

# Food Code



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2005

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## Chapter

# 1 Purpose and Definitions

## Parts

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

### 1-0 TITLE, INTENT, SCOPE

#### *Subparts*

- 1-101 Title
- 1-102 Intent
- 1-0 Scope

#### *Title*

#### **1-101.10 Food Code.**

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

#### *Intent*

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

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

#### *Scope*

#### **1-103.10 Statement.**

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

1-2	<b>DEFINITIONS</b>
	<i>Subpart</i>
	<div> <div>1-0</div> <div>Applicability and Terms Defined</div> </div>

***Applicability and  
Terms Defined***

**1-201.10**

**Statement of Application and Listing of  
Terms.**

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

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

**Accredited Program.**

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

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

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

**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.
- (1) **"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.

**"Commissary"** means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored for subsequent transport, sale, or service elsewhere.

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

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

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

**"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.

**"Day Care Facility"** means a childcare center, child day care home, day nursery, or nursery school as defined by the County Zoning Ordinance, Chapter 1003 SLCRO 1974 as amended.

**"DEPARTMENT"** means the St. Louis County Department of Health. Throughout this Code the term may be used interchangeably with "REGULATORY AUTHORITY."

**"DIRECTOR"** means the DIRECTOR of the St. Louis County Department of Health and includes duly authorized representatives.

**"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 40 CFR 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 with UNPACKAGED FOOD, FOOD EQUIPMENT OR UTENSILS, OR FOOD-CONTACT SURFACES.

## **Food Establishment.**

(1) **"Food Establishment"** means an operation that stores, prepares, packages, serves, vends, 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 FOOD ESTABLISHMENT 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 Department; 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) An establishment that offers only prepackaged FOODs that are not potentially hazardous;
- (b) A produce stand that only offers whole, uncut fresh fruits and vegetables;
- (c) A FOOD processing plant;
- (d) A kitchen in a private home if only FOOD that is not potentially hazardous 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 Department;
- (e) An area where FOOD that is prepared as specified in Subparagraph (d) of this definition is sold or offered for human consumption;
- (f) 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 5, breakfast is the only meal offered, the number of guests served does not exceed 18, and the FOOD Consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the regulatory authority;
- (g) A private home that receives catered or home-delivered FOOD.

### **Food Processing Plant.**

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

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

### **Food Safety School.**

(a) "FOOD SAFETY SCHOOL" means a program operated or approved by the REGULATORY AUTHORITY that requires the certified FOOD protection manager or designated employee of a FOOD ESTABLISHMENT to engage in a two hour (2) training following provisions of a FOOD safety program.

(b) "FOOD SAFETY SCHOOL" does not refer to, or fulfill any part of the ACCREDITED PROGRAM as outlined in The CODE 2-201.20

### **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).

**"Mobile Food Establishment"** means a FOOD ESTABLISHMENT selling, offering for sale, or dispensing food for human consumption from any vehicle or other temporary or itinerant station. MOBILE FOOD ESTABLISHMENTS are classified as follows:

(a) **"Mobile Food Unit"** means and refers to an enclosed vehicle-mounted FOOD ESTABLISHMENT designed to be readily movable from which food is composed, compounded, processed, or prepared and from which food is

vended, sold or given away.

(b) **"Pushcart"** means and refers to a non-self-propelled vehicle designed to be readily movable which is limited to the serving of non-potentially hazardous food maintained at proper temperatures or limited to the assembling and serving of frankfurters. Unpackaged non-potentially hazardous food items approved for sale from a PUSHCART shall be limited to popcorn, nuts, produce, pretzels and similar bakery products, shaved ice, and snow cones.

(C) **"Temporary Food Establishment"** means and refers to a FOOD ESTABLISHMENT that operates in conjunction with a single event or celebration for not more than fourteen (14) consecutive days within any permit year provided it is the same permittee, at the same location and the same event.

(d) **"Seasonal Food Establishment"** means and refers to a FOOD ESTABLISHMENT that operates for fifteen (15) to one hundred twenty (120) days within any permit year. At the termination of the event, the seasonal establishment shall be removed from the premises.

**"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, 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:

<b>Table A. Interaction of PH and <math>A_w</math> for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED</b>			
$A_w$ values	<u>PH values</u>		
	4.6 or less	> 4.6 - 5.6	> 5.6
$\leq 0.92$	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			

<b>Table B. Interaction of PH and <math>A_w</math> for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED</b>				
$A_w$ 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				

(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 scavengers or a combination of total replacement of oxygen, nonrespiring FOOD, and impermeable PACKAGING material;

(d) Cook chill PACKAGING, in which cooked FOOD is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. The bagged FOOD is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotrophic 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 local, state, or federal enforcement body or authorized representative 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 the activities of a FOOD EMPLOYEE so that there is no RISK of transmitting a disease that is transmissible through FOOD and the FOOD EMPLOYEE does not work with exposed FOOD, clean EQUIPMENT, UTENSILS, LINENS, or unwrapped SINGLE-SERVICE or SINGLE-USE ARTICLES.

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

**"Restricted use pesticide"** means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

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

**"Safe material"** means:

- (1) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any FOOD;
- (2) An additive that is used as specified in ' 409 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 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"** means a FOOD ESTABLISHMENT that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

**"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.

Chapter

# 2

# Management and Personnel

Parts

- 2-1 SUPERVISION
- 2-2 EMPLOYEE HEALTH
- 2-3 PERSONAL CLEANLINESS
- 2-4 HYGIENIC PRACTICES

2-1 SUPERVISION

*Subparts*

- |       |                |
|-------|----------------|
| 2-101 | Responsibility |
| 2-102 | Knowledge      |
| 2-103 | Duties         |

**Responsibility**

**2-101.11 Assignment.\***

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.

**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).

### ***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, unADULTERED, 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	<b>EMPLOYEE HEALTH</b>
<b>Subpart</b>	
2-201	<b>Responsibilities of Permit Holder, Person in Charge, Food Employees, and Conditional Employees</b>

***Responsibilities and Reporting Symptoms and Diagnosis***

**2-201.11**

**Responsibility of Permit Holder, Person in Charge, and Conditional Employees.\***

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

*reportable symptoms*

(1) Has any of the following symptoms:

- (a) Vomiting,
- (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 past illness*

(3) Had a previous illness, diagnosed by a 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*

(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

*employee*

(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 food employees and conditional employees to report*

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

*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 infection from Norovirus*

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

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

	(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION.
<i>diagnosed with Shigella spp. infection and asymptomatic</i>	<p>(E) If a FOOD EMPLOYEE is diagnosed with an infection from <i>Shigella</i> spp. and is ASYMPTOMATIC:</p> <p>(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; or</p> <p>(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION.</p>
<i>diagnosed with EHEC or STEC and asymptomatic</i>	<p>(F) If a FOOD EMPLOYEE is diagnosed with an infection from ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING <i>E. COLI</i>, and is ASYMPTOMATIC:</p> <p>(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; or</p> <p>(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION.</p>
<i>symptomatic with sore throat with fever</i>	<p>(G) If a FOOD EMPLOYEE is ill with symptoms of acute onset of sore throat with fever:</p> <p>(1) EXCLUDE the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; or</p> <p>(2) RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION.</p>
<i>symptomatic with uncovered infected wound or pustular boil</i>	(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 Restrictions***

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

The PERSON IN CHARGE may remove, adjust, or retain the EXCLUSION or RESTRICTION of a FOOD EMPLOYEE according to the following conditions:

*(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) Reinstatement 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 was asymptomatic and is now asymptomatic and works in food establishment serving HSP*

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



*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) Reinstatement 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 boil -  
removing restriction*

(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:

(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

*Shigella spp., EHEC,  
or STEC*

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

(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***

<b>2-301</b>	<b>Hands and Arms</b>
<b>2-302</b>	<b>Fingernails</b>
<b>2-303</b>	<b>Jewelry</b>
<b>2-304</b>	<b>Outer Clothing</b>

### ***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 may not clean their hands in a sink used for FOOD preparation or WAREWASHING, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

## **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.

(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 may 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 may not wear jewelry including medical information jewelry on their arms and hands.

***Outer Clothing***

**2-304.11 Clean Condition.**

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

**2-4**

**HYGIENIC PRACTICES**

***Subparts***

- |              |                                      |
|--------------|--------------------------------------|
| <b>2-401</b> | <b>Food Contamination Prevention</b> |
| <b>2-402</b> | <b>Hair Restraints</b>               |
| <b>2-403</b> | <b>Animals</b>                       |

***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 may not work with exposed 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 may not care for or handle animals that may be present such as patrol dogs, SERVICE ANIMALS, or pets that are allowed as specified in Subparagraphs 6-501.115(B)(2)-(5).

(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

# 3

# Food

## Parts

- 3-1 CHARACTERISTICS
- 3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS
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- 3-6 FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING
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### 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***

<b>3-201</b>	<b>Sources</b>
<b>3-202</b>	<b>Specifications for Receiving</b>
<b>3-203</b>	<b>Original Containers and Records</b>

**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 may 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 may 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:

1. LAWS governing MEAT and POULTRY as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and

2. 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 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:

1. LAWS governing MEAT and POULTRY as determined by the agency that has animal health jurisdiction and the agency that the inspection program with consideration of factors such as the need for ante mortem 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 a 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 may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17. (3,231 KB Endangered and Threatened Wildlife and Plants).

(C) In accordance with section 252.244 R.S.Mo., any political subdivision, elementary or secondary school or any charitable, religious, fraternal, or other not-for-profit organization may prepare or serve wild game provided there is no charge for the wild game served as according to section 252.244 R.S.Mo.

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

**3-202.13 Eggs.\***

EGGS shall be received clean and sound and may not exceed the restricted EGG tolerances for U.S. Consumer Grade B as specified

in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 *et seq.*, administered by the Agricultural Marketing Service of USDA.

**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" 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 and each 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.**

Pre-PACKAGED JUICE shall:

(A) Be obtained from a processor with a HACCP system as

**Commercially  
Processed**

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 may 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 served; and*

*(2) The shellfish are protected from contamination.*

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

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

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

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

*(4) The shellfish are protected from contamination.*

### **3-203.12 Shellstock, Maintaining Identification.\***

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

(B) 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 dates of harvest:

(1) Using an APPROVED record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the SHELLSTOCK are sold or served; and

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

(a) Preserving source identification by using a record keeping system as specified under Subparagraph (B)(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***

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

***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 may not contact exposed, READY-TO-EAT FOOD with their bare hands and shall use suitable UTENSILS such as deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT.*

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

(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) 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 may 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<sub>1</sub>; 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 may not be used as FOOD.

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

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

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

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

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

***Preventing  
Contamination  
from Equipment,  
Utensils, and  
Linens***

**3-304.11 Food Contact with Equipment and Utensils.\***

FOOD shall only contact surfaces of:

(A) EQUIPMENT and UTENSILS that are cleaned as specified under Part 4-6 of this Code and SANITIZED as specified under Part 4-7 of this Code; 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 57°C (135°F) and the container is cleaned at a frequency specified under Subparagraph 4-602.11(D)(7).

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

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

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

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

- (1) Maintained dry; and
- (2) Used for no other purpose.

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

- (1) Held between uses in a chemical sanitizer solution at a concentration specified under § 4-501.114; and
- (2) Laundered daily as specified under ¶ 4-802.11(D).



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

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

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

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

### **3-304.15      Gloves, Use Limitation.**

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

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

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

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

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

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

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

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

### **3-304.17 Refilling Returnables.**

(A) A take-home FOOD container returned to a FOOD ESTABLISHMENT may 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 may not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In dressing rooms;

(D) In garbage rooms;

(E) In mechanical rooms;

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

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

(H) Under open stairwells; or

(I) Under other sources of contamination.

**3-305.13 Vended 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 may 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.<sup>N</sup>

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

### **3-306.14 Returned Food and Re-Service of Food.\***

(A) Except as specified in ¶ (B) of this section, after being served or sold and in the possession of a CONSUMER, FOOD that is unused or returned by the CONSUMER may not be offered as FOOD for human consumption.

(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.

<b>3-4</b>	<b>DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN</b>	
	<b>Subparts</b>	
	<b>3-401</b>	<b>Cooking</b>
	<b>3-402</b>	<b>Freezing</b>
	<b>3-403</b>	<b>Reheating</b>
	<b>3-404</b>	<b>Other Methods</b>

**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 <sup>1</sup>	121°C (250°F) or less	121°C (250°F) or less

<sup>1</sup> 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 <sup>1</sup> in Minutes	Temperature °C (°F)	Time <sup>1</sup> 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		
<sup>1</sup> 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 57°C (135°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 57°C (135°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 the temperature specified under Subparagraph 3-501.16(A)(2) and the temperatures specified under ¶¶ (A) - (C) of this section may 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	<b>LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN</b>
	<i>Subparts</i>
	<div>3-501</div> <div>3-502</div> <div>Temperature and Time Control</div> <div>Specialized Processing Methods</div>

***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 at 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2); 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 at 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2); 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 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2), 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), or 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2), 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), or 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2);

(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, or to 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2)(b).

(B) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled within 4 hours to 5°C (41°F) or

less, or to 7°C (45°F) as specified under Subparagraph 3-501.16(A)(2)(b) 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, or 7°C (45°F) or less as specified under Subparagraph 3-501.16(A)(2)(b).

(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 in (paragraph) (B) of the CODE, POTENTIALLY HAZARDOUS shall be maintained:

(1) At 57°C (135°F) or above, *except that roasts cooked to a temperature and for a time specified under ¶ 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 a temperature specified in the following:

(a) 5°C (41°F) or less; or

(b) 7°C (45°F) or between 5°C (41°F) and 7°C (45°F) in existing refrigeration EQUIPMENT that is not capable of maintaining the FOOD at 5°C (41°F) or less if:

(i) The EQUIPMENT is in place and in use in the FOOD ESTABLISHMENT; and

(ii) Within 90 days of the effective date of this Code, all refrigeration equipment that is upgraded, replaced, or purchased must be able to maintain food temperatures of 41°F or below. If a refrigeration unit is found by the Director to exceed 45°F for 2 consecutive inspections, it shall be brought into COMPLIANCE to maintain food temperatures of 41°F or below or be replaced with a unit that is capable of maintaining product temperatures of 41°F or below. All refrigeration units shall comply with the temperature requirements of the Food Code within (3) years after adoption. Refrigeration units used to display only cut melons must comply with temperature requirements within (5) years after the REGULATORY AUTHORITY adopts this Code. If refrigeration cases with cut melons contain other potentially hazardous FOODS, then the unit must meet the 41°F requirement.

(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.

**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, based on the temperature and time combinations specified below. The day of preparation shall be counted as Day 1.

(1) 5°C (41°F) or less for a maximum of 7 days; or

(2) 7°C (45°F) or between 5°C (41°F) and 7°C (45°F) for a maximum of 4 days in existing refrigeration EQUIPMENT that is not capable of maintaining the FOOD at 5°C (41°F) or less if:

(a) The EQUIPMENT is in place and in use in the FOOD ESTABLISHMENT, and

(b) Within 5 years of the REGULATORY AUTHORITY'S adoption of this Code, the EQUIPMENT is upgraded or replaced to maintain FOOD at a temperature of 5°C (41°F) or less.

**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.\***

(A) Except as specified under ¶ (D) of this section, if time only is used as the public health control for a working supply of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) before cooking, or for READY-TO-EAT POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is displayed or held for service for immediate consumption:

(1) Written procedures shall be prepared in advance, maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that specify:

(a) Methods of compliance with Subparagraphs (B)(1)-(3) or (C)(1)-(5) of this section; and

(b) Methods of compliance with § 3-501.14 for FOOD that is prepared, cooked, and refrigerated before time is used as a public health control.

#### ***Time – maximum up to 4 hours***

(B) If time only, rather than time in conjunction with temperature control, up to a maximum of 4 hours, is used as the public health control:

(1) The FOOD shall have an initial temperature of 5°C (41°F) or less if removed from cold holding temperature control, or 57°C (135°F) or greater if removed from hot holding temperature control;

(2) The FOOD shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the FOOD is removed from temperature control;

(3) The FOOD shall be cooked and served, served if READY-TO-EAT, or discarded, within 4 hours from the point in time when the FOOD is removed from temperature control; and

(4) The FOOD in unmarked containers or PACKAGES, or marked to exceed a 4-hour limit shall be discarded.

