

Distressed Merchandise **6-404.11 Segregation and Location.**

Products which are damaged, spoiled, or otherwise unfit for sale or use in a food establishment may become mistaken for safe and wholesome products and/or cause contamination of other foods, equipment, utensils, linens, or single-service or single-use articles. To preclude this, separate and segregated areas must be designated for storing unsalable goods.

Refuse, Recyclables, and Returnables **6-405.10 Receptacles, Waste Handling Units, and Designated Storage Areas.**

Waste materials and empty product containers are unclean and can be an attractant to insects and rodents. Food, equipment, utensils, linens, and single-service and single-use articles must be protected from exposure to filth and unclean conditions and other contaminants. This Code provision addresses these concerns by requiring the facility to be segregated, to be located to allow cleaning of adjacent areas, and to preclude creation of a nuisance.

Premises, Structures, Attachments, **and *Fixtures,* *- Methods*** **6-501.11 Repairing.**

Poor repair and maintenance compromises the functionality of the physical facilities. This requirement is intended to ensure that the physical facilities are properly maintained in order to serve their intended purpose.

6-501.12 Cleaning, Frequency and Restrictions.

Cleaning of the physical facilities is an important measure in ensuring the protection and sanitary preparation of food. A regular cleaning schedule should be established and followed to maintain the facility in a clean and sanitary manner. Primary cleaning should be done at times when foods are in protected storage and when food is not being served or prepared.

6-501.13 Cleaning Floors, Dustless Methods.

Dustless floor cleaning methods must be used so that food; equipment, utensils, and linens; and single-service and single-use articles are not contaminated.

6-501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

Both intake and exhaust ducts can be a source of contamination and must be cleaned regularly. Filters that collect particulate matter must be cleaned or changed frequently to prevent overloading of the filter. Outside areas under or adjacent to exhaust duct outlets at the exterior of the building must be maintained in a clean and sanitary manner to prevent pest attraction.

6-501.15 Cleaning Maintenance Tools, Preventing Contamination.*

Maintenance tools used to repair the physical facilities must be cleaned in a separate area to prevent contamination of food and food preparation and warewashing areas.

6-501.16 Drying Mops.

Mops can contaminate food and food preparation areas if not properly cleaned and stored after use. Mops should be cleaned and dried in a sanitary manner

away from food flow areas.

6-501.17 Absorbent Materials on Floors, Use Limitation.

Cleanliness of the food establishment is important to minimize attractants for insects and rodents, aid in preventing the contamination of food and equipment and prevent nuisance conditions. A clean and orderly food establishment is also conducive to positive employee attitudes which can lead to increased attention to personal hygiene and improved food preparation practices. Use of specified cleaning procedures is important in precluding avoidable contamination of food and equipment and nuisance conditions.

Temporary floor coverings such as sawdust can contaminate food, attract insects and rodents, and become a nuisance to the food operation.

6-501.18 Maintaining and Using Handwashing Sinks.

Handwashing facilities are critical to food protection and must be maintained in operating order at all times so they will be used.

Refer also to the public health reason for § 5-205.11.

6-501.19 Closing Toilet Room Doors.

Toilet room doors must remain closed except during cleaning operations to prevent insect and rodent entrance and the associated potential for the spread of disease.

6-501.110 Using Dressing Rooms and Lockers.

Street clothing and personal belongings can contaminate food, food equipment, and food preparation surfaces and consequently must be stored in properly designated areas or rooms.

6-501.111 Controlling Pests.*

Insects and other pests are capable of transmitting disease to man by contaminating food and food-contact surfaces. Effective measures must be taken to control their presence in food establishments.

6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead rodents, birds, and insects must be removed promptly from the facilities to ensure clean and sanitary facilities and to preclude exacerbating the situation by allowing carcasses to attract other pests.

6-501.113 Storing Maintenance Tools.

Brooms, mops, vacuum cleaners, and other maintenance equipment can contribute contamination to food and food-contact surfaces. These items must be stored in a manner that precludes such contamination.

