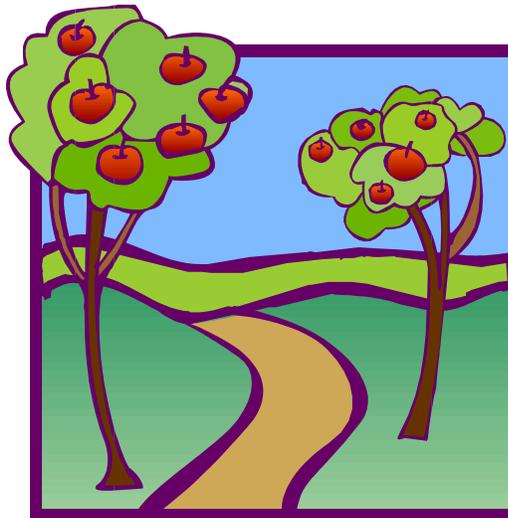


USDA  
National School Lunch Program  
and  
School Breakfast Program

**School Food Safety Inspection Requirements**

Effective: September 1, 2013



Oregon Department of Education  
255 Capitol Street NE  
Salem, OR 97310  
[www.ode.state.or.us](http://www.ode.state.or.us)

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## FORWARD

Children are disproportionately affected by foodborne illness, a serious public health problem. These diseases can lead to short and long-term health consequences and, sometimes, can result in death. Children are at high risk for foodborne illness for many reasons: still developing immune systems, lower body weight which reduces the dose of a pathogen needed to sicken them, and limited control over their diet and related food safety risks. It is the responsibility of school foodservice to provide safe and nutritious food to the students of Oregon. Proper handling of all foods used in the National School Lunch and School Breakfast Programs is the greatest preventative to foodborne illness.

Public school, private school, and residential child care institution sponsors participating in the National School Lunch and School Breakfast Programs have a contract with the Oregon Department of Education, Child Nutrition Programs. The contract states school sponsors must have a Food Safety Inspection for every kitchen and meal-serving site in their foodservice operation twice annually. If a school sponsor purchases meals from another sponsor (Vended School Sponsor Meal Sites), the receiving and sending schools must also have a Food Safety Inspection conducted twice annually.

In January 2002, the Oregon Health Authority implemented the Division 150: Food Sanitation Rule. These food sanitation standards found in U.S. Public Health Service documents as well as the Food and Drug Administration (FDA), Food CODE (1999 edition) were adopted and incorporated by reference in the DHS, Oregon Revised Statute (ORS) 624, updated in September 2012 to incorporate FDA Food CODE 2009 Chapters 1 through 8.(ORS) . Adoption of the new Oregon food safety and sanitation standards required changes in the National School Lunch Program and School Breakfast Program Food Safety Inspection, Oregon Administrative Rules (OARs).

Development of the OARs for School Food Safety Inspections was completed through a collaborative process with representatives from the Department of Human Services: Environmental Services and Consultation, Multnomah and Washington County Environmental Health Departments, and the Oregon Department of Education/Child Nutrition Programs. To ensure School Food Safety Inspections comply with state LAW and federal regulations, the Oregon Department of Education amended and adopted portions of the new Oregon Division 150: Food Sanitation Rule.

Coordination for School Food Safety Inspections is between the Oregon Department of Education and state and local public health authorities. The State Board of Education is anticipated to adopt the following School Food Safety Inspection OARs during the September 2013 session.

- 581.051.0305: [Food Safety Inspection Definitions](#)
- 581.051.0306: [Food Safety Inspection Requirements](#)
- 581.051.0310: [Food Safety Inspection Procedures](#)

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Oregon Department of Education

Child Nutrition Programs

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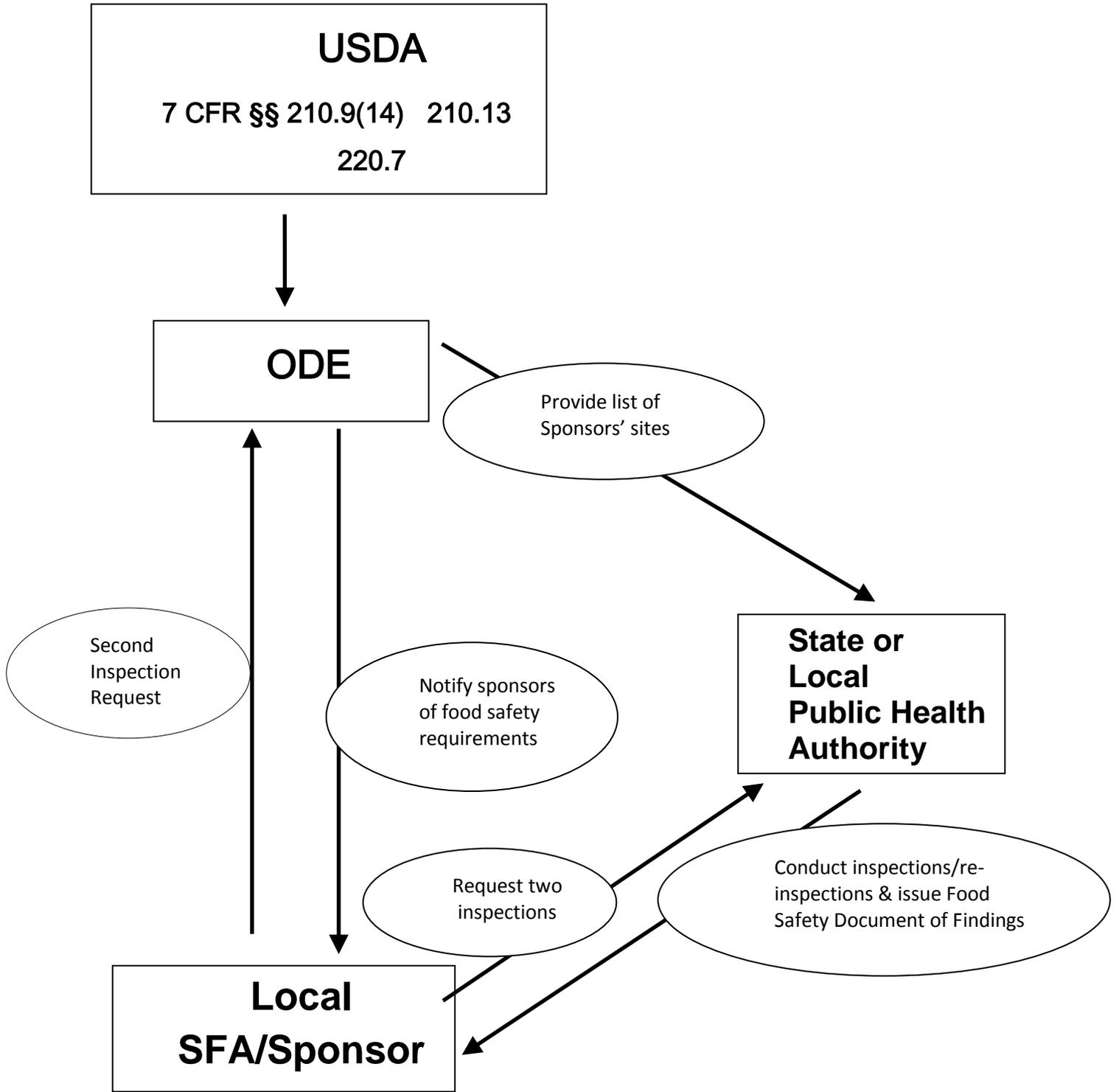
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# School Food Safety Inspections

## Responsibilities and Activities



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# Food Safety Inspections

## Oregon Administration Rules

### [581-051-0305](#)

#### Food Safety Inspection Definitions

##### Definitions:

**“Central Kitchen”** means a foodservice site where food is prepared at a facility and then some or all of the food is delivered to a meal serving site(s) at a place(s) other than the preparation site.

**“CNP”** means Child Nutrition Programs.

**“Competitive Food Sales”** means any foods sold in competition with the NSLP and SBP in foodservice areas during the breakfast and lunch meal periods.

**“Competitive Food Sales vendor”** means any person or organization selling competitive foods in the Sponsor’s foodservice areas during the lunch and breakfast meal periods.

**“Critical Violation”** means a Food Safety Inspection VIOLATION that is more likely than other Food Safety Inspection VIOLATIONS to cause food contamination, illness, or an environmental health HAZARD. PRIORITY and PRIORITY FOUNDATION ITEM VIOLATIONS are CRITICAL VIOLATIONS.

**“Finishing Kitchen”** means a foodservice site that receives prepared foods for reheating, assembling, portioning, and serving.

**“Food Safety Inspection Annual Report”** means the report of completed Sponsor site(s) Food Safety Inspections. The Annual Report is prepared by state and local public health authorities and delivered to ODE CNP by June 30 each school year.

**“Food Safety Inspection document of findings”** means any form used by the state or local public health authority to document a Food Safety Inspection.

**“Food Safety Inspection: National School Lunch Program and School Breakfast Program Requirements”** means schools shall at least twice each school year obtain a Food Safety

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Inspection conducted by a state or local governmental agency responsible for food safety inspections. (7 CFR 210.13 and 7 CFR 220.7)

**“Foodservice Area”** means any area on school premises where NSLP and SBP meals are both served and eaten as well as any other areas where program meals are served or eaten. Areas where students eat NSLP and SBP meals that are completely separate from the serving area are also part of the foodservice area.

**“Notice of Non-Compliance”** means documentation that a CRITICAL VIOLATION(s) has not been corrected nor has the Sponsor or Competitive Food Sales vendor implemented an alternative plan, approved by the state or local public health authority.

**“NSLP”** means the National School Lunch Program.

**“ODE”** means the Oregon Department of Education.

**“On-site Preparation Kitchen”** means a foodservice site where food is prepared and served at one location.

**“Person in Charge”** means the PERSON responsible for food safety and sanitation, and who is present at the food establishment during the NSLP, SBP, and Competitive Food Sales hours of operation. The PERSON IN CHARGE is designated by Public and Private schools and RCCI Sponsors and Competitive Food Sales vendors for each meal site and each Competitive Food Sales site.

**“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. PRIORITY ITEM includes items with a quantifiable measure to show control of HAZARDS such as cooking, reheating, cooling and hand washing.

**“Priority Foundation Items”** means a provision in this CODE whose application supports, facilitates or enables one or more PRIORITY ITEMS. PRIORITY FOUNDATION ITEMS include 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, HAZARD Analysis CRITICAL CONTROL POINT plans, documentation or record keeping and labeling.

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**“Private School”** means any entity, except as provided in ORS 339.030 (1) (d) and (e), that:

- A. is not supported with state funds;
- B. is operated by a non-governmental, religious or non-religious group or organization;
- C. provides educational services to students at any level, pre-K through grade 12;
- D. has a teacher or teachers who provide instruction;
- E. has an administrator or head teacher; and
- F. occupies one or more buildings.

**“Program meals,”** means the National School Lunch Program meals and School Breakfast Program meals.

**“Public School”** means any entity that has been recognized as a school by the district school board through a resolution adopted by the board or by the State Board of Education for a public charter school sponsored by the board and:

- A. is supported with public funds;
- B. is operated by a local education agency, education service district or state education agency;
- C. provides educational services to students at any level, pre-K through grade 12;
- D. has a teacher or teachers to provide instruction;
- E. has an administrator or head teacher;
- F. provides Oregon statewide assessment to its students; and
- G. occupies one or more buildings

**“Residential Child Care Institution (RCCI)”** means any Public or Nonprofit Private Residential Child Care Institution, or distinct part of such institution, which operates principally for the care of children. An RCCI is considered a school. Private RCCIs must be licensed to provide Residential Child Care services under the appropriate licensing CODE by the state or a subordinate level of government.

**“Satellite Kitchen”** means a foodservice site where food is received fully prepared from another location and is ready to serve.

**“SBP”** means the School Breakfast Program.

**“School year”** means a period of 12 calendar months beginning July 1 of any year and ending June 30 of the following year.

**“Sponsor”** means Public and Private schools and RCCIs who participate in the NSLP and SBP.

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**“State or local public health authority”** means the state or local governmental authority responsible for conducting Sponsor and Competitive Food Sales vendor Food Safety Inspections.

**“USDA”** means the United States Department of Agriculture.

**“Vended Meals”** means meals prepared by a facility other than the Sponsor and sold for service at a Sponsor’s meal site(s); or meals prepared by the Sponsor and sold to another foodservice operation.

Stat. Auth.: ORS Chapter 326.051

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist. EB 15-1987, f. & ef. 7-30-87; EB 2-1996, f. & cert. ef 1-29-96; ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02; ODE 3-2011, f. 1-31-11, cert. ef. 2-1-11

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[581-051-0306](#)

## Food Safety Inspection Requirements

- (1) Sponsors must have at least two Food Safety Inspections for every kitchen and meal-serving site in their foodservice operation each school year.
- (2) Vended Meal Sponsors must have at least two Food Safety Inspections for the receiving and sending food preparation and serving meal sites each school year.
- (3) Competitive Food Sales vendors may be subject to a Food Safety Inspection every school year as determined by the state or local public health authority.
- (4) The Food Safety Inspection standards are set forth in the **School Food Safety Inspection Requirements**, which shall be known as the Food CODE for Public School Sponsors, Private School Sponsors and Residential Child Care Institution Sponsors of the USDA, NSLP and SBP are adopted by reference. The complete School Food CODE is available through Oregon Department of Education, Child Nutrition Program.
- (5) The Sponsor "PERSON IN CHARGE" requirements for Responsibility, Knowledge and Duties as stated in the **School Food Safety Inspection Requirements** will be effective July 1, 2003.
- (6) The Competitive Food Sales vendor "PERSON IN CHARGE" requirements for Responsibility, Knowledge and Duties as stated in the **School Food Safety Inspection Requirements** will be effective July 1, 2003.
- (7) New sponsors must have a Food Safety Inspection conducted by the state or local public health authority and must meet school food safety inspection requirements before starting the NSLP and SBP.

Stat. Auth.: ORS Chapter 326.051

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist. ODE 5-2002 (Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02; ODE 3-2011, f. 1-31-11, cert. ef. 2-1-11

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581-051-0310**Food Safety Inspection Procedures**

- (1) Sponsors are required to contact their state or local public health authority for two Food Safety Inspections every school year.
- (2) Competitive Food Sales vendors are required to contact their state or local public health authority to determine if they need a Food Safety Inspection every school year.
- (3) Sponsors are responsible for the cost of the Food Safety Inspection and re-inspection(s), if applicable, for every kitchen and meal-serving site under their jurisdiction.
- (4) Competitive Food Sales vendors are responsible for the cost of the Food Safety Inspection, if required by the state or local public health authority, and re-inspection(s), if applicable, for every Competitive Food Sales site under their jurisdiction.
- (5) Sponsor Food Safety Inspections must be conducted during meal service operations.
- (6) Competitive Food Sales vendor Food Safety Inspections must be conducted during business operations.
- (7) The Sponsor Food Safety Inspection document of findings will be provided to the foodservice representative, site administrator, and Superintendent or Director, at the completion of each Food Safety Inspection by the state or local public health authority.
- (8) The Competitive Food Sales vendor Food Safety Inspection document of findings will be provided to the vendor representative, Sponsor foodservice representative, Sponsor site administrator, and Sponsor Superintendent or Director, at the completion of each Competitive Food Sales Food Safety Inspection by the state or local public health authority.
- (9) If the Sponsor Food Safety Inspection CRITICAL VIOLATION(s) are not corrected, or an alternative plan approved by the state or local public health authority is not implemented by the Sponsor, a **Notice of Non-Compliance** will be issued to the foodservice representative, site administrator, Superintendent or Director, and ODE CNP by the state or local public health authority. Effective July 1, 2003, Sponsor meal reimbursements may be withheld if the Sponsor receives a **Notice of Non-Compliance**. When the **Notice of Non-Compliance** is corrected, Sponsor reimbursement payments will be released.

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- (10) If Competitive Food Sales vendor Food Safety Inspection CRITICAL VIOLATION(s) are not corrected or an alternative plan approved by the state or local public health authority is not implemented by the Competitive Food Sales vendor, a **Notice of Non-Compliance** will be issued to the vendor representative, Sponsor foodservice representative, Sponsor site administrator, and Sponsor Superintendent or Director.
  
- (11) The Food Safety Inspection Annual Report will be provided to ODE CNP by June 30 of each year.

Stat. Auth.: ORS Chapter 326.051

Stats. Implemented: 7 CFR210 & 7 CFR220.7

Hist. EB 15-1987, f. & ef. 7-30-87; EB 2-1996, f & cert. ef. 1-29-96; ODE 5-2002(Temp), f. & cert. ef. 2-1-02 thru 6-30-02; ODE 15-2002, f. & cert. ef. 6-10-02

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333-157-0010

## Approved Alternative Procedures

- (1) An alternative procedure may be approved on a temporary basis for a designated time period, if in the judgment of the sanitarian the procedure provides interim health and safety protection equal to that provided by the rule. The sanitarian may extend the designated time period if justified by unforeseen circumstances. Such an alternative procedure shall not authorize or condone any CRITICAL VIOLATION.
- (2) All alternative procedures that have been approved shall be implemented immediately.

## Completion of Food Handler Training Program

Any PERSON employed by or volunteering on a regular basis for Public school Sponsors, Private school Sponsors, and Residential Child Care Sponsors participating in the USDA National School Lunch Program and School Breakfast Program as well as the PERSON(s) in Charge for Competitive Food Sales vendor(s) must obtain a Food Handler Certificate of Program Completion according to OAR 333-175. Children and volunteers who work occasionally in the school food service operation or Competitive Food Sales vendor foodservice operation are exempted from this requirement; **but they must be adequately supervised by food service staff that has a current Food Handlers Card.**

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## The Oregon Administrative Rules for Competitive Food Sales Vendor

In January 2002, the Oregon Health Authority implemented a new Food Sanitation Rule. Adoption of the new sanitation standards required Food Safety Inspection changes for Public School, Private School, and Residential Child Care Institutions (RCCI) Sponsors of the National School Lunch Program and School Breakfast Program.

The purpose of the Food Safety Inspection Requirements is to safeguard public health and provide CONSUMERS food that is safe, unadulterated, and honestly presented. The Food Safety Inspection Requirements also applies to Public School, Private School and RCCI site Competitive Food Sale vendors.

A **Competitive Food Sales vendor** is any PERSON or organization selling foods that compete with student participation in the National School Lunch Program (NSLP) and School Breakfast Program (SBP). A vendor is in competition with NSLP and SBP under the following circumstances.

- Food is sold during designated NSLP and SBP meal times, and
- Food is sold in areas where the NSLP and SBP meals are served or eaten.

Note: School Lunch/Breakfast program operators selling a la carte items at breakfast and lunch are NOT **Competitive Food Sales Vendors**.

If you have any questions, call your assigned Specialist.

[581-051-0305](tel:581-051-0305)

### Food Safety Inspection Definitions

- **Competitive Food Sales** means any foods sold in competition with the NSLP and SBP in foodservice areas during the lunch and breakfast meal periods.
- **Competitive Food Sales vendor** means any PERSON or organization selling competitive foods in the Sponsor's foodservice areas during the lunch and breakfast meal periods.

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- **CRITICAL VIOLATION** means a Food Safety Inspection VIOLATION that is more likely than other Food Safety Inspection VIOLATIONS to cause food contamination, illness, or an environmental health HAZARD. Priority and PRIORITY FOUNDATION ITEM VIOLATIONS are CRITICAL VIOLATIONS.
- **Food Safety Inspection document of findings** means any form used by the state or local public health authority to document a Food Safety Inspection.
- **Food Service Area** means any area on school premises where NSLP and SBP meals are both served and eaten as well as any other areas where program meals are served or eaten. Areas where students eat NSLP and SBP meals that are completely separate from the serving area are also part of the foodservice area.
- **Notice of Non-Compliance** means documentation that a CRITICAL VIOLATION(s) has not been corrected nor has the Competitive Food Sales vendor implemented an alternative plan, approved by the state or local public health authority.
- **NSLP** means the National School Lunch Program.
- **Person in Charge** means the PERSON responsible for food safety and sanitation, and who is present at the food establishment during the Competitive Food Sales hours of operation. The Competitive Food Sales vendor designates the PERSON IN CHARGE for each Competitive Food Sales site.
- **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. PRIORITY ITEM includes items with a quantifiable measure to show control of HAZARDS such as cooking, reheating, cooling and hand washing.
- **Priority Foundation Items** means a provision in this CODE whose application supports, facilitates or enables one or more PRIORITY ITEMS. PRIORITY FOUNDATION ITEMS include 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, HAZARD Analysis CRITICAL CONTROL POINT plans, documentation or record keeping and labeling.
- **SBP** means the School Breakfast Program.

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- **School Year** means a period of 12 calendar months beginning July 1 of each year and ending June 30.
- **Sponsor** means public schools, private schools, and Residential Child Care Institutions who participate in the NSLP and SBP.
- **State or local public health authority** means the state or local governmental authority responsible for conducting Competitive Food Sales vendor Food Safety Inspections.
- **Vended Meals** means meals prepared by a facility other than the Competitive Food Sales vendor and sold for service at the Competitive Food Sales site(s).

## 581-051-0306

### Food safety Inspection Requirements

- **Competitive Food Sales vendors** may be subject to a Food Safety Inspection every school year as determined by the state or local public health authority.
- **The Food Safety Inspection Standards** are set forth in the School Food Safety Inspection Requirements, which shall be known as the Food CODE for Public School Sponsors, Private School Sponsors and Residential Child Care Institution Sponsors of the USDA, NSLP and SBP are adopted by reference. The complete School Food CODE is available through Oregon Department of Education, Child Nutrition Program. for Sponsors and Competitive Food Sale vendors that are adopted by reference.
- **Competitive Food Sales vendor “Person in Charge”** requirements for responsibility, knowledge and duties as stated in the School Food Safety Inspection Requirements will be effective July 1, 2003.

## 581-051-310

### Food Safety Inspection Procedures

- **Competitive Food Sales vendors** are required to contact their state or local public health authority to determine if they need a Food Safety Inspection every school year.
- **Competitive Food Sale vendors** are responsible for the cost of the Food Safety Inspection and re-inspection(s), if applicable, for every Competitive Food Sales site under their jurisdiction.

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- **Competitive Food Sales vendor Food Safety Inspections** must be conducted during business operations.
- **The Competitive Food Sales vendor Food Safety Inspection document of findings** will be provided to the vendor representative, Sponsor Foodservice representative, Sponsor site administrator, and Sponsor Superintendent or Director, at the completion of each Competitive Food Sales Food Safety Inspection by the state or local public health authority.

**If Competitive Food Sales vendor Food Safety Inspection** CRITICAL VIOLATION(s) are not corrected or an alternative plan approved by the state or local public health authority is not implemented by the Competitive Food Sales vendor, a Notice of Non-Compliance will be issued to the vendor representative, Sponsor foodservice representative, Sponsor site administrator, and Sponsor Superintendent or Director.

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## How to use the School Food Safety Inspection Requirements

*The School Food Safety Inspection Requirements* is also called “this CODE”. The purpose of “this CODE” is to safeguard public health and provide CONSUMERS food that is safe, unadulterated, and honestly presented.

In “this CODE”, food safety requirements are listed by principle rather than 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.

The numbering system used corresponds with Oregon Health Authority’s Division 150: Food Sanitation Rule.

In “this CODE”, a Food Safety Inspection Requirement may be followed with a Public Health Guideline. The Public Health Guidelines are from the 2009 FDA Food CODE.

Example

### Requirement

#### 3-202.16 Ice.

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

### Public Health Guideline

Freezing does not invariably kill microorganisms; on the contrary, it may preserve them. Ice that comes into contact with food to cool it or that is used directly for consumption must be as safe as DRINKING WATER that is periodically tested and approved for consumption.

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,

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- 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, respectively. Any unmarked provisions within a section are CORE ITEMS.

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."

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.

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.

- 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

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- 2) Refer the reader to a non-citable provision of the CODE which provides further information for consideration, such as a 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:

- refers the user (via the word "under") to another CODE provision; or
- incorporates (via the word "in") the referenced requirements into the CODE provision.

In "this CODE", a Food Safety Inspection Requirement or a component of a Food Safety Requirement may be deleted. Deleted requirements or components of a requirement are followed by **(Deleted)**.

Examples:

Requirement

**3-304.17 Refilling Returnables. (Deleted)**

Requirement

**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 for a fitting or tubing installed between a backflow prevention device and a carbonator.

(B) **(Deleted)**

In "this CODE", a Food Safety Inspection Requirement or a component of a Food Safety Requirement may be amended. Amended requirements or components of a requirement are followed by **(Amended)**.

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Example

**Requirement**

**2-301.15 Where to Wash. (Amended)**

Food employees, volunteers, and student workers shall clean their hands in a Hand washing lavatory or approved automatic hand washing facility and may not clean their hands in a sink used for food preparation, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

## Introduction

# Authority, Purpose, Incorporation by Reference, and Deletions

### Requirement

#### Authority and Purpose. (Amended)

(1) The **School Food Safety Inspection Requirements** are authorized by the Oregon Administrative Rules: [581-051-0305](#) (Food Safety Inspection Definitions); [581-051-0306](#) (Food Safety Inspection Requirements); and [581-051-0310](#) (Food Safety Inspection Procedures).

(2) Incorporation by Reference.

The **School Food Safety Inspection Requirements** are found in the U.S. Public Health Service documents, the 2009 Food and Drug Administration (FDA), Food CODE: Chapters 1 through 8 and the Oregon Health Authority Division 150 Food Sanitation Rule that was authorized by ORS 624.100. The **School Food Safety Inspection Requirements** are adopted by reference. Certified copies of the Food CODE for use are available through the FDA Retail Food Protection Team, HFS-320, 5100 Paint Branch Parkway, College Park, MD 20740-3835.

(3) Deletions.

The following sections, paragraphs or subparagraphs of the 2009 FDA Food CODE and the Oregon Health Authority Division 150: Food Sanitation Rule are deleted in their entirety: Annex 1 through 8.

(4) Reserved

(5) For Public School Sponsors, Private School Sponsors and Residential Child Care Institution Sponsors, the following sections and paragraphs or subparagraphs of the Oregon Health Authority **Division 150: Sanitation Rule** are deleted in their entirety or amended.

