



Board of Trustees Regular Meeting June 1st, 2022

Town of Lake City

Jun 1, 2022 at 5:30 PM MDT to Jun 1, 2022 at 8:00 PM MDT

230 N Bluff St Lake City, CO 81235

Agenda

I. Public Hearing 5:30:00 PM

5:30 PM

A. Public Hearing for Bushwhack Ventures LLC Liquor Tavern (City) Application 301 N Gunnison Ave

II. Regular Workshop 5:45 PM

5:45 PM

A. 3rd Street Project Update

B. Discussion about Town Sewer and Water Tap Fees

Presenter: Michelle Pierce

C. Lake City Ordinance over Livestock

D. Discussion about the limits of Food Trucks in Lake City

Presenters: Michelle Pierce, Vance Lipsey

E. Discuss Deed Restriction for Pete's Lake LLC for Common Water and Sewer Tap

F. Discussion about Ordinance for Fire Restrictions

G. Discussion about FAMLI to Opt-in or Opt-Out

H. Discussion about Federal Infrastructure Scenic Byways Grant with Hinsdale County

III. Regular Meeting 7:00 PM

6:45 PM

A. Call to Order

B. Minutes

C. Bills Payable

D. Employee's Reports

1. Recreation Director

Presenter: Ben Hake

2. Public Works Director

Presenter: Jameson Johnston

3. Town Clerk/Treasurer

Presenter: Alexander Mulhall

4. Town Manager

Presenter: Vance Lipsey

5. Building Official

Presenter: Gabe Mcneese

6. Sheriff's Report

Presenter: Sheriff Kambish

7. Mayor

Presenter: Dave Roberts

8. Trustees Reports

E. Correspondence Recieved

F. Citizen's Communication

G. Additions to Agenda

H. Action Items

- 1. Discussion and possible action to approve Pete's Lake Hospitality LLC Common Water and Sewer Tap Deed Restriction**
- 2. Discussion and possible action to approve Bushwhack Ventures LLC Liquor Tavern (City) Application 301 N Gunnison Ave**
- 3. Discussion and possible action to approve the Town of Lake City new Fire Restriction Ordinance**

Sewer Tap Fee - Same methods as for water						
Parameters for Determining Tap Fee						
Annual Flow Treated			32,850,000			
Daily flow in peak month			140,000			
Number of billed units			616			
Average Monthly Consumption per billed unit						4443.99
Average daily consumption for peak month per billed unit						227.27
Functional plant capacity (existing) (80% of design capacity)						180,000
Functional plant capacity (expanded) (80% of design capacity)						220,000
Number of taps which can be served by existing system						792.0
Number of taps which can be served after WWTP upgrade						968
<u># 1 Depreciated value of existing system vs # of units it can serve</u>						
	qty	unit cost		Today's Cost		% remain value
Collection System Pipe	42725	140		\$ 5,981,500		50%
Collection System MHs	122	8500		\$ 1,037,607		50%
WWTP Land Cost				\$ 275,000		90%
Treatment plant				\$ 1,750,000		10%
Total depreciated value						
value per SFE can be served with existing system						
value per SFE currently served with existing system						
<u>#2. Depreciated Value</u>						
		Cost	% Depreciated	Remain Value		
2020 Audit Current Book Value		\$ 2,847,154		\$ 1,743,897		
Total Number of Taps served		616				
Cost per tap			\$ 2,831	does not include the new plan		
				based on existing # of taps		
value per SFE currently served w/upgraded WWTP			\$ 6,889	adding \$2.5 mil for the new w		
value per SFE can be served w/upgraded WWTP			\$ 4,384	adding upgrades and user 80%		
<u>#3 Replacement cost of system vs # users can be served</u>						

	qty	unit cost	% remain value	Today's Cost	
Collection System Pipe	42725	140	0.6	\$ 3,588,900	
Collection System MHs	122	8500	0.5	\$ 518,804	
WWTP Land Cost				\$ 275,000	
Treatment plant				\$ 2,500,000	
Total				\$ 6,882,704	
Value per SFE can be served w/upgraded WWTP				\$ 7,110.23	
				Unit	Share/
#4. Cost to buy into the upgraded system at current cost to replace				Cost	Tap
Wastewater Treatment (per gallon per day) for nutrient trt enabled plant				\$ 11.36	227.3
Land Costs			5.5	\$275,000	
Collection System @ \$140/ft + \$8500/300' @50% depreciated				\$84	50
Total Value of Facilities to Serve New Tap					
Replacement Value					
Collection System - Pipe	35000	120	\$ 4,200,000		
Manholes	116	\$ 8,500	\$ 986,000		
Treatment Plant			\$ 2,500,000		
Land	5.5	\$ 25,000	\$ 137,500		
Buildings			\$ 50,000		
			\$ 250,000		
Total			\$ 8,123,500		
Depreciation		30%	\$ 2,437,050		
Net value			\$ 5,686,450		
Value per available tap			\$ 7,179.86		

	gpm		\$/gpm			
New Plant Cost	220000	\$ 2,500,000	\$ 11.36			
Collection System						
8" Conc	14100					
8" PVC	15275					
10" Conc	1550					
10" PVC	9700					
14" Conc	200					
15" Conc	1900					
	42725					

Gal/month	
GPD	
GPD	
GPD	
SFE	
SFE	
Current Value	
\$ 2,990,750	
\$ 518,804	
\$ 247,500	
\$ 175,000	
\$ 3,932,054	
\$ 4,964.71	
\$ 6,383.20	
it	
wtp	
% of potential users	

[illegible]

Tap Fee Staff Report

May, 2022

One of the core principals of the Town's land use plan is that development pays its own way. One of the mechanisms the Town has in place to accomplish that goal is the fees the Town charges for a new water or wastewater connections, referred to as system investment fees. Investment fees are assessed to help pay for the infrastructure the Town needs, and in many cases already has in place, in order to provide water and/or wastewater services to new connections. The actual connection (tap) to the water system or sewer system is charged separately. For water, the buy in into the system typically includes costs for water rights, wells, water treatment, treated water storage, distribution system pipes, valves, regulators, hydrants, services lines, and metering. On the wastewater side, it includes collection system piping and manholes, service connections, and the treatment system.

Lake City's current fees are \$2750 for water and \$2750 for wastewater. Staff believes it has been about a decade since the investment fees were last updated to reflect current values. On the water side, since 2014 the Town has replaced a significant portion of the distribution system, installed a chlorine contact system, implemented an aggressive leak detection program, and upgraded well controls which allowed the system to remain a groundwater system. The reduction in lost water has not only allowed the Town's water system to remain a groundwater system but has also increased the number of users the water system can service. On the wastewater side, the Town is in the planning and design phase to upgrade and expand the wastewater treatment plant that will allow for about a doubling of the equivalent population in 20 years and help the Town meet more stringent ammonia limits.

System investment fees do not have to be directly related to the costs of the system but that is one way the fees are evaluated. There are several ways to determine value of the infrastructure that will serve a new tap. The following options have been considered:

1. the depreciated value of the existing system versus the number of units it can serve,
2. the book value of the infrastructure vs the number of existing users or total users at build out,
3. the replacement cost of the system vs number of users that can be served, and
4. the incremental cost of the share of each of the components of the system needed to service a connection at current pricing.

The difference between #1 and #2 is that the depreciated value in #1 is our estimate of the value of the assets and how much life they have left versus in #2 it's the audited value of the assets. In our experience the audited value is often quite a bit less due to the Town not consistently tracking the system improvements over the decades as well as assets lasting longer than the depreciation schedule anticipated. For the book depreciated value (#2 above) to determine the value of a tap, we considered both the number of taps that are being served and could be served.

Options #1, #3, and #4 require guestimates of the costs to replace infrastructure. Infrastructure improvements in Lake City tend to be higher than less isolated communities but really depends on how much other work is available as well as other external factors like the cost of materials and the cost to get them to Lake City. For water, the estimated values of the cost to provide a new service ranged from \$4,000 - \$6,500. If you exclude the book depreciation divided by the potential number of users that might be served, the range tightens to between \$5,400 and \$6,300. Eliminating that option makes some sense since

it is likely that additional infrastructure would be needed to serve new users. Determining the value per user of the wastewater system depends significantly on whether or not you include the costs for the pending wastewater plant upgrade. Without the new plant, the values are in the \$3,000-6,000 range, but with the new plant the values are in the \$4000 - \$9,000 range.

Most of our clients ask for an assessment of the fees from other communities as well as to see the various values of the water and wastewater enterprises and then choose a fee that seems reasonable for the community rather choosing a particular model. Among other things they also like to consider what improvements to their utilities are on the 5 and 10 year plans and adjust the investment fee to help build reserves to pay for or to have matching funds for future projects and also to consider what other communities in the area are charging.

The following tables show the system investment fee for new services from some other Colorado Communities. In most cases where there is a significant difference between water and sewer fees, it is because one or the other enterprise system required a new treatment works or something else major like the Town's Water Line Replacement projects that caused the community to look at the value of a new service.

Investment Fee Comparison

If not otherwise noted, data is fr 2016

<u>Water Fees</u>	
Lake City	\$2750
-	
Ridgway 22	\$6,000
Delta 22	\$4,400
Crested Butte 22	\$10,200
Cedaredge	\$8,000
Gunnison	\$2,500
Ouray 20	\$7,500
Silverton 22	\$7,803
Creede	\$4,500
TriCounty	\$5,000
Montrose	\$2,635
Olathe	\$3,000
Menoken 22	\$4,500
Paonia	\$6,000
Hotchkiss	\$5,500
Hotchkiss out of town	\$10,000
Telluride 2016	22,042*

<u>Sewer Fees</u>	
Lake City	\$2750
-	
Ridgway 22	\$6,000
Delta 22	\$5,450
Crested Butte 22	\$12,600
Cedaredge	\$4,000
Gunnison	\$5,000
Ouray 20	\$7,500
Silverton 22	\$5,926
Creede	\$3,000
Montrose - 3/4" meter	\$5,896
Olathe	\$3,400
Paonia	\$3,750
Hotchkiss	\$4,100
Hotchkiss out of town	\$5,100

*2500 sf max SFE for both W&S

RECOMMENDATIONS:

In evaluating the options for calculating the value of a new service, staff believes that the most appropriate option is #4 above, the incremental cost of the impact of the new service using current pricing for the assets that are needed to serve the tap. Using that model, the system investment fee for a single family residential water tap would be \$6000 and for wastewater would be \$7,000 (rounding down a little). This is based on the plant costing \$2.5 million. Since we developed that estimate, the costs of everything have increased significantly. If the plant costs \$3 million, the buy in value would be in the \$7500 range.

The last tab in the xls is how Ridgway addresses taps that will serve more than a single family. The Town might want to consider not only adjusting the typical single family user investment fee but also adopt a structure for larger users as well. The fee for a wastewater connection also proportionally increased based on the size of the water service.

Staff also recommends that the Town reexamine tap fees after the new wastewater plant is under construction and again after the Town adopted its next 5-10 year capital planning document. With much of the costs for the wastewater treatment plant being the result of the need for additional organic capacity, the Town might also want to evaluate the impact of proposed taps with higher organic loads and charge differently for those.

Sec. 4-80. Hogs, sheep and goats prohibited.

It shall be unlawful for any person to keep or harbor within the corporate limits of the town any hogs, pigs, swine, sheep or goats.

(Code 1966, § 13.1)

Sec. 23-16. - Supplementary regulations.

- (a) *Home occupations.* Home occupations may be conducted within a dwelling unit as an accessory use only if the following criteria are met:
- (1) County and state sales tax licenses must be obtained if taxable sales are made.
 - (2) The occupational activity and storage may take place only within the dwelling unit.
 - (3) Only the residents of the dwelling unit may be engaged in the business.
 - (4) The home occupation activity shall not utilize more than 20 percent of the dwelling unit floor space.
 - (5) No unreasonable noise, dirt, odor, vibration or glare shall be observable off the premises.
 - (6) At least four off-street parking spaces shall be supplied with minimum dimensions of eight feet by 20 feet.
- (b) *Restrictions on use and location of travel vehicles.*
- (1) Except as expressly authorized by further provisions in this subsection (b), no travel homes, recreational vehicles, or other types of vehicles or trailers shall be used or occupied by any person on any public or private land within the town for purposes of short- or long-term residency or overnight camping. Further, no generators may be deployed for the purpose of providing electric power to any type of vehicle or trailer allowed or permitted in the town, except within areas of the lawfully designated campgrounds and parks referred to in subsection (b)(2) of this section.
 - (2) Notwithstanding the provisions of subsection (b)(1) of this section, any type of vehicle may be used or occupied, during periods of up to, but not more than, 30 weeks in each calendar year, for said purposes of residency or overnight camping in such campgrounds and parks within the town that have been lawfully designated for such uses and in conformity with applicable town zoning regulations controlling such uses.
 - (3) The owner(s) of any parcel of land properly zoned for residential use may allow occasional, short-term residential use on such land of a properly designed and equipped travel vehicle owned by visiting friends and/or family members, especially during holidays and times of special town events when campgrounds and other areas designated for residential use of travel vehicles are likely to become congested or full. It is provided, however, that such allowed short-term use of private land shall not involve more than one such travel vehicle at a time and shall not continue for more than seven consecutive days from inception of the allowed use.
 - (4) Except as hereinbefore provided by this subsection (b), no type of vehicle may be otherwise allowed, used or occupied for purposes of residency or overnight camping on land within the town unless a special use permit has first been issued by the town's enforcement officer to the owner(s) of land within the town on which the subject vehicle is to be so used and occupied. Each permit so issued by the enforcement officer shall be subject to the following conditions, restrictions and further requirements:
 - a. To be eligible for issuance of each such special use permit, the applicant's real property must contain at least two town lots or have an equivalent size of at least 6,250 square feet. (No more than one vehicle shall be permitted per each 6,250 square feet of property owned by an applicant.)
 - b. A separate application must be signed for each desired permit on a form to be provided by the town clerk. No permit shall be deemed valid until approved in writing by the town enforcement officer.
 - c. The owner of the property on which any vehicles may be permitted for the stated purposes shall be responsible for ensuring that all conditions of each permit are met throughout its term.
 - d. No vehicle permitted in accordance with this subsection (b) shall be used or occupied as a rental facility

or for any other commercial purposes, including the sale of wares or merchandise therefrom. No permitted property owner may charge fees for parking any eligible vehicle on the property.

- e. The maximum length of any permit issued pursuant to this subsection (b) shall be 30 days from the time of its issuance; and, after its expiration, no subsequent permit for parking the same vehicle on the applicant's property may be issued during the succeeding 180 days.
 - f. At all times, each permitted vehicle must remain self-contained for wastewater and not connected to the town's sewer system. No use of generators to provide power to the vehicle shall be allowed at any time.
 - g. Each permitted vehicle shall be located within the setback lines for the property established by the town's other zoning provisions.
- (5) Nothing in this subsection (b) shall be deemed to prevent the mere parking of an unoccupied travel home or recreational vehicle for up to 24 hours upon the town's public streets or alleys, provided that such vehicle is properly registered and licensed, and is otherwise lawfully parked in a location which does not create a nuisance or hazard.
- (6) It shall be unlawful to violate the provisions of this subsection (b). Vehicles that are not in conformity with the provisions of this subsection (b) are hereby declared to be a nuisance, subject to abatement by the town in any lawful manner. In addition to any other legal and/or equitable remedies available to the town against the owner of any nonconforming vehicle and/or owner of any property on which a nonconforming vehicle is found to be parked, the town shall be entitled to recover from and against such owner all reasonable attorney's fees and court costs incurred in the process of enforcing these regulations and/or abating the nuisance created by a nonconforming vehicle. Moreover, any person convicted of violating the provisions of this subsection (b) shall be subject to the fines and other penalties provided for violations of the town's general zoning laws, as more particularly set forth in section 23-24, as amended.
- (c) *Horses, burros, donkeys and mules.*
- (1) Horses, mules, donkeys and burros may be kept within the town as an accessory use to a residence in the residential RE or R-1 district if a permit is approved pursuant to this subsection (c).
 - (2) Applications for such a permit shall be submitted to the town on forms supplied by the town accompanied by an application fee as set out in the town fee schedule, which forms may require all information appropriate to determine if requirements of this subsection (c) will be met, including a diagram of the premises.
 - (3) No more than one animal may be kept on the premises per five acres of contiguous available pasture. Contiguous pasture, both within or without the town, may be counted toward this requirement. The premises shall be adequately fenced and maintained so that no nuisance is created on account of manure, or other factors.
 - (4) The board of trustees shall grant or deny the application. The board of trustees may impose conditions on the permit as it deems necessary to protect the public health, safety and welfare and to prevent any nuisance.
 - (5) The board of trustees may revoke any such permit following reasonable notice and hearing if it determines that the criteria of this subsection (c) are not met.
- (d) *Fences.*
- (1) No fence may exceed six feet in height, except in the general business district where the maximum height is eight feet.

- (2) No fence may exceed four feet in height within 30 feet of the intersection of the traveled portion of any streets.

(e) *Miniature horses.*

- (1) Class "A" miniature horses measuring not more than 34 inches at the withers may be kept within the town as an accessory use to a residence in the residential RE or R-1 district if a permit is approved pursuant to this subsection (e).
- (2) Applications for a permit shall be submitted to the town on forms supplied by the town accompanied by an application fee as set out in the town fee schedule, which forms may require all information appropriate to determine if the requirements of this subsection (e) will be met including a scale drawing of the premises.
- (3) Notice of such an application and the meeting, at which the board of trustees shall consider the matter shall be delivered by the applicant to the owners of all property within 100 feet of the premises on which said horses will be kept at least 15 days prior to the meeting and proof of such delivery shall be filed with the town.
- (4) The board of trustees may grant or deny the application and may impose such conditions as it deems necessary to protect the public health, safety and welfare, to prevent a nuisance and to mitigate any adverse effects on account of odor, insects, dust, noise or other factors. The number of horses to be allowed shall be determined by the board based upon the size of the pasture, provisions for control and mitigation of any potential nuisance, the proximity of other businesses, residences or buildings and all other relevant factors.
- (5) Any permit issued shall expire in one year. Permits may be renewed upon reapplication and the submittal of an additional fee as set out in the town fee schedule. The permit shall contain such conditions as necessary to implement the provisions of this subsection (e).
- (6) The board of trustees may revoke any permit following reasonable notice and hearing if it determines that the criteria of this subsection (e) or conditions of the permit have not been met.

(f) *Horse-drawn carriage businesses.*

- (1) A horse-drawn carriage business may be conducted within the central business zoning district of the town if and when a permit is first approved and issued to the owner of such business pursuant to this subsection (f).
- (2) Applications for permits may be submitted to the town clerk on forms supplied by the town. Each application form shall contain all information necessary for determining whether the requirements of this subsection (f) can be met by the business owner/applicant. Among other things, each application form shall either provide for, or otherwise address, all of the following:
 - a. No horses shall be boarded or otherwise kept within the central business district overnight (after 11:30 p.m. and prior to 8:00 a.m. on any specific day).
 - b. Horses used by the owner of any business permitted pursuant to this subsection (f) must be kept on private property owned by or leased to the owner during times when the horses are not deployed to pull carriages through town streets for purposes of the business.
 - c. The owner of a permitted business shall, at all times during the term of the permit, be responsible for ensuring that all horse manure resulting from the business is promptly removed from all public and private property that is not owned by or leased to the business (including streets, alleyways and parking areas) no later than the end of each business day.
 - d. A yearly permit fee as set out in the town fee schedule must be paid prior to issuance of each pertinent annual permit.

- e. The carriage deployed in the subject business shall have "slow moving vehicle" signs (represented by the un recognized inverted orange triangle) affixed to a rear bumper or other conspicuous area.
 - f. The carriage used in the subject business must be equipped with fully functional lighting whenever operated after dark. Such lighting must be reasonably adequate to make the entire horse-drawn carriage unit safely visible to nearby vehicles and pedestrians, and provide safe visibility for the carriage operator.
 - g. Each business permittee shall be limited to the use and operation of one horse-drawn carriage, unless otherwise specified in the written permit.
 - h. Each permittee must ensure obedience to all traffic laws by employees and other operators of the subject business.
- (3) Notice of a pending application, and the meeting at which the board of trustees will consider the application, shall be published one time in a newspaper of general circulation within the town at least 15 days prior to the meeting, and proof of such publication shall be filed with the town. The expense of such publication shall be borne by the applicant.
- (4) The board of trustees may grant or deny any application for a permit, and may impose such additional conditions for granting any permit as it deems necessary for protecting the public health, safety and welfare, for preventing nuisances and for mitigating any adverse effects such as odor, insects, dust and noise. The number of horses to be allowed for each business shall be determined by the board based upon the size of private property within the central business district on which the horses are to be kept, the owner's provisions for control and mitigation of any potential nuisances, the proximity of other businesses, residences or buildings and all other relevant factors.
- (5) Any permit issued shall expire in one year. Permits may be renewed without necessity of further hearing by the board of trustees upon reapplication and the submittal of the annual fee as set out in the town fee schedule. However, the board reserves the right to impose, at the time of issuing any renewed permit, such additional conditions as are deemed necessary to better implement the provisions of this subsection (f).
- (6) The board of trustees may revoke any permit following reasonable notice and hearing if it determines that the criteria of this subsection (f), or conditions of the permit, have not been met.
- (g) *Certain retail marijuana facilities prohibited.* It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana store, retail marijuana cultivation facility, retail marijuana testing facility, or retail marijuana product-manufacturing facility within the town limits, or within any area hereinafter annexed to the town.
- (h) *Tent camping in travel home parks.*
- (1) Tent camping permitted within travel home parks in the mobile home residential district shall comply in all respects with the State of Colorado regulations 6 C.C.R. §§ 1010-9 et seq., as amended from time to time.
 - (2) Travel home parks shall provide in any tent camping areas, for the use of camping parties, animal resistant containers for food storage as well as animal resistant containers for refuse disposal and storage. One animal resistant container for food storage and one animal resistant container for refuse shall be provided for every six tent campsites.

(Ord. No. 1988-1, § 1(15.8-13), 7-13-1988; Ord. No. 1993-3, § 1(15.8-13(E)), 6-2-1993; Ord. No. 2001-1, 2-7-2001; Ord. No. 2005-1, 5-4-2005; Ord. No. 2015-01, § 2, 1-7-2015; Ord. No. 2021-03, § 4, 7-21-2021)

May 26,2022

Dear Lake City Town and Board Council:

My name is Nastashia McMillan. I reside at 418 Bluff Street, adjacent to the First Baptist Church property, where my husband Brendan McMillan resides as the Pastor. I would first like to thank the board for the opportunity to appear before you on June 1, 2022. The reason for this letter is to request that the current variance be amended to include the keeping of dwarf milking goats. My hope is that once you hear about their benefit to our town and why we would like to keep them, you would consider amending the variance in our town law to include Dwarf goats especially given the current trajectory of our society.

There are many benefits to keeping milking goats. We currently have one buck and a doe that just gave birth to her kids a little over a month ago. Some of the advantages to raising dwarf goats is their ability to keep the fields around our property trimmed with the amount of foraging that they do in the spring. We use them as a natural way to do fire mitigation around our property. With the lack of moisture that we usually receive in Lake City this is a way we can do our part to keep the grounds clean, and wild grasses trimmed.

The goats have also fostered healthy community connection (to our surprise). More times than I am able to recall, countless children and their parents have stopped during their walks on Bluff Street and have asked about the goats. This usually turns into pleasant nostalgia and joyful homesteading stories. Many children within our community as well as visitors ask to see them. We have been told before how therapeutic they are just upon observing them. The few neighbors that we do have also enjoy the companionship that our goats provide and we have not received any complaints about their presence on our property. Some of our neighbors or members of our community may be submitting letters in favor of amending the current variance.

When our family was in the process of considering what type of goat we would like to add to our home, we were led to Dwarf Nigerian after considerable research. Dwarf Nigerians are one of the quietest goat breeds available. This breed is known to be excellent in their capacity to provide milk and to be a source of meat.

With the special characteristics of the Dwarf Nigerian, it is easy for them to be cared for by backyard homesteaders. One Nigerian goat can give up to 6.3 pounds of milk and can lactate up to 305 days a year. The does of the Nigerian are typically 22 ½ inches tall and the bucks are around 23 ½ tall. They weigh no more than 75 pounds which is considerably less than some dogs in our small community.

With the ongoing crisis in the food industry, our large family has adapted to alternative provisions to offset increasing inflation costs. Rutgers explains it in this fashion: "A food system in which food production, processing, distribution, and consumption are integrated can enhance the environmental, social and nutritional health of a particular place."

As of right now our family drives three hours one way to shop in Grand Junction to meet our food needs. We also have a 6 mo. old baby in our home and have experienced first hand the crisis and shortage in manufactured baby formula. Due to the recent shortages in formula, doctors have approved our baby to consume homemade goat milk formula as a substitute. Other benefits of milking our Dwarf Nigerian Goats we can also make bread, cheeses, butters and yogurts.

Furthermore, It is our understanding that the current variance includes miniature horses and donkeys. Dwarfs are much smaller in size, and take up less space. This is what we are trying to accomplish in the beautiful town of Lake City. A chance to provide for our family in these trying times and enhance the fraternal aspect of our small community.

We appreciate your time and hope that we can attain an update on the town's variance to reflect the times we are living in and for the opportunity to keep our Dwarf Nigerian Goats.

Thank you,

The McMillan Family



THE MATTERHORN MOTEL

409 Bluff Street, PO Box 603, Lake City, Colorado 81235 (970) 944-2210
www.MatterhornMotel.com

May 31, 2022

The Town of Lake City
Board of Trustees
PO Box 544
Lake City, CO 81235

I am writing in regards to the goat family on Bluff Street being considered during your upcoming meeting.

I am moved to share my opinion because these goats have added great value to the experience of the guests of The Matterhorn. I think the goats are now more photographed than even the Motel's historic Neon sign! It's a very regular occurrence for our visitors to go across the street to get a better view, and they are usually welcomed by the children who are happy to help guests meet these wonderful animals.

I sincerely hope that they will be allowed to stay for the children to enjoy and learn from, and for the Matterhorn guests to enjoy.

I wish to share the following observances I've made:

- The goats are extremely friendly and pose no threat or harm to any people or animals.
- The goats are very well taken care of and loved deeply by their family especially the children.
- The children are learning wonderful animal husbandry skills as they share the chores and care of the animals.
- The goats are singularly the most entertaining animals I have met, they bring a smile and a chuckle to anyone fortunate to make their acquaintance.
- The goats do not create any nuisances at all.

I appreciate your consideration of my personal and business opinions as you decide on this emotional issue.

With my sincere regards,

Debra Goodman, Owner
The Matterhorn Motel

Guide to Starting a Retail Food Business

Environmental Health Division

**HINSDALE OFFICE
304 W THIRD ST
LAKE CITY, CO 81235
970.944.0321**

**MINERAL OFFICE
802 RIO GRANDE AVE
CREEDE, CO 81130
719.658.2416**

Our goal is to provide guidance for designing and constructing food facilities to be efficient and easy to clean and maintain, in order to support good food safety practices. Additional resources are available at <https://www.colorado.gov/pacific/cdphe/restaurants-and-grocery-stores>

Retail Food License

If you are planning on selling or serving food to the public then you will need to apply for a Retail Food License. A license is not needed for instant hot beverages, bottles or canned beverages, commercially pre-packaged foods such as chips and candy, or non-potentially hazardous pastries and bagels that have been prepared in an approved facility.

Understanding the Requirements

Silver Thread Public Health District (STPHD) reviews plans for facilities in Hinsdale and Mineral counties to ensure that the design and equipment in a facility are suitable for the safe storage, preparation, and service of the foods on the proposed menu. New construction and extensively remodeled food establishments that have never been licensed by the STPHD require the submission of a plan review application. Facilities that change ownership and make no major changes to the existing facility do not require the submission of plans but do require an inspection prior to opening to ensure the establishment meets current regulations.

Definitions

New facility: New construction and facilities that have never been licensed as a food operation.

Remodeled or altered facility: Remodeled is defined as the conversion of an existing structure for uses as a food establishment or the remodeling of an existing food establishment or food operation, if the regulatory authority determines that plans and specifications are necessary to ensure compliance with the Colorado Retail Food Establishment Rules and Regulations. This may include:

- Increased seating by 20%
- Changed or altered non-public areas that result in a reduction or increase of total space by 25% or more
- Alterations requiring a building permit
- Diminished capacity to handle food and utensils in a sanitary manner
- Significant changes in the menu
- Extensive equipment changes

Change of Ownership: Retail Food Establishment Licenses are non-transferable. Although a change of ownership does not require a Plan Review Application, a change to the Colorado sales tax number and/or change of ownership requires a new application for a Retail Food Establishment License. It may also be useful to follow the Plan Review Application requirements as a checklist to ensure that you have everything in place.

Mobile Units: Retail food facilities that are mobile and utilize a commissary location on a daily basis. If the mobile unit has not been licensed by STPHD before then a Plan Review for Mobile Units will need to be submitted. Note that the Plan Review for Mobile Units is different than the Plan Review for Retail Food Establishments. Also note that mobile units are not allowed within the town limits of the Town of Lake City.

Other Requirements

Wholesale: Wholesale operations sell their goods to other businesses who then sell the product to the consumer. If you plan to sell goods as a wholesaler, you must register with the Colorado Dept. of Health and Environment (CDPHE) and/or the Food and Drug Administration (FDA). If you plan to sell goods as a wholesaler and directly to the public, you must be approved by the STPHD and the CDPHE. You may contact the CDPHE online through this page -

<https://www.colorado.gov/pacific/cdphe/food-manufacturing-and-storage> If you plan to sell your product to out of state customers, you must register with the FDA, which may be done online through this page - <https://www.fda.gov/food/online-registration-food-facilities/food-facility-registration-user-guide-step-step-instructions>

Cottage Foods: The Colorado Cottage Foods Act allows limited types of food products to be sold directly to consumers without health department licensing or inspection. Cottage foods may not be stored, used, or sold in licensed retail food establishments unless a representative is available. More information can be found online at - <https://www.colorado.gov/pacific/cdphe/cottage-foods-act>

Creating your plan

Plans are reviewed to ensure that the equipment, facilities, and design will be suitable for the food items you plan to serve and/or sell at your facility. Alterations to the plans are commonly required, and any construction started prior to this departments approval could result in unexpected costs and delays and is a violation of state statute that may result in enforcement action.

Start with the Menu and Procedures

Every business is unique. What will be required is based on the space and equipment needed to safely store, prepare, and serve the foods on your menu. Retail stores such as a grocery or deli may not need as much equipment as larger operations would require.

Start by developing the menu and operational procedures including the type, amount, and variety of foods you will be serving and the operational procedures you will follow to store, prepare, and serve those foods. You may have to take into account the frequency of deliveries and other unique challenges that face us in these remote mountain communities. This will help you determine the food preparation, storage, refrigeration, and serving equipment needed and will help you develop the ideal kitchen layout, including the floor plan, equipment, and plumbing needed.

Adequate provisions will be necessary for handwashing, cooking, cooling, thawing, reheating, cold-holding, hot-holding, and warewashing that is associated with your menu and operational procedures.

Special processes such as sous vide or vacuum packaging will require additional information and may require approval.

In general:

- Plan for adequate space. Do not sacrifice necessary food preparation, storage, or dishwashing space to provide ‘extra room’ for customers.
- Plan for an orderly flow of food storage, preparation, and serving areas and for moving soiled and clean dishes and utensils to and from the dishwashing area to minimize contamination throughout the facility.

- Consider your entire floor plan. All areas of the facility used for storage, preparation, or service of food and drink, and areas used for other facility operations including storage of equipment, single-use items, and linens must meet the requirements of the Colorado Retail Food Establishment Rules and Regulations. This includes attic spaces, basements, outbuildings, restrooms, and other areas where storage and operations may take place.

Submitting Your Plan

Applications

Application forms are available by contacting the STPHD Health Inspector at 970.944.0321 or emailing jodi@silverthreadphd.org.

Retail Food Establishment Requirements

The plan review application includes instructions for what must be included for review. Missing information will delay the plan review process. Information to include when submitting your plans:

- ✓ Plan review application form.
- ✓ Menu or list of foods to be prepared on the premises.
- ✓ Floor plan drawn to scale consisting of equipment and fixtures.
- ✓ All areas of the facility used for storage, preparation, or service of food or drink as well as other facility operations including storage areas and garbage areas.
- ✓ Plumbing schedule showing the locations of all fixtures, floor drains, floor sinks, supply lines, drain lines, and backflow prevention devices.
- ✓ Ventilation hood location and type.
- ✓ Lighting plan.
- ✓ Equipment list showing make and model numbers, and installation methods.
- ✓ Finish schedule detailing materials for all floors, walls, ceilings, counters, shelves, etc.
- ✓ Fixtures requiring hot water, with specifications.
- ✓ Water heater location make and model number, capacity, recovery rate, and BTU or KW input.
- ✓ Chemical and personal belongings storage.
- ✓ Optional; site plan that includes streets, alleys, entrances, and dumpster location.

Review Process and Timeline

While the STPHD works diligently to make the review process timely, you should take into account unexpected delays. Expect the initial plan review to take two weeks. If required information is missing from the submitted application, it may delay the review process. Construction should not begin until the application has been approved. If your plans change after they have been approved, you may be required to submit revised plans for review and approval.

You will need to plan on a pre-opening inspection after construction is completed and before opening. The license application will be given to after a successful pre-opening inspection.

Approval of plans does not constitute acceptance of the completed structure. It also does not waive the responsibility of the owner or contractor to make necessary changes that may be required if the facility is not in compliance with applicable requirements.

Planning for Your Pre-Opening Inspection

A pre-opening inspection of the facility will be conducted after construction is completed but before any food preparation is done. If the facility is approved at the pre-opening inspection, the paperwork will then be completed to issue the retail food license. Retail food facilities, once approved and operating, must maintain ongoing compliance with the Colorado Retail Food Establishment Rules and Regulations and industry best practices.

Scheduling

Once construction or remodeling is complete, the pre-opening inspection can be scheduled. Contact the Environmental Health Division at 970.944.0321 for scheduling.

Requirements

The following is required prior to the onsite pre-opening inspection of your retail food operation:

- **Complete Construction, Installation, or Remodel:** All construction and installations must be complete and in full compliance with Colorado Retail Food Rules and Regulations and all applicable local regulations. Multiple inspections may be required to ensure full compliance prior to approval.
- **Fully Operational Equipment:** All refrigeration units must be fully operational and be able to maintain the required cold holding temperature. Dish machines must provide adequate sanitizer concentration or reach the minimum final sanitizing rinse temperature.
- **Test Equipment:** All required test equipment must be provided, including accurate thermometers for refrigeration units, hot holding units, and mechanical dish machines. Also needed is an accurate metal stem food thermometer with a 0° F to 220°F temperature range. Appropriate test kits for all sanitizers.
- **Operational Sink Areas:** All hand washing sinks must be provided with hot and cold water and stocked with soap, paper towels, and a trash can.
- **Clean and Operational:** The facility must be clean and operational.
- **No Food Stocked or Prepared:** There must be no food items stocked or any preparations allowed until approval has been granted.

License Application and Fees

A license application must be completed and all fees paid before the facility is allowed to open. The license application will be provided at the pre-opening inspection. Be prepared to provide the following information:

- State sales tax number.
- Check or cash in the exact amount of the license fee. Checks to be made out to STPHD.

The license is renewable annually and is valid from January 1 to December 31.

- License fees are not prorated and are non-transferable.
- A separate license is required for each facility.
- Fees are payable by check or cash only. Checks are to be made out to STPHD.

Selecting Equipment

This section will outline the equipment you may need to open your food business.

All equipment used for retail food operation should be listed as commercial and certified by a recognizable testing agency, with certain exceptions allowed. Certification will ensure that it is constructed of materials designed and fabricated for food safety and meets American National Standards Institute (ANSI) standards or comparable design criteria. Some household equipment may be used but should not be relied on for critical functions such as refrigeration units or hot-holding units. Equipment approved as National Sanitary Foundation (NSF), Underwriters Laboratories (UL), Electrical Testing Labs (ETL), or Baking Industry Standards Sanitation Committee (BISSC) meet commercial requirements.

Preparation Tables

Prep tables must be smooth and easily cleanable, tight jointed, and have moisture proof surfaces. Cutting boards must be made of approved materials.

Food Shields

Display stands, buffets, and salad bars must have food shields to prevent contamination by customers. Food shields are intended to intercept the direct line between the customer's mouth and the food being displayed to prevent contamination of the product by the customer.

Hot and Cold Holding Equipment

When determining the size and type of refrigeration units, consider the food preparation and assembly processes. Plan for enough hot-holding units to store all hot foods during peak demand. Plan for enough refrigeration to provide adequate space for the proper cooling of foods in addition to the storage of cold foods.

Handwashing Sink

All facilities are required to have handwashing sinks that are easily accessible to employees involved in food preparation, warewashing, and service. Handwashing sinks must be equipped with soap and disposable towels. Handwashing sinks can ONLY be used for hand washing.

Mechanical Warewashing Machine or 3-Compartment Sink

A mechanical warewashing machine or 3-compartment sink is required in a facility that sells or serves unpackaged food. A 3-compartment sink is recommended to ensure the largest equipment can be washed adequately and as a back-up to the mechanical warewashing machine. Consider a 4-compartment sink for pre-soaking.

Utility Sinks (Mop or Service Sinks)

All facilities are required to have a utility sink designated for cleaning mops and tools and for the disposal of mop water. A curbed sink is the ideal options since they make it easier to dump out mop water and provide a handy spot to store the mop bucket when not in use. Toilets are not allowed to be used for disposing of mop water.

Grease Interceptor (Grease Trap)

A grease trap is a device that is attached to drains to prevent fats, oils, and grease from flowing into the sewer system. Grease traps in restaurants are required in both of our service counties. When installed, they must be easily accessible for cleaning. It is recommended they be located outside the facility. Barring that, they may not be located in an area designated for food preparation in the kitchen.

Ventilation

Sufficient ventilation must be installed to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Type I hoods are used for grease collection and Type II hoods are typically installed over mechanical dish machines or where steam is produced. You need to consult the local building official and fire marshal for details on hood specifications.

Dry Storage

Enough designated space must be available for storage of food, dishes, and equipment, including bulk foods, cans, and other items. All food items must be stored at least six inches off the floor to prevent contamination from pests and cleaning.

Chemical Storage

Chemicals must be stored below and/or away from any food items, equipment, and utensils to prevent contamination. Chemicals cannot be stored above the 'clean side' of the dishwashing area.

Employee Area

Lockers, shelves, or some other designated area must be provided for employee belongings. Personal belongings such as purses, coats, and phones cannot be kept in food areas. Additionally, this serves as a great location for employees to store their persona food and drinks.

Lighting

Lighting must be bright enough to allow for safe work conditions and to facilitate cleaning. It must also be shielded when it is above food or food preparation areas to prevent contamination in the event of breakage. Lighting is typically measured in 'foot candles'. Fifty foot candles of light are required in all food preparation and warewashing areas.

Surfaces

All floors, walls, and ceilings in food areas, whether service, storage, or preparation, must be smooth and easily cleanable. Carpet is prohibited in food preparation and warewashing areas. Every facility must submit a finish schedule with their plan review. Below are approved surfaces that are commonly used:

- Floors: quarry tile, ceramic tile, sealed concrete, poured epoxy
- Walls: stainless steel, fiberglass reinforced plastic, glossy painted drywall, painted concrete blocks
- Ceilings: vinyl coated drop ceiling tiles, glossy painted drywall
- Base Coving: tile, rubber

Toilet Facilities

Conveniently located toilets must be provided that are accessible to employees and patrons without allowing patrons access to food preparation areas, storage areas, or warewashing or utensil storage areas.

- No seating means no public restrooms needed
- The number of restrooms and the number of fixtures per restroom are determined by local building codes
- In any case, restroom facilities must be provided for employees

Planning for Disease Prevention

The Centers for Disease Control estimates that every year in the U.S. 48 million people get sick, more than 128,000 are hospitalized, and 3,000 people die from foodborne illnesses. To ensure food is safely prepared and does not cause illness in your customers, please pay attention to the important information below.

Employee Training and Illness Policy

The top 3 causes of foodborne illness are attributed to poor personal hygiene, improper holding temperatures, and improper cooling procedures by food service workers. Training food handlers in food safety is the best way to reduce foodborne illness. Ideally, restaurants should include written policies and plans on the following:

- How you will train staff about food safety
- Food safety practices covered during orientation and ongoing
- Specific policies covering employee health, including the use of restriction and exclusion
- Providing sick leave to encourage them to not work while ill
- Maintaining an Employee Illness Log
- When and what illnesses to report to Public Health

Waste and Pest Control

Waste and pest management is critical to the safety of your employees and customers.

- Who is providing waste collection?
- How will you handle grease waste and your grease interceptor?
- Who will provide certified pest control, if needed?
- How will you secure your facility and ensure your food supply is safe?

Equipment Maintenance

Preventative maintenance is the best way to ensure your equipment is functioning properly. Consider having a professional on call for emergencies, specifically for refrigeration issues. Other ongoing maintenance costs include hood ventilation cleaning and fire suppression testing and maintenance of your mechanical warewashing unit.

Hot Water

Part of the plan review will cover the ability of your hot water system to provide hot water to all appliances during peak usage.

Storage

Make sure that you have enough storage you need to keep foods safe:

- Enough storage for dry goods

- Enough space to expand the operation, if needed
- Enough space for in coolers and freezers for good air circulation

Cleaning

There are several things you can do to extend the life of your facility and ease cleaning:

- Construct floors, walls, and ceilings with smooth, durable, and easily cleaned materials.
- Consider stainless steel behind and around grill lines and other grease producing equipment.
- Place heavy equipment on casters to facilitate moving the equipment for cleaning under, between, and behind all equipment.
- Seal the sinks at the wall to prevent water and grime from accumulating where it can't be seen or cleaned easily.

Fixed Equipment

- Install fixed equipment to allow for easy cleaning by leaving space from other equipment and sealing to walls.
- Either seal table mounted equipment to the table or use legs tall enough to facilitate cleaning under.
- Seal all equipment that are not on casters to the floor, or elevate on six inch legs.

Processes

To ensure food safety, make sure you have developed processes for

- Date marking potentially hazardous foods
- First In, First Out for all foods
- Safe overnight thawing in your coolers
- Safe cooling using shallow pans, ice wands, and other cooling techniques
- Temperature monitoring for all refrigeration unit, cold-holding, cooling, heating, and hot holding, including recording and corrective measures
- Avoiding bare hand contact with Ready To Eat foods

Useful Contacts

Silver Thread Public Health District (Health Inspector) – 970.944.0321

Hinsdale County Building Dept. – 970.944.2225

Mineral County Building Dept. – 719.658.2360

Hinsdale County Office
 304 W. Third St.
 P.O. Box 277
 Lake City, Colorado 81235
 (p) 970.944.0321 | (f) 970.944.1122



Mineral County Office
 802 Rio Grande Ave.
 P.O. Box 425
 Creede, Colorado 81130
 (p) 719.658.2416 | (f) 719.658.3001

Application Date: _____

Date of Planned Opening: _____

MOBILE UNIT PLAN REVIEW FORM

ESTABLISHMENT INFORMATION

Name of Mobile Unit:		Phone:	
Type of Unit:	<input type="checkbox"/> Mobile (Trailer/Food Catering Truck)	Push Cart	<input type="checkbox"/> Self-Contained Unit ¹
		Prepackaged Only ²	
Address:		Cell:	
City:		Fax:	
State/Zip:	Email:		
County:			
Website/Facebook Page:			

OWNERSHIP INFORMATION

Individual(s) or Corporate Name:		Phone:	
Mailing Address:		Cell:	
City:		Fax:	
State/Zip:	Email:		

CONTACT INFORMATION (☐ CHECK IF SAME AS ABOVE)

Name of Primary Contact:		Phone:	
Mailing:		Cell:	
City/State/Zip:		Email:	

LICENSING INFORMATION

Has your mobile unit been previously licensed in Colorado?		YES	<input type="checkbox"/> NO
If yes, provide the following information			
Year:	County license issued in:	Sales Tax ID Number:	

DAYS AND HOURS OF OPERATION

Days	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Hours	to	to	to	to	to	to	to

CHECK ALL MONTHS YOU PLAN TO OPERATE

<input type="checkbox"/> Jan	Feb	<input type="checkbox"/> Mar	Apr	<input type="checkbox"/> May	Jun	<input type="checkbox"/> Jul	Aug	<input type="checkbox"/> Sept	Oct	<input type="checkbox"/> Nov	Dec
------------------------------	-----	------------------------------	-----	------------------------------	-----	------------------------------	-----	-------------------------------	-----	------------------------------	-----

PROJECTED DAILY MAXIMUM NUMBER OF MEALS TO BE SERVED, WHERE APPLICABLE

Breakfast		Lunch		Dinner	
What is the maximum number of staff working on the unit?					

¹- Self-Contained Mobile Unit:, See definition and additional requirements in Annex page 4.

²- Prepackaged Only: For operations that offer prepackaged foods only, please complete page 1, provide a menu, and contact your Local Public Health Agency.

Below is a checklist of required information needed to complete the plan review.
Please ensure all information is included.

****Lack of complete information will delay review and plan approval.****

	Menu		Table 5: Hot Holding Units
	Table 1: Food Handling Procedures		Table 6: Manual Warewashing
	Floor Plan/Equipment Layout		Table 7: Water Heater
	Table 2: Finish Schedule		Water Supply Information
	Table 3: Ventilation		Wastewater Tank/Disposal Information
	Equipment Specifications		Commissary Agreement
	Table 4: Refrigeration/Freezer Capacity		

I. MENU AND FOOD HANDLING PROCEDURES

- A. Submit a complete menu.
- B. Check all the food handling procedures that apply and indicate the location where they will take place in *Table 1* below.

TABLE 1 FOOD HANDLING PROCEDURES				
Procedure	Y	N	<i>If yes, indicate where procedure will take place</i>	
			Commissary	Mobile
Will produce be washed?		<input type="checkbox"/>		<input type="checkbox"/>
Will frozen foods be thawed?		<input type="checkbox"/>		<input type="checkbox"/>
Will foods be prepared in advance? (e.g. sliced, chopped, etc.)		<input type="checkbox"/>		<input type="checkbox"/>
Will food be cooked?		<input type="checkbox"/>		<input type="checkbox"/>
Will food be rapidly cooled?		<input type="checkbox"/>		<input type="checkbox"/>
Will food be rapidly reheated?		<input type="checkbox"/>		<input type="checkbox"/>
Will food be held hot?		<input type="checkbox"/>		<input type="checkbox"/>
Will food be held cold?		<input type="checkbox"/>		<input type="checkbox"/>

**** Food shall be obtained from approved sources that comply with the applicable laws relating to food and food labeling. ****

****Preparation of food or storage of any items related to the operation is prohibited in a personal home. ****

1. How will bare hand contact with ready-to-eat foods be prevented during preparation? Check all that apply.

Utensils

☐ Gloves

Deli Tissue

☐ Other: _____

II. FLOOR PLAN/EQUIPMENT LAYOUT:

- A. Submit a floor plan drawn to scale that includes the location and identification of all equipment, plumbing fixtures and storage areas, including but not limited to the items listed below. Check all that apply to the mobile unit. **NOTE:** All equipment related to the operation must be of commercial design that is certified or classified for sanitation by an American National Standards Institute (ANSI) certification program or a design that is approved by the Department.

- | | |
|---|--|
| <input type="checkbox"/> Handsinks | Ventilation |
| <input type="checkbox"/> Food Preparation Sinks | <input type="checkbox"/> Water Heater |
| <input type="checkbox"/> Warewashing Sinks | <input type="checkbox"/> Water Supply Tank |
| <input type="checkbox"/> Mop Sink | <input type="checkbox"/> Wastewater Tank |
| <input type="checkbox"/> Storage Area | <input type="checkbox"/> Drainage Pipes |
| <input type="checkbox"/> Refrigeration Units | <input type="checkbox"/> Outdoor Cooking Equipment |
| <input type="checkbox"/> Hot Holding Units | <input type="checkbox"/> Spare Tires, Tools, Hoses, etc. |

III. PHYSICAL FACILITIES

- A. Complete the finish schedule in *Table 2* below to indicate interior finishes for the mobile unit.

TABLE 2 FINISH SCHEDULE						
Floors			Walls		Ceiling	
Material	Finish	Type of Base	Material	Finish	Material	Finish
Stainless Example	Smooth	Rubber Cove	FRP Example	Smooth	Stainless Example	Smooth

- B. **Windows and Doors:** To prevent the entry of pests, outer openings must be protected.