To prevent harborage and breeding conditions for rodents and insects, maintenance equipment must be stored in an orderly fashion to permit cleaning of the area.

6-501.114 Maintaining Premises, Unnecessary Items and Litter.

The presence of unnecessary articles, including equipment which is no longer used, makes regular and effective cleaning more difficult and less likely. It can also provide harborage for insects and rodents.

Areas designated as equipment storage areas and closets must be maintained in a neat, clean, and sanitary manner. They must be routinely cleaned to avoid attractive or harborage conditions for rodents and insects.

6-501.115 Prohibiting Animals.*

Animals carry disease-causing organisms and can transmit pathogens to humans through direct and/or indirect contamination of food and food-contact surfaces. The restrictions apply to live animals with limited access allowed only in specific situations and under controlled conditions and to the storage of live and dead fish bait. Employees with service animals are required under § 2-301.14 to wash their hands after each contact with animals to remove bacteria and soil.

Animals shed hair continuously and may deposit liquid or fecal waste, creating the need for vigilance and more frequent and rigorous cleaning efforts.

The definition for "service animal" is adapted from 28 CFR 36.104 adopted pursuant to the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.). A service animal performs some of the functions that persons with a disability cannot perform for themselves, such as those provided by "seeing eye dogs"; alerting persons with hearing impairments to sounds; pulling wheelchairs or carrying and picking up things for persons with mobility impairments; and assisting persons with mobility impairments with balance. A service animal is not considered to be a pet.

Under Title III of the ADA, privately owned businesses that serve the public are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed. Some, but not all, service animals wear special collars or harnesses. Some, but not all, are licensed or certified and have identification papers.

Decisions regarding a food employee or applicant with a disability who needs to use a service animal should be made on a case-by-case basis. An employer must comply with health and safety requirements, but is obligated to consider whether there is a reasonable accommodation that can be made. Guidance is available from the U.S. Department of Justice, Civil Rights Division, Disability Rights Section or the U.S. Equal Employment Opportunity Commission, the Federal agency which has the lead in these matters, in documents such as, "Commonly Asked Questions About Service Animals in Places of Business"; "The Americans with Disabilities Act Questions and Answers"; "A Guide to Disability Rights Laws"; and "Americans with Disabilities Act Title III Technical Assistance Manual, 1994 Supplement." The ADA Information Line is 800-514-0301 (voice) or 800-514-0383 (TDD) and the Internet Home Page address is http://www.usdoj.gov/crt/ada/adahom1.htm.

Chapter 7 Poisonous or Toxic Materials

Original **7-101.11 Identifying Information, Prominence.***

Containers

The accidental contamination of food or food-contact surfaces can cause serious illness. Prominent and distinct labeling helps ensure that poisonous and toxic materials including personal care items are properly used.

Working **7-102.11 Common Name.***

Containers

It is common practice in food establishments to purchase many poisonous or toxic materials including cleaners and sanitizers in bulk containers. Working containers are frequently used to convey these materials to areas where they will be used, resulting in working containers being stored in different locations in the establishment. Identification of these containers with the common name of the material helps prevent the dangerous misuse of the contents.

Storage **7-201.11 Separation.***

Separation of poisonous and toxic materials in accordance with the requirements of this section ensures that food, equipment, utensils, linens, and single-service and single-use articles are properly protected from contamination. For example, the storage of these types of materials directly above or adjacent to food could result in contamination of the food from spillage.

Presence **7-202.11 Restriction.***

and Use

The presence in the establishment of poisonous or toxic materials that are not required for the maintenance and operation of the establishment represents an unnecessary risk to both employees and consumers.

Preserving food safety depends in part on the appropriate and proper storage and use of poisonous or toxic materials that are necessary to the maintenance and operation of a food establishment. Even those that are necessary can pose a hazard if they are used in a manner that contradicts the intended use of the material as described by the manufacturer on the material's label. If additional

poisonous or toxic materials are present, there is an unwarranted increased potential for contamination due to improper storage (e.g., overhead spillage that could result in the contamination of food, food-contact surfaces, or food equipment) or inappropriate application.