***Time –  
maximum up to  
6 hours***

(C) If time only, rather than time in conjunction with temperature control, up to a maximum of 6 hours, is used as the public health control:

(1) The FOOD shall have an initial temperature of 5°C (41°F) or less when removed from temperature control and the FOOD temperature may not exceed 21°C (70°F) within a maximum time period of 6 hours;

(2) The FOOD shall be monitored to ensure the warmest portion of the FOOD does not exceed 21°C (70°F) during the 6-hour period, *unless an ambient air temperature is maintained that ensures the FOOD does not exceed 21°C (70°F) during the 6-hour holding period;*

(3) The FOOD shall be marked or otherwise identified to indicate:

(a) The time when the FOOD is removed from 5°C (41°F) or less cold holding temperature control, and

(b) The time that is 6 hours past the point in time when the FOOD is removed from cold holding temperature control;

(4) The FOOD shall be:

(a) Discarded if the temperature of the FOOD exceeds 21°C (70°F), or

(b) Cooked and served, served if READY-TO-EAT, or discarded within a maximum of 6 hours from the point in time when the FOOD is removed from 5°C (41°F) or less cold holding temperature control; and

(5) The FOOD in unmarked containers or PACKAGES, or marked with a time that exceeds the 6-hour limit shall be discarded.

(D) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE

POPULATION may not use time as specified under ¶¶ (A), (B) or (C) of this section as the public health control for raw EGGS.

***Specialized  
Processing  
Methods***

**3-502.11 Variance Requirement.\***

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the REGULATORY AUTHORITY as specified in ' 8-103.10 and under ' 8-103.11 before:

(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 may 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 3-3,*

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

*(e) Except for frozen FOOD that is not shelf life restricted, cooled to 5°C (41°F) in the PACKAGE or bag as specified under § 3-501.14 and then cooled to 1°C (34°F) or less within 48 hours of reaching 5°C (41°F), and:*

*(i) Held at 1°C (34°F) and consumed or discarded within 30 days after the date of preparation, or*

*(ii) If removed from a storage unit that maintains a 1°C (34°F) FOOD temperature, held at 5°C (41°F) or less for no more than 72 hours before consumption.*

*(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***

<b>3-601</b>	<b>Accurate Representation</b>
<b>3-602</b>	<b>Labeling</b>
<b>3-603</b>	<b>Consumer Advisory</b>

### ***Accurate Representation***

#### **3-601.11 Standards of Identity.**

PACKAGED FOOD shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 Definitions and standards of identity or composition, and the general requirements in 21 CFR 130 – Food Standards: General and 9 CFR 319 Subpart A – General.

#### **3-601.12 Honestly Presented.**

(A) FOOD shall be offered for human consumption in a way that does not mislead or misinform the CONSUMER.

(B) FOOD or COLOR ADDITIVES, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a FOOD.

### ***Labeling***

#### **3-602.11 Food Labels.**

(A) FOOD PACKAGED in a FOOD ESTABLISHMENT, shall be labeled as specified in LAW, including 21 CFR 101 - Food labeling, and 9 CFR 317 Labeling, marking devices, and containers.

(B) Label information shall include:

(1) The common name of the FOOD, or absent a common name, an adequately descriptive identity statement;

(2) If made from two or more ingredients, a list of ingredients 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 may not be concealed or altered.

**Consumer  
Advisory**

**3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.\***

(A) Except as specified in ¶ 3-401.11(C) and Subparagraph 3-401.11(D)(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.

<b>3-7</b>	<b>CONTAMINATED FOOD</b>
	<b><i>Subpart</i></b>
<b>3-701</b>	<b>Disposition</b>

***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.

<b>3-8</b>	<b>SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS</b>
	<i>Subpart</i>
	<div> <div>3-801</div> <div>Additional Safeguards</div> </div>

***Additional  
Safeguards***

**3-801.11      Pasteurized Foods, Prohibited Re-Service, and  
Prohibited Food\***

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

(A) The following criteria apply to JUICE:

(1) For the purposes of this paragraph only, children who are age 9 or less and receive FOOD in a school, day care setting, or similar facility that provides custodial care are included as HIGHLY SUSCEPTIBLE POPULATIONS;

(2) PrePACKAGED JUICE or a prePACKAGED BEVERAGE containing JUICE, that bears a warning label as specified in 21 CFR, 101.17(g) Food labeling, warning, notice, and safe handling statements, Juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a PACKAGED JUICE or BEVERAGE containing JUICE, that bears a warning label as specified under ¶ 3-404.11(B) may not be served or offered for sale; 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 may 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 may not contact READY-TO-EAT FOOD as specified under ¶¶ 3-301.11(B) and (D).

(E) Time only, as the public health control as specified under § 3-501.19(D), may not be used for raw EGGS.

(F) *Subparagraph (B)(2) of this section does not apply if:*

(1) *The raw EGGS are combined immediately before cooking for one CONSUMER=S serving at a single meal, cooked as specified under Subparagraph 3-401.11(A)(1), and served immediately, such as an omelet, soufflé, or scrambled EGGS;*

(2) *The raw EGGS are combined as an ingredient immediately before baking and the EGGS are thoroughly cooked to a READY-TO-EAT form, such as a cake, muffin, or bread; or*

(3) *The preparation of the food is conducted under a HACCP PLAN that:*

(a) *Identifies the FOOD to be prepared,*

(b) *Prohibits contacting READY-TO-EAT FOOD with bare hands,*



(c) *Includes specifications and practices that ensure:*

(i) ***Salmonella Enteritidis*** *growth is controlled before and after cooking, and*

(ii) ***Salmonella Enteritidis*** *is destroyed by cooking the EGGS according to the temperature and time specified in Subparagraph 3-401.11(A)(2),*

(d) *Contains the information specified under ¶ 8-201.14(D) including procedures that:*

(i) *Control cross contamination of READY-TO-EAT FOOD with raw EGGS, and*

(ii) *Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES, and*

(e) *Describes the training program that ensures that the FOOD EMPLOYEE responsible for the preparation of the FOOD understands the procedures to be used.*

*Re-service of Food*

(G) *Except as specified in paragraph (H) of this section, FOOD may be re-served as specified under Subparagraph 3-306.14(B)(1) and (2).*

*Prohibited Re-service of Food*

(H) *FOOD may not be re-served under the following conditions:*

(1) *Any FOOD served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.*

(2) *Packages of FOOD from any patients, clients, or other CONSUMERS should not be re-served to PERSONS in protective environment isolation.*

Chapter

# 4 Equipment, Utensils, and Linens

Parts

- 4-1 MATERIALS FOR CONSTRUCTION AND REPAIR
- 4-2 DESIGN AND CONSTRUCTION
- 4-3 NUMBERS AND CAPACITIES
- 4-4 LOCATION AND INSTALLATION
- 4-5 MAINTENANCE AND OPERATION
- 4-6 CLEANING OF EQUIPMENT AND UTENSILS
- 4-7 SANITIZATION OF EQUIPMENT AND UTENSILS
- 4-8 LAUNDERING
- 4-9 PROTECTION OF CLEAN ITEMS

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

*Subparts*

- 4-101 Multiuse
- 4-102 Single-Service and Single-Use

***Multiuse***

**4-101.11 Characteristics.\***

Materials that are used in the construction of UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT may not allow the migration of deleterious substances or impart colors, odors, or tastes to FOOD and under normal use conditions shall be:

- (A) Safe;
- (B) Durable, CORROSION-RESISTANT, and nonabsorbent;<sup>N</sup>
- (C) Sufficient in weight and thickness to withstand repeated WAREWASHING;<sup>N</sup>

(D) Finished to have a SMOOTH, EASILY CLEANABLE surface;<sup>N</sup>  
and

(E) Resistant to pitting, chipping, crazing, scratching,  
scoring, distortion, and decomposition.<sup>N</sup>

#### **4-101.12 Cast Iron, Use Limitation.**

(A) Except as specified in ¶¶ (B) and (C) of this section, cast iron may not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT.

(B) *Cast iron may be used as a surface for cooking.*

(C) *Cast iron may be used in UTENSILS for serving FOOD if the UTENSILS are used only as part of an uninterrupted process from cooking through service.*

#### **4-101.13 Lead, Use Limitation.**

(A) Ceramic, china, and crystal UTENSILS, and decorative UTENSILS such as hand painted ceramic or china that are used in contact with FOOD shall be lead-free or contain levels of lead not exceeding the limits of the following UTENSIL categories:

<b>UTENSIL Category</b>	<b>Ceramic Article Description</b>	<b>Maximum Lead MG/L</b>
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls $\geq$ 1.1 Liter (1.16 Quart)	1
Small Hollowware (excluding cups & mugs)	Bowls < 1.1 Liter (1.16 Quart)	2.0
Flat TABLEWARE	Plates, Saucers	3.0

(B) Pewter alloys containing lead in excess of 0.05% may not be used as a FOOD-CONTACT SURFACE.

(C) Solder and flux containing lead in excess of 0.2% may not be used as a FOOD-CONTACT SURFACE.

#### **4-101.14      Copper, Use Limitation.\***

(A) Except as specified in ¶ (B) of this section, copper and copper alloys such as brass may not be used in contact with a FOOD that has a pH below 6 such as vinegar, fruit JUICE, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

*(B) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.*

#### **4-101.15      Galvanized Metal, Use Limitation.\***

Galvanized metal may not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT that are used in contact with acidic FOOD.

#### **4-101.16      Sponges, Use Limitation.**

Sponges may not be used in contact with cleaned and SANITIZED or in-use FOOD-CONTACT SURFACES.

#### **4-101.17      Wood, Use Limitation.**

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, wood and wood wicker may not be used as a FOOD-CONTACT SURFACE.

*(B) Hard maple or an equivalently hard, close-grained wood may be used for:*

*(1) Cutting boards; cutting blocks; bakers' tables; and UTENSILS such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and*

*(2) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110°C (230°F) or above.*

(C) *Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.*

(D) *If the nature of the FOOD requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw FOOD may be kept in:*

(1) *Untreated wood containers; or*

(2) *Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for wood.*

#### **4-101.18 Nonstick Coatings, Use Limitation.**

Multiuse KITCHENWARE such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching UTENSILS and cleaning aids.

#### **4-101.19 Nonfood-Contact Surfaces.**

NonFOOD-CONTACT SURFACES of EQUIPMENT that are exposed to splash, spillage, or other FOOD soiling or that require frequent cleaning shall be constructed of a CORROSION-RESISTANT, nonabsorbent, and SMOOTH material.

#### ***Single-Service and Single-Use***

#### **4-102.11 Characteristics.\***

Materials that are used to make SINGLE-SERVICE and SINGLE-USE ARTICLES:

(A) May not:

(1) Allow the migration of deleterious substances, or

(2) Impart colors, odors, or tastes to FOOD;<sup>N</sup> and

(B) Shall be:

(1) Safe, and

(2) Clean.<sup>N</sup>

<b>4-2</b>	<b>DESIGN AND CONSTRUCTION</b>
	<b><i>Subparts</i></b>
<b>4-201</b>	<b>Durability and Strength</b>
<b>4-202</b>	<b>Cleanability</b>
<b>4-203</b>	<b>Accuracy</b>
<b>4-204</b>	<b>Functionality</b>
<b>4-205</b>	<b>Acceptability</b>

***Durability and Strength***

**4-201.11 Equipment and Utensils.**

EQUIPMENT and UTENSILS shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

**4-201.12 Food Temperature Measuring Devices.\***

FOOD TEMPERATURE MEASURING DEVICES may not have sensors or stems constructed of glass, *except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.*

***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 may not be used on FOOD-CONTACT SURFACES.*

**4-202.14 Hot Oil Filtering Equipment.**

Hot oil filtering EQUIPMENT shall meet the characteristics specified under § 4-202.11 or § 4-202.12 and shall be readily accessible for filter replacement and cleaning of the filter.

**4-202.15 Can Openers.**

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

**4-202.16 Nonfood-Contact Surfaces.**

NonFOOD-CONTACT SURFACES shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

**4-202.17 Kick Plates, Removable.**

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

- (A) Removable by one of the methods specified under Subparagraph 4-202.11(A)(5) or capable of being rotated open; and
- (B) Removable or capable of being rotated open without unlocking EQUIPMENT doors.

**4-202.18 Ventilation Hood Systems, Filters.**

Filters or other grease extracting EQUIPMENT shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

***Accuracy***

**4-203.11 Temperature Measuring Devices, Food.**

(A) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to  $\nabla 1^{\circ}\text{C}$  in the intended range of use.



(B) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to  $\nabla 2^{\circ}\text{F}$  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  $\nabla 1.5^{\circ}\text{C}$  in the intended range of use.

(B) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to  $\nabla 3^{\circ}\text{F}$  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 pounds per square inch) or smaller and shall be accurate to  $\nabla 14$  kilopascals ( $\nabla 2$  pounds per square inch) in the 100-170 kilopascals (15-25 pounds per square inch) range.

***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.

#### **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, Leakproof.**

EQUIPMENT containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES.

#### **4-204.16 Beverage Tubing, Separation.**

*Except for cold plates that are constructed integrally with an ice storage bin,* BEVERAGE tubing and cold-plate BEVERAGE cooling devices may not be installed in contact with stored ice.

#### **4-204.17 Ice Units, Separation of Drains.**

Liquid waste drain lines may not pass through an ice machine or ice storage bin.

#### **4-204.18 Condenser Unit, Separation.**

If a condenser unit is an integral component of EQUIPMENT, the condenser unit shall be separated from the FOOD and FOOD storage space by a dustproof barrier.

#### **4-204.19 Can Openers on Vending Machines.**

Cutting or piercing parts of can openers on VENDING MACHINES shall be protected from manual contact, dust, insects, rodents, and other contamination.

#### **4-204.110 Molluscan Shellfish Tanks.**

(A) Except as specified under ¶ (B) of this section, MOLLUSCAN SHELLFISH life support system display tanks may not be used to 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 temperature may not exceed any time/temperature combination as specified under Subparagraph 3-501.16(A)(2) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

(2) In a hot holding VENDING MACHINE, the ambient temperature may 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 calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated FOOD transport containers, and salad bars.*

(D) TEMPERATURE MEASURING DEVICES shall be designed to be easily readable.

(E) FOOD TEMPERATURE MEASURING DEVICES and water TEMPERATURE MEASURING DEVICES on WAREWASHING machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1°C or 2°F in the intended range of use.

#### **4-204.113      Warewashing Machine, Data Plate Operating Specifications.**

A WAREWASHING machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(A) Temperatures required for washing, rinsing, and SANITIZING;

(B) Pressure required for the fresh water SANITIZING rinse *unless the machine is designed to use only a pumped SANITIZING rinse*; and

(C) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

**4-204.114 Warewashing Machines, Internal Baffles.**

WAREWASHING machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

**4-204.115 Warewashing Machines, Temperature Measuring Devices.**

A WAREWASHING machine shall be equipped with a TEMPERATURE MEASURING DEVICE that indicates the temperature of the water:

- (A) In each wash and rinse tank; 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 Drainboards, Self-Draining.**

Sinks and drainboards of WAREWASHING sinks and machines shall be self-draining.

**4-204.120 Equipment Compartments, Drainage.**

EQUIPMENT compartments that are subject to accumulation of moisture due to conditions such as condensation, FOOD or BEVERAGE drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

**4-204.121 Vending Machines, Liquid Waste Products.**

(A) VENDING MACHINES designed to store BEVERAGES that are PACKAGED in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

(B) VENDING MACHINES that dispense liquid FOOD in bulk shall be:



(1) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

(2) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

(C) Shutoff devices specified under Subparagraph (B)(2) of this section shall prevent water or liquid FOOD from continuously running if there is a failure of a flow control device in the water or liquid FOOD system or waste accumulation that could lead to overflow of the waste receptacle.

#### **4-204.122 Case Lot Handling Apparatuses, Moveability.**

Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of PACKAGED FOODS received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

#### **4-204.123 Vending Machine Doors and Openings.**

(A) VENDING MACHINE doors and access opening covers to FOOD and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch by:

(1) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or one-sixteenth inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;

(2) Being effectively gasketed;

(3) Having interface surfaces that are at least 13 millimeters or one-half inch wide; or

(4) Jambs or surfaces used to form an L-shaped entry path to the interface.

(B) VENDING MACHINE service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

**Acceptability**

**4-205.10 Food Equipment, Certification and Classification.**

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 may not be used for WAREWASHING operations where cleaning and SANITIZING solutions are used for a continuous or intermittent flow of KITCHENWARE or TABLEWARE**

in an ongoing WAREWASHING process.

#### **4-301.13 Drainboards.**

Drainboards, UTENSIL racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary UTENSIL holding before cleaning and after SANITIZING.

#### **4-301.14 Ventilation Hood Systems, Adequacy.**

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

#### **4-301.15 Clothes Washers and Dryers.**

(A) Except as specified in ¶ (B) of this section, if work clothes or LINENS are laundered on the PREMISES, a mechanical clothes washer and dryer shall be provided and used.