1. Are windows and doors screened? ☐ YES NO ☐ N/A, unit is a push cart

If no, please describe how the unit will be protected from pest entry:

2. Are service windows self-closing? ☐ YES NO ☐ N/A, unit is a push cart

If no, please describe how the unit will be protected from pest entry:

C. **Ventilation:** *If the mobile unit is enclosed and grease-cooking is conducted, such as cooking meats on a stove top or deep frying, a Type 1 hood is required.*

1. If applicable, provide specification sheets for the exhaust hood and fan, and provide the hood information in *Table 3* below. Provide the size in feet (*length x width*) of hood. Include manufacturer's recommended exhaust flow in cubic feet per minute (CFM)s.

TABLE 3 VENTILATION		
Hood Type (Type 1 or Type 2)	Dimensions (feet) of Hood (length x width)	Exhaust Flow (CFM)
	X	

IV. EQUIPMENT SPECIFICATIONS:

- A. Submit equipment specification sheets, including make and model numbers. All equipment must be of commercial design, certified by an ANSI accredited certification program, or a design approved by the department. If the specification sheet lists more than one piece of equipment, identify the specific equipment to be used.
- B. Provide information on refrigeration/freezer capacities and hot holding units by completing *Table 4* and *Table 5* below.

TABLE 4 REFRIGERATION / FREEZER CAPACITY		
TYPE OF UNIT	# OF UNITS PROVIDED	TOTAL CUBIC FEET
Reach-in Cooler (under counter)		
Reach-in Cooler (stand up)		
Open Top Sandwich Cooler		
Reach-in Freezer (under counter)		
Reach-in Freezer (stand up)		
Other cold holding storage:		

TABLE 5 HOT HOLDING UNITS	
TYPE OF UNIT	# OF UNITS PROVIDED
Steam Tables	
Hot Box	
Cook & Hold Units	
Other hot holding storage:	

V. UTENSILS AND WAREWASHING

A. Where will utensil washing take place? (Check all that apply)

☐ Commissary 3-compartment sink

Commissary mechanical dishwasher

☐ Mobile unit 3-compartment sink

B. If utensil/equipment washing will take place on the mobile unit, provide specifications for the 3-compartment sink in *Table 6* below.

TABLE 6 MANUAL WAREWASHING				
LENGTH (inches) OF SOILED DRAINBOARD	DIMENSIONS (inches) OF SINK COMPARTMENTS			LENGTH (inches) OF CLEAN DRAINBOARD
	LENGTH	WIDTH	DEPTH	

****Sink compartments must be large enough to accommodate the largest piece of equipment or utensil used.****

VI. WATER SYSTEMS:

A. Please provide plumbing diagrams or schematics showing location of water heater, plumbing fixtures, water supply and wastewater tanks, drain lines and water inlets/outlets on the floor plan.

B. Hot Water

1. How will hot water be provided to plumbing fixtures on the unit? (Check all that apply)

☐ Water Heater

Passive System / Heat Exchanger (eg. water is heated as it passes by the heating element)

☐ Other (specify): _____

2. If a water heater is installed, complete *Table 7* below.

TABLE 7 WATER HEATER			
Make	Model #	KW/BTU Rating	Tank Capacity

C. Water Supply Information

1. Provide location where water will be obtained below:

Business Name	Street Address	City	State/Zip
---------------	----------------	------	-----------

2. Provide water supply tank capacity (in gallons): _____

3. Provide the maximum number of hours operating between filling water supply tank: _____

4. What plumbing fixtures will be present on the mobile unit? (Check all that apply)

☐ 3-compartment sink (Indicate number of sinks): _____

☐ Handsink (Indicate number of sinks): _____

☐ Food preparation sink (Specify dimensions in inches LxWxD): _____

☐ Pre-rinse sprayer

Utensil soak sink

☐ Mop sink

Dishmachine

☐ Other (specify): _____

D. Wastewater Tank/Disposal Information

1. Provide location where wastewater will be disposed of below:

Business Name	Street Address	City	State/Zip
---------------	----------------	------	-----------

2. Provide wastewater tank capacity (in gallons): _____

NOTE: The wastewater tank must be at least 15% larger than water supply tank.

3. Prevention of contamination to water supply: How will you ensure there is no cross-connection between the drinking water and waste water tanks and hoses?

(Check all that apply)

Drinking water inlet above waste outlet

☐ Different colored or sized hoses

Different colored or sized removable tanks

☐ Different threads on inlet and outlet

Other (specify): _____



COMMISSARY AGREEMENT

Date

I, _____ of _____
(Commissary Owner/Operator) (Commissary Establishment Name)

located at _____
(Address of Establishment, City, State, Zip)

give my permission to _____ of _____
(Mobile Unit Owner/Operator) (Name of Mobile unit)

to use my kitchen facilities to perform the following tasks on their operational days:

- ☐ Preparation of food such as produce, cutting meats/seafood, cooking, cooling, reheating
Warewashing
- ☐ Filling water tanks
Dumping waste water
- ☐ Storage of foods, single service items, and cleaning agents
Service and cleaning of equipment
- ☐ Other (specify) _____

A **Commissary Use Log** will be maintained and made available to the department upon request.
Indicate how and where the commissary use log will be maintained:

Commissary Water Supply:

Public

☐ Private

Public Water System ID Number (PWSID#) _____

Commissary Sanitary Sewer Service:

Public

☐ Private

Signature _____ Date _____
(Commissary Owner/Operator)

Commissary Contact phone number: _____

Commissary Email address: _____

This Commissary Agreement is valid for this calendar year only



Annex: Mobile Unit General Requirements

NOTE: The following list of requirements has been provided to assist with frequently asked questions specific to mobile unit plan reviews. The list does not represent the entirety of the requirements. Mobile retail food establishments must comply with all the requirements provided in Chapter 9 of the *Colorado Retail Food Establishment Rules and Regulations*.

I. HANDWASHING SINKS

- A. Handwashing sinks must be capable of providing a hands-free, continuous flow of 100°F water delivered under pressure.
- B. Handwashing sinks must be easily accessible at all times and used for no other purpose.

II. VENTILATION

- A. If the mobile unit is enclosed (floors, hard sided walls, ceiling) and grease-cooking is conducted (i.e. cooking meats on a stove top or deep frying), then a Type 1 hood is required.
- B. A single smoker, grill, or oven may be used outside the unit, provided that all foods are prepared, assembled, and served from within the mobile unit and not from the external piece of cooking equipment.

III. WATER SUPPLY

- A. Water must be obtained from an approved source, as described in Section 5-101 of the *Colorado Retail Food Establishment Rules and Regulations*.
- B. For pushcarts, the water supply tank must have a minimum capacity of at least five gallons.
- C. For mobile units equipped with a three-compartment warewashing sink, the water supply must be sized to adequately fill warewashing sinks at least every four hours of operation.
- D. The mobile unit must supply three gallons of water to each handwashing sink for each hour of operation. For example, a mobile unit operating for six hours must have a minimum of 18 gallons of drinking water available just for the hand sink. Water can be provided through additional food grade containers if approved by the Department.
- E. Adequate water pressure must be provided to all fixtures at all times.
- F. Only food-grade hoses can be used to fill or transfer drinking water to or within a mobile unit.

IV. WASTEWATER

- A. All wastewater (except water from clean ice) must be contained in a permanently installed holding tank that is at least 15% larger than the water supply tank.
- B. Wastewater from the holding tank must be disposed in an approved sanitary sewer system (e.g. toilet or plumbed drain) daily. The wastewater holding tank must never be emptied onto the ground or in the storm drainage system.
- C. When using wastewater containers that are not attached to the unit, they must be clearly marked and used for no other purpose.

- D. All connections to the wastewater holding tank must be of a different size or type than the connections to the water supply tank in order to prevent a cross-connection between drinking water and wastewater.
- E. The connections that release or catch wastewater must be located below the connections on the water supply tank in order to prevent contamination of the supply tank.

V. DEFINITIONS

- A. **Mobile Retail Food Establishment:** Means a retail food establishment that is a wheeled vehicle or trailer that is readily moveable and designed for the service of food from the *interior* of the unit that is intended to physically report to and operate from a commissary for servicing, restocking, and maintenance each operating day.
- B. **Push Cart:** Means a retail food establishment that is a non-motorized unit designed so foods are served from the *exterior* of the unit, which is intended to physically report to and operate from a commissary for servicing, restocking and maintenance each operating day. Pushcarts shall be limited to cooking approved menu items and serving commercially prepared or commissary prepared food that will result in simple assembly.
- C. **Self-Contained Mobile Unit:** Means a licensed mobile retail food establishment that is approved to operate without a commissary. It is not connected to fixed utilities (i.e. water, sewer, and electricity) and it is required to report to an approved servicing location for sewage disposal and water.

Additional Requirements for Self-Contained Mobile Retail Food Establishments

NOTE: Mobile retail food establishments must use a commissary unless:

- A. A pre-approved facility is provided and used to supply drinking water to the unit and for the disposal of wastewater generated by the unit.
- B. The mobile unit's drinking water system and waste retention system is sufficiently sized, operated properly to serve the needs of the unit, and liquid waste is emptied only at service locations that have been approved by the Department.
- C. Adequate storage areas are provided within the mobile unit for all food, dry goods, single-service articles, and cleaning supplies.
- D. Adequate facilities are provided for food preparation; cleaning and sanitizing of equipment and utensils; storage of additional food, equipment, utensils, and other supplies; and other servicing operations.
- E. Adequate facilities, as required by the menu, are provided, including hand sink, food preparation sink, ware-washing facilities, mop sink, mechanical refrigeration, and any other necessary equipment.
- F. A written operational plan is submitted for the mobile unit demonstrating that its operation as a self-contained unit can be accomplished in compliance with the Colorado Retail Food Establishment Rules and Regulations. Review and approval of the operational plan must include the menu and standard operating procedures for the unit. After an operational plan is approved, any additions or changes to the plan must be approved by the Department prior to implementation. The approved operational plan must be available on the mobile unit at all times.

COLORADO RETAIL FOOD ESTABLISHMENT RULES AND REGULATIONS

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL HEALTH AND SUSTAINABILITY
4300 CHERRY CREEK DRIVE SOUTH
DENVER, CO 80246-1530

6 CCR 1010-2

Distribution copies are available from the Department's website at
www.cdphe.state.co.us/dehs

Effective January 1, 2019

Authority

Sections 25-4-1604(1)(b)(I), 25-5-420, 25-1.5-104(1)(g) and 25-1-108(1)(c)(I),
25-4-1603, Colorado Revised Statute



COLORADO
Department of Public
Health & Environment

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Division of Environmental Health and Sustainability

COLORADO RETAIL FOOD ESTABLISHMENT REGULATIONS

6 CCR 1010-2

Adopted by the Board of Health on November 15, 2017; effective, January 1, 2019

2.1 Authority

This regulation is adopted pursuant to Sections 25-1-108(1)(c)(I), 25-4-1603, 25-4-1604(1)(b)(I), and 25-5-420, Colorado Revised Statute (C.R.S.) and is consistent with the requirements of the State Administrative Procedure Act, Section 24-4-101, *et seq.*, C.R.S.

2.2 Scope and Purpose

- A. This regulation shall be applied for the protection of public health by providing food to consumers that is safe, unadulterated, and honestly presented.
- B. This regulation establishes definitions; sets standards for management and personnel, food operations, equipment and facilities; and provides for food establishment inspection, employee restriction, and permit suspension.
- C. This regulation does not apply to facilities or conditions listed in Section 25-4-1602(14)(a)-(m), C.R.S.
- D. Section 2.6 of this regulation incorporates by reference:
 - 1. *Food Code, 2013 Recommendations of the United States Public Health Service/Food and Drug Administration* as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration (*the Code*), as published on November 15, 2017.
 - 2. *Supplement to the 2013 Food Code (2015)*, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, (*the Supplement*), as published on November 15, 2017.

2.3 Applicability

- A. Pursuant to the provisions of Sections 25-4-1602(14), 25-4-1603, and 25-4-1604(1)(b)(I), C.R.S., this regulation:
 - 1. Shall apply to a retail establishment that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service,

whether such food is consumed on or off the premises or whether there is a charge for such food.

- B. In accordance with Section 25-4-1604(1)(b)(II), C.R.S., this regulation shall include but not be limited to general overall retail food establishment and equipment design and construction; sanitary maintenance of equipment, utensils, and facilities for food preparation, service, and storage; wholesomeness of food and drink; source and protection of food and water; disposal of liquid and solid wastes; and other rules for the effective administration and enforcement of the Colorado Food Protection Act, part 16, article 4, title 25, C.R.S.
- C. The department shall utilize *the Code*, *the Supplement*, department policy guidance pursuant to Section 25-4-1602(17), C.R.S., or other department-approved methods as authorized by statute and as appropriate to assure that retail food establishments comply with the Colorado Food Protection Act, part 16, article 4, title 25, C.R.S.

2.4 Definitions

- A. For the purpose of these rules and regulations:
 - 1. Food establishment (as used in *the Code* and *Supplement*) means, for the purposes of this regulation, Retail Food Establishment as defined in Section 25-4-1602(14) C.R.S.
 - 2. Inspection (as used in *the Code* and *Supplement*) means, for the purposes of this regulation, Inspection as defined in Section 25-4-1602(7) C.R.S.
 - 3. Permit (as used in *the Code* and *Supplement*) means, for the purposes of this regulation, License as defined in Section 25-4-1602(8) C.R.S.
 - 4. Permit holder (as used in *the Code* and *Supplement*) means, for the purposes of this regulation, Licensee as defined in Section 25-4-1602(9) C.R.S.
 - 5. Regulatory authority (as used in *the Code* and *Supplement*) means, for the purposes of this regulation, Department as defined in section 25-4-1602(3), C.R.S. and any county or district board of health with powers and duties delegated by the department in accordance with Section 25-4-1604(1)(i), C.R.S.

2.5 License Requirements

Retail food establishments in Colorado must be licensed in accordance with the Colorado Food Protection Act, part 16, article 4, title 25, C.R.S.

2.6 Incorporation by Reference

- A. Throughout these regulations, standards and requirements of outside organizations have been adopted and incorporated by reference. The material incorporated by reference cited herein includes only those versions that were in effect on November

15, 2017, and no later amendments to the incorporated materials. These regulations incorporate by reference:

1. *Food Code, 2013 Recommendations of the United States Public Health Service/Food and Drug Administration* as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration (*the Code*); and
 2. *Supplement to the 2013 Food Code (2015)*, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, (*the Supplement*).
- B. Any provision included or incorporated herein by reference which conflicts with the Colorado Revised Statutes, including but not limited to Section 25-4-1601, et seq., C.R.S. and Section 25-1.5-102, C.R.S., shall be null and void.

To align with Section 25-4-1601, et seq., C.R.S., these regulations do not incorporate by reference:

1. *Subpart 8-203.10 (Preoperational Inspections) of the Code*;
 2. *Section 8-3 (Permit to Operate) of the Code*;
 3. *Subpart 8-401.10 (Establishing Inspection Interval) of the Code*; and
 4. *Subpart 8-401.20 (Performance- and Risk-Based) of the Code*.
- C. The Division of Environmental Health and Sustainability shall maintain certified copies of the complete text of the incorporated materials, which shall be available for public inspection during regular business hours, and shall provide certified copies of the materials at cost upon request. For information regarding how the incorporated materials may be obtained or examined, contact:

Division Director
Division of Environmental Health and Sustainability
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

- D. The incorporated materials are available at:

www.colorado.gov/pacific/cdphe/food-regulations/food-code

2.7 Temporary Retail Food Establishments

A. General

A temporary retail food establishment shall comply with all requirements of these rules and regulations except as approved by the Regulatory Authority. A temporary retail food establishment application, which shall include a list of food items to be

sold, shall be submitted to the Regulatory Authority for each event. The application shall be submitted at least ten working days prior to the event.

B. Operations

1. Approvals will be based upon the nature and extent of the proposed menu, equipment capacities, setup and the ability to handle and prepare food in a safe manner and protect against public health hazards.
2. Temporary retail food establishment operators shall maintain records detailing the source of all foods being held, stored, offered for sale, sold and distributed. These records shall be made available to the Regulatory Authority when requested.
3. Grease from grease-producing equipment and any wastewater shall not be discharged onto the ground or into any storm drainage system.
4. All food shall be maintained at required temperatures during all aspects of the operation including transportation.
5. A handwashing station, as required by the Regulatory Authority, shall be provided within the temporary retail food establishment that meets the operational needs of the establishment.

C. Commissary

1. The Regulatory Authority's decision whether to require auxiliary support services such as a commissary or servicing area will be based on the menu, type of operation, duration of event and availability of on-board equipment and support services at the event.
2. The location of the commissary or servicing area shall be adequate to support operations and the safe handling of food.

Food Code

**2013 Recommendations of the
United States Public Health Service
Food and Drug Administration**



The Food Code is a model for safeguarding public health and ensuring food is unadulterated and honestly presented when offered to the consumer. It represents FDA's best advice for a uniform system of provisions that address the safety and protection of food offered at retail and in foodservice.

This model is offered for adoption by local, state, and federal governmental jurisdictions for administration by the various departments, agencies, bureaus, divisions, and other units within each jurisdiction that have been delegated compliance responsibilities for food service, retail food stores, or food vending operations. Alternatives that offer an equivalent level of public health protection to ensure that food at retail and foodservice is safe are recognized in this model.

For public sale by:

U.S. Department of Commerce
National Technical Information Service
5301 Shawnee Road, Alexandria, VA 22312
Phone: 1-800-553-6847
refer to report number **PB2013-110462**

ISBN 978-1-935239-02-4

**Previous Editions of Codes
Recommended by The
United States Public Health Service
for
Regulating Operations Providing Food Directly to the Consumer**

- 1934** - *Restaurant Sanitation Regulations*,
Proposed by the U.S. Public Health Service in cooperation with the Conference of State and
Territorial Health Officers and the National Restaurant Code Authority
- 1935** - *An Ordinance Regulating Food and Drink Establishments*
(Recommended by U.S. Public Health Service), December 1935, Mimeographed
- 1938** - *Ordinance and Code Regulating Eating and Drinking Establishments, Recommended
by the U.S. Public Health Service*, March 1938, Mimeographed
- 1940** - *Ordinance and Code Regulating Eating and Drinking Establishments, Recommended
by the U.S. Public Health Service*, June 1940, Mimeographed
- 1943** - *Ordinance and Code Regulating Eating and Drinking Establishments, Recommended
by the United States Public Health Service*, 1943, FSA, Public Health Bulletin No. 280
(Republished in 1955, DHEW, PHS Publication No. 37)
- 1957** - *The Vending of Foods and Beverages - A Sanitation Ordinance and Code, 1957
Recommendations of the Public Health Service*, DHEW, PHS Publication No. 546
- 1962** - *Food Service Sanitation Manual Including A Model Food Service Sanitation Ordinance
and Code, 1962 Recommendations of the Public Health Service*, DHEW, PHS
Publication No. 934
- 1965** - *The Vending of Food and Beverages - A Sanitation Ordinance and Code, 1965
Recommendations of the Public Health Service*, DHEW, PHS Publication No. 546
- 1976** - *Food Service Sanitation Manual Including A Model Food Service Sanitation Ordinance,
1976 Recommendations of the Food and Drug Administration*, DHEW/PHS/FDA, DHEW
Publication No. (FDA) 78-2091
- 1978** - *The Vending of Food and Beverages Including A Model Sanitation Ordinance, 1978
Recommendations of the Food and Drug Administration*, DHEW/PHS/FDA, DHEW
Publication No. (FDA) 78-2091
- 1982** - *Retail Food Store Sanitation Code, 1982 Recommendations of the Association of Food
and Drug Officials and U.S. Department of Health and Human Services, Public Health
Service, Food and Drug Administration*, AFDO/HHS Publication
- 1993** - *Food Code, 1993 Recommendations of the United States Public Health Service, Food and
Drug Administration*, National Technical Information Service Publication PB94-113941
- 1995** - *Food Code, 1995 Recommendations of the United States Public Health Service, Food and
Drug Administration*, National Technical Information Service Publication PB95-265492

- 1997** - *Food Code, 1997 Recommendations of the United States Public Health Service, Food and Drug Administration*, National Technical Information Service Publication PB97-133656

- 1999** - *Food Code, 1999 Recommendations of the United States Public Health Service, Food and Drug Administration*, National Technical Information Service Publication PB99-115925

- 2001** - *Food Code, 2001 Recommendations of the United States Public Health Service, Food and Drug Administration*, National Technical Information Service Publication PB2002-100819

- 2003** - *Supplement to the 2001 Food Code*, National Technical Information Service Publication PB2003-106843

- 2005** - *Food Code, 2005 Recommendations of the United States Public Health Service, Food and Drug Administration*, National Technical Information Service Publication PB2005-102200

- 2007** - *Supplement to the 2005 Food Code*, National Technical Information Service Publication PB2007-112622

- 2009** - *Food Code, 2009 Recommendations of the United States Public Health Service, Food and Drug Administration*, National Technical Information Service Publication PB2009-112613

- 2011** - *Supplement to the 2009 Food Code*, National Technical Information Service Publication PB2011-114303

- 2013** - *Food Code, 2013 Recommendations of the United States Public Health Service, Food and Drug Administration*, National Technical Information Service Publication PB2013-110462

- 2015** - *Supplement to the 2013 Food Code*, National Technical Information Service Publication PB2015-104921

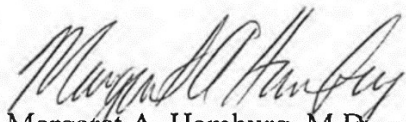
INTRODUCTION to the 2013 FOOD CODE

The Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC) of the U.S. Department of Health and Human Services (HHS) and the Food Safety and Inspection Service of the U.S. Department of Agriculture (USDA) are pleased to announce the release of the 2013 and eighth edition of the Food Code. The Food Code is a model code and reference document for state, city, county and tribal agencies that regulate operations such as restaurants, retail food stores, food vendors, and foodservice operations in institutions such as schools, hospitals, assisted living, nursing homes and child care centers. Food safety practices at these facilities play a critical role in preventing foodborne illness. The Food Code establishes practical, science-based guidance for mitigating risk factors that are known to cause or contribute to foodborne illness outbreaks associated with retail and foodservice establishments and is an important part of strengthening our nation's food protection system.

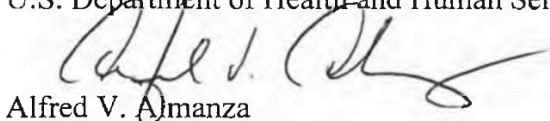
As of 2012, all 50 states and 3 of 6 territories report having retail codes patterned after previous editions of the Food Code. We strongly encourage the adoption and implementation of the 2013 Food Code at all levels of government.

This edition of the Food Code reflects our current understanding of evidenced-based practices for the effective control of microbiological, chemical and physical hazards in food facilities that can cause foodborne illness. Many of the changes to this edition reflect recommendations made at the 2012 biennial meeting of the Conference for Food Protection, a national organization that affords scientists and policy makers from all levels of government, industry, academia and consumers the opportunity to propose and deliberate on improvements to the Food Code.

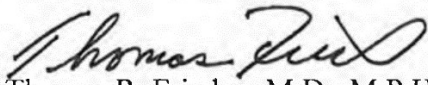
The federal government is committed to enhanced coordination with state, local, and tribal agencies, and the food industry to protect our food supply, and the Food Code is one important element in this strategy. HHS and USDA will continue to take progressive steps to partner with all who have a stake in food safety, and are committed to reducing the incidence of foodborne illness in the United States.



Margaret A. Hamburg, M.D.
Commissioner
Food and Drug Administration
U.S. Department of Health and Human Services



Alfred V. Almanza
Administrator
Food Safety and Inspection Service
U.S. Department of Agriculture



Thomas R. Frieden, M.D., M.P.H.
Director
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services

Preface

1. **FOODBORNE ILLNESS ESTIMATES, RISK FACTORS, AND INTERVENTIONS**
2. **PHS MODEL CODES HISTORY, PURPOSE, AND AUTHORITY**
3. **PUBLIC HEALTH AND CONSUMER EXPECTATIONS**
4. **ADVANTAGE OF UNIFORM STANDARDS**
5. **MODIFICATIONS AND IMPROVEMENTS IN THIS EDITION**
6. **DISCUSSION OF THE FOOD CODE AS A HACCP MODEL AND THE INTENTION TO INCORPORATE OTHER MODELS**
7. **CODE ADOPTION/CERTIFIED COPIES**
8. **INFORMATION TO ASSIST THE USER**
9. **THE CODE REVISION PROCESS**
10. **ACKNOWLEDGMENTS**

1. FOODBORNE ILLNESS ESTIMATES, RISK FACTORS, AND INTERVENTIONS

Foodborne illness in the United States is a major cause of personal distress, preventable illness and death, and avoidable economic burden. Scallan et al. (2011a,b) estimated that foodborne diseases cause approximately 48 million illnesses, 128,000 hospitalizations, and 3,000 deaths in the United States each year. The occurrence of approximately 1,000 reported disease outbreaks (local, regional, and national) each year highlights the challenges of preventing these infections.

Most foodborne illnesses occur in persons who are not part of recognized outbreaks. For many victims, foodborne illness results only in discomfort or lost time from the job. For some, especially preschool age children, older adults in health care facilities, and those with impaired immune systems, foodborne illness is more serious and may be life threatening.

The annual cost of foodborne illness in terms of pain and suffering, reduced productivity, and medical costs are estimated to be \$10 - \$83 billion. As stated by Meade et. al., the nature of food and foodborne illness has changed dramatically in the United States over the last century. While technological advances such as pasteurization and proper canning have all but eliminated some disease, new causes of foodborne illness have been identified. Surveillance of foodborne illness is complicated by several factors. The first is underreporting. Although foodborne illnesses can be severe or even fatal, milder cases are often not detected through routine surveillance. Second, many pathogens transmitted through food are also spread through water or from person to person, thus obscuring the role of foodborne transmission. Finally, pathogens or agents that have not yet been identified and thus cannot be diagnosed cause some proportion of foodborne illness.

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

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

The Food Code addresses controls for risk factors and further establishes 5 key public health interventions to protect consumer health. Specifically, these interventions are: demonstration of knowledge, employee health controls, controlling hands as a vehicle of contamination, time and temperature parameters for controlling pathogens, and the consumer advisory. The first two interventions are found in Chapter 2 and the last three in Chapter 3.

The Food and Drug Administration (FDA) endeavors to assist the approximately 75 state and territorial agencies and more than 3,000 local departments that assume primary responsibility for preventing foodborne illness and for licensing and inspecting establishments within the retail segment of the food industry. This industry segment consists of more than one million establishments and employs a work force of over 16 million.

2. PHS MODEL CODES HISTORY, PURPOSE, AND AUTHORITY

(A) History and Purpose

U.S. Public Health Service (PHS) activities in the area of food protection began at the turn of the 20th century with studies on the role of milk in the spread of disease. These studies led to the conclusion that effective disease prevention requires the application of comprehensive food sanitation measures from production to consumption. Additional studies identified and evaluated measures which would most effectively control disease, including work which led to improved processes for pasteurization.

Next, model codes were developed to assist state and local governments in initiating and maintaining effective programs for prevention of foodborne illness. The first of these, which is now titled *Grade A Pasteurized Milk Ordinance – Recommendations of the PHS/FDA*, was initially published in 1924. Subsequently, the PHS published recommended model food codes that address the various components of the retail segment of the food industry. These code editions are listed chronologically on pp. iii and iv. Through the years all states, hundreds of local jurisdictions, and many federal agencies have adopted some edition of model food codes recommended by the PHS.

Today, FDA's purpose in maintaining an updated model food code is to assist food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail segment of the food industry. The retail segment includes those establishments or locations in the food distribution chain where the consumer takes possession of the food.

The model Food Code is neither federal law nor federal regulation and is not preemptive. Rather, it represents FDA's best advice for a uniform system of regulation to ensure that food at retail is safe and properly protected and presented. Although not federal requirements (until adopted by federal bodies for use within federal jurisdictions), the model Food Code provisions are designed to be consistent with federal food laws and regulations, and are written for ease of legal adoption at all levels of government. A list of jurisdictions that have reported to FDA their status in adopting the Food Code is available on the FDA CFSAN Web Page at: <http://www.fda.gov/RetailFoodProtection>. The list is self-reported and FDA has not yet evaluated whether all the adopted codes are equivalent to the model Food Code.

Providing model food codes and model code interpretations and opinions is the mechanism through which FDA, as a lead federal food control agency, promotes uniform implementation of national food regulatory policy among the several thousand federal, state, and local agencies and tribes that have primary responsibility for the regulation or oversight of retail level food operations.

(B) Authority

PHS authority for providing assistance to state and local governments is derived from the Public Health Service Act [42 USC 243]. Section 311(a) states in part: "... The Secretary shall ... assist states and their political subdivisions in the prevention and suppression of communicable diseases, and with respect to other public health matters, shall cooperate with and aid state and local authorities in the enforcement of their ... health regulations and shall advise the several states on matters relating to the preservation and improvement of the public health." Responsibility for carrying out the provisions of the Act relative to food protection was delegated within the PHS to the Commissioner of Food and Drugs in 1968 [21 CFR 5.10(a)(2) and (3)].

Under authority of the Economy Act, June 30, 1932 as amended [31 USC 1535], FDA provides assistance to federal agencies. Assistance provided to local, state, and federal governmental bodies is also based on FDA's authorities and responsibilities under the Federal Food, Drug, and Cosmetic Act [21 USC 301].

3. PUBLIC HEALTH AND CONSUMER EXPECTATIONS

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

Under FDA's 2012 Mission Statement the agency is responsible for:

Protecting the public health by assuring the safety of our nation's food supply...and for advancing the public health by helping the public get accurate, science-based information they need about foods to maintain and improve their health.

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

4. ADVANTAGE OF UNIFORM STANDARDS

The advantages of well-written, scientifically sound, and up-to-date model codes have long been recognized by industry and government officials.

Industry conformance with acceptable procedures and practices is far more likely where regulatory officials "speak with one voice" about what is required to protect the public health, why it is important, and which alternatives for compliance may be accepted.

Model codes provide a guide for use in establishing what is required. They are useful to business in that they provide accepted standards that can be applied in training and quality assurance programs. They are helpful to local, state, and federal governmental bodies that are developing or updating their own codes.

The model Food Code provides guidance on food safety, sanitation, and fair dealing that can be uniformly adopted for the retail segment of the food industry. The document is the cumulative result of the efforts and recommendations of many contributing individuals, agencies, and organizations with years of experience using earlier model code editions. It embraces the concept that our quality of life, state of health, and the public welfare are directly affected by how we collectively provide and protect our food.

The model Food Code provisions are consistent with, and where appropriate incorporate, federal performance standards for the same products and processes. Federal performance standards in effect define public food safety expectations for the

product, usually in terms of lethality to a pathogenic microorganism of particular concern. Use of performance standards as the measure of regulatory compliance means establishments are free to use innovative approaches in producing safe products, in lieu of adherence to traditional processing approaches, such as specified cooking times and temperatures, that achieve the same end. Federally inspected establishments demonstrate compliance with performance standards by showing that their process adheres to an appropriately designed, validated HACCP plan.

Retail processors may be given the same opportunity as federally-regulated establishments to use innovative techniques in the production of safe foods. Retail establishments may apply to the regulatory authority for a variance to use a specific federal food safety performance standard for a product or a process in lieu of compliance with otherwise applicable specifications in the Food Code. However, to show compliance with the federal performance standard, the retail processor must, like a federally inspected establishment, show that processing controls are in place to ensure that the standard is being met. Thus, a request for a variance based on a federal performance standard must be supported by a validated HACCP plan with record keeping and documented verification being made available to the regulatory authority.

5. MODIFICATIONS AND IMPROVEMENTS IN THIS EDITION

The revisions contained in this edition reflect changes, additions, deletions, and format modifications listed in the Supplement to the 2009 FDA Food Code and recommendations developed during the 2012 Biennial meeting of the Conference for Food Protection. The revisions also reflect input provided by those who have been intimately involved with studying, teaching, and using the earlier editions. Most of these enhancements involve added clarification or new information. Some reflect evolving regulatory policy contained in new or revised federal regulations.

Several of the Tables, Charts, and images were converted throughout the Code to meet web accessibility requirements under Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d). Section 508 mandates that all federal agencies eliminate the barriers in accessing electronic and information technology. The law helps to ensure that members of the public with disabilities have the ability to access government information and services.

The needed clarifications and missing Code provisions were identified by FDA and others during standardization and certification activities, State Training Team courses, regional food protection seminars, the deliberations of food equipment standards organizations, and the verbal and written requests for clarification received by FDA field and headquarters components.

Changes in provisions related to federal laws and regulations administered by other federal agencies such as the United States Department of Agriculture were jointly developed with those agencies.

In the 2009 FDA Food Code a revised designation system for Code provisions was introduced. In the 2013 edition of the FDA Food Code, Annex 7 Form 3-A Food Establishment Inspection Report and Guide 3-B Instructions for Marking the Food Establishment Inspection Report were updated to reflect the revised designation system.

A Summary of Changes is provided at the end of the Food Code. General enhancements include:

- (1) Added and improved definitions that are more precise and more consistent with terminology and definitions found in related laws and regulations;
- (2) Modified provisions to make them more consistent with national requirements and standards administered by other federal agencies and international bodies; more flexible without compromising public health; and more internally consistent with other Food Code provisions;
- (3) Clarified other provisions regarding their intent, thereby reducing confusion and the potential for inconsistent application;
- (4) Improved user aids contained in the Annexes such as added references and updated public health reasons, model forms, guides, and lists; and
- (5) Expanded the Index with additional terms to assist a broader base of users in finding topics of interest.

6. DISCUSSION OF THE CODE AS A HACCP MODEL AND THE INTENTION TO INCORPORATE OTHER MODELS

It is important to note that preapproval of HACCP plans for food establishments operating pursuant to a variance is provided for under the Food Code, but such a plan preapproval is not a part of another HACCP regulatory model, the Fish and Fishery Products regulation 21 CFR 123, effective December 18, 1997. FDA published the Fish and Fisheries Hazards and Controls Guidance Fourth Edition April 2011. Additionally, there are differences between the two models in the required content of the HACCP plan. For example, the HACCP plans requested by the Food Code must include flow diagrams, product formulations, training plans, and a corrective action plan. Flow diagrams and product formulations are suggested but not mandated components of the Fish and Fishery Products regulation.

These differences are necessitated by differences in the nature of the regulations and the regulatory structure set up to enforce them. HACCP plans developed under the Food Code variance process are provided to the regulatory authority to enable the regulatory authority to assess whether the establishment has designed a system of controls sufficient to ensure the safety of the product. The plans will be reviewed outside the food establishment and, in most cases, in the absence of any historical performance information for the product at that establishment. Therefore, the plan must contain sufficient detail to allow the regulator to fully understand the operations and the intended controls. Products requiring a variance are those which are deemed to be time/temperature control for safety food and for which retail production would otherwise be prohibited.

To assist food establishments in applying HACCP principles at retail, FDA has issued a document entitled: Managing Food Safety: A HACCP Principles Guide for Operators of Food Service, Retail Food Stores, and Other Food Establishments at the Retail Level. This document is available from FDA and can be found on the FDA Web Page at: <http://www.fda.gov/RetailFoodProtection>.

Under the Fish and Fishery Products regulation, every seafood processor is required to perform a hazard analysis, and must have and implement a written HACCP Plan whenever a hazard analysis reveals a food safety hazard that is reasonably likely to occur. HACCP plans developed pursuant to the Fish and Fishery Products regulation are for all products in the class and are not for products for which production is presently prohibited. Plans will be reviewed on site, with records available to judge, among other things, the adequacy of past corrective actions.

It is intended that the Food Code will be amended to incorporate federal HACCP regulations and guidelines by inclusion in the text of the Food Code, by reference, or through the issuance of interpretations. This will provide alternatives to the preapproval of HACCP plans, such as simplified HACCP plans in line with the Fish and Fishery Products model, if the product is produced under a HACCP plan developed in conformance with such regulation or guideline. In so doing, the need for preapproved plans under the more intensive regimen of the Food Code will be significantly reduced.

HACCP plans are key to the use of performance standards as measures of regulatory compliance. Performance standards issued by the Food Safety and Inspection Service are applicable to a broad range of meat, poultry, and egg products. Federal performance standards are acceptable, equivalent alternatives to the command-and-control provisions that now provide specific times and temperatures for processing various products. Federal performance standards may be used to determine the safety of a product or process under the Food Code if authorized under a variance granted in accord with the Code's variance provisions, and demonstrated by adherence to a validated HACCP plan, consistent with the Code's HACCP provisions.

7. CODE ADOPTION/CERTIFIED COPIES

The model Food Code is provided for use by food regulatory jurisdictions at all levels of government. At the state and local levels the model may be:

- (A) Enacted into statute as an act of the state legislative body;
- (B) Promulgated as a regulation, if the state legislative body has delegated rule-making authority to a governmental administrative agency; or
- (C) Adopted as an ordinance, if the local legislative body has been delegated rule-making authority or regulatory powers.

Typically, code adoption bodies publish a notice of their intent to adopt a code, make copies available for public inspection, and provide an opportunity for public input prior to adoption. This is usually done in one of two ways.

The recommended method is the "short form" or "adoption by reference" approach where a simple statement is published stating that certified copies of the proposed code are on file for public review. This approach may be used by governmental bodies located in states that have enabling laws authorizing the adoption of codes by reference. An advantage to this approach is a substantial reduction in the cost of publishing and printing.

Certified copies of the Food Code for use in adopting the model by reference are available through the FDA Retail Food Protection Team, HFS-320, 5100 Paint Branch Parkway, College Park, MD 20740-3835. Refer to item 2. (A) of this Preface to access a listing of jurisdictions' adoptions.

The alternative method is the "long form" or "section-by-section" approach where the proposed code is published in its entirety.

Both methods of adoption allow for the modification of specific provisions to accommodate existing law, administrative procedure, or regulatory policy. Annex 7 contains model adoption forms for use by governmental bodies who wish to use either of these methods.

8. INFORMATION TO ASSIST THE USER

Many of the improvements contained in the model Food Code, as listed under item 5 of this Preface, are provided to make the document easier to use. Other characteristics of the new edition, if they are understood by the user, make it easier to follow and apply. These include structure, nomenclature, and methodology.

Food Code provisions address essentially four areas: personnel (Chapter 2), food (Chapter 3), equipment/facilities/supplies (Chapters 4, 5, 6, 7), and compliance and enforcement (Chapter 8). A new user will find it helpful to review the Table of Contents together with the Code Reference Sheet (Annex 7, Guide 3-B) in order to quickly gain an understanding of the scope and sequence of subjects included within these four areas. The structural nomenclature of the document is as follows:

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

Code provisions are either appropriate for citing and debiting on an inspection report or they are not. Those not intended for citing/debiting are identified by the digits following the decimal point in the numbering system. These “nondebitable” provisions fall into two categories, those that end with two digits after the decimal point and the last digit is a zero, e.g., § 1-201.10; and those that end with three digits after the decimal point and the last 2 digits are zeros, e.g., § 8-805.100.

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

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

The purpose of this type of cross reference is to:

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

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

The purpose of this type of cross reference is to:

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

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

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

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

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

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

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

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

The former use of “critical” or “non-critical” has been changed in recognition of the need to better identify risk-based controls within the Code’s provisions. Requirements contained in the Food Code are presented as being in one of three categories of importance: PRIORITY ITEM (i.e. a provision in this Code whose application

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

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

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

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

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

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

9. THE CODE REVISION PROCESS

(A) Food Code Revision and Publication Cycles

FDA is issuing a new edition of the Food Code every 4 years. During the 4-year span of time between editions, FDA may issue supplements to an existing edition. Each new edition will incorporate the changes made in the supplement as well as any new revisions.

(B) Submission of Food Code Change Suggestions

FDA will continue to receive concerns and recommendations for modification of the Food Code from any individual or organization.

Given the purpose of the document as discussed in item 2 of this Preface, the Agency will be especially interested in addressing problems identified by those in government and industry who are responsible for implementing the Food Code. FDA will also be especially responsive to those needed policy and technical changes raised by an organization that uses a democratic process for addressing problems and concerns.

Included are organizations that provide a process that encourages representative participation in deliberations by government, industry, and academic and consumer interests, followed by public health ratification such as a state-by-state vote by officially designated delegates. The Conference for Food Protection (retail food issues), the National Conference on Interstate Milk Shipments (milk and dairy products issues), and the Interstate Shellfish Sanitation Conference (molluscan shellfish issues) are examples of such organizations. These organizations receive problems submitted by any interested individual, but specify the forms on which the issues must be detailed and provide specific time frames during which they may be submitted.

FDA encourages interested individuals to consider raising issues and suggesting solutions involving the federal-state cooperative programs based on FDA's model codes through these organizations.

10. ACKNOWLEDGMENTS

Many individuals devoted considerable time and effort in addressing concerns and developing recommendations that are now reflected in the Food Code. These individuals represent a wide diversity of regulators, educators, industry leaders, and consumer representatives acting through their agencies, companies, professional groups, or trade organizations. It is only through the dedicated efforts and contributions of experienced professionals that a scientifically sound, well focused, and up-to-date model code is possible. FDA acknowledges with gratitude the substantial assistance of those who contributed to public health and food safety in the development of the Food Code.

Contents

PREVIOUS EDITIONS OF CODES		<i>iii</i>
INTRODUCTION		
PREFACE		<i>Preface i</i>
CHAPTER 1	PURPOSE AND DEFINITIONS	1
CHAPTER 2	MANAGEMENT AND PERSONNEL	25
CHAPTER 3	FOOD	53
CHAPTER 4	EQUIPMENT, UTENSILS, AND LINENS	109
CHAPTER 5	WATER, PLUMBING, AND WASTE	153
CHAPTER 6	PHYSICAL FACILITIES	173
CHAPTER 7	POISONOUS OR TOXIC MATERIALS	189
CHAPTER 8	COMPLIANCE AND ENFORCEMENT	197
INDEX		1-22
ANNEX 1	COMPLIANCE AND ENFORCEMENT	221
ANNEX 2	REFERENCES	247
ANNEX 3	PUBLIC HEALTH REASONS/ADMINISTRATIVE GUIDELINES	331
ANNEX 4	MANAGEMENT OF FOOD SAFETY PRACTICES – ACHIEVING ACTIVE MANAGERIAL CONTROL OF FOODBORNE ILLNESS RISK FACTORS	547
ANNEX 5	CONDUCTING RISK-BASED INSPECTIONS	587
ANNEX 6	FOOD PROCESSING CRITERIA	621
ANNEX 7	MODEL FORMS, GUIDES, AND OTHER AIDS	
SUMMARY	SUMMARY OF CHANGES IN THE FDA FOOD CODE	1-13

Chapter 1

Purpose and Definitions

1-1	TITLE, INTENT, SCOPE	1
	1-101 Title	1
	1-102 Intent	1
	1-103 Scope	1
1-2	DEFINITIONS	2
	1-201 Applicability and Terms Defined	2

Chapter 2**Management and Personnel**

2-1	SUPERVISION	25
	2-101 Responsibility	25
	2-102 Knowledge	26
	2-103 Duties	29
2-2	EMPLOYEE HEALTH	32
	2-201 Responsibilities of Permit Holder, Person in Charge, Food Employees, and Conditional Employees	32
2-3	PERSONAL CLEANLINESS	46
	2-301 Hands and Arms	46
	2-302 Fingernails	50
	2-303 Jewelry	50
	2-304 Outer Clothing	50
2-4	HYGIENIC PRACTICES	50
	2-401 Food Contamination Prevention	50
	2-402 Hair Restraints	51
	2-403 Animals	51
2-5	RESPONDING TO CONTAMINATION EVENTS	52
	2-501 Procedures for Responding	52

Chapter 3**Food**

3-1	CHARACTERISTICS	53
	3-101 Condition	53
3-2	SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS	54
	3-201 Sources	54
	3-202 Specifications for Receiving	58
	3-203 Original Containers and Records	63

3-3	PROTECTION FROM CONTAMINATION AFTER RECEIVING	65
	3-301 Preventing Contamination by Employees	65
	3-302 Preventing Food and Ingredient Contamination	68
	3-303 Preventing Contamination from Ice Used as a Coolant	71
	3-304 Preventing Contamination from Equipment, Utensils, and Linens	72
	3-305 Preventing Contamination from the Premises	76
	3-306 Preventing Contamination by Consumers	78
	3-307 Preventing Contamination from Other Sources	79
3-4	DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN	80
	3-401 Cooking	80
	3-402 Freezing	85
	3-403 Reheating	87
	3-404 Other Methods	88
3-5	LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN	88
	3-501 Temperature and Time Control	88
	3-502 Specialized Processing Methods	96
3-6	FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING	102
	3-601 Accurate Representation	102
	3-602 Labeling	102
	3-603 Consumer Advisory	104
3-7	CONTAMINATED FOOD	105
	3-701 Disposition	105
3-8	SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS	106
	3-801 Additional Safeguards	106

4-1	MATERIALS FOR CONSTRUCTION AND REPAIR	109
	4-101 Multiuse	109
	4-102 Single-Service and Single-Use	112
4-2	DESIGN AND CONSTRUCTION	113
	4-201 Durability and Strength	113
	4-202 Cleanability	113
	4-203 Accuracy	115
	4-204 Functionality	116
	4-205 Acceptability	125
4-3	NUMBERS AND CAPACITIES	126
	4-301 Equipment	126
	4-302 Utensils, Temperature Measuring Devices, and Testing Devices	128
4-4	LOCATION AND INSTALLATION	129
	4-401 Location	129
	4-402 Installation	130
4-5	MAINTENANCE AND OPERATION	131
	4-501 Equipment	132
	4-502 Utensils and Temperature and Pressure Measuring Devices	137
4-6	CLEANING OF EQUIPMENT AND UTENSILS	139
	4-601 Objective	139
	4-602 Frequency	139
	4-603 Methods	142
4-7	SANITIZATION OF EQUIPMENT AND UTENSILS	145
	4-701 Objective	145
	4-702 Frequency	145
	4-703 Methods	145

4-8	LAUNDERING	146
	4-801 Objective	146
	4-802 Frequency	147
	4-803 Methods	147
4-9	PROTECTION OF CLEAN ITEMS	148
	4-901 Drying	148
	4-902 Lubricating and Reassembling	149
	4-903 Storing	149
	4-904 Preventing Contamination	150
<div> <div>Chapter 5</div> <div>Water, Plumbing, and Waste</div> </div>		
5-1	WATER	153
	5-101 Source	153
	5-102 Quality	154
	5-103 Quantity and Availability	155
	5-104 Distribution, Delivery, and Retention	155
5-2	PLUMBING SYSTEM	156
	5-201 Materials	156
	5-202 Design, Construction, and Installation	156
	5-203 Numbers and Capacities	158
	5-204 Location and Placement	159
	5-205 Operation and Maintenance	159
5-3	MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK	161
	5-301 Materials	161
	5-302 Design and Construction	162
	5-303 Numbers and Capacities	163
	5-304 Operation and Maintenance	164
5-4	SEWAGE, OTHER LIQUID WASTE, AND RAINWATER	165
	5-401 Mobile Holding Tank	165
	5-402 Retention, Drainage, and Delivery	165
	5-403 Disposal Facility	166

5-5	REFUSE, RECYCLABLES, AND RETURNABLES	167
5-501	Facilities on the Premises	167
5-502	Removal	171
5-503	Facilities for Disposal and Recycling	172

Chapter 6

Physical Facilities

6-1	MATERIALS FOR CONSTRUCTION AND REPAIR	173
6-101	Indoor Areas	173
6-102	Outdoor Areas	174
6-2	DESIGN, CONSTRUCTION, AND INSTALLATION	174
6-201	Cleanability	174
6-202	Functionality	176
6-3	NUMBERS AND CAPACITIES	180
6-301	Handwashing Sinks	180
6-302	Toilets and Urinals	181
6-303	Lighting	182
6-304	Ventilation	182
6-305	Dressing Areas and Lockers	182
6-306	Service Sinks	183
6-4	LOCATION AND PLACEMENT	183
6-401	Handwashing Sinks	183
6-402	Toilet Rooms	183
6-403	Employee Accommodations	183
6-404	Distressed Merchandise	184
6-405	Refuse, Recyclables, and Returnables	184
6-5	MAINTENANCE AND OPERATION	184
6-501	Premises, Structures, Attachments, and Fixtures – Methods	184

Chapter 7**Poisonous or Toxic Materials**

7-1	LABELING AND IDENTIFICATION	189
	7-101 Original Containers	189
	7-102 Working Containers	189
7-2	OPERATIONAL SUPPLIES AND APPLICATIONS	190
	7-201 Storage	190
	7-202 Presence and Use	190
	7-203 Container Prohibitions	192
	7-204 Chemicals	192
	7-205 Lubricants	194
	7-206 Pesticides	194
	7-207 Medicines	194
	7-208 First Aid Supplies	195
	7-209 Other Personal Care Items	195
7-3	STOCK AND RETAIL SALE	196
	7-301 Storage and Display	196