7-202.12 Conditions of Use.*

Failure to properly use poisonous or toxic materials can be dangerous. Many poisonous or toxic materials have general use directions on their label. Failure to follow the stated instructions could result in injury to employees and consumers through direct contact or the contamination of food.

Particular precautions must be taken during the application of poisonous or toxic materials to prevent the contamination of food and other food-contact surfaces. Residues of certain materials are not discernible to the naked eye and present an additional risk to the employee and consumer.

Because of the toxicity of restricted use pesticides, they can only be applied by certified operators. A certified operator would be aware of the dangers involved in the contamination of food and food-contact surfaces during the application of these materials. Improperly applied pesticides present health risks to employees as well as consumers and special precautions must be taken when restricted use pesticides are applied.

Container **7-203.11 Poisonous or Toxic Material Containers.***

Prohibitions

Use of poisonous or toxic material containers to store, transport, or dispense food is prohibited because of the potential for contamination of the food. The risk

of serious medical consequences to anyone consuming food stored in these containers coupled with the lack of confidence that all of the material could or would be removed in the wash and sanitizing procedures are reasons for prohibiting this practice.

Chemicals **7-204.11 Sanitizers, Criteria.***

See explanation in § 4-501.114.

Chemical sanitizers are included with poisonous or toxic materials because they may be toxic if not used in accordance with requirements listed in the Code of Federal Regulations (CFR). Large concentrations of sanitizer in excess of the CFR requirements can be harmful because residues of the materials remain. The CFR reference that is provided lists concentrations of sanitizers that are considered safe.

7-204.12 Chemicals for Washing Fruits and Vegetables, Criteria.*

7-204.13 Boiler Water Additives, Criteria.*

7-204.14 Drying Agents, Criteria.*

If the chemical wash, boiler water additive, or drying agent used is not made up of components that are approved as food additives or generally recognized as safe, illness may result. This could be due to residues that may remain from the use of compounds such as unrecognized drying agents. This is why only those chemicals that are listed in the CFR can be used.

Chemicals that are not listed for these uses may be submitted for review by filing a Food Additive Petition. Wash chemicals, boiler water additives, and drying

agents are classified as food additives because of the possibility that they may end up in food. Therefore, they are subject to review before being used or listed in the CFR.

21 CFR Section 173.315 specifically identifies chemicals that may be used in washing fruits and vegetables, but it **does not specify any maximum level** (2000 ppm or otherwise) of chemical usage for sodium hypochlorite. FDA acknowledges the use of sodium hypochlorite on fruits and vegetables and also allows calcium hypochlorite to be used interchangeably with sodium hypochlorite under 21 CFR 173.315.

Boiler water additives that may be safely used in the preparation of steam that may contact food, and their condition of use, are identified in 21 CFR 173.310 Boiler Water Additives.

Lubricants **7-205.11 Incidental Food Contact, Criteria.***

Lubricants used on food equipment may directly or indirectly end up in the food. Therefore, the lubricants used must be approved as food additives or generally recognized as safe and listed in the CFR. Lubricants that are not safe present the possibility of foodborne illness if they find their way into the food.

Pesticides **7-206.11 Restricted Use Pesticides, Criteria.***

7-206.12 Rodent Bait Stations.*

Open bait stations may result in the spillage of the poison being used. Also, it is easier for pests to transport the potentially toxic bait throughout the establishment. Consequently, the bait may end up on food-contact surfaces and ultimately in the food being prepared or served.

7-206.13 Tracking Powders, Pest Control and Monitoring.*

The use of tracking powder pesticides presents the potential for the powder to be dispersed throughout the establishment. Consequently, the powder could directly or indirectly contaminate food being prepared. This contamination could adversely affect both the safety and quality of the food and, therefore, tracking powder pesticides are not allowed.

Medicines **7-207.11 Restriction and Storage.***

Medicines that are not necessary for the health of employees present an unjustified risk to the health of other employees and consumers due to misuse and/or improper storage.