*(B) If on-PREMISES laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under § 4-901.12, a mechanical clothes washer and dryer need not be provided.*

#### ***Utensils, Temperature Measuring Devices, and Testing Devices***

#### **4-302.11 Utensils, Consumer Self-Service.**

A FOOD dispensing UTENSIL shall be available for each container displayed at a CONSUMER self-service unit such as a buffet or salad bar.

#### **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.

<b>4-4</b>	<b>LOCATION AND INSTALLATION</b>
	<b><i>Subparts</i></b>
	<b>4-401      Location</b>
	<b>4-402      Installation</b>

***Location*                      4-401.11      Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention.**

(A) Except as specified in & (B) of this section, EQUIPMENT, a cabinet used for the storage of FOOD, or a cabinet that is used to store cleaned and SANITIZED EQUIPMENT, UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES may not be located:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In garbage rooms;
- (4) In mechanical rooms;

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

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

(7) Under open stairwells; or

(8) Under other sources of contamination.

(B) *A storage cabinet used for LINENS or SINGLE-SERVICE or SINGLE-USE ARTICLES may be stored in a locker room.*

(C) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

## ***Installation***

### **4-402.11 Fixed Equipment, Spacing or Sealing.**

(A) EQUIPMENT that is fixed because it is not EASILY MOVABLE shall be installed so that it is:

(1) Spaced to allow access for cleaning along the sides, behind, and above the EQUIPMENT;

(2) Spaced from adjoining EQUIPMENT, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or

(3) SEALED to adjoining EQUIPMENT or walls, if the EQUIPMENT is exposed to spillage or seepage.

(B) COUNTER-MOUNTED EQUIPMENT that is not EASILY MOVABLE shall be installed to allow cleaning of the EQUIPMENT and areas underneath and around the EQUIPMENT by being:

(1) SEALED; or

(2) Elevated on legs as specified under ¶ 4-402.12(D).

#### **4-402.12 Fixed Equipment, Elevation or Sealing.**

(A) Except as specified in ¶¶ (B) and (C) of this section, floor-mounted EQUIPMENT that is not EASILY MOVABLE shall be SEALED to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the EQUIPMENT.

*(B) If no part of the floor under the floor-mounted EQUIPMENT is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).*

*(C) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the CONSUMER shopping areas of a retail FOOD store, if the floor under the units is maintained clean.*

(D) Except as specified in ¶ (E) of this section, COUNTER-MOUNTED EQUIPMENT that is not EASILY MOVABLE shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the EQUIPMENT.

*(E) The clearance space between the table and COUNTER-MOUNTED EQUIPMENT may be:*

*(1) 7.5 centimeters (3 inches) if the horizontal distance of the table top under the EQUIPMENT is no more than 50 centimeters (20 inches) from the point of access for cleaning; or*

*(2) 5 centimeters (2 inches) if the horizontal distance of the table top under the EQUIPMENT is no more than 7.5 centimeters (3 inches) from the point of access for cleaning*

## **4-5 MAINTENANCE AND OPERATION**

### ***Subparts***

<b>4-501</b>	<b>Equipment</b>
<b>4-502</b>	<b>Utensils and Temperature and Pressure Measuring Devices</b>

### ***Equipment***

#### **4-501.11 Good Repair and Proper Adjustment.**

(A) EQUIPMENT shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2.

(B) EQUIPMENT components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(C) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate FOOD when the container is opened.

#### **4-501.12 Cutting Surfaces.**

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and SANITIZED, or discarded if they are not capable of being resurfaced.

#### **4-501.13 Microwave Ovens.**

Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10 Microwave ovens.



**4-501.14 Warewashing Equipment, Cleaning Frequency.**

A WAREWASHING machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing EQUIPMENT, UTENSILS, or raw FOODS, or laundering wiping cloths; and drainboards or other EQUIPMENT used to substitute for drainboards as specified under § 4-301.13 shall be cleaned:

- (A) Before use;
- (B) Throughout the day at a frequency necessary to prevent recontamination of EQUIPMENT and UTENSILS and to ensure that the EQUIPMENT performs its intended function; and
- (C) If used, at least every 24 hours.

**4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.**

(A) A WAREWASHING machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

(B) A WAREWASHING machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

**4-501.16 Warewashing Sinks, Use Limitation.**

(A) A WAREWASHING sink may not be used for handwashing as specified under § 2-301.15.

(B) If a WAREWASHING sink is used to wash wiping cloths, wash produce, or thaw FOOD, the sink shall be cleaned as specified under § 4-501.14 before and after each time it is used to wash wiping cloths or wash produce or thaw FOOD. Sinks used to wash or thaw FOOD shall be SANITIZED as specified under Part 4-7 before and after using the sink to wash produce or thaw FOOD.

#### **4-501.17 Warewashing Equipment, Cleaning Agents.**

When used for WAREWASHING, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

#### **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 may 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 may 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 may 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 may not be less than 100 kilopascals (15 pounds per square inch) or more than 170 kilopascals (25 pounds per square inch) as measured in the water line immediately downstream or upstream from the fresh hot water SANITIZING rinse control valve.

**4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness.\***

A chemical SANITIZER used in a SANITIZING solution for a manual or mechanical operation at 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	
	PH 10 or less °C (°F)	PH 8 or less °C (°F)
MG/L		
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 may not be reused.

(B) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

**4-502.14      Shells, Use Limitation.**

Mollusk and crustacea shells may not be used more than once as serving containers.

<b>4-6</b>	<b>CLEANING OF EQUIPMENT AND UTENSILS</b>	
	<b><i>Subparts</i></b>	
	<b>4-601</b>	<b>Objective</b>
	<b>4-602</b>	<b>Frequency</b>
	<b>4-603</b>	<b>Methods</b>

***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.<sup>N</sup>

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

**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:<sup>N</sup>*

(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 agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

(B) The washing procedures selected shall be based on the type and purpose of the EQUIPMENT or UTENSIL, and on the type of soil to be removed.

**4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment.**

If washing in sink compartments or a WAREWASHING machine is impractical such as when the EQUIPMENT is fixed or the UTENSILS are too large, washing shall be done by using alternative manual WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C) in accordance with the following procedures:

(A) EQUIPMENT shall be disassembled as necessary to allow access of the detergent solution to all parts;

(B) EQUIPMENT components and UTENSILS shall be 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.*

<b>4-7</b>	<b>SANITIZATION OF EQUIPMENT AND UTENSILS</b>
	<b><i>Subparts</i></b>
	<b>4-701 Objective</b>
	<b>4-702 Frequency</b>
	<b>4-703 Methods</b>

***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).

<b>4-8</b>	<b>LAUNDERING</b>
	<i>Subparts</i>
	<b>4-801 Objective</b>
	<b>4-802 Frequency</b>
	<b>4-803 Methods</b>

**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.*



<b>4-9</b>	<b>PROTECTION OF CLEAN ITEMS</b>
	<b><i>Subparts</i></b>
<b>4-901</b>	<b>Drying</b>
<b>4-902</b>	<b>Lubricating and Reassembling</b>
<b>4-903</b>	<b>Storing</b>
<b>4-904</b>	<b>Preventing Contamination</b>

***Drying***

**4-901.11 Equipment and Utensils, Air-Drying Required.**

After cleaning and SANITIZING, EQUIPMENT and UTENSILS:

(A) Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface SANITIZING solutions), before contact with FOOD; and

(B) May not be cloth dried *except that UTENSILS that have been air-dried may be polished with cloths that are maintained clean and dry.*

**4-901.12 Wiping Cloths, Air-Drying Locations.**

Wiping cloths laundered in a FOOD ESTABLISHMENT that does not have a mechanical clothes dryer as specified in ¶ 4-301.15(B) shall be air-dried in a location and in a manner that prevents contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES and the wiping cloths. *This section does not apply if wiping cloths are stored after laundering in a SANITIZING solution as specified under § 4-501.114.*

***Lubricating and Reassembling***

**4-902.11 Food-Contact Surfaces.**

Lubricants as specified under § 7-205.11 shall be applied to FOOD-CONTACT SURFACES that require lubrication in a manner that does not contaminate FOOD-CONTACT SURFACES.

#### **4-902.12 Equipment.**

EQUIPMENT shall be reassembled so that FOOD-CONTACT SURFACES are not contaminated.

#### **Storing**

#### **4-903.11 Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.**

(A) Except as specified in ¶ (D) of this section, cleaned EQUIPMENT and UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES shall be stored:

- (1) In a clean, dry location;
- (2) Where they are not exposed to splash, dust, or other contamination; and
- (3) At least 15 cm (6 inches) above the floor.

(B) Clean EQUIPMENT and UTENSILS shall be stored as specified under ¶ (A) of this section and shall be stored:

- (1) In a self-draining position that allows air drying; and
- (2) Covered or inverted.

(C) SINGLE-SERVICE and SINGLE-USE ARTICLES shall be stored as specified under ¶ (A) of this section and shall be kept in the original protective PACKAGE or stored by using other means that afford protection from contamination until used.

*(D) Items that are kept in closed PACKAGES may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under § 4-204.122.*

#### **4-903.12 Prohibitions.**

(A) Except as specified in ¶ (B) of this section, cleaned and SANITIZED EQUIPMENT, UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES may not be stored:

- (1) In locker rooms;
- (2) In toilet rooms;

- (3) In garbage rooms;
- (4) In mechanical rooms;
- (5) Under sewer lines that are not shielded to intercept potential drips;
- (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
- (7) Under open stairwells; or
- (8) Under other sources of contamination.

(B) *Laundered LINENS and SINGLE-SERVICE and SINGLE-USE ARTICLES that are PACKAGED or in a facility such as a cabinet may be stored in a locker room.*

## ***Preventing Contamination***

### **4-904.11 Kitchenware and Tableware.**

(A) SINGLE-SERVICE and SINGLE-USE ARTICLES and cleaned and SANITIZED UTENSILS shall be handled, displayed, and dispensed so that contamination of FOOD- and lip-contact surfaces is prevented.

(B) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by EMPLOYEES and by CONSUMERS if CONSUMER self-service is provided.

(C) Except as specified under ¶ (B) of this section, SINGLE-SERVICE ARTICLES that are intended for FOOD- or lip-contact shall be furnished for CONSUMER self-service with the original individual wrapper intact or from an APPROVED dispenser.

### **4-904.12 Soiled and Clean Tableware.**

Soiled TABLEWARE shall be removed from CONSUMER eating and drinking areas and handled so that clean TABLEWARE is not contaminated.

**4-904.13      Preset Tableware.**

(A) 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.

Chapter

# 5

## Water, Plumbing, and Waste

Parts

- 5-1 WATER
- 5-2 PLUMBING SYSTEM
- 5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT  
WATER TANK
- 5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER
- 5-5 REFUSE, RECYCLABLES, AND RETURNABLES

5-1 WATER

*Subparts*

- 5-101 Source
- 5-102 Quality
- 5-103 Quantity and Availability
- 5-104 Distribution, Delivery, and Retention

**Source**

**5-101.11 Approved System.\***

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

(A) A PUBLIC WATER SYSTEM; 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 CFR 141 - 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 nonFOOD EQUIPMENT that are required to use water *except that water supplied as specified under §§ 5-104.12(A) and (B) to a TEMPORARY FOOD ESTABLISHMENT or in response to a temporary interruption of a water supply need not be under pressure.*

***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.

<b>5-2</b>	<b>PLUMBING SYSTEM</b>
	<i>Subparts</i>
	<b>5-201            Materials</b>
	<b>5-202            Design, Construction, and Installation</b>
	<b>5-203            Numbers and Capacities</b>
	<b>5-204            Location and Placement</b>
	<b>5-205            Operation and Maintenance</b>

### ***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.<sup>N</sup>

#### **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 may not be used at a HANDWASHING SINK.

(C) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(D) An automatic handwashing facility shall be installed in accordance with manufacturer=s instructions.

#### **5-202.13 Backflow Prevention, Air Gap.\***

An air gap between the water supply inlet and the flood level rim of the PLUMBING FIXTURE, EQUIPMENT, or nonFOOD EQUIPMENT shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch).

#### **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 may 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 may not create a cross connection by connecting a pipe or conduit between the DRINKING WATER system and a nonDRINKING WATER system or a water system of unknown quality.

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

**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.<sup>s</sup>

<b>5-3</b>	<b>MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK</b>
	<i>Subparts</i>
	<b>5-301      Materials</b>
	<b>5-302      Design and Construction</b>
	<b>5-303      Numbers and Capacities</b>
	<b>5-304      Operation and Maintenance</b>

#### ***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 Construction***

#### **5-302.11      Enclosed System, Sloped to Drain.**

A mobile water tank shall be:

(A) Enclosed from the filling inlet to the discharge outlet; and

(B) Sloped to an outlet that allows complete drainage of the tank.

**5-302.12 Inspection and Cleaning Port, Protected and Secured.**

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

(A) Flanged upward at least 13 mm (one-half inch); and

(B) Equipped with a port cover assembly that is:

(1) Provided with a gasket and a device for securing the cover in place, and

(2) Flanged to overlap the opening and sloped to drain.

**5-302.13 "V" Type Threads, Use Limitation.**

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

**5-302.14 Tank Vent, Protected.**

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

(A) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or

(B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

**5-302.15 Inlet and Outlet, Sloped to Drain.**

(A) A water tank and its inlet and outlet shall be sloped to drain.

(B) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

**5-302.16 Hose, Construction and Identification.**

A hose used for conveying DRINKING WATER from a water tank shall be:

- (A) Safe;
- (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.*

<b>5-4</b>	<b>SEWAGE, OTHER LIQUID WASTE, AND RAINWATER</b>
	<b><i>Subparts</i></b>
	<b>5-401 Mobile Holding Tank</b>
	<b>5-402 Retention, Drainage, and Delivery</b>
	<b>5-403 Disposal Facility</b>

**Mobile Holding  
Tank**

**5-401.11 Capacity and Drainage.**

A SEWAGE holding tank in a mobile FOOD ESTABLISHMENT shall be:



(A) Sized 15 percent larger in capacity than the water supply tank; and

(B) Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

***Retention,  
Drainage, and  
Delivery***

*design,  
construction, and  
installation*

**5-402.10 Establishment Drainage System.**

FOOD ESTABLISHMENT drainage systems, including grease traps, that convey SEWAGE shall be designed and installed as specified under ¶ 5-202.11(A).

**5-402.11 Backflow Prevention.\***

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, a direct connection may not exist between the SEWAGE system and a drain originating from EQUIPMENT in which FOOD, portable EQUIPMENT, or UTENSILS are placed.

*(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***

<b>5-501</b>	<b>Facilities on the Premises</b>
<b>5-502</b>	<b>Removal</b>
<b>5-503</b>	<b>Facilities for Disposal and Recycling</b>

### ***Facilities on the Premises***

*materials, design, construction, and installation*

#### **5-501.10 Indoor Storage Area.**

If located within the FOOD ESTABLISHMENT, a storage area for REFUSE, recyclables, and returnables shall meet the requirements specified under §§ 6-101.11, 6-201.11 - 6-201.18, 6-202.15, and 6-202.16.

#### **5-501.11 Outdoor Storage Surface.**

An outdoor storage surface for REFUSE, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be SMOOTH, durable, and sloped to drain.

#### **5-501.12 Outdoor Enclosure.**

If used, an outdoor enclosure for REFUSE, recyclables, and returnables shall be constructed of durable and cleanable materials.

#### **5-501.13 Receptacles.**

(A) Except as specified in ¶ (B) of this section, receptacles and waste handling units for REFUSE, recyclables, and returnables and for use with materials containing FOOD residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

(B) *Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the FOOD ESTABLISHMENT, or within closed outside receptacles.*

#### **5-501.14      Receptacles in Vending Machines.**

*Except for a receptacle for BEVERAGE bottle crown closures, a REFUSE receptacle may not be located within a VENDING MACHINE.*

#### **5-501.15      Outside Receptacles.**

(A) Receptacles and waste handling units for REFUSE, recyclables, and returnables used with materials containing FOOD residue and used outside the FOOD ESTABLISHMENT shall be designed and constructed to have tight-fitting lids, doors, or covers.

(B) Receptacles and waste handling units for REFUSE and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

*numbers and  
capacities*

#### **5-501.16      Storage Areas, Rooms, and Receptacles, Capacity and Availability.**

(A) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold REFUSE, recyclables, and returnables that accumulate.

(B) A receptacle shall be provided in each area of the FOOD ESTABLISHMENT or PREMISES where REFUSE is generated or commonly discarded, or where recyclables or returnables are placed.