Chapter 8**Compliance and Enforcement**

8-1	CODE APPLICABILITY	197
	8-101 Use for Intended Purpose	197
	8-102 Additional Requirements	198
	8-103 Variances	198
8-2	PLAN SUBMISSION AND APPROVAL	200
	8-201 Facility and Operating Plans	200
	8-202 Confidentiality	204
	8-203 Construction Inspection and Approval	204
8-3	PERMIT TO OPERATE	204
	8-301 Requirement	204
	8-302 Application Procedure	205

	8-303	Issuance	207
	8-304	Conditions of Retention	208
8-4		INSPECTION AND CORRECTION OF VIOLATIONS	211
	8-401	Frequency	211
	8-402	Competency and Access	212
	8-403	Report of Findings	214
	8-404	Imminent Health Hazard	216
	8-405	Violation of Priority Item or Priority Foundation Item	217
	8-406	Core Item Violation	217
8-5		PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES	218
	8-501	Investigation and Control	218

Annex 1

Compliance and Enforcement

	1. PURPOSE	221
	2. EXPLANATION	221
	3. PRINCIPLE	222
	4. RECOMMENDATION	222
	5. PARTS	223
	8-6 CONSTITUTIONAL PROTECTION	223
	8-7 AUTHORITY	224
	8-8 NOTICES	225
	8-9 REMEDIES	227

Annex 2

References

PART 1	UNITED STATES CODE AND CODE OF FEDERAL REGULATIONS	247
PART 2	BIBLIOGRAPHY	253
PREFACE		253
CHAPTER 1	PURPOSE AND DEFINITIONS	254
CHAPTER 2	MANAGEMENT AND PERSONNEL	258
CHAPTER 3	FOOD	271
CHAPTER 4	EQUIPMENT, UTENSILS, AND LINENS	302
CHAPTER 5	WATER, PLUMBING, AND WASTE	306

CHAPTER 6	PHYSICAL FACILITIES	308
CHAPTER 7	POISONOUS OR TOXIC MATERIALS	309
PART 3	SUPPORTING DOCUMENTS	311
A.	Voluntary National Retail Food Regulatory Program Standards	312
B.	FDA Procedures for Standardization and Certification of Retail Food Inspection/Training Officers	313
C.	Managing Food Safety: A Manual for the Voluntary Use of HACCP Principles for Operators of Food Service and Retail Establishments	314
D.	Managing Food Safety: A Regulator's Manual for Applying HACCP Principles to Risk-based Retail and Food Service Inspections and Evaluating Voluntary Food Safety Management Systems	315
E.	Food Establishment Plan Review Guide	316
F.	FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2004)	316
G.	Growing Sprouts in a Retail Food Establishment	317
H.	Advisories for Retail Processing with Proper Controls and Variances for Product Safety	317
I.	Evaluation and Definition of Potentially Hazardous Foods	318
J.	The U.S. Equal Employment Opportunity Commission (EEOC) Guide, "How to Comply with the Americans with Disabilities Act: A Guide for Restaurants and Other Food Service Employers" October 28, 2004	319
K.	Guidance for Retail Facilities Regarding Beef Grinding Logs Tracking Supplier Information	319
L.	Recommended Guidelines for Permanent Outdoor Cooking Establishments, 2003	321
M.	Comprehensive Guidelines for Food Recovery Programs	321
N.	Retail Food Protection Program Information Manual: Storage and Handling of Tomatoes, 2007	322
O.	Retail Food Protection Program Information Manual: Recommendations to Food Establishments for Serving or Selling Cut Leafy Greens	323
P.	Employee Health and Personal Hygiene Handbook	323
Q.	Risk Assessment Process and Spreadsheet to Redesignate Food Code Provisions	324

R. Parameters for Determining Inoculated Pack/Challenge Study Protocols	324
S. The Council to Improve Foodborne Outbreak Response (CIFOR) – Guidelines for Foodborne Outbreak Response	325
T. CIFOR Foodborne Illness Response Guidelines for Owners, Operators, and Managers of Food Establishments (CIFOR Industry Guidelines)	326
PART 4 FOOD DEFENSE GUIDANCE FROM FARM TO TABLE	326
FDA Publications	326
USDA Publications	327
Industry Publications	328
Guidance on Responding to Food Emergencies	328
Food Defense and Emergency Guidance of Interest to Schools	328
Defense Guidance of Interest to Consumers	329

Annex 3

Public Health Reasons/Administrative Guidelines

CHAPTER 1	PURPOSE AND DEFINITIONS	331
CHAPTER 2	MANAGEMENT AND PERSONNEL	340
CHAPTER 3	FOOD	398
CHAPTER 4	EQUIPMENT, UTENSILS, AND LINENS	484
CHAPTER 5	WATER, PLUMBING, AND WASTE	514
CHAPTER 6	PHYSICAL FACILITIES	526
CHAPTER 7	POISONOUS OR TOXIC MATERIALS	537
CHAPTER 8	COMPLIANCE AND ENFORCEMENT	543

Annex 4

Management of Food Safety Practices – Achieving Active Managerial Control of Foodborne Illness Risk Factors

1. ACTIVE MANAGERIAL CONTROL	547
2. INTRODUCTION TO HACCP	550
3. THE HACCP PRINCIPLES	553
4. THE PROCESS APPROACH – A PRACTICAL APPLICATION OF HACCP AT RETAIL TO ACHIEVE ACTIVE MANAGERIAL CONTROL	570
5. FDA RETAIL HACCP MANUALS	579
6. ADVANTAGES OF USING THE PRINCIPLES OF HACCP	580
7. SUMMARY	581

8. ACKNOWLEDGMENTS	582
9. RESOURCES AND REFERENCES	582

Annex 5

Conducting Risk-Based Inspections

1. PURPOSE AND SCOPE	587
2. RISK-BASED ROUTINE INSPECTIONS	588
3. WHAT IS NEEDED TO PROPERLY CONDUCT A RISK-BASED INSPECTION	590
4. RISK-BASED INSPECTION METHODOLOGY	594
5. ACHIEVING ON-SITE AND LONG-TERM COMPLIANCE HACCP	613
6. INSPECTION FORM AND SCORING	618
7. CLOSING CONFERENCE	620
8. SUMMARY	620

Annex 6

Food Processing Criteria

1. INTRODUCTION	621
2. REDUCED OXYGEN PACKAGING	622
3. SMOKING AND CURING	634

Annex 7

Model Forms, Guides, and Other Aids

- 1) Employee health information**
 - a) Form 1-A Conditional Employee or Food Employee Interview**
 - b) Form 1-B Conditional Employee or Food Employee Reporting Agreement**
 - c) Form 1-C Conditional Employee or Food Employee Medical Referral**
 - d) Form 1-D Application for Bare Hand Contact Procedure**

- 2) **Adoption information**
 - a) **Form 2-A Adoption by Reference**
 - b) **Form 2-B Adoption by Section-by-Section Reference**
- 3) **Inspection information**
 - a) **Form 3-A Food Establishment Inspection Report**
 - b) **Guide 3-B Instructions for Marking the Food Establishment
Inspection Report, Including Food Code References for
Risk Factors/Interventions and Good Retail Practices**
- 4) **Summary information**
 - a) **Chart 4-A Summary Chart for Minimum Cooking Food
Temperatures and Holding Times Required by Chapter 3**
 - b) **Chart 4-B Summary Chart for Minimum Food Temperatures and
Holding Times Required by Chapter 3 for Reheating
Foods for Hot Holding**
 - c) **Chart 4-C Summary Chart – Ready-to-eat, Time/Temperature
Control for Safety Food (TCS) Date Marking
§ 3-501.17(A) – (E) and Disposition § 3-501.18**
 - d) **Chart 4-D FDA Food Code Mobile Food Establishment Matrix**
 - e) **Summary Summary of Changes in the FDA Food Code**

Chapter

1 Purpose and Definitions

Parts

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

1-1 TITLE, INTENT, SCOPE

Subparts

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

Title

1-101.10 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

DEFINITIONS

Subpart

1-201

Applicability and Terms Defined

Applicability and Terms Defined

1-201.10

Statement of Application and Listing of Terms.

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

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

Accredited Program.

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

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

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

Additive.

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

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

"**Adulterated**" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 402.

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

Asymptomatic.

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

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

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

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

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

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

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

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

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

CIP.

(1) "**CIP**" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and SANITIZING solution onto or over EQUIPMENT surfaces that require cleaning, such as the method used, in part, to clean and SANITIZE a frozen dessert machine.

(2) "**CIP**" *does not include the cleaning of EQUIPMENT such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.*

"Commingle" means:

- (1) To combine SHELLSTOCK harvested on different days or from different growing areas as identified on the tag or label, or
- (2) To combine SHUCKED SHELLFISH from containers with different container codes or different shucking dates.

Comminuted.

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

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

"Confirmed disease outbreak" means a FOODBORNE DISEASE OUTBREAK in which laboratory analysis of appropriate specimens identifies a causative agent 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.

Core Item.

- (1) **"Core item"** means a provision in this Code that is not designated as a PRIORITY ITEM or a PRIORITY FOUNDATION ITEM.
- (2) **"Core item"** includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

"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 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.

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

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

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

Drinking Water.

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

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

(3) **"Drinking water"** includes the term "water" *except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.*

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

Egg Product.

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

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

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

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

Equipment.

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

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

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

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

Fish.

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

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

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

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

"Food-contact surface" means:

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

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

(a) Into a FOOD, or

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

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

Food Establishment.

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

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

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

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

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location *unless the vending or feeding location is permitted by the REGULATORY AUTHORITY*; 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 TIME/TEMPERATURE CONTROL FOR SAFETY FOODS;*

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

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

(d) *A kitchen in a private home if only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by LAW and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOOD is prepared in a kitchen that is not subject to regulation and inspection by the REGULATORY AUTHORITY;*

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

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

(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.

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 MEAT to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," 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).*

Mechanically Tenderized.

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

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

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

"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.*

Non-Continuous Cooking.

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

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

Packaged.

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

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

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

"Permit holder" means the entity that:

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

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

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

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

Personal Care Items.

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

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

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

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

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

"Plumbing fixture" means a receptacle or device that:

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

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

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

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

- (1) Cleaners and SANITIZERS, which include cleaning and SANITIZING agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (2) Pesticides, *except* SANITIZERS, which include substances such as insecticides and rodenticides;
- (3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and PERSONAL CARE ITEMS that may be deleterious to health; and
- (4) Substances that are not necessary for the operation and maintenance of the establishment and are on the PREMISES for retail sale, such as petroleum products and paints.

"Poultry" means:

- (1) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, RATITES, or squabs), whether live or dead, as defined in 9 CFR 381.1 Poultry Products Inspection Regulations Definitions, Poultry; and
- (2) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1 Voluntary Poultry Inspection Regulations, Definitions.

"Premises" means:

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

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

Priority Item.

- (1) **"Priority item"** means a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.
- (2) **"Priority item"** includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and
- (3) **"Priority item"** is an item that is denoted in this Code with a superscript P^{-P}.

Priority Foundation Item.

- (1) **"Priority foundation item"** means a provision in this Code whose application supports, facilitates or enables one or more PRIORITY ITEMS.
- (2) **"Priority foundation item"** includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and
- (3) **"Priority foundation item"** is an item that is denoted in this Code with a superscript Pf - Pf^{Pf}.

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

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

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

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

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

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

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

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

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

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

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

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

Reduced Oxygen Packaging.

(1) "Reduced oxygen packaging" means:

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

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

(2) "Reduced oxygen packaging" includes:

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

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

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

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

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

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

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

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

"Single-service articles" means TABLEWARE, carry-out UTENSILS, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one PERSON use after which they are intended for discard.

Single-Use Articles.

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

(2) **"Single-use articles"** includes items such as wax paper, butcher paper, plastic wrap, formed aluminum FOOD containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under §§ 4-101.11, 4-201.11, and 4-202.11 for multiuse UTENSILS.

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

"Smooth" means:

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

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

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

"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.

Time/Temperature Control for Safety Food (formerly “potentially hazardous food” (PHF)).

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

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

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

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

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

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

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD

** PA means Product Assessment required

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

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

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD

** PA means Product Assessment required

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

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

(b) *A FOOD in an unopened HERMETICALLY SEALED 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-TCS FOOD in Table A or B of this definition;*

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

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

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

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

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

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

"Utensil" means a FOOD-CONTACT implement or container used in the storage, preparation, transportation, dispensing, sale, or service of FOOD, such as KITCHENWARE or TABLEWARE that is multiuse, SINGLE-SERVICE, or SINGLE-USE; gloves used in contact with FOOD; temperature sensing probes of FOOD TEMPERATURE MEASURING DEVICES; and probe-type price or identification tags used in contact with FOOD.

"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
- 2-5 RESPONDING TO CONTAMINATION EVENTS

2-1 SUPERVISION

Subparts

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

Responsibility

2-101.11 Assignment.

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

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

Knowledge

2-102.11 Demonstration.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Cross contamination, Pf

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

(c) Handwashing, Pf and

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

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

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

(a) Sufficient in number and capacity, Pf and

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

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

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

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

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

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

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

(a) FOOD EMPLOYEE;^{Pf}

(b) CONDITIONAL EMPLOYEE;^{Pf}

(c) PERSON IN CHARGE;^{Pf}

(d) REGULATORY AUTHORITY;^{Pf} and

(17) Explaining how the PERSON IN CHARGE, FOOD EMPLOYEES, and CONDITIONAL EMPLOYEES comply with reporting responsibilities and EXCLUSION OR RESTRICTION OF FOOD EMPLOYEES.^{Pf}

2-102.12 Certified Food Protection Manager

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

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

2-102.20 Food Protection Manager Certification.

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

(B) A FOOD ESTABLISHMENT that has an EMPLOYEE that is certified by a FOOD protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of FOOD Protection Manager Certification Programs is deemed to comply with §2-102.12.

Duties

2-103.11 Person in Charge.

The PERSON IN CHARGE shall ensure that:

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

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

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

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

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

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

(G) EMPLOYEES are properly cooking TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, being particularly careful in cooking those FOODS known to cause severe foodborne illness and death, such as EGGS and COMMINUTED MEATS, through daily oversight of the EMPLOYEES' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under § 4-203.11 and ¶ 4-502.11(B);^{Pf}

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

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

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

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

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

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

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

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

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

2-2 EMPLOYEE HEALTH

Subpart

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

Responsibilities and Reporting Symptoms and Diagnosis

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

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

reportable symptoms

(1) Has any of the following symptoms:

(a) Vomiting,^P

(b) Diarrhea,^P

(c) Jaundice,^P

(d) Sore throat with fever,^P or

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

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

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

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

*reportable
diagnosis*

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

(a) Norovirus,^P

(b) Hepatitis A virus,^P

(c) *Shigella* spp.,^P

(d) SHIGATOXIN-PRODUCING *ESCHERICHIA COLI*,^P

(e) Typhoid fever (caused by *Salmonella* Typhi)^P or

(f) *Salmonella* (nontyphoidal);^P

*reportable
past illness*

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

*reportable
history of exposure*

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

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

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

(c) Typhoid fever within the past 14 days of the last exposure,^P or

(d) Hepatitis A virus within the past 30 days of the last exposure;^P or

*reportable
history of exposure*

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

DISEASE OUTBREAK, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

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

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

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

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

responsibility of person in charge to notify the regulatory authority

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

(1) Jaundiced,^{Pf} or

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

responsibility of the person in charge to prohibit a conditional employee from becoming a food employee

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

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

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

responsibility of the person in charge to exclude or restrict

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

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

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

responsibility of food employees and conditional employees to report

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

responsibility of food employees to comply

(F) A FOOD EMPLOYEE shall:

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

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

conditions of exclusion and restriction

2-201.12 Exclusions and Restrictions.

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

symptomatic with vomiting or diarrhea

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

(1) Symptomatic with vomiting or diarrhea;^P or

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

*jaundiced or
diagnosed with
hepatitis A infection*

(B) EXCLUDE a FOOD EMPLOYEE who is:

(1) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, *unless the FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;*^P

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

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

*diagnosed or reported
previous illness with
Typhoid fever*

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

*diagnosed with an
asymptomatic
infection from
Norovirus*

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

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

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

*diagnosed with
Shigella spp.
infection and
asymptomatic*

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

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

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

*diagnosed with **STEC**
and asymptomatic*

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

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

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

*diagnosed with
**nontyphoidal
Salmonella** and
asymptomatic*

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

*symptomatic with **sore
throat with fever***

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

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

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

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

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

***exposed** to foodborne
pathogen and works in
food establishment
serving HSP*

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

**Managing
Exclusions and
Restrictions**

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

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

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

removing exclusion for food employee who was symptomatic and not diagnosed

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

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

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

Norovirus diagnosis

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

adjusting exclusion for food employee who was symptomatic and is now asymptomatic

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

retaining exclusion for food employee who was asymptomatic and is now asymptomatic and works in food establishment serving HSP

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

Shigella spp.
diagnosis

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

adjusting exclusion for food employee who was symptomatic and is now asymptomatic

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

retaining exclusion for food employee who was asymptomatic and is now asymptomatic

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

STEC diagnosis

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

adjusting exclusion for food employee who was symptomatic and is now asymptomatic

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

retaining exclusion for food employee who was symptomatic and is now asymptomatic and works in food establishment serving HSP

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

***Nontyphoidal
Salmonella
diagnosis***

*Adjusting exclusion for
food employee who
was symptomatic and
is now asymptomatic*

*Retaining exclusion
for food employee that
remains symptomatic*

***hepatitis A virus or
jaundice diagnosis •
removing exclusions***

***Typhoid fever
diagnosis -
removing exclusions***

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

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

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

(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;^P

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

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

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

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

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

***Norovirus diagnosis
- removing exclusion
or restriction***

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

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

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

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

***Shigella spp.
diagnosis - removing
exclusion or
restriction***

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

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

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

(b) At least 24 hours apart;^P

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

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

***STEC diagnosis -
removing exclusion
or restriction***

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

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

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

(b) At least 24 hours apart;^P

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

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

***nontyphoidal
Salmonella
-removing exclusion
or restriction***

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

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

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

(b) At least 24 hours apart;^P

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Norovirus

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

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

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

Shigella spp. or STEC

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

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

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

Typhoid fever (S. Typhi)

(3) Typhoid fever (caused by *Salmonella* Typhi) and one of the following conditions is met:

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

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

hepatitis A

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

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

(b) The FOOD EMPLOYEE is immune to hepatitis A virus

infection because of vaccination against hepatitis A;^P

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

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

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

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

(i) Hepatitis A symptoms and preventing the transmission of infection;^P

(ii) Proper handwashing procedures,^P and

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

2-3 PERSONAL CLEANLINESS

Subparts

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

Hands and Arms

2-301.11 Clean Condition.

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

2-301.12 Cleaning Procedure.

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

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

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

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

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

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

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

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

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

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

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

2-301.13 Special Handwash Procedures.

Reserved.

2-301.14 When to Wash.

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

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

(B) After using the toilet room;^P

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

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

(E) After handling soiled EQUIPMENT or UTENSILS;^P

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

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

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

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

2-301.15 Where to Wash.

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

2-301.16 Hand Antiseptics.

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

(1) Comply with one of the following:

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

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

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

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

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

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

(d) A prior sanction listed under 21 CFR 181 – Prior Sanctioned FOOD Ingredients,^{Pf} or

(e) a FOOD Contact Notification that is effective,^{Pf} and

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

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

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

(2) Limited to situations that involve no direct contact with FOOD by the bare hands.^{Pf}

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

Fingernails

2-302.11 Maintenance.

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

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

Jewelry

2-303.11 Prohibition.

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

Outer Clothing

2-304.11 Clean Condition.

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

2-4 HYGIENIC PRACTICES

Subparts

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

Food Contamination Prevention

2-401.11 Eating, Drinking, or Using Tobacco.

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

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

(1) The EMPLOYEE's hands;

(2) The container; and

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

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

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

Hair Restraints

2-402.11 Effectiveness.

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

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

Animals

2-403.11 Handling Prohibition.

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

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

2-5

RESPONDING TO CONTAMINATION EVENTS

Subpart

2-501

Procedures for Responding

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

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

Chapter

3

Food

Parts

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

3-1 CHARACTERISTICS

Subparts

3-101 Condition

Condition

3-101.11 Safe, Unadulterated, and Honestly Presented.

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

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

Subparts

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

Sources

3-201.11 Compliance with Food Law.

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

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

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

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

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

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

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

(3) If individually cut in a FOOD ESTABLISHMENT:

(a) Cut from WHOLE-MUSCLE INTACT BEEF that is labeled by a FOOD PROCESSING PLANT as specified in Subparagraph (E)(1) of this section or identified as specified in Subparagraph (E)(2) of this section,^{Pf}

(b) Prepared so they remain intact,^{Pf} and

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

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

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

3-201.12 Food in a Hermetically Sealed Container.

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

3-201.13 Fluid Milk and Milk Products.

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

3-201.14 Fish.

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

(1) Commercially and legally caught or harvested;^P or

(2) APPROVED for sale or service.^P

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

3-201.15 Molluscan Shellfish.

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

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

3-201.16 Wild Mushrooms.

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

(B) This section does not apply to:

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

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

3-201.17 Game Animals.

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

(1) Commercially raised for FOOD^P and:

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

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

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

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

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

(2) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and APPROVED" in accordance with 9 CFR 352 Exotic animals; voluntary inspection or rabbits that are "inspected and certified" in accordance with 9 CFR 354 voluntary inspection of rabbits and edible products thereof;^P

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

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

(b) Slaughtered and processed according to:

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

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

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

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

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

(c) Are processed according to LAWS governing MEAT and POULTRY as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. ^P

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

Specifications for Receiving

3-202.11 Temperature.

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

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

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

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

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

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

3-202.12 Additives.

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

3-202.13 Eggs.

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

3-202.14 Eggs and Milk Products, Pasteurized.

(A) EGG PRODUCTS shall be obtained pasteurized. ^P

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

(1) Be obtained pasteurized; ^P and

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

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

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

3-202.15 Package Integrity.

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

3-202.16 Ice.

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

3-202.17 Shucked Shellfish, Packaging and Identification.

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

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

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

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

3-202.18

Shellstock Identification.

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

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

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

(b) The date of harvesting,^{Pf}

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

(d) The type and quantity of shellfish,^{Pf} and

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

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

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

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

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

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

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

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

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

3-202.19 Shellstock, Condition.

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

3-202.110 Juice Treated.

Commercially Processed

Pre-PACKAGED JUICE shall:

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

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

3-203.11 Molluscan Shellfish, Original Container.

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

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

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

(2) The SHELLSTOCK are protected from contamination.

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

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

(2) The shellfish are protected from contamination.

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

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

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

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

(4) The shellfish are protected from contamination.

3-203.12 Shellstock, Maintaining Identification.

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

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

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

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

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

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

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

3-3**PROTECTION FROM CONTAMINATION AFTER RECEIVING*****Subparts***

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

Preventing Contamination by Employees**3-301.11 Preventing Contamination from Hands.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) *Double handwashing,*

(b) *Nail brushes,*

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

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

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

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

3-301.12 Preventing Contamination When Tasting.

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

Preventing Food and Ingredient Contamination

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

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

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

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

(b) Cooked READY-TO-EAT FOOD; ^P

(c) Frozen, commercially processed and packaged raw animal FOOD may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

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

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

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

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

(3) Cleaning EQUIPMENT and UTENSILS as specified under

¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11;

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

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

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

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

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

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

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

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

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

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

(5) SHELLSTOCK.

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

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

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

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

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

(B) Included in ¶ 3-401.11(D). ^P

3-302.14 Protection from Unapproved Additives.

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

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

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

(B) A FOOD EMPLOYEE may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a FOOD considered to be a good source of vitamin B₁; ^P or

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

3-302.15 Washing Fruits and Vegetables.

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

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

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

Preventing Contamination from Ice Used as a Coolant

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

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

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

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

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

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

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

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

3-304.11 Food Contact with Equipment and Utensils.

FOOD shall only contact surfaces of:

- (A) EQUIPMENT and UTENSILS that are cleaned as specified under Part 4-6 of this Code and SANITIZED as specified under Part 4-7 of this Code;^P
- (B) SINGLE-SERVICE and SINGLE-USE ARTICLES;^P or
- (C) LINENS, such as cloth napkins, as specified under § 3-304.13 that are laundered as specified under Part 4-8 of this Code.^P

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

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

- (A) Except as specified under ¶ (B) of this section, in the FOOD with their handles above the top of the FOOD and the container;
- (B) In FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD with their handles above the top of the FOOD within containers or EQUIPMENT that can be closed, such as bins of sugar, flour, or cinnamon;
- (C) On a clean portion of the FOOD preparation table or cooking EQUIPMENT only if the in-use UTENSIL and the FOOD CONTACT surface of the FOOD preparation table or cooking EQUIPMENT are cleaned and SANITIZED at a frequency specified under §§ 4-602.11 and 4-702.11;
- (D) In running water of sufficient velocity to flush particulates to the drain, if used with moist FOOD such as ice cream or mashed potatoes;
- (E) In a clean, protected location if the UTENSILS, such as ice scoops, are used only with a FOOD that is not

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

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

3-304.13 Linens and Napkins, Use Limitation.

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

3-304.14 Wiping Cloths, Use Limitation.

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

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

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

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

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

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

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

UTENSILS, LINENS, SINGLE-SERVICE, or SINGLE-USE ARTICLES.

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

3-304.15 Gloves, Use Limitation.

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

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

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

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

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

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

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

(C) *Drinking cups and containers may be reused by self-service*

CONSUMERS if refilling is a contamination-free process as specified under §§ 4-204.13(A), (B), and (D).

3-304.17 Refilling Returnables.

(A) Except as specified in §§ (B) - (E) of this section, empty containers returned to a FOOD ESTABLISHMENT for cleaning and refilling with FOOD shall be cleaned and refilled in a regulated FOOD PROCESSING PLANT.^P

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

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

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

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

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

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

(b) Sanitized as specified under Part 4-7 of this Code;^P

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

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

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

(2) The design of the container and of the rinsing EQUIPMENT and the nature of the BEVERAGE, when considered together,

allow effective cleaning at home or in the FOOD ESTABLISHMENT;

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

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

(5) The container is refilled by:

(a) An EMPLOYEE of the FOOD ESTABLISHMENT, or

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

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

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

Preventing Contamination from the Premises

3-305.11 Food Storage.

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

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

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

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

3-305.12 Food Storage, Prohibited Areas.

FOOD may not be stored:

- (A) In locker rooms;
- (B) In toilet rooms;
- (C) In dressing rooms;
- (D) In garbage rooms;
- (E) In mechanical rooms;
- (F) Under sewer lines that are not shielded to intercept potential drips;
- (G) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- (H) Under open stairwells; or
- (I) Under other sources of contamination.

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

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD dispensed through a VENDING MACHINE shall be in the PACKAGE in which it was placed at the FOOD ESTABLISHMENT or FOOD PROCESSING PLANT at which it was prepared.

3-305.14 Food Preparation.

During preparation, unPACKAGED FOOD shall be protected from environmental sources of contamination.

**Preventing
Contamination
by Consumers**

3-306.11 Food Display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption, FOOD on display shall be protected from contamination by the use of PACKAGING; counter, service line, or salad bar FOOD guards; display cases; or other effective means.^P

3-306.12 Condiments, Protection.

(A) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected FOOD displays provided with the proper UTENSILS, original containers designed for dispensing, or individual PACKAGES or portions.

(B) Condiments at a VENDING MACHINE LOCATION shall be in individual PACKAGES or provided in dispensers that are filled at an APPROVED location, such as the FOOD ESTABLISHMENT that provides FOOD to the VENDING MACHINE LOCATION, a FOOD PROCESSING PLANT that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the VENDING MACHINE LOCATION.

3-306.13 Consumer Self-Service Operations.

(A) Raw, unpackaged animal FOOD, such as beef, lamb, pork, POULTRY, and FISH may not be offered for CONSUMER self-service.^P *This paragraph does not apply to:*

(1) CONSUMER self-service of READY-TO-EAT FOODS at buffets or salad bars that serve FOODS such as sushi or raw shellfish;

(2) Ready-to-cook individual portions for immediate cooking and consumption on the PREMISES such as CONSUMER-cooked MEATS or CONSUMER-selected ingredients for Mongolian barbecue; or

(3) Raw, frozen, shell-on shrimp, or lobster.

(B) CONSUMER self-service operations for READY-TO-EAT FOODS shall be provided with suitable UTENSILS or effective dispensing

methods that protect the FOOD from contamination.^{Pf}

(C) CONSUMER self-service operations such as buffets and salad bars shall be monitored by FOOD EMPLOYEES trained in safe operating procedures.^{Pf}

3-306.14 Returned Food and Re-Service of Food.

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

(B) Except as specified under ¶ 3-801.11(G), *a container of FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be RE-SERVED from one CONSUMER to another if:*

(1) The FOOD is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

(2) The FOOD, such as crackers, salt, or pepper, is in an unopened original PACKAGE and is maintained in sound condition.

Preventing Contamination from Other Sources

3-307.11 Miscellaneous Sources of Contamination.

FOOD shall be protected from contamination that may result from a factor or source not specified under Subparts 3-301 - 3-306.

3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

Subparts

3-401	Cooking
3-402	Freezing
3-403	Reheating
3-404	Other Methods

Cooking

3-401.11 Raw Animal Foods.

(A) Except as specified under ¶ (B) and in ¶¶ (C) and (D) of this section, raw animal FOODS such as EGGS, FISH, MEAT, POULTRY, and FOODS containing these raw animal FOODS, shall be cooked to heat all parts of the FOOD to a temperature and for a time that complies with one of the following methods based on the FOOD that is being cooked:

(1) 63°C (145°F) or above for 15 seconds for:^P

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

(b) Except as specified under Subparagraphs (A)(2) and (A)(3) and ¶ (B), and in ¶ (C) of this section, FISH and MEAT including GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3-201.17(A)(1) and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2);^P

(2) 68°C (155°F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for RATITES, MECHANICALLY TENDERIZED, and INJECTED MEATS; the following if they are COMMINUTED: FISH, MEAT, GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3-201.17(A)(1), and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2); and raw EGGS that are not prepared as specified under Subparagraph (A)(1)(a) of this section:^P

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

; or

(3) 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.^P

(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:^{Pf}

Oven Temperature Based on Roast Weight

Oven Type	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity ¹	121°C (250°F) or less	121°C (250°F) or less

¹Relative 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:^P

Temperature °C (°F)	Time ¹ in Minutes
54.4 (130)	112
55.0 (131)	89
56.1 (133)	56
57.2 (135)	36
57.8 (136)	28
58.9 (138)	18
60.0 (140)	12
61.1 (142)	8
62.2 (144)	5
62.8 (145)	4

Temperature °C (°F)	Time ¹ in Seconds
63.9 (147)	134
65.0 (149)	85
66.1 (151)	54
67.2 (153)	34
68.3 (155)	22
69.4 (157)	14
70.0 (158)	0

¹Holding time may include post oven 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;

(2) The FOOD, if served or offered for service by CONSUMER selection from a children's menu, does not contain COMMINUTED MEAT;^{Pf} and

(3) The CONSUMER is informed as specified under § 3-603.11 that to ensure its safety, the FOOD should be cooked as specified under ¶ (A) or (B) of this section; or

(4) The REGULATORY AUTHORITY grants a VARIANCE from ¶ (A) or (B) of this section as specified in § 8-103.10 based on a HACCP PLAN that:

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

(b) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe FOOD, and

(c) Verifies that EQUIPMENT and procedures for FOOD preparation and training of FOOD EMPLOYEES at the FOOD ESTABLISHMENT meet the conditions of the VARIANCE.

3-401.12 Microwave Cooking.

Raw animal FOODS cooked in a microwave oven shall be:

- (A) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- (B) Covered to retain surface moisture;
- (C) Heated to a temperature of at least 74°C (165°F) in all parts of the FOOD;^P and
- (D) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

3-401.13 Plant Food Cooking for Hot Holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F).^{Pf}

3-401.14 Non-Continuous Cooking of Raw Animal Foods.

Raw animal FOODS that are cooked using a NON-CONTINUOUS COOKING process shall be:

- (A) Subject to an initial heating process that is no longer than sixty minutes in duration;^P
- (B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under ¶ 3• 501.14(A);^P
- (C) After cooling, held frozen or cold, as specified for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under ¶ 3• 501.16(A)(2);^P
- (D) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11 (A)-(C);^P

(E) Cooled according to the time and temperature parameters specified for cooked TIME /TEMPERATURE CONTROL FOR SAFETY FOOD under ¶ 3-501.14(A) if not either hot held as specified under ¶3-501.16(A), served immediately, or held using time as a public health control as specified under §3-501.19 after complete cooking; ^P and

(F) Prepared and stored according to written procedures that:

(1) Have obtained prior APPROVAL from the REGULATORY AUTHORITY; ^{Pf}

(2) Are maintained in the FOOD ESTABLISHMENT and are available to the REGULATORY AUTHORITY upon request; ^{Pf}

(3) Describe how the requirements specified under ¶ (A)• (E) of this Section are to be monitored and documented by the PERMIT HOLDER and the corrective actions to be taken if the requirements are not met; ^{Pf}

(4) Describe how the FOODS, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as FOODS that must be cooked as specified under ¶ (D) of this section prior to being offered for sale or service; ^{Pf} and

(5) Describe how the FOODS, after initial heating but prior to cooking as specified under ¶(D) of this section, are to be separated from READY-TO-EAT FOODS as specified under ¶3-302.11 (A). ^{Pf}

Freezing

3-402.11 Parasite Destruction.

(A) Except as specified in ¶ (B) of this section, before service or sale in READY-TO-EAT form, raw, raw-marinated, partially cooked, or marinated-partially cooked FISH shall be:

(1) Frozen and stored at a temperature of -20°C (-4°F) or below for a minimum of 168 hours (7 days) in a freezer; ^P

(2) Frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for a minimum of 15 hours; ^P or

(3) Frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of 24 hours. ^P

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

- (1) *MOLLUSCANSHELLFISH;*
- (2) *A scallop product consisting only of the shucked adductor muscle;*
- (3) *Tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern); or*
- (4) *Aqua cultured 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 aqua cultured FISH.*
- (5) *FISH eggs that have been removed from the skein and rinsed.*

3-402.12 Records, Creation and Retention.

(A) Except as specified in ¶ 3-402.11(B) and ¶ (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked FISH are served or sold in READY-TO-EAT form, the PERSON IN CHARGE shall record the freezing temperature and time to which the FISH are subjected and shall retain the records of the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH.^{Pf}

(B) If the FISH are frozen by a supplier, a written agreement or statement from the supplier stipulating that the FISH supplied are frozen to a temperature and for a time specified under § 3-402.11 may substitute for the records specified under ¶ (A) of this section.

(C) If raw, raw-marinated, partially cooked, or marinated-partially cooked FISH are served or sold in READY-TO-EAT form, and the FISH are raised and fed as specified in Subparagraph

3-402.11(B)(3), a written agreement or statement from the supplier or aqua culturist 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. ^{Pf}

3-403.10 Preparation for Immediate Service.

Cooked and refrigerated FOOD that is prepared for immediate service in response to an individual CONSUMER order, such as a roast beef sandwich au jus, may be served at any temperature.

Reheating

3-403.11 Reheating for Hot Holding.

(A) Except as specified under ¶¶ (B) and (C) and in ¶ (E) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 74°C (165°F) for 15 seconds. ^P

(B) Except as specified under ¶ (C) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD reheated in a microwave oven for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 74°C (165°F) and the FOOD is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating. ^P

(C) READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that has been commercially processed and PACKAGED in a FOOD PROCESSING PLANT that is inspected by the REGULATORY AUTHORITY that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) when being reheated for hot holding. ^P

(D) Reheating for hot holding as specified under ¶¶ (A) - (C) of this section shall be done rapidly and the time the FOOD is between 5°C (41°F) and the temperatures specified under ¶¶ (A) - (C) of this section may not exceed 2 hours. ^P

(E) Remaining unsliced portions of MEAT roasts that are cooked as specified under ¶ 3-401.11(B) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under ¶3-401.11(B).

Other Methods

3-404.11 Treating Juice.

JUICE PACKAGED in a FOOD ESTABLISHMENT shall be:

(A) Treated under a HACCP PLAN as specified in § 8-201.14 to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; ^P or

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

(1) As specified under § 3-602.11, ^{Pf} and

(2) As specified in 21 CFR 101.17(g) Food labeling, warning, notice, and safe handling statements, JUICES that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." ^{Pf}

3-5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

Subparts

3-501

Temperature and Time Control

3-502

Specialized Processing Methods

**Temperature
and Time
Control**

3-501.11 Frozen Food.

Stored frozen FOODS shall be maintained frozen.

**3-501.12 Time/Temperature Control for Safety Food,
Slacking.**

Frozen TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is slacked to moderate the temperature shall be held:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; or

(B) At any temperature if the FOOD remains frozen.

3-501.13 Thawing.

Except as specified in ¶ (D) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be thawed:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; or

(B) Completely submerged under running water:

(1) At a water temperature of 21°C (70°F) or below,

(2) With sufficient water velocity to agitate and float off loose particles in an overflow, and

(3) For a period of time that does not allow thawed portions of READY-TO-EAT FOOD to rise above 5°C (41°F), or

(4) For a period of time that does not allow thawed portions of a raw animal FOOD requiring cooking as specified under ¶ 3-401.11(A) or (B) to be above 5°C (41°F), for more than 4 hours including:

(a) The time the FOOD is exposed to the running water and the time needed for preparation for cooking, or

(b) The time it takes under refrigeration to lower the FOOD temperature to 5°C (41°F);

(C) As part of a cooking process if the FOOD that is frozen is:

(1) Cooked as specified under ¶¶ 3-401.11(A) or (B) or § 3-401.12, or

(2) Thawed in a microwave oven and immediately transferred to conventional cooking EQUIPMENT, with no interruption in the process; or

(D) *Using any procedure if a portion of frozen READY-TO-EAT*

FOOD is thawed and prepared for immediate service in response to an individual CONSUMER'S order.

(E) REDUCED OXYGEN PACKAGED FISH that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

(1) Prior to its thawing under refrigeration as specified in ¶(A) of this section; or

(2) Prior to, or immediately upon completion of, its thawing using procedures specified in ¶ (B) of this section.

3-501.14 Cooling.

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

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

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

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

(C) Except as specified under ¶ (D) of this section, a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD received in compliance with LAWS allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in ¶ 3-202.11(B), shall be cooled within 4 hours to 5°C (41°F) or less. ^P

(D) Raw EGGS shall be received as specified under ¶ 3-202.11(C) and immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 7°C (45°F) or less. ^P

3-501.15 Cooling Methods.

(A) Cooling shall be accomplished in accordance with the time and temperature criteria specified under § 3-501.14 by using one or more of the following methods based on the type of FOOD being cooled:

- (1) Placing the FOOD in shallow pans; ^{Pf}
- (2) Separating the FOOD into smaller or thinner portions; ^{Pf}
- (3) Using rapid cooling EQUIPMENT; ^{Pf}
- (4) Stirring the FOOD in a container placed in an ice water bath; ^{Pf}
- (5) Using containers that facilitate heat transfer; ^{Pf}
- (6) Adding ice as an ingredient; ^{Pf} or
- (7) Other effective methods. ^{Pf}

(B) When placed in cooling or cold holding EQUIPMENT, FOOD containers in which FOOD is being cooled shall be:

- (1) Arranged in the EQUIPMENT to provide maximum heat transfer through the container walls; and
- (2) Loosely covered, or uncovered if protected from overhead contamination as specified under Subparagraph 3-305.11(A)(2), during the cooling period to facilitate heat transfer from the surface of the FOOD.

3-501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding.

(A) *Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under §3-501.19, and except as specified under ¶ (B) and in ¶ (C) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be maintained:*

- (1) *At 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified in ¶ 3-401.11(B) or reheated as specified in ¶ 3-403.11(E) may be held at a temperature of 54°C (130°F) or above; ^P or*
- (2) *At 5°C (41°F) or less. ^P*

(B) EGGS that have not been treated to destroy all viable ***Salmonellae*** shall be stored in refrigerated EQUIPMENT that maintains an ambient air temperature of 7°C (45°F) or less. ^P

(C) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form *may be maintained outside of the temperature control requirements, as specified under ¶ (A) of this section, while contained within specially designed EQUIPMENT that complies with the design and construction requirements as specified under ¶ 4-204.13(E).*

**on-premises
preparation**

- prepare and hold cold

3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking.

(A) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under § 3-502.12, and except as specified in ¶¶ (E) and (F) of this section, refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and held in a FOOD ESTABLISHMENT for more than 24 hours shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of 7 days. The day of preparation shall be counted as Day 1. ^{Pf}

**commercially
processed food**

- open and hold cold

(B) Except as specified in ¶¶ (E) - (G) of this section, refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and PACKAGED by a FOOD PROCESSING PLANT shall be clearly marked, at the time the original container is opened in a FOOD ESTABLISHMENT and if the FOOD is held for more than 24 hours, to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded, based on the temperature and time combinations specified in ¶ (A) of this section and: ^{Pf}

(1) The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; ^{Pf} and

(2) The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on FOOD safety. ^{Pf}

(C) A refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD ingredient or a portion of a refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is subsequently combined with additional ingredients or portions of FOOD shall retain the date marking of the earliest-prepared or first-prepared ingredient. ^{Pf}

(D) A date marking system that meets the criteria stated in ¶¶(A) and (B) of this section may include:

(1) Using a method APPROVED by the REGULATORY AUTHORITY for refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(2) Marking the date or day of preparation, with a procedure to discard the FOOD on or before the last date or day by which the FOOD must be consumed on the premises, sold, or discarded as specified under ¶ (A) of this section;

(3) Marking the date or day the original container is opened in a FOOD ESTABLISHMENT, with a procedure to discard the FOOD on or before the last date or day by which the FOOD must be consumed on the premises, sold, or discarded as specified under ¶ (B) of this section; or

(4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the REGULATORY AUTHORITY upon request.

(E) Paragraphs (A) and (B) of this section do not apply to individual meal portions served or rePACKAGED for sale from a bulk container upon a consumer's request.

(F) Paragraphs (A) and (B) of this section do not apply to SHELLSTOCK.

(G) Paragraph (B) of this section does not apply to the following FOODS prepared and PACKAGED by a FOOD PROCESSING PLANT inspected by a REGULATORY AUTHORITY:

(1) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110 Current good manufacturing practice in manufacturing, packing, or holding human food;

(2) Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;

(3) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and montereyjack;

(4) Cultured dairy products as defined in 21 CFR 131 Milk and cream, such as yogurt, sour cream, and buttermilk;

(5) Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 CFR 114 Acidified foods;

(6) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and

(7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

3-501.18 Ready-to-Eat, Time/Temperature Control for Safety Food, Disposition.

(A) A FOOD specified in ¶ 3-501.17(A) or (B) shall be discarded if it:

(1) Exceeds the temperature and time combination specified in ¶ 3-501.17(A), except time that the product is frozen;^P

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

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

(B) Refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared in a FOOD ESTABLISHMENT and dispensed through a VENDING MACHINE with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in ¶ 3-501.17(A).^P

3-501.19 Time as a Public Health Control.

(A) Except as specified under ¶ (D) of this section, if time without

temperature control is used as the public health control for a working supply of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD before cooking, or for READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is displayed or held for sale or service:

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

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

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

***Time –
maximum up to 4
hours***

(B) If time without temperature control is used as the public health control up to a maximum of 4 hours:

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

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

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

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

***Time –
maximum up to
6 hours***

(C) If time without temperature control is used as the public health control up to a maximum of 6 hours:

(1) The FOOD shall have an initial temperature of 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;^P

(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;*^{Pf}

(3) The FOOD shall be marked or otherwise identified to indicate:^{Pf}

(a) The time when the FOOD is removed from 5°C (41°F) or less cold holding temperature control;^{Pf} and

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

(4) The FOOD shall be:

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

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

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

(D) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not use time as specified under ¶¶ (A), (B) or (C) of this section as the public health control for raw EGGS.

Specialized Processing Methods

3-502.11 Variance Requirement.

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the REGULATORY AUTHORITY as specified in § 8-103.10 and under § 8-103.11 before:^{Pf}

(A) Smoking FOOD as a method of FOOD preservation rather than as a method of flavor enhancement;^{Pf}

(B) Curing FOOD;^{Pf}

(C) Using FOOD ADDITIVES or adding components such as

vinegar: ^{Pf}

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

(2) To render a FOOD so that it is not TIME/TEMPERATURE CONTROL OF SAFETY FOOD; ^{Pf}

(D) Packaging TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method *except where the growth of and toxin formation by **Clostridium botulinum** and the growth of **Listeria monocytogenes** are controlled as specified under § 3-502.12;* ^{Pf}

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

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

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

(H) Sprouting seeds or beans. ^{Pf}

***Clostridium
botulinum and
Listeria
monocytogenes
Controls***

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3-502.11, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of ***Clostridium botulinum*** and the growth of ***Listeria monocytogenes***. ^P

(B) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall implement a HACCP PLAN that contains the information specified under ¶¶ 8-201.14 (C) and (D) and that: ^{Pf}

(1) Identifies the FOOD to be PACKAGED; ^{Pf}

(2) Except as specified under ¶¶ (C) - (E) of this section, requires that the PACKAGED FOOD shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria:^{Pf}

(a) Has an A_w of 0.91 or less,^{Pf}

(b) Has a PH of 4.6 or less,^{Pf}

(c) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact PACKAGE,^{Pf} or

(d) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables;^{Pf}

(3) Describes how the PACKAGE shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:^{Pf}

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

(b) Discard the FOOD if within 30 calendar days of its PACKAGING if it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption;^{Pf}

(4) Limits the refrigerated shelf life to no more than 30 calendar days from PACKAGING to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;^P

(5) Includes operational procedures that:

(a) Prohibit contacting READY-TO-EAT FOOD with bare hands as specified under ¶ 3-301.11(B),^{Pf}

(b) Identify a designated work area and the method by which:^{Pf}

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

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

(c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES; ^{Pf} and

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

(a) Concepts required for a safe operation, ^{Pf}

(b) EQUIPMENT and facilities, ^{Pf} and

(c) Procedures specified under Subparagraph (B)(5) of this section and ¶¶ 8-201.14 (C) and (D). ^{Pf}

(7) Is provided to the REGULATORY AUTHORITY prior to implementation as specified under ¶ 8-201.13(B).

Fish

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

*Cook-Chill or
Sous Vide*

(D) Except as specified under ¶ (C) and ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a cook-chill or sous vide process shall:

(1) Provide to the REGULATORY AUTHORITY prior to implementation, a HACCP PLAN that contains the information as specified under ¶¶ 8-201.14 (C) and (D); ^{Pf}

(2) Ensure the FOOD is:

(a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES but within the same business entity with no distribution or sale of the PACKAGED product to another business entity or the CONSUMER, ^{Pf}

(b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11 (A), (B), and (C), ^P

(c) Protected from contamination before and after cooking as specified under Parts 3-3 and 3-4, ^P

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

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

(i) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of PACKAGING;^P

(ii) Held at 5°C (41°F) or less for no more than 7 days, at which time the FOOD must be consumed or discarded;^P or

(iii) Held frozen with no shelf life restriction while frozen until consumed or used.^P

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily,^{Pf}

(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation,^{Pf} and

(h) Labeled with the product name and the date PACKAGED;^{Pf} and

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

(a) Make such records available to the REGULATORY AUTHORITY upon request,^{Pf} and

(b) Hold such records for at least 6 months;^{Pf} and

(4) Implement written operational procedures as specified under Subparagraph (B)(5) of this section and a training program as specified under Subparagraph (B)(6) of this section.^{Pf}

Cheese

(E) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED OXYGEN PACKAGING method shall:

- (1) Limit the cheeses PACKAGED to those that are commercially manufactured in a FOOD PROCESSING PLANT with no ingredients added in the FOOD ESTABLISHMENT and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses;^P
- (2) Have a HACCP PLAN that contains the information specified under §§ 8-201.14 (C) and (D) and as specified under §§ (B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section;^{Pf}
- (3) Labels the PACKAGE on the principal display panel with a “use by” date that does not exceed 30 days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first;^{Pf} and
- (4) Discards the REDUCED OYGEN PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within 30 calendar days of its PACKAGING.^{Pf}

(F) A HACCP Plan is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

- (1) Labeled with the production time and date,*
- (2) Held at 5°C (41°F) or less during refrigerated storage, and*
- (3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.*

3-6 FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING

Subparts

3-601	Accurate Representation
3-602	Labeling
3-603	Consumer Advisory

Accurate Representation

3-601.11 Standards of Identity.