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- 1-101.10 Food CODE: **School Food Safety Inspection Requirements**.(Amended)
- 1-103.10 Statement. (Amended)
- 1-201.10 Statement of Application and Listing of Terms. (Amended)
- 2-101.11 **Person In Charge** Assignment. (Amended)
- 2-102.11 **Person In Charge**Demonstration. (Amended)
- 2-103.11 Person in Charge. (Amended)
- 2-201.11 Responsibility of the Person in Charge to Require Reporting by Food Employees and Applicants. (Amended)
- 2-201.12 **Disease or Medical Condition** Exclusions and Restrictions. (Amended)
- 2-201.13 Removal of Exclusions and Restrictions. (Amended)
- 2-301.11 **Personal Cleanliness**, Clean Condition. (Amended)
- 2-301.12 **Personal Cleanliness**, Cleaning Procedure. (Amended)
- 2-301.13 Special Hand wash Procedures. (Amended)
- 2-301.14 When to Wash. (Amended)
- 2-301.15 Where to Wash. (Amended)
- 3-201.11 **Compliance with Food Law** (Amended)
- 3-201.13 **Fluid Milk and Milk Products** (Amended)
- 3-201.17 **Game Animals** (Amended)
- 3-201.18 Outdoor Barbecuing. (Amended)
- 3-304.17 Refilling Returnables. (Deleted)
- 3-404.11 Treating Juice (Deleted)
- 3-502.11 Variance Requirement. (Deleted)
- 3-502.12 Reduced Oxygen Packaging, Criteria. (Deleted)
- 4-101.14 Copper, Use Limitation. (Amended)
- 4-301.12 Manual Ware washing Sink Requirements. (Amended)
- 4-501.115 Manual Ware washing EQUIPMENT, Chemical Sanitization Using Detergent-Sanitizers. (Deleted)
- 4-603.17 Returnables, Cleaning for Refilling. (Deleted)
- 5-104.12 Alternative Water Supply. (Amended)
- 8-101.10 Public Health Protection (Amended)
- 8-102.10 Preventing Health HAZARDS, Provision for Conditions Not Addressed. (Deleted)
- 8-103.10 Modifications and Waivers. (Deleted)
- 8-103.11 Documentation of Proposed Variance and Justification. (Deleted)
- 8-103.12 Conformance with Approved Procedures. (Deleted)
- 8-201.11 When Plans are Required. (Amended)
- 8-201.12 Contents of the Plans and Specifications. (Amended)

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- 8-201.13 When a HACCP Plan is Required. (Deleted)
- 8-201.14 Contents of a HACCP Plan (Deleted)
- 8-202.10 Trade Secrets (Amended)
- 8-301.11 Prerequisite for Operation. (Deleted)
- 8-302.11 Submission 30 Calendar Days Before Proposed Opening. (Deleted)
- 8-302.12 Form of Submission. (Deleted)
- 8-302.13 Qualifications and Responsibilities of Applicants. (Deleted)
- 8-302.14 Contents of the Application. (Deleted)
- 8-303.10** New, Converted, or Remodeled Establishments. (Amended)
- 8-303.20 Existing Establishments, Permit Renewal, and Change of Ownership. (Deleted)
- 8-303.30 Denial of Application for Permit, Notice. (Deleted)
- 8-304.10 Responsibilities of the Regulatory Authority. (Amended)
- 8-304.11** Responsibilities of School Sponsors and Competitive Food Sales Vendors. (Amended)
- 8-304.20** Permits Not Transferable (Deleted)
- 8-401.10** Establishing Inspection Interval. (Amended)
- 8-401.20 Performance-and Risk-Based. (Deleted)
- 8-402.11 Allowed at Reasonable Times after Due Notice. (Deleted)
- 8-402.20 Refusal, Notification of Right to Access, and Final Request for Access. (Deleted)
- 8-402.30 Refusal, Reporting. (Deleted)
- 8-402.40 Inspection Order to Gain Access (Deleted)
- 8-403.10 Documenting Information and Observations. (Amended)
- 8-403.20 Specifying Time Frame for Corrections (Amended)
- 8-403.3 Issuing Report and Obtaining Acknowledgement of Receipt (Amended)
- 8-403.40 Refusal to Sign Acknowledgment. (Deleted)
- 8-404.11 Ceasing Operations and Reporting (Deleted)
- 8-404.12 Resumption of Operations (Deleted)
- 8-405.11 Timely Corrections (Deleted)
- 8-405.20 Verification and Documentation of Correction (Deleted)
- 8-406.11 Time Frame for Correction (Deleted)
- 8-501.10 Obtaining Information: Personal History of Illness, Medical Examinations...(Amended)
- 8-501.20 Restriction or Exclusion of Food Employee (Amended)
- 8-501.30 Restriction of Exclusion Order: Warning or Hearing Not Required...(Amended)
- 8-501.40 Removal of Exclusions and Restrictions (Amended)

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## Chapter 1

### Purpose and Definitions

#### Parts

1-1 TITLE, INTENT, SCOPE

1-2 DEFINITIONS

#### 1-1 TITLE, INTENT, SCOPE

##### Subparts

1-101 Title

1-102 Intent

1-103 Scope

#### Requirement

##### 1-101.10 Food Code: School Food Safety Inspection Requirements. (Amended)

These ***School Food Safety Inspection Requirements*** shall be known as the Food CODE for Public School Sponsors, Private School Sponsors, and Residential Child Care Institution Sponsors of the USDA, National School Lunch Program (NSLP) and School Breakfast Program (SBP), hereinafter referred to as “this CODE”.

#### Requirement

##### 1-102.10 Prevention, and Honest Presentation.

The purpose of this CODE is to safeguard public health and provide CONSUMERS food that is safe, unadulterated, and honestly presented.

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**Requirement**

**1-103-10 Statement. (Amended)**

This CODE establishes definitions; sets standards for management and personnel, food protection, and EQUIPMENT and facilities, water supply, and SEWAGE disposal; provides for food establishment plan review, inspections, and food worker RESTRICTIONS to safeguard public health; and provides CONSUMERS food that is safe, unadulterated, and honestly presented.

<b>1-2 DEFINITIONS</b>	
<b>Subparts</b>	
1-201	<b>Applicability and Terms Defined</b>

**Requirement**

**1-201.10 Statement of Application and Listing of Terms. (Amended)**

- (A) The following definitions apply in the interpretation and application of this CODE.
- (B) Terms Defined.

**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 or approved by the state or local public health authority.
- (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; and 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.

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**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 state or local public health authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

**"Assembly"** means the act of putting together foods that do not require further preparation. This includes, but is not limited to, placing a hot dog on a bun, or placing beans, lettuce and cheese on a tortilla.

**"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.

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**"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.

**"Catering"** means the preparation of food in an approved food establishment and the transportation of such food for service and consumption at some other site.

**"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 (cleaned in Place).**

- (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.

**"Code"** shall have the same meaning as the School Food Safety Inspection Requirements. (Amended)

**"Code Of Federal Regulations"** means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which:

- (1) Is published annually by the U.S. Government Printing Office; and
- (2) Contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

**"Combination Food Service Establishment"** (Deleted)

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**"Commingle"** means:

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

**"Comminuted"** means:

- (1) reduced in size by methods including chopping, flaking, grinding, or mincing.
- (2) 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 two or more types of MEAT that have been reduced in size and combined, such as sausages made from two or more MEATS.

**"Commissary"** means a COMMISSARY CATERING establishment, restaurant, or any other place in which, food, beverage, ingredients, containers, or supplies are kept, handled, PACKAGED, prepared or stored, and from which VENDING MACHINES or mobile units are serviced.

**"Complete Inspection" (Amended)** means any inspection for school Sponsors and Competitive Food Sales Vendors conducted at the election of the state or local public health authority evaluating for all applicable items on the inspection form.

**"Condiments"** means garnishes, toppings, or seasonings that are added to a food to enhance or compliment the flavor, such as hot sauce, ketchup, mayonnaise, mustard, relish and dressings.

**"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.

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## Core Item

- (1) 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 clean ability 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 Violation (Amended)

- (a) **“Critical Violation”** means a VIOLATION of this CODE that is more likely than other VIOLATIONS to contribute to food contamination, illness, or environmental health HAZARD. Priority and PRIORITY FOUNDATION ITEM VIOLATIONS are CRITICAL VIOLATIONS.

**“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, re-packer, re-shipper, 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

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FOODS which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

**“Drinking Water”** means

- (1) water that meets 40 CFR 141 National Primary DRINKING WATER Regulations.
- (2) is traditionally known as "potable water."
- (3) includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

**"Dry Storage Area"** means a room or area designated for the storage of PACKAGED or containerized bulk food that is not potentially HAZARDOUS 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 under Subparagraph (a) of this definition to different situations in which varying degrees of clean ability 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 clean ability 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:

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

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

## Egg

- (1) "**Egg**" means the shell EGG of avian species such as chicken, duck, goose, guinea, quail, RATITES or turkey.
- (2) "**Egg**" *does not include*:
  - (a) A BALUT;
  - (b) The EGG of reptile species such as alligator; or
  - (c) An EGG PRODUCT.

## Egg Product

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

"**Employee/Worker**" (Amended) means the PERSON IN CHARGE, PERSON having supervisory or management duties, PERSON on the payroll, family member, volunteer, PERSON performing work under contractual agreement, or other PERSON working in a food establishment.

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

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

## Equipment

- (1) "**Equipment**" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, MEAT block, MEAT tenderizer, mixer, oven,

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reach-in refrigerator, scale, sink, slicer, stove, table, TEMPERATURE MEASURING DEVICE for ambient air, VENDING MACHINE, or ware washing machine.

- (2) **"Equipment"** *does not include items 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" (Amended)** 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.

**"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/Worker" (Amended)** means an employee, volunteer, student worker or competitive food sales vendor working with UNPACKAGED food, food EQUIPMENT or UTENSILS, or food-contact surfaces

## **Food Establishment (Amended)**

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

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- (a) Stores, prepares, packages, serves, vends food directly to the CONSUMER, or otherwise provides FOOD for human consumption such as a restaurant; (Amended) and
- (b) relinquishes possession of FOOD to a CONSUMER directly (Amended)

(2) **“Food establishment”** includes but is not limited to:

- (a) Public school Sponsors, private school Sponsors, and Residential Child Care Institution Sponsors as well as Competitive Food Sales vendors, catered feeding locations, caterers, coffee shops, satellite sites, snack bars, vending locations, WAREHOUSES, or similar food facilities within a school setting;
- (b) An operation that is conducted in a mobile food unit, temporary food establishments, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food. (Amended).

(3) **“Food establishment”** does not include:

- (a) An establishment that offers only prePACKAGED foods that are not potentially HAZARDOUS:
- (b) A produce stand that only offers whole, uncut fresh fruits and vegetables;
- (c) A food processing plant; *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 POTENTIALLY HAZARDOUS (TIME/TEMPERATURE CONTROL FOR SAFETY) FOOD, is prepared for sale or service at a function such as a religious or charitable organization’s bake sale if allowed by LAW and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOOD is prepared in a kitchen that is not subject to regulation and inspection by the REGULATORY AUTHORITY;*
- (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) deleted
- (g) A private home that receives catered or home-delivered food.

**“Food Processing Plant” (Deleted)**

**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 such as ostrich, emu, and rhea.

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

**"Grade A standards"** means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" and "Grade A Condensed and Dry 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 CRITICAL CONTROL POINT principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

### **Hand Washing Sink**

- (1) **"Hand washing 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) **"Hand washing sink"** includes an automatic hand washing 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"** when used in the context of food safety, means

- (1) 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 concentrate of such liquid or purée. This definition does not apply to standards of identity.
- (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.

**"License"** (Deleted)

**"License Holder"** (Deleted)

**"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).*

<sup>P</sup> = Priority Item

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**“Maximum Contaminant Level (MCL)” (Deleted)**

**"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.

**“Outdoor Barbecue” (Amended)** means an open-air preparation by a school Sponsor of food by cooking over an open fire utilizing either a permanent or portable grill, where the purpose of barbecuing is to impart a unique flavor to the food.

**“Outdoor Beverage Dispensing Operation” (Deleted)**

**“Outdoor Cooking Operation” (Deleted)**

**Packaged**

- (1) **"Packaged"** means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant.

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

**"Permit" (Deleted)**

**"Permit holder" (Deleted)**

**"Person" (Amended)** means an association, a corporation, a Public or Private school Sponsor or Residential Child Care Institution Sponsor, a Competitive Food Sales vendor, a volunteer, an 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.

**"Personal Chef" (Deleted)**

**"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.

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

- (a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or
- (b) 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 four categories:

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

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

- (1) **"Potentially Hazardous Food (time/temperature control for safety food)"**

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

- (2) **"Potentially Hazardous Food (time/temperature control for safety food)"**

includes:

- (a) An animal FOOD that is raw or heat-treated; a plant FOOD that is heat treated or consists of raw seed sprouts, cut melons, CUT 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

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

<b>Table A. Interaction of PH and <math>A_w</math> for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED</b>			
$A_w$ values	PH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
<0.92	non-PHF*/non-TCS FOOD**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS FOOD	PA	PA
* PHF means POTENTIALLY HAZARDOUS FOOD ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD *** PA means Product Assessment required			

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<b>Table B. Interaction of PH and <math>A_w</math> for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED</b>				
$A_w$ values	PH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-PHF*/ non-TCS food**	non-PHF/ non-TCS food	non-PHF/ non-TCS food	non-PHF/ non- TCS food
0.88 – 0.90	non-PHF/ non-TCS food	non-PHF/ non-TCS food	non-PHF/ non-TCS food	PA***
> 0.90 – 0.92	non-PHF/ non-TCS food	non-PHF/ non-TCS food	PA	PA
> 0.92	non-PHF/ non-TCS food	PA	PA	PA
* PHF means POTENTIALLY HAZARDOUS FOOD ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD *** PA means Product Assessment required				

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**(3) " Potentially Hazardous Food(*time/temperature control for safety food*)"**

*does not include:*

- (a) *An air-cooled hard-boiled EGG with shell intact, or an EGG with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable **salmonellae**;*
- (b) *A FOOD in an unopened HERMETICALLY SEALED CONTAINER that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;*
- (c) *A FOOD that because of its PH or  $A_w$  value, or interaction of  $A_w$  and PH values, is designated as a non-PHF/non-TCS FOOD in Table A or B of this definition;*
- (d) *A FOOD that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that FOOD is precluded due to:*
  - (i) *Intrinsic factors including added or natural characteristics of the FOOD such as preservatives, antimicrobials, humectants, acidulants, or nutrients,*
  - (ii) *Extrinsic factors including environmental or operational factors that affect the FOOD such as packaging, modified atmosphere such as REDUCED OXYGEN PACKAGING, shelf life and use, or temperature range of storage and use, or*
  - (iii) *A combination of intrinsic and extrinsic factors; or*
- (e) *A FOOD that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (3)(a) - (3)(d) of this definition even though the FOOD may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.*

**"Poultry"**

(a) **"Poultry"** means:

- (i) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, RATITES, or squabs), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations; and
- (ii) Any migratory waterfowl, game bird, or squab such as pheasant, partridge, quail, grouse, or guineas, whether live or dead, as defined in 9 CFR 362 Voluntary POULTRY Inspection Program.

**"Premises" (Amended)** means:

- (1) The physical facility, its contents, and the contiguous land or property under the control of the public school, private school, and Residential Child Care Institution Sponsor; or

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- (2) The physical facility, its contents, and the land or property not described under Subparagraph (a) of this definition if its facilities and contents are under the control of the public school Sponsor, private school Sponsor, and Residential Child Care Sponsor, and the physical facility may impact food establishment personnel, facilities, or operations. The food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

**“Preparation”** means the process whereby food is transformed into a consumable form. This includes, but is not limited to, slicing or dicing vegetables, grating cheese, portioning foods, slicing sandwiches, blending foods, or cooking or reheating foods.

**“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, hand washing; 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.

**“Public water system”** has the meaning stated in 40 CFR 141 National Primary DRINKING WATER Regulations.

### **“Quarterly Sampling” (Deleted)**

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

**"Raw –to-Finish"** means cooking foods that are potentially hazardous when in a raw state to a finished, edible state. This practice includes, but is not limited to, cooking raw hamburgers or barbecuing raw meats.

## 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 POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked to the temperature and time required for the specific FOOD under Subpart 3-401 and cooled as specified under § 3-501.14;
- (e) Plant FOOD for which further washing, cooking, or other processing is not required for FOOD safety, and from which rinds, peels, husks, or shells, if naturally present are removed;
- (f) Substances derived from plants such as spices, seasonings, and sugar;
- (g) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for FOOD safety;
- (h) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured MEAT and POULTRY products, such as

prosciutto ham, country cured ham, and Parma ham; and dried MEAT and POULTRY products, such as jerky or beef sticks; and

- (i) FOODS manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods PACKAGED in HERMETICALLY SEALED CONTAINERS.

**"Recheck Inspection" (Amended)** means

- (1) An inspection to determine whether specified corrections have been made or an alternative plan approved by the state or local public health authority maintained for VIOLATIONS identified in previous inspections; or
- (2) RECHECK INSPECTIONS may be conducted either on pre-announced dates or unannounced.

**"Reduced Oxygen Packaging" (Deleted)**

**"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.

**"Repeat violation" (Amended)** means a VIOLATION of a requirement that is the same specific problem or process as indicated in a school food safety inspection, occurring in two consecutive inspections.

**"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.

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

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

**"Safe material"** means:

- (1) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
- (2) An additive that is used as specified in 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or
- (3) Other materials that are not ADDITIVES and that are used in conformity with applicable regulations of the Food and Drug Administration.

**“Sample” (Deleted)**

**"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.

**“Semi-annual Inspection” (Deleted)**

**"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.

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

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

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

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

**"Shiga toxin-producing *Escherichia coli*"** (STEC) means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). Examples of serotypes of STEC include both O157 and non-O157 *E. coli*. Also see ENTEROHEMORRHAGIC *ESCHERICHIA COLI*.

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

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

### Single-Use Articles

- (1) **"Single-use articles"** means UTENSILS and bulk food containers designed and constructed to be used once and discarded.
- (2) **"Single-use articles"** includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do

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not meet the materials, durability, strength, and clean ability 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 spinach.

**"Smooth"** means:

- (1) A food-contact surface having a surface free of pits and inclusions with a clean ability 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 the same as ORS 624.010(6).

**"Transport Vehicle" (Deleted)**

**"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; food TEMPERATURE MEASURING DEVICES; trays used with

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highchairs; 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.

**"Violation" (Amended)** means any condition which fails to meet this CODE: ***School Food Safety Inspection Requirements.***

**"Violations creating an imminent danger to public health"** means those priority item violations in which at least one of the following conditions exists:

- (1) Food and drink is spoiled, unwholesome, or contaminated with pathogenic or fecal organisms, toxic chemicals, insect or rodent parts or excreta, or other harmful substances or articles;
- (2) Potentially hazardous foods have been kept at temperatures above 41 degrees Fahrenheit and below 135 degrees Fahrenheit for four hours or more;
- (3) A food worker has a reportable disease or medical condition under subpart 2-201 of the 2009 FDA Food Code.

**"Violations creating a potential danger to public health"** means all priority and priority foundation item violations other than those that create an imminent danger to public health.

**"Violations creating a significantly increased risk for foodborne illness"** include:

- (1) Potentially hazardous foods at improper temperatures;

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- (2) Cross contamination of raw to ready-to-eat foods; and
- (3) Poor personal hygiene and handwashing.

**“Warehouse”** means any place where food, UTENSILS, single-service articles, cleaning or servicing supplies for VENDING MACHINES, mobile units, or commissaries are stored.

**“Ware washing”** 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.

**“Wild fresh mushroom”** means a mushroom that has not been processed, dried or cultivated.

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## Chapter 2

### Management and Personnel

#### Parts

#### 2-1 SUPERVISION

#### 2-2 EMPLOYEE HEALTH

#### 2-3 PERSONAL CLEANLINESS

#### 2-4 HYGIENIC PRACTICES

### 2-1 SUPERVISION

#### Subparts

#### 2-101 Responsibility

#### 2-102 Knowledge

#### 2-103 Duties

#### Requirement

#### 2-101.11 Assignment. (Amended: Effective July 1, 2003.)

Public School Sponsors, Private School Sponsors, and Residential Child Care Institution Sponsors; and Competitive Food Sales vendors 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 the National School Lunch Program and School Breakfast Program as well as Competitive Food Sales operations according to the Food Safety Inspection OARs: [581.051.0305](#)

(Definitions), [581.051.0306](#) (Requirements), and [581.051.0310](#) (Procedures)<sup>Pf</sup>

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## **Public Health Guideline**

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

## **Requirement**

### **2-102.11 Demonstration. (Amended: Effective July 1, 2003)**

Based on the RISKS of foodborne illness inherent to the food operation, during inspections and upon request, the PERSON IN CHARGE shall demonstrate to the state or local public health authority knowledge of foodborne disease prevention, application of the HAZARD Analysis CRITICAL CONTROL POINT principles if a HACCP PLAN is required by LAW, and the requirements of this CODE.

**The Person in Charge shall demonstrate this knowledge:**

- (A) by compliance with this CODE by having no violations of priority items during the current inspection<sup>Pf</sup>**
- (B) by being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM, a corporate training program approved by the state or local public health authority<sup>Pf</sup> or**
- (C) by responding correctly to the inspector's questions as they relate to the specific food operation.**
  - (1) Describing the relationship between the prevention of foodborne disease and the PERSONAL hygiene of a food employee;<sup>Pf</sup>
  - (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;<sup>Pf</sup>
  - (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 potentially HAZARDOUS food (time/temperature for food safety) and the prevention of foodborne illness;<sup>Pf</sup>
  - (5) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS and FISH;<sup>Pf</sup>

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- (6) Stating the required food temperatures and times for safe cooking of POTENTIALLY HAZARDOUS FOOD (time/temperature for safety food) including MEAT, POULTRY, EGGS and FISH; <sup>Pf</sup>
- (7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of POTENTIALLY HAZARDOUS FOOD (time/temperature for safety food); <sup>Pf</sup>
- (8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
  - (a) Cross contamination, <sup>Pf</sup>
  - (b) Deleted
  - (c) Handwashing, <sup>Pf</sup> and
  - (d) Maintaining the food establishment in a clean condition and in good repair; <sup>Pf</sup>
- (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. <sup>Pf</sup>
- (10) Explaining the relationship between food safety and providing EQUIPMENT that is:
  - (a) Sufficient in number and capacity, <sup>Pf</sup> and
  - (b) Properly designed, constructed, located, installed, operated, maintained, and cleaned; <sup>Pf</sup>
- (11) Explaining correct procedures for cleaning and sanitizing UTENSILS and food-contact surfaces of EQUIPMENT; <sup>Pf</sup>
- (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; <sup>Pf</sup>
- (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; <sup>Pf</sup>
- (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; <sup>Pf</sup>
- (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; <sup>Pf</sup>
- (16) Explaining the responsibilities, rights, and authorities assigned by this CODE to the:
  - (a) Food employee, <sup>Pf</sup>
  - (b) CONDITIONAL EMPLOYEE, <sup>Pf</sup>
  - (c) PERSON IN CHARGE, <sup>Pf</sup>
  - (d) REGULATORY AUTHORITY; <sup>Pf</sup> and

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- (17) Explaining how the PERSON IN CHARGE, food employees, and CONDITIONAL EMPLOYEES comply with reporting responsibilities and exclusion or RESTRICTION of food employees. <sup>Pf</sup>

### **Public Health Guideline**

The designated PERSON IN CHARGE must be knowledgeable about foodborne disease prevention, HAZARD Analysis and CRITICAL CONTROL POINT (HACCP) principles if applicable, and this CODE requirements. The PERSON IN CHARGE is prepared to recognize conditions that may contribute to foodborne illness or that otherwise fail to comply with this CODE requirements and to take appropriate preventive and corrective actions.

There are many ways that the PERSON IN CHARGE can demonstrate competency. Many aspects of the food operation itself will reflect the competency of the PERSON IN CHARGE. A dialogue with the PERSON IN CHARGE during the inspection process will also reveal whether or not the PERSON IN CHARGE has a clear understanding of this CODE; and its public health principles to follow sound food safety practices; and to produce foods that are safe, wholesome, UNADULTERATED, and accurately represented. The effectiveness of the PERSON IN CHARGE in protecting the health of the CONSUMER is evidenced by the PERSON IN CHARGE's ability to apply the required knowledge to the establishment's operations by designing and implementing procedures that ensure continued compliance with this CODE.

### **Requirement**

#### **2-103.11 Person in Charge Duties. (Amended: Effective July 1, 2003.)**

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](#); <sup>Pf</sup>
- (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; <sup>Pf</sup>
- (C) Food workers 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; <sup>Pf</sup>
- (D) Food workers are effectively cleaning their hands, by routinely monitoring food workers' handwashing; <sup>Pf</sup>
- (E) Food workers are visibly observing foods as they are received to determine that they are from APPROVED sources, delivered at the required temperatures, protected from contamination, UNADULTERATED, and accurately presented, by routinely monitoring the food workers' observations and periodically evaluating foods upon their receipt; <sup>Pf</sup>
- (F) Food workers are properly cooking POTENTIALLY HAZARDOUS FOOD, being particularly careful in cooking those foods known to cause severe foodborne illness and death,

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such as EGGS and COMMINUTED MEATS, through daily oversight of the food workers' 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).<sup>Pf</sup>

- (G) Food workers are using proper methods to rapidly cool POTENTIALLY HAZARDOUS FOODS that are not held hot or are not for consumption within 4 hours, through daily oversight of the food workers' routine monitoring of food temperatures during cooling; <sup>Pf</sup>
- (H) CONSUMERS who order raw; or partially cooked READY-TO-EAT FOODS of animal origin are informed as specified under § 3-603.11 that the FOOD is not cooked sufficiently to ensure its safety; <sup>Pf</sup>
- (I) Food workers 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; <sup>Pf</sup>
- (J) CONSUMERS are notified that clean TABLEWARE is to be used when they return to self-service areas such as salad bars and buffets as specified under § 3-304.16; <sup>Pf</sup>
- (K) Deleted
- (L) Food Workers are properly trained in FOOD safety, including food allergy awareness, as it relates to their assigned duties; <sup>Pf</sup> and
- (M) Food Workers are informed of their responsibility to report in accordance with LAW, to the PERSON IN CHARGE, information about their health and activities as they relate to diseases that are transmissible through FOOD, as specified under ¶ 2-201.11(A).<sup>Pf</sup>

**Public Health Guideline**

The primary responsibility of the PERSON IN CHARGE is to ensure compliance of this CODE. Any individual present in areas of a food establishment where food and food contact items are exposed presents a potential contamination RISK. By controlling who is allowed in those areas and when visits are scheduled and by assuring that all authorized PERSONS in the establishment (such as delivery, maintenance and service personnel, and pest control operators, etc.) comply with this CODE. The PERSON IN CHARGE establishes an important barrier to food contamination.

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

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## 2-2 EMPLOYEE HEALTH

### Subpart

#### 2-201 Disease or Medical Condition

### Requirement

#### 2-201.11 Responsibility of the Person in Charge

- (A) Public School Sponsors, Private School Sponsors, Residential Child Care Institution Sponsors, and Competitive Food Sales vendors shall require food workers and applicants to whom a conditional offer of employment is made 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 worker or applicant shall report the date of onset of symptoms, diagnosis of an illness, or of a diagnosis without symptoms that are listed under 2-201.12.<sup>P</sup>
- (B) The PERSON IN CHARGE shall notify the REGULATORY AUTHORITY that a food employee is:
- (1) Jaundice;<sup>Pf</sup> or
  - (2) Diagnosed with an illness listed in 2-201.12.<sup>Pf</sup>
- (C) A food employee shall:
- (1) Report to the PERSON IN CHARGE if they have been diagnosed with an illness or are experiencing symptoms specified under 2-201.12;<sup>P</sup>
  - (2) Report to the PERSON IN CHARGE if they have been living in the same household or working in a setting where there is a CONFIRMED DISEASE OUTBREAK with an illness specified under 2-201.12;<sup>P</sup> (known as high-RISK conditions) and
  - (3) Comply with exclusions and RESTRICTIONS specified under section 2-201.12.<sup>P</sup>

### **Public Health Guideline**

A wide range of communicable diseases and infections may be transmitted by infected food workers to CONSUMERS through food or food UTENSILS. Proper management of a food establishment operation begins with employing healthy people and instituting a system of identifying food workers who present a RISK of transmitting foodborne pathogens to food or to other food workers and CONSUMERS. In order to protect the health of CONSUMERS and food workers, information concerning the health status of applicants and food workers must be disclosed to the PERSON IN CHARGE.

Title I of the Americans with Disabilities Act of 1990 (ADA) prohibits medical examinations and inquiries as to the existence, nature, or severity of a disability before extending a conditional offer of employment. In order for the school Sponsor or Competitive Food Sales vendor or the

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PERSON IN CHARGE to be in compliance with this particular aspect of this CODE and the ADA, a conditional job offer must be made before making inquiries about the applicant's health status.