(C) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

#### **5-501.17      Toilet Room Receptacle, Covered.**

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

**5-501.18      Cleaning Implements and Supplies.**

(A) Except as specified in ¶ (B) of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for REFUSE, recyclables, and returnables.

*(B) If APPROVED, off-PREMISES-based cleaning services may be used if on-PREMISES cleaning implements and supplies are not provided.*

*location and  
placement*

**5-501.19      Storage Areas, Redeeming Machines,  
Receptacles and Waste Handling Units,  
Location.**

(A) An area designated for REFUSE, recyclables, returnables, and, except as specified in ¶ (B) of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES and a public health HAZARD or nuisance is not created.

*(B) A redeeming machine may be located in the PACKAGED FOOD storage area or CONSUMER area of a FOOD ESTABLISHMENT if FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES are not subject to contamination from the machines and a public health HAZARD or nuisance is not created.*

(C) The location of receptacles and waste handling units for REFUSE, recyclables, and returnables may not create a public health HAZARD or nuisance or interfere with the cleaning of adjacent space.

*operation and  
maintenance*

**5-501.110      Storing Refuse, Recyclables, and  
Returnables.**

REFUSE, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

**5-501.111 Areas, Enclosures, and Receptacles, Good Repair.**

Storage areas, enclosures, and receptacles for REFUSE, recyclables, and returnables shall be maintained in good repair.

**5-501.112 Outside Storage Prohibitions.**

(A) Except as specified in & (B) of this section, REFUSE receptacles not meeting the requirements specified under & 5-501.13(A) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with FOOD residue may not be stored outside.

*(B) Cardboard or other packaging material that does not contain FOOD residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.*

**5-501.113 Covering Receptacles.**

Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be kept covered:

(A) Inside the FOOD ESTABLISHMENT if the receptacles and units:

(1) Contain FOOD residue and are not in continuous use;  
or

(2) After they are filled; and

(B) With tight-fitting lids or doors if kept outside the FOOD ESTABLISHMENT.

**5-501.114 Using Drain Plugs.**

Drains in receptacles and waste handling units for REFUSE, recyclables, and returnables shall have drain plugs in place.

**5-501.115 Maintaining Refuse Areas and Enclosures.**

A storage area and enclosure for REFUSE, recyclables, or returnables shall be maintained free of unnecessary items, as specified under § 6-501.114, and clean.

**5-501.116 Cleaning Receptacles.**

(A) Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, or SINGLE-SERVICE and SINGLE-USE ARTICLES, and waste water shall be disposed of as specified under § 5-402.13.

(B) Soiled receptacles and waste handling units for REFUSE, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

***Removal***

**5-502.11 Frequency.**

REFUSE, recyclables, and returnables shall be removed from the PREMISES at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

**5-502.12 Receptacles or Vehicles.**

REFUSE, recyclables, and returnables shall be removed from the PREMISES by way of:

(A) Portable receptacles that are constructed and maintained according to LAW; or

(B) A transport vehicle that is constructed, maintained, and operated according to LAW.

***Facilities for  
Disposal and  
Recycling***

**5-503.11 Community or Individual Facility.**

Solid waste not disposed of through the SEWAGE system such as through grinders and pulpers shall be recycled or disposed of in an APPROVED public or private community recycling or REFUSE facility; or solid waste shall be disposed of in an individual REFUSE facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to LAW.



## Chapter

# 6

# Physical Facilities

## Parts

- 6-1 MATERIALS FOR CONSTRUCTION AND REPAIR
- 6-2 DESIGN, CONSTRUCTION, AND INSTALLATION
- 6-3 NUMBERS AND CAPACITIES
- 6-4 LOCATION AND PLACEMENT
- 6-5 MAINTENANCE AND OPERATION

## 6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

### *Subparts*

- 6-101 Indoor Areas
- 6-102 Outdoor Areas

## ***Indoor Areas***

### **6-101.11 Surface Characteristics.**

(A) Except as specified in ¶ (B) of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

- (1) SMOOTH, durable, and EASILY CLEANABLE for areas where FOOD ESTABLISHMENT operations are conducted;
- (2) Closely woven and EASILY CLEANABLE carpet for carpeted areas; and
- (3) Nonabsorbent for areas subject to moisture such as FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet rooms, mobile FOOD ESTABLISHMENT SERVICING AREAS, and areas subject to flushing or spray cleaning methods.

(B) *In a TEMPORARY FOOD ESTABLISHMENT:*

- (1) *If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other APPROVED materials that are effectively treated to control dust and mud; and*

(2) *Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.*

**Outdoor Areas**

**6-102.11 Surface Characteristics.**

(A) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(B) Exterior surfaces of buildings and mobile FOOD ESTABLISHMENTS shall be of weather-resistant materials and shall comply with LAW.

(C) Outdoor storage areas for REFUSE, recyclables, or returnables shall be of materials specified under §§ 5-501.11 and 5-501.12.

6-2	<b>DESIGN, CONSTRUCTION, AND INSTALLATION</b>	
	<b>Subparts</b>	
	6-201	<b>Cleanability</b>
	6-202	<b>Functionality</b>

**Cleanability**

**6-201.11 Floors, Walls, and Ceilings.**

Except as specified under § 6-201.14 and *except for antislip floor coverings or applications that may be used for safety reasons*, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are SMOOTH and EASILY CLEANABLE.

**6-201.12 Floors, Walls, and Ceilings, Utility Lines.**

(A) Utility service lines and pipes may not be unnecessarily exposed.

(B) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

**6-201.13 Floor and Wall Junctures, Coved, and Enclosed or Sealed.**

(A) In FOOD ESTABLISHMENTS in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1 mm (one thirty-second inch).

(B) The floors in FOOD ESTABLISHMENTS in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and SEALED.

**6-201.14 Floor Carpeting, Restrictions and Installation.**

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, REFUSE storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under ¶ (A) of this section, it shall be:

(1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

**6-201.15 Floor Covering, Mats and Duckboards.**

Mats and duckboards shall be designed to be removable and EASILY CLEANABLE.

**6-201.16 Wall and Ceiling Coverings and Coatings.**

(A) Wall and ceiling covering materials shall be attached so that they are EASILY CLEANABLE.

(B) *Except in areas used only for dry storage*, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and SEALED to provide a SMOOTH, nonabsorbent, EASILY CLEANABLE surface.

#### **6-201.17      Walls and Ceilings, Attachments.**

(A) Except as specified in ¶ (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be EASILY CLEANABLE.

(B) *In a CONSUMER area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.*

#### **6-201.18      Walls and Ceilings, Studs, Joists, and Rafters.**

*Except for TEMPORARY FOOD ESTABLISHMENTS*, studs, joists, and rafters may not be exposed in areas subject to moisture.

### ***Functionality***

#### **6-202.11      Light Bulbs, Protective Shielding.**

(A) Except as specified in ¶ (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; or unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

(B) *Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing FOOD in unopened packages, if:*

*(1) The integrity of the packages cannot be affected by broken glass falling onto them; and*

*(2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.*

(C) An infrared or other heat lamp shall be protected against

breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

**6-202.12 Heating, Ventilating, Air Conditioning System Vents.**

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of FOOD, FOOD-CONTACT SURFACES, EQUIPMENT, or UTENSILS.

**6-202.13 Insect Control Devices, Design and Installation.**

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(B) Insect control devices shall be installed so that:

- (1) The devices are not located over a FOOD preparation area; and
- (2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

**6-202.14 Toilet Rooms, Enclosed.**

*Except where a toilet room is located outside a FOOD ESTABLISHMENT and does not open directly into the FOOD ESTABLISHMENT such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the PREMISES shall be completely enclosed and provided with a tight-fitting and self-closing door.*

**6-202.15 Outer Openings, Protected.**

(A) Except as specified in ¶¶ (B), (C), and (E) and under ¶ (D) of this section, outer openings of a FOOD ESTABLISHMENT shall be protected against the entry of insects and rodents by:

(1) Filling or closing holes and other gaps along floors, walls, and ceilings;

(2) Closed, tight-fitting windows; and

(3) Solid, self-closing, tight-fitting doors.

*(B) Paragraph (A) of this section does not apply if a FOOD ESTABLISHMENT opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.*

*(C) Exterior doors used as exits need not be self-closing if they are:*

*(1) Solid and tight-fitting;*

*(2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the FOOD ESTABLISHMENT; and*

*(3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.*

(D) Except as specified in ¶¶ (B) and (E) of this section, if the windows or doors of a FOOD ESTABLISHMENT, or of a larger structure within which a FOOD ESTABLISHMENT is located, are kept open for ventilation or other purposes or a TEMPORARY FOOD ESTABLISHMENT is not provided with windows and doors as specified under ¶ (A) of this section, the openings shall be protected against the entry of insects and rodents by:

(1) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;

(2) Properly designed and installed air curtains to control flying insects; or

(3) Other effective means.

*(E) Paragraph (D) of this section does not apply if flying insects and other pests are absent due to the location of the ESTABLISHMENT, the weather, or other limiting condition.*

**6-202.16 Exterior Walls and Roofs, Protective Barrier.**

Perimeter walls and roofs of a FOOD ESTABLISHMENT shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

**6-202.17 Outdoor Food Vending Areas, Overhead Protection.**

*Except for machines that vend canned BEVERAGES*, if located outside, a machine used to vend FOOD shall be provided with overhead protection.

**6-202.18 Outdoor Servicing Areas, Overhead Protection.**

*Except for areas used only for the loading of water or the discharge of SEWAGE and other liquid waste, through the use of a closed system of hoses*, SERVICING AREAS shall be provided with overhead protection.

**6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.**

Exterior walking and driving surfaces shall be graded to drain.

**6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.**

Outdoor REFUSE areas shall be constructed in accordance with LAW and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the REFUSE and from cleaning the area and waste receptacles.

**6-202.111 Private Homes and Living or Sleeping Quarters, Use Prohibition.**

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting FOOD ESTABLISHMENT operations.

**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***

<b>6-301</b>	<b>Handwashing Sinks</b>
<b>6-302</b>	<b>Toilets and Urinals</b>
<b>6-303</b>	<b>Lighting</b>
<b>6-304</b>	<b>Ventilation</b>
<b>6-305</b>	<b>Dressing Areas and Lockers</b>
<b>6-306</b>	<b>Service Sinks</b>

***Handwashing  
Sinks***

**6-301.10 Minimum Number.**

HANDWASHING SINKS shall be provided as specified under § 5-203.11.

**6-301.11 Handwashing Cleanser, Availability.**

Each HANDWASHING SINK or group of 2 adjacent HANDWASHING SINKS shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

**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, may not be provided with the handwashing aids and devices required for a HANDWASHING SINK as specified under §§ 6-301.11 and 6-301.12 and ¶ 5-501.16(C).

**6-301.14 Handwashing Signage.**

A sign or poster that notifies FOOD EMPLOYEES to wash their hands shall be provided at all HANDWASHING SINKS used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

**6-301.20 Disposable Towels, Waste Receptacle.**

A HANDWASHING SINK or group of adjacent HANDWASHING SINKS that is provided with disposable towels shall be provided with a waste receptacle as specified under ¶ 5-501.16(C).

***Toilets and Urinals***

**6-302.10 Minimum Number.**

Toilets and urinals shall be provided as specified under § 5-203.12.

**6-302.11 Toilet Tissue, Availability.**

A supply of toilet tissue shall be available at each toilet.

### **6-303.11 Intensity**

The light intensity shall be:

#### ***Lighting***

(A) At least 20 foot candles (215 lux) (lux = lumen/square meter) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units, dry FOOD storage areas, in other areas, and rooms during periods of cleaning.

(B) *At least 40 foot candles (430 lux):*

(1) At a surface where FOOD is provided for CONSUMER self-service such as buffets and salad bars or where fresh produce or PACKAGE FOODS are sold or offered for consumption; and

(2) Inside equipment such as reach-in and under-counter refrigerators; and

(3) At a distance of 30 inches above the floor in areas used for hand-washing, WAREWASHING, and EQUIPMENT and UTENSIL storage, and in toilet rooms.

(C) At least 75 foot candles (807 lux) 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***

<b>6-401</b>	<b>Handwashing Sinks</b>
<b>6-402</b>	<b>Toilet Rooms</b>
<b>6-403</b>	<b>Employee Accommodations</b>
<b>6-404</b>	<b>Distressed Merchandise</b>
<b>6-405</b>	<b>Refuse, Recyclables, and Returnables</b>

***Handwashing Sinks*****6-401.10 Conveniently Located.**

HANDWASHING SINKS shall be conveniently located as specified under § 5-204.11.

***Toilet Rooms*****6-402.11 Convenience and Accessibility.**

Toilet rooms shall be conveniently located and accessible to EMPLOYEES during all hours of operation.

***Employee Accommodations*****6-403.11 Designated Areas.**

(A) Areas designated for EMPLOYEES to eat, drink, and use tobacco shall be located so that FOOD, EQUIPMENT, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES can not occur.

***Distressed Merchandise*****6-404.11 Segregation and Location.**

Products that are held by the PERMIT HOLDER for credit,

redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

***Refuse,  
Recyclables, and  
Returnables***

**6-405.10      Receptacles, Waste Handling Units, and  
Designated Storage Areas.**

Units, receptacles, and areas designated for storage of REFUSE and recyclable and returnable containers shall be located as specified under § 5-501.19.

<b>6-5</b>	<b>MAINTENANCE AND OPERATION</b>
	<b><i>Subpart</i></b>
	<b>6-501      Premises, Structures, Attachments, and Fixtures - Methods</b>

***Premises,  
Structures,  
Attachments,  
and Fixtures  
- Methods***

**6-501.11      Repairing.**

PHYSICAL FACILITIES shall be maintained in good repair.

**6-501.12      Cleaning, Frequency and Restrictions.**

(A) PHYSICAL FACILITIES shall be cleaned as often as necessary to keep them clean.

(B) *Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of FOOD is exposed such as after closing.*

**6-501.13      Cleaning Floors, Dustless Methods.**

(A) Except as specified in ¶ (B) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(B) *Spills or drippage on floors that occur between normal floor*

*cleaning times may be cleaned:*

- (1) Without the use of dust-arresting compounds; and*
- (2) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.*

**6-501.14      Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.**

(A) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health HAZARD or nuisance or unlawful discharge.

**6-501.15      Cleaning Maintenance Tools, Preventing Contamination.\***

FOOD preparation sinks, HANDWASHING SINKS, and WAREWASHING EQUIPMENT may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

**6-501.16      Drying Mops.**

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, EQUIPMENT, or supplies.

**6-501.17      Absorbent Materials on Floors, Use Limitation.**

Except as specified in ¶ 6-501.13(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

**6-501.18      Cleaning of Plumbing Fixtures.**

PLUMBING FIXTURES such as HANDWASHING SINKS, toilets, and urinals shall be cleaned as often as necessary to keep them clean 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;<sup>N</sup>

(B) Routinely inspecting the PREMISES for evidence of pests;<sup>N</sup>

(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.<sup>N</sup>

**6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.**

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the PREMISES at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

#### **6-501.113 Storing Maintenance Tools.**

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES; and

(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

#### **6-501.114 Maintaining Premises, Unnecessary Items and Litter.**

The PREMISES shall be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as EQUIPMENT that is nonfunctional or no longer used; and

(B) Litter.

#### **6-501.115 Prohibiting Animals.\***

(A) Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT.

*(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 can not 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 can not result.*



Chapter

# 7 Poisonous or Toxic Materials

Parts

- 7-1 LABELING AND IDENTIFICATION
- 7-2 OPERATIONAL SUPPLIES AND APPLICATIONS
- 7-3 STOCK AND RETAIL SALE

7-1 LABELING AND IDENTIFICATION

*Subparts*

- 7-101 Original Containers
- 7-102 Working Containers

***Original Containers***

**7-101.11 Identifying Information, Prominence.\***

Containers of POISONOUS OR TOXIC MATERIALS and PERSONAL CARE ITEMS shall bear a legible manufacturer's label.

***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***

<b>7-201</b>	<b>Storage</b>
<b>7-202</b>	<b>Presence and Use</b>
<b>7-203</b>	<b>Container Prohibitions</b>
<b>7-204</b>	<b>Chemicals</b>
<b>7-205</b>	<b>Lubricants</b>
<b>7-206</b>	<b>Pesticides</b>
<b>7-207</b>	<b>Medicines</b>
<b>7-208</b>	<b>First Aid Supplies</b>
<b>7-209</b>	<b>Other Personal Care Items</b>

### ***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;<sup>s</sup> 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.<sup>s</sup>

(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.<sup>N</sup>

**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;<sup>S</sup> 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.<sup>S</sup>

***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).

<b>7-3</b>	<b>STOCK AND RETAIL SALE</b>
	<b><i>Subpart</i></b>
	<b>7-301 Storage and Display</b>

***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;<sup>s</sup> 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.