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

3-601.12 Honestly Presented.

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

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

Labeling

3-602.11 Food Labels.

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

(B) Label information shall include:

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

(2) If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors and chemical preservatives, if contained in the FOOD;

(3) An accurate declaration of the net quantity of contents;

(4) The name and place of business of the manufacturer, packer, or distributor; and

(5) The name of the FOOD source for each MAJOR FOOD ALLERGEN contained in the FOOD unless the FOOD source is already part of the common or usual name of the respective ingredient.^{Pf}

(6) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(q)(3) - (5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

(7) For any salmonid FISH containing canthaxanthin or astaxanthin as a COLOR ADDITIVE, the labeling of the bulk FISH container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

(C) Bulk FOOD that is available for CONSUMER self-dispensing shall be prominently labeled with the following information in plain view of the CONSUMER:

(1) The manufacturer's or processor's label that was provided with the FOOD; or

(2) A card, sign, or other method of notification that includes the information specified under Subparagraphs (B)(1), (2), and (6) of this section.

(D) Bulk, unpackaged FOODS such as bakery products and unpackaged FOODS that are portioned to CONSUMER specification need not be labeled if:

(1) A health, nutrient content, or other claim is not made;

(2) There are no state or local LAWS requiring labeling; and

(3) The FOOD is manufactured or prepared on the PREMISES of the FOOD ESTABLISHMENT or at another FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT that is owned by the same PERSON and is regulated by the FOOD regulatory agency that has jurisdiction.

3-602.12 Other Forms of Information.

(A) If required by LAW, CONSUMER warnings shall be provided.

(B) FOOD ESTABLISHMENT or manufacturers' dating information on FOODS may not be concealed or altered.

Consumer Advisory

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

(A) Except as specified in ¶ 3-401.11(C) and Subparagraph 3-401.11(D)(4) and under ¶ 3-801.11(C), if an animal FOOD such as beef, EGGS, FISH, lamb, milk, pork, POULTRY, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT form or as an ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, as specified in ¶¶ (B) and (C) of this section using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.^{Pf}

(B) DISCLOSURE shall include:

(1) A description of the animal-derived FOODS, such as “oysters on the half shell (raw oysters),” “raw-EGG Caesar salad,” and “hamburgers (can be cooked to order);”^{Pf} or

(2) Identification of the animal-derived FOODS by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.^{Pf}

(C) REMINDER shall include asterisking the animal-derived FOODS requiring DISCLOSURE to a footnote that states:

(1) Regarding the safety of these items, written information is available upon request;^{Pf}

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

(3) Consuming raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness, especially if you have certain medical conditions.^{Pf}

3-7 CONTAMINATED FOOD

Subpart

3-701 Disposition

Disposition

3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

(A) A FOOD that is unsafe, ADULTERATED, or not honestly presented as specified under § 3-101.11 shall be discarded or reconditioned according to an APPROVED procedure.^P

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

(C) READY-TO-EAT FOOD that may have been contaminated by an EMPLOYEE who has been RESTRICTED or EXCLUDED as specified under § 2-201.12 shall be discarded.^P

(D) FOOD that is contaminated by FOOD EMPLOYEES, CONSUMERS, or other PERSONS through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.^P

3-8 SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS

Subpart

3-801 Additional Safeguards

Additional Safeguards

3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

(A) The following criteria apply to JUICE:

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

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

(3) UnPACKAGED JUICE that is prepared on the premises for service or sale in a READY-TO-EAT form shall be processed under a HACCP PLAN that contains the information specified under ¶¶ 8-201.14(C) - (E) and as specified in 21 CFR Part 120 – Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls. ^P

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

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

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

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

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

(2) A partially cooked animal FOOD such as lightly cooked FISH, rare MEAT, soft-cooked EGGS that are made from raw EGGS, and meringue;^P and

(3) Raw seed sprouts.^P

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

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

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

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

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

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

(a) Identifies the FOOD to be prepared,

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

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

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

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

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

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

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

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

Re-service of Food

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

Prohibited Re-service of Food

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

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

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

Chapter

4 Equipment, Utensils, and Linens

Parts

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

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

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

Multiuse

4-101.11 Characteristics.

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

- (A) Safe; ^P
- (B) Durable, CORROSION-RESISTANT, and nonabsorbent;
- (C) Sufficient in weight and thickness to withstand repeated WAREWASHING;

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

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

4-101.12 Cast Iron, Use Limitation.

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

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

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

4-101.13 Lead, Use Limitation.

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

UTENSIL Category	Ceramic Article Description	Maximum Lead MG/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls \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.^P

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

4-101.14 Copper, Use Limitation.

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

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

4-101.15 Galvanized Metal, Use Limitation.

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

4-101.16 Sponges, Use Limitation.

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

4-101.17 Wood, Use Limitation.

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

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

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

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

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

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

(1) Untreated wood containers; or

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

4-101.18 Nonstick Coatings, Use Limitation.

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

4-101.19 Nonfood-Contact Surfaces.

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

Single-Service and Single-Use

4-102.11 Characteristics.

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

(A) May not:

(1) Allow the migration of deleterious substances,^P or

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

(B) Shall be:

(1) Safe,^P and

(2) Clean.

4-2 DESIGN AND CONSTRUCTION

Subparts

4-201	Durability and Strength
4-202	Cleanability
4-203	Accuracy
4-204	Functionality
4-205	Acceptability

Durability and Strength

4-201.11 Equipment and Utensils.

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

4-201.12 Food Temperature Measuring Devices.

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

Cleanability

4-202.11 Food-Contact Surfaces.

(A) Multiuse FOOD-CONTACT SURFACES shall be:

(1) SMOOTH;^{Pf}

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

(3) Free of sharp internal angles, corners, and crevices;^{Pf}

(4) Finished to have SMOOTH welds and joints;^{Pf} and

(5) Except as specified in ¶ (B) of this section, accessible for cleaning and inspection by one of the following methods:

- (a) Without being disassembled,^{Pf}
- (b) By disassembling without the use of tools,^{Pf} or
- (c) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.^{Pf}

(B) Subparagraph (A)(5) of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or BEVERAGE syrup lines or tubes.

4-202.12 CIP Equipment.

(A) CIP EQUIPMENT shall meet the characteristics specified under § 4-202.11 and shall be designed and constructed so that:

- (1) Cleaning and SANITIZING solutions circulate throughout a fixed system and contact all interior FOOD-CONTACT SURFACES,^{Pf} and
- (2) The system is self-draining or capable of being completely drained of cleaning and SANITIZING solutions; and

(B) CIP EQUIPMENT that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior FOOD-CONTACT SURFACES throughout the fixed system are being effectively cleaned.

4-202.13 "V" Threads, Use Limitation.

Except for hot oil cooking or filtering EQUIPMENT, "V" type threads may not be used on FOOD-CONTACT SURFACES.

4-202.14 Hot Oil Filtering Equipment.

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

4-202.15 Can Openers.

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

4-202.16 Nonfood-Contact Surfaces.

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

4-202.17 Kick Plates, Removable.

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

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

4-202.18 Ventilation Hood Systems, Filters.

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

Accuracy

4-203.11 Temperature Measuring Devices, Food.

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

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

4-203.12 Temperature Measuring Devices, Ambient Air and Water.

(A) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use.^{Pf}

(B) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to $\pm 3^{\circ}\text{F}$ in the intended range of use.^{Pf}

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water SANITIZING rinse shall have increments of 7 kilopascals (1 pound per square inch) or smaller and shall be accurate to ± 14 kilopascals (± 2 pounds per square inch) in the range indicated on the manufacturer's data plate.

Functionality

4-204.11 Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in FOOD preparation and WAREW ASHING areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE• USE ARTICLES.

4-204.12 Equipment Openings, Closures and Deflectors.

(A) A cover or lid for EQUIPMENT shall overlap the opening and be sloped to drain.

(B) An opening located within the top of a unit of EQUIPMENT that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (two-tenths of an inch).

(C) Except as specified under ¶ (D) of this section, fixed piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending into EQUIPMENT shall be provided with a watertight joint at the point where the item enters the EQUIPMENT.

(D) If a watertight joint is not provided:

(1) The piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the FOOD; and

(2) The opening shall be flanged as specified under ¶ (B) of this section.

4-204.13 Dispensing Equipment, Protection of Equipment and Food.

In EQUIPMENT that dispenses or vends liquid FOOD or ice in UNPACKAGED form:

(A) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the FOOD shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the FOOD;

(B) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(C) The delivery tube or chute and orifice of EQUIPMENT used to vend liquid FOOD or ice in UNPACKAGED form to self-service CONSUMERS shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the EQUIPMENT is:

(1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain,

windblown debris, insects, rodents, and other contaminants that are present in the environment, or

(2) Available for self-service during hours when it is not under the full-time supervision of a FOOD EMPLOYEE; and

(D) The dispensing EQUIPMENT actuating lever or mechanism and filling device of CONSUMER self-service BEVERAGE dispensing EQUIPMENT shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(E) Dispensing EQUIPMENT in which TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form is maintained outside of the temperature control requirements as specified under §3-501.16(A) shall:

(1) be specifically designed and equipped to maintain the commercial sterility of aseptically PACKAGED FOOD in a homogenous liquid form for a specified duration from the time of opening the PACKAGING within the EQUIPMENT;^P and

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

4-204.14 Vending Machine, Vending Stage Closure.

The dispensing compartment of a VENDING MACHINE including a machine that is designed to vend prePACKAGED snack FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

(A) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(B) Available for self-service during hours when it is not under the full-time supervision of a FOOD EMPLOYEE.

4-204.15 Bearings and Gear Boxes, Leak-proof.

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

4-204.16 Beverage Tubing, Separation.

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

4-204.17 Ice Units, Separation of Drains.

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

4-204.18 Condenser Unit, Separation.

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

4-204.19 Can Openers on Vending Machines.

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

4-204.110 Molluscan Shellfish Tanks.

(A) Except as specified under ¶ (B) of this section, MOLLUSCAN SHELLFISH life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the CONSUMER that the shellfish are for display only.^P

(B) MOLLUSCAN SHELLFISH life-support system display tanks that are used to store or display shellfish that are offered for human

consumption shall be operated and maintained in accordance with a VARIANCE granted by the REGULATORY AUTHORITY as specified in § 8-103.10 and a HACCP PLAN that:^{Pf}

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

(2) Ensures that:

(a) Water used with FISH other than MOLLUSCAN SHELLFISH does not flow into the molluscan tank, ^{Pf}

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

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

4-204.111 Vending Machines, Automatic Shutoff.

(A) A machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall have an automatic control that prevents the machine from vending FOOD:

(1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain FOOD temperatures as specified under Chapter 3; ^P and

(2) If a condition specified under Subparagraph (A)(1) of this section occurs, until the machine is serviced and restocked with FOOD that has been maintained at temperatures specified under Chapter 3. ^P

(B) When the automatic shutoff within a machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is activated:

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

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

4-204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot FOOD storage unit, the sensor of a TEMPERATURE MEASURING DEVICE shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot FOOD storage unit.

(B) Except as specified in ¶ (C) of this section, cold or hot holding EQUIPMENT used for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be designed to include and shall be equipped with at least one integral or permanently affixed TEMPERATURE MEASURING DEVICE that is located to allow easy viewing of the device's temperature display.

(C) Paragraph (B) of this section does not apply to EQUIPMENT for which the placement of a TEMPERATURE MEASURING DEVICE is not a practical means for measuring the ambient air surrounding the FOOD because of the design, type, and use of the EQUIPMENT, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated FOOD transport containers, and salad bars.

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

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

4-204.113 Warewashing Machine, Data Plate Operating Specifications.

A WAREW ASHING 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.

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

- (A) In each wash and rinse tank; ^{Pf} and
- (B) As the water enters the hot water SANITIZING final rinse manifold or in the chemical SANITIZING solution tank. ^{Pf}

4-204.116 Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for SANITIZATION in manual WAREW ASHING operations, the SANITIZING compartment of the sink shall be:

(A) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); ^{Pf} and

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

4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A WAREWASHING machine that is installed after adoption of this Code by the REGULATORY AUTHORITY, shall be equipped to:

(A) Automatically dispense detergents and SANITIZERS; ^{Pf} and

(B) Incorporate a visual means to verify that detergents and SANITIZERS are delivered or a visual or audible alarm to signal if the detergents and SANITIZERS are not delivered to the respective washing and SANITIZING cycles. ^{Pf}

4-204.118 Warewashing Machines, Flow Pressure Device.

(A) WAREWASHING machines that provide a fresh hot water SANITIZING rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the WAREWASHING machine; and

(B) If the flow pressure measuring device is upstream of the fresh hot water SANITIZING rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

(C) Paragraphs (A) and (B) of this section do not apply to a machine that uses only a pumped or recirculated SANITIZING rinse.

4-204.119 Warewashing Sinks and Drainboards, Self-Draining.

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

4-204.120 Equipment Compartments, Drainage.

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

4-204.121 Vending Machines, Liquid Waste Products.

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

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

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

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

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

4-204.122 Case Lot Handling Apparatuses, Movability.

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
4-303	Cleaning Agents and Sanitizers

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.^{Pf}

4-301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in ¶ (C) of this section, a sink with at least 3 compartments shall be provided for manually washing, rinsing, and SANITIZING EQUIPMENT and UTENSILS.^{Pf}

(B) Sink compartments shall be large enough to accommodate immersion of the largest EQUIPMENT and UTENSILS. If EQUIPMENT or UTENSILS are too large for the WAREWASHING sink, a WAREWASHING machine or alternative EQUIPMENT as specified in ¶ (C) of this section shall be used.^{Pf}

(C) Alternative manual WAREWASHING EQUIPMENT may be used when there are special cleaning needs or constraints and its use is APPROVED. Alternative manual WAREWASHING EQUIPMENT may include:

- (1) High-pressure detergent sprayers;*
- (2) Low- or line-pressure spray detergent foamers;*
- (3) Other task-specific cleaning EQUIPMENT;*
- (4) Brushes or other implements;*
- (5) 2-compartment sinks as specified under ¶¶ (D) and (E) of this section; or*

(6) Receptacles that substitute for the compartments of a multi-compartment sink.

(D) Before a 2-compartment sink is used:

(1) The PERMIT HOLDER shall have its use APPROVED; and

(2) The PERMIT HOLDER shall limit the number of KITCHENWARE items cleaned and SANITIZED in the 2-compartment sink, and shall limit WAREWASHING to batch operations for cleaning KITCHENWARE such as between cutting one type of raw MEAT and another or cleanup at the end of a shift, and shall:

(a) Make up the cleaning and SANITIZING solutions immediately before use and drain them immediately after use, and

(b) Use a detergent-SANITIZER to SANITIZE and apply the detergent-SANITIZER in accordance with the manufacturer's label instructions and as specified under § 4-501.115, or

(c) Use a hot water SANITIZATION immersion step as specified under ¶ 4-603.16(C).

(E) A 2-compartment sink may not be used for WAREWASHING operations where cleaning and SANITIZING solutions are used for a continuous or intermittent flow of KITCHENWARE or TABLEWARE in an ongoing WAREWASHING process.

4-301.13 Drainboards.

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

4-301.14 Ventilation Hood Systems, Adequacy.

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

4-301.15 Clothes Washers and Dryers.

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

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

Utensils, Temperature Measuring Devices, and Testing Devices

4-302.11 Utensils, Consumer Self-Service.

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

4-302.12 Food Temperature Measuring Devices.

(A) FOOD TEMPERATURE MEASURING DEVICES shall be provided and readily accessible for use in ensuring attainment and maintenance of FOOD temperatures as specified under Chapter 3. ^{Pf}

(B) A TEMPERATURE MEASURING DEVICE with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH filets. ^{Pf}

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing.

(A) In manual WAREWASHING operations, a TEMPERATURE MEASURING DEVICE shall be provided and readily accessible for frequently measuring the washing and SANITIZING temperatures. ^{Pf}

(B) In hot water mechanical WAREWASHING operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the UTENSIL surface temperature.^{Pf}

4-302.14 Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in MG/L of SANITIZING solutions shall be provided.^{Pf}

Cleaning Agents and Sanitizers

4-303.11 Cleaning Agents and Sanitizers, Availability.

(A) Cleaning agents that are used to clean EQUIPMENT and UTENSILS as specified under Part 4-6, shall be provided and available for use during all hours of operation.

(B) Except for those that are generated on-site at the time of use, chemical SANITIZERS that are used to sanitize EQUIPMENT and UTENSILS as specified under Part 4-7, shall be provided and available for use during all hours of operation.

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

Location

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

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

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

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

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

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

Installation

4-402.11 Fixed Equipment, Spacing or Sealing.

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

- (1) Spaced to allow access for cleaning along the sides, behind, and above the EQUIPMENT;
- (2) Spaced from adjoining EQUIPMENT, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or
- (3) SEALED to adjoining EQUIPMENT or walls, if the EQUIPMENT is exposed to spillage or seepage.

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

- (1) SEALED; or
- (2) Elevated on legs as specified under ¶ 4-402.12(D).

4-402.12 Fixed Equipment, Elevation or Sealing.

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

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

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

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

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

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

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

4-5 MAINTENANCE AND OPERATION

Subparts

4-501	Equipment
4-502	Utensils and Temperature and Pressure Measuring Devices

Equipment

4-501.11 Good Repair and Proper Adjustment.

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

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

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

4-501.12 Cutting Surfaces.

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

4-501.13 Microwave Ovens.

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

4-501.14 Warewashing Equipment, Cleaning Frequency.

A WAREW ASHING machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing EQUIPMENT, UTENSILS, or raw FOODS, or laundering wiping cloths; and drainboards or other EQUIPMENT used to substitute for

drainboards as specified under § 4-301.13 shall be cleaned:

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

4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.

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

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

4-501.16 Warewashing Sinks, Use Limitation.

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

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

4-501.17 Warewashing Equipment, Cleaning Agents.

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

4-501.18 Warewashing Equipment, Clean Solutions.

The wash, rinse, and SANITIZE solutions shall be maintained clean.

4-501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual WAREWASHING EQUIPMENT shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.^{Pf}

4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

(A) The temperature of the wash solution in spray type warewashers that use hot water to SANITIZE may not be less than:

- (1) For a stationary rack, single temperature machine, 74°C (165°F);^{Pf}
- (2) For a stationary rack, dual temperature machine, 66°C (150°F);^{Pf}
- (3) For a single tank, conveyor, dual temperature machine, 71°C (160°F);^{Pf} or
- (4) For a multi-tank, conveyor, multi-temperature machine, 66°C (150°F).^{Pf}

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

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.

If immersion in hot water is used for SANITIZING in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above.^P

4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(A) Except as specified in ¶ (B) of this section, in a mechanical operation, the temperature of the fresh hot water SANITIZING rinse as it enters the manifold may not be more than 90°C (194°F), or less than:^{Pf}

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

(2) For all other machines, 82°C (180°F).^{Pf}

(B) The maximum temperature specified under ¶ (A) of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and SANITIZING of EQUIPMENT such as meat saws.

4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water SANITIZING rinse in a WAREWASHING machine, as measured in the water line immediately downstream or upstream from the fresh hot water SANITIZING rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch).

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

A chemical SANITIZER used in a SANITIZING solution for a manual or mechanical operation at contact times specified under ¶4-703.11(C) shall meet the criteria specified under §7-204.11 Sanitizers, Criteria, shall be used in accordance with the EPA-registered label use instructions,^P and shall be used as follows:

(A) A chlorine solution shall have a minimum temperature based on the concentration and PH of the solution as listed in the following chart;^P

Concentration Range (MG/L)	Minimum Temperature PH 10 or less °C (°F)	Minimum Temperature PH 8 or less °C (°F)
25 – 49	49 (120)	49 (120)
50 – 99	38 (100)	24 (75)
100	13 (55)	13 (55)

(B) An iodine solution shall have a:

- (1) Minimum temperature of 20°C (68°F),^P
- (2) PH of 5.0 or less or a PH no higher than the level for which the manufacturer specifies the solution is effective, ^P and
- (3) Concentration between 12.5 MG/L and 25 MG/L;^P

(C) A quaternary ammonium compound solution shall:

- (1) Have a minimum temperature of 24°C (75°F),^P
- (2) Have a concentration as specified under § 7-204.11 and as indicated by the manufacturer's use directions included in the labeling, ^P and
- (3) Be used only in water with 500 MG/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;^P

(D) If another solution of a chemical specified under ¶¶ (A) • (C) of this section is used, the PERMIT HOLDER shall demonstrate to the REGULATORY AUTHORITY that the solution achieves SANITIZATION and the use of the solution shall be APPROVED;^P

(E) If a chemical SANITIZER other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions; ^P and

(F) If a chemical SANITIZER is generated by a device located on-site at the FOOD ESTABLISHMENT it shall be used as specified in ¶¶(A) - (D) of this section and shall be produced by a device that:

(1) Complies with regulation as specified in §§ 2(q)(1) and 12 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), ^P

(2) Complies with 40 CFR 152.500 Requirement for Devices and 40 CFR 156.10 Labeling Requirements, ^P

(3) Displays the EPA device manufacturing facility registration number on the device, ^{Pf} and

(4) Is operated and maintained in accordance with manufacturer's instructions ^{Pf}.

4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers.

If a detergent-SANITIZER is used to SANITIZE in a cleaning and SANITIZING procedure where there is no distinct water rinse between the washing and SANITIZING steps, the agent applied in the SANITIZING step shall be the same detergent-SANITIZER that is used in the washing step.

4-501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration.

Concentration of the SANITIZING solution shall be accurately determined by using a test kit or other device. ^{Pf}

Utensils and Temperature and Pressure Measuring Devices

4-502.11 Good Repair and Calibration.

(A) UTENSILS shall be maintained in a state of repair or condition that complies with the requirements specified under Parts 4-1 and 4-2 or shall be discarded.

(B) FOOD TEMPERATURE MEASURING DEVICES shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.^{Pf}

(C) Ambient air temperature, water pressure, and water TEMPERATURE MEASURING DEVICES shall be maintained in good repair and be accurate within the intended range of use.

4-502.12 Single-Service and Single-Use Articles, Required Use.

A FOOD ESTABLISHMENT without facilities specified under Parts 4-6 and 4-7 for cleaning and SANITIZING KITCHENWARE and TABLEWARE shall provide only SINGLE-USE KITCHENWARE, SINGLE• SERVICE ARTICLES, and SINGLE-USE ARTICLES for use by FOOD EMPLOYEES AND SINGLE-SERVICE ARTICLES for use by CONSUMERS.^P

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

(A) SINGLE-SERVICE and SINGLE-USE ARTICLES may not be reused.

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

4-502.14 Shells, Use Limitation.

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

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

Objective

4-601.11 Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be clean to sight and touch.^{Pf}

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

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

Frequency

4-602.11 Equipment Food-Contact Surfaces and Utensils.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be cleaned:

(1) Except as specified in ¶ (B) of this section, before each use with a different type of raw animal FOOD such as beef, FISH, lamb, pork, or POULTRY;^P

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

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

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

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

(B) Subparagraph (A)(1) of this section does not apply if the FOOD-CONTACT SURFACE or UTENSIL is in contact with a succession of different types of raw MEAT and POULTRY each requiring a higher cooking temperature as specified under § 3-401.11 than the previous type.

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

(D) Surfaces of UTENSILS and EQUIPMENT contacting TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be cleaned less frequently than every 4 hours if:

(1) In storage, containers of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;

(2) UTENSILS and EQUIPMENT are used to prepare FOOD in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

(a) The UTENSILS and EQUIPMENT are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C - 7.2°C (>41°F - 45°F)	20 hours
>7.2°C - 10.0°C (>45°F - 50°F)	16 hours
>10.0°C - 12.8°C (>50°F - 55°F)	10 hours

(b) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the FOOD ESTABLISHMENT.

(3) Containers in serving situations such as salad bars, delis,

and cafeteria lines hold READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is maintained at the temperatures specified under Chapter 3, are intermittently combined with additional supplies of the same FOOD that is at the required temperature, and the containers are cleaned at least every 24 hours;

(4) TEMPERATURE MEASURING DEVICES are maintained in contact with FOOD, such as when left in a container of deli FOOD or in a roast, held at temperatures specified under Chapter 3;

(5) EQUIPMENT is used for storage of PACKAGED or unpackaged FOOD such as a reach-in refrigerator and the EQUIPMENT is cleaned at a frequency necessary to preclude accumulation of soil residues;

(6) The cleaning schedule is APPROVED based on consideration of:

(a) Characteristics of the EQUIPMENT and its use,

(b) The type of FOOD involved,

(c) The amount of FOOD residue accumulation, and

(d) The temperature at which the FOOD is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(7) In-use UTENSILS are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the UTENSILS and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(E) Except when dry cleaning methods are used as specified under § 4-603.11, surfaces of UTENSILS and EQUIPMENT contacting FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cleaned:

(1) At any time when contamination may have occurred;

(2) At least every 24 hours for iced tea dispensers and

CONSUMER self-service UTENSILS such as tongs, scoops, or ladles;

(3) Before restocking CONSUMER self-service EQUIPMENT and UTENSILS such as condiment dispensers and display containers; and

(4) In EQUIPMENT such as ice bins and BEVERAGE dispensing nozzles and enclosed components of EQUIPMENT such as ice makers, cooking oil storage tanks and distribution lines, BEVERAGE and syrup dispensing lines or tubes, coffee bean grinders, and water vending EQUIPMENT:

(a) At a frequency specified by the manufacturer, or

(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

4-602.12 Cooking and Baking Equipment.

(A) The FOOD-CONTACT SURFACES of cooking and baking EQUIPMENT shall be cleaned at least every 24 hours. *This section does not apply to hot oil cooking and filtering EQUIPMENT if it is cleaned as specified in Subparagraph 4-602.11(D)(6).*

(B) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

4-602.13 Nonfood-Contact Surfaces.

NonFOOD-CONTACT SURFACES of EQUIPMENT shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

Methods

4-603.11 Dry Cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only SURFACES that are soiled with dry FOOD residues that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(B) Cleaning EQUIPMENT used in dry cleaning FOOD-CONTACT SURFACES may not be used for any other purpose.

4-603.12 Precleaning.

(A) FOOD debris on EQUIPMENT and UTENSILS shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a WAREWASHING machine with a prewash cycle.

(B) If necessary for effective cleaning, UTENSILS and EQUIPMENT shall be preflushed, presoaked, or scrubbed with abrasives.

4-603.13 Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a WAREWASHING machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes the items to the unobstructed spray from all cycles; and

(B) Allows the items to drain.

4-603.14 Wet Cleaning.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

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

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

If washing in sink compartments or a WAREWASHING machine is impractical such as when the EQUIPMENT is fixed or the UTENSILS are too large, washing shall be done by using alternative

manual WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C) in accordance with the following procedures:

- (A) EQUIPMENT shall be disassembled as necessary to allow access of the detergent solution to all parts;
- (B) EQUIPMENT components and UTENSILS shall be 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 non-distinct water rinse that is integrated in the hot water SANITIZATION immersion step of a 2-compartment sink operation;

(D) If using a WAREW ASHING 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 non-distinct 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 WAREW ASHING machine that recycles the SANITIZING solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the SANITIZING solution.

4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

Subparts

4-701	Objective
4-702	Frequency
4-703	Methods

Objective

4-701.10 Food-Contact Surfaces and Utensils.

EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED.

Frequency

4-702.11 Before Use After Cleaning.

UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT shall be SANITIZED before use after cleaning. ^P

Methods

4-703.11 Hot Water and Chemical.

After being cleaned, EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED in:

(A) Hot water manual operations by immersion for at least 30 seconds and as specified under § 4-501.111;^P

(B) Hot water mechanical operations by being cycled through EQUIPMENT that is set up as specified under §§ 4-501.15, 4-501.112, and 4-501.113 and achieving a UTENSIL surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; ^P or

(C) Chemical manual or mechanical operations, including the application of SANITIZING chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under § 4-501.114. Contact times shall be consistent with those on EPA-registered label use instructions by providing:

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

(2) A contact time of at least 7 seconds for a chlorine solution of 50 MG/L that has a PH of 10 or less and a temperature of at least 38°C (100°F) or a PH of 8 or less and a temperature of at least 24°C (75°F), ^P

(3) A contact time of at least 30 seconds for other chemical SANITIZING solutions, ^P or

(4) A contact time used in relationship with a combination of temperature, concentration, and PH that, when evaluated for efficacy, yields SANITIZATION as defined in ¶ 1-201.10(B). ^P

4-8 LAUNDERING

Subparts

4-801	Objective
4-802	Frequency
4-803	Methods

Objective

4-801.11 Clean Linens.

Clean LINENS shall be free from FOOD residues and other soiling matter.

Frequency

4-802.11 Specifications.

(A) LINENS that do not come in direct contact with FOOD shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in ¶ 3-304.15(D) shall be laundered before being used with a different type of raw animal FOOD such as beef, FISH, lamb, pork or POULTRY.

(C) LINENS that are used as specified under § 3-304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of FOOD and clean serving UTENSILS.

Methods

4-803.11 Storage of Soiled Linens.

Soiled LINENS shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of FOOD, clean EQUIPMENT, clean UTENSILS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

4-803.12 Mechanical Washing.

(A) Except as specified in ¶ (B) of this section, LINENS shall be mechanically washed.

(B) In FOOD ESTABLISHMENTS in which only wiping cloths are laundered as specified in ¶ 4-301.15(B), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a WAREWASHING or FOOD preparation sink that is cleaned as specified under § 4-501.14.

4-803.13 Use of Laundry Facilities.

(A) Except as specified in ¶ (B) of this section, laundry facilities on the PREMISES of a FOOD ESTABLISHMENT shall be used only for the washing and drying of items used in the operation of the establishment.

(B) Separate laundry facilities located on the PREMISES for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering FOOD ESTABLISHMENT items.

4-9 PROTECTION OF CLEAN ITEMS

Subparts

4-901	Drying
4-902	Lubricating and Reassembling
4-903	Storing
4-904	Preventing Contamination

Drying

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

After cleaning and SANITIZING, EQUIPMENT and UTENSILS:

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

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

4-901.12 Wiping Cloths, Air-Drying Locations.

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

***Lubricating and
Reassembling***

4-902.11 Food-Contact Surfaces.

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

4-902.12 Equipment.

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

Storing

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

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

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

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

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

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

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

4-903.12 Prohibitions.

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

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

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

Preventing Contamination

4-904.11 Kitchenware and Tableware.

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

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

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

4-904.12 Soiled and Clean Tableware.

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

4-904.13 Preset Tableware.

(A) Except as specified in ¶ (B) of this section, TABLEWARE that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) Preset TABLEWARE may be exposed if:

(1) Unused settings are removed when a CONSUMER is seated; or

(2) Settings not removed when a CONSUMER is seated are cleaned and SANITIZED before further use.

4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing.

After being cleaned and SANITIZED, EQUIPMENT and UTENSILS shall not be rinsed before air drying or use unless:

(A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under Subparts 4-204 and 4-501; and

(B) The rinse is applied only after the EQUIPMENT and UTENSILS have been SANITIZED by the application of hot water or by the application of a chemical SANITIZER solution whose EPA-registered label use instructions call for rinsing off the SANITIZER after it is applied in a commercial WAREWASHING machine.

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Chapter

5

Water, Plumbing, and Waste

Parts

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

5-1 WATER

Subparts

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

Source

5-101.11 Approved System.

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

(A) A PUBLIC WATER SYSTEM;^P or

(B) A non-PUBLIC WATER SYSTEM that is constructed, maintained, and operated according to LAW.^P

5-101.12 System Flushing and Disinfection.

A DRINKING WATER system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.^P

5-101.13 Bottled Drinking Water.

BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources in accordance with 21 CFR 129 - Processing and Bottling of Bottled DRINKING WATER.^P

Quality

5-102.11 Standards.

Except as specified under § 5-102.12:

(A) Water from a PUBLIC WATER SYSTEM shall meet 40 CFR 141 - National Primary Drinking Water Regulations and state DRINKING WATER quality standards;^P and

(B) Water from a non-PUBLIC WATER SYSTEM shall meet state DRINKING WATER quality standards.^P

5-102.12 Nondrinking Water.

(A) A non-DRINKING WATER supply shall be used only if its use is APPROVED.^P

(B) Non-DRINKING WATER shall be used only for non-culinary purposes such as air conditioning, non-FOOD EQUIPMENT cooling, and fire protection.^P

5-102.13 Sampling.

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

5-102.14 Sample Report.

The most recent sample report for the nonPUBLIC WATER SYSTEM shall be retained on file in the FOOD ESTABLISHMENT or the report shall be maintained as specified by state water quality regulations.

Quantity and Availability

5-103.11 Capacity.

(A) The water source and system shall be of sufficient capacity to meet the peak water demands of the FOOD ESTABLISHMENT.^{Pf}

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

5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, EQUIPMENT, and non-FOOD EQUIPMENT that are required to use water *except that water supplied as specified under §§ 5-104.12(A) and (B) to a TEMPORARY FOOD ESTABLISHMENT or in response to a temporary interruption of a water supply need not be under pressure.*^{Pf}

Distribution, Delivery, and Retention

5-104.11 System.

Water shall be received from the source through the use of:

(A) An APPROVED public water main;^{Pf} or

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

(1) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,^{Pf}

(2) Water transport vehicles,^{Pf} or

(3) Water containers.^{Pf}

5-104.12 Alternative Water Supply.

Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a TEMPORARY FOOD ESTABLISHMENT without a permanent water supply, and for a FOOD ESTABLISHMENT with a temporary interruption of its water supply through:

- (A) A supply of containers of commercially BOTTLED DRINKING WATER; ^{Pf}
- (B) One or more closed portable water containers; ^{Pf}
- (C) An enclosed vehicular water tank; ^{Pf}
- (D) An on-PREMISES water storage tank; ^{Pf} or
- (E) Piping, tubing, or hoses connected to an adjacent APPROVED source. ^{Pf}

5-2 PLUMBING SYSTEM

Subparts

- | | |
|--------------|---|
| 5-201 | Materials |
| 5-202 | Design, Construction, and Installation |
| 5-203 | Numbers and Capacities |
| 5-204 | Location and Placement |
| 5-205 | Operation and Maintenance |

Materials

5-201.11 Approved.

(A) A PLUMBING SYSTEM and hoses conveying water shall be constructed and repaired with APPROVED materials according to LAW. ^P

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

Design, Construction, and Installation

5-202.11 Approved System and Cleanable Fixtures.

(A) A PLUMBING SYSTEM shall be designed, constructed, and installed according to LAW. ^P

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

5-202.12 Handwashing Sink, Installation.

(A) A HANDWASHING SINK shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet.^{Pf}

(B) A steam mixing valve may not be used at a HANDWASHING SINK.

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

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

5-202.13 Backflow Prevention, Air Gap.

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

5-202.14 Backflow Prevention Device, Design Standard.

A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.^P

5-202.15 Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

Numbers and Capacities

5-203.11 Handwashing Sinks.

(A) Except as specified in ¶¶ (B) and (C) of this section, at least 1 HANDWASHING SINK, a number of HANDWASHING SINKS necessary for their convenient use by EMPLOYEES in areas specified under § 5-204.11, and not fewer than the number of HANDWASHING SINKS required by LAW shall be provided.^{Pf}

(B) If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, automatic handwashing facilities may be substituted for HANDWASHING SINKS in a FOOD ESTABLISHMENT that has at least 1 HANDWASHING SINK.

(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.

(A) At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

5-203.14 Backflow Prevention Device, When Required.

A PLUMBING SYSTEM shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the FOOD ESTABLISHMENT, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by LAW, by:

(A) Providing an air gap as specified under § 5-202.13^P; or

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

5-203.15 Backflow Prevention Device, Carbonator.

(A) If not provided with an air gap as specified under §5-202.13, a dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4 mm (100 mesh to 1 inch) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.^P

(B) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under ¶ (A) of this section.

Location and Placement

5-204.11 Handwashing Sinks.

A HANDWASHING SINK shall be located:

(A) To allow convenient use by EMPLOYEES in FOOD preparation, FOOD dispensing, and WAREWASHING areas;^{Pf} and

(B) In, or immediately adjacent to, toilet rooms.^{Pf}

5-204.12 Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

5-204.13 Conditioning Device, Location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

Operation and Maintenance

5-205.11 Using a Handwashing Sink.

(A) A HANDWASHING SINK shall be maintained so that it is accessible at all times for EMPLOYEE use.^{Pf}

(B) A HANDWASHING SINK may not be used for purposes other than handwashing.^{Pf}

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

5-205.12 Prohibiting a Cross Connection.

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

(B) The piping of a non-DRINKING WATER system shall be durably identified so that it is readily distinguishable from piping that carries DRINKING WATER.^{Pf}

5-205.13 Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the PERSON IN CHARGE.^{Pf}

5-205.14 Water Reservoir of Fogging Devices, Cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications;^P and

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

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts;^P

- (2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;^P
- (3) Flushing the complete system with water to remove the detergent solution and particulate accumulation;^P and
- (4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution.^P

5-205.15 System Maintained in Good Repair.

A PLUMBING SYSTEM shall be:

- (A) Repaired according to LAW;^P and
- (B) Maintained in good repair.

5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK

Subparts

- | | |
|--------------|----------------------------------|
| 5-301 | Materials |
| 5-302 | Design and Construction |
| 5-303 | Numbers and Capacities |
| 5-304 | Operation and Maintenance |

Materials

5-301.11 Approved.

Materials that are used in the construction of a mobile water tank, mobile FOOD ESTABLISHMENT water tank, and appurtenances shall be:

- (A) Safe;^P
- (B) Durable, CORROSION-RESISTANT, and nonabsorbent; and
- (C) Finished to have a SMOOTH, EASILY CLEANABLE surface.

5-302.11 Enclosed System, Sloped to Drain.

A mobile water tank shall be:

- (A) Enclosed from the filling inlet to the discharge outlet; and
- (B) Sloped to an outlet that allows complete drainage of the tank.

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

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

- (A) Flanged upward at least 13 mm (one-half inch); and
- (B) Equipped with a port cover assembly that is:
 - (1) Provided with a gasket and a device for securing the cover in place, and
 - (2) Flanged to overlap the opening and sloped to drain.

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

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

5-302.14 Tank Vent, Protected.

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

- (A) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or
- (B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

5-302.15 Inlet and Outlet, Sloped to Drain.

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

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

5-302.16 Hose, Construction and Identification.

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

- (A) Safe;^P
- (B) Durable, CORROSION-RESISTANT, and nonabsorbent;
- (C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- (D) Finished with a SMOOTH interior surface; and
- (E) Clearly and durably identified as to its use if not permanently attached.

Numbers and Capacities

5-303.11 Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and DRINKING WATER system when compressed air is used to pressurize the water tank system.^P

5-303.12 Protective Cover or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other APPROVED protective cover or device shall be provided for a water inlet, outlet, and hose.

5-303.13 Mobile Food Establishment Tank Inlet.

A mobile FOOD ESTABLISHMENT'S water tank inlet shall be:

- (A) 19.1 mm (three-fourths inch) in inner diameter or less; and

(B) Provided with a hose connection of a size or type that will prevent its use for any other service.

**Operation and
Maintenance**

5-304.11 System Flushing and Sanitization.

A water tank, pump, and hoses shall be flushed and SANITIZED before being placed in service after construction, repair, modification, and periods of nonuse.^P

5-304.12 Using a Pump and Hoses, Backflow Prevention.

A PERSON shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

5-304.13 Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under § 5-303.12.

5-304.14 Tank, Pump, and Hoses, Dedication.

(A) Except as specified in ¶ (B) of this section, a water tank, pump, and hoses used for conveying DRINKING WATER shall be used for no other purpose.^P

(B) Water tanks, pumps, and hoses APPROVED for liquid FOODS may be used for conveying DRINKING WATER if they are cleaned and SANITIZED before they are used to convey water.

5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

Subparts

5-401	Mobile Holding Tank
5-402	Retention, Drainage, and Delivery
5-403	Disposal Facility

Mobile Holding Tank

5-401.11 Capacity and Drainage.

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

- (A) Sized 15 percent larger in capacity than the water supply tank; and
- (B) Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

Retention, Drainage, and Delivery

design, construction, and installation

5-402.10 Establishment Drainage System.

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

5-402.11 Backflow Prevention.

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

(B) Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(C) If allowed by LAW, a WAREWASHING machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(D) If allowed by LAW, a WAREWASHING or culinary sink may have a direct connection.

*location and
placement*

5-402.12 Grease Trap.

If used, a grease trap shall be located to be easily accessible for cleaning.

*operation and
maintenance*

5-402.13 Conveying Sewage.

SEWAGE shall be conveyed to the point of disposal through an APPROVED sanitary SEWAGE system or other system, including use of SEWAGE transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to LAW.^P

5-402.14 Removing Mobile Food Establishment Wastes.

SEWAGE and other liquid wastes shall be removed from a mobile FOOD ESTABLISHMENT at an APPROVED waste SERVICING AREA or by a SEWAGE transport vehicle in such a way that a public health HAZARD or nuisance is not created.^{Pf}

5-402.15 Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

Disposal Facility

*design and
construction*

5-403.11 Approved Sewage Disposal System.

SEWAGE shall be disposed through an APPROVED facility that is:

(A) A public SEWAGE treatment plant; ^P or

(B) An individual SEW AGE disposal system that is sized, constructed, maintained, and operated according to LAW. ^P

5-403.12 Other Liquid Wastes and Rainwater.

Condensate drainage and other non-SEW AGE liquids and rainwater shall be drained from point of discharge to disposal according to LAW.

5-5 REFUSE, RECYCLABLES, AND RETURNABLES

Subparts

- | | |
|--------------|--|
| 5-501 | Facilities on the Premises |
| 5-502 | Removal |
| 5-503 | Facilities for Disposal and Recycling |

Facilities on the Premises

materials, design, construction, and installation

5-501.10 Indoor Storage Area.

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

5-501.11 Outdoor Storage Surface.

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

5-501.12 Outdoor Enclosure.

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

5-501.13 Receptacles.

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

5-501.110 Storing Refuse, Recyclables, and Returnables.

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

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

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

5-501.112 Outside Storage Prohibitions.

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

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

5-501.113 Covering Receptacles.

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

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

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

(2) After they are filled; and

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

5-501.114 Using Drain Plugs.

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

5-501.115 Maintaining Refuse Areas and Enclosures.

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

5-501.116 Cleaning Receptacles.

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

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

Removal

5-502.11 Frequency.

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

5-502.12 Receptacles or Vehicles.

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

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

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

***Facilities for
Disposal and
Recycling***

5-503.11 Community or Individual Facility.

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

Chapter

6

Physical Facilities

Parts

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

6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

6-101	Indoor Areas
6-102	Outdoor Areas

Indoor Areas

6-101.11 Surface Characteristics.

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

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

(B) *In a TEMPORARY FOOD ESTABLISHMENT:*

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

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

Outdoor Areas

6-102.11 Surface Characteristics.

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

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

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

6-2 DESIGN, CONSTRUCTION, AND INSTALLATION

Subparts

6-201 Cleanability
6-202 Functionality

Cleanability

6-201.11 Floors, Walls, and Ceilings.

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

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

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

(B) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

6-201.13 Floor and Wall Junctures, Coved, and Enclosed or Sealed.

(A) In FOOD ESTABLISHMENTS in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1 mm (one thirty-second inch).

(B) The floors in FOOD ESTABLISHMENTS in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and SEALED.

6-201.14 Floor Carpeting, Restrictions and Installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, REFUSE storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under ¶ (A) of this section, it shall be:

- (1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
- (2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

6-201.15 Floor Covering, Mats and Duckboards.

Mats and duckboards shall be designed to be removable and EASILY CLEANABLE.

6-201.16 Wall and Ceiling Coverings and Coatings.

(A) Wall and ceiling covering materials shall be attached so that they are EASILY CLEANABLE.

(B) *Except in areas used only for dry storage*, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and SEALED to provide a SMOOTH, nonabsorbent, EASILY CLEANABLE surface.

6-201.17 Walls and Ceilings, Attachments.

(A) Except as specified in ¶ (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be EASILY CLEANABLE.

(B) *In a CONSUMER area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.*

6-201.18 Walls and Ceilings, Studs, Joists, and Rafters.

Except for TEMPORARY FOOD ESTABLISHMENTS, studs, joists, and rafters may not be exposed in areas subject to moisture.

Functionality

6-202.11 Light Bulbs, Protective Shielding.

(A) Except as specified in ¶ (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; or unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

(B) *Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing FOOD in unopened packages, if:*

(1) The integrity of the packages cannot be affected by broken glass falling onto them; and

(2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(C) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

6-202.12 Heating, Ventilating, Air Conditioning System Vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of FOOD, FOOD-CONTACT SURFACES, EQUIPMENT, OR UTENSILS.

6-202.13 Insect Control Devices, Design and Installation.

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(B) Insect control devices shall be installed so that:

(1) The devices are not located over a FOOD preparation area; and

(2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

6-202.14 Toilet Rooms, Enclosed.

Except where a toilet room is located outside a FOOD ESTABLISHMENT and does not open directly into the FOOD ESTABLISHMENT such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the PREMISES shall be completely enclosed and provided with a tight-fitting and self-closing door.

6-202.15 Outer Openings, Protected.

(A) Except as specified in ¶¶ (B), (C), and (E) and under ¶ (D) of this section, outer openings of a FOOD ESTABLISHMENT shall be protected against the entry of insects and rodents by:

- (1) Filling or closing holes and other gaps along floors, walls, and ceilings;
- (2) Closed, tight-fitting windows; and
- (3) Solid, self-closing, tight-fitting doors.

(B) Paragraph (A) of this section does not apply if a FOOD ESTABLISHMENT opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(C) Exterior doors used as exits need not be self-closing if they are:

- (1) Solid and tight-fitting;*
- (2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the FOOD ESTABLISHMENT; and*
- (3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.*

(D) Except as specified in ¶¶ (B) and (E) of this section, if the windows or doors of a FOOD ESTABLISHMENT, or of a larger structure within which a FOOD ESTABLISHMENT is located, are kept open for ventilation or other purposes or a TEMPORARY FOOD ESTABLISHMENT is not provided with windows and doors as specified under ¶ (A) of this section, the openings shall be protected against the entry of insects and rodents by:

- (1) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;
- (2) Properly designed and installed air curtains to control flying insects; or

(3) Other effective means.

(E) Paragraph (D) of this section does not apply if flying insects and other pests are absent due to the location of the ESTABLISHMENT, the weather, or other limiting condition.

6-202.16 Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs of a FOOD ESTABLISHMENT shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

6-202.17 Outdoor Food Vending Areas, Overhead Protection.

Except for machines that vend canned BEVERAGES, if located outside, a machine used to vend FOOD shall be provided with overhead protection.

6-202.18 Outdoor Servicing Areas, Overhead Protection.

Except for areas used only for the loading of water or the discharge of SEWAGE and other liquid waste, through the use of a closed system of hoses, SERVICING AREAS shall be provided with overhead protection.

6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.

Exterior walking and driving surfaces shall be graded to drain.

6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.

Outdoor REFUSE areas shall be constructed in accordance with LAW and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the REFUSE and from cleaning the area and waste receptacles.

6-202.111 Private Homes and Living or Sleeping Quarters, Use Prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting FOOD ESTABLISHMENT operations.^P

6-202.112 Living or Sleeping Quarters, Separation.

Living or sleeping quarters located on the PREMISES of a FOOD ESTABLISHMENT such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for FOOD ESTABLISHMENT operations by complete partitioning and solid self-closing doors.

6-3 NUMBERS AND CAPACITIES

Subparts

6-301	Handwashing Sinks
6-302	Toilets and Urinals
6-303	Lighting
6-304	Ventilation
6-305	Dressing Areas and Lockers
6-306	Service Sinks

Handwashing Sinks

6-301.10 Minimum Number.

HANDW ASHING SINKS shall be provided as specified under § 5-203.11.

6-301.11 Handwashing Cleanser, Availability.

Each HANDWASHING SINK or group of 2 adjacent HANDW ASHING SINKS shall be provided with a supply of hand cleaning liquid, powder, or bar soap.^{Pf}

6-301.12 Hand Drying Provision.

Each HANDWASHING SINK or group of adjacent HANDWASHING SINKS shall be provided with:

- (A) Individual, disposable towels;^{Pf}
- (B) A continuous towel system that supplies the user with a clean towel;^{Pf} or
- (C) A heated-air hand drying device;^{Pf} or
- (D) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.^{Pf}

6-301.13 Handwashing Aids and Devices, Use Restrictions.

A sink used for FOOD preparation or UTENSIL washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a HANDWASHING SINK as specified under §§ 6-301.11 and 6-301.12 and ¶ 5-501.16(C).

6-301.14 Handwashing Signage.