Furthermore, an applicant to whom an employment offer is conditionally made or a food worker who meets this CODE conditions that require RESTRICTION from certain duties or exclusion must be accommodated to the extent provided under the ADA. That is, if there is an accommodation that will not pose an undue hardship and that will prevent the transmission of the disease(s) of concern through food, such accommodation, e.g., reassignment to duties that fulfill the intent of RESTRICTION or exclusion must be made. It should be noted that the information provided here about the ADA is intended to alert School Sponsors and Competitive Food Sales vendors to the existence of ADA and related CODE OF FEDERAL REGULATIONS requirements.

The information required is designed to identify those who may be suffering from a disease that can be transmitted through food. It is the responsibility of the PERSON IN CHARGE to convey the importance of notifying the PERSON IN CHARGE of changes in their health status. Once notified, the PERSON IN CHARGE can take action to prevent the potential transmission of foodborne illness.

Food workers to whom a conditional offer of employment is extended and food workers are required to report specific high-RISK conditions, medical symptoms, and previous illnesses. The symptoms listed may be indicative of a disease that is transmitted through the food supply by infected food workers.

As required by the ADA, the Centers for Disease Control and Prevention (CDC) publishes a list of infectious and communicable diseases that are transmitted through food annually. The list is divided into two parts: Pathogens often transmitted (List I) through food and pathogens occasionally transmitted (List II) through food by infected food workers. . Check the CDC web site at [www.cdc.gov/foodsafety](http://www.cdc.gov/foodsafety). Additional details are available in the complete FDA Food CODE, 2009 available on the FDA website at <http://www.FDA.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCODE/UCM2019396.htm>

The reporting requirement is an important part of any food safety program. A food worker who suffers from, lives or works with someone who suffers from any of the illnesses or symptoms in this CODE may transmit disease through the food being prepared. The PERSON IN CHARGE must first be aware of these conditions before steps can be taken to reduce the chance of foodborne illness.

Some of the symptoms that must be reported may be observed by the PERSON IN CHARGE. However, food workers share a responsibility for preventing foodborne illness and are obligated to inform the PERSON IN CHARGE if they have any of the symptoms, medical diagnoses, or exposure to someone with the medical diagnoses listed in this CODE and food workers must comply with RESTRICTIONS or exclusions imposed upon them.

Notification of the state or local public health authority by the PERSON IN CHARGE that a food worker is suffering illness caused by **Norovirus, Hepatitis A virus, Salmonella Typhi, Shigella spp., Escherichia coli 0157:H7** allows the state or local REGULATORY AUTHORITY to monitor for any associated cases of foodborne illness. The PERSON IN CHARGE should be aware of the confidentiality provisions of the Americans with Disabilities Act (ADA).

## Requirement

### **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:

- (A) Except when the symptom is from a noninfectious condition, EXCLUDE a food worker that has any of the following signs or symptoms caused by illness, infection, or other source that is associated with an acute illness:
  - (1) Vomiting;<sup>P</sup>
  - (2) Diarrhea;<sup>P</sup>
  - (3) Sore throat with fever;<sup>P</sup> or
  - (4) Jaundice<sup>P</sup>
- (B) EXCLUDE OR RESTRICT a food worker that has a lesion containing pus such as a boil or infected wound that is open or draining and is:
  - (1) On the hands or wrists, unless an impermeable cover such as a finger cot protects the lesion and a single use glove is worn over the impermeable cover;<sup>P</sup>
  - (2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover;<sup>P</sup> or
  - (3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.<sup>P</sup>
- (C) EXCLUDE a food worker from a food establishment if the food worker is diagnosed by a HEALTH PRACTITIONER OR presumptive with:
  - (1) Norovirus;<sup>P</sup>
  - (2) Hepatitis A virus;<sup>P</sup>
  - (3) Shigella spp.;<sup>P</sup>
  - (4) Enterohemorrhagic or Shiga Toxin-Producing Escherichia coli;<sup>P</sup> or
  - (5) Salmonella Typhi.<sup>P</sup>

### **Public Health Guideline**

RESTRICTION or exclusion of food workers suffering from a disease or medical symptom listed in this CODE is necessary due to the increased RISK that the food being prepared may be contaminated with a pathogenic organism transmissible through food. A food worker suffering from any of the symptoms or medical conditions listed may be suffering from a disease transmissible through food.

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Because of the high infectivity (ability to invade and multiply) and virulence (ability to produce severe disease) of **Norovirus**, **Salmonella Typhi**, **Shigella** spp., **Escherichia coli** 0157:H7, and **hepatitis A virus**, a food worker diagnosed with an active case of illness caused by any of these pathogens must be EXCLUDED from food establishments. The exclusion is based on the severe medical consequences to individuals infected with these organisms, i.e., hospitalization and even death.

RESTRICTIONS and exclusions vary according to the population served because highly susceptible populations have increased vulnerability to foodborne illness. For example, foodborne illness in a healthy individual may be manifested by mild flu-like symptoms. The same foodborne illness may have serious medical consequences in immunocompromised individuals.

This point is reinforced by statistics pertaining to deaths associated with foodborne illness caused by **Salmonella Enteritidis**. Over 70% of the deaths attributed to this organism occurred among individuals who for one reason or another were immunocompromised. This is why the RESTRICTIONS and exclusions listed in this CODE are especially stringent for food workers serving highly susceptible populations.

The symptoms experienced by individuals infected with **Norovirus**, **Salmonella Typhi**, **Shigella** spp., **Escherichia coli** 0157:H7, or **hepatitis A virus** are often severe and of sufficient duration that most individuals will seek medical assistance. This CODE provisions related to individuals who are exposed through living or working with a PERSON diagnosed with any of the above and also suffer from any of the symptoms listed in this CODE are designed to identify individuals who are likely to be suffering from an illness caused by one of the organisms that requires exclusion.

Periodic testing of food workers for the presence of diseases transmissible through food is not cost effective or reliable. Therefore, RESTRICTION and exclusion provisions are triggered by the active symptoms and high-RISK conditions listed. A high-RISK condition alone does not trigger RESTRICTION or exclusion. The food worker must also suffer from one of the symptoms listed.

The use of high-RISK conditions alone as the sole basis for RESTRICTING or excluding food workers is difficult to justify. The high-RISK conditions that must be reported apply only to the organisms: **Norovirus**, **Salmonella Typhi**, **Shigella** spp., **Escherichia coli** 0157:H7, or **hepatitis A virus**. From the organisms listed, hepatitis A presents a different twist to this rationale.

Food workers who meet a high-RISK condition involving hepatitis A virus may shed the virus before becoming symptomatic. In fact, the infected food worker could be shedding hepatitis A virus for up to a week before experiencing symptoms of the infection. However, even in light of

this fact, blanket exclusion or RESTRICTION of a food worker solely because of exposure involving hepatitis A is not justified. The following is the rationale:

- Because hepatitis A virus infection can occur without clinical illness (i.e., without symptoms), or because a PERSON may shed hepatitis A virus in the stool for up to a week before becoming symptomatic, it is possible that a PERSON unknowingly may have been exposed to an ASYPTOMATIC hepatitis A virus shedder or to an infected PERSON who is in the incubation stage. No RESTRICTION/exclusion routinely occurs under these presumably much more common circumstances. Exclusions from work for prolonged periods of time may involve economic hardship for the food worker.
- Even though the ASYPTOMATIC PERSON may be infected with hepatitis A virus and may in fact be shedding virus in the stool, foodborne transmission of hepatitis A virus is unlikely if the PERSON practices good PERSONAL hygiene, such as double handwashing after going to the bathroom, etc. as specified in this CODE.

Based on the information presented, exclusion or RESTRICTION solely on exposure would be potentially controversial and of questionable merit. Because of the high infectivity of hepatitis A, the PERSON IN CHARGE OF REGULATORY AUTHORITY should handle this situation on a case-by-case basis. With this approach in mind, the following criteria may be used as a guide. The following information should be collected and analyzed.

1. Clarify the type of contact the food worker had with another PERSON diagnosed with hepatitis A virus infection. Keep in mind that the closer the contact (i.e., living in the same household as the infected PERSON), the more likely it is that a susceptible food worker may become infected.
2. What job does the food worker perform at the food establishment, e.g., is the food worker involved in food preparation? When did the food worker begin work at the establishment?
3. What level of personal hygiene does the food worker exhibit? For example, does the food worker adhere to the handwashing requirements specified in this CODE?
4. Has the food worker suffered from hepatitis A in the past? If the answer to this question is yes, was blood testing done? If the food worker did have hepatitis A in the past, the food worker is immune from re-infection. In terms of the current exposure, has the food worker received immune globin (IG)? When?

When the PERSON IN CHARGE is notified of a food worker having been exposed, the PERSON IN CHARGE should immediately:

1. Discuss the traditional modes of transmission of hepatitis A virus infection with the food worker involved. Review the symptoms listed on the CDC website <http://www.cdc.gov/hepatitis/A/index.htm> Remind the food worker of their

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- responsibility as specified in this CODE to inform the PERSON IN CHARGE immediately upon the onset of any of the symptoms listed in this CODE.
2. Advise the food worker to observe good hygienic practices both at home and at work. This includes a discussion of proper hand washing, as described in this CODE, after going to the bathroom, changing diapers, or handling stool-soiled material. In light of the high infectivity of hepatitis A, ensure that the food worker stops work immediately if any of the symptoms described in this CODE develop and reports to the PERSON IN CHARGE.
  
  3. If after consideration of all the information gathered, the PERSON IN CHARGE feels that the food worker in question is likely to develop hepatitis A, RESTRICTION or exclusion of the food worker's activities should be considered.

## Requirement

### **2-201.13 Removal 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 worker:

- (A) RESTRICTIONS or exclusions on PERSONS diagnosed or presumptive with Hepatitis A, shigellosis or Shiga-toxigenic Escherichia coli (STEC) or Salmonella typhi infection shall not be lifted until a licensed laboratory has determined that the food worker is free of pathogens in accordance with OAR 333-019-0014(4) and 333-019-0046. Such RESTRICTIONS may be waived or modified at the discretion of the local public health authority.<sup>P</sup>
- (B) Except as specified in (A) of section 2-201.13, the PERSON IN CHARGE may remove a RESTRICTION or exclusion specified under 2-201.12 if the RESTRICTED PERSON:
  - (1) Is free of the symptoms specified under 2-201.12(A)(1)-(3) for 24 hours;<sup>P</sup> or
  - (2) Provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER that states the symptom is from a noninfectious condition;<sup>P</sup> or
  - (3) The PERSON IN CHARGE obtains approval from the local public health authority.<sup>P</sup>
- (C) Reinstate a food worker who was diagnosed or presumptive with an infection from Norovirus if the PERSON IN CHARGE obtains approval from the local public health authority and one of the following conditions is met:
  - (1) The food worker provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER stating the food worker is free of a Norovirus infection;<sup>P</sup> or
  - (2) The food worker's symptoms of vomiting or diarrhea have resolved and more than 48 hours have passed since the food worker became ASYPTOMATIC;<sup>P</sup> or
  - (3) The food worker did not develop symptoms and more than 48 hours have passed since the food worker was diagnosed.<sup>P</sup>

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## **Public Health Guideline**

Provisions related to a food worker's health are structured to recognize certain characteristics of each of the infectious agents (***Norovirus***, ***Salmonella Typhi***, ***Shigella*** spp., ***Escherichia coli*** O157:H7 and ***hepatitis A virus***) whichever is the infectious agent of concern. The RISK of illness presented by ASYPTOMATIC shedders, the increased RISK to highly susceptible populations, and the need to provide extra protection to those high-RISK populations.

ASYPTOMATIC shedders are people who do not exhibit the symptoms of foodborne illness, but who are identified through laboratory analysis of their stools to have anyone of the pathogens: ***Salmonella Typhi***, ***Shigella*** spp and ***Escherichia coli*** O157:H7, ***Hepatitis A*** in their gastrointestinal system.

The duties that an ASYPTOMATIC shedder performs in a food establishment are RESTRICTED if the establishment serves a general population or, if a highly susceptible population is involved, the shedder is EXCLUDED. Several considerations factor into the need to preclude ASYPTOMATIC shedders from food establishment functions that may result in the transmission of foodborne disease. RESTRICTION in a food establishment that does not serve a highly susceptible population affords protection for the general population and the immune-suppressed subset of the general population.

- Outbreaks of foodborne illness involving ***Salmonella Typhi*** have been traced to ASYPTOMATIC food workers who have transmitted the pathogen to food, causing illness.
- There is some epidemiological evidence of transmission of food via food workers infected with ***Shigella*** spp. Healthy CONSUMERS are at RISK due to a low infectious dose of ***Shigella*** spp,.
- Despite lacking epidemiological evidence of transmission of food via food workers infected with ***Escherichia coli*** O157:H7, the documented ease of transmitting it from PERSON-TO-PERSON in a day care setting, suggests a low infectious dose and the potential for the organism to be transmitted through food. The severity and consequences of one of the illnesses, Hemolytic Uremic Syndrome (HUS), associated with ***Escherichia coli*** O157:H7 warrant the institution of disease interventions.

The RISK that a communicable disease will be transmitted by food workers who are ASYPTOMATIC shedders varies depending upon the hygienic habits of the food worker, the food itself and how it is prepared, the susceptibility of the population served, and the infectivity of the organism.

To minimize the RISK in all food establishments of the transmission of foodborne disease by an ASYPTOMATIC shedder and based on the factors listed above, all known ASYPTOMATIC shedders of the listed pathogens are either RESTRICTED or EXCLUDED, depending on the population

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served. Requiring RESTRICTION for ASYPTOMATIC shedders of all listed pathogens results in a uniform criterion and is recommended for the control of communicable diseases.

This CODE requires medical clearance, based on criteria designed to detect the shedder state, before a food worker who had a recent illness from, or is identified as a shedder of, any of the identified pathogens is allowed to resume the duties from which that food worker was RESTRICTED or, in the case of an establishment that serves a highly susceptible population, before the food worker may return to work. With respect to a food worker in an establishment that serves an immune-compromised population, this CODE provisions are more stringent in that exclusion is required in three situations in which it is not required for food workers in other food establishments. Those three situations involve a food worker who:

1. Meets a condition specified in ¶¶ 2-201.11(B) and has a symptom of acute gastrointestinal illness;
2. Is diagnosed as an ASYPTOMATIC shedder of **Salmonella Typhi**, **Shigella** spp. or **Escherichia coli** 0157:H7, **Hepatitis A**; or
3. Had a recent illness caused by **Salmonella Typhi**, **Shigella** spp., **Escherichia coli** 0157:H7 **or Hepatitis A**. The exclusion is in effect until a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, provides the medical clearance specifically outlined in § 8-501.40 of this CODE indicating that the infectious agent is not detected.

## 2-3 PERSONAL CLEANLINESS

### Subparts

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

### Requirement

#### 2-301.11 Clean Condition (Amended)

Food workers shall keep their hands and exposed portions of their arms clean.<sup>P</sup>

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## **Public Health Guideline**

The hands are particularly important in transmitting foodborne pathogens. Food workers with dirty hands and/or fingernails may contaminate the food being prepared. Therefore, any activity that may contaminate the hands must be followed by thorough hand washing in accordance with the procedures outlined in this CODE.

Even seemingly healthy food workers may serve as reservoirs for pathogenic microorganisms that are transmissible through food. Staphylococci, for example, can be found on the skin and in the mouth, throat, and nose of many people. The hands of food workers can be contaminated by touching their nose or other body parts.

## **Requirement**

### **2-301.12 Cleaning Procedure. (Amended)**

- (A) Except as specified in ¶ (D) of this section, food workers 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<sup>P</sup>
- (B) Food workers 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; <sup>P</sup>
  - (2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer; <sup>P</sup>
  - (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<sup>P</sup>, 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<sup>P</sup>
  - (4) Thoroughly rinse under clean, running warm water<sup>P</sup> and
  - (5) Immediately follow the cleaning procedure with thorough drying using a method as specified under § 6-301.12.<sup>P</sup>
- (C) *To avoid re-contaminating their hands or surrogate prosthetic devices, food workers 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 hand washing facility may be used by FOOD workers to clean their hands or surrogate prosthetic devices.*

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## **Public Health Guideline**

Many food workers fail to wash their hands as often as necessary and even those who do may use a flawed technique. It takes more than just the use of soap and running water to remove the transient pathogens that may be present. It is the abrasive action obtained by vigorously rubbing the surfaces being cleaned that loosens the dirt or soil present.

Many of the diseases that are transmissible through food may be harbored in the food worker's intestinal tract and shed in the feces. Proper hand washing according to this CODE by food workers after defecation establishes a protective barrier against the transmission of pathogens that may be present in the feces.

Pathogens transmissible through food may also be present in other body fluids. Therefore, precautions would be appropriate whenever a PERSON handles body fluids or body wastes directly or indirectly, because of the increased risk of the presence of disease. Fecal material and other contaminants routinely accumulate under the fingernails; therefore, particular attention must be given to the fingernails, fingertips, and areas between the fingers. Once the material and soil are loosened, they can be washed away in the rinsing step of proper hand washing.

## **Requirement**

### **2-301.13 Special Hand wash Procedures (Amended)**

- (A) After defecating, contacting body fluids and discharges, or handling waste containing fecal matter, body fluids, or body discharges, and before beginning or returning to work, food workers shall wash their hands twice using the cleaning procedure specified in § 2-301.12.<sup>P</sup>
- (B) Except when one HANDWASHING SINK is allowed under § 5-203.11(A), after using the toilet facility food workers shall wash their hands twice, first at a HANDWASHING SINK in the toilet facility and again at a HANDWASHING SINK in the food preparation area.<sup>P</sup>

## **Public Health Guideline**

Infected food workers are the source of contamination in approximately one in five foodborne disease outbreaks reported in the United States with a bacterial or viral cause. Most of these outbreaks involve enteric, i.e., fecal-oral agents. These are organisms that food workers were shedding in their stools at the time the food was prepared. Because of poor or nonexistent handwashing procedures, food workers can spread these organisms to the food. In addition, infected cuts, burns, or boils on hands can also result in contamination of food. Viral, bacterial, and parasitic agents can be involved.

Traditionally, food regulations have required two methods of preventing the spread of foodborne disease by this mode of transfer, i.e., they have prohibited food workers from preparing food when they are infectious and have required thorough and frequent

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handwashing. In order to strengthen fecal-oral transmission interventions, this CODE provides focused and specific guidance about ill food workers and when handwashing must occur.

As a final barrier, bare-hand contact with ready-to-eat food (i.e. food that is edible without washing or is not subsequently subjected to a pathogen kill step) should be limited and suitable UTENSILS such as spatulas, tongs, single-use gloves, or dispensing EQUIPMENT used.

## Requirement

### 2-301.14 When to Wash. (Amended)

Food workers 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<sup>P</sup> and:

- (A) After touching bare human body parts other than clean hands and clean, exposed portions of arms<sup>P</sup>;
- (B) After using the toilet room<sup>P</sup>;
- (C) After caring for or handling SERVICE ANIMALS or aquatic animals as specified in ¶ 2-403.11(B<sup>P</sup>);
- (D) Except as specified in ¶ 2-401.11(B), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking<sup>P</sup>;
- (E) After handling soiled EQUIPMENT or UTENSILS<sup>P</sup>;
- (F) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks<sup>P</sup>;
- (G) When switching between working with raw food and working with ready-to-eat food<sup>P</sup>; and
- (H) Before donning gloves for working with FOOD<sup>P</sup>; and
- (I) After engaging in other activities that contaminate the hands<sup>P</sup>.

### **Public Health Guideline**

The hands may become contaminated when the food worker engages in specific activities. The increased RISK of contamination requires handwashing immediately after the activities listed. The specific examples listed in this CODE section are not intended to be all inclusive. Food workers must wash their hands after any activity that may result in contamination of the hands.

## Requirement

### 2-301.15 Where to Wash. (Amended)

Food workers 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

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WAREWASHING, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.<sup>Pf</sup>

### **Public Health Guideline**

Effective handwashing is essential for minimizing the likelihood of the hands becoming a vehicle of cross contamination. It is important that handwashing be done only at a properly equipped handwashing facility in order to help ensure that people effectively clean their hands.

Handwashing facilities are to be conveniently located, always accessible for handwashing, maintained so they provide proper water temperatures and pressure, and equipped with suitable hand cleansers, nail brushes, and disposable towels and/or hand dryers, and waste containers.

It is inappropriate to wash hands in a food preparation sink since this may result in avoidable contamination of the sink and the food prepared therein. Service sinks may not be used for handwashing since this practice may introduce additional hand contaminants because these sinks may be used for the disposal of mop water, toxic chemicals, and a variety of other liquid wastes. Such wastes may contain pathogens from cleaning the floors of food preparation areas and toilet rooms and discharges from ill PERSONS.

### **Requirement**

#### **2-301.16 Hand Antiseptics.**

- (A) A hand antiseptic and a chemical hand antiseptic solution used as a hand dip shall be used according to labeled directions, be APPROVED for use with food, and be applied to hands that are cleaned as specified under section 2-301.12.<sup>Pf</sup>
- (B) A chemical hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.<sup>Pf</sup>

### **Public Health Guideline**

This provision is intended to ensure that an antimicrobial product applied to the hands is both: safe and effective when applied to human skin, and a safe food ADDITIVE when applied to bare hands that will come into direct contact with food. For general and specific information about hand sanitizers, check with your state or local public health authority.

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## Requirement

### ***Fingernails*** 2-302.11 Maintenance.

- (A) Food workers shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough <sup>Pf</sup>.
- (B) Unless wearing intact gloves in good repair, a food worker may not wear fingernail polish or artificial fingernails when working with exposed food <sup>Pf</sup>.

### **Public Health Guidance**

The requirement for fingernails to be trimmed, filed, and maintained is designed to address both the cleanability of areas beneath the fingernails and the possibility that fingernails or pieces of the fingernails may end up in the food due to breakage. Failure to remove fecal material from beneath the fingernails after defecation can be a major source of pathogenic organisms. Ragged fingernails present cleanability concerns and may harbor pathogenic organisms.

## Requirement

### ***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.

### **Public Health Guideline**

Items of jewelry such as rings, bracelets, and watches may collect soil, and the construction of the jewelry may hinder routine cleaning. As a result, the jewelry may act as a reservoir of pathogenic organisms transmissible through food. An additional HAZARD associated with jewelry is the possibility that pieces of the item or the whole item itself may fall into the food being prepared. Hard foreign objects in food may cause medical problems for CONSUMERS, such as chipped and/or broken teeth and internal cuts and lesions.

## Requirement

### ***Outer Clothing*** 2-304.11 Clean Condition.

Food workers shall wear clean outer clothing to prevent contamination of food, EQUIPMENT, UTENSILS, LINENS, and single-service and single-use articles.

### **Public Health Guideline**

Dirty clothing may harbor diseases that are transmissible through food. People who inadvertently touch their dirty clothing may contaminate their hands. This could result in contamination of the food being prepared. Food may also be contaminated through direct contact with dirty clothing. In addition, food workers wearing dirty clothes send a negative message to CONSUMERS about the level of sanitation in the establishment.

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## 2-4 HYGIENIC PRACTICES

### Subparts

2-401 Food Contamination Prevention

2-402 [Hair Restraints](#)

2-403 [Animals](#)

### Requirement

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

- (A) Except as specified in ¶ (B) of this section, a food worker 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.<sup>Pf</sup>
- (B) A food worker may drink from a closed beverage container if the container is handled to prevent contamination of:
- (1) The worker's hands;
  - (2) The container; and
  - (3) Exposed food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped single-service and single-use articles.

### Public Health Guideline

Proper hygienic practices must be followed by food workers in performing assigned duties to ensure food safety, to prevent the introduction of foreign objects into the food, and to minimize the possibility of transmitting disease through food.

Smoking or eating by staff in food preparation areas is prohibited because of the potential that the hands, food, and food-contact surfaces may become contaminated. Unsanitary PERSONAL practices such as scratching the head, placing the fingers in or about the mouth or nose, and indiscriminate and uncovered sneezing or coughing may result in food contamination. Poor hygienic practices by people may also adversely affect CONSUMER confidence in the establishment.

Food preparation areas such as hot grills may have elevated temperatures and the excessive heat in these areas may present a medical RISK to the food workers as a result of dehydration. Consequently, in these areas staff are allowed to drink from closed containers that are carefully handled. Check with the state or local public health authority for specifics.

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

Food workers 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.<sup>Pf</sup>

**Public Health Guideline**

Discharges from the eyes, nose, or mouth through persistent sneezing or coughing by food workers can directly contaminate exposed food, EQUIPMENT, UTENSILS, LINENS, and single-service and single-use articles. When these poor hygienic practices cannot be controlled, the food worker must be assigned to duties that minimize the potential for contaminating food and surrounding surfaces and objects.

**Requirement****Hair Restraint 2-402.11 Effectiveness.**

- (A) Food workers shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.
- (B) This section does not apply to food workers 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.

**Public Health Guideline**

CONSUMERS are particularly sensitive to food contaminated by hair. Hair can be both a direct and indirect vehicle of contamination. Food workers may contaminate their hands when they touch their hair. A hair restraint keeps dislodged hair from ending up in the food and may deter food workers from touching their hair.

**Requirement****Animals 2-403.11 Handling Prohibition**

- (A) Except as specified in ¶ (B) of this section, food workers 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) and (E).<sup>Pf</sup>
- (B) Food workers with SERVICE ANIMALS may handle or care for their SERVICE ANIMALS and food workers 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).

**Public Health Guide**

Dogs and other animals, like humans, may harbor pathogens that are transmissible through food. Handling or caring for animals that may be legally present is prohibited because of the

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RISK of contamination of a PERSON's hands and clothing. Check with the state or local public health authority.

## Chapter 3

### Food

#### 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

#### Subpart

#### 3-101 Condition

### Requirement

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

Food shall be safe, UNADULTERATED, and, as specified under § 3-601.12, honestly presented.<sup>P</sup>

#### **Public Health Guideline**

A primary line of defense in ensuring that food meets the requirements of § 3-101.11 is to obtain food from APPROVED sources. It is also critical to monitor food products to ensure that, after harvesting and processing, they do not fall victim to conditions that endanger their safety, make them ADULTERATED, or compromise their honest presentation. The regulatory community, industry, and CONSUMERS should exercise vigilance in controlling the conditions that foods are subjected to and be alert to signs of abuse. The FDA considers food in HERMETICALLY SEALED

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CONTAINERS that are swelled or leaking to be ADULTERATED. Depending on the circumstances rusted and pitted or dented cans may also present a serious potential HAZARD.

Food, at all stages of production, is susceptible to contamination. The source of food is important because pathogenic microorganisms may be present in the breeding stock of farm animals, in feeds, in the farm environment, in waters used for raising and freezing aquatic foods, and in soils and fertilizers in which plant crops are grown. Chemical contaminants that may be present in field soils, fertilizers, irrigation water, and FISHING waters can be incorporated into food plants and animals.

Sources of MOLLUSCAN SHELLFISH are a particular concern because shellFISH are frequently consumed raw or in an undercooked state and thus receive neither heat nor any other process that would destroy or inactivate microbial pathogens. For safety, these foods must be accompanied by certification that documents that they have been harvested from waters that meet the water quality standards contained in the National ShellFISH Sanitation Program Guide for the Control of MOLLUSCAN SHELLFISH. Certification also provides confidence that processing, packaging, and shipping have been conducted under sanitary conditions.