Chapter

# 8

# Compliance and Enforcement

Parts

- 8-1 CODE APPLICABILITY
- 8-2 PLAN SUBMISSION AND APPROVAL
- 8-3 PERMIT TO OPERATE
- 8-4 INSPECTION AND CORRECTION OF VIOLATIONS
- 8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

8-1 CODE APPLICABILITY

*Subparts*

- 8-101 Use for Intended Purpose
- 8-102 Additional Requirements
- 8-103 Variances

***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 Duties of Restaurant Commission**

(A) The County Executive may appoint a Restaurant Commission to advise and consult with the Department on carrying out the administration of the CODE and all amendments thereto relating to FOOD ESTABLISHMENTS and to perform such other duties as provided by ordinance.

(B) The Commission shall consist of six voting members appointed by the County Executive, subject to confirmation by the County Council. Two of the appointed members shall have no business interest in a FOOD ESTABLISHMENT, food-processing ESTABLISHMENT, or related industry. Four of the appointed members shall be experienced and knowledgeable in the FOOD ESTABLISHMENT trade, and at least one of these shall be a PERMIT HOLDER under this Code but not a

member of any FOOD ESTABLISHMENT trade association. The County Executive shall appoint the Chairman. The DIRECTOR, the Associate Director of the Division of Environmental Protection, the Assistant Director, and Environmental Branch shall be non-voting members of the Commission.

(C) Each appointed member shall hold office for a term of three (3) years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

(D) The Restaurant Commission shall meet as frequently as the Chairman deems necessary but not less than once each year. Upon request by three or more members it shall be the duty of the Chairman to call a meeting of the Commission within ten (10) days.

#### **8-103.11 Appeals and Variances**

The Restaurant Commission is hereby authorized to:

(A) Hear and decide appeals where it is alleged that there is an error of LAW or fact in any order, requirement, decision, or determination made by the DIRECTOR in the enforcement of this Code;

(B) Interpret the provisions of this Code in such a way as to carry out its intent and purpose;

(C) Grant upon appeal by a PERMIT HOLDER a VARIANCE from the terms of this Code upon a showing that strict application of the provisions of this Code will impose practical difficulties or particular hardships upon the PERMIT HOLDER without corresponding benefit to the public health, but only when the Commission finds that the VARIANCE will not serve merely as a convenience to the PERMIT HOLDER but will alleviate some demonstrable hardship or difficulty sufficient to warrant a VARIANCE. In recommending any such VARIANCE, the Commission may impose such limitations and conditions as it deems necessary to protect the public health, and any violation of or failure to adhere to such limitations or condition shall constitute a violation of this Code. If a variance is granted, or a HACCP Plan is otherwise required as specified in this

Code, the PERMIT HOLDER shall: i.) Comply with the HACCP PLANS and procedures that are submitted as specified in The CODE 8-201.14 and APPROVED as a basis for the modification or waiver; and ii.) Maintain and provide to the REGULATORY AUTHORITY, upon request, records specified in the CODE 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 a failure at a CRITICAL CONTROL POINT.

#### **8-103.11.1 Procedure on Appeals:**

(1) An appeal to the Commission may be made by any PERSON aggrieved by the grant or denial of a PERMIT or any other administrative decision under this Code. An appeal to the Commission from the suspension or revocation of a PERMIT may only be made from the final decision of the DIRECTOR in accordance with the CODE 8-304.40, 8-304.60, 8-304.70 and 8-304.80. A petition for VARIANCE shall be filed only upon appeal from the issuance or denial of a PERMIT or denial of any other requested administrative decision.

(2) Appeals shall be filed with the DIRECTOR upon such forms as are APPROVED for such purpose by the Commission. Each appeal shall be accompanied by a fee of three hundred dollars (\$300.00), which shall be deposited in the Health Fund.

(3) Before making its recommendation on any appeal, the Commission shall hold a public hearing thereon. At least five (5) days notice of the time and place of such hearing shall be sent by United States mail or electronic mail to the appellant and each other PERSON known to the DIRECTOR to have any interest in the appeal. Such notice shall contain the name of the appellant, date, time and place fixed for the hearing, and a brief statement of the subject of the appeal. In addition notice of the hearing shall be published in one newspaper of general

circulation in St. Louis County not less than five (5) days prior to the hearing.

(4) Hearings may be adjourned from time to time, and if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice of such continued hearings shall be required.

(5) The Commission may adopt rules of procedure not inconsistent with LAW. A majority of the Commission shall constitute a quorum.

(6) The Chairman or other presiding officer may administer oaths and compel the attendance of necessary witnesses at hearings or meetings.

(7) The Commission shall cause adequate minutes of its proceedings, and hearings to be kept, and shall record or otherwise provide for the preservation of all evidence and proceedings on any appeal.

(8) All decisions of the Commission shall be an order, in which a majority of those members participating in a hearing shall concur. Each order shall set forth the decision and a statement of the grounds and any findings forming the basis of such decision, and the full text of the order and record of members' votes shall be incorporated in the minutes of the Commission.

(9) Any decision of the Commission may be appealed by the appellant, the DIRECTOR or any other aggrieved PERSON in the manner provided by LAW.

(10) An appeal to the Commission shall not operate as a stay of an order denying a PERMIT or suspending or revoking a PERMIT for cause. The Commission may provide by generally applicable rule for other cases in which an appeal shall operate as a stay of other administrative orders.

8-2	<b>PLAN SUBMISSION AND APPROVAL</b>
	<i>Subparts</i>
	<div>8-201</div> <div>Facility and Operating Plans</div>
	<div>8-202</div> <div>Confidentiality</div>
	<div>8-203</div> <div>Construction Inspection and Approval</div>

***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.

**8-201.11.1 Plans Submitted**

(A) No FOOD ESTABLISHMENT shall be constructed or remodeled and no structure or vehicle shall be converted to use as a FOOD ESTABLISHMENT unless plans for such construction, remodeling or conversion have been APPROVED by the DIRECTOR.

(B) Prior to the commencement of any such work, plans shall be submitted to the DIRECTOR, in such form and detail as may be required by the DIRECTOR, showing the layout, arrangement, construction materials, of work and dining areas, the type, model, installation of proposed fixed EQUIPMENT, facilities, and utilities. The DIRECTOR shall approve such plans only if they comply with the requirements of this Code, but no such approval shall constitute approval under any other state, county, district or municipal regulation

governing the use, construction, or occupancy of property.

(C) All construction, remodeling or conversion shall be in accordance with APPROVED plans. No FOOD ESTABLISHMENT shall commence operation until the DIRECTOR has determined, after inspection, that it is in compliance with plans and the requirements of this Code.

(D) Plans shall be submitted to the DIRECTOR with a completed plan review application and plan review fee for review and approval. This includes new owners/operators of existing FOOD ESTABLISHMENTS.

(E) Operators shall retain a copy of the APPROVED plans for their records.

#### **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 approval a properly prepared HACCP PLAN as specified under § 8-201.14 and the relevant provisions of this Code if:

(1) Submission of a HACCP PLAN is required according to LAW;

(2) A VARIANCE is required as specified under Subparagraph 3-401.11(D)(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.

(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.

***Confidentiality***

**8-202.10 Trade Secrets.**

The REGULATORY AUTHORITY shall treat as confidential in accordance with LAW, information that meets the criteria specified in LAW for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under §§ 8-201.12 and 8-201.14.



***Construction  
Inspection and  
Approval***

**8-203.10 Preoperational Inspections**

The REGULATORY AUTHORITY shall conduct one or more preoperational inspections to verify that the FOOD ESTABLISHMENT is constructed and equipped in accordance with the APPROVED plans and APPROVED modifications of those plans, and is in compliance with LAW and this Code.

<b>8-3</b>	<b>PERMIT TO OPERATE</b>
	<b><i>Subparts</i></b>
	<b>8-301 Requirement</b>
	<b>8-302 Application Procedure</b>
	<b>8-303 Issuance</b>
	<b>8-304 Conditions of Retention</b>

***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***

**8-302.12 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.**

(A) Any PERSON desiring to operate a FOOD ESTABLISHMENT shall make written application for a PERMIT on forms provided by the DIRECTOR.

(B) Such application shall include the following:

(1) the name and address of each applicant;

(2) the location and type of the proposed FOOD ESTABLISHMENT; and

(3) the signature of each applicant.

(C) If the application is for a TEMPORARY FOOD ESTABLISHMENT, it shall also include the dates of the proposed operation.

#### **8-203.20 Plan Review Fee**

A plan review fee of two hundred ten dollars (\$210.00) shall be submitted with each application for plan review.

#### **8-203.30 Fee for Food Safety School**

Every individual enrolled in a Department FOOD SAFETY SCHOOL shall pay a fee of fifty dollars (\$50.00) per session.

### ***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.**

(A) No PERSON shall operate a FOOD ESTABLISHMENT who does not have a current and valid PERMIT issued to him by the DIRECTOR.

(B) Only a PERSON who complies with the requirements of this Code shall be entitled to receive or retain such a PERMIT.

(C) PERMITS for TEMPORARY FOOD ESTABLISHMENTS shall be issued for a period of time not to exceed fourteen (14) consecutive days. All other PERMITS shall be issued and renewable annually.

**8-303.30 Denial of Application for Permit, Notice.**

If an application for a PERMIT to operate is denied, the REGULATORY AUTHORITY shall provide the applicant with a notice that includes:

(A) The specific reasons and Code citations for the PERMIT denial;

(B) The actions, if any, that the applicant must take to qualify for a PERMIT; and

(C) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in LAW.

**Conditions of  
Retention**

**8-304.10 Responsibilities of the Regulatory  
Authority.**

(A) At the time a PERMIT is first issued, the REGULATORY AUTHORITY shall provide to the PERMIT HOLDER a copy of this Code so that the PERMIT HOLDER is notified of the compliance requirements and the conditions of retention, as specified under § 8-304.11, that are applicable to the PERMIT.

*(B) Failure to provide the information specified in ¶ (A) of this section does not prevent the REGULATORY AUTHORITY from taking authorized action or seeking remedies if the PERMIT HOLDER fails to comply with this Code or an order, warning, or directive of the REGULATORY AUTHORITY.*

**8-304.11 Responsibilities of the Permit Holder.**

Upon acceptance of the PERMIT issued by the REGULATORY AUTHORITY, the PERMIT HOLDER in order to retain the PERMIT shall:

(A) Post the PERMIT and INSPECTION REPORT in a location 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 3 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 may not be transferred from one PERSON to another PERSON, from one FOOD ESTABLISHMENT to another, or from one type of operation to another if the FOOD operation changes from the type of operation specified in the application as specified under ¶ 8-302.14(C) and the change in operation is not APPROVED.

#### **8-304.30 Operating Without a Permit**

No FOOD ESTABLISHMENT shall operate without a valid PERMIT issued by the DEPARTMENT.

#### **8-304.40 Suspension of a Permit**

(A) The DIRECTOR may suspend a PERMIT for any of the following causes without any prior notice or hearing:

(1) The operation of the FOOD ESTABLISHMENT constitutes a HAZARD to public health;

(2) Interference with the DIRECTOR in the performance of the duties of the DIRECTOR, including refusal to PERMIT access to carry out those duties;

(3) In accordance with the CODE 8-402.13.

(B) When a PERMIT is suspended the FOOD ESTABLISHMENT operation shall cease immediately.

(C) A suspension shall become effective upon service of written notice to the PERMIT HOLDER or PERSON IN CHARGE of the FOOD ESTABLISHMENT or TEMPORARY ESTABLISHMENT.

(D) The PERMIT HOLDER may make a written request for a hearing within ten (10) days after notice of suspension and the DIRECTOR shall provide a hearing within ten (10) days after the request. If no request for a hearing is filed within ten (10) days the suspension becomes final.

(E) The DIRECTOR may end the suspension at any time prior to the time the suspension becomes final if the DIRECTOR determines that the reason for suspension no longer exists.

(F) Whenever a suspension has become final, the PERSON whose PERMIT was suspended may reapply for a PERMIT under the CODE 8-302.13 after the expiration of sixty (60) days.

### **8-304.50 Permit Fees**

(A) The initial fee for a PERMIT for a new FOOD ESTABLISHMENT shall be one hundred thirty dollars (\$130.00).

(B) The annual permit fee for a MOBILE FOOD ESTABLISHMENT shall be one hundred dollars (\$100.00).

(C) The annual permit fee for a SEASONAL FOOD ESTABLISHMENT shall be seventy-five dollars (\$75.00).

(D) The permit fee for a PUSH CART shall be thirty-five dollars (\$35.00). The permit fee for a TEMPORARY FOOD ESTABLISHMENT shall be thirty-five dollars (\$35.00) per event.

(E) The initial fee for a PERMIT for a FOOD ESTABLISHMENT, which has been operating at least one year prior to the enactment of this Code, and the annual fee for the renewal of a PERMIT shall be determined by the following formula:

(1) One hundred ninety-three dollars (\$193.00) if the total gross sales of the FOOD ESTABLISHMENT for the prior year were one hundred thousand dollars (\$100,000.00) or less;

(2) Three hundred twenty-two dollars (\$322.00) if the total gross sales of the FOOD ESTABLISHMENT for the prior year were greater than one hundred thousand dollars (\$100,000.00) and not more than five hundred thousand dollars (\$500,000.00);

(3) Four hundred fifty-one dollars (\$451.00) if the total gross sales for the FOOD ESTABLISHMENT for the prior year were in excess of five hundred thousand dollars (\$500,000.00).

(E) All fees under this Code shall be paid to the DIRECTOR for deposit with the Treasurer of St. Louis County.

(F) The owners/operators shall submit proof of the total gross sales for the prior year at time of submission for PERMIT renewal, or pay the maximum PERMIT renewal fee allowed.

(G) The DIRECTOR may impose a fine, appealable in accordance with the provisions of this Code, against the applicant for making a late application for a renewal PERMIT.

Any fine imposed shall be as follows: for an application which is late more than 30 days but less than 60 days late, 5% of the regular PERMIT fee; for an application which is between 61 days late and 90 days late, 10% of the regular PERMIT fee; and for an application which is more than 90 days late, 20% of the regular PERMIT fee.

#### **8-304.60 Revocation of Permits**

(A) The DIRECTOR may revoke a PERMIT for the following reasons:

(1) Repeated or continuing violations of the provisions of this Code;

(2) Failure to pay the proper fees established by the CODE 8-304.50;

(3) Materially false statements in the application for PERMIT.

(B) Prior to revocation, the DIRECTOR shall provide an opportunity for a hearing by notifying the PERMIT HOLDER or PERSON IN CHARGE of the FOOD ESTABLISHMENT in writing of the reason or reasons for which the PERMIT is subject of revocation and that the revocation shall be effective and become final at the end of ten (10) days following service of notice unless a request for a hearing is filed with the DIRECTOR within ten (10) days.

(C) If a hearing is requested, revocation of a PERMIT is stayed until there has been a hearing, and a final determination from the hearing.

(D) Whenever a revocation has become final, the PERSONS whose PERMIT was revoked may reapply for a PERMIT under the CODE 8-303.10 after the expiration of sixty (60) days.



### **8-304.70 Notice for Hearing**

(A) Notice shall be deemed received when there is actual delivery of written notice to the PERMIT HOLDER or PERSON IN CHARGE of the FOOD ESTABLISHMENT or when the written notice is sent by United States or electronic mail.

(B) A copy of any notice shall be filed in the records of the DEPARTMENT.

### **8-304.80 Hearings**

(A) The hearings provided for under this Code shall be conducted by the DIRECTOR at a time and place designated by the DIRECTOR.

(B) The DIRECTOR shall make a finding based upon recorded evidence from the hearing.

(C) The DIRECTOR shall furnish a decision to the PERMIT HOLDER in writing.

(D) The decision of the DIRECTOR is final.

<b>8-4</b>	<b>INSPECTION AND CORRECTION OF VIOLATIONS</b>
	<i><b>Subparts</b></i>
	<b>8-401            Frequency</b>
	<b>8-402            Competency and Access</b>
	<b>8-403            Report of Findings</b>
	<b>8-404            Imminent Health Hazard</b>
	<b>8-405            Critical Violation</b>
	<b>8-406            Noncritical Violation</b>

#### ***Frequency***

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

The DIRECTOR shall inspect each FOOD ESTABLISHMENT based on RISK, and he shall make as many additional inspections as are necessary for the enforcement of this

Code.