A sign or poster that notifies FOOD EMPLOYEES to wash their hands shall be provided at all HANDWASHING SINKS used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

6-301.20 Disposable Towels, Waste Receptacle.

A HANDWASHING SINK or group of adjacent HANDWASHING SINKS that is provided with disposable towels shall be provided with a waste receptacle as specified under ¶ 5-501.16(C).

Toilets and Urinals

6-302.10 Minimum Number.

Toilets and urinals shall be provided as specified under § 5-203.12.

6-302.11 Toilet Tissue, Availability.

A supply of toilet tissue shall be available at each toilet. ^{Pf}

Lighting

6-303.11 Intensity.

The light intensity shall be:

(A) At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry FOOD storage areas and in other areas and rooms during periods of cleaning;

(B) At least 215 lux (20 foot candles):

(1) At a surface where FOOD is provided for CONSUMER self-service such as buffets and salad bars or where fresh produce or PACKAGED FOODS are sold or offered for consumption,

(2) Inside EQUIPMENT such as reach-in and under-counter refrigerators; and

(3) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, WAREW ASHING, and EQUIPMENT and UTENSIL storage, and in toilet rooms; and

(C) At least 540 lux (50 foot candles) at a surface where a FOOD EMPLOYEE is working with FOOD or working with UTENSILS or EQUIPMENT such as knives, slicers, grinders, or saws where EMPLOYEE safety is a factor.

Ventilation

6-304.11 Mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

**Dressing Areas
and Lockers**

6-305.11 Designation.

(A) Dressing rooms or dressing areas shall be designated if EMPLOYEES routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of EMPLOYEES' clothing and other possessions.

Service Sinks

6-306.10 Availability.

A service sink or curbed cleaning facility shall be provided as specified under ¶ 5-203.13(A).

6-4 LOCATION AND PLACEMENT

Subparts

6-401	Handwashing Sinks
6-402	Toilet Rooms
6-403	Employee Accommodations
6-404	Distressed Merchandise
6-405	Refuse, Recyclables, and Returnables

Handwashing Sinks

6-401.10 Conveniently Located.

HANDWASHING SINKS shall be conveniently located as specified under § 5-204.11.

Toilet Rooms

6-402.11 Convenience and Accessibility.

Toilet rooms shall be conveniently located and accessible to EMPLOYEES during all hours of operation.

Employee Accommodations

6-403.11 Designated Areas.

(A) Areas designated for EMPLOYEES to eat, drink, and use tobacco shall be located so that FOOD, EQUIPMENT, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES cannot occur.

***Distressed
Merchandise***

6-404.11 Segregation and Location.

Products that are held by the PERMIT HOLDER for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.^{Pf}

***Refuse,
Recyclables, and
Returnables***

6-405.10 Receptacles, Waste Handling Units, and Designated Storage Areas.

Units, receptacles, and areas designated for storage of REFUSE and recyclable and returnable containers shall be located as specified under § 5-501.19.

6-5 MAINTENANCE AND OPERATION

Subpart

6-501 Premises, Structures, Attachments, and Fixtures - Methods

***Premises,
Structures,
Attachments,
and Fixtures
- Methods***

6-501.11 Repairing.

PHYSICAL FACILITIES shall be maintained in good repair.

6-501.12 Cleaning, Frequency and Restrictions.

(A) PHYSICAL FACILITIES shall be cleaned as often as necessary to keep them clean.

(B) *Except for cleaning that is necessary due to a spill or other accident*, cleaning shall be done during periods when the least amount of FOOD is exposed such as after closing.

6-501.13 Cleaning Floors, Dustless Methods.

(A) Except as specified in ¶ (B) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(B) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(1) Without the use of dust-arresting compounds; and

(2) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

6-501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

(A) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health HAZARD or nuisance or unLAWful discharge.

6-501.15 Cleaning Maintenance Tools, Preventing Contamination.

FOOD preparation sinks, HANDW ASHING SINKS, and WAREW ASHING EQUIPMENT may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.^{Pf}

6-501.16 Drying Mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, EQUIPMENT, or supplies.

6-501.17 Absorbent Materials on Floors, Use Limitation.

Except as specified in ¶ 6-501.13(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

6-501.18 Cleaning of Plumbing Fixtures.

PLUMBING FIXTURES such as HANDW ASHING SINKS, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

6-501.19 Closing Toilet Room Doors.

Except during cleaning and maintenance operations, toilet room doors as specified under § 6-202.14 shall be kept closed.

6-501.110 Using Dressing Rooms and Lockers.

(A) Dressing rooms shall be used by EMPLOYEES if the EMPLOYEES regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be used for the orderly storage of EMPLOYEE clothing and other possessions.

6-501.111 Controlling Pests.

The PREMISES shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the PREMISES by:

(A) Routinely inspecting incoming shipments of FOOD and supplies;

(B) Routinely inspecting the PREMISES for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under §§ 7-202.12, 7-206.12, and 7-206.13; ^{Pf} and

(D) Eliminating harborage conditions.

6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the PREMISES at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

6-501.113 Storing Maintenance Tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES; and

(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

6-501.114 Maintaining Premises, Unnecessary Items and Litter.

The PREMISES shall be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as EQUIPMENT that is nonfunctional or no longer used; and

(B) Litter.

6-501.115 Prohibiting Animals.

(A) Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT.^{Pf}

(B) Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result:

(1) Edible FISH or decorative FISH in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) In areas that are not used for FOOD preparation and that are usually open for customers, such as dining and sales areas, SERVICE ANIMALS that are controlled by the disabled EMPLOYEE or PERSON, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;

(4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(a) Effective partitioning and self-closing doors separate the common dining areas from FOOD storage or FOOD preparation areas,

(b) Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

(c) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(5) In areas that are not used for FOOD preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(C) Live or dead FISH bait may be stored if contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result.

Chapter

7

Poisonous or Toxic Materials

Parts

- 7-1 LABELING AND IDENTIFICATION
- 7-2 OPERATIONAL SUPPLIES AND APPLICATIONS
- 7-3 STOCK AND RETAIL SALE

7-1 LABELING AND IDENTIFICATION

Subparts

- 7-101 Original Containers
- 7-102 Working Containers

Original Containers

7-101.11 Identifying Information, Prominence.

Containers of POISONOUS OR TOXIC MATERIALS and PERSONAL CARE ITEMS shall bear a legible manufacturer's label.^{Pf}

Working Containers

7-102.11 Common Name.

Working containers used for storing POISONOUS OR TOXIC MATERIALS such as cleaners and SANITIZERS taken from bulk supplies shall be clearly and individually identified with the common name of the material.^{Pf}

7-2 OPERATIONAL SUPPLIES AND APPLICATIONS

Subparts

7-201	Storage
7-202	Presence and Use
7-203	Container Prohibitions
7-204	Chemicals
7-205	Lubricants
7-206	Pesticides
7-207	Medicines
7-208	First Aid Supplies
7-209	Other Personal Care Items

Storage

7-201.11 Separation.

POISONOUS OR TOXIC MATERIALS shall be stored so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(A) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning;^P and

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE or SINGLE-USE ARTICLES. *This paragraph does not apply to EQUIPMENT and UTENSIL cleaners and SANITIZERS that are stored in WAREWASHING areas for availability and convenience if the materials are stored to prevent contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.*^P

Presence and Use

7-202.11 Restriction.

(A) Only those POISONOUS OR TOXIC MATERIALS that are required for the operation and maintenance of a FOOD ESTABLISHMENT, such as for the cleaning and SANITIZING of EQUIPMENT and UTENSILS and the control of insects and rodents, shall be allowed in a FOOD ESTABLISHMENT.^{Pf}

(B) *Paragraph (A) of this section does not apply to PACKAGED POISONOUS OR TOXIC MATERIALS that are for retail sale.*

7-202.12 Conditions of Use.

POISONOUS OR TOXIC MATERIALS shall be:

(A) Used according to:

- (1) LAW and this Code,
- (2) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a FOOD ESTABLISHMENT,^P
- (3) The conditions of certification, if certification is required, for use of the pest control materials,^P and
- (4) Additional conditions that may be established by the REGULATORY AUTHORITY; and

(B) Applied so that:

- (1) A HAZARD to EMPLOYEES or other PERSONS is not constituted,^P and
- (2) Contamination including toxic residues due to drip, drain, fog, splash or spray on FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES is prevented, and for a RESTRICTED USE PESTICIDE, this is achieved by:^P
 - (a) Removing the items,^P
 - (b) Covering the items with impermeable covers,^P or
 - (c) Taking other appropriate preventive actions,^P and
 - (d) Cleaning and SANITIZING EQUIPMENT and UTENSILS after the application.^P

(C) A RESTRICTED USE PESTICIDE shall be applied only by an applicator certified as defined in 7 USC 136 Definitions, (e) Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act, or a PERSON under the direct supervision of a certified applicator.^{Pf}

**Container
Prohibitions**

7-203.11 Poisonous or Toxic Material Containers.

A container previously used to store POISONOUS OR TOXIC MATERIALS may not be used to store, transport, or dispense FOOD.^P

Chemicals

7-204.11 Sanitizers, Criteria.

Chemical SANITIZERS, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to FOOD-CONTACT SURFACES shall:

(A) Meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)^P, or

(B) Meet the requirements as specified in 40 CFR 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.^P

7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.

(A) Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:

(1) Be an approved food additive listed for this intended use in 21 CFR 173,^P or

(2) Be generally recognized as safe (GRAS) for this intended use,^P or

(3) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification),^P and

(4) Meet the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices.^P

(B) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a FOOD ESTABLISHMENT shall meet the requirements specified in 21 CFR 173.368 Ozone.^P

7-204.13 Boiler Water Additives, Criteria.

Chemicals used as boiler water ADDITIVES shall meet the requirements specified in 21 CFR 173.310 Boiler water additives.^P

7-204.14 Drying Agents, Criteria.

Drying agents used in conjunction with SANITIZATION shall:

(A) Contain only components that are listed as one of the following:

- (1) Generally recognized as safe for use in FOOD as specified in 21 CFR 182 - Substances Generally Recognized as Safe, or 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe,^P
- (2) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,^P
- (3) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to FOOD as described in 21 CFR 170.30 Eligibility for classification as generally recognized as safe (GRAS),^P
- (4) Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h),^P
- (5) APPROVED for use as a drying agent under a prior sanction as described in the Federal Food Drug and Cosmetic Act (FFDCA) § 201(s)(4);^P
- (6) Specifically regulated as an indirect FOOD ADDITIVE for use as a drying agent as specified in 21 CFR Parts 174-178,^P or
- (7) APPROVED for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact

articles; ^P and

(B) When SANITIZATION is with chemicals, the approval required under Subparagraph (A)(5) or (A)(7) of this section or the regulation as an indirect FOOD ADDITIVE required under Subparagraph (A)(6) of this section, shall be specifically for use with chemical SANITIZING solutions. ^P

Lubricants

7-205.11 Incidental Food Contact, Criteria.

Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on FOOD-CONTACT SURFACES, on bearings and gears located on or within FOOD-CONTACT SURFACES, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES. ^P

Pesticides

7-206.11 Restricted Use Pesticides, Criteria.

RESTRICTED USE PESTICIDES specified under ¶ 7-202.12(C) shall meet the requirements specified in 40 CFR 152 Subpart I • Classification of Pesticides. ^P

7-206.12 Rodent Bait Stations.

Rodent bait shall be contained in a covered, tamper-resistant bait station. ^P

7-206.13 Tracking Powders, Pest Control and Monitoring.

(A) Except as specified in ¶ (B) of this section, a tracking powder pesticide may not be used in a FOOD ESTABLISHMENT. ^P

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

Medicines

7-207.11 Restriction and Storage.

(A) *Except for medicines that are stored or displayed for retail*

sale, only those medicines that are necessary for the health of EMPLOYEES shall be allowed in a FOOD ESTABLISHMENT. ^{Pf}

(B) Medicines that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be labeled as specified under §7-101.11 and located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES. ^P

7-207.12 Refrigerated Medicines, Storage.

Medicines belonging to EMPLOYEES or to children in a day care center that require refrigeration and are stored in a FOOD refrigerator shall be:

(A) Stored in a package or container and kept inside a covered, leak-proof container that is identified as a container for the storage of medicines; ^P and

(B) Located so they are inaccessible to children. ^P

First Aid Supplies

7-208.11 Storage.

First aid supplies that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be:

(A) Labeled as specified under § 7-101.11; ^{Pf} and

(B) Stored in a kit or a container that is located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, and LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES. ^P

Other Personal Care Items

7-209.11 Storage.

Except as specified under §§ 7-207.12 and 7-208.11, EMPLOYEES shall store their PERSONAL CARE ITEMS in facilities as specified under ¶ 6-305.11(B).

7-3 STOCK AND RETAIL SALE

Subpart

7-301 Storage and Display

Storage and Display

7-301.11 Separation.

POISONOUS or TOXIC MATERIALS shall be stored and displayed for retail sale so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(A) Separating the POISONOUS or TOXIC MATERIALS by spacing or partitioning; ^P and

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE• SERVICE or SINGLE-USE ARTICLES. ^P

Chapter

8

Compliance and Enforcement

Parts

- 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).

Additional Requirements

8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.

(A) If necessary to protect against public health HAZARDS or nuisances, the REGULATORY AUTHORITY may impose specific requirements in addition to the requirements contained in this Code that are authorized by LAW.

(B) The REGULATORY AUTHORITY shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the PERMIT applicant or PERMIT HOLDER and a copy shall be maintained in the REGULATORY AUTHORITY'S file for the FOOD ESTABLISHMENT.

Variances

8-103.10 Modifications and Waivers.

The REGULATORY AUTHORITY may grant a VARIANCE by modifying or waiving the requirements of this Code if in the opinion of the REGULATORY AUTHORITY a health HAZARD or nuisance will not result from the VARIANCE. If a VARIANCE is granted, the REGULATORY AUTHORITY shall retain the information specified under § 8-103.11 in its records for the FOOD ESTABLISHMENT.

8-103.11 Documentation of Proposed Variance and Justification.

Before a VARIANCE from a requirement of this Code is APPROVED, the information that shall be provided by the PERSON requesting the VARIANCE and retained in the REGULATORY AUTHORITY'S file on the FOOD ESTABLISHMENT includes:

(A) A statement of the proposed VARIANCE of the Code requirement citing relevant Code section numbers;^{Pf}

(B) An analysis of the rationale for how the potential public health HAZARDS and nuisances addressed by the relevant Code sections will be alternatively addressed by the proposal;^{Pf} and

(C) A HACCP PLAN if required as specified under ¶ 8-201.13(A) that includes the information specified under § 8-201.14 as it is relevant to the VARIANCE requested.^{Pf}

8-103.12 Conformance with Approved Procedures.

If the REGULATORY AUTHORITY grants a VARIANCE as specified in § 8-103.10, or a HACCP PLAN is otherwise required as specified under § 8-201.13, the PERMIT HOLDER shall:

(A) Comply with the HACCP PLANS and procedures that are submitted as specified under § 8-201.14 and APPROVED as a basis for the modification or waiver;^P and

(B) Maintain and provide to the REGULATORY AUTHORITY, upon request, records specified under ¶¶ 8-201.14(D) and (E)(3) that demonstrate that the following are routinely employed;

(1) Procedures for monitoring the CRITICAL CONTROL POINTS,^{Pf}

(2) Monitoring of the CRITICAL CONTROL POINTS,^{Pf}

(3) Verification of the effectiveness of the operation or process,^{Pf} and

(4) Necessary corrective actions if there is failure at a CRITICAL CONTROL POINT.^{Pf}

8-2 PLAN SUBMISSION AND APPROVAL

Subparts

8-201	Facility and Operating Plans
8-202	Confidentiality
8-203	Construction Inspection and Approval

Facility and Operating Plans

8-201.11 When Plans Are Required.

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;^{Pf}
- (B) The conversion of an existing structure for use as a FOOD ESTABLISHMENT;^{Pf} or
- (C) The remodeling of a FOOD ESTABLISHMENT or a change of type of FOOD ESTABLISHMENT or FOOD operation as specified under ¶ 8-302.14(C) if the REGULATORY AUTHORITY determines that plans and specifications are necessary to ensure compliance with this Code.^{Pf}

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)(4), § 3-502.11, or ¶ 4-204.110(B);

(3) The REGULATORY AUTHORITY determines that a FOOD preparation or processing method requires a VARIANCE based on a plan submittal specified under § 8-201.12, an inspectional finding, or a VARIANCE request.

(B) Before engaging in REDUCED OXYGEN PACKAGING without a VARIANCE as specified under § 3-502.12, a PERMIT applicant or PERMIT HOLDER shall submit a properly prepared HACCP PLAN to the REGULATORY AUTHORITY.

8-201.14 Contents of a HACCP Plan.

For a FOOD ESTABLISHMENT that is required under § 8-201.13 to have a HACCP PLAN, the PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY a properly prepared HACCP PLAN that includes:

(A) General information such as the name of the PERMIT applicant or PERMIT HOLDER the FOOD ESTABLISHMENT address, and contact information;

(B) A categorization of the types of TIME/TEMPERATURE CONTROL FOR SAFETY FOODS that are to be controlled under the HACCP PLAN;^{Pf}

(C) A flow diagram or chart for each specific FOOD or category type that identifies:

(1) Each step in the process;^{Pf}

(2) The HAZARDS and controls for each step in the flow diagram or chart;^{Pf}

(3) The steps that are CRITICAL CONTROL POINTS;^{Pf}

(4) Ingredients, materials, and EQUIPMENT used in the preparation of that FOOD,^{Pf} and

(5) Formulations or recipes that delineate methods and procedural control measures that address the FOOD safety concerns involved.^{Pf}

(D) CRITICAL CONTROL POINTS summary for each specific food or category type that clearly defines:

(1) Each CRITICAL CONTROL POINT,^{Pf}

(2) The CRITICAL LIMITS for each CRITICAL CONTROL POINT,^{Pf}

(3) The method and frequency for monitoring and controlling each CRITICAL CONTROL POINT by the designated FOOD EMPLOYEE or the PERSON IN CHARGE,^{Pf}

(4) The method and frequency for the PERSON IN CHARGE to routinely verify that the FOOD EMPLOYEE is following standard operating procedures and monitoring CRITICAL CONTROL POINTS,^{Pf}

- (5) Actions to be taken by the designated FOOD EMPLOYEE or PERSON IN CHARGE if the CRITICAL LIMITS for each CRITICAL CONTROL POINT are not met, ^{Pf} and
 - (6) Records to be maintained by the PERSON IN CHARGE to demonstrate that the HACCP PLAN is properly operated and managed; ^{Pf}
- (E) Supporting documents such as:
- (1) FOOD EMPLOYEE and supervisory training plan that addresses the FOOD safety issues of concern; ^{Pf}
 - (2) Copies of blank records forms that are necessary to implement the HACCP PLAN; ^{Pf}
 - (3) Additional scientific data or other information, as required by the REGULATORY AUTHORITY, supporting the determination that FOOD safety is not compromised by the proposal, ^{Pf}
- (F) Any other information required by the REGULATORY AUTHORITY.

Confidentiality

8-202.10 Trade Secrets.

The REGULATORY AUTHORITY shall treat as confidential in accordance with LAW, information that meets the criteria specified in LAW for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under §§ 8-201.12 and 8-201.14.

Construction Inspection and Approval

8-203.10 Preoperational Inspections.

The REGULATORY AUTHORITY shall conduct one or more preoperational inspections to verify that the FOOD ESTABLISHMENT is constructed and equipped in accordance with the APPROVED plans and APPROVED modifications of those plans, has established standard operating procedures as specified under ¶ 8-201.12(E), and is in compliance with LAW and this Code.

8-3 PERMIT TO OPERATE

Subparts

- 8-301 Requirement**
- 8-302 Application Procedure**
- 8-303 Issuance**
- 8-304 Conditions of Retention**

Requirement 8-301.11 Prerequisite for Operation.

A PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY.^{Pf}

Application Procedure

8-302.11 Submission 30 Calendar Days Before Proposed Opening.

An applicant shall submit an application for a PERMIT at least 30 calendar days before the date planned for opening a FOOD ESTABLISHMENT or the expiration date of the current PERMIT for an existing facility.

8-302.12 Form of Submission.

A PERSON desiring to operate a FOOD ESTABLISHMENT shall submit to the REGULATORY AUTHORITY a written application for a PERMIT on a form provided by the REGULATORY AUTHORITY.

8-302.13 Qualifications and Responsibilities of Applicants.

To qualify for a PERMIT, an applicant shall:

- (A) Be an owner of the FOOD ESTABLISHMENT or an officer of the legal ownership;
- (B) Comply with the requirements of this Code;
- (C) As specified under § 8-402.11, agree to allow access to the FOOD ESTABLISHMENT and to provide required information; and
- (D) Pay the applicable PERMIT fees at the time the application is submitted.

8-302.14 Contents of the Application.

The application shall include:

- (A) The name, birth date, mailing address, telephone number, and signature of the PERSON applying for the PERMIT and the name, mailing address, and location of the FOOD ESTABLISHMENT;
- (B) Information specifying whether the FOOD ESTABLISHMENT is owned by an association, corporation, individual, partnership, or other legal entity;

(C) A statement specifying whether the FOOD ESTABLISHMENT:

(1) Is mobile or stationary and temporary or permanent, and

(2) Is an operation that includes one or more of the following:

(a) Prepares, offers for sale, or serves TIME/TEMPERATURE CONTROL FOR SAFETY FOOD:

(i) Only to order upon a CONSUMER'S request,

(ii) In advance in quantities based on projected CONSUMER demand and discards FOOD that is not sold or served at an APPROVED frequency, or

(iii) Using time as the public health control as specified under § 3-501.19,

(b) Prepares TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in advance using a FOOD preparation method that involves two or more steps which may include combining TIME/TEMPERATURE CONTROL FOR SAFETY FOOD ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing,

(c) Prepares FOOD as specified under Subparagraph (C)(2)(b) of this section for delivery to and consumption at a location off the PREMISES of the FOOD ESTABLISHMENT where it is prepared,

(d) Prepares FOOD as specified under Subparagraph (C)(2)(b) of this section for service to a HIGHLY SUSCEPTIBLE POPULATION,

(e) Prepares only FOOD that is not TIME/TEMPERATURE CONTROL OF SAFETY FOOD, or

(f) Does not prepare, but offers for sale only prePACKAGED FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(D) The name, title, address, and telephone number of the PERSON directly responsible for the FOOD ESTABLISHMENT;

(E) The name, title, address, and telephone number of the PERSON who functions as the immediate supervisor of the PERSON specified under ¶ (D) of this section such as the zone, district, or regional supervisor;

(F) The names, titles, and addresses of:

(1) The PERSONS comprising the legal ownership as specified under ¶ (B) of this section including the owners and officers, and

(2) The local resident agent if one is required based on the type of legal ownership;

(G) A statement signed by the applicant that:

(1) Attests to the accuracy of the information provided in the application, and

(2) Affirms that the applicant will:

(a) Comply with this Code, and

(b) Allow the REGULATORY AUTHORITY access to the establishment as specified under § 8-402.11 and to the records specified under §§ 3-203.12 and 5-205.13 and Subparagraph 8-201.14(D)(6); and

(H) Other information required by the REGULATORY AUTHORITY.

Issuance **8-303.10** **New, Converted, or Remodeled Establishments.**

For FOOD ESTABLISHMENTS that are required to submit plans as specified under § 8-201.11 the REGULATORY AUTHORITY shall issue a PERMIT to the applicant after:

(A) A properly completed application is submitted;

(B) The required fee is submitted;

(C) The required plans, specifications, and information are reviewed and APPROVED; and

(D) A preoperational inspection as specified in § 8-203.10 shows that the establishment is built or remodeled in accordance with the APPROVED plans and specifications and that the establishment is in compliance with this Code.

8-303.20 Existing Establishments, Permit Renewal, and Change of Ownership.

The REGULATORY AUTHORITY may renew a PERMIT for an existing FOOD ESTABLISHMENT or may issue a PERMIT to a new owner of an existing FOOD ESTABLISHMENT after a properly completed application is submitted, reviewed, and APPROVED, the fees are paid, and an inspection shows that the establishment is in compliance with this Code.

8-303.30 Denial of Application for Permit, Notice.

If an application for a PERMIT to operate is denied, the REGULATORY AUTHORITY shall provide the applicant with a notice that includes:

- (A) The specific reasons and Code citations for the PERMIT denial;
- (B) The actions, if any, that the applicant must take to qualify for a PERMIT; and
- (C) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in LAW.

Conditions of Retention

8-304.10 Responsibilities of the Regulatory Authority.

(A) At the time a PERMIT is first issued, the REGULATORY AUTHORITY shall 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 PermitHolder.

Upon acceptance of the PERMIT issued by the REGULATORY AUTHORITY, the PERMIT HOLDER in order to retain the PERMIT shall:

(A) Post the PERMIT in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS;

(B) Comply with the provisions of this Code including the conditions of a granted VARIANCE as specified under § 8-103.12, and APPROVED plans as specified under § 8-201.12;

(C) If a FOOD ESTABLISHMENT is required under § 8-201.13 to operate under a HACCP PLAN, comply with the plan as specified under § 8-103.12;

(D) Immediately contact the REGULATORY AUTHORITY to report an illness of a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE as specified under ¶ 2-201.11(B);

(E) Immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist as specified under § 8-404.11;

(F) Allow representatives of the REGULATORY AUTHORITY access to the FOOD ESTABLISHMENT as specified under § 8-402.11;

(G) Replace existing facilities and EQUIPMENT specified in § 8-101.10 with facilities and EQUIPMENT that comply with this Code if:

(1) The REGULATORY AUTHORITY directs the replacement because the facilities and EQUIPMENT constitute a public health HAZARD or nuisance or no longer comply with the criteria upon which the facilities and EQUIPMENT were accepted,

(2) The REGULATORY AUTHORITY directs the replacement of the facilities and EQUIPMENT because of a change of ownership, or

(3) The facilities and EQUIPMENT are replaced in the normal course of operation;

(H) Comply with directives of the REGULATORY AUTHORITY including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the REGULATORY AUTHORITY in regard to the PERMIT HOLDER'S FOOD ESTABLISHMENT or in response to community emergencies;

(I) Accept notices issued and served by the REGULATORY AUTHORITY according to LAW; and

(J) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in LAW for failure to comply with this Code or a directive of the REGULATORY AUTHORITY, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

(K) Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the REGULATORY AUTHORITY.

8-304.20 Permits Not Transferable.

A PERMIT may not be transferred from one PERSON to another PERSON, from one FOOD ESTABLISHMENT to another, or from one type of operation to another if the FOOD operation changes from the type of operation specified in the application as specified under ¶ 8-302.14(C) and the change in operation is not APPROVED.

8-4 INSPECTION AND CORRECTION OF VIOLATIONS

Subparts

Frequency
Competency and Access
Report of Findings
Imminent Health Hazard
Violation of Priority Item or Priority
Foundation Item
Core Item Violation

Frequency **8-401.10** **Establishing Inspection Interval.**

(A) Except as specified in ¶¶ (B) and (C) of this section, the REGULATORY AUTHORITY shall inspect a FOOD ESTABLISHMENT at least once every 6 months.

(B) The REGULATORY AUTHORITY may increase the interval between inspections beyond 6 months if:

(1) The FOOD ESTABLISHMENT is fully operating under an APPROVED and validated HACCP PLAN as specified under § 8-201.14 and ¶¶ 8-103.12(A) and (B);

(2) The 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 at least once every 6 months the establishment is contacted by telephone or other means by the REGULATORY AUTHORITY to ensure that the establishment manager and the nature of FOOD operation are not changed; or

(3) The establishment's operation involves only coffee service and other UNPACKAGED or prePACKAGED FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD such as carbonated BEVERAGES and snack FOOD such as chips, nuts, popcorn, and pretzels.

(C) The REGULATORY AUTHORITY shall periodically inspect throughout its PERMIT period a TEMPORARY FOOD ESTABLISHMENT that prepares, sells, or serves UNPACKAGED TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and that:

(1) Has improvised rather than permanent facilities or EQUIPMENT for accomplishing functions such as handwashing, FOOD preparation and protection, FOOD temperature control, WAREWASHING, providing DRINKING WATER, waste retention and disposal, and insect and rodent control; or

(2) Has inexperienced FOOD EMPLOYEES.

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 PRIORITY ITEMS or PRIORITY FOUNDATION ITEMS;

(B) Past performance, for numerous or repeat violations of Code or HACCP PLAN requirements that are CORE ITEMS;

(C) Past performance, for complaints investigated and found to be valid;

(D) The HAZARDS associated with the particular FOODS that are prepared, stored, or served;

(E) The type of operation including the methods and extent of FOOD storage, preparation, and service;

(F) The number of people served; and

(G) Whether the population served is a HIGHLY SUSCEPTIBLE POPULATION.

Competency

8-402.10 Competency of Inspectors.

(A) An authorized representative of the REGULATORY AUTHORITY who inspects a FOOD ESTABLISHMENT or conducts plan review for compliance with this Code shall

have the knowledge, skills, and ability to adequately perform the required duties.

(B) The REGULATORY AUTHORITY shall ensure that authorized representatives who inspect a FOOD ESTABLISHMENT or conduct a plan review for compliance with this Code have access to training and continuing education as needed to properly identify violations and apply the Code.

Access

8-402.11 Allowed at Reasonable Times after Due Notice.

After the REGULATORY AUTHORITY presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the PERSON IN CHARGE shall allow the REGULATORY AUTHORITY to determine if the FOOD ESTABLISHMENT is in compliance with this Code by allowing access to the establishment, allowing inspection, and providing information and records specified in this Code and to which the REGULATORY AUTHORITY is entitled according to LAW, during the FOOD ESTABLISHMENT'S hours of operation and other reasonable times.

8-402.20 Refusal, Notification of Right to Access, and Final Request for Access.

If a PERSON denies access to the REGULATORY AUTHORITY, the REGULATORY AUTHORITY shall:

(A) Inform the PERSON that:

(1) The PERMIT HOLDER is required to allow access to the REGULATORY AUTHORITY as specified under § 8-402.11 of this Code,

(2) Access is a condition of the acceptance and retention of a FOOD ESTABLISHMENT PERMIT to operate as specified under ¶ 8-304.11(F), and

(3) If access is denied, 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 PRIORITY ITEMS OR PRIORITY FOUNDATION ITEMS of this Code,

(4) Failure of the appropriate FOOD EMPLOYEES to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the REGULATORY AUTHORITY as specified under § 8-103.12,

(5) Failure of the PERSON IN CHARGE to provide records required by the REGULATORY AUTHORITY for determining conformance with a HACCP PLAN as specified under Subparagraph 8-201.14(D)(6), and

(6) Nonconformance with CRITICAL LIMITS of a HACCP PLAN.

8-403.20 Specifying Time Frame for Corrections.

The REGULATORY AUTHORITY shall specify on the inspection report form the time frame for correction of the violations as specified under §§ 8-404.11, 8-405.11, and 8-406.11.

8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.

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 inspection 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.^P

(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
Priority Item or
Priority
Foundation Item**

8-405.11 Timely Correction.

(A) Except as specified in ¶ (B) of this section, a PERMIT HOLDER shall at the time of inspection correct a violation of a PRIORITY ITEM OR PRIORITY FOUNDATION ITEM of this Code and implement corrective actions for a HACCP PLAN provision that is not in compliance with its CRITICAL LIMIT.^{Pf}

(B) Considering the nature of the potential HAZARD involved and the complexity of the corrective action needed, the REGULATORY AUTHORITY may agree to or specify a longtime frame, not to exceed:

(1) 72 hours after the inspection, for the PERMIT HOLDER to correct violations of a PRIORITY ITEM; or

(2) 10 calendar days after the inspection, for the PERMIT HOLDER to correct violations of a PRIORITY FOUNDATION ITEM or HACCP PLAN deviations.

8-405.20 Verification and Documentation of Correction.

(A) After observing at the time of inspection a correction of a violation of a PRIORITY ITEM OR PRIORITY FOUNDATION ITEM or a HACCP PLAN deviation, the REGULATORY AUTHORITY shall enter the violation and information about the corrective action on the inspection report.

(B) As specified under ¶ 8-405.11(B), after receiving notification that the PERMIT HOLDER has corrected a violation of a PRIORITY ITEM OR PRIORITY FOUNDATION ITEM or HACCP PLAN deviation, or at the end of the specified period of time, the REGULATORY AUTHORITY shall verify correction of the violation, document the information on an inspection report, and enter the report in the REGULATORY AUTHORITY'S records.

**Core Item
Violation**

8-406.11 Time Frame for Correction.

(A) Except as specified in ¶ (B) of this section, the PERMIT HOLDER shall correct CORE ITEMS by a date and time agreed to or specified by the REGULATORY AUTHORITY but no later than 90 calendar days after the inspection.

(B) The REGULATORY AUTHORITY may approve a compliance schedule that extends beyond the time limits specified under ¶ (A) of this section if a written schedule of compliance is submitted by the PERMIT HOLDER and no health HAZARD exists or will result from allowing an extended schedule for compliance.

8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

Subpart

8-501

Investigation and Control

Investigation and Control

8-501.10

Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis.

The REGULATORY AUTHORITY shall act when it has reasonable cause to believe that a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through FOOD; may be a carrier of infectious agents that cause a disease that is transmissible through FOOD; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(A) Securing a confidential medical history of the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE suspected of transmitting disease or making other investigations as deemed appropriate; and

(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected FOOD EMPLOYEE or CONDITIONAL EMPLOYEE.

**8-501.20 Restriction or Exclusion of Food Employee,
or Summary Suspension of Permit.**

Based on the findings of an investigation related to a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE who is suspected of being infected or diseased, the REGULATORY AUTHORITY may issue an order to the suspected FOOD EMPLOYEE, CONDITIONAL EMPLOYEE or PERMIT HOLDER instituting one or more of the following control measures:

(A) RESTRICTING the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE;

(B) EXCLUDING the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE; or

(C) Closing the FOOD ESTABLISHMENT by summarily suspending a PERMIT to operate in accordance with LAW.

**8-501.30 Restriction or Exclusion Order: Warning or
Hearing Not Required, Information
Required in Order.**

Based on the findings of the investigation as specified in § 8-501.10 and to control disease transmission, the REGULATORY AUTHORITY may issue an order of RESTRICTION or EXCLUSION to a suspected FOOD EMPLOYEE or the PERMIT HOLDER without prior warning, notice of a hearing, or a hearing if the order:

(A) States the reasons for the RESTRICTION or EXCLUSION that is ordered;

(B) States the evidence that the FOOD EMPLOYEE or PERMIT HOLDER shall provide in order to demonstrate that the reasons for the RESTRICTION or EXCLUSION are eliminated;

(C) States that the suspected FOOD EMPLOYEE or the PERMIT HOLDER may request an appeal hearing by submitting a timely request as provided in LAW; and

(D) Provides the name and address of the REGULATORY AUTHORITY representative to whom a request for an appeal hearing may be made.

8-501.40 Removal of Exclusions and Restrictions.

The REGULATORY AUTHORITY shall release a FOOD EMPLOYEE, OR CONDITIONAL EMPLOYEE from RESTRICTION or EXCLUSION according to LAW and the conditions specified under § 2-201.13.

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INDEX

- a_w, definition, 3
- Access
 - allowed after due notice, 213
 - application for inspection order, 214
 - court petition for, 242-243
 - denial, judicial remedies, 242-243
 - denied, sworn statement, 243
 - notification of right, 213
 - owner agreement, 213
 - refusal, 214
 - to premises and records, 227, 242
- Accuracy, 115-116
- Acidity. *See pH*, 14
- Accreditation, 29
 - equipment certification program, 125
 - manager certification program, 29
- Accredited program, 2, 331-332
- Acknowledgments, *Preface xii*
- Additive, food and color
 - definition, 2
 - food upon receipt, 59
 - limitations, 96-97, 193
 - sulfites, 70
 - unapproved, protection from, 70
- Administrative remedies, 228-242
 - hearing officer's powers, 239-240
- Adulterated
 - definition, 2
 - food condition, 53
 - US Code, *See References Annex*, 248-252
- Air-drying
 - equipment and utensils, 148
 - wiping cloths, locations, 148
- Air filtration, 163
- Air gap. *See Backflow Prevention, Plumbing System*
- Air temperature, 90-91, 121
 - See also Ambient temperature measuring devices*
- Aisles in work spaces. *See Spacing*
- Alkalinity. *See pH*
- Allegation of fact, response to hearing notice, 234
- Allergen.
 - latex, *see Major food allergen*
- Alligator. *See Fish*
- Ambient temperature measuring devices, 116
- Animal foods, raw
 - consumer self-service, limitations, 78
 - cooking requirements, 80-85
 - separation from other foods, 68-69
- Animal foods, raw or undercooked, consumer advisory, 104-105
- Animals
 - commercially raised for food, 56-58, 80
 - exotic animals, limitations as food source, 57
 - game, 56-58, 80-81
 - handling by employees, prohibition and exception, 51-52
 - handwashing after handling, 47
 - live, prohibition and exceptions, 187-188
 - wild game, 57-58, 81
- Anti-slip floor coverings, 174
- Americans with Disabilities Act
 - guidance, *see Annex 2-3*
 - managing ill employees, *see Annex 3*
- Appeal
 - denial of application for operating permit, 208
 - dismissal, hearing officer's powers, 240
 - proceeding, timeliness, 235-236
 - restriction or exclusion order, 219
 - right to, acceptance of consent agreement as waiver, 242
- Applicant for permit to operate food establishment
 - information required, 205-207
 - qualifications, 205
- Applicant, responsibility to report illness, 209
- Application for operating permit
 - notice of denial, 208
 - procedure, 205-207
- Application of Code
 - prevention of health hazards, 198
 - public health protection, 197-198
- Approved, definition, 2
- Area
 - adjacent to easily movable equipment, 6
 - behind vending machine kickplates, 115
 - Code subject, *Preface xi*
 - consumer eating and drinking, 176, 187-188
 - consumer shopping, 131, 169, 176, 188
 - designated for eating, drinking, and tobacco use, 50-51, 183
 - dining, 188
 - distressed merchandise, 184
 - dressings, 182, 186
 - driving, 174, 179
 - dry storage, 176
 - exposed, 176-177
 - food preparation, 116, 173, 175, 177, 188
 - food protection, *Preface ii-iii*
 - handwashing, sink, 158, 159-160, 175
 - indoor, construction material, 173-174
 - Inspection order access. *See Compliance and Enforcement Annex, contents of order*, 228-229, 243-244
 - light intensity by, 182
 - living, 180
 - outdoor, construction materials, 174
 - outside fenced, 188
 - poisonous or toxic materials, 190-196
 - prohibited food storage, 77
 - protected for tank vent, 162

- refuse, 167, 169, 171
 - registration for bed and breakfast, 10
 - requiring drip-free ventilation, 116
 - self-service, 31
 - separate, for raw foods, 68-69
 - servicing, 173, 179
 - shellfish harvesting, 61-62
 - sleeping, 180
 - storage, 167-170
 - underneath equipment for cleaning, 130
 - underneath fingernails, cleaning, 46
 - unaffected by imminent health hazard, 216
 - vending machine, 24, 179
 - walking, 174, 179
 - warewashing, 175, 190
 - waste servicing, 166
 - where unnecessary persons are not allowed, 29
- Artificial color or flavor, declaration, 102-103
- Assessment of statutory provisions, recommendation, *See Compliance and Enforcement Annex*, 222
- Asymptomatic carrier, 36-45
- Asymptomatic, definition, 3
- Attachments, wall and ceilings, cleanability, 176
- Authorities, enforcement, 224, 244
- Authority, PHS model codes, *Preface ii-iii*
- Authorization, settlement, 241
- Automatic shutoff, vending machines, 120-121
- Backflow prevention, plumbing system
 - air gap, 157
 - carbonator, 159
 - knowledge of person in charge, 27
 - sewage systems, 165-167
 - water system operation, 155
- Backflow prevention device, plumbing system
 - carbonator, 159
 - copper, use limitation, 111
 - design standard, 157
 - location, 159
 - numbers and capacity, 158
 - operation and maintenance, 159
- Backsiphonage. *See Backflow*
- Bacon, slab, storage, 69
- Bacteria. *See Disease outbreaks caused by*
- Baffles, internal, for warewashing machine, 122
- Bags. *See Single-service articles*
- Bait
 - fish, 188
 - station, 194
- Bakery products, 103
- Balut, definition, 3
- Basket, for warewashing equipment, 122-123, 143
- Bearings and gear boxes, leakproof, 119
- Bed and Breakfast. *See Food establishment definition*
- Beef
 - consumer self-service, 78
 - cooking requirement, 80-83
 - grinding logs, *see Annex 2-3*
 - minimum holding times for cooking, 82
 - oven parameters for cooking, 81
 - rare or raw, consumer advisory, 104-105
 - raw, storage, 68-69
 - use of clean equipment, 139-142
 - use of laundered gloves, 147
 - whole-muscle, intact, definition, 24
 - whole-muscle, intact steak, cooking, 82-83
- Beef roasts, cooking requirements, 81-82
- Beverage
 - containers, consumer-owned, refilling, 75-76
 - definition, 3
 - tubing, separation from stored ice, 119
 - vending machines, liquid waste disposal, 124
- Birds, dead or trapped, removal, 187
- Boil. *See Lesion, containing pus*
- Boiler water additives, criteria, 193
- Bottled drinking water, definition, 3
- source, 154
- Botulism. *See Clostridium botulinum*
- Bowls. *See Hollowware*
- Bread wrappers. *See Single-use articles*
- Buffets, monitoring by food employees, 79
- Buildings. *See Physical facilities*
- Bulk food
 - dispensing methods, 78-79
 - display, protection, 78
 - labeling requirements, 102-103
 - liquid, vended, 124
 - raw animal food, prohibition, 78
 - unpackaged, labeling exemptions, 103
- Bulk milk container dispensing tube, 138
- Cabinets
 - storage, 130, 150, 163, 188
 - vending machine, 125
- Calibration, temperature measuring devices, 138
- Can openers
 - design and construction, 115
 - maintenance and operation, 132
 - on vending machines, design and construction, 119
- Cans, number 10. *See Single-use articles*
- Canthaxanthin, 103
- Carbonator, 159
- Cardboard for recycling, outside storage, 170
- Carpeting, floor, restrictions and installation, 175
- Carrier, disease. *See Asymptomatic carrier*
- Carry-out utensils. *See Single-service articles*
- Case lot handling equipment, moveability, 124
- Casing
 - definition, 3
- Cast iron utensils and equipment food-contact surfaces,
 - use limitation, 110
- Catering operation. *See Food establishment*
- Catsup bottles. *See Single-use articles*
- Ceiling, ceiling coverings, and coatings, cleanability, 174-176
- Ceramic utensils, lead limitation, 110

- Certification number, definition, 3
- CFR, definition, 3
- Cheese
 - date marking, 93-94
 - ROP, 101
- Chemicals
 - preservatives, declaration, 102
 - sanitization of equipment food-contact surfaces and utensils, 145-146
 - sanitizers, criteria, 192
 - washing fruits and vegetables, criteria, 192
 - working containers, of, 189
- Chicken, raw, immersion in ice or water, 72
- Children's menu, 83
- China utensils, lead imitation, 110
- Chlorine solutions, chemical sanitization, 135-137
- CIP
 - definition, 3
 - equipment, design and construction, 114
- Civil penalty, hearing officer's powers, 239-240
- Civil proceedings, petitions, penalties, and continuing violations, 245
- Clams, lightly cooked or raw, consumer advisory, 83, 104-105
 - See also Molluscan shellfish; Fish*
- Cleanability
 - carpeting, 174-175
 - ceilings, 174-176
 - floor and wall junctures, 175
 - floors, 173-176
 - food-contact surfaces, 109-110
 - mats and duckboards, 176
 - nonfood-contact surfaces, 115
 - studs, joists, and rafters, 176
 - utility lines, 174-175
 - wall and ceiling attachments, 176
 - wall and ceiling coverings and coatings, 176
 - walls, 174-176
- Cleanable fixtures, plumbing system, 156-157
- Cleaned in place. *See CIP*
- Cleaners. *See Poisonous or toxic materials*
- Cleaning agents
 - availability, 129
 - handwashing, 180
 - warewashing equipment, 133
- Cleaning and sanitizing
 - equipment and supplies for reuse, recyclables, and returnables, 167-172
 - equipment and utensils to prevent food cross contamination, 139-146
 - knowledge demonstrated by person in charge, 26-28
 - maintenance tools, preventing contamination, 185
 - physical facilities, frequency and restrictions, 184
 - procedure for employees' hands and arms, 46-47
 - ventilation systems, nuisance and discharge prohibition, 185
- Cleaning of equipment and utensils
 - criteria, 139
 - frequency, 139-142
 - methods, 142-144
- Cleanliness, personal, of employees
 - fingernails, 46, 50
 - hands and arms, 46-50
 - jewelry, prohibition, 50
 - outer clothing, 50
- Closed hearing, justification, 237
- Clostridium botulinum***, preventing growth in reduced,
 - atmosphere packaging, variance, 97-101
 - See also Time/Temperature Control for Safety Food*
- Clothes washers and dryer
 - availability, 128
 - location for contamination prevention, 130
- Clothing, outer, of employees, clean condition, 50
- Cloths
 - for use with raw foods of animal origin treatment, 73-74
 - for wiping food spills, criteria, 73-74
- Code
 - Adoption, certified copies, *Preface viii*
 - applicability, 197-199
 - conformance with history, role in frequency of inspections, 212
- Code of Federal Regulations. *See "CFR definition"*
- Cold holding of time/temperature control for safety food, 88-92
- Cold-plate beverage cooling devices, separation from stored ice, design, and construction, 119
- Color additive, definition, 2
- Commingle, definition, 4
- Comminuted, definition, 4
 - cooking fish and meats, 80
- Commissary. *See Food establishment definition*
- Common name, 70
- Communicable. *See infectious agent*
- Community or individual facility for disposal of refuse, recyclables, and returnables, 172
- Compactors, on-site, 168
- Compliance and Enforcement Annex
 - explanation, *Compliance & Enforcement*, 221-223
 - principle, *Compliance & Enforcement*, 222
 - purpose, *Compliance & Enforcement*, 221
 - recommendation, *Compliance & Enforcement*, 222-223
- Compliance with Code, responsibility of permit holder, 199, 209
- Condenser unit, separation from food and food storage space, 119
- Condiments, protection from contamination by consumers, 78
- Conditional employee
 - definition, 4
 - responsibilities, 32-35
- Conditioning device, plumbing system

- design, 157
 - location, 159
- Confidentiality
 - hearings, 237
 - protection, 204
- Confirmed disease outbreak, definition, 4
- Consent agreement
 - approval by hearing officer, 239
 - request, response to hearing notice, 234, 242
 - respondent acceptance as waiver of right to appeal, 242
- Constitutional protection, procedural safeguards and judicial review, 223
- Construction
 - food establishment, plans and specifications requirement, 200-203. *See also Public Health Reasons Annex, 543-544*
 - inspection and approval, 204
 - mobile water tank and mobile food establishment water tank, 161-163
 - plumbing system, 156-157
- Consumer
 - advisory for raw or undercooked animal foods, 104-105
 - definition, 4
 - expectations for food supply, *Preface iv*
 - food on display, protection from contamination by, 78
 - information requirements, 102-104
 - self-service, clean tableware for refills, 74-75
 - self-service operations, protection from contamination, 74-75
- Consumer-owned container, refilling, 76
- Consumers at risk, advisory for fully cooked animal foods, 104-105
- Contact time, chemical sanitization of equipment
 - food-contact surfaces and utensils, 145-146
- Container prohibitions for poisonous or toxic materials, 192
- Containers
 - food storage, common name identification, 70
 - poisonous or toxic materials
 - labeling and identification, 189
 - use prohibition, 190
 - working, common name identification, 189
- See also Single-service articles*
- Contaminated food, disposition, 105
- Contamination of food after receiving, prevention, 68-79
- Contamination prevention, location of equipment, clothes washer/dryers, and storage cabinets, 129-130
- Contents
 - court petition, 242-243
 - hearing notice, 236-237
 - required, response to hearing notice, 234
- Control of foodborne disease transmission by employees, 218-220
- Controlled atmosphere packaging. *See Reduced oxygen packaging*
- Conversion of food establishment, plans and specifications, requirement, 200-201
See also Public Health Reasons Annex, 543-544
- Cook-chill packaging. *See Reduced Oxygen Packaging*
- Cooking
 - equipment, cleaning frequency, 142
 - destroying organisms of public health concern, 80-85
 - requirements for raw animal foods, variance, 83
 - utensils. *See Kitchenware*
- Cooling
 - capacity, food equipment, 126
 - methods to limit growth of organisms of public health concern, 90-92
 - time/temperature control for safety food, 91
- Copper and copper alloys, use limitation in food contact and fittings, 111
- Core item, definition, 4
- Core item violation, time frame for correction, 217-218
- Corned beef roasts
 - minimum holding times for cooking, 82
 - oven parameters for cooking, 81
- Correction of priority violation, 16
 - time frame, 215, 217-218
 - timeliness, 217
 - verification and documentation, 217
- Correction of priority foundation violation, 16, 217
- Corrective action
 - compliance, 209-210
 - failure to demonstrate compliance, 214-215
- Corrosion-resistant material, definition, 4
- Cosmetics. *See Personal care items*
- Counter guards. *See Food display*
- Counter-mounted equipment
 - definition, 5
 - elevation, 130-131
- Court petition
 - for access, contents, 242-243
 - injunction, 245
 - penalties, 245
- Criminal proceedings
 - authorities, methods, fines, and sentences, 244-245
 - misdemeanor, 244
- Critical control points
 - definition, 5
 - flow diagram, 202
 - knowledge demonstration by person in charge, 26-28
 - monitoring, responsibility of permit holder, 209
 - standard operating procedures, 202
 - See also Annex 5, 616*
- Critical limit
 - definition, 5
 - nonconformance documentation, 214-215