Food should be purchased from commercial supplies under regulatory control. Home kitchens, with their varieties of food and open entry to humans and pet animals, are frequently implicated in the microbial contamination of food. Because commercial items seldom are eaten right away, the home kitchen's limited capacity for maintaining food at proper temperatures may result in considerable microbial growth and toxin production by microorganisms introduced through the diverse sources of contamination. Controlled processing is required for the safe preparation of food entering commerce.

Sources of PACKAGED food must be labeled in accordance with LAW. Proper labeling of foods allows CONSUMERS to make informed decisions about what they eat. Many CONSUMERS, as a result of an existing medical condition, may be sensitive to specific foods or food ingredients. This sensitivity may result in dangerous medical consequences should certain foods or ingredients be unknowingly consumed. In addition, CONSUMERS have a basic right to be protected from misbranding and fraud.

In 1998, the FDA announced in the Federal Register a final rule that revised its food labeling regulations to require a warning statement on fruit and vegetable JUICE products that have not been processed to prevent, reduce or eliminate pathogenic microorganisms that may be present. FDA took this action to inform CONSUMERS, particularly those at greatest RISK, of the HAZARD posed by such JUICE products. The FDA expects that providing this information to CONSUMERS will allow them to make informed decisions on whether to purchase and consume such JUICE products, thereby reducing the incidence of foodborne illnesses and deaths caused by the consumption of these JUICES.

It is important to note that the definition of "JUICE" includes pureed fruits and vegetables, which are commonly prepared for service to highly susceptible populations. Untreated JUICES or beverages containing untreated JUICES that are offered to CONSUMERS as prePACKAGED food must bear a warning statement as specified in 21 CFR Section 101.17(g). That statement is:

"WARNING: This product has not been pasteurized and, therefore may contain harmful bacteria that can cause serious illness in children, the elderly and PERSONS with weakened immune systems."

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Additional information is available in the document, “Guidance for Industry. Warning and Notice Statement: Labeling of Juice Products, Small Entity Compliance Guide” which can be found on the FDA Web Page <http://www.cfsan.fda.gov/~dms/juicguid.html> or obtained from the FDA Office of Food Labeling.

Except for certain species of large tuna and raw MOLLUSCAN SHELLFISH, if FISH are intended for raw consumption, they must be properly frozen before they are served. If this process is done off-premises, purchase specifications ensuring that proper freezing techniques are used to destroy parasites must be provided. This is necessary because FISH from natural bodies of water may carry parasitic worms that can infect and injure CONSUMERS who eat such raw FISH dishes as sushi, ceviche, green (lightly marinated) herring, and cold-smoked salmon. The worms are often deeply imbedded inside FISH muscle. Thorough freezing kills these worms if the FISH are subjected to a low enough temperature for a long enough time.

Retail food establishments that process and package MEAT or POULTRY in a form that is not ready-to-eat, are obligated by federal regulation to label the product with safe food handling instructions. The intent of this requirement is to ensure that all CONSUMERS are alerted to the fact that such products may contain bacteria and that food safety hinges upon their thoroughly cooking the product, regardless of where they obtain the products. That is, the labeling would exist if they obtain their MEAT and POULTRY at an establishment that handles only prePACKAGED and pre-labeled products or if they obtain their MEAT or POULTRY at an operation such as a supermarket with a MEAT processing operation or from a small neighborhood butcher.

In order for a food establishment operator to know that a steak is a whole-muscle, intact cut of beef that can therefore be undercooked and served without a CONSUMER advisory, the incoming product must be labeled. Processors can accommodate this need at the retail level by developing proposed labels, obtaining the necessary USDA Food Safety Inspection Service review and approval and appropriately affixing the labels to their products.

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

### Subparts

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

### Requirement

#### 3-201.11 Compliance with Food Law

- (A) Food shall be obtained from sources that comply with LAW.<sup>P</sup>
- (B) Except as specified in ¶ (J), (K) and (L) of this section, food prepared in a private home may not be used or offered for human consumption in a food establishment.<sup>P</sup>
- (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.<sup>Pf</sup>
- (D) FISH, *other than those specified in paragraph 3-402.11(B), that are intended for consumption in their raw or undercooked form and allowed as specified in Subparagraph 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,<sup>Pf</sup> 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,<sup>Pf</sup> 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,<sup>Pf</sup>
    - (b) Prepared so they remain intact,<sup>Pf</sup> and

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- (c) If PACKAGED for undercooking in a food establishment, labeled as specified in Subparagraph (E)(1) of this section or identified as specified in Subparagraph (E)(2) of this section, <sup>Pf</sup>
- (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).
- (H) Game MEAT that has been donated to a charitable organization and has been inspected and processed as provided in ORS 619.095 may be served for human consumption by that charitable organization. <sup>P</sup>
- (I) Except as required in sections 3-201.11(A) through (H) and in accordance with ORS 624.116 any PERSON, business or volunteer group may donate food to a benevolent organization that meets the requirements in ORS 624.101. The Internal Revenue Service (IRS) will issue a “letter of determination” that should be used as the basis for assessing compliance with benevolent status of ORS 624.101. The PERSON, business or volunteer group making the donation shall inspect the food to ensure its fitness for human consumption and discard all food that is unwholesome. The following donated food items are APPROVED for use by benevolent organizations:
- (1) Commercially prepared foods, canned goods, and milk products, marine and freshwater FISHERY products or MEAT animals; i.e., cattle, sheep, goats, equine, swine, POULTRY or rabbits obtained from facilities licensed by the Oregon Department of Agriculture or the Department of Human Services according to ORS 603.616, and ORS Chapters 621, 622, 624, 625 and 635;<sup>P</sup>
  - (2) Home baked bread, rolls, pies, cakes, doughnuts or pastries not having perishable fillings, icings, toppings or glazes;
  - (3) Fresh fruit and produce from private gardens or commercial growers;<sup>P</sup>
  - (4) Salvageable food which has lost the label or which has been subjected to possible damage due to accident, fire, flood, adverse weather or similar cause. Reconditioning of salvageable food shall be conducted according to the 1984 Model Food Salvage CODE recommended by the Association of Food and Drug Officials and U.S. Department of Health and Human Services;<sup>P</sup>
  - (5) *Other food as may be APPROVED by the Oregon Health Authority upon prior notification by the donator or benevolent organization;*
  - (6) Unless alternative language has been APPROVED by the regulatory authority, a notice shall be posted in public view that says: “NOTICE: Food served at this location may not have been inspected by the health department.”<sup>Pf</sup>
- (J) Privately donated breads, rolls, pies, cakes, doughnuts or other pastries not having perishable fillings, icings, toppings or glazes may be used in temporary food

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establishments operated by benevolent organizations for fund-raising events, provided they meet the requirements under ¶ 3-201.11(I)(6).<sup>P</sup>

(K) Food prepared in a private home that is licensed as a home processor by the Oregon Department of Agriculture.<sup>P</sup>

## Requirement

### 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.<sup>P</sup>

### Public Health Guideline

Processing food at the proper high temperature for the appropriate time is essential to kill bacterial spores that, under certain conditions in an airtight container, begin to grow and produce toxin. Of special concern is the lethal toxin of ***Clostridium botulinum***, an organism whose spores (i.e., survival stages for non-growth conditions) are found throughout the environment.

Even slight under-processing of low acid food that is canned can be dangerous, because spoilage microbes are killed and there are no signs to warn CONSUMERS that botulinum spores have germinated into vegetative cells and produced their toxin. If these foods are not processed to be commercially sterile, they must be received frozen or under proper refrigeration.

## Requirement

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

(A) Fluid milk and milk products shall be obtained from sources that comply with GRADE A STANDARDS as specified in LAW.<sup>P</sup>

(B) Considered a POTENTIALLY HAZARDOUS FOOD requiring time/temperature control for food safety.

### Public Health Guideline

Milk is susceptible to contamination with a variety of microbial pathogens (such as ***Escherichia coli*** 0157:H7, ***Salmonella*** spp., and ***Listeria monocytogenes***). Milk provides a rich medium for pathogen growth. This is also true of milk products. Pasteurization is required to eliminate pathogen contamination in milk and products derived from milk. Dairy products are normally perishable and must be received, stored and served under proper refrigeration conditions.

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## Requirement

### 3-201.14 Fish.

- (A) FISH that are received for sale or service shall be:
  - (1) Commercially and legally caught or harvested;<sup>P</sup> or
  - (2) APPROVED for sale or service.<sup>P</sup>
- (B) MOLLUSCAN SHELLFISH that are recreationally caught may not be received for sale or service.<sup>P</sup>

### **Public Health Guideline**

Fresh and frozen FISH as well as FISH products are very perishable and must be received and held under proper refrigeration and freezer conditions. All FISH processors are required to implement a HAZARDOUS Analysis CRITICAL CONTROL POINTS plan (HACCP) in their operation. Retailers should assure that their seafood suppliers have complied with this requirement.

## Requirement

### 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.<sup>P</sup>
- (B) MOLLUSCAN SHELLFISH received in interstate commerce shall be from sources that are listed in the Interstate Certified ShellFISH Shippers List.<sup>P</sup>

### **Public Health Guideline**

Pathogens found in waters from which MOLLUSCAN SHELLFISH are harvested can cause disease in CONSUMERS. MOLLUSCAN SHELLFISH include: 1) oysters; 2) clams; 3) mussels; and, 4) scallops except where the final product is the shucked adductor muscle only. The pathogens of concern include both bacteria and viruses.

## Requirement

### 3-201.16 Wild Mushrooms.

- (A) Except as specified in (B), identification of mushroom species picked in the wild shall have a written buyer specification which is to remain on file in the food establishment for a minimum of 90 days from the date of sale or service.<sup>Pf</sup> This written specification shall include:
  - (1) Identification by the scientific name and the common name of the mushroom species;<sup>P</sup>
  - (2) Identification in the fresh state;<sup>Pf</sup>

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- (3) The name and contact information of the PERSON who identified the mushroom and the mushroom seller;<sup>Pf</sup> and
- (4) A statement as to the qualifications and training of the identifier, specifically related to mushroom identification.<sup>Pf</sup>
- (B) Paragraph (A) of 3-201.16 does not apply to 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.
- (C) The food establishment that sells, uses or serves mushrooms picked in the wild shall ensure the mushrooms are conspicuously identified by a label, placard, or menu notation that states:
  - (1) The common and usual name of the mushroom;<sup>Pf</sup> and
  - (2) The statement "Wild mushrooms: not an inspected product".<sup>Pf</sup>

## Requirement

### 3-201.17 Game Animals

- (A) If GAME ANIMALS are received for sale or service they shall be:
  - (1) Commercially raised for food<sup>P</sup> and:
    - (a) Raised slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction,<sup>P</sup> or
    - (b) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction,<sup>P</sup> 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,<sup>P</sup> and
      - (ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an APPROVED veterinarian or veterinarian's designee;<sup>P</sup>
  - (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;<sup>P</sup>
  - (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,<sup>P</sup> and
    - (b) Slaughtered and processed according to:

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- (i) LAWS governing MEAT and POULTRY as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program,<sup>P</sup> and
- (ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an APPROVED veterinarian or veterinarian's designee;<sup>P</sup> 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,<sup>P</sup> 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,<sup>P</sup> 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.<sup>P</sup>
- (5) Except as specified in ¶¶ (A)(1) through (4) of section 3-201.17,
  - (a) Game MEAT donated to a charitable organization shall be inspected by employees of the Oregon Department of Agriculture, Department of FISH and Wildlife, or State Police as provided for in ORS 619.095 may be served for human consumption by that charitable organization.<sup>P</sup>
  - (b) As used in subparagraph (a) of this section:
    - (i) Charitable organization means the Department of Human Services, Oregon Health Authority, Adult and Family Services Division, State Office for Services to Children and Families, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional centers, public school nutritional centers, senior nutritional centers, state hospitals and other charitable organizations or public institutions APPROVED by the Oregon Department of FISH and Wildlife.
    - (ii) Game MEAT includes antelope, bighorn sheep, deer, elk, moose and mountain goat.
- (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.

### **Public Health Guideline**

The primary concern regarding GAME ANIMALS relates to animals obtained in the wild. Wild GAME ANIMALS may be available as a source of food only if a regulatory inspection program is in place to ensure that wild animal products are safe. This is important because wild animals may be carriers of viruses (rickettsiae), bacteria, and/or parasites that cause illness in humans. Some of these diseases can be severe in the human host. In addition to the RISK posed to CONSUMERS of wild game that is not subject to an inspection program, there is RISK to people who harvest

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and prepare wild game because they may contract infectious diseases such as rabies or tularemia.

## Requirement

### 3-201.18 Outdoor Cooking and Beverage Dispensing (Barbecuing). (Amended)

- (A) Outdoor barbecuing by a food establishment shall be allowed as a part of the operation when conducted on the premises or in the immediate vicinity of the school food establishment.<sup>Pf</sup>
- (B) Enclosure of an OUTDOOR BARBECUE shall not be required unless necessary to protect food from contamination. The outdoor cooking and beverage dispensing operation must be designed to protect food, EQUIPMENT, UTENSILS, single-use articles and other items from contamination when not in operation. (This does not apply to school Sponsors who have an occasional outdoor picnic/barbecue.)
- (C) Outdoor cooking and beverage dispensing operations must be equipped with or located adjacent to a plumbed handwashing sink. Outdoor cooking and beverage dispensing operations that are not permanently constructed may provide a handwashing system that meets the requirements of 5-203.11(C) if APPROVED by the REGULATORY AUTHORITY.<sup>Pf</sup>
- (D) Outdoor cooking shall be limited to the use of a barbeque, hearth oven, tandoori oven, barbeque pit or other similar cooking EQUIPMENT. The use of EQUIPMENT such as flat top grills or griddles, woks, steamtables or other cooking, storage or holding devices designed or intended to be used inside of a food service establishment is not allowed.<sup>Pf</sup>
- (E) Other than cooking food, no preparation, assembly, storage or service of food may be done at the outdoor cooking operation. Non-potentially HAZARDOUS (non-TCS) CONDIMENTS may be dispensed at the outdoor cooking operation.<sup>Pf</sup>
- (F) Food Workers or CONSUMERS may be served directly from the outdoor cooking operation if the food is portioned for immediate service. CONSUMERS may not serve themselves from an outdoor cooking operation.
- (G) (Amended) CONSUMERS may serve themselves from beverage dispensing EQUIPMENT that meets the requirements of 4-204.13.
- (H) Outdoor cooking and beverage dispensing operations must be monitored by food service workers.
- (I) Section 3-201.18 does not preclude the service of foods prepared inside the establishment to CONSUMERS at outdoor seating areas.

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## Requirement

### 3-202.11 Temperature

- (A) Except as specified in ¶ (B) of this section, refrigerated, POTENTIALLY HAZARDOUS FOOD shall be at a temperature of 5°C (41°F) or below when received.<sup>P</sup>
- (B) If a temperature other than 5°C (41°F) for a POTENTIALLY HAZARDOUS FOOD is specified in LAW governing its distribution, such as LAWS governing milk, MOLLUSCAN SHELLFISH, and shell EGGS, 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.<sup>P</sup>
- (D) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked to a temperature and for a time specified under §§ 3-401.11 - 3-401.13 and received hot shall be at a temperature of 57°C (135°F) or above.<sup>P</sup>
- (E) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.<sup>Pf</sup>
- (F) Upon receipt, POTENTIALLY HAZARDOUS FOOD shall be free of evidence of previous temperature abuse.<sup>Pf</sup>

### **Public Health Guideline**

Temperature is one of the prime factors to control the growth of bacteria in food. Many, though not all, types of pathogens and spoilage bacteria are prevented from multiplying to microbiologically significant levels in properly refrigerated foods that are not out of date. For example, Refrigeration and Labeling Requirements for Shell EGGS require shell EGGS to be stored and transported in an ambient air temperature of no greater than 7°C (45°F).

High temperatures for a long enough time, such as those associated with thorough cooking will kill or inactivate many types of microorganisms. However cooking does not always destroy toxins produced in foods by certain bacteria (such as enterotoxins of ***Staphylococcus aureus***).

Cooking or hot holding that follows temperature abuse may not make the food safe. Keeping cooked foods hot as required in this CODE prevents significant re-growth of heat-injured microorganisms and prevents recontamination with bacteria that are newly introduced.

## Requirement

### 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.<sup>P</sup>

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**Public Health Guideline**

It is imperative for safety that food supplies come from sources that are in compliance with LAWS regarding chemical ADDITIVES and contaminants. Food ADDITIVES are substances that, by their intended use, become components of food, either directly or indirectly. They must be strictly regulated. In excessive amounts or as a result of UNAPPROVED application, ADDITIVES may be harmful to the CONSUMER. Unintentional contaminants or residues also find their way into the food supply. The tolerances or safe limits designated for these chemicals are determined by RISK assessment evaluations based on toxicity studies and consumption estimates.

Use of UNAPPROVED ADDITIVES or the use of APPROVED ADDITIVES in amounts exceeding those allowed by food ADDITIVE regulations could result in foodborne illness, including allergic reactions. For example, many adverse reactions have occurred because of the indiscriminate use of sulfites to retard "browning" of fruits and vegetables or to cause ground MEAT to look "redder" or fresher.

**Requirement**

**3-202.13 Shell Eggs**

Shell 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.<sup>P</sup>

**Public Health Guideline**

Damaged shells PERMIT the entry of surface bacteria to the inside of EGGS. EGGS are an especially good growth medium for many types of bacteria. Damaged EGGS must not be used as food. Refrigeration and Labeling Requirements for Shell EGGS require shell EGGS to be stored and transported in an ambient air temperature of no greater than 7°C (45°F).

**Requirement**

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

- (A) EGG PRODUCTS shall be obtained pasteurized.<sup>P</sup>
- (B) Fluid and dry milk and milk products shall:
  - (1) Be obtained pasteurized;<sup>P</sup> and
  - (2) Comply with GRADE A STANDARDS as specified in LAW.<sup>P</sup>
- (C) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135 - Frozen desserts.<sup>P</sup>

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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- (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.*<sup>P</sup>
- (E) Raw milk from goats and sheep that is in compliance with the labeling requirements in OAR 603-024-0543 and the standards defined in OAR 603-024-0041 may be sold in licensed Oregon Department of Agriculture establishments

**Public Health Guideline**

Liquid EGG, fluid milk, and milk products are a good growth medium for many types of bacteria and must be pasteurized. Pasteurization is a heat process that will kill or inactivate bacteria and other harmful microorganisms likely to be in these POTENTIALLY HAZARDOUS FOODS.

Freezing and drying of unpasteurized products will stop microbial growth and may reduce their bacterial populations. However, some organisms will survive because neither process: freezing or drying invariably kills bacteria. Under certain conditions, freezing and drying may preserve microbes. An alternative to pasteurization may be applicable to certain cheese varieties cured or aged for a specified amount of time prior to marketing for consumption.

**Requirement**

**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.<sup>Pf</sup>

**Public Health Guideline**

Damaged or incorrectly applied packaging may allow the entry of bacteria or other contaminants into the contained food. If the integrity of the packaging has been compromised, contaminants such as ***Clostridium botulinum*** may find their way into the food. In anaerobic (lack of oxygen) conditions, botulism toxin may be formed.

Packaging defects may not be readily apparent. This is particularly the case with low acid canned foods. Close inspection of cans for imperfections or damage may reveal punctures or seam defects. In many cases, suspect packaging may have to be inspected by trained PERSONS using magnifying EQUIPMENT. Irreversible and even reversible swelling of cans (hard swells and flippers) may indicate can damage or imperfections (lack of an airtight, i.e., hermetic seal). Swollen cans may also indicate that not enough heat was applied during processing (under-processing). Suspect cans must not be used.

**Requirement**

**3-202.16 Ice**

Ice for use as a food or a cooling medium shall be made from DRINKING WATER.<sup>P</sup>

**Public Health Guideline**

<sup>P</sup> = Priority Item

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Freezing does not invariably kill microorganisms; on the contrary, it may preserve them. Ice that comes into contact with food to cool it or that is used directly for consumption must be as safe as DRINKING WATER that is periodically tested and APPROVED for consumption.

## **Requirement**

### **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:<sup>Pf</sup>
- (1) Name, address, and CERTIFICATION NUMBER of the shucker, packer or repacker of the MOLLUSCAN SHELLFISH;<sup>Pf</sup> and
  - (2) The "sell by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more.<sup>Pf</sup>
- (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.

### **Public Health Guideline**

Plastic containers commonly used throughout the shellFISH industry for shucked product bear specific information regarding the source of the shellFISH as required. These containers must be nonreturnable so that there is no potential for their subsequent reuse by shellFISH packers that could result in shucked product that is inaccurately identified by the label.

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## Requirement

### 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: <sup>Pf</sup>
- (1) **[Deleted]**
  - (2) Except as specified in ¶ (D) of this section, on each DEALER's tag or label, the following information in the following order: <sup>Pf</sup>
    - (a) The DEALER's name and address, and the CERTIFICATION NUMBER assigned by the SHELLFISH CONTROL AUTHORITY, <sup>Pf</sup>
    - (b) The original shipper's CERTIFICATION NUMBER including the abbreviation of the name of the state or country in which the shellFISH are harvested, <sup>Pf</sup>
    - (c) The same information as specified for a harvester's tag under Subparagraphs (A)(1)(b)-(d) of this section, <sup>Pf</sup> 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." <sup>Pf</sup>
- (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.*

### **Public Health Guideline**

Accurate source identification of the harvesting area, harvester, and DEALERS must be contained on molluscan SHELLSTOCK identification tags so that if a shellFISH-borne disease outbreak occurs, the information is available to expedite the epidemiological investigation and regulatory action.

## Requirement

### 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.

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## **Public Health Guideline**

Dirty, damaged, or dead SHELLSTOCK can contaminate and degrade live and healthy SHELLSTOCK and lead to foodborne illness. Harvesters have the primary responsibility for culling SHELLSTOCK, but this responsibility continues throughout the distribution chain.

## **Requirement**

### **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;<sup>Pf</sup> 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.<sup>P</sup>

## **Requirement**

### **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.*
  - (3) *If the establishment serves raw or undercooked SHUCKED MOLLUSCAN SHELLFISH for immediate consumption, container label information must be maintained in the establishment for 90 days.<sup>Pf</sup>*
- (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:*

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- (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.*

### **Public Health Guideline**

Lot separation is critical to isolate shellFISH implicated in illness outbreaks and to track them to their source. Proper identification is needed for tracing the origin and determining conditions of shellFISH processing and shipment. If the lots are COMMINGLED at retail, traceability is undermined and the root of the problem may remain undetected. If no causative factors are identified in the food establishment, tracing the incriminated lot helps in identifying products that need to be recalled or growing waters that may need to be closed to harvesting.

### **Requirement**

#### **3-203.12 Shellstock, Maintaining Identification. (Amended)**

- (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. <sup>Pf</sup>
- (B) The date when the last SHELLSTOCK from the container is sold or served shall be recorded on the tag or label. <sup>Pf</sup>
- (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: <sup>Pf</sup>
  - (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; <sup>Pf</sup> 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, <sup>Pf</sup> 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. <sup>Pf</sup>

### **Public Health Guideline**

Accurate records that are maintained in a manner that allows them to be readily matched to each lot of SHELLSTOCK provide the principal mechanism for tracing SHELLSTOCK to its original source. If an outbreak occurs, regulatory authorities must move quickly to close affected growing areas or take other appropriate actions to prevent further illnesses. Records must be

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kept for 90 days to allow time for hepatitis A virus infections that have an incubation period significantly longer than other shellFISH-borne diseases, to be identified.

### 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

#### Requirement

##### 3-301.11 Preventing Contamination from Hands. (Amended)

- (A) Food workers shall wash their hands as specified under §§ 2-301.12 and 2-301.13.
- (B) Food workers shall minimize bare hand contact with food and shall use suitable UTENSILS such as deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT.<sup>P/Pf</sup>

#### **Public Health Guideline**

Even though bare hands should never contact exposed, ready-to-eat food, thorough handwashing is important in keeping gloves or other UTENSILS from becoming vehicles for transferring microbes to the food.

Many food workers fail to wash their hands as often as necessary and even those who do may use a flawed technique. It takes more than just the use of soap and running water to remove the transient pathogens that may be present. It is the abrasive action obtained by vigorously rubbing the surfaces being cleaned that loosens the dirt or soil present.

Many of the diseases that are transmissible through food may be harbored in the food worker's intestinal tract and shed in the feces. Proper handwashing according to this CODE by

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food workers after defecation establishes a protective barrier against the transmission of pathogens that may be present in the feces.

Pathogens transmissible through food may also be present in other body fluids. Therefore, precautions would be appropriate whenever a PERSON handles body fluids or body wastes directly or indirectly, because of the increased RISK of the presence of disease. Fecal material and other contaminants routinely accumulate under the fingernails; therefore, particular attention must be given to the fingernails, fingertips, and areas between the fingers. Once the material and soil are loosened, they can be washed away in the rinsing step of proper handwashing.

The hands are particularly important in transmitting foodborne pathogens. Food workers with dirty hands and/or fingernails may contaminate the food being prepared. Therefore, any activity that may contaminate the hands must be followed by thorough handwashing in accordance with the procedures outlined in this CODE.

Even seemingly healthy food workers may serve as reservoirs for pathogenic microorganisms that are transmissible through food. Staphylococci, for example, can be found on the skin and in the mouth, throat, and nose of many people. The hands of food workers can be contaminated by touching their nose or other body parts.

Infected food workers are the source of contamination in approximately one in five foodborne disease outbreaks reported in the United States with a bacterial or viral cause. Most of these outbreaks involve enteric, i.e., fecal-oral agents. These are organisms that food workers were shedding in their stools at the time the food was prepared. Because of poor or nonexistent handwashing procedures, food workers can spread these organisms to the food. In addition, infected cuts, burns, or boils on hands can also result in contamination of food. Viral, bacterial, and parasitic agents can be involved.

Traditionally, food regulations have required two methods of preventing the spread of foodborne disease by this mode of transfer, i.e., they have prohibited food workers from preparing food when they are infectious and have required thorough and frequent handwashing. In order to strengthen fecal-oral transmission interventions, this CODE provides focused and specific guidance about ill food workers and when handwashing must occur.

As a final barrier, bare-hand contact with ready-to-eat food (i.e. food that is edible without washing or is not subsequently subjected to a pathogen kill step) is discouraged and suitable UTENSILS such as spatulas, tongs, single-use gloves, or dispensing EQUIPMENT are recommended to be used.

## Requirement

### 3-301.12 Preventing Contamination when Tasting (Amended)

A food worker may not use a UTENSIL more than once to taste food that is to be sold or served.<sup>P</sup>

### **Public Health Guideline**

Pathogens can be transferred to food from UTENSILS that have not been cleaned and sanitized. Some pathogenic microorganisms survive outside the body for considerable periods of time. Food that comes into contact directly or indirectly with UTENSILS that are not clean and sanitized is liable to such contamination. The handles of UTENSILS, even if manipulated with gloved hands, are particularly susceptible to contamination.