(A) Except as specified in paragraphs (B) and (C) of the CODE, the REGULATORY AUTHORITY shall inspect a FOOD ESTABLISHMENT as frequently as needed based on RISK, and minimally once every 12 months.

(B) The REGULATORY AUTHORITY may increase the interval between inspections if:

(1) The FOOD ESTABLISHMENT is fully operating under a validated HACCP PLAN as specified under 8-201.13 and 8-201.14 of this Code;

(2) The FOOD ESTABLISHMENT is assigned a less frequent inspection frequency based on a written RISK-based inspection schedule that is being uniformly applied throughout the jurisdiction and minimally once every 12 months; or

(3) The ESTABLISHMENT'S operation involves only coffee service and other unpackaged FOOD that is not POTENTIALLY HAZARDOUS 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 ESTABLISHMENT that prepares, sells, or serves unPACKAGED POTENTIALLY HAZARDOUS FOOD and that:

(1) Has improvised rather than permanent facilities or EQUIPMENT for accomplishing functions such as hand-washing, 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.**

The DIRECTOR, after proper identification, shall be permitted to enter any portion of any FOOD ESTABLISHMENT, including before, during, and after hours of operation for the purpose of making inspections to determine compliance with this CODE. He shall be permitted to examine the records of the ESTABLISHMENT to obtain information pertaining to FOOD and supplies purchased, received, or used, or to PERSONS employed, and to determine the PERMIT fee.

**8-402.12 Examination and Condemnation of Food.**

(A) FOOD may be examined or sampled by the DIRECTOR as often as necessary for enforcement of this Code.

(B) The DIRECTOR may, upon written notice to the owner or PERSON IN CHARGE, specifying with particularity the reasons therefore, place a hold order on any FOOD, which it believes is in violation of any section of this Code.

(C) The DIRECTOR shall tag, label or otherwise identify any FOOD subject to the hold order and all FOOD subject to a hold order shall not be used, served, or moved from the FOOD ESTABLISHMENT.

(D) The DIRECTOR shall permit storage of the FOOD under conditions specified in the hold order, unless storage is not possible without RISK to the public health, in which case immediate destruction shall be ordered and accomplished.

(E) The hold order shall state that a request for hearing may be filed with the DIRECTOR within ten days, and that if no hearing is requested the FOOD shall be destroyed.

(F) A hearing shall be held and decision rendered in accordance with The CODE 8-304.80.

(G) In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at the required temperature, or the loss or disruption of potable water the person in charge shall immediately contact the regulatory authority. Upon receiving notice of the occurrence, the regulatory authority shall take whatever action it deems

necessary to protect the public health.

#### **8-402.13 Time to Correct Violations**

(A) The inspection report form shall specify a specific and reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(1) When the rating score of the FOOD ESTABLISHMENT is 90 or more, all violations of 1 or 2 point items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(2) When the rating score of the FOOD ESTABLISHMENT is at least 80, but not more than 89, all violations shall be corrected, as soon as possible, but in any event within a period not to exceed 30 days. A follow-up inspection may occur as directed.

(3) Regardless of the rating score of the FOOD ESTABLISHMENT, all critical violations shall be corrected immediately and/or addressed. A follow-up inspection may occur as directed.

(4) When the rating score of the FOOD ESTABLISHMENT is 79 or less, the DIRECTOR shall immediately suspend its PERMIT and/or immediately degrade to and post a Grade C and violations shall be corrected as soon as possible, but in any event within a period not to exceed 10 days. If such violations are not corrected, the DIRECTOR shall immediately suspend its PERMIT if he has not already done so.

(5) If a FOOD ESTABLISHMENT has been degraded as outlined above, two or more times in a calendar year, the certified FOOD protection manager shall register, pay all necessary fees, and complete a Department FOOD SAFETY SCHOOL in a timeframe APPROVED by the REGULATORY AUTHORITY. Additional employees may be required to attend as specified by the REGULATORY AUTHORITY.

(6) When a follow-up inspection is conducted due to an establishment being degraded, then a fee of twenty-five

(\$25.00) per follow-up inspection will be assessed.

**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, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to LAW; and

(B) Make a final request for access.

**8-402.30 Refusal, Reporting.**

If after the REGULATORY AUTHORITY presents credentials and provides notice as specified under § 8-402.11, explains the authority upon which access is requested, and makes a final request for access as specified in § 8-402.20, the PERSON IN CHARGE continues to REFUSE access, the REGULATORY AUTHORITY shall provide details of the denial of access on an inspection report form.

**8-402.40 Inspection Order to Gain Access.**

If denied access to a FOOD ESTABLISHMENT for an authorized purpose and after complying with § 8-402.20, the REGULATORY AUTHORITY may issue, or apply for the issuance of, an inspection order to gain access as provided in LAW.

***Report of  
Findings***

**8-403.10 Documenting Information and  
Observations.**

The REGULATORY AUTHORITY shall document on an inspection report form:

(A) Administrative information about the FOOD ESTABLISHMENT'S legal identity, street and mailing addresses, type of establishment and operation as specified under ¶ 8-302.14(C), inspection date, and other information such as type of water supply and SEWAGE disposal, status of the PERMIT, and personnel certificates that may be required; and

(B) Specific factual observations of violative conditions or other deviations from this Code that require correction by the PERMIT HOLDER including:

(1) Failure of the PERSON IN CHARGE to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Code as specified under § 2-102.11,

(2) Failure of FOOD EMPLOYEES, CONDITIONAL EMPLOYEES, and the PERSON IN CHARGE to report a disease or medical condition as specified under ¶¶ 2-201.11(B) and (D),

(3) Nonconformance with 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 ESTABLISHMENTS.**

(A) Every FOOD ESTABLISHMENT shall display, in a place designated by the DIRECTOR, a placard APPROVED by the DIRECTOR stating the grade of the ESTABLISHMENT, except that TEMPORARY FOOD ESTABLISHMENTS shall not be subject to grading.

(B) Grades of FOOD ESTABLISHMENTS shall be as follows with provisions that the DIRECTOR may annually set and establish the rating score total, with the criteria hereinafter set forth, for the specified Grade. Any FOOD ESTABLISHMENT previously within a given Grade whose rating score falls below the rating score total established annually by the DIRECTOR shall be downgraded.

(1) Grade A: An ESTABLISHMENT having a rating score of 90 or more;

(2) Grade B: An ESTABLISHMENT having a rating score of 89 but not less than 80; and

(3) Grade C: An ESTABLISHMENT having a rating score of 79 or less.

(C) The DIRECTOR shall post the appropriate grade based upon inspection findings, and shall issue an appropriate notice. Whenever any FOOD ESTABLISHMENT shall fail to qualify for a Grade A rating the DIRECTOR is authorized to downgrade said FOOD ESTABLISHMENT.

(D) All FOOD ESTABLISHMENTS must conspicuously post the grade of the FOOD ESTABLISHMENT in a location that is easily visible for public review at all times. FOOD ESTABLISHMENTS that fail to display the grade after the ESTABLISHMENT has been degraded will be subject to a fine in the amount of three hundred dollars (\$300.00).

### **8-403.20 Specifying Time Frame for Corrections.**

The REGULATORY AUTHORITY shall specify on the inspection report form the time frame for correction of the violations as specified under §§ 8-404.11, 8-405.11, and 8-406.11.

### **8-403.30 Issuing Report and Obtaining**



### **Acknowledgment of Receipt.**

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 90 calendar days after the inspection.

(B) *The REGULATORY AUTHORITY may approve a compliance schedule that extends beyond the time limits specified under ¶ (A) of this section if a written schedule of compliance is submitted by the PERMIT HOLDER and no health HAZARD exists or will result from allowing an extended schedule for compliance.*

## **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.

#### **8-501.11 Hepatitis A Vaccinations**

No employer shall employ a person as a food handler for more than thirty (30) days unless and until such person shall provide to such employer written certification by a health care provider that:

(1) The person is immune from hepatitis A; or

(2) The person has been vaccinated against hepatitis A, including a booster shot within six (6) to twelve (12) months of the original vaccination; or

(3) The person has received the initial vaccination against hepatitis A; however, said person must then provide the employer a health care provider's

certification of the required booster shot within one year of the date of the original vaccination.

(A) Employers of food handlers shall retain all written certifications provided pursuant to this ordinance throughout the period of each person's employment at the facility (or home office) and make records available to the Department of Health upon request.

(B) For purposes of this section, "food handler" shall mean a person who is employed by any person or entity in any capacity which requires the preparation, handling or touching of any food (except uncut produce), utensils, serving items or kitchen or serving area surfaces or materials, in a place where food that is intended for individual service and consumption is routinely provided completely prepared, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. Such places include restaurants, hospital cafeterias, school and nursing home kitchens, day care facilities, residential group homes, caterers, banquet facilities, coffee shops, cafeterias, short order cafes, luncheonettes, taverns, sandwich stands, soda fountains, food vending carts and all other eating or drinking establishments, as well as kitchens, commissaries or other places in which food or drink is prepared for individual sale elsewhere. The term does not include a private home where food is prepared for noncommercial home use, and it does not include the location of food vending machines.

(C) The requirements of this section shall not apply to women while they are pregnant, nor to those persons who object to vaccination because of religious beliefs, nor because of medical contraindications that are verified in writing by a duly licensed physician. Persons claiming religious exemptions shall complete and return to their employers a notarized statement of their religious beliefs using forms available from the Department, which forms shall be forwarded when completed by the employer to the Department; the exemption shall be deemed approved unless and until disapproved by the Director with the disapproval being communicated to both the person claiming religious exemption and the person's employer.

(D) No person shall accept employment as a food handler for more than thirty (30) days in any twelve-month period unless said person shall have complied with the requirements set forth herein for Hepatitis A vaccination.

**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.

**807.110 MOBILE FOOD ESTABLISHMENTS**

**Permit Requirements**

**MOBILE FOOD ESTABLISHMENTS**

1. The owner or person in charge of a MOBILE FOOD ESTABLISHMENT shall pay the appropriate fee, obtain a PERMIT from the DIRECTOR annually and shall present the MOBILE FOOD ESTABLISHMENT to the DIRECTOR, if applicable, for inspection as required by the DIRECTOR.

A. MOBILE FOOD ESTABLISHMENTS shall comply with the requirements of this section and all other applicable sections of the CODE except as otherwise provided in this paragraph. The Director may impose additional requirements to protect against health hazards related to the conduct of the FOOD ESTABLISHMENT as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this section relating to physical facilities, except those requirements of the CODE 807.110 (3), (4), (5), and (16).

B. All MOBILE FOOD ESTABLISHMENTS shall display a valid and approved MOBILE FOOD ESTABLISHMENT Sticker and/or valid permit issued by the Department at all times in a place conspicuous to the public.

C. Information required: name, address, and telephone number of the owner, operator, permittee, or business name, shall be legible, clearly visible, and permanently indicated on at least two sides of the exterior of the MOBILE FOOD ESTABLISHMENT. The name shall be in letters at least 8 centimeters (3 inches) high, and shall be of a color contrasting with the MOBILE FOOD ESTABLISHMENT's exterior. Letters and numbers for address and telephone numbers shall not be less than 2.5 centimeters (one inch) high.

D. The operator of the MOBILE FOOD ESTABLISHMENT must submit approved COMMISSARY documentation as required by the DEPARTMENT, and upon request of the DEPARTMENT, a current list of the proposed food service locations and approximate arrival times to those locations.

2. Single Service Articles. MOBILE FOOD ESTABLISHMENTS shall provide only single-service articles for use by the consumer.



3. Water System. A MOBILE FOOD ESTABLISHMENT requiring a water system shall have a potable water system under pressure. The water used on MOBILE FOOD ESTABLISHMENTS must be in accordance with section 807.110(14) of this Code. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, warewashing, and hand-washing, in accordance with the requirements of this CODE. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed using safe materials and properly installed in accordance with the requirements of this Code.

4. Waste Retention. If liquid waste results from operation of a MOBILE FOOD ESTABLISHMENT, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the MOBILE FOOD ESTABLISHMENT is in motion. The connections on the vehicle for servicing a MOBILE FOOD ESTABLISHMENT waste disposal facilities shall be of a different size or type than those used for supplying potable water to the MOBILE FOOD ESTABLISHMENT. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

5. Servicing Area and Operations. An enclosed service building separated from COMMISSARY operations shall be provided for supplying and maintaining MOBILE FOOD ESTABLISHMENTS. The service area shall be constructed and operated in compliance with the requirements of this CODE.

(A) Potable water servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

(B) The MOBILE FOOD ESTABLISHMENT's liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with The CODE 807.110(15).

**Pushcart**

A PUSHCART, shall be constructed and equipped in compliance with all of the following:

(A) PUSHCART facility EQUIPMENT, including, but not limited to, the interior of cabinet units and compartments, shall be designed so as to, and made of materials that, result in SMOOTH, readily accessible, and EASILY CLEANABLE surfaces. Unfinished wooden surfaces are prohibited. Construction joints shall be tightly fitted and SEALED so as to be EASILY CLEANABLE. EQUIPMENT and UTENSILS shall be constructed of durable, nontoxic materials and shall be EASILY CLEANABLE.

(B) A minimum of a one-compartment metal sink, hand- washing cleanser and single-service towels in APPROVED dispensers shall be provided. The sink shall be furnished with hot running water that is at least 49 degrees Celsius (120 degrees Fahrenheit) and cold running water that is less than 38 degrees Celsius (101 degrees Fahrenheit) through a mixing-type faucet that PERMITS both hands to be free for washing. The sink shall be large enough to accommodate the cleaning of the largest UTENSILS washed. The sink, hand-washing cleanser, and single-service towels shall be located as to be easily accessible and unobstructed for use by the operator in the working area. The minimum water heater capacity shall be one-half gallon.

(C) The potable water tank and delivery system shall be constructed of APPROVED materials, provide protection from contamination, and shall be of a capacity commensurate with the level of FOOD handling activity on the PUSHCART. The capacity of the system shall be sufficient to furnish enough hot and cold water for the following: steam table, UTENSIL washing and sanitizing, hand-washing, and EQUIPMENT cleaning. At least five (5) gallons of water shall be provided exclusively for hand-washing.

(1) The wastewater tank or tanks shall have a minimum capacity that is 50 percent greater than the potable water tank or tanks supplying the hand and UTENSIL-washing sink. In no case shall this wastewater capacity be less than 28 liters (7.5 gallons).

(2)A PUSH CART utilizing ice in the storage, display, or service of FOOD or BEVERAGES shall provide an additional minimum wastewater holding tank capacity equal to one-third of the volume of the ice cabinet to accommodate the drainage of ice melt.

(3)A PUSH CART equipped with a tank supplying product water for the preparation of a FOOD or BEVERAGE shall provide an additional wastewater tank capacity equal to at least 15 percent of this water supply.

(4) Additional wastewater tank capacity may be required where wastewater production or spillage is likely to occur.

(5) Any connection to a wastewater tank shall preclude the possibility of contaminating any FOOD, FOOD-CONTACT SURFACE, or UTENSIL.

(D) PUSH CART's potable water tank inlet shall be provided with a connection of a size and type that will prevent its use for any other service and shall be constructed so that backflow and other contamination of the water supply is prevented. Hoses used to fill potable water tanks shall be made of FOOD grade materials and handled in a sanitary manner.

(E) Compressor units that are not an integral part of EQUIPMENT, auxiliary engines, generators, and similar, shall be installed in an area that is completely separated from FOOD preparation and FOOD storage and that is accessible from outside the unit for proper cleaning and maintenance.

**807.110-7      PUSH CART Operations.**

**Food Service, transportation and Cart Location**

**Pushcart Operations**

(A) During operation, no FOOD intended for sale shall be conveyed, held, stored, displayed, or served from any place other than the PUSH CART except for the restocking of product in a manner APPROVED by the permitting agency.

(B) FOOD products remaining after each day's operation shall be stored only in an APPROVED COMMISSARY or other APPROVED facility.

(C) During transportation, storage, and operation of a PUSH CART, FOOD, FOOD-CONTACT SURFACES, and UTENSILS shall be protected from contamination. Single-service UTENSILS shall be individually wrapped or in sanitary containers or APPROVED sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once. FOOD-CONTACT SURFACES and UTENSILS shall be cleaned and sanitized in accordance with this Code.

(D) All FOOD displayed, sold, or offered for sale from a PUSH CART shall be obtained from an APPROVED source.

(E) FOOD condiments shall be protected from contamination and, where available for customer self-service, be prepackaged or available only from dispensing devices.

(F) PUSH CARTs shall be operated within 60 meters (200 feet) of APPROVED and readily available toilet and hand-washing facilities or as otherwise APPROVED by the regulatory agency to ensure restroom facilities are available to pushcart EMPLOYEES.