There are circumstances that require employees or children in a day care center to have personal medications on hand in the establishment. To prevent misuse, personal medications must be labeled and stored in accordance with the requirements stated for poisonous or toxic materials. Proper labeling and storage of medicines to ensure that they are not accidentally misused or otherwise contaminate food or food-contact surfaces.

7-207.12 Refrigerated Medicines, Storage.*

Some employee medications may require refrigerated storage. If employee medications are stored in a food refrigerator, precautions must be taken to prevent the contamination of other items stored in the same refrigerator.

First Aid **7-208.11 Storage.***

Supplies

First aid supplies for employee use must be identified and stored in accordance with the requirements of this Code in order to preclude the accidental contamination of food, food equipment, and other food-contact surfaces.

Other Personal Care Items **7-209.11 Storage.**

Employee personal care items may serve as a source of contamination and May contaminate food, food equipment, and food-contact surfaces if they are not properly labeled and stored.

Storage and Display **7-301.11 Separation.***

Poisonous or toxic materials held for sale on store shelves or stored in stock rooms present a risk of contamination of food, equipment, utensils, linens, and single-service and single-use articles if not stored properly.

Chapter 8 Compliance and Enforcement

Construction **8-201.12 Contents of the Plans and Specifications.**

Inspection and Approval **8-203.10 Preoperational Inspections.**

In conjunction with the Conference for Food Protection Plan Review committee, FDA has participated in developing a document that is intended to assist regulators in reviewing food establishment plans, and industry in understanding what is expected in the plan review process. For several years, this FDA/CFP Food Establishment Plan Review Guide – 2000 has been used in the FDA State

Training Team Plan Review courses. It can be accessed through http://www.cfsan.fda.gov/~dms/prev-toc.html.

At the plan review stage, the regulatory authority may be dealing with an agent of the permit applicant who is seeking a building permit and who is not in a position to discuss plans for safely conducting the food operation. Nonetheless, the plan review step presents a unique opportunity to lay a foundation that enables the proposed operation to proactively sustain compliance with the Code over time. Standard operating procedures (SOPs) are a part of that foundation and ideally are developed in tandem with designing the facility. Consequently, as an integral part of the plan review process, discussion needs to occur about such procedures and their scope.

SOPs need to be developed by the time of the preoperational inspection and put into effect when the food operation begins. It is recommended that such procedures be written, available for reference by the person in charge, conveyed to the appropriate employees, and available for review by the regulatory authority during inspections. Operating procedures should include definitive practices and expectations that ensure that:

(1) The transmission of foodborne disease is prevented by managing job applicants and food employees as specified under Subpart 2-201,

(2) Food is received from approved sources as specified under § 3-201.11,

(3) Food is managed so that the safety and integrity of the food from the time of delivery to the establishment throughout its storage, preparation, and transportation to the point of sale or service to the consumer is protected,

(4) Potentially hazardous (time/temperature control for safety) food is maintained, including freezing, cold holding, cooking, hot holding, cooling, reheating, and serving in conformance with the temperature and time requirements specified under Parts 3-4 and 3-5,

(5) Warewashing is effective, including assurance that the chemical solutions and exposure times necessary for cleaning and sanitizing utensils and food-contact surfaces of equipment are provided as specified under Parts 4-6 and 4-7, and

(6) Records that are specified under §§ 3-203.11, 3-203.12, and 5-205.13 are retained for inspection.

During the plan review stage, the regulatory authority and a management representative of the proposed food establishment should discuss available training options that may be used to train food employees and the person in charge regarding food safety as it relates to their assigned duties. By the time of the preoperational inspection, operating procedures for training should include definitive practices and expectations of how the management of the proposed food establishment plans to comply with & 2-103.11(L) of this Code which requires the

person in charge to assure that food employees are properly trained in food safety as it relates to their assigned duties.

8-402.10 Competency of Inspectors.

Regulatory agencies are encouraged to use Standard #2 of the draft *FDA's Recommended National Retail Food Regulatory Program Standards* (http://www.cfsan.fda.gov/~dms/ret-toc.html) to ensure employees who inspect food establishments are properly trained. Regulatory inspectors are also encouraged to seek food safety certification through a nationally recognized and accredited program.