- violations, timely corrections, 217
- Cross connection, water supply system, prohibition, 160
- Cross contamination of food protection by separation and segregation, 68-69
- Crustacea shells, use limitation, 138
- Crystal utensils, lead limitation, 110
- Cups, refilling in consumer self-service, 75-76
See also *Hollowware*
- Cut, infected. See *Lesion, containing pus*
- Cut leafy greens
 - as TCS food, 22
 - definition, 5
- Cutting surfaces
 - materials, 111
 - resurfacing, 132
- Data plate, warewashing machine, 116
- Date marking of ready-to-eat, time/temperature control for safety food, 92-94.
Shellstock, 64, 277
See also *Public Health Reasons Annex*, 450
Model Forms, Guides, and Other Aids Annex 7, Chart 4-C
- Dealer's tag/label for molluscan shellstock requirements, 61-62
- Decision by hearing officer, 238-239
- Deli tissue, use to avoid contaminating food, 65
- Demonstration of knowledge. See *Person in Charge; Supervision*
- Denial of access, sworn statement, 243
- Denial of application for operating permit, notice, 208-209
- Design, construction, and installation
 - equipment and utensils
 - acceptability, 125
 - accuracy, 115-116
 - cleanability, 113-114
 - durability and strength, 113
 - functionality, 116
 - physical facilities
 - cleanability, 174-175
 - functionality, 176-177
 - mobile water tank and mobile food establishment water tank, 161-164
 - plumbing system, 156-161
 - sewage system, 165-167, 172
- Design standard, backflow prevention device, 157
- Destroying or denaturing food by hold order, 231
- Detergents. See *Cleaning agents*
- Detergent-sanitizers
 - for warewashing equipment, 137
 - rinsing procedures, 144-145
- Deviations from code
 - documentation, 214-215
 - See also *Modifications; Variance; Waivers;*
- Devices. See *Physical facilities*
- Diarrhea, employee symptom, 32
- Dipper wells. See *Utensils, in-use storage*
- Disease of employee, 32-45. See also *Public Health Reasons Annex*, 350-366
- Disease or medical condition, reporting responsibility, 32-35
See also *Public Health Reasons Annex*, 350-366
- Disease outbreaks caused by Norovirus, ***S. Typhi***, ***Shigella*** spp., or Shiga producing ***E. coli***, or hepatitis A virus, 33-34. See also *Public Health Reasons Annex*, 355-363
- Dish basket. See *Basket*
- Dishes. See *Tableware*
- Dishwashing. See *Warewashing*
- Disinfection
 - drinking water system, 154
 - mobile water tank and mobile food establishment water tank, 161-162
- Dispensing equipment, design and construction for protection of equipment and food, 117-118
- Dispensing tube, bulk milk container, 138
- Display. See *Food display*
- Disposable towels, waste receptacle, 168
- Disposal facilities
 - refuse, recyclables, and returnables, 167-172
 - sewage, other liquid wastes, and rainwater 165-167
- Disposition of ready-to-eat, time/temperature control for safety food, 94. See also *Public Health Reasons Annex*, 450-451; *Model Forms, Guides, and Other Aids Annex*, Chart 4-C
- Distressed merchandise, segregation and location, 184
- Documentation
 - correction of critical violation, 217
 - freezing for parasites, 85-86
 - inspection report, 214-215
 - ROP, 97-101
 - variances, 198-199
- Dogs in food establishments
 - patrol and sentry, 188
 - pets, 187-188
 - service, 187-188
- Dollies. See *Case lot handling equipment*
- Doors
 - pets in common dining area of group residence, 187-188
 - equipment maintenance, 132
 - physical facility, 176-177
 - refuse receptacle, 167-170
 - toilet room, 186
 - vending machine, 120, 124-125
- Drain plugs for equipment and receptacles for refuse, recyclables, and returnables, 171
- Drainage of equipment compartments, 124
- Drainage system, food establishment, design and installation, 165
- Drainboards
 - capacity, 127
 - cleaning frequency, 132-133

- cleanability, 113-115
 - warewashing, self-draining, 124
- Drains, indirect, 165
 - walk-in refrigerators, 165
- Dressing areas
 - designation, 182
 - use by employees, 186
- Dried eggs, condition at receipt, 59
- Drinking by employees, food contamination prevention, 50
- Drinking water
 - bottled, source, 154
 - definition, 5
- Drinking water systems
 - approved, 153
 - flushing and disinfection, 154
- Drip prevention, design and construction of ventilation hood systems, 116
- Driving surfaces. *See Surface characteristics, outdoor*
- Dry cleaning methods, equipment and utensils, 142
- Dry eggs, 59
- Dry milk, 59
- Dry storage area, definition, 5
- Drying agents, criteria, 193-194
- Duckboards, cleanability, 173-174
- Due process rights, 223
- Dustless methods of cleaning floors, 185

- Easily cleanable, definition, 6
- Easily movable, definition, 6
- Eating by employees, food contamination prevention, 50
- Effective date of Code, 197-198
- Egg
 - boiled, *See Time/temperature control for safety food definition*
 - cooking requirements, 80-83, 106-108
 - definition, 7
 - lightly cooked or raw, consumer advisory, 104-105
 - liquid, frozen, and dry, condition at receipt, 59
 - pasteurized, substitute for shell eggs, 70-71, 106-108
 - pooling, 106-108
 - time/temperature control for safety food, 22-24
 - restricted definition, 19
 - service to highly susceptible populations, 106-108
- Egg product, definition, 7
- Eggs, raw, shell
 - condition at receipt, 59
 - cooling, 90-91
 - labeling, 55
 - temperature at receipt, 58
- Elderly. *See Highly susceptible population*
- Emergency occurrence. *See Imminent health hazard*
- Employee
 - accommodations, location, 183-184
 - definition, 7
 - disease or medical condition, 32-45
 - dressing areas, number, 183
 - eating, drink, and tobacco use, designated areas, 50
 - food contaminated by, disposition, 105
 - hygiene, 50-51
 - ill, exclusions and restrictions, 35-45
 - practices, supervision of, 29-31
 - prevention of food contamination, 65-68
 - responsibility to report illness, 32-35
 - serving high-risk populations, exclusions and restrictions, 35-45. *See also Food employee; Permit holder; Person in charge*
- Emu. *See Ratites*
- Enclosures for refuse, recyclables, and returnables, operation and maintenance, 167-170
- Enforcement. *See Compliance and Enforcement Annex*
- Enforcement proceedings
 - institution, 225
 - judicial, 242-244
 - methods, 244
- EPA, definition, 7
- Equipment
 - air-drying, 148
 - assessment for Code enforcement, 197-198
 - case lot handling, 124-125
 - cleaning criteria, 139
 - cleaning frequency
 - food-contact surfaces/utensils, 139-142
 - nonfood-contact surfaces, 142
 - warewashing, 132-138
 - compartments, drainage, 124
 - cooling, heating, and holding capacities, 126
 - definition, 7
 - design and construction, durability and strength, 113
 - existing, 197-198, 209-210
 - fixed, elevation or sealing, installation, 130-131
 - fixed, spacing or sealing, installation, 130
 - food-contact surfaces and utensils, cleaning frequency, 139-142
 - HACCP plan, 201-203
 - location for contamination prevention, 129-130
 - maintenance, 132
 - necessary replacement, 209-210
 - plans, 200-201
 - reassembly after cleaning, 149
 - repair and adjustment, 132
 - storage, 187
 - storage prohibitions, 149-150
- Equipment certification and classification, 125
- Equipment and utensils, dry cleaning methods, 142
 - precleaning, 143
 - rinsing procedures, 144-145
- Equipment openings, closures and deflectors, design and construction, 116-117

- Equipment, utensils, and linens
 - cleaning, 139-146
 - design and construction, 113-125
 - laundering lines, 146-147
 - location and installation, 129-131
 - maintenance and operation, 132-138
 - materials for construction and repair, 109-113
 - numbers and capacities, 126-129
 - protection of clean items, 148-151
 - sanitization of equipment and utensils, 145-146
 - See also Physical facilities*
- Escargot. *See Fish*
- Evidence at hearing
 - documentary, 228
 - excluded, 241
 - regulatory authority presentation, 241
 - written, 241
- Exclude, definition, 7
- Exclusion of employee
 - illness, 34-37
 - infection or disease, 35-37
 - release, 38-45, 220
 - removal, 38-45, 220
- Exclusion order
 - for infected or diseased employee, 219
 - service, 225-226
- Expiration time for time/temperature control for safety
 - food, 92-94
 - See also Public Health Reasons Annex, 450-455; Model Forms, Guides, and Other Aids Annex, Chart 4-C*
- Exposure, 32-34
- Facilities
 - assessment for Code enforcement, 197-198
 - disposal, recycling, and refilling of waste, 172
 - necessary replacement, 210
 - on-premises for refuse, recyclables, and returnables, 167-172
- Facility plans and specifications, submission and approval, 200-201
- Faucet, handwashing sink, 157
- Fee for operating permit, issuance criteria, 205
- Fees, civil proceeding
 - enforcement and collection, 245
 - hearing officer's powers, 238-239
- Fever with sore throat, employee symptom, 32
- Filter, compressed air, for drinking water system, 163
- Filtering equipment, hot oil, design and construction, 115
- Final order, rendering by hearing officer, 239-240
- Fines, criminal proceeding, 244-245
 - civil proceeding, 245
- Fingernails
 - artificial, prohibition, 50
 - of employees, maintenance, 50
- First aid supplies in food establishments, storage; *See also Personal care items*
- Fish
 - consumer self-service, 78
 - cooking requirements, 80-83
 - definition, 8
 - frozen by supplier, freezing records, 86
 - other than molluscan shellfish, 54, 85
 - raw, storage, 68-69
 - recreationally caught, 55-56; *See also Public Health Reasons, 404*
 - use of clean equipment, 139; *See also Public Health Reasons Annex, 507-509*
 - use of laundered gloves, 147
- Fish, lightly cooked or raw
 - aquacultured
 - consumer advisory, 104-105
 - freezing to control parasites, 85
 - immersion in ice or water, 71
 - restriction on reduced oxygen packaging, 99
- Fitting or tubing, copper and copper alloys, use limitation, 111
- Fixtures. *See Physical facilities*
- Flatware. *See Tableware*
- Floor drains, cleanability, 175
- Floor-mounted equipment, clearance, 131
- Floors
 - absorbent materials, use limitation, 186
 - and floor coverings, cleanability, 174-176
 - dustless cleaning methods, 185
- Flow pressure valve, warewashing machine, 123
- Flushing
 - drinking water system, 154
 - mobile water tank and mobile food establishment water tank, 163-164
 - waste retention tanks, 166
- Flux, use limitation for food-contact surfaces, 110
- Fogging devices, cleaning the water reservoir, 160-161
- Food
 - additives, 59, 70, 96
 - characteristics, 53
 - contact with equipment and utensils, 72
 - contaminated, 105
 - cooked, time/temperature control for safety food, cooling, 91-92
 - damaged, spoiled, recalled, storage, 184
 - definition, 8
 - destroying or denaturing, 231
 - destruction of organisms of public health concern, 80-83
 - examining, sampling, and testing, 231
 - frozen, time/temperature control for safety food, 59, 88
 - hermetically sealed, source, 55
 - honest presentation, 1, 102, 197
 - identity, presentation, and on-premises labeling, 54-55, 102
 - in contact with water or ice, storage or display, 71
 - limitation of growth of organisms of public health concern, 88-101
 - official tagging, 230
 - packaged and unpackaged, separation, packaging and segregation, 68-69

- packaged, labeling, 54-55, 102-103
- protection for contamination, 65-79
- releasing from hold order, 231
- removal, justification, 229
- restrictions on using or moving
 - hold order, 230-231
- specialized preparation methods, variance
 - requirement, 83, 96-97, 119-120, 198-199, 201
- standards of identity, 102
- temperature and time control, limiting growth
 - of organisms of public health concern, 88-101
- vended, time/temperature control for safety
 - food, original container, 77
- Food, time/temperature control for safety
 - guidance, *see Annex 2-3*
 - HACCP plan, 201-203
 - hot & cold holding, 91-92, Annex 3, 445-449
 - preparation, application for permit, 206
 - temperature at receipt, 58-59
 - time as public health control, 94-96
- Food, ready-to-eat, time/temperature control for safety
 - date marking, 92-94
 - disposition, 94
 - See also Public Health Reasons Annex, 450-451; Model Forms, Guides, and Other Aids Annex, Chart 4-C*
- Food Allergy, awareness, 31; *See also Public Health Reasons Annex, 344*
- Food bank. *See Food establishment*
- Food cart. *See Food establishment, definition, mobile; Model Forms, Guides, and Other Aids Annex, Chart 4-C*
- Food bank. *See Food establishment*
- Food cart. *See Food establishment, definition, mobile*
- Food Code
 - conventions, *Preface xi*
 - improvements, *Preface v-vi*
 - intent, 1
 - interventions, *Preface i-ii*
 - revision process, *Preface xi-xii*
 - safeguards, *Preface iv-v*
 - scope, statement, 1
 - standards, 1
 - title, 1
- Food codes, previous editions, *ii-iv, Preface iii*
- Food contact, copper, use limitation, 111
- Food-contact surface
 - assessment for Code enforcement, 197-198
 - cast iron equipment, use limitation, 110
 - construction materials, 109-110
 - copper, use limitation, 111
 - cleaning criteria, 139
 - cleaning frequency of equipment, 139-142
 - definition, 8
 - design and construction, cleanability, 113-114
 - galvanized metal equipment, use limitation, 111
 - lead, use limitation, 110
 - linens and napkins, use limitation, 73
 - lubricating, 149
 - sanitization criteria, 145
 - sanitization frequency, 145
 - sanitization methods for equipment, 145-146
 - "V" threads, use limitation, 114
 - wet cleaning methods for equipment, 143
 - wood, use limitation, 111-112
- Food containers
 - placement in cooling or cold holding equipment, 90-91
- Food contamination
 - by persons, discarding, 105
 - by unclean utensils and equipment, 72
 - prevention after receiving, 65-79
 - prevention by employees, 65-68
- Food defense
 - guidance, *see Annex 2-4*
- Food display, preventing contamination by consumers, 78-79
- Food employee
 - definition, 8
 - responsibility to report illness, 32-35
- Food establishment
 - definition, 9
 - identity information, 205-207
 - inspection, frequency, 211-212
 - permit to operate, 204-210
 - plans and specifications for construction, conversion, or remodeling, 207
 - See also Public Health Reasons Annex, 543-544*
 - temporary, inspection frequency, 211
- Food guards. *See Food display*
- Food management, plans, 200-203
- Food package integrity, 60
- Food processing, variance required, 96-97
 - See also Food Processing Annex*
- Food processing plant, definition, 10
- Food Protection Manager Certification, 29
- Food reheated in microwave oven, requirements, 87
- Food safety
 - control measures, HACCP plan, 200-203
 - intent of Food Code, 1
 - purpose of Code, 1
- Food service establishment. *See Food establishment*
- Food sources,
 - compliance with food law, 54-55
 - original containers and records, 63-64
 - plans, *See Public Health Reasons Annex, 427*
- Food specifications for receiving, 58-62
 - temperature, 58-59
- Food-specific container for beverages, refilling, 74-76
- Food storage
 - containers, identification of food, 70
 - preventing contamination from premises, 76-77
 - prohibited areas, 77

- Food supply, public health concerns, *Preface iv*
- Food temperature measuring devices
 - accessibility, 128
 - design and construction, 113
- Food vending location/areas
 - outdoor, overhead protection, 179
 - See also Food establishment*
- Food volume, proposed, plans, 200
- Foodborne disease
 - outbreak, definition, 8
 - prevention, knowledge, 26-28
 - prevention, plans, *See Public Health Reasons Annex, 543-544*
- Foodborne illness
 - nature and extent, *Preface i-ii*
 - frequency of inspections, 211-212
 - transmission by employees, prevention, 218-219
- Foot candles. *See Lighting*
- Fork lifts. *See Case lot handling equipment*
- Forks. *See Tableware*
- Form of request for hearing, 233-234
- Freezing to destroy organisms of public health concern, 85-86
- Frog. *See Fish*
- Frozen eggs, condition at receipt, 59
- Frozen food
 - limiting growth of organisms of public health concern, 88
 - maintain frozen, 88
 - shipped frozen received frozen, 59
- Fruits, raw
 - cooking, 84
 - washing, 71
 - whole or cut, immersion in ice or water, 71
 - whole, uncut, storage, 70
- Galvanized metal, use limitation for utensils and food-contact surfaces of equipment, 111
- Game animal
 - commercially raised for food, 56-58
 - cooking requirements, 80-83
 - definition, 10
 - exotic species, 57-58
 - limitations as food source, 56-58
 - wild, field-dressed, limitations as food source, 58
- Gauge cock. *See Flow pressure valve*
- Garbage. *See Refuse*
- Garlic. *See Time/Temperature Control for Safety Food definition*
- Gastrointestinal illness, symptoms of employee, 32
- General use pesticide, definition, 10
- Glasses, refilling in consumer self-service, 75
- Gloves
 - cloth, laundering frequency, 146-148
 - handwash before donning, 47-48
 - single-use, 74
 - slash resistant, 74
- Grease traps, in food establishment drainage systems, 166
- Ground beef. *See comminuted definition*
- cooking, 80
- Guard dog. *See Service animal*
- HACCP plan
 - compliance, responsibility of permit holder, 209
 - contents, 201-203
 - criteria, reduced oxygen packaging, 97-101
 - critical limits, nonconformance, 215
 - definition, 11
 - knowledge by person in charge, 26-28
 - variances, 96-97, 201, *see also HACCP Annex 4*
- HACCP principles, failure to demonstrate knowledge, 199
- Hair restraints for employees, 51
- Hamburger, *See comminuted definition*
- cooking, 80
- Hand drying
 - available at handwashing sink, 181
 - part of cleaning procedure, 47
- Hand, antiseptics, 48-49
- Hand antiseptics for employees, 48-49
- Handling
 - kitchenware, 150
 - single-service and single-use articles, 150
 - tableware, 150
- Hands and arms of employees
 - clean condition, 46
 - cleaning procedure, 46-47
 - hand antiseptics, 48-49
 - when to wash, 47-48
 - where to wash, 48
- Hands, employees
 - alternative procedure to No Bare Hand Contact, 65-68; *see Annex 3, 340, 413 - 415; Annex 7, Form 1-D*
 - no bare hand contact with RTE food, 65-68
- Handwashing
 - cleanser, availability, 180
 - food employees, 65
 - procedures, special, for employees, 46-48
 - signage, 181
- Handwashing sinks
 - Automatic, 47
 - cleanability, 156-157
 - design and construction, 156-157
 - location and placement, 159, 183
 - maintaining and using, 186
 - numbers and capacities, 158, 180
 - operation and maintenance, 159-160
 - use required, 46-48
 - water temperature, 157
- Handwashing sink, definition, 11
- Harvester's tag/label for molluscan shellstock, requirements, 60-64
- Hazard Analysis Critical Control Point. *See HACCP plan*
- Hazard, definition, 11
- Health hazard, imminent
 - discontinuance of operations and reporting requirement, 216

- prevention, Code application, additional requirements, 198, 216-217
 - summary suspension of operations, 216
- Health practitioner
 - definition, 11
 - documentation for ill employee, *see Annex 7, Form 1-C*
- Health status of employee, required reporting, 214
- Hearing
 - appeal proceeding, 235-236
 - commencement, 237
 - documentary evidence, 241
 - evidence excluded, 241
 - provided upon request, 235
 - in accordance with law, 235
 - regulatory authority evidence, 241
 - rights of parties to, 241
 - settlement, 242
 - testimony under oath, 241
 - timeliness, 235-236
 - warning not required, 229
 - written evidence, 241
- Hearing notice
 - contents, 236-237
 - response, 234
- Hearing officer
 - appointment, 238-240
 - consent agreement, approval, 239-240
 - jurisdiction, 238
 - powers, 238-239
 - purpose, 238
 - qualifications, 238
- Hearing procedure
 - commencement on notification, 237
 - confidential, 237
 - expeditious and impartial, 237
 - record, 237
 - rights of parties to, 241
- Hearings administration,
 - accordance with law, 235
 - basis and time frame, 233-234
 - form and content, 234
- Heat lamp, shield, 177
- Heater, for manual warewashing equipment, 122-123
- Heating capacity, food equipment, 126
- Hepatitis A virus
 - cause of disease outbreak, 33-37
 - cause of employee illness, 33
 - conditions for release of employee from restriction or exclusion, 38-45, 219
- Hermetically sealed
 - container, definition, 11
 - food, source, 55
 - food containers, cleaning, 69
 - reheating, food taken from a container, 87
- High-risk population. *See Highly susceptible population*
- Highly susceptible population
 - consumer advisory, 104-105
 - definition, 11
 - exclusions and restrictions of ill employees, 35-37
 - frequency of inspection, 212
 - permit application, 205
 - special requirements, 106-108
- History, PHS model codes, *Preface ii-iii*
- Hold order
 - contents, 229-230
 - exclusion, 225-226
 - examining, sampling, and testing food, 229
 - justifying conditions, 231
 - official tagging of food, 230
 - removal of tag, 231
 - releasing food from, 231
 - removal of food, 229
 - restrictions on using or moving food, 225-226
 - service of notice, 225-226
 - warning or hearing not required, 229
- Holding capacity, food equipment, 126
- Holding tank. *See Sewage, holding tank*
- Holding time, minimum
 - comminuted meats, 80-81
 - cooking, roast beef and corned beef, 81-83
- Hollowware. *See Tableware*
- Homes and living/sleeping quarters, private, use
 - prohibition, 180
- Honest presentation, intent of Food Code
 - not misleading, 1
- Hooks, slab bacon, 69
- Hood. *See Ventilation systems*
- Hot holding of time/temperature control for safety food, 91-92
- Hot water
 - quantity and availability, 155
 - sanitization of equipment food-contact surfaces and utensils, 145-146
- Hygienic practices of employees
 - food contamination prevention, 50-52
 - hair restraints, 51
 - handling animals, prohibition, 51-52
- Ice
 - as food, 60
 - exterior cooling, prohibition as ingredient, 71
 - source, 60
 - storage or display of food in contact with, 71-72
- Ice units, separation of drains, design and construction, 119
- Identity standards for food, definition, 102
- Illness of employee, investigation, 218
- Illness prevention, intent of Food Code, 1
- Imminent health hazard
 - ceasing operations and reporting, 216
 - definition, 11
- Immunocompromised persons. *See Highly susceptible population*
- In-place cleaning. *See CIP definition*
- Incinerators for solid waste, 172
- Individual sewage disposal system, disposal through approved system, 166

- Indoor areas, materials, 173-174
- Infection, employee, symptom, 32-35
- Infectious agent, employee freedom from, removal of restriction, 38-45
- Ingredients, HACCP plan, 201-203
- Injected, definition, 11
- Injunction
 - court petition, 245
- Insect control
 - devices, design, and installation, 177
 - food establishments, poisonous or toxic materials, 190
 - maintenance, 187
 - outer openings protected, 178-179
 - See also Pest control*
- Insects, dead or trapped, removal, 187
- Inspection. *See Annex 5*
- Inspection, frequency
 - establishing, 211-212
 - performance- and risk-based, 212
- Inspection order
 - access to premises and records, 214, 228, 243
 - contents, 223-226, 228-230, 244-244
- Inspection port, enclosed water system, 162
- Inspection, preoperational, 204, 209
- Inspection report
 - acknowledgment of receipt, 215-216
 - documentation, 214-215
 - form, Annex 7
 - issuance, 215
 - public information, 216
 - receipt, refusal to sign acknowledgment, 215-216
- Installation
 - equipment, 130-131
 - plumbing system, 156
- Institutional food service. *See Food establishment, highly susceptible population*
- Interaction of pH and a_w . *See Time/Temperature Control for Safety Food*
- Interstate Certified Shellfish Shippers List, sources of molluscan shellfish, 56
- Intestinal illness of employee, 32-35
- Iodine solutions, chemical sanitization, 135-137
- Irreversible registering temperature indicator
 - provided onsite, 129
 - utensil surface temperature, 128, 146, 498
- Jars. *See Single-use articles*
- Jaundiced employee
 - exclusions and restrictions, 36
 - removal of exclusions and restrictions, 38-45
 - symptom, 32, 34
- Jewelry, employees, prohibition exception, 50
- medical alert, 50
- Judicial
 - enforcement proceedings, initiating, 244
 - inspection orders, 242-243
 - remedies, 243-245
- review, 223
- Juice
 - definition, 12
 - HACCP system, 62
 - pre-packaged, 62
 - prohibition, 106
 - service to highly susceptible populations, 106
 - treated, 88
 - warning label, 88
 - See also Public Health Reasons Annex, 400*
- Junctures, floor and wall, covered and enclosed or sealed,
 - cleanability, 174-176
- Jurisdiction of hearing officer, 238-239
- Justification, variances, 198
- Justifying conditions for hold order, 229
- Kick plates, removable, design and construction, 115
- Kitchenware
 - definition, 12
 - handling, 150
- Knives. *See Tableware*
- Label, common name on food container, 70
- Labeling
 - packaged food, 54-55
 - food labels, 102-103
 - compliance with law, 102-103
 - identification, 189
 - poisonous or toxic materials and personal care items, 189
- Lamb. *See Meat*
- Landfills for solid waste, 172
- Latex. *See Public Health Reasons Annex, 424-426*
- Laundering linens
 - criteria, 147
 - frequency, 147
 - mechanical washing, 147
 - methods, 147
- Laundry facilities, use limitations, 147-148
- Lavatories. *See Handwashing facilities*
- Law, definition, 12
- Layout, proposed, plans, 200-201
- Lead limitation in ceramic, china, crystal, and decorative
 - utensils, 110
- Leafy greens, cut
 - as TCS food, 22
 - definition, 5
- Lesion, containing pus, 32-33
- Light bulbs, protective shielding, 176-177
- Lighting, intensity, 182
- Linens and napkins, use limitation for food-contact surfaces, 73
- Linens
 - definition, 12
 - laundrying criteria, 147-148
 - laundrying frequency, 147
 - laundrying methods, 147-148
 - mechanical washing methods, 147
 - soiled, storage methods, 147

- storage after cleaning, 149
 - storage prohibitions, 150
- Liquid eggs, condition at receipt, 59
- Liquid food or ice, dispensing equipment, design and construction, 117-118
- Liquid food vending machines, waste receptacle, 124
- Liquid waste
 - drain lines, design and construction, 119
 - other than sewage, disposal facility, 167
 - products from vending machines, 124
 - See also Sewage*
- Listeria monocytogenes*, risk assessment. *See Public Health Reasons Annex*, 446-447, 450-454
- Litter, removal, 187
- Living/sleeping quarters, separation, 180
- Loading soiled items, warewashing machines, 143
- Location, grease trap, 166
- Lockers
 - designation, 182-183
 - location, 182-183
 - using, 186
- Lubricants, incidental food contact, criteria, 194
- Lubricating food-contact surfaces, 149
- Maintenance
 - equipment, storage, 187
 - refuse areas and enclosures, 167
 - tools, cleaning, 185
 - See also Operation and maintenance*
- Major food allergen definition, 12
- Management and personnel
 - employee health, 32-45
 - hygienic practices, 50-52
 - personal cleanliness, 46-50
 - supervision, 25-31
- Manager certification, national recognition, 28-29
- Manual warewashing. *See Warewashing.*
- Manufacturers' dating information, 92
- Materials
 - construction and repair, surface characteristics, 173-174
 - mobile water tank and mobile food establishment water tank, 161
 - See also Physical facilities*
- Mats, floor, cleanability, 176
- Meal portions, individual, from bulk container, 93
- Meat
 - cooking requirements, 80-84
 - cured, 94
 - consumer self-service, 78-79
 - definition, 12
 - rare or raw, consumer advisory, 104-105
 - raw, storage, 68-69
 - use of clean equipment, 139-142
 - use of laundered gloves, 147
- Mechanical warewashing. *See Warewashing.*
- Mechanically tenderized, 13, 80, *see Annex 7, Chart 4-A*
- Medical condition of employee, 32-45
- confidentiality in hearing, 237
- Medical history of ill employee, 218
- Medicines in food establishments
 - restriction and storage, 194-195
 - see also Personal care items*
- Melons, cut. *See Time/Temperature Control For Safety Food Definition.*
- Menu, proposed, plans, 200-201
- Menu items, consumer advisory, 104-105
- Meringue, 70, 106
- mg/L, definition, 13
- Microwave ovens
 - cooking, 84
 - reheating food, requirements, 87
 - safety standards, 132
- Milk and milk products, dry, fluid, and frozen, pasteurized at receipt, 59-60
- Milk, fluid, and milk products
 - cooling, 90
 - dispensing tube, 138
 - raw, consumer advisory, 104-105
 - source, 54-55
 - temperature at receipt, 58-59
- Mixing valve, handwashing sink, 157
- Mobile facility, alternative water supply, 156
- Mobile food establishment
 - application for permit, 204-208
 - sewage holding tank, capacity and drainage, 165
 - water tank, inlet, 162-163
 - waste removal, 166
- Mobile water tank and mobile food establishment water tank
 - design and construction, 162
 - flushing and disinfection, 164
 - materials, 161
 - numbers and capacities, 163-164
 - operation and maintenance, 164
- Model codes, advantages, *Preface iv-v*
- Model forms. *See Model Forms, Guides, and Other Aids Annex 7*
- Modifications. *See also Variance and Waivers*
 - Code application, 197-199
 - conformance with approved procedures, 199
- Modified atmosphere packaging. *See Reduced Oxygen Packaging.*
- Molluscan shellfish
 - commingling, 64
 - definition, 13
 - lightly cooked or raw, consumer advisory, 104-105
 - original container, requirements, 63-64
 - packaging and identification, 60
 - shellfish, source, 56
 - shucked, original container, labeling, 63-64
 - tanks, use limitations, 119-120
 - tanks, variance, 119-120
- Molluscan shellstock
 - condition on receipt, 62
 - cooling, 90
 - identification specifications, 61-62
 - temperature at receipt, 58-59
- Mollusk. *See Fish*

- Mollusk shells, use limitation, 138
- Mops, drying, 185
- Mouthwash. *See Personal care items*
- Moveability, case lot handling equipment, 124-125
- Moveable. *See Easily moveable*
- Multiuse utensils and food-contact surfaces, construction materials, characteristics, 109-112
- Mushrooms
 - cultivated wild species, source, 56
 - wild, source, 56
- Mussels, lightly cooked or raw, consumer advisory, 104-105. *See also Molluscan shellfish*
- Napkins, cloth, laundering frequency, 147. *See also Linens*
- National Shellfish Sanitation Program
 - certification number, 3
 - Guide for the Control of Molluscan Shellfish, 56
- Nitrates, nitrites, and salt for curing, variance specifications, 96-97
- Nonconformance with Code, documentation, 214-215
- Non-continuous cooking
 - definition, 13
 - criteria, 84-85
- Nondrinking water, quality, 154
- Nonfood-contact surfaces
 - cleaning criteria, 139
 - cleaning frequency, 142
 - construction materials, characteristics, 112
 - design and construction, 115
- Nontyphoidal *Salmonella* (NTS). *See Salmonella* (nontyphoidal)
 - Employee illness, 33, 42
 - Reporting, 35
 - Restriction/exclusion, 35-37
 - Reinstatement, 38-45
 - See Public Health Reasons Annex 3, Tables 1, 2 and 3*
- Norovirus
 - employee illness, 33-34
 - reporting, 35
 - restriction/exclusion, 35-37
 - reinstatement, 38-45
- Notice of denial of application for operating permit, 208
- Notices, service of, 225
 - See also Hearing notice*
- NTS, *Salmonella* (nontyphoidal) or nontyphoidal *Salmonella*. *See Salmonella* (nontyphoidal)
- Nutrition labeling, 102-103
- Nuts in shell, storage, 69
- Oath or affirmation, hearing testimony, 241
- Odors
 - mechanical ventilation, 182
 - multiuse equipment materials, 109-112
 - refuse removal frequency, 171
 - single-service/use article materials, 112-113
- Off-premise
 - cleaning services for refuse, recyclables and returnables, 169
 - delivery and consumption of time/temperature control for safety food, application for permit, 205
- Oil equipment
 - "V" threads, 114
 - filtering, 115
- On-site cleaning of returnables, 75-76
- Openings, to outdoors, protection against insects and rodents, 178-179
 - See also* , 528-529
- Operation and maintenance
 - mobile water tank and mobile food establishment water tank, 164
 - physical facilities, 184-188
 - plumbing system, 159-161
 - resumption after suspension, 216
 - sewage system, 166
 - suspension for imminent health hazard, 216
- Optional contents of order, 243
- Order, modifying, removing, or vacating
 - hearing officer's powers, 238-240
- Orders
 - failure to comply, 228
 - hearing officer's powers, 238-240
- Organisms of public health concern
 - destruction, 80-88
 - growth limitation, 88-101
- Outdoor areas, materials, 174
- Ostrich. *See Ratites*
- Outdoor refuse areas, curbed and graded to drain, 179
- Outdoor walking and driving surfaces, graded to drain, 179
- Outside receptacles for refuse, recyclables, and returnables, design and construction, 168
- Outside storage of refuse, recyclables, and returnables, prohibitions, 170
- Oven
 - cooking temperature, 81-82
 - microwave, 84, 87, 132, 142
- Overhead protection for outdoor food vending and servicing areas, 179
- Overwraps, colored, for food, limitations, 102
- Ownership change, operating permit, 208
- Oysters, lightly cooked or raw, consumer advisory, 104-105
 - See also Molluscan shellfish*
- Package integrity, 60
- Packaged, definition, 13
- Packaged food
 - labeling, 54
 - labels, compliance with law, 102-103
 - separation and segregation from unpackaged food, 68-69
- Packaging and identification of shucked molluscan shellfish, 60, 63-64
- Packaging, reduced oxygen
 - conditions not requiring a variance, 97-101
 - conditions requiring a variance, 96-97

- definition, 18
- HACCP plan and variance criteria, 96-97
- Pallets. *See* Case lot handling equipment
- Parasite destruction in fish by freezing, 85-86
- Parts per million. *See* mg/L, *definition*
- Pasteurized Milk Ordinance, *see* *References Annex*, 256, 271, 278
- Patrol dogs, 188
- Penalties
 - assessment and order of civil, 239-240
 - enforcement and collection, 244-245
- Performance-based frequency of inspection, 211-212
- Performance standard, *Preface*, vii
- Permanent Outdoor Cooking Establishments
 - Guidance, *see* *Annex 2-3*, 322
- Permit, definition, 13
- Permit holder
 - agreement, replacement of facilities or equipment, 197-198
 - definition, 13
 - posting in food establishment, responsibility, 209
 - responsibilities for permit retention, 209-210. *See also* *Employee*
- Permit renewal, existing food establishment, 208
- Permit, suspending, revoking, modifying, or restricting, hearing officer's powers, 238-240
- Permit suspension
 - conditions warranting, 231
 - reinspection time frame, 232
 - reinstatement, 233
 - warning or hearing not required, 232
- Permit to operate food establishment, 204-210
 - failure to have, 227
- Person, definition, 14
- Person in charge
 - assignment, 25
 - definition, 14
 - demonstration of knowledge, 26-28, 214-215
 - duties, 29-31
 - employee responsibility for reporting illness, 31
 - responsibility to report certain employee illness, 34-35
 - responsibilities, rights, and authorities, explanation, 27-35. *See also* *Employee*
- Personal care items
 - definition, 14
 - first aid supplies, storage, 195
 - in food establishments, storage, 195
 - labeling and identification, 189
 - medicines, restriction and storage, 194-195
 - operational supplies and applications, 190-195
 - stock and retail sale, 194-195
- Personal cleanliness, 46-50
- Personal medications. *See* *Medicines*
- Personnel, supervision, 29-31
- Pest control, 186
 - outer openings protected, 178-179

- See also* *Insect control*; *Rodent control*
- Pesticides in food establishments
 - application, 191
 - bait station, 194
 - restricted use pesticide, conditions of use, 191
 - restricted use pesticide, criteria, 194
 - tracking powders, 194
 - See also* *Poisonous or toxic materials*
- Pests, dead or trapped, removal, 187
- Petitions
 - civil proceedings, 245
 - enforcement, 244
 - injunction, 245
- Pets in group residence dining areas
 - restrictions, 188
- Pewter, use limitation for food-contact surfaces, 110
- pH
 - chemical sanitization, warewashing equipment, 135-136, 146
 - definition, 14
- PHS model codes
 - authority, *Preface iii*
 - history and purpose, *Preface ii*
- Physical facilities
 - cleaning
 - floors, dustless methods, 185
 - frequency and restrictions, 184
 - maintenance tools, preventing contamination, 185
 - ventilation systems, nuisance and discharge prohibition, 185
 - controlling pests, 186
 - definition, 14
 - design, construction, and installation, 174-180
 - dressing rooms and lockers, using, 186
 - drying mops, 185
 - handwashing sinks, maintaining and using, 180-181
 - location and placement, 183
 - maintaining premises, 187
 - maintenance and operation, 184-188
 - materials for construction and repair, 173-174
 - minimizing attractants and contaminants on floors, 185-187
 - numbers and capacities, 180-183
 - pests, dead or trapped, removal, 187
 - prohibiting animals, 187-188
 - repairing, 184
 - storage, of maintenance tools, 187
 - toilet room doors, closing, 186
- Pickle barrels. *See* *Single-use articles*
- Pinning. *See* *Injected*, *definition*
- Plans and specifications for food establishment
 - contents, 200-203
 - facility and operating, requirement, 200-203
 - issuance criteria for operating permit, 205-207
- Plastic tubs, buckets. *See* *Single-use articles*

- Plates. *See Tableware*
- Plumbing fixture, definition, 14
- Plumbing system
 - air gap, 157
 - backflow prevention, 157
 - conditioning device, design, 157
 - construction, 156-157
 - definition, 14
 - design, 156-157
 - device, water system, inspection and service, 160
 - handwashing sink design and construction, 157
 - installation, 156-157
 - location and placement, 159
 - materials, 156
 - numbers and capacities, 158-159
 - operation and maintenance, 159-161
- Poisonous or toxic materials
 - bait stations, 194
 - boiler water additives, criteria, 193
 - chemical sanitizers, criteria, 192
 - chemicals for washing fruits and vegetables, criteria, 192
 - common name, 189
 - containers, prohibition for food use, 192
 - definition 15
 - drying agents, criteria, 193-194
 - in food establishments, use conditions, 192
 - knowledge by person in charge, 26-28
 - lubricants, incidental food contact, criteria, 194
 - pesticides, restricted use, 190
 - restriction of presence and use in food establishments, 190-191
 - storage, separation, 190
 - tracking powders, 194 *See also Pesticides in food establishments*
- Pork. *See Meat*
- Portable. *See Easily moveable*
- Potable water. *See Drinking water*
- Poultry
 - cooking requirements, 81
 - consumer self-service, 78-79
 - definition, 15
 - rare or raw, consumer advisory, 104-105
 - raw, storage, 68-69
 - use of clean equipment, 139-145
 - use of laundered gloves, 147
- Powers of hearing officer, 239-240
- Precleaning equipment and utensils, 143
- Premises
 - definition, 15
 - gaining access, 228
 - maintenance, 187. *See also Physical facilities*
- Presentation of food, 102
- Preset tableware, handling, 151
- Pressure, water, 155
- Pressure spray, wet cleaning, 143
- Primal cut, definition, 15
 - storage on hooks or racks, 69
- Priority item, definition, 16
- Priority foundation item, definition, 16
- Private home, unapproved food source, 54
 - food operations prohibited, 29, 180
- Probationary period, hearing officer's powers, 240
- Probe-type price and identification tags. *See utensil*, 24
- Proceedings, institution, 244
- Processing at retail, 96-101. *See also Annex 6*
- Produce. *See Fruits, raw; Vegetables, raw*
- Proper service of notice, 225
- Prosthetic device, 46
- Public health protection, Code application 197-199
- Public health reasons. *See Public Health Reasons Annex*, 331-545
- Public information, inspection report, 216
- Public sewage treatment plant, disposal through approved facility, 166
- Public water system, definition, 16
- Pushcart. *See Food establishment, definition, mobile*
- Quaternary ammonium compounds, chemical sanitization, 136
- Racks
 - case lot handling, 124-125
 - meat storage, 69
 - warewasher, 122-124, 134-135
- Rainwater, disposal facility, 167. *See also Sewage*
- Rapid
 - cooling, 90-91
 - growth. *See Time/Temperature Control for Safety Food definition*, 22-24
 - reheating, 87
- Ratites
 - cooking, 80
 - definition, 16
 - game animal definition, 10
 - poultry definition, 15
- Ready-to-eat food
 - consumer self-service, utensils and dispensers, 78-79
 - definition, 16-17
 - time/temperature control for safety food
 - date marking; disposition, 92-94
 - See also Public Health Reasons Annex*, 450-454; *Model Forms, Guides, and Other Aids Annex*, Chart 4-C
- Reassembly of equipment after cleaning, 149
- Receptacles for refuse, recyclables, and returnables
 - capacity and availability, 167-168
 - cleaning, 169
 - covering, 168-170
 - design and construction, 167-168
 - drain plugs, 171
 - equipment and storage, 168-170
 - location, 169
 - maintenance, 170-171
- Receptacles for removal of refuse, recyclables, and returnables, 167-172
- Records

- availability, responsibility of permit holder, 209-210
- fish, freezing raw, 54, 86-87
- HACCP, 201-203
- HACCP plan conformance, failure to demonstrate, 214-215
- molluscan shellstock, 60-64
- plans, standard operating procedures, *See Public Health Reasons Annex*, 543-545
- water system service schedule, 160
- Recyclables. *See Refuse*
- Recycling facilities, 172
- Redeeming machines, location, 169
- Reduced oxygen packaging
 - conditions not requiring a variance, 97-101
 - conditions requiring variance, 96-97
 - definition, 18
 - HACCP plan and variance criteria, 96-97
 - Thawing, ROP frozen fish, 99
- References. *See References Annex*
- Refilling
 - clean tableware, 74-75
 - consumer self-service, using facilities, 76
 - returnables, 74-76
- Refrigeration, cooling and cold holding, 90-92
- Refusal of access
 - application for inspection order, 214
 - reporting, 214
- Refusal to sign acknowledgment of inspection report receipt, 215-216
- Refuse areas and enclosures, maintenance, 171
- Refuse, definition, 19
- Refuse, recyclables, and returnables
 - cleaning implements and supplies, 169
 - design and construction, 167-168
 - facilities, on the premises, 167-168
 - facilities for disposal and recycling, 172
 - indoor storage area, design, 167
 - location, 169
 - outdoor enclosure, construction, 167
 - outdoor storage areas, construction materials, 167
 - outdoor storage surface, design and construction, 167, 179
 - removal, 171
 - storage, operation, and maintenance, 168-171
 - storage areas
 - equipment, and receptacles, location, 169
 - rooms, and receptacles, capacity and availability, 168
 - storage prohibitions, 170
 - toilet room receptacle, covered, 169
- Regulatory authority
 - definition, 19
 - responsibilities for permit issuance, 208-209
- Reheating
 - food from a hermetically sealed container, 87
 - hot holding, temperature requirements, 87
 - ready-to-eat food, requirements, 87
- Record of hearing procedure, 237
- Reinspection after permit suspension, time frame, 232
- Reinspection order, hearing officer's powers, 239-240
- Reinstatement
 - excluded or restricted employee, 38-45
 - permit, 233
- Releasing food from hold order, 231
- Remedies, 227-245
 - administrative, 228-242
 - conditions warranting, 227-228
 - criteria for seeking, 227-228
 - judicial, 242-245
- Remodeling of food establishment, plans and specifications 200-201
- Removal, refuse, recyclables, and returnables, 171
- Reporting, disease; medical condition
 - By conditional employee, 32
 - by food employee, 32
 - by permit holder, 209
 - by person in charge, 34
- Reporting, imminent health hazard
 - by permit holder, 209, 216
- Request for hearing, 233-237
- Re-service of unopened packaged food and unused
 - definition, 19
 - food, prohibition, 79
 - HSP, 108
- Response to hearing notice
 - basis and time frame, 233-234
 - required contents, 234
- Responsibilities
 - food employee reporting illness, 32
 - person in charge duties and authorities, 29-31
 - person in charge reporting ill employee, 34
 - permit holder for ceasing operations, 216
 - permit holder for permit retention, 209-210
 - regulatory authority for permit issuance, 208
- Restaurant. *See Food establishment*
- Restrict, definition, 19
- Restricted use pesticide, definition, 19
- Restriction
 - employee, release, 38-45, 219
 - infected or diseased employee, 38-45, 218
- Restriction order
 - for infected or diseased employee, 219
 - service, 219
- Restrictions
 - employees, removal, 38-45, 220
 - ill employees, 38-45
- Resumption of operations, 216
- Retail food store. *See Food establishment*
- Retention tank. *See Sewage, holding tank*
- Retirement home. *See Group residence*
- Returnables
 - on-site cleaning and refilling, 75-76
 - refilling, 75-76
 - See also Refuse*
- Reuse of shells, 138. *See also Public Health Reasons Annex*, 507

- Review of plans. *See Facility plans and specifications; Public Health Reasons Annex, 543-544*
- Revocation of permit. *See Summary permit suspension*
- Rhea. *See Ratites*
- Right of appeal, denial of application for operating permit, 208
- Right to hearing, waiver, 233-242
- Rights
- parties to hearing, 241
 - preservation, 223
 - recipients of orders or decisions, 223
 - respondent to hearing notice, 236-237, 239-240
- Rinsing procedures, equipment and utensils, 144-145
- Risk-based frequency of inspection, 212. *See also Annex 5*
- Roasts, beef and pork
- Formed/chunked, *see Public Health Reasons Annex, 429-431*
 - minimum holding times for cooking, 81-82
 - oven parameters for cooking, 81-82
 - reheating, 87
- Rodent control, 186
- in food establishments, poisonous or toxic materials, 190-195
 - outer openings protected, 178-179. *See also Pest control*
- Rodents, dead or trapped, removal, 187
- Roe. *See Fish*
- Roofs, protective barrier, 179
- Rooms. *See Physical facilities*
- Safe material, definition, 19
- Safeguards, procedural, 223
- Salad bars, monitoring by food employees, 79
- Salmonella* (nontyphoidal) *See nontyphoidal*
- Salmonella* (NTS) or NTS, *Salmonella* (nontyphoidal)
- Salmonella* Typhi
- cause of disease outbreak and employee illness, 32-35
 - employee illness, reporting, 33, 34, 216
 - infection, conditions for employee restriction or exclusion, 35-37
 - reporting responsibility of person in charge, 34
- Salmonella* Typhi-free employee, removal of restriction or exclusion, 38, 40, *See Public Health Reasons Annex, Tables 1 and 2*
- Sample report, private water system, 155
- Sampling, water, nonpublic system, 154
- Sanctions or penalties, statement in hearing notice, 236-237
- Sanitization
- chemical, manual, 135-137
 - chemical, warewashing equipment, 135-137
 - definition, 19
 - equipment and utensils, 145-146
 - hot water temperatures
 - manual, 134
 - warewashing equipment, 135
 - pressure, mechanical warewashing equipment, 135. *See also Poisonous or toxic materials*
- Sanitizer
- availability, 129
- Sanitizing solutions
- chemical, determining concentration, 135-137
 - detergent-sanitizer, rinsing procedures, 144-145
 - testing devices, availability, 129
 - wiping cloth storage, 73-74
- Scallops. *See Molluscan shellfish*
- Screening
- conditioning device, 157, 159
 - outer openings protected, 178-179
 - tank vent, 162
 - vending machines, 125
 - water conditioning device, 157, 159
- Seafood. *See Fish*
- Sealed, definition, 20
- Seeing Eye dog. *See Service animal*
- Self-draining warewashing sinks and drainboards, 124
- Self-service
- clean tableware for refills, 74-75
 - consumer, protection from contamination, 78-79
 - handling of single-service and single-use articles, 150
 - utensil availability, 128
- Sentences for violations, 243-245
- Sentry dogs. *See Patrol dogs*
- Service animal
- care and handling, 51-52
 - definition, 20
 - handwashing after handling, 47
 - handling of single-service and single-use, 187-188
 - presence in dining and sales area, 187-188
- Service of notice
- proper methods, 225
 - proof of proper service, 226
 - time of effectiveness, 226
- Service sinks
- availability, 183
 - plumbing system, numbers and capacity, 158
 - use limitation, 48
- Servicing area
- definition, 20
 - outdoor, overhead protection, 179
- Serving dishes. *See Hollowware*
- Settlement
- authorization, 241-242
 - consent agreement, approval and final decision by hearing officer, 239
 - request for, 234
 - respondent acceptance as waiver of right to appeal, 242
- Sewage
- definition, 20
 - disposal, conveying, 166
 - disposal system, approved, design and construction, 166