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## Requirement

### 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, <sup>P</sup> and
    - (b) Cooked READY-TO-EAT FOOD; <sup>P</sup>
    - (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, <sup>P</sup> or
    - (b) Arranging each type of food in EQUIPMENT so that cross contamination of one type with another is prevented, <sup>P</sup> and
    - (c) Preparing each type of food at different times or in separate areas; <sup>P</sup>
  - (3) Cleaning EQUIPMENT and UTENSILS as specified under ¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11;
  - (4) Except as specified under Subparagraph 3-501.15(B)(2) and in ¶ (B) of this section, storing the food in packages, covered containers, or wrappings;
  - (5) Cleaning HERMETICALLY SEALED CONTAINERS of food of visible soil before opening;
  - (6) Protecting food containers that are received PACKAGED together in a case or overwrap from cuts when the case or overwrap is opened;
  - (7) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under § 6-404.11; and
  - (8) Separating fruits and vegetables, before they are washed as specified under § 3-302.15 from ready-to-eat food. (B) *Subparagraph (A)(4) of this section does not apply to:*
    - (1) *Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;*
    - (2) *PRIMAL CUTS, quarters, or sides of raw MEAT or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;*
    - (3) *Whole, uncut, processed MEATS such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;*
    - (4) *Food being cooled as specified under Subparagraph 3-501.15(B)(2); or*
    - (5) *SHELLSTOCK.*

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

§ = Section

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¶ = Paragraph

**Public Health Guideline**

Cross contamination can be avoided by separating raw animal foods from ready-to-eat foods. Cross contamination may also occur when raw unprepared vegetables contact ready-to-eat POTENTIALLY HAZARDOUS FOODS. Raw animal foods must also be separated from each other because required cooking temperatures are based on thermal destruction data and anticipated microbial load. These parameters vary with different types of raw animal foods.

Food that is inadequately PACKAGED or contained in damaged packaging could become contaminated by microbes, dust, or chemicals introduced by products or EQUIPMENT stored in close proximity or by PERSONS delivering, stocking, or opening packages or overwraps.

Packaging must be appropriate for preventing the entry of microbes and other contaminants such as chemicals. These contaminants may be present on the outside of containers and may contaminate food if the packaging is inadequate, damaged, or when the packaging is opened. The removal of food product overwraps may also damage the package integrity of foods under the overwraps if proper care is not taken.

**Requirement****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.*

**Public Health Guideline**

Certain foods may be difficult to identify after they are removed from their original packaging. CONSUMERS may be allergic to certain foods or ingredients. The mistaken use of an ingredient may result in severe medical consequences.

The mistaken use of food from unlabeled containers could result in chemical poisoning. For example, foodborne illness and death have resulted from the use of unlabeled salt, instead of sugar in infant formula and special dietary foods. Liquid foods, such as oils, and granular foods that may resemble cleaning compounds are also of particular concern.

**Requirement****3-302.13 Pasteurized Eggs, Substitute for Raw Shell Eggs for Certain Recipes.**

Pasteurized EGGS or EGG PRODUCTS shall be substituted for raw shell 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:<sup>P</sup>

- (A) Cooked as specified under Subparagraphs 3-401.11(A)(1) or (2);<sup>P</sup> or
- (B) Included in Subparagraph 3-401.11(D).<sup>P</sup>

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Public Health Guideline**

Raw or undercooked EGGS that are used in certain dressings or sauces are particularly HAZARDOUS because the virulent organism **Salmonella Enteritidis** may be present in raw shell EGGS.

Pasteurized EGGS provide an EGG PRODUCT that is free of pathogens and is a ready-to-eat food. The pasteurized product must be substituted in a recipe that requires raw or undercooked EGGS.

**Requirement****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;<sup>P</sup> and
  - (2) Unsafe or UNAPPROVED levels of APPROVED food and color ADDITIVES.<sup>P</sup>
- (B) A food worker may not:
- (1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B<sub>1</sub>;<sup>P</sup> 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.<sup>P</sup>

**Public Health Guideline**

It is imperative for safety that food supplies come from sources that are in compliance with LAWS regarding chemical ADDITIVES and contaminants. Food ADDITIVES are substances that, by their intended use, become components of food, either directly or indirectly. They must be strictly regulated. In excessive amounts or as a result of UNAPPROVED application, ADDITIVES may be harmful to the CONSUMER. The tolerances or safe limits designated for these chemicals are determined by RISK assessment evaluations based on toxicity studies and consumption estimates.

Use of UNAPPROVED ADDITIVES or the use of APPROVED ADDITIVES in amounts exceeding those allowed by food ADDITIVE regulations could result in foodborne illness, including allergic reactions. For example, many adverse reactions have occurred because of the indiscriminate use of sulfites to retard "browning" of fruits and vegetables or to cause ground MEAT to look "redder" or fresher.

**Requirement****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.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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

### **Public Health Guideline**

Pathogenic organisms and chemicals may be present on the exterior surfaces of raw fruits and vegetables. Washing removes the majority of organisms and/or chemicals present. If nonDRINKING WATER is used, the fruits and vegetables could become contaminated. Toxic or undesirable residues could be present in or on the food if chemicals used for washing purposes are unAPPROVED or applied in excessive concentrations.

In 1998, a voluntary guidance document addresses practices commonly used by fresh fruit and vegetable producers. It contains useful information related to washing fruits and vegetables as well as the application of antimicrobial agents. The "Guide to Minimize Microbial Food Safety HAZARDS for Fresh Fruits and Vegetables" is available from FDA's Food Safety Initiative staff and also on the Internet at <http://www.FDA.gov>.

### **Requirement**

#### **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.<sup>P</sup>

### **Public Health Guideline**

Ice that has been in contact with un-sanitized surfaces or raw animal foods may contain pathogens and other contaminants. For example, ice used to store or display FISH or PACKAGED foods could become contaminated with microbes present on the FISH or packaging. If this ice is then used as a food ingredient, it could contaminate the finished food product.

### **Requirement**

#### **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 un-drained 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.*

### **Public Health Guideline**

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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Packages that are not watertight may allow entry of water that has been exposed to unsanitary exterior surfaces of packaging, causing the food to be contaminated. This may also result in the addition of water to the food that is unclaimed in the food's formulation and label.

UnPACKAGED foods such as fresh FISH are often stored and/or displayed on ice. A potential for increasing the microbial load of a food exists because, as the ice melts, pathogens from one food may be carried by water to other foods. The potential for contamination is reduced by continuous draining of melting ice.

## Requirement

### **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. <sup>P</sup> or
- (B) SINGLE-SERVICE and SINGLE-USE ARTICLES. <sup>P</sup>

### **Public Health Guideline**

Pathogens can be transferred to food from UTENSILS that have been stored on surfaces that have not been cleaned and sanitized. They may also be passed on by CONSUMERS or food workers directly or indirectly from used TABLEWARE or food containers.

Some pathogenic microorganisms survive outside the body for considerable periods of time. Food that comes into contact directly or indirectly with surfaces that are not clean and sanitized is liable to such contamination. The handles of UTENSILS, even if manipulated with gloved hands, are particularly susceptible to contamination.

Probe-type price or identification tags are defined as a UTENSIL. This means that if such tags are for multiuse, they must meet the criteria listed in this CODE: ([Parts 4-1](#) Materials for Construction and Repair, and [4-2](#) Design and Construction). Probe-type price or product identification tags can cause microbial, chemical, or physical contamination if not properly designed, constructed, and maintained.

## Requirement

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

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

- (A) Except as specified under ¶ (B) of this section, in the food with their handles above the top of the food and the container;
- (B) In food that is not potentially HAZARDOUS (time/temperature control for safety food) with their handles above the top of the food within containers or EQUIPMENT that can be closed, such as bins of sugar, flour, or cinnamon;

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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- (C) On a clean portion of the food preparation table or cooking EQUIPMENT only if the in-use UTENSIL and the food-contact surface of the food preparation table or cooking EQUIPMENT are cleaned and sanitized at a frequency specified under §§ 4-602.11 and 4-702.11;
- (D) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;
- (E) In a clean, protected location if the UTENSILS, such as ice scoops, are used only with a food that is not potentially HAZARDOUS (time/temperature control for safety food); or
- (F) In a container of water if the container is cleaned at a frequency specified under Subparagraph 4-602.11(D)(7); and
  - (1) The water is maintained at a temperature of 135 degrees Fahrenheit or above; or
  - (2) At 41 degrees Fahrenheit or less.

### **Public Health Guideline**

Once a PERSON begins to use a UTENSIL such as a ladle, spatula, or knife, that has been previously cleaned and sanitized, it is then considered an in-use UTENSIL. In-use UTENSILS, used on a continuous or intermittent basis during preparation or dispensing, must be cleaned and sanitized on a schedule that precludes the growth of pathogens that may have been introduced onto UTENSIL surfaces. In-use UTENSILS may be safely stored in hot water maintained at 140°F or above during intermittent use because microbial growth is controlled at such temperatures.

Pathogens can be transferred to food from UTENSILS that have been stored on surfaces that have not been cleaned and sanitized. They may also be passed on by CONSUMERS or food workers directly or indirectly from used TABLEWARE or food containers.

Some pathogenic microorganisms survive outside the body for considerable periods of time. Food that comes into contact directly or indirectly with surfaces that are not clean and sanitized is liable to such contamination. The handles of UTENSILS, even if manipulated with gloved hands, are particularly susceptible to contamination.

## **Requirement**

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

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

### **Public Health Guideline**

Because of their absorbency, LINENS and napkins used as liners that contact food must be replaced whenever the container is refilled. Failure to replace such liners could cause the LINENS or napkins to become fomites.

Pathogens can be transferred to food from UTENSILS that have been stored on surfaces that have not been cleaned and sanitized. They may also be passed on by CONSUMERS or food workers directly or indirectly from used TABLEWARE or food containers.

Some pathogenic microorganisms survive outside the body for considerable periods of time. Food that comes into contact directly or indirectly with surfaces that are not clean and sanitized is

liable to such contamination. The handles of UTENSILS, even if manipulated with gloved hands, are particularly susceptible to contamination.

## **Requirement**

### **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.

### **Public Health Guideline**

Soiled wiping cloths, especially when moist, can become breeding grounds for pathogens that could be transferred to food. Any wiping cloths that are not dry (except those used once and then laundered) must be stored in a sanitizer solution at all times with the proper sanitizer concentration in the solution.

Wiping cloths soiled with organic material can overcome the effectiveness of, and neutralize, the sanitizer. The sanitizing solution must be changed as needed to minimize the accumulation of organic material and sustain proper concentration. Checking the solution periodically with an appropriate chemical test kit should ensure proper sanitizer concentration.

Some pathogenic microorganisms survive outside the body for considerable periods of time. Food that comes in contact directly or indirectly with surfaces that are not clean and sanitized is liable to such contamination.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### **3-304.15 Gloves, Use Limitation. (Amended)**

- (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.<sup>P</sup>
- (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.
- (E) The use of latex gloves in food service establishments is prohibited.

### **Public Health Guideline**

Gloves used in handling ready-to-eat food are defined as a "UTENSIL". This means that gloves used for food contact must meet the criteria listed in this CODE: (Parts 4-1 Materials for Construction and Repair, and 4-2 Design and Construction). All gloves used in direct contact with food must meet FDA criteria for indirect food ADDITIVES. The FDA, Office of Premarket Approval, Indirect ADDITIVES, reviews gloves submitted for food-contact use in the food industry on the basis of the glove's formulation or components.

Multiuse gloves, especially when used repeatedly and soiled, can become breeding grounds for pathogens that could be transferred to food. Soiled gloves can directly contaminate food if stored with ready-to-eat food or may indirectly contaminate food if stored with articles that will be used in contact with food. Slash-resistant gloves are not easily cleaned and sanitized. Their use with ready-to-eat foods could contaminate them.

Natural rubber latex gloves have been reported to cause allergic reactions in some individuals who wear latex gloves during food preparation, and even in individuals eating food prepared by food workers wearing latex gloves.

## Requirement

### **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 workers may not use TABLEWARE, including single-service articles, soiled by the CONSUMER, to provide second portions or refills.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

§ = Section

C = CORE ITEM

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(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).

### **Public Health Guideline**

Pathogens can be transferred to food from UTENSILS that have been stored on surfaces that have not been cleaned and sanitized. They may also be passed on by CONSUMERS or food workers directly or indirectly from used TABLEWARE or food containers.

Some pathogenic microorganisms survive outside the body for considerable periods of time Food that comes into contact directly or indirectly with surfaces that are not clean and sanitized is liable to such contamination. The handles of UTENSILS, even if manipulated with gloved hands, are particularly susceptible to contamination.

### **Requirement**

**3-304.17 Refilling Returnables. (Deleted)**

### **Requirement**

**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.*

### **Public Health Guideline**

Pathogens can contaminate and/or grow in food that is not stored properly. Drips of condensate and drafts of unfiltered air can be sources of microbial contamination for stored food. Shoes carry contamination onto the floors of food preparation and storage areas. Even trace amounts of REFUSE or wastes in rooms used as toilets or for dressing, storing garbage or implements, or

housing machinery can become sources of food contamination. Moist conditions in storage areas promote microbial growth.

## **Requirement**

### **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.

### **Public Health Guideline**

Pathogens can contaminate and/or grow in food that is not stored properly. Drips of condensate and drafts of unfiltered air can be sources of microbial contamination for stored food. Shoes carry contamination onto the floors of food preparation and storage areas. Even trace amounts of REFUSE or wastes in rooms used as toilets or for dressing, storing garbage or implements, or housing machinery can become sources of food contamination. Moist conditions in storage areas promote microbial growth.

## **Requirement**

### **3-305.13 Vended Potentially Hazardous Food, Original Container.**

POTENTIALLY HAZARDOUS 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.

### **Public Health Guideline**

The possibility of product contamination increases whenever food is exposed. Changing the container(s) for machine vended POTENTIALLY HAZARDOUS FOOD allows microbes that may be present an opportunity to contaminate the food. Pathogens could be present on the hands of the individual packaging the food, the EQUIPMENT used, or the exterior of the original packaging. In addition, many POTENTIALLY HAZARDOUS FOODS are vended in a hermetically SEALED state to ensure product safety. Once the original seal is broken, the food is vulnerable to contamination.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****3-305.14 Food Preparation.**

During preparation, UNPACKAGED food shall be protected from environmental sources of contamination.

**Public Health Guideline**

Food preparation activities may expose food to an environment that may lead to the food's contamination. Just as food must be protected during storage, it must also be protected during preparation. Sources of environmental contamination may include splash from cleaning operations, drips from overhead air conditioning vents, or air from an uncontrolled atmosphere such as may be encountered when preparing food in a building that is not constructed according to this CODE requirements.

**Requirement****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.<sup>Pf</sup>

**Public Health Guideline**

During display, food can be contaminated even when there is no direct hand contact. Many microbes can be conveyed considerable distances on air currents through fine sprays or aerosols. These may originate from people breathing or sneezing, water sprays directed at drains, or condensate from air conditioners. Even wind gusts across SEWAGE deposits and fertilized fields have been known to contaminate food in adjacent establishments where food was unprotected.

**Requirement****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.<sup>Pf</sup>

(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.<sup>Pf</sup>

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## **Public Health Guideline**

UNPACKAGED CONDIMENTS are exposed to contamination by CONSUMERS who could be suffering from a disease transmissible through food. Once the CONDIMENTS are contaminated, subsequent CONSUMERS using the CONDIMENTS may be exposed to pathogens. CONDIMENTS in individual packages are protected from CONSUMER contamination. On or off site facilities for refilling condiment dispensers must be adequately equipped to ensure that the filling operation does not introduce contaminants.

## **Requirement**

### **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. <sup>P</sup>

*This paragraph does not apply to:*

- (1) CONSUMER self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellFISH;
- (2) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as CONSUMER-cooked MEATS or CONSUMER-selected ingredients for Mongolian barbecue; or
- (3) Raw, frozen, shell-on shrimp, or lobster.

(B) CONSUMER self-service operations for ready-to-eat foods shall be provided with suitable UTENSILS or effective dispensing methods that protect the food from contamination. <sup>Pf</sup>

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

## **Public Health Guideline**

Raw foods of animal origin usually contain pathogens. In addition, these foods, if offered for CONSUMER self-service, could cross contaminate other foods stored in the same display. Because raw foods of animal origin are assumed to be contaminated and do provide an ideal medium for the growth of pathogenic organisms, they should not be available for CONSUMER self-service.

Self-service operations of ready-to-eat foods also provide an opportunity for contamination by CONSUMERS. The RISK of contamination can be reduced by supplying clean UTENSILS and dispensers and by food workers monitoring of these operations to ensure that the UTENSILS and dispensers are properly used.

Bean sprouts that are displayed in produce areas for CONSUMER self-service are POTENTIALLY HAZARDOUS FOODS and appropriate refrigeration must be maintained. However, they are not considered ready-to-eat because they need to be washed by the CONSUMER before consumption.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### **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.<sup>P</sup>

(B) Except as specified under ¶ 3-801.11(G), a container of food that is not potentially HAZARDOUS may be transferred 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 or steak sauce; or
- (2) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

### **Public Health Guideline**

Food can serve as a means of PERSON-to-PERSON transmission of disease agents such as hepatitis A virus. Any UNPACKAGED foods, even bakery goods in a breadbasket that are not potentially HAZARDOUS and that have been served to a CONSUMER-but not eaten can become vehicles for transmitting pathogenic microorganisms from the initial CONSUMER to the next if the food is served again.

## Requirement

### **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 through 3-306.

### **Public Health Guideline**

This CODE section provides a category in which to capture sources of contamination not specifically delineated in Subparts 3-301 through 306. Regardless of its specificity, this CODE cannot anticipate all the diverse means by which food can become contaminated after receipt.

## Requirement

### **3-307.12 Protection from Contamination, Use of Private Vehicles for Food Deliveries.**

(A) Private vehicles may be used for food deliveries if the food is PACKAGED so that it is protected from contamination under Part 3-3, and adequate means are provided for maintaining proper food temperatures under §3-501.16.

(B) Private vehicles shall not be used in any activity that is incompatible with safe and sanitary transportation of food.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

### Subparts

- 3-401    **Cooking**
- 3-402    **Freezing**
- 3-403    **Reheating**

### Requirement

#### 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: <sup>P</sup>

(a) Raw EGGS that are broken and prepared in response to a CONSUMER's order and for immediate service, <sup>P</sup> 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); <sup>P</sup>

(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: <sup>P</sup>

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

;or

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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(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. <sup>P</sup>

(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: <sup>Pf</sup>

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity <sup>1</sup>	121°C (250°F) or less	121°C (250°F) or less

<sup>1</sup> Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.

;and

(2) As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature: <sup>P</sup>

Temperature °C (°F)	Time <sup>1</sup> in Minutes	Temperature °C (°F)	Time <sup>1</sup> in Seconds
54.4 (130)	112	63.9 (147)	134
55.0 (131)	89	65.0 (149)	85
56.1 (133)	56	66.1 (151)	54
57.2 (135)	36	67.2 (153)	34
57.8 (136)	28	68.3 (155)	22
58.9 (138)	18	69.4 (157)	14
60.0 (140)	12	70.0 (158)	0
61.1 (142)	8		
62.2 (144)	5		
62.8 (145)	4		

<sup>1</sup> Holding time may include postoven heat rise.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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(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;<sup>Pf</sup> 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.

### **Public Health Guideline**

Cooking, to be effective in eliminating pathogens, must be adjusted for a number of factors. These factors include the anticipated level of pathogenic bacteria in the raw product, the initial temperature of the food, and the food's bulk that affects the time to achieve the needed internal product temperature. Other factors to be considered include post-cooking heat rise, and the time the food must be held at a specified internal temperature.

Greater numbers and varieties of pathogens are generally found on POULTRY than on other raw animal foods. Therefore, a higher temperature, in combination with the appropriate time is needed to cook POULTRY products.

To kill microorganisms, food must be held at a sufficient temperature for the specified time. Cooking is a scheduled process in which each of a series of continuous time/temperature combinations can be equally effective. For example, in cooking a beef roast, the microbial lethality achieved at 112 minutes after it has reached 54°C (130°F) is the same lethality attained as if it were cooked for 4 minutes after it has reached 63°C (145°F).

Cooking requirements are based in part on the biology of pathogens. The thermal destruction of a microorganism is determined by its ability to survive heat. Different species of microorganisms have different susceptibilities to heat. Also, the growing stage of a species (such as the vegetative cell of bacteria, the trophozoite of protozoa, or the larval form of worms) is less resistant than the same organism's survival form (the bacterial spore, protozoan cyst, or worm EGG).

<sup>P</sup> = Priority Item

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Food characteristics also affect the lethality of cooking temperatures. Heat penetrates into different foods at different rates. High fat content in food reduces the effective lethality of heat. High humidity within the cooking vessel and the moisture content of food aid thermal destruction.

Heating a large roast too quickly with a high oven temperature may char or dry the outside, creating a layer of insulation that shields the inside from efficient heat penetration. To kill all pathogens in food, cooking must bring **all parts** of the food up to the required temperatures for the correct length of time.

The temperature and time combination criteria specified in [Part 3-4](#) of this CODE is based on the destruction of ***Salmonellae***. This Part includes temperature and time parameters that provide "D" values (decimal log reduction values) that may surpass 7D. For example, at 63°C (145°F), a time span of 15 seconds will provide a 3D reduction of ***Salmonella Enteritidis*** in EGGS. This organism, if present in raw shell EGGS, is generally found in relatively low numbers.

Other foods, UNCOMMUNUTED FISH and MEATS including commercially raised GAME ANIMAL MEAT, specified as acceptable for cooking at this temperature and time parameter are expected to have a low level of internal contamination. The parameters are expected to provide destruction of the surface contaminants on these foods.

Seared steak provision was reviewed by the National Advisory Committee for Microbiological Criteria for Foods (NACMCF) and USDA. Paragraph [3-401.11 \(C\)](#) of this CODE includes their recommendations. USDA comments included, "For the purposes of this discussion, steak is a whole beef muscle. It does not include whole beef muscle that has been pinned, injected, or chopped and formed. It may be cut cross grain, such as sirloin, chuck, or porterhouse; or it may be cut with the grain, such as flank, skirt, or Chateaubriand. Other species, such as POULTRY, pork and lamb, are not included."

The National Advisory Committee for Microbiological Criteria (NACMCF) comments included the following. Due to the low probability of pathogenic organisms being present in or migrating from the external surface to the interior of beef muscle, cuts of intact muscle (steaks) should be safe if the external surfaces are exposed to temperatures sufficient to effect a cooked color change. In addition, the cut (exposed) surfaces must receive additional heat to affect a complete sear across the cut surfaces. Grill or char marks may be applied to the complete surface searing.

The MEAT should be seared on both top and bottom surfaces utilizing a heating environment (e.g., grill or broiling oven) that imparts a temperature at the surface of the intact steak of at least 145°F to achieve a cooked color change on all external surfaces. The searing of all surfaces should be continuous until the desired degree of doneness and appearance are attained. This is considered a READY TO EAT FOOD.

As reflected in the definition of "whole-muscle, intact beef steak," marination is a food safety concern when the fascia (exterior surface) of the steak is broken by scoring or other means that allows the marinade to penetrate, and potentially contaminate, the interior of the steak.

In pork, ***Trichinella spiralis***, ***Toxoplasma gondii***, and ***Taenia solium***, parasites causing foodborne illness, are inactivated at temperatures below 145°F. Therefore, pork roasts can be cooked like beef roasts (e.g., 145°F for 3 minutes) and pork chops cooked like steaks to achieve an internal temperature of 145°F for 15 seconds.

<sup>P</sup> = Priority Item

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Based on a study, a 5D reduction of organisms is achieved at 68°C (155°F) for 15 seconds for the following foods: RATITES and injected MEATS and COMMINUTED: FISH, MEAT, GAME ANIMALS commercially raised for food, and GAME ANIMALS that come under a USDA voluntary inspection program. RATITES such as ostrich, emu, and rhea are included in this list of raw animal foods because when cooked to a temperature greater than 68°C (155°F), RATITES exhibit a (metallic) “off” taste.

When USDA established the time and temperature parameters for 9 CFR 318.23 (known as the "patty rule"), the Agency based the 5D for Salmonella on extrapolations applied to the research to account for the lack of a "come up, come down" time in the thin, small mass beef patties. Consequently, there is no linear relationship between the patty rule and roast beef time and temperature parameters. The patty rule also provided for an 8D reduction in the number of *Escherichia coli*. The time and temperature requirements in this CODE for COMMINUTED MEATS are comparable to the USDA requirements.

The NACMCF MEAT and POULTRY Subcommittee, in 1997, revisited the time and temperatures for cooking hamburger and advised FDA that cooking hamburger to 158°F for less than one second is an adequate cook based on the following.

1. The cooking recommendations contained in this CODE and in USDA guidance provide a large margin of safety for killing vegetative enteric pathogens;
2. The concept of integrated lethality (the kill imparted during the entire heating and cooling process) adds to the margin of safety; and
3. The time component of the time and temperature requirement will be exceeded before the temperature can be determined.

The parameters for cooking POULTRY, wild GAME ANIMAL MEATS, stuffed food products, etc., of 74°C (165°F) or above for 15 seconds yield greater than a 7D reduction.

## Requirement

### **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;<sup>P</sup> and
- (D) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

### **Public Health Guideline**

The rapid increase in food temperature resulting from microwave heating does not provide the same cumulative time and temperature relationship necessary for the destruction of microorganisms as do conventional cooking methods. In order to achieve comparable lethality, the food must attain a temperature of 74°C (165°F) in all parts of the food.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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Since cold spots may exist in food cooking in a microwave oven, it is critical to measure the food temperature at multiple sites when the food is removed from the oven and then allow the food to stand covered for two minutes post microwave heating to allow thermal equalization and exposure. Although some microwave ovens are designed and engineered to deliver energy more evenly to the food than others, the important factor is to measure and ensure that the final temperature reaches 74°C (165°F) throughout the food.

The factors influencing microwave thermal processes include many of the same factors that are important in conventional cooking processes (mass of objects, shape of objects, specific heat and thermal conductivity, etc.). Other factors are unique in affecting microwave heating due to the nature of the electric field involved in causing molecular friction. These factors are exemplified by moisture and salt contents of foods that play a far more important role in microwave cooking than in conventional heating.

## Requirement

### **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).<sup>Pf</sup>

## Requirement

### **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;<sup>P</sup>
- (B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked POTENTIALLY HAZARDOUS FOOD (TIME /TEMPERATURE CONTROL FOR SAFETY FOOD) under ¶ 3-501.14(A);<sup>P</sup>
- (C) After cooling, held frozen or cold, as specified for POTENTIALLY HAZARDOUS FOOD TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) under ¶ 3-501.16(A)(2);<sup>P</sup>
- (D) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature and for a time that complies with one of the methods based upon the food being cooked as specified in 3-401.11.<sup>P</sup>
- (E) Cooled according to the time and temperature parameters specified for cooked POTENTIALLY HAZARDOUS FOOD (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;<sup>P</sup> and
- (F) Prepared and stored according to written procedures that:
  - (1) Have obtained prior APPROVAL from the REGULATORY AUTHORITY;<sup>Pf</sup>

<sup>P</sup> = Priority Item

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- (2) Are maintained in the FOOD ESTABLISHMENT and are available to the REGULATORY AUTHORITY upon request; <sup>Pf</sup>
- (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; <sup>Pf</sup>
- (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; <sup>Pf</sup> 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). <sup>Pf</sup>

### **Public Health Guideline**

Fruits and vegetables that are fresh, frozen, or canned and that are heated for hot holding need only to be cooked to the temperature required for hot holding. These foods do not require the same level of microorganism destruction as do raw animal foods since these fruits and vegetables are ready-to-eat at any temperature. Cooking to the hot holding temperature of 57°C (135°F) prevents the growth of pathogenic bacteria that may be present in or on these foods. In fact, the level of bacteria will be reduced over time at the specified hot holding temperature.

### **Requirement**

#### **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 other than MOLLUSCAN SHELLFISH shall be frozen throughout to a temperature of:

- (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; <sup>P</sup>
- (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; <sup>P</sup> 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. <sup>P</sup>

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

- (1) MOLLUSCAN SHELLFISH;
- (2) *Tuna of the species *Thunnus alalunga*, *Thunnusalbacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern); or*
- (3) *Aquacultured FISH, such as salmon, that:*
  - (a) *If raised in open water, are raised in net-pens, or*
  - (b) *Are raised in land-based operations such as ponds or tanks, and*

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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(c) *Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured FISH.*

(4) FISH EGGS that have been removed from the skein and rinsed.