(G) PUSH CARTs shall operate out of a COMMISSARY or other APPROVED facility. PUSH CARTs shall report to the COMMISSARY or other APPROVED facility at least once each operating day for cleaning and servicing operations. PUSH CARTs shall be properly stored, cleaned, and serviced at, or within, a COMMISSARY or other facility as APPROVED by the regulatory agency so as to provide protection from unsanitary conditions.

(H) Potentially hazardous FOOD shall be stored and maintained in compliance with hot and cold-holding requirements at all times in accordance with this Code. Potentially hazardous FOOD held at or above 43 degrees Celsius (135 degrees Fahrenheit) on a PUSH CART shall be destroyed at the end of the operating day.

(I) Potable and wastewater tanks shall be constructed so as to be removed from within the PUSH CART compartments for refilling and dispensing purposes only. All operations shall cease during removal and replacement of tanks.

(1) All wastewater from a PUSH CART shall be drained to an APPROVED wastewater receptor at the COMMISSARY or other APPROVED facility.

(2) Refilling of a potable water tank shall be conducted through an APPROVED and sanitary method.

(3) Storage of any pre-filled potable water tank, or empty and clean water tanks, or both, shall be maintained within the Pushcart, or in an APPROVED manner that will protect against contamination.

(J) All new and replacement gas-fired appliances shall meet applicable ANSI standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards.

(K) Bulk BEVERAGE dispensers shall only be filled at the COMMISSARY or other facility APPROVED by the DEPARTMENT unless a hand-washing sink as described in the Section 807.110 (B)(6) is provided.

(L) Where non-prepackaged FOOD is handled for display or sale, the PUSH CART shall be equipped with a FOOD compartment that completely encloses all FOOD,

FOOD-contact surfaces, and the handling of ready-to-eat FOOD. The opening to the FOOD compartment shall be sized as appropriate to the FOOD handling activity without compromising the intended protection from contamination, and shall be provided with tight-fitting doors that, when closed, protect interior surfaces from dust, debris, insects and other vermin.

(M) PUSHCART's selling unpackaged frozen ice cream bars or holding cream, milk, or similar dairy products shall be equipped with refrigeration units.

(N) Operators of PUSHCARTs handling non-prepackaged FOOD shall develop and follow written operational procedures for FOOD handling and the cleaning and sanitizing of FOOD-contact surfaces and UTENSILS. The DEPARTMENT shall review and approve the procedures prior to implementation and an APPROVED copy shall be kept at the PUSHCART during periods of operation.

(O) Non-prepackaged FOOD may be sold from PUSHCARTs in accordance with the CODE, provided that the storage, display, and dispensing methods are APPROVED by the DEPARTMENT.

(P) Cappuccino, espresso, cafe latte, cafe macchiato, mocha, hot chocolate, and other coffee-based or cocoa-based products that may contain cream, milk, or similar dairy products shall be made to order and immediately served to the CONSUMER.

(Q) The DEPARTMENT may permit storage of supplies and FOOD, which is not a potentially hazardous FOOD, in unopened containers adjacent to a TEMPORARY FOOD ESTABLISHMENT OR SEASONAL FOOD ESTABLISHMENT, or in unopened containers in a nearby temporary storage unit.

(R) As used in this the CODE, "unopened container," means a factory-SEALED container that has not been previously opened, that is suitably constructed to be resistant to contamination from moisture, dust, insects and rodents.

#### **807.110-8 MOBILE FOOD UNIT Requirements.**

##### **Maintenance**

#### **MOBILE FOOD UNIT Requirements**

(A) The operator shall maintain the exterior of the MOBILE FOOD UNIT, and the surrounding area, as relating to the operation of the unit, in a sanitary condition.

(B) Adequate waste containers shall be furnished for the use of customers. These containers shall be of EASILY CLEANABLE construction, furnished with a tight-fitting cover, and shall be kept clean.

(C) The entrance doors to FOOD preparation areas shall be self-closing and kept

closed when not in use.

(D) The MOBILE FOOD UNIT, and all EQUIPMENT and UTENSILS shall be protected from potential contamination, kept clean, in good repair, and free of vermin.

**807.110-9 Storage of Non-FOOD items, chemicals, equipment, utensils.**

**Storage and Equipment**

**Storage**

(A) Spare tires; related automotive EQUIPMENT, or special tools relating to the mechanical operation of the MOBILE FOOD UNIT shall not be stored in the preparation or FOOD storage areas.

(B) A separate cabinet or drawer shall be installed for the storage of insecticides or other poisonous substances, if these substances are used. All poisonous chemicals shall be kept in this cabinet or drawer in their original containers and in a manner that offers no contamination HAZARD to FOOD or UTENSILS.

(C) Adequate facilities shall be provided for the storage of LINENS, uniforms, and other related items. Facilities shall be provided for the storage of personal belongings. All personal belongings shall be kept in the space provided.

(D) All pressurized cylinders shall be securely fastened to a rigid structure of the vehicle.

(E) Adequate and suitable space shall be provided the orderly storage of FOOD and FOOD service materials.

(F) Single-service UTENSILS shall be stored in their original enclosed package, in a clean, dry area. These UTENSILS shall be kept in an APPROVED, enclosed dispenser for customer use. Straws shall be wrapped or dispensed from APPROVED, enclosed dispensers. An enclosed dispenser shall protect the lip-contact portion of the eating and drinking UTENSIL from contamination.

(G) The MOBILE FOOD UNIT potable water tank shall be filled only at the COMMISSARY.

(H) The MOBILE FOOD UNIT wastewater tank shall be drained only at the COMMISSARY.

<b>807.110- 10. MOBILE FOOD UNIT Construction, Equipment Requirements.</b>
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<b>Construction and Equipment</b>
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**MOBILE FOOD UNIT Construction, Equipment Requirements**

(A) All newly constructed MOBILE FOOD UNITS and stationary MOBILE FOOD UNITS shall have a sink with at least three compartments with two integral metal drainboards. The dimensions of each compartment shall be at least 30-centimeters (12 inches) wide, 30-centimeters (12 inches) long, 25-centimeters (10 inches) deep. Each drainboard shall be at least the size of one of the sink compartments. The drainboards shall be installed with at least 0.3 centimeter (1/8 inch) per foot slope toward the sink compartment, and fabricated with a minimum one-centimeter (1/2 inch) lip or rim to prevent the draining liquid from spilling onto the floor. The sink shall be equipped with a mixing faucet and shall be provided with a swivel spigot capable of servicing all sink compartments.

(B) Hand-washing and UTENSIL washing sinks shall be supplied with hot running water that is at least 49 degrees Celsius (120 degrees Fahrenheit) and cold running water that is less than 38 degrees Celsius (101 degrees Fahrenheit) through a mixing-type faucet. Hand-washing cleanser and single service towels shall be provided in permanently installed dispensers and maintained at the hand-washing sink. The hand-washing facilities shall be located in the work area and be easily accessible and unobstructed for use by the FOOD handlers. The hand-washing facilities shall be separate from the UTENSIL washing sink. The hand-washing sink must have a minimum dimension of 23 centimeters by 23 centimeters in length and width (nine inches by nine inches), and 13 centimeters in depth (five inches). The hand-washing facilities shall be separated from the UTENSIL washing sink by a metal splashguard with a height of at least 30 centimeters (12 inches) that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the BARRIER to be rounded. No splashguard is required if the distance between the hand-washing sink and the UTENSIL sink drainboards is 61 centimeters or more (24 inches or more).

(C) Floors, walls, and ceilings shall be constructed so that the surfaces are impervious, SMOOTH, and cleanable. Floor surfaces shall provide EMPLOYEES safety from slipping. The juncture of the floor and wall shall be coved, with the floor surface extending up the wall at least 10 centimeters (four inches). In all MOBILE FOOD UNITS and stationary MOBILE FOOD UNITS, there shall be a clear, unobstructed height over the aisle of at least 188 centimeters (74 inches) from floor to ceiling, and a minimum of 76 centimeters (30 inches) of unobstructed horizontal aisle space.

(D) Construction joints and seams shall be SEALED to provide SMOOTH, EASILY CLEANABLE surfaces. Soldered joints and seams shall be SMOOTH to the touch. Silicone sealant or equivalent waterproof compounds shall be ACCEPTABLE,

providing they prevent the entrance of liquid waste or vermin.

(E) All EQUIPMENT shall be installed so as to be easily cleaned, prevent vermin harborage, and provide adequate access for service and maintenance. EQUIPMENT shall be spaced apart or shall be SEALED together for easy cleaning. There shall be a minimum of 10 centimeters (four inches) of unobstructed space provided for sanitary maintenance beneath counter mounted EQUIPMENT or between the sides of adjacent EQUIPMENT. FOOD EQUIPMENT or machinery of a size and weight that can be easily picked up and moved by one PERSON, and with a flex connection need not comply with minimum leg height requirement. Threads, nuts, or rivets shall not be exposed where they interfere with cleaning. Threads, nuts, or rivets that interfere with cleaning shall be SEALED or capped.

(F) All floor mounted EQUIPMENT shall be SEALED to the floor to prevent moisture from getting under the EQUIPMENT or it shall be raised at least 15 centimeters (six inches) off the floor by means of an EASILY CLEANABLE leg and foot.

(G) EQUIPMENT, including the interior of cabinet units or compartments, shall be constructed so as to have SMOOTH, easily accessible, and EASILY CLEANABLE surfaces that are free from channels, crevices, flanges, ledges, sharp or jagged edges, or other cleaning or safety obstructions. Unfinished wooden surfaces are not permitted.

(H) All FOOD contact surfaces shall be designed and constructed so as to be EASILY CLEANABLE and shall be made of nontoxic, non-corrosive materials.

(I) All UTENSILS in the MOBILE FOOD UNIT shall be stored so as to prevent being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleaned and be manufactured of materials APPROVED by the local enforcement agency.

(J) Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be SEALED. The closure shall be SMOOTH and EASILY CLEANABLE.

(K) Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent and installed so as to not constitute a HAZARD to personnel or FOOD materials.

(L) Waste receptacles shall be provided inside the vehicle. They shall be constructed to be SMOOTH, nonabsorbent, and EASILY CLEANABLE and shall be kept clean.

(M) Compressor units that are not an integral part of EQUIPMENT, auxiliary engines, generators, and similar EQUIPMENT, shall be installed in an area that is completely separated from FOOD preparation and FOOD storage, and that is accessible from outside the unit for proper cleaning and maintenance.



## **807.110-11 MOBILE FOOD UNIT Mechanical Exhaust Ventilation.**

### **Construction and Design**

#### **MOBILE FOOD UNIT Mechanical Exhaust Ventilation**

- (A) Mechanical exhaust ventilation EQUIPMENT shall be provided over all cooking EQUIPMENT as required to effectively remove cooking odors, smoke, steam, grease, and vapors and by LAW.
- (B) The ventilation shall be adequate to provide a reasonable condition of comfort for EMPLOYEES.
- (C) Grease filters or other means of grease extraction are required and shall be of steel construction, or other APPROVED material, and shall be readily accessible for cleaning.
- (D) Every joint and seam shall be substantially tight. No solder shall be used, except for sealing a joint or seam.
- (E) Every hood shall be installed to provide for thorough cleaning of the entire hood.
- (F) When grease gutters are provided they shall drain to a collecting receptacle fabricated, designed, and installed to be readily accessible for cleaning.
- (G) All ducts in the exhaust system shall have a slope of at least five centimeters (two inches) per linear foot.
- (H) All seams in the duct shall be substantially tight to prevent the accumulation of grease.
- (I) The ducts shall have sufficient clean-outs to make the ducts readily accessible for cleaning.
- (J) Makeup air shall be provided at the rate of that exhausted. Adequate makeup air may be provided from screened openings, vents in the ceiling, or mechanically through an air-conditioning system, but not from open doors or unscreened windows.

## **807.110-12 MOBILE FOOD UNIT Safety Requirements.**

### **Safety and First Aid**

#### **MOBILE FOOD UNIT Safety Requirements**

- (A) All liquefied petroleum EQUIPMENT shall be installed to meet applicable fire

authority standards and this installation shall be APPROVED by the fire authority.

(1) A properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be properly mounted and readily accessible on the interior of each MOBILE FOOD UNIT or stationary MOBILE FOOD UNIT.

(B) A first-aid kit shall be provided and located in a convenient area in an enclosed case.

C) MOBILE FOOD UNITS that operate at more than one location in any calendar day, shall comply with the following additional requirements:

(1) Coffee urns, deep fat fryers, steam tables, and similar EQUIPMENT shall be equipped with positive closing lids that will prevent excessive spillage of hot liquids into the interior of the unit in the event of a sudden stop, collision, or overturn. For coffee urns, as an alternative to this requirement, the urn shall be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit. Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

#### **807.110-13 MOBILE FOOD UNIT Pass-Through Windows.**

##### **Openings to the Outside**

#### **MOBILE FOOD UNIT Pass-Through Windows**

Pass-through window service openings shall be limited to 1,394 square centimeters (216 square inches) each. The service openings may not be closer together than 46 centimeters (18 inches). Each opening shall be provided with a solid or screened window, equipped with a self-closing device. Screening shall be at least 16 mesh per square inch. With the exception of the service openings, the entire FOOD preparation and FOOD storage area shall be enclosed with a solid, EASILY CLEANABLE material. The counter surface of the service openings shall be SMOOTH and EASILY CLEANABLE.

#### **807.110-14 MOBILE FOOD UNIT Electrical Power Requirements.**

##### **Electrical**

#### **MOBILE FOOD UNIT Electrical Power Requirements**

(A) Adequate electrical power shall be provided to operate the APPROVED exhaust, lighting, and refrigeration systems, and any other accessories and appliances that may be installed in a MOBILE FOOD UNIT or in a stationary MOBILE FOOD UNIT.

(B) Adequate electrical outlets shall be provided for MOBILE FOOD UNITS that require electrical service. The outlets shall be constructed to comply with applicable electrical Codes.

## **15. Water Supply and Wastewater Tanks, Toilet Facilities.**

### **Hot Water and Liquid Waste**

#### **Water Supply and Wastewater Tanks, Toilet Facilities**

(A) A water supply tank of sufficient capacity to furnish an adequate quantity of potable water for FOOD preparation, cleaning, and hand-washing purposes shall be provided (minimum 114 liters (30 gallons)). Exterior hose-connection valves shall be at least five feet above the ground with an APPROVED water connection, which is attached to the vehicle. The water supply shall be from an APPROVED potable water source. The water system shall be designed and constructed using materials that enable water to be introduced without contamination. The water system shall deliver at least one gallon per minute to each sink basin in the unit.

(B) A water heater with a minimum capacity of 11.4 liters (three gallons) or an instantaneous heater capable of heating water to a minimum of 49 degrees Celsius (120 degrees Fahrenheit), interconnected with the potable water supply, shall be provided and shall operate independently of the vehicle engine. Hot and cold water, under pressure, shall be provided at hand-washing and UTENSIL washing sinks from mixing faucets.

(C) The liquid waste tank shall have a capacity at least 50 percent greater than the potable water tank. When ice is utilized in the storage or display of FOODS or BEVERAGES, an additional minimum liquid waste tank holding capacity equal to one-third of the volume of the ice bin shall be provided for drainage of the ice melt.

(D) All tanks, lines, couplings, valves, and all other plumbing shall be designed, installed, maintained, and constructed of materials that will not contaminate the water supply, FOOD, UTENSILS or EQUIPMENT.

(E) Water and wastewater storage tanks shall be installed so as to be easily drained, flushed, and cleaned with an easily accessible outlet. Breather tubes or overflow pipe openings shall be protected from the entrance of dust, insects, and other contamination. All waste lines shall be connected to the waste tank with watertight seals.

(F) Adequate toilet facilities for use by the FOOD service personnel shall be available within 60 meters (200 feet) of the MOBILE FOOD UNIT or stationary MOBILE FOOD UNIT whenever it is stopped to conduct business for more than a one-hour period.

(G) Hoses inside the MOBILE FOOD UNIT, and potable water tank connectors shall have matching connecting devices. Devices for external cleaning shall not be used for potable water purposes inside the MOBILE FOOD UNIT or stationary MOBILE FOOD UNIT.

(H) Hoses and faucets equipped with quick connect and disconnect devices for these purposes shall be deemed to meet the requirements of the CODE.

(I) Adequate facilities shall be provided for the sanitary disposal of liquid waste from the MOBILE FOOD UNIT being serviced.

(J) Adequate facilities shall be provided for the handling and disposal of garbage and rubbish originating from the MOBILE FOOD UNIT.