- holding tank, mobile, 165
- Sewage, other liquid wastes, and rainwater
 - backflow prevention, 165
 - conveying, 166
 - disposal facility, 166
 - drainage, 165, 167
 - establishment drainage system, design
 - and installation, 165
 - mobile holding tank, 165
 - removal from mobile food establishments, 166
 - retention, 165
- Shatterproof bulbs. *See Light bulbs, protective*
- Shielding
- Shellfish, molluscan. *See Molluscan shellfish*
- Shellfish control authority, definition, 20
- Shells, use limitation, 138
- Shellstock
 - date marking, 93
 - definition, 20
 - maintaining identification, 64
- Shielding, light, 176-177
- Shiga toxin-producing *Escherichia coli*, definition, 20
- Shigella** spp.
 - cause of employee illness and disease outbreak, 32-35
 - employee illness, reporting, 33-35, 216
 - infection, conditions of employee restriction or exclusion, 34-37
 - reporting responsibility of person in charge, 34
 - removal of restriction or exclusion, 38-45, *See Public Health Reasons Annex, Tables 1 and 2*
- Shucked shellfish, definition, 20
- Shutoff device, vending machine, water or liquid food, 124
- Single-service and single-use articles
 - construction materials, characteristics, 112-113
 - definition, 20-21
 - handling, 150
 - prohibitions, 150
 - required use, 138
 - reuse limitation, 138
 - storage after cleaning, 149
- Sink compartment requirements, manual warewashing, 126-127
- Sink, handwashing. *See Handwashing facilities*
- Sinks, warewashing
 - cleaning agents, 133
 - self-draining, 124
 - use limitations, 133
- Slacking
 - definition, 21
 - time/temperature control for safety food, conditions, 88-89
- Slash-resistant gloves, 74
- Sleeping quarters. *See Living/sleeping quarters*
- Smoking. *See Tobacco use by employees*
- Smooth, definition, 21
- Sneeze guards. *See Food display*
- Sneezing, coughing, or runny nose by employees, food contamination prevention, 51
- Soap. *See Cleaning agents*
- Soiled tableware, handling, 151
- Solder, use limitation for food-contact surfaces, 110
- Source, approved
 - drinking water, 153
 - food, 54-55
 - shellfish, 56, 60-62
- Sous vide packaging. *See Reduced Oxygen Packaging*
- Spacing
 - carpet installation, 175
 - counter-mounted equipment, 131
 - equipment installation, 131
 - fixed equipment, 131
 - toxic material separation, 190, 194-195
- Spatulas, use to avoid contaminating food, 65
- Specifications. *See Plans*
- Sponges, use limitation, 111
- Spoons. *See Tableware*
- Spot cleaning. *See Floors, dustless cleaning methods*
- Sprouts, seed. *See Time/temperature control for safety food definition*
 - variance, 97
 - guidance, Annex 3, 335, 482
- Stainless steel. *See Cleanability; Easily cleanable*
- Standards of identity, 102. *See also Juice definition*
- Standards
 - Food Code, 1
 - uniform, advantages, *Preface iv-v*
- State and local regulations, ordinances, and statutes. *See Compliance and Enforcement Annex, 221-223*
- Steak, whole-muscle intact beef, 54-55, 82-83
 - See also public health reasons Annex, 403, 431-432*
- Steak tartare, consumer advisory, 104-105
- Steam
 - cleaning equipment, 169
 - mixing valves, 157
 - tables, temperature measurement, 121
 - ventilation, 182
- Stitch pumping. *See Injected*
- Stirrers. *See Single-service articles*
- Stock and retail sale of poisonous or toxic materials and personal care items, storage and display, 196
- Storage
 - clean equipment, utensils, linens, and single-service and single-use articles, 149
 - first aid supplies in food establishments, 195
 - food in contact with water or ice, 71-72
 - maintenance equipment, 185
 - medicines in food establishments, 194-195
 - methods for soiled linens, 147-148
 - poisonous or toxic materials, separation, 190
 - refuse, recyclables, and returnables, operation and maintenance, 170-172

- Storage and display of items for stock and retail sale, separation, 196
- Storage areas for refuse, recyclables, and returnables
 - capacity and availability, 168
 - designated, 184
 - location, 169
- Storage cabinets, location for contamination prevention, 129-130
- Storing food to prevent cross contamination, 68-69
- Straws. *See Single-service articles*
- Street foods. *See Food establishment, definition, mobile*
- Studs, joists, and rafters, cleanability, 176
- Stuffing, cooking, 81
- Subpoenas, issued by hearing officer, 239
- Sulfites. *See Additives*
- Summary permit suspension
 - conditions warranting, 231
 - disease intervention measure, 218-220
 - notice, contents, 232
 - reinstatement, 233
 - service of, 225-226
 - time frame, 232
 - warning or hearing not required, 232
- Summary suspension of operations for imminent health hazard, 216
- Summons, issuance, 244
- Supervision of personnel
 - demonstration of knowledge, 26-28
 - person in charge, 29-31
- Surface characteristics
 - indoor areas, 173-174
 - outdoor areas, 174, 179
- Suspension. *See Summary suspension; Compliance And Enforcement Annex, 225-226, 228, 232-234*
- Sweeping compounds. *See Floors, dustless cleaning methods*
- Table-mounted equipment
 - definition, *see counter-mounted equipment definition, 5*
 - elevation, 130-131
- Tablecloths. *See Linens*
- Tableware
 - clean, consumer use in self-service area, supervisor responsibility, 31
 - definition, 21
 - handling, 150-151
 - preset, handling, 151
 - soiled and clean, handling, 151
 - See also Single-service articles*
- Tag on food, hold order, 230
 - official, 230
 - removal, 231
- Tag/label, for molluscan shellstock
 - record keeping, 64
 - requirements, 60-62
- Take-home food containers, refilling, limitations, 75-76
- TCS food. *See time/temperature control for safety food*
- Temperature – Food
 - cold and hot food holding, 91-92
 - cooking, 80-85
 - cooling, 90-91
 - plant food, 84
 - receiving, 58-59
 - reheating, 87
 - roast beef and corned beef, 81-82
 - seared steak, *see steak, whole-muscle intact*
 - thawing TCS food, 89-90
 - Conditions, 89-90
 - ROP frozen fish, 90
- Temperature – Warewashing
 - wash water, manual, 134
 - wash water, mechanical, 134
 - sanitization, manual, 135-137
 - sanitization, mechanical, 135-137
- Temperature measurement devices accuracy, calibration, 137-138
 - definition, 21
 - design and construction, 113, 115-116
 - food, provided and accessible, 128
 - food storage unit air, 116
 - manual warewashing, accessibility, 128-129
 - probe, small diameter, 128
 - scale, 115-116
 - warewashing machines, 122
- Tempered water, handwashing sink, 157
- Temporary facility, water availability, 156
- Temporary food establishment
 - application for permit, 205-207
 - construction materials, 173-174
 - definition, 21
- Testimony under oath at hearing, 241
- Testing kit for sanitizing solutions, availability, 129
- Thawing time/temperature control for safety food, conditions, 89-90
 - ROP frozen fish, 90
- Thermistor, thermocouple, thermometer. *See Temperature measuring device*
- Threads, “V”-type, 114
- Three compartment sink. *See Sink compartment Requirements*
- Time as public health control for time/temperature control for safety food, 94-96
 - in highly susceptible populations (HSP), 96
- Time frame
 - appeal, 234-236
 - correction of priority item or priority foundation item violation, 217
 - Core item violation, 217-218
 - reinspection, 232
 - response to hearing notice or request for hearing, 233-234
- Time/temperature control for safety food definition, 22-24. *See also Food; Food, Time/Temperature for Safety Food, ready-to-eat, time/temperature control for safety*

food guidance, *see Annex 2-3 and Public Health Reasons Annex*, 318, 334-339

Tobacco use by employees, food contamination prevention, 50-51

Tofu, immersion in ice or water, 71

Toilet rooms

- convenience and accessibility, 183
- doors, closing, 186
- enclosed, design and installation, 177
- numbers, 158, 181
- receptacle for sanitary napkins, 169

Toilet tissue, availability, 182

Toiletries. *See Personal care items*

Toilets and urinals

- number, 158
- use limitation, 158

Tongs, use to avoid contaminating food, 65

Toothpaste. *See Personal care items*

Toothpicks. *See Single-service articles*

Towelettes, chemically treated, for handwashing, conditions, 158

Towels

- availability, 181
- disposable, waste receptacle, 181

Toxic. *See Poisonous or toxic materials*

Tracking powder. *See Pesticides in food establishments*

Trade secrets

- confidentiality in hearings, 237
- protection, 204

Training plan, food safety, for employees and for bare hand contact, 30-31, *See Public Health Reasons Annex*, 413-417

- supervisors, HACCP plan, 202
- ROP, 31

Training of employees, 31, 99, 108, 202

Transport

- case lot moving, 124-125
- game animals, 56-58
- insulated containers, 121
- refuse vehicles, 171
- sewage vehicles, 166
- soiled linens, 147
- transportation vehicle, 9
- water vehicles, 155

Trash. *See Refuse*

Tumblers. *See Hollowware*

Tuna, 85-87

Turtle. *See Fish*

Two compartment sink. *See Sink compartment Requirements*

Typhoid fever (caused by *Salmonella Typhi*), *See Salmonella Typhi*.

Unnecessary

- items, 171, 187
- ledges, projections and crevices, 115
- persons, 29

Urinals, numbers, 158

"Use by" date. *See Date marking; Public Health Reasons Annex*, 455; *Model Forms*

Guides, and Other Aids Annex,
Chart 4-C

User information, *Preface viii-x*

Utensils

- air-drying, 148
- cast iron, use limitation, 110
- ceramic, china, crystal, and decorative, lead limitation, 110
- cleaning criteria, 139-142
- cleaning frequency, 139-142
- consumer self-service, availability, 128
- contact with food, 72
- definition, 24
- design and construction, durability and strength, 113
- galvanized metal, use limitation, 111
- in-use storage, 72-73
- maintenance and operation, 137
- multiuse, construction materials, 109-112
- racks, capacity, 127
- sanitization, 145-146
- serving, for consumer self-service operations, 78-79
- storage after cleaning, 149
- storage between use, 72-73
- wet cleaning methods, 143

Utility lines, cleanability, 174-175

"V" threads, use limitation for food-contact surfaces, 114

Vacuum packaging. *See Reduced oxygen packaging*

Variance

- cooking raw animal foods, 80-85
- conformance with approved procedures, 199
- definition, 24
- documentation and justification, 198-199
- guidance, *see Annex 2-3*
- HACCP plan, 199, 201-203
- modifications and waivers, Code application, 198
- molluscan shellfish tanks, 119-120
- rationale, 199
- requirement for specialized food processing methods, 96-97
- sprouting, 97

Vegetables, raw

- cooking for hot holding, 84
- washing, 71
- whole or cut, immersion in ice or water, 71
- whole, uncut, raw, storage, 69
- See also Sprouts; time/temperature control for safety food definition*

Vehicles for removal of refuse, recyclables, and returnables, 171

Vending machines

- automatic shutoff, 120-121
- can openers, design and construction, 119
- condiments, packaging to prevent contamination, 78
- definition, 24
- design and construction of vending stage closure, 118

- doors and openings, design and construction, 125
- liquid waste products, 124
- location, definition, 24
- time/temperature control for safety food, original container, 120-121, 117-118
- refuse receptacles in, 168
- temperature, 120-121
- Ventilation, mechanical, 116
- Ventilation systems
 - capacity, 127
 - cleaning, nuisance and discharge prohibition, 115, 185
 - exhaust vents, design & installation, 115, 182
 - hood, adequacy, 127
 - drip prevention, design and construction, 116
- Verification of correction of priority item and priority foundation item violation, 217
- Vermin. *See Insect control; Pest control; Rodent control*
- Violations, priority item and priority foundation item, continuing, 217
 - demonstration of knowledge compliance with Code, 26-28
 - documentation and verification of correction, 217
 - documentation of findings, 214-215
 - finest and sentences, 244-245
 - history of, role in frequency of inspections, 212
 - inspection and correction, 214-218
 - uncorrected, 215
 - Core item, time frame for correction, 217-218
 - timely correction, 217
- Virus. *See Disease outbreaks caused by*
- Vomiting, employee symptom, 32
- Waivers. *See also Modifications; Variance*
 - Code requirements, 198
 - conformance with approved procedures, 199
 - prompt hearing, 233-235
 - right to appeal, 235-236
- Walk-in refrigerator, carpeting prohibition, 175
- drains, 175
- Walking surfaces. *See Surface characteristics*
- Wall and ceiling coverings and coatings, cleanability, 176
- Walls, exterior, protective barrier, 179
- Warewashing
 - definition, 24
 - manual, sink compartment requirements, 126-127
 - manual, temperature measuring devices, accessibility, 128
 - mechanical, temperature measuring devices, accessibility, 128
- Warewashing equipment
 - chemical sanitizer concentration, determining, 135-137
 - clean solutions, 134
- manual
 - alternative, 126-127
 - chemical sanitization, 145-146
 - detergent-sanitizers for chemical sanitization, 137
 - cleaning agents, 127
 - heaters and baskets, 122-123
 - hot water sanitization rinsing, 144-145
 - temperatures, 134-135, 145-146,
 - wash solution temperature, 134
 - mechanical chemical sanitization, 135-137
 - hot water sanitization temperatures, 135
 - sanitization pressure, 116, 123, 135
 - wash solution temperature, 134
- Warewashing machines
 - data plate operating specifications, 122
 - drain connection, 165-166
 - flow pressure valve, 123, 496
 - internal baffles, 122
 - loading of soiled items, 143
 - manufacturers' operating instructions, 133, 501
 - sanitizer level indicator, 123, 496
 - temperature measuring devices, 122, 495
- Warewashing sinks
 - alternative use limitation, 126, 133, 495, 502
 - and drainboards, self-draining, 124
- Warning not required for hold order, 219, 229
- Warrants, judicial enforcement proceedings, 244
- Wash solution temperature, warewashing equipment, 134, 501-503
- Washers/dryers, clothes, availability, 128, 498
- Washing,
 - mechanical methods, linens, 128, 147, 498, 511
 - methods, equipment, and utensils, 142-145
 - raw fruits and vegetables, 71, 419
- Waste
 - liquid. *See Sewage*
 - solid. *See Refuse*
- Waste receptacle for disposable towels, 181, 531
- Waste retention tank, flushing, 166, 524
- Water
 - alternative supply, 156, 516
 - distribution, delivery, and retention, 155, 516
 - hot, quantity and availability, 155, 515-516
 - inlet/outlet, protective device, 163, 522
 - nondrinking, 154, 514
 - pressure, 155, 516
 - quality, 154-155, 514-515
 - sample report, 155, 515
 - sampling, 154, 515
 - standards, 154, 514
 - quantity and availability, 155, 515-516
 - source
 - approved system, 153, 514
 - bottled drinking, 154, 514
 - capacity, 155, 515

- disinfection, 154-514
 - knowledge by person in charge, 27
 - system flushing, 154, 514
 - storage or display of food in contact with, 71, 422
- Water activity, definition, 3
- Water conditioning device, 157, 518
- Water reservoir of fogging devices, cleaning, 160-161, 521
- Water supply
 - alternative supply, 156, 516
 - system, prohibition of cross connection, 160, 520
- Water system, compressed air filter, 163, 522
- Water system device,
 - inspection and service, 160, 520
- Water systems, public and nonpublic, 153, 514
- Water tank
 - hose, construction and identification, 163, 522
 - inlet/outlet and hose fitting, protection, 164, 523
 - sloped to drain, 162, 522
 - use limitation of "V" type threads, 162, 522
 - pump, and hoses, dedicated use, 164, 523
 - vent, protected, 162, 522
- Watertight joint, equipment openings, 117, 491
- Water treatment device, 160, 520
- Wet cleaning methods, equipment and utensils, 143, 510
- Wet storage. *See Storage, food in contact with water and ice; Molluscan shellfish, tanks*
- Wetting agents, 143
- Whole-muscle, intact beef
 - definition, 24
 - consumer advisory exemption, 54-55, 104-105
 - cooking, 81-83
 - labeling, 55, 82-83
- Windows, tight-fitting, 178
- Wiping cloths
 - air-drying locations, 148, 512
 - laundrying, 147-148, 512
 - stored in sanitizer, 73, 423
 - use for one purpose, 73
- Wood, use limitation for food-contact surfaces, 111-112, 487
- Work clothes. *See Clothing, outer*
- Wound, infected. *See Lesion, containing pus*
- Wrapped food
 - honestly presented, 53, 102, 398, 473
 - preventing contamination, 69, 71, 76, 79
 - See also packaged, definition*
- Wrapped tableware, handling, 150, 513

DEED RESTRICTION

The undersigned, _____ (“Owner”) is the owner

of the following described property: Lots 3, 4, 5, & 6, Block 10,

Lake City, Hinsdale County, Colorado (“Property”) more commonly referred to as:

825 Gunnison Avenue, Lake City, Colorado 81235

The Owner does hereby restrict use of the Property with the following deed restrictions (“Restrictions”):

At no time may the Property, the Primary Dwelling Unit, or any Accessory Dwelling Unit on the Property sold or used as a primary structure without first obtaining individual water and waste water taps for each structure pursuant to Chapter 21, Article II of the Lake City Municipal Code, as amended from time to time.

These restrictions shall continue in full force and effect from the date of execution of this Deed Restriction until amended or terminated in the manner specified in this document.

The Owner agrees that these restrictions inure to the benefit of the Town of Lake City (“Town”). The Owner hereby grants the Town the right to enforce these restrictions by any lawful means, including filing an action a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the Town substantially prevails in a legal proceeding to enforce these restrictions, the Owner agrees that the Town shall be entitled to recover damages, reasonable attorney’s fees, and court costs. For further remedy, the Owner agrees the Town may withhold any permits necessary for the lawful use of the Property until the restrictions are complied with. The right of the Town to enforce these restrictions shall not be waived, expressly or otherwise.

The Owner agrees to defend, indemnify, and hold harmless the Town from and against all claims or liabilities arising out of or in connection with the provisions of this Deed Restriction.

The provisions of this Deed Restriction are hereby declared covenants running with the land and are binding on all successors, heirs, and assigns of the Owner who acquires any right, title or interest in or to the Property, or any part thereof. Any person who acquires any right, title or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this Deed Restriction.

Notwithstanding any provision to the contrary, if the Town Municipal Code is amended to permit the Property, the Primary Dwelling Unit, or any Accessory Dwelling Unit on the Property to be sold or used as a primary structure without first obtaining individual water and waste water taps for each structure pursuant to Chapter 21, Article II of the Lake City Municipal Code, as amended from time to time, these restrictions shall be of no further force or effect and shall be released by the Town upon request of the Owner.

The Owner understands and agrees this Deed Restriction shall be governed by the laws of the State of Colorado.

The invalidation of any provision in this document by any court shall in no way affect any other provisions, which shall remain in full force and effect, and to this end, the provisions are declared to be severable.

EXECUTED this _____ day of _____, 2022.

OWNER:

Printed Name

Printed Name

Signature

Signature

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of

_____, 20__ by _____.

Witness my official hand and seal.

My commission expires: _____

(S E A L)

Notary Public

**TOWN OF LAKE CITY
BOARD OF TRUSTEES
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING SECTION 14-93 OF THE TOWN CODE
REGARDING FIRE RESTRICTIONS**

WHEREAS, the Board of Trustees of the Town of Lake City, Colorado (the “Board”), pursuant to Colorado Statute is vested with the authority of administering the affairs of the Town of Lake City, Colorado (the “Town”); and

WHEREAS, the Section 14-93 of the Town of Lake City Town Municipal Code (the “Code”) sets forth criteria, requirements, and procedures regarding fire restrictions within the Town; and

WHEREAS, the Hinsdale County previously issued fire restrictions as a single unit across the County, however, they currently have divided the County into three distinct zones for fire restrictions to ensure more specific and localized handling of fire issues; and

WHEREAS, Lake City is located in the Northern Hinsdale County and Lake City Area zone; and

WHEREAS, the Board determines the need for a County-imposed fire restriction in a zone outside the Northern Hinsdale County and Lake City Area zone does not necessarily require a fire restriction within the Town and

WHEREAS, the Board finds under certain circumstances, the current Code criteria to impose a fire restriction to be unduly broad, overly restrictive, and not necessary to protect the health, safety, and wellness of the citizens of the Town; and

WHEREAS, the Board finds it may be necessary to have the ability to impose fire restrictions independent of those imposed by Hinsdale County.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES
OF THE TOWN OF LAKE CITY AS FOLLOWS:**

1. Section 14-93 of the Lake City Municipal Code shall be amended by removing the ~~striketrough~~ language and adding the **bold underlined** language to read in its entirety as follows:

Sec. 14-93. – Fire restrictions.

- (a) Any fire restrictions imposed by the board of county commissioners, in ~~unincorporated areas of the county~~ **Northern Hinsdale County and Lake City Area**, shall apply in full to the town during such time as the county restrictions are in place.
- (b) Rescission of county-imposed fire restrictions **Northern Hinsdale County and Lake City Area** shall result in rescission of such restrictions within the town without further action of the town board. Reinstatement of county-imposed fire restrictions **Northern Hinsdale County and Lake City Area** shall result in reinstatement of such restrictions within the town without further action of the town board.
- (c) **The Town of Lake City may impose fire restrictions within the town limits independent of any county-imposed fire restrictions as necessary from time to time by motion or resolution of the Board. Such town imposed restrictions may be reinstated or terminated by motion or resolution of the Board.**
- ~~(e)~~(d) This section shall be enforced within the town by the county sheriff's department.
- ~~(d)~~(e) Penalty assessment. Penalty assessment for a violation of this section shall be in accordance with section 1-14.

- 2. Validity. If any part of this ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have approved this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
- 3. Repeal. Existing ordinances or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent collection of any fees assessed pursuant to the provisions of any ordinance hereby repealed prior to the taking effect of this ordinance.

INTRODUCED, PASSED AND ADOPTED A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF LAKE CITY, COLORADO AND SIGNED THIS 1st DAY OF JUNE, 2022.

Votes Approving: _____

Votes Opposed: _____

Absent: _____
Abstained: _____

ATTEST:

**BOARD OF TRUSTEES OF THE
TOWN OF LAKE CITY, COLORADO**

Alexander Mulhall
Town Clerk

By: _____
Dave Roberts
Mayor

DRAFT

Preparing for FAMLI

Local Governments

Unlike businesses, Colorado local governments have options regarding their participation in the paid Family and Medical Leave Insurance (FAMLI) program. Here are the steps local governments should take to prepare for FAMLI:

1 Determine your local government's participation in FAMLI

Local governments have three options regarding participation in the FAMLI program:

- **Participate in FAMLI.** This option means the local government agency agrees to pay the employer share of the premium (0.45% of wages if the local government has 10 or more employees, and 0% of wages if the local government has fewer than 10 employees) and remit employees' share of the premium (0.45% of wages) along with wage data to the FAMLI Division once a quarter.
- **Decline participation in FAMLI.** In order to decline participation in the FAMLI program, the local government's governing body must vote to do so. The local government must then notify the FAMLI Division of their vote to decline participation. The decision to decline is good for eight years from the date of the vote to decline participation. The local government must hold another vote if it wishes to continue opting-out beyond eight years.
- **Decline employer participation in FAMLI.** This option allows a local government agency to decline participation as described above, while allowing the agency to assist employees who want to individually participate in the FAMLI program by facilitating voluntary payroll deductions, with remittance of the employee share of the premium (0.45% of wages) and wage data once a quarter to the FAMLI Division.

When can we vote to opt out of FAMLI?

Anytime during 2022, but local governments are not required to give FAMLI notice of their decision to opt out until January 1, 2023.

2 Register with the FAMLI system (Fall 2022)

Every local government employer must register with FAMLI's online system, including those which choose not to participate in FAMLI. Registering with the system and uploading your documents will enable FAMLI to keep track of local government employers' current intentions for participation, the obligation to revisit a declination vote after eight years, and enable local government employers to provide an affordable benefit if they choose to remit premiums and wage data for employees who self-elect coverage.

FAMLI's online employer service system is expected to be available for registration during the Fall of 2022, during which time we will have support staff available to help employers navigate the process.

3 Notify FAMLI of your local government's decision

Local governments which vote to decline participation in the FAMLI program must notify the FAMLI Division of their decision by January 1, 2023.

What does our local government need to send to FAMLI?

After registration, a local government that votes to opt-out of the FAMLI program must notify the FAMLI Division on letterhead and must indicate the date the vote was taken and the result of the vote. If the local government has voted to opt out, but intends to assist its employees who choose to individually participate in the FAMLI program, this information must be included in the notification as well. This notification must be received **by January 1, 2023**.

What happens if we do not take a vote, or send a letter?

Local governments which do not notify the FAMLI Division of a vote to opt-out by January 1, 2023 will be identified as participants in the FAMLI program. The FAMLI Division will expect both wage data and premium payments due on April 1, 2023. You must notify the Division ahead of January 1, 2023 to avoid paying premiums.

What are the timelines in the rules?

The rules have several timelines to be aware of and follow depending on the option selected by the governing body. Below is a list of the timelines. Please see 7 CCR 1107-2 for more information.

- Local governments must notify employees of their decision on FAMLI participation within **30 days after** the deciding vote. This gives local governments time to communicate their decision to their employees.
- If the local government chooses to decline to fully participate in the FAMLI program, the decision must be revisited every **eight years** at a minimum.
- **180 days notice** must be given to employees before any change regarding access to FAMLI benefits is effective. This gives workers time to make arrangements and self-select coverage if they wish to do so. Benefits do not start until 2024.
- Local governments which choose to fully participate in FAMLI after previously voting to decline participation, as well as individuals who self-elect coverage, must remain in the program and agree to pay premiums for a **minimum of three years**. If a local government wishes to withdraw from the program at the end of the three-year period, the Division requires a **minimum of 90 days notice**, so we can change systems to avoid overpayments and miscommunication.



COLORADO

Family and Medical Leave Insurance Program (FAMLI)

Department of Labor and Employment





Colorado's Family and Medical Leave Insurance (FAMLI) Program

Administrator Fact Sheet

What is FAMLI?

The FAMLI program will ensure all Colorado workers have access to paid leave in order to take care of themselves or their family during life circumstances that pull them away from their jobs — like growing their family or taking care of a loved one with a serious health condition. Eligible employees will receive up to twelve weeks of leave. FAMLI will start providing benefits to employees beginning January 1, 2024.

What are Your Employer Responsibilities?

- Employers and their employees are both responsible for funding the program and may split the cost 50/50. The premiums are set to 0.9% of the employee's wage, with .45% paid by the employer and .45% paid by the employee.
- Employers with nine or fewer employees do not have to contribute to the program, but do need to remit their employees' share (.45%) of premium payments on behalf each quarter. This can be done through a simple payroll deduction.
- Employers may also elect to pay the full amount if they choose to offer this as an added perk for their employees.
- Employers who offer their own paid leave program may apply for an exemption.

Employer Steps to Prepare for FAMLI

- 1 Determine how FAMLI will apply to your business** - How many people do you employ? What portion of the costs will you cover?
- 2 Estimate your Premium Liability** - Use the calculator on the FAMLI website, or for multiple employees, use the set formula and rate to create a spreadsheet that works for your business needs.
- 3 Consider Your Plan Options** - While markets for private plans are not yet available and details on self-insured options are still forthcoming, you should plan conversations with your insurance brokers and financial planners.
- 4 Update Your HR Manuals and Communicate With Your Employees** - Beginning in Fall 2022, you will want to begin incorporating language into employee manuals regarding premium deductions. Beginning in Fall 2023, you will want to adopt clear guidance and communications to employees around FAMLI benefits.
- 5 Register With the FAMLI Division** - Set up your account and notify us about your private plan. Expect forthcoming information about how to complete this process.
- 6 Be Ready to Collect Premiums** - If you use a payroll company, or if you process payroll yourself, you will need a plan to both have the FAMLI premiums deducted and submitted to CDLE beginning January 1, 2023.
- 7 Ask Us Questions** - we are committed to helping you navigate the new program and ensuring your success. Reach out to us at CDLE_FAMLI_info@state.co.us.



COLORADO

Family and Medical Leave
Insurance Program (FAMLI)

Department of Labor and Employment



COLORADO
MUNICIPAL
LEAGUE

Knowledge

KNOWLEDGE NOW – PRACTICAL RESEARCH ON TIMELY TOPICS

Briefing

- The FAMLI program provides employees with 12 weeks of paid leave to take care of themselves or a family member
- Participation in FAMLI is automatic for municipalities unless they formally opt out
- Opt-out votes and notice to the FAMLI Division should occur before the end of 2022 to avoid premium assessments in 2023
- Employees can take part in FAMLI even if their municipality declines to participate

COLORADO'S PAID FAMILY MEDICAL LEAVE INSURANCE (FAMLI) PROGRAM



FAMLI: WHAT'S RIGHT FOR YOUR CITY OR TOWN?

URGENT ACTION IS NEEDED. Colorado municipalities must make immediate decisions regarding their participation in Colorado's

Paid Family Medical Leave Insurance (FAMLI) program. Participation will have a substantial impact on your municipal budget, operations, and employee relations. **Participation is automatic for any municipality unless your council or board formally votes to decline participation or opt out. The FAMLI**

Division must be notified by the end of 2022 to avoid premium liability. CML is not encouraging municipalities to participate or to decline participation in the program. Each municipality should assess the program for themselves. Opting out now does not prevent later participation, and employees can still participate individually and should receive the full benefit of the program.

Continued on page 2

Colorado Municipal League
1144 Sherman St. • Denver, CO • 80203
303 831 6411 / 866 578 0936
www.cml.org



Empowered cities and towns, united for a strong Colorado

What is FAMLI?

In November 2020, Colorado voters approved Proposition 118, which paved the way for a state-run Paid Family Medical Leave Insurance (FAMLI) program. FAMLI is codified at C.R.S. §§ 8-13.3-501 to -524, and is administered through the Colorado Department of Labor and Employment, Division of Family and Medical Leave Insurance (famli.colorado.gov). Premiums will be collected (including employer and employee shares) starting **Jan. 1, 2023**, and benefits will be available starting **Jan. 1, 2024**.

FAMLI provides covered employees with 12 weeks of paid leave to take care of themselves or a family member during life events like injury, serious illness, or pregnancy. An additional 4 weeks are available to employees who experience pregnancy or childbirth complications. Payments would be at a rate below the employee's weekly rate, as described below. Leave can be taken together or intermittently. FAMLI benefits are portable between jobs.

FAMLI also provides job protection for employees who were employed for at least 180 days before the protected leave occurs. This means that an employer must return the employee to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions following the leave. Employers must also maintain healthcare benefits during the leave, but the employee would have to continue to pay their share of the cost. Accrual of seniority and other benefits are not protected.

FAMLI is a separate program from the paid sick leave requirements of the Healthy Families and Healthy Workplaces Act and the Federal Family and Medical Leave Act (FMLA).

What will participation in FAMLI cost my city or town?

Participating employers and employees will contribute to premiums for FAMLI, and municipalities will bear the administrative costs of compliance. Premiums will be 0.9% of an employee's wage (HB22-1305 is pending in the General Assembly and

would reduce this to 0.81% for the first six months of the program). Wages and exempt items are determined under administrative rules (7 CCR 1107-1:1.5.3 and 1.5.4). A municipality can expect to contribute an amount equal to at least 0.45% of its current employee "wages" on an annual basis and possibly up to 0.90% of that figure. The FAMLI Division will provide notice of expected premiums and publish due dates and guidance on premium remittance.

A participating municipality (unless it has fewer than 10 employees) must remit 100% of the premium for each employee. The employer must directly contribute at least 50% of that amount (i.e., 0.45% of the employee's wage) and may require the employee to deduct the remaining 50% from their paycheck (i.e., employees would see a deduction of about 0.45% from their pay). An employer can choose to contribute part or all of the employee portion of the premium. For a municipality with fewer than 10 employees there is no "employer share"; the municipality can require the employee to deduct up to 50% but can also choose to contribute part or all of the employee portion.

An employer is responsible for any error it makes in calculating, deducting, and remitting premiums, including the employee portion.

If a municipality does not participate in FAMLI, the employee would be solely responsible for 50% of the premium if the employee elects to participate individually. The municipality can, but need not, deduct the employee portion from payroll and remit it to the state. If the municipality is involved in deducting or remitting the employee portion, any error would be the municipality's responsibility.

Why would my city or town not participate in FAMLI?

Declining participation in the FAMLI program is a significant decision, but it must be made quickly to meet FAMLI's initial deadlines. If a municipality does not opt out now, it must wait three years to decline participation. If a municipality opts out now, it can opt in any future year. It must renew its decision to decline participation at least every eight years.

The cost of the FAMLI program may outweigh the benefits to the municipality and its employees. FAMLI program participation will increase municipal budgets by at least 0.45% of its employees' wages annually and potentially more. FAMLI also includes additional administrative work for finance and human resources staff and raises employer liability concerns. Employees who want the paid benefits of FAMLI can participate individually at no greater personal cost and without imposing a cost on the municipality and other employees who do not want to participate.

Municipalities may want to make a local decision as to how to provide employee benefits and protections. Participation in the FAMLI program could conflict with existing employer benefits plans or collective bargaining agreements. Alternatives, like a private plan pursuant to C.R.S. § 8-13.3-521 (or adopted independently after opting out of FAMLI by a vote) or a supplemental insurance program, could be a better fit for your organization.

Because FAMLI is a new program and the program rules have not been fully established, a municipality may choose to be cautious and opt out initially so it can evaluate the program in operation to determine if it is the best choice for the municipality. By opting out, a municipality can determine budgetary and employment impacts locally. Because FAMLI assigns the costs of errors in calculating and remitting premiums to employers, a municipality may wish to wait until procedures can be developed to ensure compliance. Finally, the FAMLI Division has yet to issue all necessary administrative rules, including explaining the interplay between the program and other federal and state laws.

What is best for our employees?

Employees can still participate individually (C.R.S. § 8-13.3-514) and should receive the same benefits, even if the municipality declines participation. Benefits rules to be issued this year will hopefully confirm that benefits will apply equally. The cost to the employee who wants FAMLI coverage is the same whether the employer



Employees can participate in FAMLI individually and should receive the same benefits, even if their municipality declines participation.

participates or not; employees who do not want this coverage would not have to pay any premium.

Employees who choose to participate individually when the municipality opts out would be required to remit their premium share directly to the FAMLI Division unless the municipality chooses to handle this payment by deducting the premium from the employee's pay or paying it on the employee's behalf.

Employees may benefit from a municipality opting out because the municipality would have no financial responsibility for 50% of the premium. The municipality could choose to use that savings to benefit employees directly, such as by paying for some or all of the 50% premium for employees who participate individually.

Employment protections under the statute do not apply if a municipality declines participation in FAMLI, but the

Federal Family and Medical Leave Act (for employers with 50 or more employees in the current or prior year) and any local standards would still apply.

What are the costs and benefits for employees?

Employees bear up to 50% of the premium (or 0.45% of their weekly wage) if the municipality participates or the employee chooses to participate individually. Employees who do not want to participate must still pay a premium if the municipality does not decline participation. Job protections defined in C.R.S. § 8-13.3-509, apply only if a municipality participates in the program.

By statute, an employee would receive a weekly benefit under FAMLI in the amount of 90% of their weekly wage that is equal to or less than 50% of the state average weekly wage, and 50% of their weekly wage that is more than 50% of the state

average weekly wage. Weekly benefits are capped at 90% of the state average weekly wage until 2025, when the maximum weekly benefit is limited to \$1,100 per week. The FAMLI Division suggests that an employee would receive benefits between 37% (\$1,100 based on a weekly wage of \$3,000 or more), 55% (\$1,100 based on a weekly wage of \$2,000), 68% (\$1,018 based on a weekly wage of \$1,500), 77% (\$768 based on a weekly wage of \$1,000), and 90% (\$450 based on a weekly wage of \$500) of the employee's weekly wage.

Benefits rules have not been finalized. The FAMLI Division provides a premium and benefits calculator on its website. Federal income tax may apply to benefits, but benefits are exempt from state income taxes.

How do we opt out?

All municipalities are included in FAMLI by default, regardless of size. A municipality

may opt out and avoid the employer portion of premiums by a vote of a governing body. The opt-out procedure is governed by C.R.S. § 8-13.3-514 and administrative rules at 7 CCR 1107-2. Declination takes effect 180 days after the vote so employees can elect to individually participate in the FAMLI program if they choose. A municipality cannot decline part of FAMLI's provisions.

Pre-vote notices: The municipality must give prior notice of the vote in the same manner it notices other public business. Under the Colorado Open Meetings Law, this means at least 24 hours advance notice must be posted. Local requirements may apply.

Special notice must be provided to employees in writing before the vote indicating the voting process and providing an opportunity to submit comments to the governing body. Information about individual opt-in may also be required (see 7 CCR 1107-2: 2.6.A.4), although those standards likely apply only to post-vote notices. The rules do not indicate that email communication is not appropriate (7 CCR 1107-2: 2.6.A.2). Municipalities might consider both email and written communications to employees.

A description of the voting process could identify the local requirements for the governing body to approve an action, including the potential to make a motion, council or board deliberation, and vote requirements. Municipalities could also consider allowing both oral testimony at the meeting and a written comment option.

Hearing and vote: The vote must occur at least 180 days before the declination will be effective (This deadline appears to apply to an initial declination before the program even begins in 2023, but the rules are not clear). While a formal hearing is not required, the rules require the governing body to take testimony before voting. This could include both verbal and written comments from any interested person.

The rules require that the vote follow the entity's procedures for formal votes and be a "decision by an affirmative vote of the local government's governing body



to decline participation in the [FAMLI] program" (7 CCR 1107-2: 2.6.A). The rules do not indicate that any formal approval mechanism is required, unless one is required by local standards. A motion, resolution, or ordinance may suffice but could modify the "voting process" that needs to be detailed to employees in the advance notice. At a minimum, the document should probably include language indicating that notice was given to employees and the public as required, testimony was taken, and that the body voted affirmatively to decline participation in the FAMLI program.

Post-vote actions: After a vote to decline participation, the municipality must provide several notices. First, the municipality must provide written notice to the FAMLI Division "memorializing the decision" and identifying the date of the vote. The rules are silent on the timing of notice to the FAMLI Division; prompt action is advised. The FAMLI Division has suggested that a letter would be sufficient and expects to have an electronic portal for submissions ready in late 2022. A certified record of the meeting (e.g., minutes showing the motion, vote, and date; resolution; ordinance) with a cover letter would provide a more concrete explanation of the vote and demonstrate compliance with other requirements (7 CCR 1107-2: 2.5.A and, 2.6.A).

Second, the municipality must provide written, individual notices to employees within 30 days after the vote. This notice must indicate the vote to decline coverage and "the impact toward FAMLI, or other paid family and leave insurance coverage" (7 CCR 1107-2: 2.6.A.3). The notice must explain the difference between the FAMLI program and any private plan offered by the local government and identify FMLA eligibility and other local benefits.

The employee notice (and possibly the pre-vote notice) must also provide information on the right of the employee to voluntarily opt in to FAMLI pursuant to C.R.S. § 8-13.3-514, and FAMLI Division contact information (7 CCR 1107-2: 2.6.A.4).

Third, the municipality must post the post-vote notice in a "conspicuous and accessible place in each establishment where employees are employed" (7 CCR 1107-2: 2.6.A.4). Email notice or posting on a web- or app-based platform is recommended and is required for employers with no physical workplace and for employees who work through a web- or app-based platform or work remotely.

Continued on page 5

CML Knowledge Now



Special Notice Standards: The post-vote notice, at a minimum, and potentially all notices must be provided in English and any language representing the first language spoken by at least 5% of the municipality's workforce.

The FAMLI Division will make posters and notices available, but municipalities must request the materials and should expect to pay printing and mailing costs. Notices and posters in languages other than English or Spanish must be specially ordered.

Declination renewal: The declination must be renewed every eight years or the municipality is automatically added back in to FAMLI (7 CCR 1107-2: 2.5.C). The rules require "a similar vote process and margin." That likely means the same number of votes needed to approve an action, not passage by the exact same number of votes as the prior declination.

How do we opt back in to the FAMLI program?

A municipality that previously opted out of the FAMLI program may opt back in by affirmative vote "of a quorum of the governing body" at the beginning of the annual local budgeting cycle, as determined by the municipality (7 CCR 1107-2: 2.5 and 2.6). Coverage would begin no later than the quarter after the vote and submission of one quarter's premium. Municipalities who opt into FAMLI must stay in the program for at least three fiscal years.

Opting back in also involves employee notice requirements. No more than 90 days after the vote, individual employees who opted in must be personally notified in writing that the municipality has opted back into FAMLI. The notice must include the date for the municipality's first submittal of quarterly premiums and any potential lapses or changes in benefits eligibility. The local government must publicly post a notice of the date the employer will begin paying FAMLI premiums and when coverage is expected to start. Employees who did

not opt in must also be notified in writing, both publicly and personally, no later than 180 days after the vote to opt back into FAMLI. The notice must contain a detailed explanation of employee rights under the FAMLI program, including program requirements, benefits, claims processes, payroll deductions, premiums, and employee protections like the right to job protection and benefit continuation and protection against retaliatory or discriminatory information, among other things.

Anticipate updates to FAMLI program.

Municipalities must act now to determine if they want to participate in the FAMLI program, but they should expect updates throughout 2022. Several administrative regulations have yet to be finalized, including benefits rules and the interaction between FAMLI and other federal and state leave laws. The Colorado Supreme Court is also considering a court challenge to the premium requirement that might be decided this year.



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Knowledge

KNOWLEDGE NOW — PRACTICAL RESEARCH ON TIMELY TOPICS

Colorado's Paid Family Medical Leave Insurance (FAMLI) program

MEMORANDUM

TO: Lake City Board of Trustees
FROM: Dan Krob, Town Attorney
DATE: 5.31.22
RE: Proposition 118 - Paid Family and Medical Leave Insurance Program (FAMLI)

The State of Colorado's Paid Family and Medical Leave Insurance Act ("FAMLI Act"), C.R.S. § 8-13.3-501 et seq., provides Colorado workers state-administered paid time off to address family and medical needs, funded through payroll premiums paid by employers and employees. The FAMLI Act permits a local government to decline participation in the program, and Regulation 2.6 of 7 C.C.R. 1107-2, adopted by the Colorado Department of Labor and Employment, Division of FAMLI, states that a local government may decline participation in the FAMLI program by an affirmative vote of the local government's governing body to decline participation following the local government's procedures for formal votes.

Regulation 2.6 of 7 C.C.R. 1107-2 states that: the declination decision is not permanent; local governments that have previously declined participation in the FAMLI program may subsequently elect FAMLI program coverage at the beginning of the annual cycle relevant to the local government's budgeting cycle; and the local government's declination decision must be renewed every eight years or the local government will become a covered employer under the FAMLI Act.

The FAMLI Act allows any employee of a local government that has declined participation in the FAMLI program to elect coverage individually under the FAMLI program. Pursuant to Regulation 2.6 of 7 C.C.R. 1107-2 the process for declining participation is as follows:

1. A resolution, following a public hearing, declining participation must be adopted by December 31, 2022.
2. Town Board of Trustees must provide opportunity to give testimony prior to the vote.
3. Town's employees must be previously notified in writing of the vote process on the Resolution and have had an opportunity to submit comments through a public process to the Town Board of Trustees.
4. Written notice of Town Board of Trustees' decision to decline participation must be provided to the CDLE's FAMLI Division.
5. A local government's decision declining FAMLI Act participation will not take effect for 180 days to allow employees to individually opt into benefits coverage pursuant to C.R.S. 8-13.3-514.
6. Within 30 days following a local government declination vote, the local government must provide its local government employees with a written individual notice of the local government's declination vote and the impact toward FAMLI ,or other paid family and

leave insurance coverage. The written notice, must at a minimum, explain the differences between benefits offered by the FAMLI program and any private plan offered by the local government. The notice must also state which employees, if any, are eligible for job protection under the federal Family and Medical Leave Act (FMLA) benefits or other local provisions were applicable.

7. Written notices must contain information regarding the right of local government employees to voluntarily opt into FAMLI benefits pursuant to 8-13.3-514 C.R.S., and the contact information for the Division.
8. Local government employers must display a notice containing the information in a conspicuous and accessible place in each establishment where employees are employed. The Division will create and make available to local government employers posters and notices.
9. It is the responsibility of the local government employers to request printed materials from the Division.
10. As noted, the declination period is not permanent and participation must be reconsidered, and the Division notified at a minimum of every 8 years. The governing body may reconsider and elect coverage annually pursuant to 7 CCR 1107-2, Regulation 2.5.

Staff should take the following steps:

1. Determine whether declining to participate in the FAMLI program is a good idea by explaining the differences between benefits offered by the FAMLI program and benefits the Town already provides.
2. Assess the costs of FAMLI Act coverage to the Town given that FAMLI offers up to 12 weeks of paid family and medical leave through a mandatory payroll tax, paid by employers and employees in a 50/50 split. Premiums are paid by the employer, and employer can choose to take up to 50% of the premium out of the employee's check or pay the entire premium on behalf of the employee. From January 1, 2021 to December 31, 2023 the total payroll tax amount is 0.9% (0.45% employer and 0.45% employee). After January 1, 2025, the premium amount will be adjusted upward based on previous years claims and administering the program as much as 1.2%.
3. Schedule the public hearing on the resolution declining participation by December 31, 2022.
4. Register with the FAMLI system (Fall 2022). The system will request the agency to upload a letter with the date and decision of the letter.
5. Notify FAMLI of the Town's decision following a vote by January 1, 2023, to avoid paying premiums. If an employer decides to fully participate, no action is needed. If the state does not receive a notice by January 1, 2023, the FAMLI division will assume the entity intends to participate and will expect premium payments due on April 1, 2023. Benefits do not start until January 2024.

Please review this and, as always, feel free to contact me with any questions at 970-231-8026.