### **Public Health Guideline**

Lightly cooked, raw, raw-marinated, and cold-smoked FISH may be desired by CONSUMERS for taste or perceived nutritional reasons. In order to ensure destruction of parasites, FISH may be frozen before service as an alternative public health control to that which is provided by adequate cooking. Candling or other visual inspection techniques are not adequate to avoid the RISK of parasites from FISH that have not been frozen.

In response to information provided to the FDA Office of Seafood, the FISH *and* FISHERY HAZARDS *and* Controls Guide lists certain species of tuna as not being susceptible to parasites of concern and therefore are exempted for the freezing requirements for other FISH species that are consumed raw.

### **Requirement**

#### **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 at the food establishment for 90 calendar days beyond the time of service or sale of the FISH.
- (B) If the FISH are frozen by a supplier, a written agreement or statement from the supplier stipulating that the FISH supplied are frozen to a temperature and for a time specified under § 3-402.11 may substitute for the records specified under ¶ (A) of this section.
- (C) If raw, raw-marinated, partially cooked, or marinated-partially cooked FISH are served or sold in READY-TO-EAT form, and the FISH are raised and fed as specified in Subparagraph 3-402.11(B)(3), a written agreement or statement from the supplier or aquaculturist stipulating that the FISH were raised and fed as specified in Subparagraph 3-402.11(B)(3) shall be obtained by the PERSON IN CHARGE and retained in the records of the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH. Pf

### **Public Health Guideline**

Records must be maintained to verify that the CRITICAL LIMITS required for food safety are being met. Records provide a check for both the operator and the regulator in determining that monitoring and corrective actions have taken place.

### **Requirement**

#### **3-403.10 Preparation for Immediate Service.**

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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.

- (A) Except as specified under ¶¶ (B) and (C) and in ¶ (E) of this section, POTENTIALLY HAZARDOUS FOOD (time/temperature control for safety food) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) for 15 seconds. <sup>P</sup>
- (B) Except as specified under ¶ (C) of this section, POTENTIALLY HAZARDOUS FOOD (time/temperature control for safety food) reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating. <sup>P</sup>
- (C) Ready-to-eat food taken from a commercially processed, HERMETICALLY SEALED CONTAINER, or from an intact package from a food processing plant that is inspected by the food REGULATORY AUTHORITY that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) for hot holding. <sup>P</sup>
- (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. <sup>P</sup>
- (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).*

### **Public Health Guideline**

When food is held, cooled, and reheated in a food establishment, there is an increased RISK from contamination caused by food workers, EQUIPMENT, procedures, or other factors. If food is held at improper temperatures for enough time, pathogens have the opportunity to multiply to dangerous numbers. Proper reheating provides a major degree of assurance that pathogens will be eliminated. It is especially effective in reducing the numbers of ***Clostridium perfringens*** that may grow in MEAT, POULTRY, or gravy if these products were improperly held.

Vegetative cells of ***Clostridium perfringens*** can cause foodborne illness when they grow to high numbers. Although it takes as many as one million cells to cause foodborne illness, the generation time for ***Clostridium perfringens*** is very short at temperatures just below adequate hot holding. Highly resistant ***Clostridium perfringens*** spores will survive cooking and hot holding. If food is abused by being held below adequate hot holding temperatures, spores can germinate to become rapidly multiplying vegetative cells.

Although proper reheating will kill most organisms of concern, some toxins such as that produced by ***Staphylococcus aureus***, cannot be inactivated through reheating of the food. It is imperative that food contamination be minimized to avoid this RISK. The potential for growth of pathogenic bacteria is greater in reheated cooked foods than in raw foods. This is because spoilage bacteria, which inhibit the growth of pathogens by competition on raw product, are killed during cooking. Subsequent

recontamination will allow pathogens to grow without competition if temperature abuse occurs.

### **Requirement**

#### **3-404.11 Treating Juice (deleted)**

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 3-5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

### Subparts

3-501 Temperature and Time Control

3-502 **Specialized Processing Methods**

### Requirement

#### 3-501.11 Frozen Food.

Stored frozen foods shall be maintained frozen.

#### **Public Health Guideline**

Freezing prevents microbial growth in foods, but usually does not destroy all microorganisms. Improper thawing provides an opportunity for surviving bacteria to grow to harmful numbers and/or produce toxins. If the food is then refrozen, significant numbers of bacteria and/or all preformed toxins are preserved.

### Requirement

#### 3-501.12 Potentially Hazardous Food, Slacking.

Frozen POTENTIALLY HAZARDOUS FOOD (time/temperature control for safety food) that is slacked to moderate the temperature shall be held:

- (A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; or
- (B) At any temperature if the food remains frozen.

#### **Public Health Guideline**

Freezing prevents microbial growth in foods, but usually does not destroy all microorganisms. Improper thawing provides an opportunity for surviving bacteria to grow to harmful numbers and/or produce toxins. If the food is then refrozen, significant numbers of bacteria and/or all preformed toxins are preserved.

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**Requirement****3-501.13 Thawing.**

Except as specified in ¶ (D) of this section, POTENTIALLY HAZARDOUS 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.*

**Public Health Guideline**

Freezing prevents microbial growth in foods, but usually does not destroy all microorganisms. Improper thawing provides an opportunity for surviving bacteria to grow to harmful numbers and/or produce toxins. If the food is then refrozen, significant numbers of bacteria and/or all preformed toxins are preserved.

**Requirement****3-501.14 Cooling.**

- (A) Cooked POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled:
  - (1) Within 2 hours from 57°C (135°F) to 21°C (70°F);<sup>P</sup> and
  - (2) Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less.<sup>P</sup>
- (B) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled within 4 hours to 5°C (41°F) or less if prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna.<sup>P</sup>

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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- (C) Except as specified under ¶ (D) of this section, a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) received in compliance with LAWS allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in ¶ 3-202.11(B), shall be cooled within 4 hours to 5°C (41°F) or less. <sup>P</sup>
- (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. <sup>P</sup>

### **Public Health Guideline**

Proper cooling requires removing heat from food quickly enough to prevent microbial growth. Excessive time for cooling of POTENTIALLY HAZARDOUS FOODS has been consistently identified as one of the leading contributing factors to food borne illness. During extended cooling, POTENTIALLY HAZARDOUS FOODS are subject to the growth of a variety of pathogenic microorganisms. A longer time near ideal bacterial incubation temperatures, 21°C - 49°C (70°F - 120°F), is to be avoided. If the food is not cooled in accordance with this CODE requirement, pathogens may grow to sufficient numbers to cause foodborne illness.

If the cooking step prior to cooling is adequate and no recontamination occurs, all but the spore-forming organisms such as *Clostridium perfringens* or *Bacillus cereus* should be killed or inactivated. However, under poorly monitored conditions, other pathogens such as *Salmonella* may be reintroduced. Thus, cooling requirements have been based on growth characteristics of organisms that grow rapidly under temperature abuse conditions.

A separate method for cooling shell EGGS is allowed in food establishments because of the cumulative information that has been gathered about the specific dynamics of the particular pathogen of concern in intact shell EGGS. Aside from the recognized need for an integrated approach to the cooling of EGGS from farm to table, there are several germane facts that support unique provisions for cooling EGGS at retail.

- There is only one type of microorganism, pathogenic to humans, which appears to be passed transovarially, i.e., *Salmonella* spp.
- *Salmonella Enteritidis* has been shown to have an extended lag phase in shell EGGS due to inhibitory characteristics of the albumen. Research indicates that the organisms are physically located near the exterior of the yolk membrane, in contact with the bacteriostatic components. Growth does not appear until the yolk membrane is weakened by age or physically breached and the yolk nutrients, such as iron, become available to the organisms.
- Traditional methods of rapidly cooling EGGS after washing by the producer or packer can cause damage to the EGGS. The EGGS may develop cracks and/or checks because of temperature gradients that could lead to migration through the shell of microorganisms on the surface.

Federal regulations require shell EGGS to be transported and distributed under refrigeration at an ambient temperature not to exceed 45°F. Packed shell EGGS must be labeled indicating that refrigeration is required. Imported shell EGGS packed for CONSUMER use are required to include a

<sup>P</sup> = Priority Item

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certification that the EGGS, at all times after packing, have been stored and transported at an ambient temperature of no greater than 45°F.

Shell EGGS are allowed longer than four hours to cool to the temperature required under this CODE provided they are placed immediately after receipt in refrigerated EQUIPMENT that is capable of maintaining food temperatures as required by this CODE. With the newly established federal requirement for EGGS to be in an ambient storage and transportation temperature of 45°F and with refrigeration of EGGS at retail as described above, the overall time that EGGS are stored at temperatures that allow the growth of *Salmonella* spp. should be shortened. Upon receiving shell EGGS, food establishment operators should maximize the circulation of cooled air in refrigeration units by separating flats, cases, and multiple cartons of EGGS.

## Requirement

### 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;<sup>Pf</sup>
- (2) Separating the food into smaller or thinner portions;<sup>Pf</sup>
- (3) Using rapid cooling EQUIPMENT;<sup>Pf</sup>
- (4) Stirring the food in a container placed in an ice water bath;<sup>Pf</sup>
- (5) Using containers that facilitate heat transfer;<sup>Pf</sup>
- (6) Adding ice as an ingredient;<sup>Pf</sup> or
- (7) Other effective methods.<sup>Pf</sup>

(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<sup>Pf</sup>; 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.<sup>Pf</sup>

## Public Health Guideline

Large food items, such as roasts, turkeys, and large containers of rice or refried beans, take longer to cool because of the mass and volume from which heat must be removed. By reducing the volume of the food in an individual container, the rate of cooling is dramatically increased and opportunity for pathogen growth is minimized. If the hot food container is tightly covered, the rate of heat transfer is reduced, i.e., the time required for cooling and the time the food is exposed to optimal temperatures for bacterial multiplication or toxin production are increased.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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Alternatives to conventional methods include avoiding the need to cool larger masses by preparing smaller batches closer to periods of service or chilling while stirring hot food in containers within an ice water bath. Commercial refrigeration EQUIPMENT is designed to hold cold food temperatures, not cool large masses of food. Rapid chilling EQUIPMENT is designed to cool the food to acceptable temperatures quickly by using very low temperatures and high rates of air circulation.

## Requirement

### 3-501.16 Potentially Hazardous Food, Hot and Cold Holding.

(A) *Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under § 3-501.19, and except as specified under ¶ (B) and in ¶ (C) of this section, POTENTIALLY HAZARDOUS FOOD 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;<sup>P</sup> or*

(2) *At 5°C (41°F) or less.<sup>P</sup>*

(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.<sup>P</sup>*

(C) *POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under ¶ (A) of this section, while contained within specially designed EQUIPMENT that complies with the design and construction requirements as specified under ¶ 4-204.13(E).*

## Public Health Guideline

CDC estimates that approximately 250,000 foodborne illness cases can be attributed to **C. perfringens** and **B. cereus** each year in the United States. These spore-forming pathogens have been implicated in foodborne illness outbreaks associated with foods held at improper temperatures. This suggests that preventing the growth of these organisms in food by maintaining adequate hot holding temperatures is an important public health intervention.

Taking into consideration the recommendations of NACMCF and the 2002 Conference for Food Protection meeting, FDA believes that maintaining food at a temperature of 57°C (135°F) or greater during hot holding is sufficient to prevent the growth of pathogens and is therefore an effective measure in the prevention of foodborne illness.

Bacterial growth and/or toxin production can occur if POTENTIALLY HAZARDOUS FOOD remains in the temperature "Danger Zone" of 5°C to 60°C (41°F to 135°F) too long. Up to a point, the rate of growth increases with an increase in temperature within this zone. Beyond the upper limit of the optimal temperature range for a particular organism, the rate of growth decreases. Operations requiring heating or cooling of food should be performed as rapidly as possible to avoid the possibility of bacterial growth.

<sup>P</sup> = Priority Item

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## Requirement

### 3-501.17 Ready-to-Eat, Potentially Hazardous Food, Date Marking.

#### ***On-premises preparation***

- prepare and hold cold

(A) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under § 3-502.12, and except as specified in ¶ (D) and (E) of this section, refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) prepared and held in a FOOD ESTABLISHMENT for more than 24 hours shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of 7 days. The day of preparation shall count as Day 1.<sup>Pf</sup>

#### ***Commercially processed food***

- open and hold cold

(B) Except as specified in ¶¶ (D) - (F) of this section, refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) prepared and PACKAGED by a FOOD PROCESSING PLANT shall be clearly marked, at the time the original container is opened in a FOOD ESTABLISHMENT and if the FOOD is held for more than 24 hours, to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded, based on the temperature and time combinations specified in ¶ (A) of this section and:<sup>Pf</sup>

- (1) The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1;<sup>Pf</sup> 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.<sup>Pf</sup>

(C) A refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ingredient or a portion of a refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is subsequently combined with additional ingredients or portions of FOOD shall retain the date marking of the earliest-prepared or first prepared ingredient.<sup>Pf</sup>

(D) A date marking system that meets the criteria stated in ¶¶ (A) and (B) of this section may include:

- (1) *Using a method APPROVED by the REGULATORY AUTHORITY for refrigerated, READY-TO-EAT POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is frequently rewrapped, such as lunchMEAT or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;*
- (2) *Marking the date or day of preparation, with a procedure to discard the FOOD 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*

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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(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 re-PACKAGED for sale from a bulk container upon a CONSUMER's request.*

(F) *Paragraph (B) of this section does not apply to the following FOODS prepared and PACKAGED by a FOOD PROCESSING PLANT inspected by a REGULATORY AUTHORITY:*

- (1) *Deli salads, such as ham salad, seafood salad, chicken salad, EGG salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110 Current good manufacturing practice in manufacturing, packing, or holding human food;*
- (2) *Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and REGGiano, and romano;*
- (3) *Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;*
- (4) *Cultured dairy products as defined in 21 CFR 131 Milk and cream, such as yogurt, sour cream, and buttermilk;*
- (5) *Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 CFR 114 Acidified foods;*
- (6) *Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers, and which retain the original CASING on the product; and*
- (7) *Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers.*

### **Public Health Guideline**

Refrigeration prevents food from becoming a HAZARD by significantly slowing the growth of most microbes. The growth of some bacteria, such as ***Listeria monocytogenes***, is significantly slowed but not stopped by refrigeration. Over a period of time, this and like organisms may increase to HAZARDOUS levels in ready-to-eat foods.

The date by which the food must be consumed takes into consideration the differences in growth of ***Listeria monocytogenes*** at 5°C (41°F) and 7°C (45°F). Based on a predictive growth curve modeling program for ***Listeria monocytogenes***, ready-to-eat, POTENTIALLY HAZARDOUS FOOD may be kept at 5°C (41°F) a total of 7 days or at 7°C (45°F) a total of 4 days. Therefore, the period of time allowed before consumption is shortened for food in refrigerators incapable of maintaining food at 5°C (41°F) but capable of maintaining it at 7°C (45°F) or below.

Food that is prepared and held, or prepared, frozen, and thawed must be controlled by date marking to ensure its safety based on the total amount of time it was held at refrigeration temperature, and the opportunity for ***Listeria monocytogenes*** to multiply, before freezing and after thawing. Potentially HAZARDOUS refrigerated foods must be consumed or discarded by the expiration date.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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POTENTIALLY HAZARDOUS FOOD may be held without temperature control for short time periods not exceeding four hours because there will be no significant growth or toxin production possible in that limited time. At the end of four hours, the POTENTIALLY HAZARDOUS FOOD needs to be discarded.

Recipes in which more than one EGG is combined carry an increased RISK of illness and possible serious consequences for certain people. It is due to this increased RISK, and documented occurrences of foodborne illness and death among highly susceptible populations from temperature-abused raw shell EGGS contaminated with *Salmonella Enteritidis*, that the use of time as a public health control in institutional settings is not allowed.

## Requirement

### **3-501.18 Ready-to-Eat, Potentially HAZARDOUS 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;<sup>P</sup>
- (2) Is in a container or PACKAGE that does not bear a date or day;<sup>P</sup> or
- (3) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in ¶ 3-501.17(A).<sup>P</sup>

(B) Refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) prepared in a FOOD ESTABLISHMENT and dispensed through a VENDING MACHINE with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in ¶ 3-501.17(A).<sup>P</sup>

## Requirement

### **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 POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) before cooking, or for READY-TO-EAT POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is displayed or held for 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:<sup>Pf</sup>
  - (a) Methods of compliance with Subparagraphs (B)(1) -(3) or C)(1)-(5) of this section;<sup>Pf</sup> 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.<sup>Pf</sup>

### ***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:

<sup>P</sup> = Priority Item

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- (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; <sup>P</sup>
- (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; <sup>Pf</sup>
- (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; <sup>P</sup> and
- (4) The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded. <sup>P</sup>

***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; <sup>P</sup>
  - (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;* <sup>Pf</sup>
  - (3) The food shall be marked or otherwise identified to indicate: <sup>Pf</sup>
    - (a) The time when the food is removed from 5°C (41°F) or less cold holding temperature control, <sup>Pf</sup> and
    - (b) The time that is 6 hours past the point in time when the food is removed from cold holding temperature control; <sup>Pf</sup>
  - (4) The food shall be:
    - (a) Discarded if the temperature of the food exceeds 21°C (70°F), <sup>P</sup> 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; <sup>P</sup> and
  - (5) The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded. <sup>P</sup>
- (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.

**Requirement**

**3-502.11 Variance Requirement. (Deleted)**

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### 3-502.12 Reduced Oxygen Packaging, Criteria. (Deleted)

## 3-6 FOOD IDENTITY, PRESENTATION, AND ON- PREMISES

### LABELING

#### Subparts

3-601 Accurate Representation

3-602 [Labeling](#)

## Requirement

### 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.

## Requirement

### 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.

## Requirement

### 3-602.11 Food Labels.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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- (A) Food PACKAGED in a food establishment, shall be labeled as specified in LAW, including 21 CFR 101 - Food Labeling, and 9 CFR 317 Labeling, Marking Devices, and Containers.
- (B) Label information shall include:
- (1) The common name of the food, or absent a common name, an adequately descriptive identity statement;
  - (2) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;
  - (3) An accurate declaration of the quantity of contents;
  - (4) The name and place of business of the manufacturer, packer, or distributor; and
  - (5) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3)-(5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.
  - (7) For any salmonid FISH containing canthaxanthin as a COLOR ADDITIVE, the labeling of the bulk FISH container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.
- (C) Bulk food that is available for CONSUMER self-dispensing shall be prominently labeled with the following information in plain view of the CONSUMER:
- (1) The manufacturer's or processor's label that was provided with the food; or
  - (2) A card, sign, or other method of notification that includes the information specified under Subparagraphs (B)(1), (2), and (5) of this section.
- (D) Bulk, UNPACKAGED foods such as bakery products and UNPACKAGED foods that are portioned to CONSUMER specification need not be labeled if:
- (1) A health, nutrient content, or other claim is not made;
  - (2) There are no state or local LAWS requiring labeling; and
  - (3) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same PERSON and is regulated by the food regulatory agency that has jurisdiction.

## **Requirement**

### **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.

## **Public Health Guideline**

The identity of a food in terms of origin and composition is important for instances when a food may be implicated in a foodborne illness and for nutritional information requirements. Ingredient

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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information is needed for CONSUMERS who have allergies to certain food ingredients. The appearance of a food should not be altered or disguised because it is a cue to the CONSUMER of the food's identity and condition.

Recent illnesses and deaths from *Escherichia coli* 0157:H7 have occurred across the United States as a result of people eating hamburgers that were contaminated and then undercooked. USDA issued final rules on August 8, 1994 requiring all raw MEAT or POULTRY products have a safe-handling label or sticker or be accompanied by a leaflet that contains information on proper handling and cooking procedures.

## Requirement

### **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

<sup>P</sup> = Priority Item

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**3-7 CONTAMINATED FOOD****Subpart****3-701 Disposition****Requirement****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.<sup>P</sup>

(B) Food that is not from an APPROVED source as specified under §§ 3-201.11 - .17 shall be discarded.<sup>P</sup>

(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.<sup>P</sup>

(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.<sup>P</sup>

(E) POTENTIALLY HAZARDOUS FOODS (TCS) that have been kept at temperatures above 41 degrees Fahrenheit or below 135 degrees Fahrenheit for more than four hours shall be discarded.<sup>P</sup>

**Public Health Guideline**

Pathogens may be transmitted from PERSON to PERSON through contaminated food. The potential spread of illness is limited when food is discarded if it may have been contaminated by food workers who are infected, or who are suspected of being infected, or by any PERSON who otherwise contaminates it.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**3-8 SPECIAL REQUIREMENTS FOR HIGHLY  
SUSCEPTIBLE  
POPULATIONS  
Subpart**

### Requirement

#### **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(B) - (E) and as specified in 21 CFR Part 120 – HAZARD Analysis and CRITICAL CONTROL POINT (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls. 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, EGGnog, ice cream, and EGG-fortified BEVERAGES, and

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

(2) A partially cooked animal food such as lightly cooked FISH, rare MEAT, soft-cooked EGGS that are made from raw shell EGGS, and meringue, and

(3) Raw seed sprouts.

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

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(E) Time only, as the public health control as specified under ¶ 3-501.19(D), may not be used for raw EGGS. <sup>P</sup>

(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 READYTO-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 worker responsible for the preparation of the food understands the procedures to be used.

(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).

(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.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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### **Public Health Guideline**

This CODE provisions that relate to highly susceptible populations are combined in this section for ease of reference and to add emphasis to special food safety precautions that are necessary to protect those who are particularly vulnerable to foodborne illness and for whom the implications of such illness can be dire.

As a safeguard for highly susceptible populations from the RISK of contracting foodborne illness from JUICE, PREPACKAGED JUICE is required to be obtained pasteurized or in a commercially sterile, shelf-stable form in a HERMETICALLY SEALED CONTAINER. It is important to note that the definition of "JUICE" includes, pureed fruits and vegetables, which is commonly served to highly susceptible populations. There are documented cases of foodborne illness throughout the United States that were associated with the consumption of various JUICE products contaminated with microorganisms such as **Cryptosporidium**, **Escherichia coli** 0157:H7, **Salmonella** spp., and **Vibrio cholera**. Salmonella often survives traditional preparation techniques. It survives in a lightly cooked omelet, French toast, stuffed pasta made with raw EGG, and meringue pies. In 1986 there was a large multistate outbreak of **Salmonella Enteritidis** traced to stuffed pasta made with raw EGGS.

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## 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**

P = Priority Item

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§ = Section

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## Requirement

### 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: <sup>P</sup>

- (A) Safe;<sup>P</sup>
- (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.

### **Public Health Guideline**

Multiuse EQUIPMENT is subject to deterioration because of its nature, i.e., intended use over an extended period of time. Certain materials allow harmful chemicals to be transferred to the food being prepared which could lead to foodborne illness. In addition, some materials can affect the taste of the food being prepared.

Surfaces that are unable to be routinely cleaned and sanitized because of the materials used could harbor foodborne pathogens. Deterioration of the surfaces of EQUIPMENT such as pitting may inhibit adequate cleaning of the surfaces of EQUIPMENT, so that food prepared on or in the EQUIPMENT becomes contaminated.

Inability to effectively wash, rinse and sanitize the surfaces of food EQUIPMENT may lead to the buildup of pathogenic organisms transmissible through food. Studies regarding the rigor required to remove biofilms from SMOOTH surfaces highlight the need for materials of optimal quality in multiuse EQUIPMENT.

## Requirement

### 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.*

### **Public Health Guideline**

Cast iron is an alloy of iron and heavy metals that may leach into food if left in contact with acidic foods for extended periods of time. Heavy metal poisoning has resulted from such situations. The temporary or incidental contact that results from using cast iron as a cooking surface and for dispensing UTENSILS used as part of an uninterrupted process is acceptable because of the brief contact time involved.

<sup>P</sup> = Priority Item

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## Requirement

### 4-101.13 Lead in Ceramic, China, and Crystal Utensils, Use Limitation.

Ceramic, china, 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:<sup>P</sup>

Utensil Category	Description	Maximum Lead mg/L
BEVERAGE Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls > 1.1 Liter (1.16 Quart)	1
Small Hollowware (excluding cups & mugs)	Bowls < 1.1 Liter (1.16 Quart)	2.0
Flat TABLEWARE	Plates, Saucers	3.0

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

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

### **Public Health Guideline**

Historically, lead has been used in the formulation and/or decoration of these types of UTENSILS. Specifically, lead-based paints that were used to decorate the UTENSILS such as color glazes have caused high concentrations of lead to leach into the food they contain.

Lead poisoning continues to be an important public health concern due to the seriousness of associated medical problems. Lead poisoning is particularly harmful to the young and has caused learning disabilities and medical problems among individuals who have consumed high levels. The allowable levels of lead are specific to the type of UTENSIL, based on the average contact time and properties of the foods routinely stored in each item listed.

<sup>P</sup> = Priority Item

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**Requirement****4-101.14 Copper, Use Limitation. (Amended)**

(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 for a fitting or tubing installed between a backflow prevention device and a carbonator.<sup>P</sup>

(B) (Deleted)

**Public Health Guideline**

High concentrations of copper are poisonous and have caused foodborne illness. When copper and copper alloy surfaces contact acidic foods, copper may be leached into the food. Carbon dioxide may be released into a water supply because of an ineffective or nonexistent backflow prevention device between a carbonator and copper plumbing components. The acid that results from mixing water and carbon dioxide leaches copper from the plumbing components and the leachate is then transferred to BEVERAGES, causing copper poisoning. Backflow prevention devices constructed of copper and copper alloys can cause, and have resulted in the leaching of both copper and lead into carbonated BEVERAGES.

Brass is an alloy of copper and zinc and contains lead that is used to combine the two elements. Historically, brass has been used for items such as pumps, pipe fitting, and goblets. All three constituents are subject to leaching when they contact acidic foods, and food poisoning has resulted from such contact.

**Requirement****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.<sup>P</sup>

**Public Health Guideline**

Galvanized means iron or steel coated with zinc, a heavy metal that may be leached from galvanized containers into foods that are high in water content. The RISK of leaching increases with increased acidity of foods contacting the galvanized container.

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

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Public Health Guideline**

Sponges are difficult, if not impossible, to clean once they have been in contact with food particles and contaminants that are found in the use environment. Because of their construction, sponges provide harborage for any number and variety of microbiological organisms, many of which may be pathogenic. Therefore, sponges are to be used only where they will not contaminate cleaned and sanitized or in-use, food-contact surfaces such as for cleaning EQUIPMENT and UTENSILS before rinsing and sanitizing.

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

(A) Except as specified in ¶¶ (B), (C), (D) and (E) 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.*

(E) *Untreated wood planks, such as cedar, may be used as a cooking surface for grilling or baking.*

**Public Health Guideline**

The limited acceptance of the use of wood as a food-contact surface is determined by the nature of the food and the type of wood used. Moist foods may cause the wood surface to deteriorate, and the surface may become difficult to clean. In addition, wood that is treated with preservatives may result in illness due to the migration of the preservative chemicals to the food; therefore, only specific preservatives are allowed.

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

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

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**Public Health Guideline**

Perfluorocarbon resin is a tough, nonporous and stable plastic material that gives cookware and bakeware a surface to which foods will not stick. Food is easily and quickly cleaned from this surface. FDA has APPROVED the use of this material as safe for food-contact surfaces. FDA has determined that neither the particles that may chip off nor the fumes given off at high temperatures pose a health HAZARD.