(K) Potable water shall be available for filling the water tanks of each MOBILE FOOD UNIT that requires potable water. Faucets and other potable water sources shall be constructed, located, and maintained so as to minimize the possibility of contaminating the water being loaded.

(L) The hose used for filling water tanks shall be FOOD grade, constructed of materials APPROVED for potable water distribution, and shall be used for no other purposes. At all times, the hose shall be kept above the ground and protected from contamination. Liquid waste lines shall not be the same color as hoses used for potable water.

(M) Hot and cold water, under pressure, shall be available for cleaning the MOBILE FOOD UNIT or stationary MOBILE FOOD UNIT.

(N) The potable water supply shall be protected at all times from potential backflow. APPROVED backflow prevention devices shall be installed on the discharge side of all hose bibs.

**8073110-16 COMMISSARY.**

**Storage and Service**

### **Commissary**

(A) As determined by the DEPARTMENT, a MOBILE FOOD ESTABLISHMENT shall operate from a COMMISSARY or other fixed food facility and shall report daily to such location for all food and supplies and again for all cleaning, servicing operations and waste disposal.

(B) The COMMISSARY or other fixed food facility used as a base of operation for MOBILE FOOD ESTABLISHMENTS shall be constructed and operated in

compliance with the requirements of the CODE. If the COMMISSARY is located outside St. Louis County, the MOBILE FOOD ESTABLISHMENT operator must show proof that said COMMISSARY possesses a valid license or permit and has had a satisfactory recent inspection from the appropriate regulatory authority for that location.

(C) The COMMISSARY shall have all the necessary equipment needed to properly prepare and process food for sale from a MOBILE FOOD ESTABLISHMENT.

### **807.120 TEMPORARY FOOD ESTABLISHMENT Requirements.**

#### **Permit Requirements**

### **TEMPORARY FOOD ESTABLISHMENT Requirements**

1. A PERMIT issued by the DEPARTMENT is required for all TEMPORARY FOOD ESTABLISHMENTS.
2. An application, a PERMIT fee and other requested information must be received no later than ten (10) days prior to the event at which the TEMPORARY FOOD ESTABLISHMENT is to operate.
3. A PERMIT fee of thirty-five dollars (\$35.00) must be paid at the time of application.
4. A FOOD ESTABLISHMENT operated not more than twelve times per year and three days per event, by any fraternal, benevolent, charitable, religious or not-for-profit organization, shall be exempt from the provisions of this Code relating to fees, but shall be subject to all other provisions.
5. A PERMIT to operate as a TEMPORARY FOOD ESTABLISHMENT must be issued prior to the event opening. The PERMIT must be displayed in view of the public.
6. Mechanical refrigeration shall be provided to maintain the required FOOD temperature established by this Code.
7. A supply of safe water must be made available. Water from hoses may not be used for FOOD preparation or BEVERAGE service. APPROVED backflow protection must be provided.
8. Failure to obtain the appropriate permit prior to the event will result in closure for the TEMPORARY FOOD ESTABLISHMENT.

## **807.120.1 TEMPORARY FOOD ESTABLISHMENT Layout.**

### **Booth Location, Construction, and Equipment**

#### **TEMPORARY FOOD ESTABLISHMENT Layout**

1. TEMPORARY FOOD ESTABLISHMENT service booths shall be located on hard surfaces such as concrete or asphalt that are not subject to wet conditions.
2. Booths must have overhead covers, such as tents or canopies, to protect FOOD from overhead contamination. Physical BARRIERS such as counters or tables must be used to separate the FOOD SERVICE AREA from the customers.
3. Grilling shall take place outside the booth. Provisions should be made to protect the public from hot EQUIPMENT.
4. Ground cover shall cover those areas inside of the booth where FOOD is prepared, stored, and displayed. Pre-PACKAGED, unopened FOOD may be stored outside of the booth on pallets or similar EQUIPMENT six (6) inches off the ground or floor.
5. Food and food related items shall not be stored on the ground or floor.
6. Ice must come from a service approved by the DIRECTOR. Ice used to keep foods cold shall not be served.
7. Hand-washing Stations must have dispensed liquid soap and disposable paper towels located in the booth.
8. Only employees shall be allowed in the food service areas.
9. Measures must be taken to control flies and other insects and pests.
10. Garbage must be kept in covered, lined, easily cleanable containers.
11. Areas surrounding food booth must be kept clean and free of litter.
12. Electrical needs must be determined and provided for mechanical refrigeration, lighting and equipment.
13. Warewashing stations must have containers filled with water to allow for washing, rinsing and sanitizing equipment and utensils.
14. Toilet facilities must be available for Food Employees and the general public.

### **807.120.2 Food Transportation.**

During transportation, insulated containers that will keep the FOOD protected and at required temperatures shall be used.

### **807.121 Hospitals, Nursing Facilities and Day Care.**

#### **Rules and Regulations**

#### **Hospitals, Nursing Facilities and Day Care**

Hospitals, Nursing Facilities, and Day Care shall meet the applicable requirements of this Code, except for those FOOD ESTABLISHMENTS operated by a nursing home primarily for the preparation and service of FOOD to patients or residents of the said facility.

#### **807.121.1 Day Care Facilities Providing Day Care for Ten or Fewer Children exempted.**

The FOOD service operations of a facility providing day care for ten (10) or fewer children during the daytime shall be exempt from the provisions of this CODE, so long as the facility does not jeopardize the public health.

#### **807.121.2 Day Care Facilities Providing Care for More Than Ten Children - Exempted, Special Requirements.**

1. The FOOD services operations of day care centers where no potentially hazardous FOOD (other than milk PACKAGED in containers for individual consumption) is served are exempt from the provisions of the Code, so long as the facility does not jeopardize the public health.
2. The FOOD services operations of day care centers where potentially hazardous FOOD (other than milk PACKAGED in containers for individual consumption) is served are exempt from the provisions of the CODE but are subject to the provisions of applicable to Food Service Operations of Certain Day Care Facilities.
3. DAY CARE HOMES and DAY NURSERIES serving potentially hazardous FOODS (other than milk PACKAGED in containers for individual consumption) shall be governed by and shall comply with the provisions of

### **807.121.3 General Food Protection.**

1. Kitchens shall be clean, well lighted and ventilated and insect and rodent free.
2. No chipped or cracked dishes shall be used. All FOOD, EQUIPMENT, UTENSILS and dishes shall be SMOOTH and EASILY CLEANABLE, shall be in good repair and stored in a sanitary manner.
3. Re-use of single-service items is prohibited.

### **807.121.4 Food Preparation Storage.**

1. Sufficient refrigeration space shall be provided for holding perishable and potentially hazardous FOOD at proper temperatures; a maximum of 41<sup>0</sup>F, and a thermometer shall be maintained in the refrigerator.
2. Potentially hazardous FOOD shall be maintained at 41<sup>0</sup>F or less, or 135<sup>0</sup>F or greater at all times except during necessary periods of preparation.
3. A metal stem-type numerically scaled thermometer reading 0-220 degrees Fahrenheit shall be provided to assure proper temperatures.
4. During preparation of FOOD, sanitary practices shall be used. Such techniques include minimizing handling of FOOD, sanitizing work surfaces between use and proper thawing of potentially hazardous foods.
5. All FOOD containers shall be clearly labeled.
6. FOOD shall be stored in a safe and sanitary manner and shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption.
7. FOOD shall be obtained only from sources that comply with all LAWS relating to FOOD and FOOD labeling. Use of home canned FOODS is prohibited.
8. Once served, portions of leftover FOOD shall not be served again.
9. FOOD preparation area shall have a hand-washing facility.

### **807.121.5 Chemical Storage.**



1. No POISONOUS OR TOXIC MATERIALS shall be stored near, with or about FOOD, FOOD EQUIPMENT, UTENSILS or single service items, in order to preclude contamination thereof. This requirement does not prohibit storage of medications in the refrigerator, if kept on a shelf, which is inaccessible to children and stored in a non-absorbent container with a lid or in SEALED bags.
2. All POISONOUS OR TOXIC MATERIALS, cleaners and detergents shall be clearly labeled.
3. Insecticides, if used, shall be clearly labeled as APPROVED for use in processing areas and shall be stored separate from other POISONOUS OR TOXIC MATERIALS.

#### **807.121.6 Sanitizing.**

1. UTENSILS and EQUIPMENT used in preparation and service shall be washed, rinsed and sanitized.
2. Daycare Facilities APPROVED before January 2003 with a two-compartment sink shall employ a third portable compartment for the sanitizing rinse.
3. Daycare Facilities APPROVED after January 2003 shall have minimum three-compartment sink or a mechanical dish washing machine.

#### **807.121.7 Insect and Rodent Control.**

1. The kitchen and FOOD storage areas shall be maintained in a manner to prevent feeding and harborage of insects and rodents.
2. Openings to the outside shall be protected against the entrance of insects or rodents.
3. Windows and doors if left open shall be appropriately screened.
4. A sufficient number of insect and rodent proof garbage containers shall be provided to properly store all REFUSE between collections. Containers shall be covered with tight fitting lids and maintained in a sanitary condition. Outside containers shall be stored away from the play area.

#### **807.121.8 Management and Personnel.**

1. EMPLOYEES must maintain good personal hygiene while preparing and serving FOOD. FOOD shall not be handled by cooks with open sores or bandages on their hands unless wearing protective gloves. Smoking is prohibited in FOOD preparation and storage areas.

2. No PERSON, while infected with a disease in a communicable form that can be transmitted by FOODS or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection shall work in any capacity in which there is a likelihood of such PERSON contaminating FOOD or FOOD contact surfaces with pathogenic organisms.

3. EMPLOYEES shall thoroughly wash their hands with soap and warm water before starting work, during work as necessary to maintain personal cleanliness, and after smoking, eating, drinking or using the toilet.

4. At least one PERSON in a responsible management position shall possess a Food Service Certificate of Approval. This certificate shall be renewed every five years.

#### **807.121.9 Floors, Walls and Ceilings.**

Floors, walls and ceilings shall be kept clean and in good repair. Flooring shall be EASILY CLEANABLE.

#### **807.121.10 Lavatory Facilities.**

1. Lavatory facilities shall be provided and shall be kept clean and in good repair.

2. There shall be hand-washing facilities accessible to EMPLOYEES. Each lavatory shall be provided with hot and cold running water and hand soap. Common towels are prohibited. A hand-drying device providing heated air or a supply of sanitary disposable towels shall be conveniently located near each lavatory.

#### **807.121.11 Water Supply.**

1. Water for drinking and culinary purposes shall be from a PUBLIC WATER SYSTEM when available. Notwithstanding the availability of a PUBLIC WATER SYSTEM, bottled water may be used so long as the water is not harmful to public health.

2. Private water systems used for drinking and culinary purposes shall be provided from a source constructed and operated according to LAW.

**807.121.12 Sewage.**

All SEWAGE, including liquid waste, shall be disposed of by a public SEWAGE system or by a SEWAGE disposal system constructed and operated according to LAW.

**807.121.13 Plumbing.**

Plumbing shall be sized, installed and maintained according to LAW. There shall be no cross-connection between the safe water supply and unsafe or questionable water supply.

**807.121.14 Review of Plans.**

1. Submission of Plans. Whenever:

(A) A day care facility is constructed; or

(B) An existing FOOD SERVICE AREA of a day care facility is changed by replacement of fixtures (other than minor plumbing or electrical fixtures such as faucets, electrical switches or electrical outlets), or relocation of fixtures, structural changes in the building or movement of walls or floors; or

(C) An existing structure is converted to use as a day care facility, plans and specifications for the work to be done to the service preparation area shall be submitted to the DIRECTOR for review and approval before the construction or remodeling is done. The plans and specifications so submitted and the approval of the DIRECTOR shall not be in lieu of any other plans and specifications or approval required by LAW.

2. Pre-Opening Inspection. Whenever plans and specifications are required to be APPROVED by the DIRECTOR in accordance with The CODE 8-203.10, the DIRECTOR shall inspect the PREMISES prior to the start of operations to determine compliance with the APPROVED plans and the CODE.

#### **807.121.15 Inspections.**

1. Frequency of Inspection. The DIRECTOR shall inspect the service operation of every day care facility a minimum of once every twelve (12) months, and shall make as many additional inspections as the DIRECTOR deems necessary in order to ensure compliance with the CODE.
2. Admittance to PREMISES. The DIRECTOR, after presenting proper identification, shall be permitted to enter the PREMISES during normal operating hours in order to determine compliance with this regulation.

#### **807.121.16 Inspection Report.**

1. The DIRECTOR shall complete an inspection report for each inspection made.
2. Violations of the requirements relating to FOOD temperature, hygienic practices and EMPLOYEE infections, SANITIZATION of dishes, cross-connections, SEWAGE disposal, water supply, hand-washing facilities, insect and rodent control and storage and use of toxic items shall be corrected immediately. A follow-up inspection will be conducted to assure compliance.
3. Violations of all other requirements shall be corrected as soon as possible, but in any event by the time of the next routine inspection.
4. The operator of each day care facility shall pay an inspection fee of eighty-five dollars (\$85.00) to the County at the time of each inspection or re-inspection pursuant to the code. The DIRECTOR shall give a receipt for the payment of such inspection. Failure to pay the fee shall not affect the right of the DIRECTOR to perform the inspection or affect the remedies or penalties available for non-compliance with the CODE Section 807.121. For good cause shown, the DIRECTOR may PERMIT the DAY CARE HOME or DAY NURSERY operator to pay the inspection fee up to seven (7) days following the inspection. Nothing herein requires or suggests that the DIRECTOR must or should give prior notice of the specific day or time an inspection will be made. In the event an inspection is made by reason of a complaint received from a member of the public and no violation of the code is found, there shall be no fee charged for such inspection.

#### **807.121.17 "Stop Food Service" Order.**

1. The DIRECTOR may issue an order requiring a day care facility to stop serving POTENTIALLY HAZARDOUS FOOD (other than milk in individually PACKAGED

containers) for any of the following causes without any prior notice or hearing:

- (A) The operation of the service constitutes a HAZARD to public health;
- (B) Interference with the DIRECTOR in the performance of his duties, including refusal to PERMIT access to carry out those duties;
- (C) Repeated or continuing violations of this the CODE;
- (D) Failure to pay the inspection fee established in this CODE.

2. The "Stop Food Service" order shall be posted by the DIRECTOR on each door used for access to the day care facilities by children and their parents. The notice shall be of sufficient size and with lettering of sufficient color and size to reasonably inform PERSONS entering the day care facilities that the DIRECTOR has determined that the ESTABLISHMENT must not serve potentially hazardous FOOD (other than milk in individually PACKAGED cartons). No PERSON shall remove the order without permission of the DIRECTOR.

3. No day care facilities may serve potentially hazardous FOOD (other than milk in containers for individual consumption) where the DIRECTOR has posted a "stop FOOD service" order, regardless of whether the order has been unlawfully removed by any PERSON.

4. The operator of a day care facility may make a written request for a hearing within ten (10) days after posting of the "Stop Food Service" order and the DIRECTOR shall provide a hearing within ten (10) days after the request. If no request for a hearing is filed within ten (10) days, the suspension becomes final. The hearing shall comply with the provisions of this Code.

5. The DIRECTOR may rescind a "Stop Food Service" order and remove it from the places it is posted at any time if the DIRECTOR determines that the reason for the order no longer exists.

### **807.130 Violations.**

No PERSON shall violate any provision of this Code; nor shall any PERSON make a material misrepresentation or misstatement to the DIRECTOR concerning anything that is the subject of this Code; or fail to comply with any lawful order of the DIRECTOR made according to this Code.

### **807.135 Penalties.**

1. Any PERSON, including the responsible officer of any PERSON, who is convicted of violating any of the provisions of this Code shall be fined not more than one thousand dollars (\$1,000.00) per violation, per each day, or sentenced to one year in jail or both.
2. The County Counselor on behalf of St. Louis County may take any other action in LAW or equity to abate any violation of this Code.
3. Each day a violation continues shall constitute a separate offense.

SECTION 2. Except for refrigeration units (which are governed by the provisions of Section 807.050, 3-501 16), all mechanical equipment and facilities used in the preparation or storage of food, that are in compliance with the provisions of the Restaurant Code as of the day before the effective date of this Food Code, are exempt from the provisions of this Food Code pertaining to condition and maintenance of such equipment. At such time as such equipment shall not comply with the applicable provisions of the Restaurant Code, such equipment shall be required to comply with the provisions of this Food Code, and it shall not thereafter be a defense to any action to enforce this Food Code that such equipment, after repair, complies with the provisions of the Restaurant Code. Mechanical equipment and facilities that are upgraded or repaired after the effective date of this Food Code shall in all respects comply with the provisions of this Food Code.