DRAFT

Minutes

Meeting Name: Regular BOT Meeting

Meeting Start Time: 5:30 PM MDT

Meeting Start Date: 5/18/2022

Meeting End Time: 8:25 PM MDT

Meeting End Date: 5/18/2022

Meeting Location: 230 N. Bluff Armory Multi-purpose Room

Agenda:

I. Regular Workshop– Start time 5:30pm

- A. Discussion about Structural Engineer Proposal Costs
- B. Discussion about Lake City Old West Shows Reenactment
- C. Discussion about Town Employee Housing
- D. Discussion about Food Trucks
- E. Discussion about Variance for Pete’s Lake LLC for Common Water and Sewer Tap
- F. Discussion about Possible Purchase of Public Works Vehicle
- G. Discussion about Bushwhack Ventures LLC Liquor Tavern(City) Application 301 N. Gunnison Ave.
- H. Discussion about Caselle Record Management Software
- I. Discussion about Caselle Payment Import Software
- J. Discussion about Protests Over 1037 Oceanwave Dr., Margo Presnall Vacation Rental Application

Workshop end time – 7:47 pm

II. Regular Meeting – Start time 8:00 pm

- A. Call to Order
- B. Roll Call - Present: Trustees Bruce, Hamel, Heaton, Kendall, and Woods. Absent: Mayor Roberts.
- C. Approval of Minutes –April 20, 2022. Motion made by Trustee Bruce, seconded by Trustee Heaton.
The motion passed with all present voting yes in a roll call except Trustee Hamel who abstained because he was absent at that meeting.
- D. Approval of Bills Payable – May 4, 2022 Total \$208,800.63. Motion made by Trustee Heaton, seconded by Trustee Kendall. The motion passed with all present voting yes in a roll call vote.
Approval of Bills Payable – May 18, 2022 Total \$75,021.16. Motion made by Trustee Kendall, seconded by Trustee Bruce. The motion passed with all present voting yes in a roll call vote.
- E. Employee Reports:
 - 1. Recreation Director (Hake)

2. Public Work Director (Johnston)
3. Town Clerk/Treasurer (Mulhall)
4. Town Manager (Lipsey)
5. Building Official (Mcneese)
6. Sheriff's Report (Kambish)
7. Mayor/Trustee Reports

F. Correspondence Received – None

G. Citizen Communication – None

H. Additions to the Agenda – None

III. Action Items

- A. Discussion and Possible Action to Select Structural Engineer for the Restless Spirits Repair. Motion to accept the KLJ Engineering proposal made by Trustee Bruce, seconded by Trustee Kendall. Motion passed with all present voting yes in a roll call vote.
- B. Discussion and Possible Action to Approve Lake City Old West Shows to do reenactments on Town Streets. Motion made by Trustee Heaton, seconded by Trustee Bruce. Motion passed with all present voting yes in a roll call vote.
- C. Discussion and Possible Action to Approve Variance for Pete's Lake Hospitality LLC Common Water and Sewer Taps. Motion to move forward with finalizing a deed restriction which prevents the property to be sold without first separating the water taps. Motion made by Trustee Bruce, seconded by Trustee Heaton. Motion passed with all present voting yes in a roll call vote.
- D. Discussion and Possible Action to Approve the Purchase of a New Vehicle for Public Works. Motion to approve the purchase of a public works vehicle that costs no more than \$55,000. Motion made by Trustee Kendall, seconded by Trustee Heaton. Motion passed with all present voting yes in a roll call vote
- E. Discussion and Possible Action to Set a Public Hearing for Bushwhack Ventures LLC, Tavern (City) Liquor License Application 301 N. Gunnison Ave. Motion to set the public hearing date to be June 1st, 2022 at 5:30pm. Motion made by Trustee Heaton and seconded by Trustee Kendall. Motion passed with all present voting yes in a roll call vote.
- F. Discussion and Possible Action to Approve the Short Term Rental Application for 1037 Oceanwave Dr., Margo Presnall. Motion to approve the Short term rental application with the conditions laid out in the Presnall response letter that says they will provide ample parking, post parking signs, and not

allow tenants to park on the street. Motion made by Trustee Heaton, seconded by Trustee Bruce.

Motion passed with all present voting yes in a roll call vote.

G. Discussion and possible action to approve the Town of Lake City not going into a fire restriction.

Motion made to suspend the enforcement clause of the Fire Restriction Ordinance so the Town does not go into a fire restriction. Motion made by Trustee Bruce, seconded by Trustee Kendall. Motion passed with all present voting yes in a roll call vote.

Adjournment – 8:25 pm.

Mayor

ATTEST:

Town Clerk

Town of Lake City
Bills Payable
6/1/2022

Vendor Name	Description	Invoice Amount	GL
1 Aflac	E2201 Insurance	\$494.20	GF
2 Ben Hake	Mileage reimbursement Olathe(pipe) 300 miles ; montrose 204 miles	\$294.84	GF
3 Card Member Service	Ridgway Lodge and suite	\$438.16	GF
4 Card Member Service	Southwest - Vance Lipsey 05/30/2022 Nashville to Denver	\$285.98	GF
5 Card Member Service	Southwest Vance Lipsey Denver to Nashville	\$172.98	GF
6 Card Member Service	Southwest Vance Lipsey Nashville to Denver roundtrip	\$395.96	GF
7 Card Member Service	Southwest Vance Lipsey Denver to Dallas roundtrip 08/12/2022	\$197.95	GF
8 Card Member Service	Garmin	\$34.95	GF
9 Card Member Service	zoom	\$41.16	GF
10 Card Member Service	Google suite	\$134.80	GF
11 Card Member Service	Nextrust Billflash sub	\$19.95	GF
12 Card Member Service	CML Registration for Lex Mulhall	\$338.00	GF
13 Card Member Service	Community Resource Center San Juan philanthropy days	\$50.00	GF
14 Card Member Service	Interest charges	\$174.84	GF
15 Card Member Service	Uline - operating supplies - GF	\$297.70	GF
16 Card Member Service	Rocky Mountain Trees - PR	\$275.00	GF
17 Card Member Service	Burgess seed - PR	\$32.35	GF
18 Card Member Service	Bolinger & Queen - PR	\$1,460.40	GF
19 Card Member Service	The webstaurant store - PR chalk boards	\$148.15	GF
20 Card Member Service	Amazon liquid chalk markers - PR	\$55.00	GF
21 Card Member Service	Gopher Sport	\$58.40	GF
22 Card Member Service	Sxm Sirius radio	\$23.56	GF
23 Card Member Service	Bolinger & queen -PW	\$523.47	WS
24 Card Member Service	Conoco - Blair Sales - PW	\$55.92	WS
25 Card Member Service	Google Microsoft apps PW tablet	\$6.99	WS
26 CDPHE	Modification fee for permit CO0040673	\$375.00	WS
27 CEBT	Health & Dental Insurance Town Admin	\$3,331.20	GF
28 CEBT	Health & Dental Insurance Park and Rec	\$832.80	GF
29 CEBT	Health & Dental Insurance W&S	\$2,498.40	WS
30 City of Gunnison	Wastewater lab fees	\$60.00	WS
31 Fullmer's Ace Hardware	Hoses, hose nozzle, industrial cleane, toolbox	\$180.93	WS
32 Hinsdale County Clerk & Recorder	Duplicate title 2005 dodge truck	\$8.20	WS
33 JC Propane, Inc	Armory propane	\$1,112.21	GF
34 Michelle Pierce	Consulting Services	\$2,450.00	GF
35 Monty's Auto Parts	Hydraulic Hose- bulk- PW	\$120.90	WS
36 Mountain View Tech Services	Zoning map updates	\$390.00	GF
37 Quill Corp	Wall calendar, receipt book, and copy paper	\$92.60	GF
38 Quill Corp	Hanging folders, file folders	\$43.12	WS
39 SGS North America, Inc	nitrogen, phosphorus	\$242.66	WS
40 Silver World Publishing	classified ads BOT vacancy	\$60.00	GF
41 Silver World Publishing	legal notices bills payable	\$314.60	GF
42 Silver World Publishing	Water quality report	\$3,009.00	WS
43 Vance Lipsey	Mileage reumbursement 62 miles @ 58.5 Cents	\$36.27	GF
44 Western Gravel Constructors, LLC	3rd st Pedestrian and Drainage Project 04/27/22 to 05/25/22	\$214,250.40	GF
Total Bills Payable 6/1/2022		\$235,419.00	

MAYOR

ATTEST:

TOWN CLERK

MONTHLY REPORT

MAY 2022

Lake City Parks and Recreation

Ski Hill

Nothing to report

Armory

I ordered a new piece of fitness equipment for the weight room. The old Paramount universal machine is so old that it no longer has parts available. We need to slowly replace all its functions with new equipment. It will take several pieces of equipment to replace it. The fitness center is so busy now that my prediction that it will be fine for another 10-20 years when we upgraded the space 7 years ago was off a few years. It has brought in almost \$7000 year. We've been trying to think of ways to expand. You're likely to see a proposal on the next capital improvements plan.

We started cleaning out the second floor of the armory and moving everything downstairs to the closet. This is in preparation if its decided to turn the second floor into an apartment. We also met with an electrician on the project.

Ice Rink

The work continues on the prep for the concrete pad behind the armory. Public Works removed about 4" of dirt and leveled and compacted the area. The forms and rebar are going in now. We ended up doing a 50x60 pad rather than a 50x68. We needed to stay away from the buried propane tank. This will still allow for two pickleball courts, a half court basketball, and a small skate park area.

Ice Park

We may try to construct a trail on Comnet property rather than the other private property just to try to simplify things. After looking at a route, we think it might be possible. We started to remove hoses and things from the tops of both ice walls. We haven't contacted Mr. Trujillo again. I'm waiting to see if the other trail works out.

Trees

I purchased two aspen trees for Arbor Day that we will plant along Henson Street at the school soccer field. The tree sprayers have been working in Town whenever the wind cooperates spraying for scale and spider mites. They have been here at least twice. Since the last report we lost several trees due to wind. The largest blow down was on Silver St, on private property, in the 400 block. A large pine tree snapped and took out a cottonwood that was on Town right of way and a few other smaller pine trees on private property. We also lost the top out of a 117 foot tall pine tree next to Grant's house which hit his house. I will have this tree removed by the tree trimmers. I'm still waiting for them to give me dates.

Our Arbor Day is Thursday June 2nd. Public Works also worked on tree thinning on Henson St. across from the new water fill station area.

Parks

The Town Park restroom grant was denied. We may rethink the project to see if we can get it under \$150,000 which will allow us to apply for other grants. I'll provide more information about the ideas at a future meeting.

Public Works Report

May, 2022

For the month of May, the Town of Lake City produced 14,723,200 gallons of safe drinking water and the Wastewater Treatment Plant processed 2,723,118 gallons of wastewater. For the same period last year the Town produced 14,577,900 gallons of water and processed 2,384,265 gallons of wastewater.

Water : As we gear up for summer Public Works turned on both parks sprinkler systems. There were a few repairs that were handled in house. We adjusted the sprinkler heads as well, to make sure we were getting the water where we wanted it. With summer costumers coming back to town we had some meters to repair as well. With construction season is full swing we had a few water taps that were installed on our system. The Towns ditch was also brought on line in mid-May. We also had tank divers come and clean the storage tanks and evaluate their condition. This happens every four years and is required by the State. I will let you know the findings when I receive the report. We also got out the first set of lead and copper testing in May. I hope be put back on a reduced schedule after this year. We found a few water leaks around town. We assisted with the repairs. We are planning on doing a leak study in June to try and find any leaking service lines.

Wastewater: We our yearly sewer jetting preformed in May. This helps maintain our collection system and prevents many issues in the winter months. We even got to jet lines that have not been cleaned in a long time. I had them camera some lines that we had issues with this winter to try and determine the cause of these issues. This information will help us stay in compliance with the discharge permit and resolve the issues so we do not have any problems this winter. We will be scheduling grit removal in June.

Streets and Alleys: We have been busy improving road ways, drainages and cleaning culverts all over Town. We have also been removing trees and making more parking to help relieve some of the congestion of troubled areas. After jetting we buried the manholes and are preparing for yearly road maintenance and mag-chloride that will happen in June. The asphalt patches that are prepped should be patched in early June as well. We also deployed speed bunmp and more signage around town. We have been stockpiling material form the 3rd street project for the Plant project.

Other: Danny has been working hard on staining the Towns facilities at both parks. I am very pleased with how they are turning out. We helped Ben cut down and clean some bigger trees around town. We have also been working on the new pickle ball court by doing the dirt work and setting up the pad so that it can be poured soon. We will be starting the water fill station in June. The first step is to get power to the property then we will work on getting taps installed. We are running in to supply chain issues on many of our projects but we will stay persistent.

Respectfully Submitted,
Jameson Johnston
Public Works Director Interim

TOWN OF LAKE CITY
COMBINED CASH INVESTMENT
MAY 31, 2022

COMBINED CASH ACCOUNTS

999-102-000-000	CASH (CHECKING)	(139,837.22)
999-104-100-000	SAVINGS (MONEY MARKET ACCOUNT)		2,491,004.25
999-104-200-000	CERTIFICATES OF DEPOSIT		30,523.78
999-104-300-000	COLOTRUST		207,754.45
999-175-000-000	CASH CLEARING - UTILITIES	(54,351.37)
	TOTAL COMBINED CASH		2,535,093.89
999-100-000-000	CASH ALLOCATE TO OTHER FUNDS	(2,535,093.89)

TOTAL UNALLOCATED CASH			.00
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CASH ALLOCATION RECONCILIATION

100	ALLOCATION TO GENERAL FUND		1,088,902.43
600	ALLOCATION TO WATER & SEWER FUND		1,446,191.46
	TOTAL ALLOCATIONS TO OTHER FUNDS		2,535,093.89
	ALLOCATION FROM COMBINED CASH FUND - 99-100-000-000	(2,535,093.89)

ZERO PROOF IF ALLOCATIONS BALANCE			.00
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TOWN OF LAKE CITY
BALANCE SHEET
MAY 31, 2022

GENERAL FUND

ASSETS

100-100-000-000	CASH IN COMBINED FUND	1,088,902.43	
100-101-000-000	PETTY CASH	356.00	
100-105-000-000	TAXES RECEIVABLE	64,217.00	
100-132-000-000	DUE FROM OTHER GOVERNMENTS	.10	
	TOTAL ASSETS		1,153,475.53

LIABILITIES AND EQUITY

LIABILITIES

100-200-000-000	FACILITY RENTAL DEPOSITS	1,800.00	
100-201-000-000	ENCROACHMENT DEPOSITS	3,250.00	
100-216-000-000	ACCRUED WAGES	2,836.08	
100-217-000-000	MEDICARE PAYABLE	34.61	
100-217-100-000	FEDERAL WITHHOLDING PAYABLE	4,419.89	
100-217-200-000	STATE WITHHOLDING PAYABLE	1,096.00	
100-217-300-000	RETIREMENT PAYABLE	(5,612.94)	
100-217-400-000	ACC INSURANCE PAYABLE	12,980.92	
100-222-100-000	DEFERRED PROPERTY TAXES	64,217.00	
	TOTAL LIABILITIES		85,021.56

FUND EQUITY

100-280-000-000	FUND BALANCE	1,248,463.72	
100-280-100-000	CREATED BY POSTING	128,000.00	
100-280-400-000	EMERGENCY RESERVE-TABOR	21,842.00	
	REVENUE OVER EXPENDITURES - YTD	(329,851.75)	
	BALANCE - CURRENT DATE	1,068,453.97	
	TOTAL FUND EQUITY		1,068,453.97
	TOTAL LIABILITIES AND EQUITY		1,153,475.53

TOWN OF LAKE CITY
REVENUES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

GENERAL FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>TAXES</u>					
100-311-000-000	PROPERTY TAXES	10,598.25	43,859.92	64,176.00	20,316.08	68.3
100-312-000-000	SPECIFIC OWNERSHIP TAX	337.36	1,512.20	5,000.00	3,487.80	30.2
100-313-100-000	SALES TAX	29,451.81	78,487.35	500,000.00	421,512.65	15.7
100-314-100-000	MOTOR VEHICLE SALES TAX	313.50	429.50	3,000.00	2,570.50	14.3
100-314-200-000	CIGARETTE TAX	.00	580.47	900.00	319.53	64.5
100-314-300-000	BUILDING USE TAX	.00	.00	30,000.00	30,000.00	.0
100-316-100-000	FRANCHISE TAX (PHONE CO.)	.00	.00	10,000.00	10,000.00	.0
100-319-000-000	PENALTIES AND INTEREST	.16	1.44	500.00	498.56	.3
	TOTAL TAXES	40,701.08	124,870.88	613,576.00	488,705.12	20.4
	<u>PERMITS AND FEES</u>					
100-321-100-000	LIQUOR LICENSE FEE	825.00	3,103.75	2,000.00	(1,103.75)	155.2
100-322-100-000	BUILDING PERMITS	2,018.47	5,043.89	11,000.00	5,956.11	45.9
100-322-110-000	SIGN PERMITS	.00	.00	100.00	100.00	.0
100-322-200-000	LODGING PERMIT	375.00	4,400.00	1,900.00	(2,500.00)	231.6
100-322-400-000	BUSINESS LICENSE	35.00	1,320.00	1,000.00	(320.00)	132.0
100-322-800-000	SPECIAL USE PERMITS	.00	375.00	.00	(375.00)	.0
	TOTAL PERMITS AND FEES	3,253.47	14,242.64	16,000.00	1,757.36	89.0
	<u>INTERGOVERNMENTAL REVENUE</u>					
100-334-000-000	GRANT MONIES	.00	.00	1,051,020.00	1,051,020.00	.0
100-334-100-000	MINERAL LEASE/SEVERANCE TAX	.00	.00	1,500.00	1,500.00	.0
100-334-300-000	COVID RELIEF FUND	.00	.00	35,041.29	35,041.29	.0
100-335-100-000	MOTOR VEHICLE SPECIAL ASSESS	.00	1,667.50	1,500.00	(167.50)	111.2
100-335-200-000	HIGHWAY USERS TAX	.00	3,995.50	25,000.00	21,004.50	16.0
	TOTAL INTERGOVERNMENTAL REVENUE	.00	5,663.00	1,114,061.29	1,108,398.29	.5
	<u>RECREATION REVENUE</u>					
100-341-800-000	SALE OF COPIES	.00	1.80	.00	(1.80)	.0
100-347-800-000	RECREATION PROGRAM FEES	920.00	6,710.00	2,000.00	(4,710.00)	335.5
100-347-810-000	RECREATION FEES (SKI HILL)	.00	16,202.00	9,000.00	(7,202.00)	180.0
100-347-811-000	REC FEES (SKI HILL DONATIONS)	.00	3,274.50	1,000.00	(2,274.50)	327.5
100-347-820-000	ICE WALL EVENTS	.00	1,903.00	2,000.00	97.00	95.2
100-347-825-000	ICE WALL DONATIONS	58.00	4,866.50	1,000.00	(3,866.50)	486.7
	TOTAL RECREATION REVENUE	978.00	32,957.80	15,000.00	(17,957.80)	219.7

TOWN OF LAKE CITY
REVENUES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

GENERAL FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>COURT REVENUE</u>					
100-351-000-000	COURT FINES	713.00	1,147.00	1,500.00	353.00	76.5
	TOTAL COURT REVENUE	713.00	1,147.00	1,500.00	353.00	76.5
	<u>OTHER REVENUE</u>					
100-361-100-000	EARNINGS ON DEPOSITS	.00	883.23	2,000.00	1,116.77	44.2
100-362-200-000	RENTS FROM BUILDINGS	260.00	3,886.66	3,000.00	(886.66)	129.6
100-363-000-000	DEPOSITS FOR W&S SERVICE	680.00	2,040.00	.00	(2,040.00)	.0
100-364-000-000	REFUNDS	.00	310.29	.00	(310.29)	.0
100-366-100-000	HISTORIC PRESERVATION COA	50.00	250.00	500.00	250.00	50.0
100-369-000-000	MISCELLANEOUS REVENUES	100.00	700.00	1,000.00	300.00	70.0
	TOTAL OTHER REVENUE	1,090.00	8,070.18	6,500.00	(1,570.18)	124.2
	<u>SOURCE 37</u>					
100-370-000-000	TRANSFER FROM OTHER FUNDS	.00	.00	15,445.00	15,445.00	.0
	TOTAL SOURCE 37	.00	.00	15,445.00	15,445.00	.0
	TOTAL FUND REVENUE	46,735.55	186,951.50	1,782,082.29	1,595,130.79	10.5

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

GENERAL FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>TOWN ADMIN</u>					
100-411-100-111 SALARIES - BOT	.00	1,950.00	8,000.00	6,050.00	24.4
100-411-100-144 FICA--MEDICARE - BOT	.00	24.67	130.50	105.83	18.9
100-411-100-145 PERA - BOT	.00	277.51	1,250.00	972.49	22.2
100-411-100-330 PUBLICITY, DUES, & SUBS.- BOT	.00	.00	500.00	500.00	.0
100-411-100-347 COMPUTER HARDWARE/SOFTWARE	.00	69.99	4,000.00	3,930.01	1.8
100-411-100-350 PROFESSIONAL SERVICES- BOT	4,575.00	19,925.00	82,125.00	62,200.00	24.3
100-411-100-370 TRAVEL AND MEETINGS - BOT	1,598.02	2,653.77	1,500.00	(1,153.77)	176.9
100-411-100-397 CONTRACT PAYMENTS- BOT	.00	18,500.00	.00	(18,500.00)	.0
100-411-100-400 BOT DONATIONS	.00	7,500.00	105,500.00	98,000.00	7.1
100-411-100-495 MISCELLANEOUS EXPENSES-BOT	(58.96)	(58.96)	300.00	358.96	(19.7)
100-411-400-111 SALARIES -TOWN ADMIN	1,558.48	10,015.63	59,510.00	49,494.37	16.8
100-411-400-142 WORKMEN'S COMPENSATION - TOWN	.00	1,657.50	10,000.00	8,342.50	16.6
100-411-400-143 HEALTH INSURANCE - TOWN ADMIN	.00	5,187.76	7,500.00	2,312.24	69.2
100-411-400-144 FICA-MEDICARE - TOWN ADMIN	22.39	133.13	870.00	736.87	15.3
100-411-400-145 PERA - TOWN ADMIN	221.77	4,237.41	11,345.00	7,107.59	37.4
100-411-400-210 OFFICE SUPPLIES - TOWN ADMIN.	290.00	159.17	1,000.00	840.83	15.9
100-411-400-220 OPERATING SUPPLIES- TOWN ADMIN	.00	1,104.96	1,300.00	195.04	85.0
100-411-400-230 R & M SUPPLIES - TOWN HALL	8.38	8.38	200.00	191.62	4.2
100-411-400-311 POSTAGE - TOWN ADMIN.	.00	174.00	700.00	526.00	24.9
100-411-400-320 PRINTING AND COPYING	244.00	979.85	3,000.00	2,020.15	32.7
100-411-400-330 PROF DUES, SUBS, AND MEMBERSHI	3,539.58	11,253.65	1,500.00	(9,753.65)	750.2
100-411-400-331 LEGAL NOTICES - TOWN HALL	182.80	1,388.40	3,000.00	1,611.60	46.3
100-411-400-345 TELEPHONE/INTERNET - TOWN HALL	219.25	1,096.29	5,000.00	3,903.71	21.9
100-411-400-346 EMPLOYEE CELL PHONES	302.52	1,156.73	4,000.00	2,843.27	28.9
100-411-400-347 COMPUTERS AND SOFTWARE R&M	.00	.00	16,000.00	16,000.00	.0
100-411-400-350 PROFESSIONAL SERVICES-TOWN HAL	.00	24,394.56	2,000.00	(22,394.56)	1219.7
100-411-400-352 LEGAL SERVICES	.00	1,804.50	15,000.00	13,195.50	12.0
100-411-400-354 AUDITING - TOWN HALL	.00	.00	8,000.00	8,000.00	.0
100-411-400-360 R & M SERVICES - TOWN HALL	.00	.00	500.00	500.00	.0
100-411-400-370 TRAVEL, TRAINING, MEETING-TOWN H	1,223.02	1,223.02	2,000.00	776.98	61.2
100-411-400-495 MISC. EXPENSES - TOWN HALL	732.81	1,604.50	2,000.00	395.50	80.2
100-411-400-510 INSURANCE - TOWN HALL	.00	8,144.97	22,000.00	13,855.03	37.0
100-411-400-947 OFFICE EQUIPMENT - TOWN HALL	.00	.00	500.00	500.00	.0
100-411-800-495 MISC EXPENSES	175.72	175.72	.00	(175.72)	.0
TOTAL TOWN ADMIN	14,834.78	126,742.11	380,230.50	253,488.39	33.3
<u>MUNICIPAL COURT</u>					
100-412-100-111 SALARIES - MUNICIPAL COURT	.00	3,000.00	6,000.00	3,000.00	50.0
100-412-100-144 FICA-MEDICARE-MUNICIPAL COURT	.00	34.80	87.00	52.20	40.0
100-412-100-145 PERA - MUNICIPAL COURT	.00	426.90	510.00	83.10	83.7
100-412-100-330 PUBLICITY,SUBS,DUES - M. COURT	.00	.00	20.00	20.00	.0
100-412-100-370 TRAVEL & MEETINGS - M. COURT	.00	.00	750.00	750.00	.0
100-412-100-495 MISC. EXPENSES - M. COURT	.00	.00	1,000.00	1,000.00	.0
TOTAL MUNICIPAL COURT	.00	3,461.70	8,367.00	4,905.30	41.4

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

GENERAL FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>ELECTIONS</u>					
100-414-000-111	ADMIN CONTRACT - ELECTIONS	.00	5,540.00	5,000.00	(540.00)	110.8
100-414-000-220	OPERATING SUPPLIES - ELECTIONS	295.41	1,881.10	2,500.00	618.90	75.2
100-414-000-352	LEGAL FEES-ELECTION	.00	.00	500.00	500.00	.0
	TOTAL ELECTIONS	295.41	7,421.10	8,000.00	578.90	92.8
	<u>COMMUNITY FAC & PARKS</u>					
100-419-400-220	OPERATING SUPPLIES	611.83	1,438.60	13,000.00	11,561.40	11.1
100-419-400-223	JANITORIAL SUPPLIES-COMMFAC&PA	647.39	831.22	2,300.00	1,468.78	36.1
100-419-400-230	R & M SUPPLIES-COMM FAC & PARKS	9.05	673.73	2,500.00	1,826.27	27.0
100-419-400-341	ELECTRICITY - COMM FAC & PARKS	634.36	4,210.12	6,200.00	1,989.88	67.9
100-419-400-344	PROPANE - COMM FACILITIES&PARK	472.85	5,368.11	15,000.00	9,631.89	35.8
100-419-400-356	ICE WALL-COMM FAC&PARKS	.00	8,113.89	6,500.00	(1,613.89)	124.8
100-419-400-360	R & M SERVICES-COMM FAC& PARKS	3,948.56	10,507.90	22,000.00	11,492.10	47.8
100-419-400-361	TRASH COLLECTION-COMMFAC&PARKS	52.00	573.75	9,000.00	8,426.25	6.4
	TOTAL COMMUNITY FAC & PARKS	6,376.04	31,717.32	76,500.00	44,782.68	41.5
	<u>STREETS & ALLEYS PROGRAMS</u>					
100-431-400-230	R&M SUPPLIES	1,516.85	(944.15)	5,000.00	5,944.15	(18.9)
100-431-400-231	STREET SURFACE - DUST CONTROL	.00	.00	12,000.00	12,000.00	.0
100-431-400-360	R&M SERVICES	.00	.00	3,000.00	3,000.00	.0
100-431-400-365	STREET LIGHTS	178.04	178.04	.00	(178.04)	.0
100-431-400-370	STREET SIGNS	.00	2,461.00	15,000.00	12,539.00	16.4
100-431-400-452	GRAVEL	440.00	1,040.00	3,000.00	1,960.00	34.7
100-431-400-453	MISC. - MAINT OF CONDITION	.00	.00	8,000.00	8,000.00	.0
100-431-500-230	R&M SUPPLIES-SNOW REMOVAL	.00	.00	5,000.00	5,000.00	.0
100-431-500-360	R&M SERVICES - SNOW REMOVAL	902.50	11,114.85	25,000.00	13,885.15	44.5
100-431-800-111	SALARIES-S&A ADMIN	912.69	9,624.31	31,000.00	21,375.69	31.1
100-431-800-143	HEALTH INSURANCE-S&A ADMIN	.00	1,050.84	5,608.80	4,557.96	18.7
100-431-800-144	FICA-MEDICARE-S&A ADMIN	12.98	119.96	450.00	330.04	26.7
100-431-800-145	PERA-S&A ADMIN	129.87	1,369.51	4,410.00	3,040.49	31.1
100-431-800-146	TREASURER'S FEE S&A ADMIN	211.97	918.83	1,300.00	381.17	70.7
100-431-800-340	ELECTRIC-5TH ST PED BRIDGE	35.50	148.27	500.00	351.73	29.7
	TOTAL STREETS & ALLEYS PROGRAMS	4,340.40	27,081.46	119,268.80	92,187.34	22.7
	<u>DEPARTMENT 436</u>					
100-436-000-360	ROUND TOP REPAIR & MAINT SERV	.00	.00	1,500.00	1,500.00	.0
	TOTAL DEPARTMENT 436	.00	.00	1,500.00	1,500.00	.0

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

GENERAL FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>RECREATION</u>					
100-451-100-111	SALARIES - REC DEPT	2,591.65	30,117.84	80,560.00	50,442.16	37.4
100-451-100-112	PT SEASONAL	.00	193.50	9,900.00	9,706.50	2.0
100-451-100-143	HEALTH INSURANCE - REC DEPT	.00	8,433.49	18,696.00	10,262.51	45.1
100-451-100-144	FICA-MEDICARE - REC DEPT	36.99	413.94	1,250.00	836.06	33.1
100-451-100-145	PERA - REC DEPT	368.79	4,262.10	12,900.00	8,637.90	33.0
100-451-100-224	RECREATION SUPPLIES - REC.	1,180.03	2,770.84	10,000.00	7,229.16	27.7
100-451-100-350	PROFESSIONAL SVS - REC DEPT	1,010.00	1,010.00	.00	(1,010.00)	.0
100-451-100-360	R & M SERVICES - RECREATION	.00	.00	15,000.00	15,000.00	.0
100-451-100-370	TRAVEL, TRAINING AND MEETINGS	.00	215.87	1,500.00	1,284.13	14.4
100-451-100-496	MISCELLANEOUS - RECREATION	25.25	25.25	.00	(25.25)	.0
100-451-200-111	SALARIES - SKI HILL	.00	6,880.75	9,500.00	2,619.25	72.4
100-451-200-144	FICA-MEDICARE - SKI HILL	.00	74.91	140.00	65.09	53.5
100-451-200-145	PERA - SKI HILL	.00	791.40	1,500.00	708.60	52.8
100-451-200-220	OPERATING SUPPLIES - SKI HILL	206.53	1,145.30	6,000.00	4,854.70	19.1
100-451-200-230	R & M SUPPLIES - SKI HILL	.00	124.34	2,500.00	2,375.66	5.0
100-451-200-330	PUBLICITY, SUBS,DUES -SKI HILL	58.51	175.53	600.00	424.47	29.3
100-451-200-341	ELECTRICITY - SKI HILL	57.55	505.83	2,500.00	1,994.17	20.2
100-451-200-345	TELEPHONE - SKI HILL	57.69	287.45	400.00	112.55	71.9
100-451-200-350	PROFESSIONAL SVS - SKI HILL	.00	.00	400.00	400.00	.0
100-451-200-358	INSPECTIONS - SKI HILL	.00	781.85	1,500.00	718.15	52.1
100-451-200-360	R & M SERVICES - SKI HILL	.00	.00	1,000.00	1,000.00	.0
100-451-200-370	TRAVEL AND MEETINGS - SKI HILL	.00	32.17	600.00	567.83	5.4
100-451-200-593	PERMITS - SKI HILL	.00	.00	1,000.00	1,000.00	.0
	TOTAL RECREATION	5,592.99	58,242.36	177,446.00	119,203.64	32.8
	<u>MARKETING</u>					
100-455-100-330	MARKETING-PUB, SUBS & DUES	.00	.00	1,000.00	1,000.00	.0
100-455-100-340	MARKETING-MAIN STREET	.00	5,000.00	5,000.00	.00	100.0
	TOTAL MARKETING	.00	5,000.00	6,000.00	1,000.00	83.3
	<u>HISTORIC PRESERVATION</u>					
100-460-100-370	TRAVEL, TRAINING AND MEETINGS	.00	.00	1,500.00	1,500.00	.0
	TOTAL HISTORIC PRESERVATION	.00	.00	1,500.00	1,500.00	.0
	<u>CONTRACT PAYMENTS</u>					
100-480-310-397	CONTRACT PAYMENTS, LAW ENFORCE	.00	20,648.00	85,592.00	64,944.00	24.1
100-480-330-397	CONTRACT PAYMENTS, BUILDING IN	.00	5,304.50	21,218.00	15,913.50	25.0
	TOTAL CONTRACT PAYMENTS	.00	25,952.50	106,810.00	80,857.50	24.3

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

GENERAL FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>CAPITAL IMPROVEMENTS</u>					
100-485-000-810	CAP IMP STREETS & ALLEYS	231,184.70	231,184.70	1,240,000.00	1,008,815.30	18.6
	TOTAL CAPITAL IMPROVEMENTS	231,184.70	231,184.70	1,240,000.00	1,008,815.30	18.6
	TOTAL FUND EXPENDITURES	262,624.32	516,803.25	2,125,622.30	1,608,819.05	24.3
	NET REVENUE OVER EXPENDITURES	(215,888.77)	(329,851.75)	(343,540.01)	(13,688.26)	(96.0)

TOWN OF LAKE CITY
BALANCE SHEET
MAY 31, 2022

CONSERVATION TRUST FUND

ASSETS

300-104-100-000	SAVINGS (MONEY MARKET ACCOUNT)	30,338.91	
	TOTAL ASSETS		30,338.91

LIABILITIES AND EQUITY

FUND EQUITY

300-280-000-000	FUND BALANCE	30,329.06	
	REVENUE OVER EXPENDITURES - YTD	9.85	
	BALANCE - CURRENT DATE	30,338.91	
	TOTAL FUND EQUITY		30,338.91
	TOTAL LIABILITIES AND EQUITY		30,338.91

TOWN OF LAKE CITY
REVENUES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

CONSERVATION TRUST FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>INTERGOVERNMENTAL REVENUE</u>					
300-334-000-000	CTF REMITTANCE	.00	.00	4,000.00	4,000.00	.0
	TOTAL INTERGOVERNMENTAL REVENUE	.00	.00	4,000.00	4,000.00	.0
	<u>OTHER REVENUE</u>					
300-361-100-000	EARNINGS ON DEPOSITS	.00	9.85	20.00	10.15	49.3
	TOTAL OTHER REVENUE	.00	9.85	20.00	10.15	49.3
	TOTAL FUND REVENUE	.00	9.85	4,020.00	4,010.15	.3

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

CONSERVATION TRUST FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>CONSERVATION TRUST EXPENDITURE</u>					
300-452-000-365	CAPITAL IMPROVEMENT PROJECTS	.00	.00	30,000.00	30,000.00	.0
	TOTAL CONSERVATION TRUST EXPENDITURE	.00	.00	30,000.00	30,000.00	.0
	TOTAL FUND EXPENDITURES	.00	.00	30,000.00	30,000.00	.0
	NET REVENUE OVER EXPENDITURES	.00	9.85	(25,980.00)	(25,989.85)	.0

TOWN OF LAKE CITY
BALANCE SHEET
MAY 31, 2022

WATER & SEWER FUND

ASSETS

600-100-000-000	CASH IN COMBINED FUND	1,446,191.46	
600-115-000-000	CUSTOMER ACCOUNTS RECEIVABLE	52,286.19	
600-118-000-000	LOAN RECEIVABLE	11,633.77	
600-160-000-000	LAND	76,697.00	
600-161-000-000	PUMP HOUSE	56,153.00	
600-162-000-000	WATER TREATMENT PLANT	72,225.00	
600-162-200-000	SEWER TREATMENT PLANT	498,359.30	
600-162-400-000	WATER SYSTEM	4,033,604.81	
600-162-500-000	SEWER SYSTEM	2,221,550.91	
600-162-600-000	METERS	82,146.25	
600-163-300-000	COLL, TRANS & DIST.-SEWER	128,179.00	
600-164-000-000	WATER TANK	401,121.27	
600-164-200-000	MACHINERY & EQUIPMENT	35,212.57	
600-165-000-000	TRANSPORTATION EQUIPMENT	174,950.93	
600-169-000-000	ACCUMULATED PROV. FOR DEPR.	(2,661,055.61)	
600-180-001-000	DEFERRED OUTFLOWS - PERA	31,307.00	
600-180-021-000	DEFERR OUTFLOWS OPEBCONTTIMING	1,876.00	
	TOTAL ASSETS		6,662,438.85

LIABILITIES AND EQUITY

LIABILITIES

600-202-100-100	CWRPDA REVOLVING FUND LOAN	1,076,335.81	
600-202-100-200	ACCRUED INTEREST	2,205.76	
600-216-000-000	ACCRUED WAGES	3,051.33	
600-216-100-000	ACCRUED COMPENSATED ABSENSES	10,188.62	
600-250-001-000	PERA NET PENSION LIABILITY	165,205.00	
600-250-002-000	DEFERRED INFLOW - PERA EXP	74,197.00	
600-250-021-000	NET OPEB LIABILITY	19,445.00	
600-250-026-000	DEFERRED INFLOWS OPEB EARNINGS	4,563.00	
	TOTAL LIABILITIES		1,355,191.52

FUND EQUITY

600-280-000-000	FUND BALANCE	3,765,903.03	
600-281-000-000	CUSTOMERS CONTRIB CAPITAL	182,149.00	
600-282-000-000	CONT CAPITAL--GOVT ENTITY	484,267.00	
600-283-200-000	SYSTEM DEV. FEES OR CHARGES	408,875.00	
600-284-200-000	UNRESERVED RETAINED EARNINGS	539,878.60	
	REVENUE OVER EXPENDITURES - YTD	(73,825.30)	
	BALANCE - CURRENT DATE	5,307,247.33	
	TOTAL FUND EQUITY		5,307,247.33
	TOTAL LIABILITIES AND EQUITY		6,662,438.85

TOWN OF LAKE CITY
REVENUES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

WATER & SEWER FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEARNED	PCNT
	<u>INTERGOVERNMENTAL REVENUE</u>					
600-334-000-000	GRANTS	.00	.00	260,000.00	260,000.00	.0
	TOTAL INTERGOVERNMENTAL REVENUE	.00	.00	260,000.00	260,000.00	.0
	<u>WATER & SEWER REVENUE</u>					
600-341-800-000	CHARGES FOR SERVICES	.00	446.31	.00	(446.31)	.0
600-344-100-000	WATER SALES	.00	102,762.97	350,000.00	247,237.03	29.4
600-344-200-000	SEWER REVENUES	.00	45,051.25	260,000.00	214,948.75	17.3
600-344-300-000	WATER TAP CONNECTION CHARGES	.00	8,250.00	5,000.00	(3,250.00)	165.0
600-344-400-000	SEWER TAP CONNECTION CHARGES	.00	8,250.00	5,000.00	(3,250.00)	165.0
600-344-500-000	WATER METERS	.00	4,759.00	1,500.00	(3,259.00)	317.3
600-344-600-000	INSPECTION FEES	50.00	50.00	.00	(50.00)	.0
	TOTAL WATER & SEWER REVENUE	50.00	169,569.53	621,500.00	451,930.47	27.3
	<u>SOURCE 36</u>					
600-361-000-000	EARNINGS ON DEPOSITS	.00	73.14	500.00	426.86	14.6
600-361-100-000	EARNINGS ON ACCTS RECEIVABLE	.00	530.70	2,000.00	1,469.30	26.5
600-369-000-000	MISCELLANEOUS REVENUES	.00	1,776.43	.00	(1,776.43)	.0
	TOTAL SOURCE 36	.00	2,380.27	2,500.00	119.73	95.2
	TOTAL FUND REVENUE	50.00	171,949.80	884,000.00	712,050.20	19.5

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

WATER & SEWER FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
<u>WATER & SEWER EXPENDITURES</u>						
600-433-100-350	PROFESSIONAL SERVICE W&S ADMIN	240.00	3,915.00	.00	(3,915.00)	.0
600-433-410-221	CHEMICALS - WATER WELLS	3,900.00	6,966.80	14,000.00	7,033.20	49.8
600-433-410-229	OPERATING SUPPLIES-WATER WELLS	.00	237.03	1,500.00	1,262.97	15.8
600-433-410-230	R & M SUPPLIES - WATER WELLS	.00	.00	1,000.00	1,000.00	.0
600-433-410-312	FREIGHT - WATER WELLS	.00	29.95	3,000.00	2,970.05	1.0
600-433-410-341	ELECTRIC POWER/PROPANE-WW	2,605.50	11,121.06	36,500.00	25,378.94	30.5
600-433-410-345	TELEMETRY-WATER WELL	163.86	656.36	2,850.00	2,193.64	23.0
600-433-410-350	PROF & ENG SVCS - WATER WELLS	.00	.00	250.00	250.00	.0
600-433-410-358	TESTS - WATER WELLS	1,446.24	3,259.92	6,000.00	2,740.08	54.3
600-433-410-360	R & M SERVICES - WATER WELLS	.00	.00	1,500.00	1,500.00	.0
600-433-410-593	PERMITS - WATER WELLS	.00	.00	2,500.00	2,500.00	.0
600-433-410-600	LAKE SAN CRISTOBAL	.00	.00	14,271.50	14,271.50	.0
600-433-440-229	OPERATING SUPPLIES- WATER DIST	.00	77.48	2,000.00	1,922.52	3.9
600-433-440-230	R&M SUPPLIES-WATER DIST.	736.45	1,968.28	3,000.00	1,031.72	65.6
600-433-440-350	PROFESSIONAL SVS - WATER DIST.	.00	1.30	5,000.00	4,998.70	.0
600-433-440-360	R & M SERVICES - WATER DIST.	.00	288.34	21,000.00	20,711.66	1.4
600-433-510-230	R & M SUPPLIES - SEWER COLL	830.93	873.87	3,000.00	2,126.13	29.1
600-433-510-360	R & M SERVICES - SEWER COLL	360.00	3,071.80	15,000.00	11,928.20	20.5
600-433-530-221	CHEMICALS - WWTP	.00	4,649.06	6,750.00	2,100.94	68.9
600-433-530-229	OPERATING SUPPLIES - WWTP	.00	1,287.26	3,500.00	2,212.74	36.8
600-433-530-230	R & M SUPPLIES - WWTP	344.49	344.49	1,000.00	655.51	34.5
600-433-530-312	FREIGHT - WWTP	1,366.00	1,547.97	1,000.00	(547.97)	154.8
600-433-530-341	ELECTRIC POWER - WWTP	2,540.82	9,630.12	32,500.00	22,869.88	29.6
600-433-530-344	PROPANE - WWTP	.00	2,739.97	4,000.00	1,260.03	68.5
600-433-530-350	PROFESSIONAL SVS - WWTP	.00	1,400.00	5,000.00	3,600.00	28.0
600-433-530-358	TESTS - WWTP	35.00	2,278.49	7,000.00	4,721.51	32.6
600-433-530-359	DUMP CHARGES - WWTP	589.90	1,603.00	2,000.00	397.00	80.2
600-433-530-593	PERMITS - WWTP	139.39	139.39	1,600.00	1,460.61	8.7
600-433-600-111	SALARIES - W & S ADMIN	7,166.65	59,328.86	188,200.00	128,871.14	31.5
600-433-600-142	WORKMENS COMP - W & S ADMIN	.00	2,592.50	10,000.00	7,407.50	25.9
600-433-600-143	HEALTH INSUR - W & S ADMIN	.00	19,283.25	32,000.00	12,716.75	60.3
600-433-600-144	FICA--MEDICARE - W & S ADMIN	102.31	762.15	2,750.00	1,987.85	27.7
600-433-600-145	PERA - W & S ADMIN	1,019.83	8,442.55	26,800.00	18,357.45	31.5
600-433-600-229	OPERATING SUPPLIES-W & S ADMIN	462.02	3,677.96	1,000.00	(2,677.96)	367.8
600-433-600-230	CLOTHING-W & S ADMIN	.00	327.01	1,000.00	672.99	32.7
600-433-600-231	FUEL - W & S ADMIN	795.86	2,256.44	5,000.00	2,743.56	45.1
600-433-600-320	PRINTING - W & S ADMIN	.00	599.47	.00	(599.47)	.0
600-433-600-335	DUES, SUBSCRIPTIONS -W&S ADMIN	60.29	2,761.50	600.00	(2,161.50)	460.3
600-433-600-345	TELEPHONE - W & S ADMIN	105.60	530.04	1,200.00	669.96	44.2
600-433-600-346	INTERNET - W & S ADMIN	164.92	942.85	.00	(942.85)	.0
600-433-600-352	LEGAL SERVICES - W & S ADMIN	.00	367.50	10,000.00	9,632.50	3.7
600-433-600-361	MV R&M SERVICES - W & S ADMIN	310.29	3,308.72	10,000.00	6,691.28	33.1
600-433-600-370	TRAVEL & MEETINGS- W & S ADMIN	.00	.00	3,500.00	3,500.00	.0
600-433-600-495	MISC EXPENSES - W & S ADMIN	.00	2,483.54	2,500.00	16.46	99.3
600-433-600-510	INSURANCE-W & S ADMIN	.00	2,714.99	11,000.00	8,285.01	24.7
600-433-600-753	ADMIN OPERATING COSTS FROM GEN	.00	.00	15,445.00	15,445.00	.0
TOTAL WATER & SEWER EXPENDITURES		25,486.35	168,466.27	517,716.50	349,250.23	32.5

TOWN OF LAKE CITY
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 5 MONTHS ENDING MAY 31, 2022

WATER & SEWER FUND

		PERIOD ACTUAL	YTD ACTUAL	BUDGET	UNEXPENDED	PCNT
	<u>DEBT</u>					
600-470-200-620	DEBT INTEREST	.00	3,519.63	6,985.00	3,465.37	50.4
	TOTAL DEBT	.00	3,519.63	6,985.00	3,465.37	50.4
	<u>W&S CIP</u>					
600-700-000-130	WWTP - MODIFICATIONS	48,332.20	73,789.20	1,250,000.00	1,176,210.80	5.9
600-700-000-160	CAP IMP WATER STATION	.00	.00	30,000.00	30,000.00	.0
	TOTAL W&S CIP	48,332.20	73,789.20	1,280,000.00	1,206,210.80	5.8
	TOTAL FUND EXPENDITURES	73,818.55	245,775.10	1,804,701.50	1,558,926.40	13.6
	NET REVENUE OVER EXPENDITURES	(73,768.55)	(73,825.30)	(920,701.50)	(846,876.20)	(8.0)

TOWN OF LAKE CITY
BALANCE SHEET
MAY 31, 2022

MISC FIXED ASSETS FUND

ASSETS

900-160-000-000	LAND, R-O-W, WATER RIGHTS	284,078.00	
900-163-000-000	BUILDINGS AND IMPROVEMENTS	1,461,949.54	
900-164-200-000	EQUIPMENT	133,603.51	
900-166-100-000	CONSTRUCTION IN PROGRESS	16,000.00	
900-169-000-000	ACCUMULATED DEPRECIATION	(660,278.08)	
	TOTAL ASSETS		<u>1,235,352.97</u>

LIABILITIES AND EQUITY

LIABILITIES

900-260-000-000	INVEST. IN GEN. FIXED ASSETS	1,235,352.97	
	TOTAL LIABILITIES		<u>1,235,352.97</u>
	TOTAL LIABILITIES AND EQUITY		<u>1,235,352.97</u>

May Town Clerk Report

Total Cash Receipts: \$103,708.20

Water and Sewer Payments: \$56,415.66

March Sales Tax: \$29,451.81

April Property Tax: \$9,703.5

Training completed:

CMCA Keeping Liquor Course.

Lots of walk ins and gym memberships sold in the month of May.

Canceled Centrurylink internet in Town Hall since we now have Visionary Broadband that is free to the Town .

Did a lot of research into Restless Spirits. Went through all the building permits from 1972 to Present and found no building permit for the wine cellar at restless spirit. Also the legal description that the county assessor has which dates back to 1991 only described the basement as unfinished with 800 square feet of space.

Town Manager Report

Signed the Contract for Caselle for both Integration for Credit Cards and Record Management.

Selected Government Windows as the provider for any of the software needed for Credit/Debit Card transactions, they do not cost the Town anything but put a small percentage fee of 4-6% onto the customer. Town Hall just recently got a new office printer from Xerox with no charge to us due to the Town leasing it. Meeting weekly with CDOT, Joanne our Engineer, and Western Gravel about the 3rd street project. Highway to Bluff will be closed for the project. Attended County Commissioners meetings as a representative for the Town. Continuing to do weekly staff meetings to make sure that all Town and County employees are on the same page.

Working on the workforce housing with the Planning Commission and the County. Continuing to look into Employee Housing. Finished the Employers Council employee compensation survey and will present it to the board at the June 15th meeting. Delving into the Town's Personnel Policy, it has not been updated in five years and will likely present an updated version of it in the next couple of months, if not sooner. No update on Brad Trujillo, I have not spoken to him and left a voicemail. Also received a blank copy of the Zoning Map as it has not been updated in quite some time and will be working on getting that completed.



BUILDING DEPARTMENT
Gabe McNeese
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TOWN OF LAKE CITY MONTHLY MEETING

May, 2022

May is officially the Building Departments start of summer. The Silver spur is on full remodel, two new single-family builds going on in the Ball Flats, with another starting later this month. The 3rd street project is continuing on through downtown and making progress, what a project.

Memorial Day was a success at Veterans Park, the weather held, and everyone involved seem to enjoy the morning ceremony. We are still waiting on bids for the Court House touch up project, I will keep you posted. The Town is ramping up, with quite a few new projects on the horizon. My Building Department is incredibly busy, with a concrete pour this Friday at Veterans Park, which will include six new brass pavers dedicated to the Armed Services.

If you have any questions, comments, or concerns, please feel free to reach out to me anytime.

Sincerely,

Gabe McNeese.