Because this nonstick finish may be scratched by sharp or rough-edged kitchen tools, the manufacturer's recommendations should be consulted and the use of UTENSILS that may scratch, abrasive scouring pads, or cleaners be avoided.

**Requirement****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.

**Public Health Guideline**

Nonfood-contact surfaces of EQUIPMENT routinely exposed to splash or food debris are required to be constructed of nonabsorbent materials to facilitate cleaning. EQUIPMENT that is easily cleaned minimizes the presence of pathogenic organisms, moisture, and debris and deters the attraction of rodents and insects.

**Requirement****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,<sup>P</sup> or
- (2) Impart colors, odors, or tastes to food; and

(B) Shall be:

- (1) Safe,<sup>P</sup> and
- (2) Clean.

**Public Health Guideline**

The safety and quality of food can be adversely affected through single service and single use articles that are not constructed of acceptable materials. The migration of components of those materials to food they contact could result in chemical contamination and illness to the CONSUMER. In addition, the use of unacceptable materials could adversely affect the quality of the food because of odors, tastes, and colors transferred to the food.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 4-2 DESIGN AND CONSTRUCTION

4-201 Durability and Strength

4-203 Accuracy

4-204 Functionality

4-205 Acceptability

### Requirement

#### 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.

#### **Public Health Guideline**

EQUIPMENT and UTENSILS must be designed and constructed to be durable and capable of retaining their original characteristics so that such items can continue to fulfill their intended purpose for the duration of their life expectancy and to maintain their easy clean ability. If they cannot maintain their original characteristics, they may become difficult to clean, allowing for the harborage of pathogenic microorganisms, insects, and rodents.

EQUIPMENT and UTENSILS must be designed and constructed so that parts do not break and end up in food as foreign objects or present injury HAZARDS to CONSUMERS. A common example of presenting an injury HAZARD is the tendency for tines of poorly designed single service forks to break during use.

### Requirement

#### 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.<sup>P</sup>

#### **Public Health Guideline**

Food TEMPERATURE MEASURING DEVICES that have glass sensors or stems present a likelihood that glass will end up in food as a foreign object and create an injury HAZARD to the CONSUMER. In addition, the contents of the TEMPERATURE MEASURING DEVICE, e.g., mercury, may contaminate food OR UTENSILS.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### 4-202.11 Food-Contact Surfaces.

(A) Multiuse food-contact surfaces shall be:

- (1) SMOOTH;<sup>Pf</sup>
- (2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;<sup>Pf</sup>
- (3) Free of sharp internal angles, corners, and crevices;<sup>Pf</sup>
- (4) Finished to have SMOOTH welds and joints;<sup>Pf</sup> 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,<sup>Pf</sup>
  - (b) By disassembling without the use of tools,<sup>Pf</sup> 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.<sup>Pf</sup>

*(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.*

### **Public Health Guideline**

The purpose of the requirements for multiuse food-contact surfaces is to ensure that such surfaces are capable of being easily cleaned and accessible for cleaning. Foodcontact surfaces that do not meet these requirements provide a potential harbor for foodborne pathogenic organisms.

Surfaces having imperfections such as cracks, chips, or pits allow microorganisms to attach and form biofilms. Once established, these biofilms can release pathogens to food. Biofilms are highly resistant to cleaning and sanitizing efforts. The requirement for easy disassembly recognizes the reluctance of food workers to disassemble and clean EQUIPMENT if the task is difficult or requires the use of special, complicated tools.

## Requirement

### 4-202.12 CIP (Cleaned in Place) 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,<sup>Pf</sup> and
- (2) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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(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.

### **Public Health Guideline**

Certain types of EQUIPMENT are designed to be cleaned in place (CIP) where it is difficult or impractical to disassemble the EQUIPMENT for cleaning. Because of the closed nature of the system, CIP cleaning must be monitored via access points to ensure that cleaning has been effective throughout the system.

The CIP design must ensure that all food-contact surfaces of the EQUIPMENT are contacted by the circulating, cleaning, and sanitizing solutions. Dead spots in the system, i.e., areas that are not contacted by the cleaning and sanitizing solutions, could result in the buildup of food debris and growth of pathogenic microorganisms. There is equal concern that cleaning and sanitizing solutions might be retained in the system, which may result in the inadvertent adulteration of food. A CIP system must be self-draining.

### **Requirement**

#### **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.

### **Public Health Guideline**

V-type threads present a surface that is difficult to clean routinely; therefore, they are not allowed on food-contact surfaces. The exception provided for hot oil cooking fryers and filtering systems is based on the high temperatures that are used in this EQUIPMENT. The high temperature in effect sterilizes the EQUIPMENT, including debris in the "V" threads.

### **Requirement**

#### **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.

### **Public Health Guideline**

To facilitate and ensure effective cleaning of this EQUIPMENT, this CODE requirements, §§ 4-202.11 and 4-202.12 must be followed. The filter is designed to keep the oil free of undesired materials and therefore must be readily accessible for replacement. Filtering the oil reduces the likelihood that off-odors, tastes, and possibly toxic compounds may be imparted to food as a result of debris buildup. To ensure that filtering occurs, it is necessary for the filter to be accessible for replacement.

**Requirement****4-202.15 Can Openers.**

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

**Public Health Guideline**

Once can openers become pitted or the surface in any way becomes uncleanable, they must be replaced because they can no longer be adequately cleaned and sanitized. Can openers must be designed to facilitate replacement.

**Requirement****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.

**Public Health Guideline**

Hard-to-clean areas could result in the attraction and harborage of insects and rodents and allow the growth of foodborne pathogenic microorganisms. Well-designed EQUIPMENT enhances the ability to keep nonfood contact surfaces clean.

**Requirement****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 Subparagraphs 4-202.11(A)(5) or capable of being rotated open; and
- (B) Removable or capable of being rotated open without unlocking EQUIPMENT doors.

**Public Health Guideline**

The use of kick plates is required to allow access for proper cleaning. If kick plate design and installation does not meet this CODE requirements, debris could accumulate and create a situation that may attract insects and rodents.

**Requirement****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.

**Requirement****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. <sup>Pf</sup>
- (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. <sup>Pf</sup>

**Public Health Guideline**

The Metric Conversion Act (amended 1988) requires that all federal government regulations use the Celsius scale for temperature measurement. The Fahrenheit scale is included in this CODE for those jurisdictions using the Fahrenheit scale for temperature measurement.

The small margin of error specified for thermometer accuracy is due to the lack of a large safety margin in the temperature requirements themselves. The accuracy specified for a particular food TEMPERATURE MEASURING DEVICE is applicable to its entire range of use, that is, from refrigeration through cooking temperatures, if the device is intended for such use.

**Requirement****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. <sup>Pf</sup>
- (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. <sup>Pf</sup>

**Public Health Guideline**

A TEMPERATURE MEASURING DEVICE used to measure the air temperature in a refrigeration unit is not required to be as accurate as a food thermometer because the unit's temperature fluctuates with repeated opening and closing of the door and because accuracy in measuring internal food temperatures is of more significance.

The Celsius scale is the federally recognized scale based on The Metric Conversion Act (amended 1988) that requires the use of metric values. The  $\pm 1.5^{\circ}\text{C}$  requirement is more stringent than the  $3^{\circ}\text{F}$  previously required since  $\pm 1.5^{\circ}\text{C}$  is equivalent to  $\pm 2.7^{\circ}\text{F}$ . The more rigid accuracy results from the practical application of metric equivalents to the temperature gradations of Celsius thermometers.

<sup>P</sup> = Priority Item

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If Fahrenheit thermometers are used, the 3°F requirement applies because of the calibrated intervals of Fahrenheit thermometers.

The accuracy specified for a particular air or water TEMPERATURE MEASURING DEVICE is applicable to its intended range of use. For example, a cold holding unit may have a TEMPERATURE MEASURING DEVICE that measures from a specified frozen temperature to 20°C (68°F). The device must be accurate to specifications within that use range.

## Requirement

### **4-203.13 Pressure Measuring Devices, Mechanical Warewashing EQUIPMENT.**

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pounds per square inch) or smaller and shall be accurate to  $\pm 14$  kilopascals ( $\pm 2$  pounds per square inch) in the range indicated on the manufacturer's data plate.

### **Public Health Guideline**

Flow pressure is a very important factor with respect to the efficacy of SANITIZATION. A pressure below the design pressure results in inadequate spray patterns and incomplete coverage of the UTENSIL surfaces to be sanitized. Excessive flow pressure will tend to atomize the water droplets needed to convey heat into a vapor mist that cools before reaching the surfaces to be sanitized.

## Requirement

### **4-204.11 Ventilation Hood Systems, Drip Prevention.**

Exhaust ventilation hood systems in food preparation and WAREWASHING areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, EQUIPMENT, UTENSILS, LINENS, and single-service and single-use articles.

### **Public Health Guideline**

The dripping of grease or condensation onto food constitutes adulteration and may involve contamination of the food with pathogenic organisms. EQUIPMENT, UTENSILS, LINENS, and single service and single use articles that are subjected to such drippage are no longer clean.

## Requirement

### **4-204.12 EQUIPMENT Openings, Closures and Deflectors.**

(A) A cover or lid for EQUIPMENT shall overlap the opening and be sloped to drain.

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(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.

### **Public Health Guideline**

EQUIPMENT openings and covers must be designed to protect stored or prepared food from contaminants and foreign matter that may fall into the food. The requirement for an opening to be flanged upward and for the cover to overlap the opening and be sloped to drain prevents contaminants, especially liquids, from entering the food contact area.

Some EQUIPMENT may have parts that extend into the food-contact areas. If these parts are not provided with a watertight joint at the point of entry into the food-contact area, liquids may contaminate the food by adhering to shafts or other parts and running or dripping into the food.

An apron on parts extending into the food-contact area is an acceptable alternative to the watertight seal. If the apron is not properly designed and installed, condensation, drips, and dust may gain access to the food.

## **Requirement**

### **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 worker; and

<sup>P</sup> = Priority Item

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(D) The dispensing EQUIPMENT actuating lever or mechanism and filling device of CONSUMER self-service BEVERAGE dispensing EQUIPMENT shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(E) Dispensing EQUIPMENT in which POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) in a homogenous liquid form is maintained outside of the temperature control requirements as specified under §3- 501.16(A) shall:

- (1) be specifically designed and equipped to maintain the commercial sterility of aseptically PACKAGED FOOD in a homogenous liquid form for a specified duration from the time of opening the PACKAGING within the EQUIPMENT; P and
- (2) conform to the requirements for this EQUIPMENT as specified in *NSF/ANSI 18-2006- Manual Food and BEVERAGE Dispensing EQUIPMENT*. P

**Public Health Guideline**

This requirement is intended to protect the machine-dispensed, unPACKAGED, liquid foods and the machine components from contamination. Barriers need to be provided so that the only liquid entering the food container is the liquid intended to be dispensed when the machine's mechanism is activated.

Recessing of the machine's components and self-closing doors prevents contamination of machine ports by people, dust, insects, or rodents. If the EQUIPMENT components become contaminated, the product itself will be exposed to possible contamination. A direct opening into the food being dispensed allows dust, vermin, and other contaminants access to the food.

**Requirement**

**4-204.14 Vending Machine, Vending Stage Closure.**

The dispensing compartment of a VENDING MACHINE including a machine that is designed to vend prePACKAGED snack food that is not potentially HAZARDOUS 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 worker.

**Public Health Guideline**

Since PACKAGED foods dispensed from VENDING MACHINES could attract insects and rodents, a self-closing door is required as a barrier to their entrance.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****4-204.15 Bearings and Gear Boxes, Leakproof.**

EQUIPMENT containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food contact surfaces.

**Public Health Guideline**

It is not unusual for food EQUIPMENT to contain bearings and gears. Lubricants necessary for the operation of these types of EQUIPMENT could contaminate food or food-contact surfaces if the EQUIPMENT is not properly designed and constructed.

**Requirement****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.

**Public Health Guideline**

BEVERAGE tubing and cold plate cooling devices may result in contamination if they are installed in direct contact with stored ice. BEVERAGE tubing installed in contact with ice may result in condensate and drippage contaminating the ice as the condensate moves down the BEVERAGE tubing and ends up in the ice.

The presence of BEVERAGE tubing and/or cold plate cooling devices also presents cleaning problems. It may be difficult to adequately clean the ice bin if they are present. Because of the high moisture environment, mold and algae may form on the surface of the ice bins and any tubing or EQUIPMENT stored in the bins.

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

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

**Public Health Guideline**

Liquid waste drain lines passing through ice machines and storage bins present a RISK of contamination due to potential leakage of the waste lines and the possibility that contaminants will gain access to the ice through condensate migrating along the exterior of the lines.

Liquid drain lines passing through the ice bin are, themselves, difficult to clean and create other areas that are difficult to clean where they enter the unit as well as where they abut other surfaces. The potential for mold and algae growth in this area is very likely due to the high moisture environment. Molds and algae that form on the drain lines are difficult to remove and present a RISK of contamination to the ice stored in the bin.

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**Requirement****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.

**Public Health Guideline**

A dust-proof barrier between a condenser and food storage areas of EQUIPMENT protects food and food-contact areas from contamination by dust that is accumulated and blown about as a result of the condenser's operation.

**Requirement****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.

**Public Health Guideline**

Since the cutting or piercing surfaces of a can opener directly contact food in the container being opened, these surfaces must be protected from contamination.

**Requirement****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. <sup>P</sup>

(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: <sup>Pf</sup>

(1) Is submitted by the PERMIT HOLDER and APPROVED as specified under § 8-103.11; <sup>Pf</sup> and

(2) Ensures that:

(a) Water used with FISH other than MOLLUSCAN SHELLFISH does not flow into the molluscan tank, <sup>Pf</sup>

(b) The safety and quality of the shellFISH as they were received are not compromised by the use of the tank, <sup>Pf</sup> and

(c) The identity of the source of the SHELLSTOCK is retained as specified under § 3-203.12. <sup>Pf</sup>

<sup>P</sup> = Priority Item

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**Requirement****4-204.111 Vending Machines, Automatic Shutoff.**

- (A) A machine vending POTENTIALLY HAZARDOUS FOOD (time/temperature control for safety food) shall have an automatic control that prevents the machine from vending food:
- (1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Chapter 3;<sup>P</sup> 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.<sup>P</sup>
- (B) When the automatic shutoff within a machine vending POTENTIALLY HAZARDOUS FOOD (time/temperature control for safety food) is activated:
- (1) In a refrigerated VENDING MACHINE, the ambient air temperature may not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked;<sup>P</sup> 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.<sup>P</sup>

**Public Health Guideline**

Failure to store POTENTIALLY HAZARDOUS FOOD at safe temperatures in a VENDING MACHINE could result in the growth of pathogenic microorganisms that may result in foodborne illness. The presence of an automatic control that prevents the vending of food if the temperature of the unit exceeds the requirements of this CODE precludes the vending of foods that may not be safe.

It is possible and indeed very likely that the temperature of the storage area of a VENDING MACHINE may exceed the requirements of this CODE during the stocking and servicing of the machine. The automatic shut off, commonly referred to as the "public health control", provides a limited amount of time that the ambient temperature of a machine may exceed the requirements of this CODE.

**Requirement****4-204.112 Temperature Measuring Devices**

- (A) In a mechanically refrigerated or hot food storage unit, the sensor of a TEMPERATURE MEASURING DEVICE shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.
- (B) Except as specified in ¶ (C) of this section, cold or hot holding EQUIPMENT used for POTENTIALLY HAZARDOUS FOOD (time/temperature control for safety food) shall be designed to

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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.<sup>Pf</sup>

### **Public Health Guideline**

The placement of the TEMPERATURE MEASURING DEVICE is important. If the device is placed in the coldest location in the storage unit, it may not be representative of the temperature of the unit. Food could be stored in areas of the unit that exceed the requirements of this CODE. Therefore, the TEMPERATURE MEASURING DEVICE must be placed in a location that is representative of the actual storage temperature of the unit to ensure that all POTENTIALLY HAZARDOUS FOODS are stored at least at the minimum temperature required in Chapter 3 of this CODE.

A permanent TEMPERATURE MEASURING DEVICE is required in any unit storing POTENTIALLY HAZARDOUS FOOD because of the potential growth of pathogenic microorganisms should the temperature of the unit exceed the requirements of this CODE. In order to facilitate routine monitoring of the unit, the device must be clearly visible.

The exception to requiring a TEMPERATURE MEASURING DEVICE for the types of EQUIPMENT listed is primarily due to EQUIPMENT design and function. It would be difficult and impractical to permanently mount a TEMPERATURE MEASURING DEVICE on the EQUIPMENT listed. The futility of attempting to measure the temperature of unconfined air such as with heat lamps and, in some cases, the brief period of time the EQUIPMENT is used for a given food negate the usefulness of ambient temperature monitoring at that point. In such cases, it would be more practical and accurate to measure the internal temperature of the food.

The importance of maintaining POTENTIALLY HAZARDOUS FOODS at the specified temperatures requires that TEMPERATURE MEASURING DEVICES be easily readable. The inability to accurately read a thermometer could result in food being held at unsafe temperatures.

TEMPERATURE MEASURING DEVICES must be appropriately scaled per this CODE requirements to ensure accurate readings. The required incremental gradations are more precise for food measuring devices than for those used to measure ambient temperature because of the significance at a given point in time, i.e., the potential for pathogenic growth, versus the unit's temperature. The food temperature will not necessarily match the ambient temperature of the storage unit; it will depend on many variables including the temperature of the food when it is placed in the unit, the temperature at which the unit is maintained, and the length of time the food is stored in the unit.

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

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

**Public Health Guideline**

The data plate provides the operator with the fundamental information needed to ensure that the machine is effectively washing, rinsing, and sanitizing EQUIPMENT and UTENSILS. The WAREWASHING machine has been tested, and the information on the data plate represents the parameters that ensure effective operation and SANITIZATION and that need to be monitored.

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

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

**Public Health Guideline**

The presence of baffles or curtains separating the various operational cycles of a WAREWASHING machine such as washing, rinsing, and sanitizing are designed to reduce the possibility that solutions from one cycle may contaminate solutions in another. The baffles or curtains also prevent food debris from being splashed onto the surface of EQUIPMENT that has moved to another cycle in the procedure.

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

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

- (A) In each wash and rinse tank; <sup>Pf</sup> and
- (B) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank. <sup>Pf</sup>

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**Public Health Guideline**

The requirement for the presence of a TEMPERATURE MEASURING DEVICE in each tank of the WAREWASHING machine is based on the importance of temperature in the SANITIZATION step.

In hot water machines, it is critical that minimum temperatures be met at the various cycles so that the cumulative effect of successively rising temperatures causes the surface of the item being washed to reach the required temperature for SANITIZATION. When chemical sanitizers are used, specific minimum temperatures must be met because the effectiveness of chemical sanitizers is directly affected by the temperature of the solution.

**Requirement****4-204.116 Manual WAREWASHING EQUIPMENT, Heaters and Baskets.**

If hot water is used for SANITIZATION in manual WAREWASHING operations, the sanitizing compartment of the sink shall be:

- (A) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F)<sup>Pf</sup>; and
- (B) Provided with a rack or basket to allow complete immersion of EQUIPMENT and UTENSILS into the hot water.<sup>Pf</sup>

**Public Health Guideline**

Hot water SANITIZATION is accomplished in water of not less than 77°C (171°F) and an integral heating device is necessary to ensure that the minimum temperature is reached.

The rack or basket is required in order to safely handle the EQUIPMENT and UTENSILS being washed and to ensure immersion. Water at this temperature could result in severe burns to workers operating the EQUIPMENT.

**Requirement****4-204.117 Warewashing Machines, Sanitizer Level Indicator.**

A WAREWASHING machine that uses a chemical for SANITIZATION and that is installed after adoption of this CODE by the state or local public health authority, shall be equipped to:

- (A) Automatically dispense detergents and SANITIZERS;<sup>Pf</sup> 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.<sup>Pf</sup>

<sup>P</sup> = Priority Item

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**Requirement****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.

**Public Health Guideline**

Flow pressure is a very important factor impacting the efficacy of SANITIZATION in machines that use fresh hot water at line-pressure as a final SANITIZATION rinse. A pressure below the design pressure results in inadequate spray patterns and incomplete coverage of the UTENSIL surfaces to be sanitized. Excessive flow pressure will tend to atomize the water droplets needed to convey heat into a vapor mist that cools before reaching the surfaces to be sanitized.

It is important that the operator be able to monitor, and the food inspector be able to check, final SANITIZATIONrinse pressure as well as machine water temperatures. ANSI/NSF Standard #3, a national voluntary consensus standard for Commercial Spray-Type Dishwashing Machines, specifies that a pressure gauge or similar device be provided on this type of machine and such devices are shipped with machines by the manufacturer.

Flow pressure devices installed on the upstream side of the control (solenoid) valve are subject to damage and failure due to the water hammer effect caused throughout the dishwashing period each time the control valve closes. The IPS valve provides a ready means for checking line-pressure with an alternative pressure measuring device. A flow pressure device is not required on machines that use only a pumped or recirculated sanitizing rinse since an appropriate pressure is ensured by a pump and is not dependent upon line-pressure.

**Requirement****4-204.119 Warewashing Sinks and Drainboards, Self-Draining.**

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

**Public Health Guideline**

The draining requirement in EQUIPMENT components is needed to prevent the pooling of water. Pooled water whether from drainage, condensate, drippage, or melting ice could contain or provide a favorable environment for pathogens and other contaminants.

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**Requirement****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.

**Public Health Guideline**

The draining requirement in EQUIPMENT components is needed to prevent the pooling of water. Pooled water whether from drainage, condensate, drippage, or melting ice could contain or provide a favorable environment for pathogens and other contaminants.

**Requirement****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.

**Public Health Guideline**

The presence of internal waste containers allows for the collection of liquids that spill within the VENDING MACHINE. Absence of a waste container or where required, a shutoff valve which controls the incoming liquids could result in wastes spilling within the machine causing a condition that attracts insects and rodents and compounds cleaning and maintenance problems.

**Requirement****4-204.122 Case Lot Handling EQUIPMENT, Move-ability.**

EQUIPMENT, 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 EQUIPMENT such as hand trucks and forklifts.

**Public Health Guideline**

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Proper design of case lot handling EQUIPMENT facilitates moving case lots for cleaning and for surveillance of insect or rodent activity.

## Requirement

### **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.

### **Public Health Guideline**

The objective of this requirement is to provide a barrier against the entrance into VENDING MACHINES of insects, rodents, and dust. The maximum size of the openings deters the entrance of common pests.

## Requirement

### **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 will be deemed to comply with this CODE: [Parts 4-1](#) and [4-2](#) of this chapter.

### **Public Health Guideline**

Under ANSI (American National Standards Institute document): ANSI Policy and Criteria for Accreditation of Certification Programs, it has been stipulated that: "For food EQUIPMENT programs, standards that establish sanitation requirements shall be specified government standards or standards that have been ratified by a public health approval step. ANSI shall verify that this requirement has been met by communicating with appropriate standards developing organizations and governmental public health bodies."

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## 4-3 NUMBERS AND CAPACITIES

### Subparts

4-301 Equipment

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

### Requirement

#### 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 in this CODE. <sup>Pf</sup>

#### **Public Health Guideline**

The ability of EQUIPMENT to cool, heat, and maintain POTENTIALLY HAZARDOUS FOODS at this CODE'S required temperatures is critical to food safety. Improper holding and cooking temperatures continue to be major contributing factors to foodborne illness. Therefore, it is very important to have adequate hot or cold holding EQUIPMENT with enough capacity to meet the heating and cooling demands of the operation.

### Requirement

#### 4-301.12 Manual Warewashing, Sink Compartment Requirements. (Amended)

- (A) Except as specified in ¶¶ (C) and (F) of this section, a sink with at least 3 compartments shall be provided for manually washing, rinsing, and sanitizing EQUIPMENT and UTENSILS.
- (B) Sink compartments shall be large enough to accommodate immersion of the largest EQUIPMENT and UTENSILS. If EQUIPMENT or UTENSILS are too large for the WAREWASHING sink, a WAREWASHING machine or alternative EQUIPMENT as specified in ¶ (C) of this section shall be used.
- (C) Alternative manual WAREWASHING EQUIPMENT may be used when there are special cleaning needs or constraints and its use is APPROVED. Alternative manual WAREWASHING EQUIPMENT may include:
- (1) High-pressure detergent sprayers;
  - (2) Low- or line-pressure spray detergent foamers;
  - (3) Other task-specific cleaning EQUIPMENT;

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- (4) Brushes or other implements; or
- (5) **[Deleted]**
- (6) Receptacles that substitute for the compartments of a multicompartment sink.
- (D) **[Deleted]**
- (E) **[Deleted]**
- (F) *A commercial WAREWASHING machine is allowed in lieu of a manual WAREWASHING sink as required in this section.*
- (G) For mobile food units:
  - (1) Class I, II and III mobile food units are not required to provide WAREWASHING facilities on the unit, if adequate facilities exist at the COMMISSARY.<sup>Pf</sup>
  - (2) Multiple or disposable UTENSILS may be used for food handling on the unit. There shall be at the beginning of each day's business a sufficient supply of clean UTENSILS necessary to properly prepare, assemble, or dispense the food. For mobile food units that do not have a WAREWASHING sink on the unit, this supply shall consist of at least one of each type of UTENSIL for every two hours of operation. If the unit operates less than four hours in a day, the unit shall provide a minimum of two sets of each type of UTENSIL. UTENSILS shall not be used if they become contaminated.<sup>Pf</sup>
  - (3) Class IV mobile food units must provide a sink with at least three compartments.<sup>Pf</sup>
- (H) Temporary food establishments are not required to provide WAREWASHING facilities on the premises if multiple UTENSILS are provided as specified in subparagraph (G)(2) of section 4-301.12 and the operator uses a licensed restaurant or COMMISSARY as a base of operation.<sup>Pf</sup>

### **Public Health Guideline**

The three compartment requirement allows for proper execution of the three-step manual WAREWASHING procedure. If properly used, the three compartments reduce the chance of contaminating the sanitizing water and therefore diluting the strength and efficacy of the chemical sanitizer that may be used.

Alternative manual WAREWASHING EQUIPMENT, allowed under certain circumstances and conditions, must provide for accomplishment of the same three steps: application of cleaners and the removal of soil; removal of any abrasive and removal or dilution of cleaning chemicals; and SANITIZATION. It is important to rinse off detergents, abrasive, and food debris after the wash step to avoid diluting or inactivating the sanitizer.

## **Requirement**

### **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.

### **Public Health Guideline**

Drainboards or equivalent EQUIPMENT are necessary to separate soiled and cleaned items from each other and from the food preparation area in order to preclude contamination of cleaned items

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and of food. Drainboards allow for the control of water running off EQUIPMENT and UTENSILS that have been washed and also allow the operator to properly store washed EQUIPMENT and UTENSILS while they air-dry.

## Requirement

### **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.

### **Public Health Guideline**

If a ventilation system is inadequate, grease and condensate may build up on the floors, walls and ceilings of the food establishment, causing an unsanitary condition and possible deterioration of the surfaces of walls and ceilings. The accumulation of grease and condensate may contaminate food and food-contact surfaces as well as present a possible fire HAZARD.

The dripping of grease or condensation onto food constitutes adulteration and may involve contamination of the food with pathogenic organisms. EQUIPMENT, UTENSILS, LINENS, and single service and single use articles that are subjected to such drippage are no longer clean.

## Requirement

### **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.

### **Public Health Guideline**

To protect food, soiled work clothes or LINENS must be efficiently laundered. The only practical way of efficiently laundering work clothes on the premises is with the use of a mechanical washer and dryer.

If a clothes washer and dryer are installed adjacent to exposed food, clean EQUIPMENT, UTENSILS, LINENS, and unwrapped single-service and single-use articles, it could result in those items becoming contaminated from soiled laundry. The reverse is also true, i.e., items being laundered could become contaminated from the surrounding area if the washer and dryer are not properly located.

**Requirement****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. <sup>Pf</sup>

**Public Health Guideline**

Appropriate serving UTENSILS provided at each container will, among other things, reduce the likelihood of food tasting, use of fingers to serve food, use of fingers to remove the remains of one food on the UTENSIL so that it may be used for another, use of soiled TABLEWARE to transfer food, and cross contamination between foods, including a raw food to a cooked POTENTIALLY HAZARDOUS FOOD.

**Requirement****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](#). <sup>Pf</sup>
- (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. <sup>Pf</sup>

**Public Health Guideline**

The presence and accessibility of food TEMPERATURE MEASURING DEVICES is critical to the effective monitoring of food temperatures. Proper use of such devices provides the operator or PERSON IN CHARGE with important information with which to determine if temperatures should be adjusted or if foods should be discarded.

**Requirement****4-302.13 Temperature Measuring Devices, Manual Warewashing.**

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

**Public Health Guideline**

Water temperature is critical to SANITIZATION in WAREWASHING operations. This is particularly true if the sanitizer being used is hot water. The effectiveness of cleaners and chemical sanitizers is also determined by the temperature of the water used. A TEMPERATURE MEASURING DEVICE is essential to monitor manual WAREWASHING and ensure SANITIZATION.

**Requirement**

**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. <sup>Pf</sup>

**Public Health Guideline**

Testing devices to measure the concentration of sanitizing solutions are required for two reasons. The use of chemical sanitizers requires minimum concentrations of the sanitizer during the final rinse step to ensure SANITIZATION; and too much sanitizer in the final rinse water could be toxic.

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

**Requirement**

**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.

<sup>P</sup> = Priority Item

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(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.

### **Public Health Guideline**

Food EQUIPMENT and the food that contacts the EQUIPMENT must be protected from sources of overhead contamination such as leaking or ruptured water or sewer pipes, dripping condensate, and falling objects. When EQUIPMENT is installed, it must be situated with consideration of the potential for contamination from such overhead sources.

If a clothes washer and dryer are installed adjacent to exposed food, clean EQUIPMENT, UTENSILS, LINENS, and unwrapped single-service and single-use articles, it could result in those items becoming contaminated from soiled laundry. The reverse is also true, i.e., items being laundered could become contaminated from the surrounding area if the washer and dryer are not properly located.

## **Requirement**

### **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).

### **Public Health Guideline**

This section is designed to ensure that fixed EQUIPMENT is installed in a way that:

1. Allows accessibility for cleaning on all sides, above, and underneath the units or minimizes the need for cleaning due to closely abutted surfaces;
2. Ensures that EQUIPMENT that is subject to moisture is SEALED;
3. Prevents the harborage of insects and rodents; and
4. Provides accessibility for the monitoring of pests.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

§ = Section

C = CORE ITEM

¶ = Paragraph

## Requirement

### **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, table-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 COUNTERMOUNTED 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.

### **Public Health Guideline**

The inability to adequately or effectively clean areas under EQUIPMENT could create a situation that may attract insects and rodents and accumulate pathogenic microorganisms that are transmissible through food. The effectiveness of cleaning is directly affected by the ability to access all areas to clean fixed EQUIPMENT. It may be necessary to elevate the EQUIPMENT. When elevating EQUIPMENT is not feasible or prohibitively expensive, sealing to prevent contamination is required.

The economic impact of the requirement to elevate display units in retail food stores, coupled with the fact that the design, weight, and size of such units are not conducive to casters or legs, led to the exception for certain units located in CONSUMER shopping areas, provided the floor under the units is kept clean. This exception for retail food store display EQUIPMENT including shelving, refrigeration, and freezer units in the CONSUMER shopping areas requires a rigorous cleaning schedule.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 4-5 MAINTENANCE AND OPERATION

### Subparts

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

### Requirement

#### 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.

### **Public Health Guideline**

Proper maintenance of EQUIPMENT to manufacturer specifications helps ensure that it will continue to operate as designed. Failure to properly maintain EQUIPMENT could lead to VIOLATIONS of the associated requirements of this CODE that place the health of the CONSUMER at RISK. For example, refrigeration units in disrepair may no longer be capable of properly cooling or holding POTENTIALLY HAZARDOUS FOODS at safe temperatures.

The cutting or piercing parts of can openers may accumulate metal fragments that could lead to food containing foreign objects and, possibly, result in CONSUMER injury.

Adequate cleaning and SANITIZATION of dishes and UTENSILS using a WAREWASHING machine is directly dependent on the exposure time during the wash, rinse, and sanitizing cycles. Failure to meet manufacturer and the requirements of this CODE for cycle times could result in failure to clean and sanitize.

For example, high temperature machines depend on the buildup of heat on the surface of dishes to accomplish SANITIZATION. If the exposure time during any of the cycles is not met, the surface of the items may not reach the time-temperature parameter required for SANITIZATION. Exposure time is also important in WAREWASHING machines that use a chemical sanitizer since the sanitizer must contact the items long enough for SANITIZATION to occur. In addition, a chemical sanitizer will not sanitize a dirty dish; therefore, the cycle times during the wash and rinse phases are critical to SANITIZATION.

**Requirement****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.

**Public Health Guideline**

Cutting surfaces such as cutting boards and blocks that become scratched and scored may be difficult to clean and sanitize. As a result, pathogenic microorganisms transmissible through food may build up or accumulate. These microorganisms may be transferred to foods that are prepared on such surfaces.

**Requirement****4-501.13 Microwave Ovens.**

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

**Public Health Guideline**

Failure of microwave ovens to meet required CFR standards could result in human exposure to radiation leakage, resulting in possible medical problems to CONSUMERS and people using the machines.

**Requirement****4-501.14 Warewashing EQUIPMENT, Cleaning Frequency.**

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

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

**Public Health Guideline**

During operation, WAREWASHING EQUIPMENT is subject to the accumulation of food wastes and other soils or sources of contamination. In order to ensure the proper cleaning and SANITIZATION of EQUIPMENT and UTENSILS, it is necessary to clean the surface of WAREWASHING EQUIPMENT before use and periodically throughout the day.

**Requirement****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.

**Public Health Guideline**

To ensure properly cleaned and sanitized EQUIPMENT and UTENSILS, WAREWASHING machines must be operated properly. The manufacturer affixes a data plate to the machine providing vital, detailed instructions about the proper operation of the machine including wash, rinse, and sanitizing cycle times and temperatures which must be achieved.

**Requirement****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.

**Public Health Guideline**

If the wash sink is used for functions other than WAREWASHING, such as washing wiping cloths or washing and thawing foods, contamination of EQUIPMENT and UTENSILS could occur.

**Requirement****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.<sup>Pf</sup>

**Public Health Guideline**

Failure to use detergents or cleaners in accordance with the manufacturer's label instructions could create safety concerns for the food worker and CONSUMER. For example, people could suffer chemical burns, and chemical residues could find their way into food if detergents or cleaners are used carelessly. EQUIPMENT and UTENSILS may not be cleaned if inappropriate or insufficient amounts of cleaners or detergents are used.

<sup>P</sup> = Priority Item

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**Requirement****4-501.18 Warewashing EQUIPMENT, Clean Solutions.**

The wash, rinse, and sanitize solutions shall be maintained clean.

**Public Health Guideline**

Failure to maintain clean wash, rinse, and sanitizing solutions adversely affects the WAREWASHING operation. EQUIPMENT and UTENSILS may not be sanitized, resulting in subsequent contamination of food.

**Requirement****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.<sup>Pf</sup>

**Public Health Guideline**

The wash solution temperature required in this CODE is essential for removing organic matter. If the temperature is below 110°F, the performance of the detergent may be adversely affected, e.g., animal fats that may be present on the dirty dishes would not be dissolved.

**Requirement****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);<sup>Pf</sup>
- (2) For a stationary rack, dual temperature machine, 66°C (150°F);<sup>Pf</sup>
- (3) For a single tank, conveyor, dual temperature machine, 71°C (160°F);<sup>Pf</sup> or
- (4) For a multitank, conveyor, multitemperature machine, 66°C (150°F).<sup>Pf</sup>

(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).<sup>Pf</sup>

**Public Health Guideline**

The wash solution temperature in mechanical WAREWASHING EQUIPMENT is critical to proper operation. The chemicals used may not adequately perform their function if the temperature is too low. Therefore, the manufacturer's instructions must be followed. The temperatures vary according to the specific EQUIPMENT being used.

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**Requirement****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. <sup>P</sup>

**Public Health Guideline**

If the temperature during the hot water sanitizing step is less than 75°C (170°F), SANITIZATION will not be achieved. As a result, pathogenic organisms may survive and be subsequently transferred from UTENSILS to food.

**Requirement****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: <sup>Pf</sup>

(1) For a stationary rack, single temperature machine, 74°C (165°F);<sup>Pf</sup> or

(2) For all other machines, 82°C (180°F). <sup>Pf</sup>

(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.*

**Public Health Guideline**

If the temperature of the hot water delivered to the warewasher manifold is inadequate to effect SANITIZATION, surviving pathogenic organisms could contaminate EQUIPMENT and UTENSILS.

**Requirement****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).

**Public Health Guideline**

If the flow pressure of the final sanitizing rinse is less than that required, dispersion of the sanitizing solution may be inadequate to reach all surfaces of EQUIPMENT or UTENSILS.

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**Requirement**

**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, and shall be used as follows <sup>P</sup>:

(A) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart; <sup>P</sup>

Concentration Range	Minimum Temperature	
	pH 10 or less °C (°F)	pH 8 or less °C (°F)
mg/L 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 20have a a: ), <sup>P</sup>
- (2) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, <sup>P</sup> and
- (3) Concentration between 12.5 mg/L and 25 mg/L; <sup>P</sup>

(C) A quaternary ammonium compound solution shall:

- (1) Have a minimum temperature of 24olution sha<sup>P</sup>
- (2) Have a concentration as specified under § 7-204.11 and as indicated by the manufacturer's use directions included in the labeling, <sup>P</sup> 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; <sup>P</sup>

(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; <sup>P</sup> or

(E) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions. <sup>P</sup>

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<sup>Pf</sup> = Priority Foundation Item

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**Public Health Guideline**

The effectiveness of chemical sanitizers can be directly affected by the temperature, pH, concentration of the sanitizer solution used, and hardness of the water. All sanitizers APPROVED for use under 21 CFR 178.1010 must be used under water conditions stated on the label to ensure efficacy. Therefore, it is critical to SANITIZATION that the sanitizers are used properly and the solutions meet the minimum standards required in this CODE.

**Requirement****4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers. (Deleted)****Requirement****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. <sup>Pf</sup>

**Public Health Guideline**

The effectiveness of chemical sanitizers is determined primarily by the concentration and pH of the sanitizer solution. Therefore, a test kit is necessary to accurately determine the concentration of the chemical sanitizer solution.

**Requirement****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. <sup>Pf</sup>
- (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.

**Public Health Guideline**

A UTENSIL OR food TEMPERATURE MEASURING DEVICE can act as a source of contamination to the food it contacts if it is not maintained in good repair. Also, if temperature or pressure measuring devices are not maintained in good repair, the accuracy of the readings is questionable. Consequently, a

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temperature problem may not be detected, or conversely, a corrective action may be needlessly taken.

**Requirement**

**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 workers and singleservice articles for use by CONSUMERS. <sup>P</sup>

**Public Health Guideline**

In situations in which the reuse of multiuse items could result in foodborne illness to CONSUMERS, single-service and single-use articles must be used to ensure safety.

**Requirement**

**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.

**Public Health Guideline**

Articles that are not constructed of multiuse materials may not be reused as they are unable to withstand the rigors of multiple uses, including the ability to be subjected to repeated washing, rinsing, and sanitizing.

**Requirement**

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

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

**Public Health Guideline**

Mollusk and crustacea shells do not meet the requirements of this CODE for multiuse UTENSILS. Therefore, such shells may be used only once as serving containers. Articles that are not constructed of multiuse materials may not be reused as they are unable to withstand the rigors of multiple uses, including the ability to be subjected to repeated washing, rinsing, and sanitizing.

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## 4-6 CLEANING OF EQUIPMENT AND UTENSILS

### Subparts

- 4-601 Objective
- 4-602 Frequency
- 4-603 Methods

### Requirement

#### 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. <sup>Pf</sup>
- (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.

### **Public Health Guideline**

The objective of cleaning focuses on the need to remove organic matter from food contact surfaces so that SANITIZATION can occur and to remove soil from nonfood contact surfaces so that pathogenic microorganisms will not be allowed to accumulate and insects and rodents will not be attracted.

### Requirement

#### 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; <sup>P</sup>
  - (2) Each time there is a change from working with raw foods to working with ready-to-eat foods; <sup>P</sup>
  - (3) Between uses with raw fruits and vegetables and with POTENTIALLY HAZARDOUS FOOD; <sup>P</sup>
  - (4) Before using or storing a food TEMPERATURE MEASURING DEVICE <sup>P</sup>; and
  - (5) At any time during the operation when contamination may have occurred. <sup>P</sup>

*(B) Subparagraph (A)(1) of this section does not apply if the food-contact surface or UTENSIL is in contact with a succession of different raw animal foods each requiring a higher cooking*

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temperature as specified under § 3-401.11 than the previous food, such as preparing raw FISH followed by cutting raw POULTRY on the same cutting board.

(C) Except as specified in ¶ (D) of this section, if used with POTENTIALLY HAZARDOUS FOOD, EQUIPMENT food-contact surfaces and UTENSILS shall be cleaned throughout the day at least every 4 hours. <sup>P</sup>

(D) Surfaces of UTENSILS and EQUIPMENT contacting POTENTIALLY HAZARDOUS FOOD may be cleaned less frequently than every 4 hours if:

(1) In storage, containers of POTENTIALLY HAZARDOUS FOOD and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;

(2) UTENSILS and EQUIPMENT are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

(a) The UTENSILS and EQUIPMENT are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C - 7.2°C (>41°F - 45°F)	20 hours
>7.2°C - 10.0°C (>45°F - 50°F)	16 hours
>10.0°C - 12.8°C (>50°F - 55°F)	10 hours

(b) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.

(3) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat POTENTIALLY HAZARDOUS FOOD 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;

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(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 or 5°F (41°F) or less and the UTENSILS and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(E) Except when dry cleaning methods are used as specified under § 4-603.11, surfaces of UTENSILS and EQUIPMENT contacting food that is not potentially HAZARDOUS (time/temperature control for safety food) shall be cleaned:

- (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.

### **Public Health Guideline**

Microorganisms may be transmitted from a food to other foods by UTENSILS, cutting boards, thermometers, or other food-contact surfaces. Food-contact surfaces and EQUIPMENT used for POTENTIALLY HAZARDOUS FOODS should be cleaned as needed throughout the day but must be cleaned no less than every **four hours** to prevent the growth of microorganisms on those surfaces.

Refrigeration temperatures slow down the generation time of bacterial pathogens, making it unnecessary to clean every four hours. However, the time period between cleaning EQUIPMENT and UTENSILS **may not exceed 24 hours**. A time-temperature chart is provided in Subparagraph 4-602.11 (D)(2) to accommodate operations that use EQUIPMENT and UTENSILS in a refrigerated room or area that maintains a temperature between 41°F or less and 55°F.

Surfaces of UTENSILS and EQUIPMENT contacting food that is not potentially HAZARDOUS such as iced tea dispensers, carbonated BEVERAGE dispenser nozzles, BEVERAGE dispensing circuits or lines, water vending EQUIPMENT, coffee bean grinders, ice makers, and ice bins must be cleaned

on a routine basis to prevent the development of slime, mold, or soil residues that may contribute to an accumulation of microorganisms.

Some EQUIPMENT manufacturers and industry associations, e.g., within the tea industry, develop guidelines for regular cleaning and sanitizing of EQUIPMENT. If the manufacturer does not provide cleaning specifications for food-contact surfaces of EQUIPMENT that are not readily visible, the PERSON IN CHARGE should develop a cleaning regimen that is based on the soil that may accumulate in those particular items of EQUIPMENT.

## Requirement

### **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.

### **Public Health Guideline**

Food-contact surfaces of cooking EQUIPMENT must be cleaned to prevent encrustations that may impede heat transfer necessary to adequately cook food. Encrusted EQUIPMENT may also serve as an insect attractant when not in use. Because of the nature of the EQUIPMENT, it may not be necessary to clean cooking EQUIPMENT as frequently as the EQUIPMENT specified in § 4-602.11.

## Requirement

### **4-602.13 Nonfood-Contact Surfaces.**

Nonfood-contact surfaces of EQUIPMENT shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

### **Public Health Guideline**

The presence of food debris or dirt on nonfood contact surfaces may provide a suitable environment for the growth of microorganisms that food workers may inadvertently transfer to food. If these areas are not kept clean, they may also provide harborage for insects, rodents, and other pests.

## Requirement

### **4-603.11 Dry Cleaning.**

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are **not** potentially HAZARDOUS.

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(B) Cleaning EQUIPMENT used in dry cleaning food-contact surfaces may not be used for any other purpose.

**Public Health Guideline**

Dry cleaning methods are indicated in only a few operations, which are limited to dry foods that are not potentially HAZARDOUS. Under some circumstances, attempts at wet cleaning may create microbiological concerns.

**Requirement**

**4-603.12 Pre-cleaning.**

(A) Food debris on EQUIPMENT and UTENSILS shall be scrapped over a waste disposal unit, or garbage receptacle or shall be removed in a WAREWASHING machine with a prewash cycle.

(B) If necessary for effective cleaning, UTENSILS and EQUIPMENT shall be preflushed, presoaked, or scrubbed with abrasives.

**Public Health Guideline**

Pre-cleaning of UTENSILS, dishes, and food EQUIPMENT allows for the removal of grease and food debris to facilitate the cleaning action of the detergent. Depending upon the condition of the surface to be cleaned, detergent alone may not be sufficient to loosen soil for cleaning. Heavily soiled surfaces may need to be presoaked or scrubbed with an abrasive.

**Requirement**

**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.

**Public Health Guideline**

Items to be washed in a WAREWASHING machine must receive unobstructed exposure to the spray to ensure adequate cleaning. Items that are stacked or trays that are heavily loaded with silverware cannot receive complete distribution of detergent, water or sanitizer and cannot be considered to be clean.

**Requirement**

**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

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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.

### **Public Health Guideline**

Because of the variety of cleaning agents available and the many different types of soil to be removed it is not possible to recommend one cleaning agent to fit all situations. Each of the different types of cleaners works best under different conditions (i.e., some work best on grease, some work best in warm water, others work best in hot water). The specific chemical selected should be compatible with any other chemicals to be used in the operation such as a sanitizer or drying agent.

## **Requirement**

### **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\(A\)](#).

### **Public Health Guideline**

Some pieces of EQUIPMENT are too large (or fixed) to be cleaned in a sink. Nonetheless, cleaning of such EQUIPMENT requires the application of cleaners for the removal of soil and rinsing for the removal of abrasive and cleaning chemicals, followed by SANITIZATION.

## **Requirement**

### **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 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

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(3) A 3-step washing, rinsing, and sanitizing procedure in a WAREWASHING system for CIP EQUIPMENT;

(B) **(Deleted)**

(C) **(Deleted)**

(D) If using a WAREWASHING machine that does not recycle the sanitizing solution as specified under ¶ (E) of this section, or alternative manual WAREWASHING EQUIPMENT such as sprayers, use of a nondistinct water rinse that is:

(1) Integrated in the application of the sanitizing solution, and

(2) Wasted immediately after each application; or

(E) If using a WAREWASHING machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

### **Public Health Guideline**

It is important to rinse off detergents, abrasive, and food debris after the wash step to avoid diluting or inactivating the sanitizer.

## **Requirement**

4-603.17 Returnables, Cleaning for Refilling.\* **(Deleted)**

<sup>P</sup> = Priority Item

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## 4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

### Subparts

- 4-701 Objective
- 4-702 Frequency
- 4-703 Methods

### Requirement

#### 4-701.10 Food-Contact Surfaces and Utensils.

EQUIPMENT food-contact surfaces and UTENSILS shall be sanitized.

#### **Public Health Guideline**

Effective SANITIZATION procedures destroy organisms of public health importance that may be present on wiping cloths, food EQUIPMENT, or UTENSILS after cleaning, or that have been introduced into the rinse solution. It is important that surfaces be clean before being sanitized to allow the sanitizer to achieve its maximum benefit.

### Requirement

#### 4-702.11 Before Use After Cleaning.

UTENSILS and food-contact surfaces of EQUIPMENT shall be sanitized before use after cleaning .<sup>P</sup>

#### **Public Health Guideline**

SANITIZATION is accomplished after the WAREWASHING steps of cleaning and rinsing so that UTENSILS and food-contact surfaces are sanitized before coming in contact with food and before use.

### Requirement

#### 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; .<sup>P</sup>

<sup>P</sup> = Priority Item

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- (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; .<sup>P</sup> 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), .<sup>P</sup>
  - (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), .<sup>P</sup>
  - (3) A contact time of at least 30 seconds for other chemical sanitizing solutions, .<sup>P</sup> 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 Subparagraph 1-201.10(B). .<sup>P</sup>

### **Public Health Guideline**

Efficacious SANITIZATION is dependent upon WAREWASHING being conducted within certain parameters. Time is a parameter applicable to both chemical and hot water SANITIZATION.

The time that hot water or chemicals contact UTENSILS or food-contact surfaces must be sufficient to destroy pathogens that may remain on surfaces after cleaning. Other parameters, such as temperature or chemical concentration, are used in combination with time to deliver effective SANITIZATION.

<sup>P</sup> = Priority Item

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## 4-8 LAUNDERING

### Subparts

4-801	Objective
4-802	Frequency
4-803	Methods

### Requirement

#### 4-801.11 Clean Linens.

Clean LINENS shall be free from food residues and other soiling matter.

#### **Public Health Guideline**

LINENS that are not free from food residues or other soiling may carry pathogenic microorganisms and become a source of potential illness.

### Requirement

#### 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, lamb, pork, and FISH.
- (C) LINENS and napkins that are used as specified under § 3-304.13 and cloth napkins shall be laundered between each use.
- (D) Wet wiping cloths shall be laundered daily.
- (E) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving UTENSILS.

#### **Public Health Guideline**

LINENS, cloth gloves, and cloth napkins are to be laundered between uses to prevent the transfer of pathogenic microorganisms between foods or to food-contact surfaces.

The laundering of wet wiping cloths before being used with a fresh solution of cleanser or sanitizer is designed to reduce the microbiological load in the cleanser and sanitizer; and thereby reduce the possible transfer of microorganisms to food and nonfood-contact surfaces.

<sup>P</sup> = Priority Item

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**Requirement****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.

**Public Health Guideline**

Soiled LINENS may directly or indirectly contaminate food. Proper storage will reduce the possibility of contamination of food, EQUIPMENT, UTENSILS, and single-service and single-use articles.

**Requirement****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.

**Public Health Guideline**

Proper laundering of wiping cloths will significantly reduce the possibility that pathogenic microorganisms will be transferred to food, EQUIPMENT, or UTENSILS.

**Requirement****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.

**Public Health Guideline**

Washing and drying items used in the operation of the food establishment on the premises will help prevent the introduction of pathogenic microorganisms from outside sources into the environment of the food establishment.

## 4-9

## PROTECTION OF CLEAN ITEMS

## Subparts

- 4-901 Drying
- 4-902 Lubricating and Reassembling
- 4-903 Storing
- 4-904 Handling

**Requirement****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.*

**Public Health Guideline**

Items must be allowed to drain and to air-dry before being stacked or stored. Stacking wet items such as pans prevents them from drying and may allow an environment where microorganisms can begin to grow. Cloth drying of EQUIPMENT and UTENSILS is prohibited to prevent the possible transfer of microorganisms to EQUIPMENT or UTENSILS.

**Requirement****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 singleservice 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.*

**Public Health Guideline**

Cloths that are air-dried must be dried so that they do not drip on food or UTENSILS and so that the cloths are not contaminated while air-drying.

<sup>P</sup> = Priority Item

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**Requirement****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.

**Public Health Guideline**

Food-contact surfaces must be lubricated in a manner that does not introduce contaminants to those surfaces.

**Requirement****4-902.12 EQUIPMENT.**

EQUIPMENT shall be reassembled so that food-contact surfaces are not contaminated.

**Public Health Guideline**

EQUIPMENT must be reassembled in a way that food-contact surfaces are not contaminated.

**Requirement****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.*

**Public Health Guideline**

Clean EQUIPMENT and multiuse UTENSILS which have been cleaned and sanitized, laundered LINENS, and single-service and single-use articles can become contaminated before their intended use in a variety of ways such as through water leakage, pest infestation, or other unsanitary condition.

<sup>P</sup> = Priority Item

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**Requirement****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.*

**Public Health Guideline**

The improper storage of clean and sanitized EQUIPMENT, UTENSILS, laundered LINENS, and single-service and single-use articles may allow contamination before their intended use. Contamination can be caused by moisture from absorption, flooding, drippage, or splash as well as food debris, toxic materials, litter, dust, and other materials. The contamination is often related to unhygienic food worker practices, unacceptable high-RISK storage locations, or improper construction of storage facilities.

**Requirement****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 pre-wrapped shall be presented so that only the handles are touched by food workers and by CONSUMERS if CONSUMER self-service is provided.
- (C) Except as specified ¶ (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.

**Public Health Guideline**

The presentation and/or setting of single-service and single-use articles and cleaned and sanitized UTENSILS shall be done in a manner designed to prevent the contamination of food and lip-contact surfaces.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****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.

**Public Health Guideline**

The presentation and/or setting of single-service and single-use articles and cleaned and sanitized UTENSILS shall be done in a manner designed to prevent the contamination of food- and lip-contact surfaces.

**Requirement****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.*

**Public Health Guideline**

The presentation and/or setting of single-service and single-use articles and cleaned and sanitized UTENSILS shall be done in a manner designed to prevent the contamination of food- and lip-contact surfaces.

**Requirement****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.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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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

#### Requirement

#### 5-101.11 Approved System.

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

(A) A PUBLIC WATER SYSTEM; .<sup>P</sup> or

(B) A nonPUBLIC WATER SYSTEM that is constructed, maintained, and operated according to LAW. .<sup>P</sup>

#### **Public Health Guideline**

Water, unless it comes from a safe supply, may serve as a source of contamination for food, EQUIPMENT, UTENSILS, and hands. The major concern is that water may become a vehicle for transmission of disease organisms. Water can also become contaminated with natural or man-made chemicals. Therefore, for the protection of CONSUMERS and food workers, water must be obtained from a source regulated by LAW and must be used, transported, and dispensed in a sanitary manner.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### **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. .<sup>P</sup>

### **Public Health Guideline**

During construction, repair, or modification, water systems may become contaminated with microbes from soil because pipes are installed underground or by chemicals resulting from soldering and welding. Floods and other incidents may also cause water to become contaminated. Chemical contaminants such as oils may also be present on or in the components of the system. To render the water safe, the system must be properly flushed and disinfected before being placed into service.

## Requirement

### **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. .<sup>P</sup>

### **Public Health Guideline**

Bottled water is obtained from a PUBLIC WATER SYSTEM or from a private source such as a spring or well. Either means of production must be controlled by public health LAW to protect the CONSUMER from contaminated water.

## Requirement

### **5-102.11 Standards. (Amended)**

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; <sup>P</sup> and

(B) Water from a nonPUBLIC WATER SYSTEM shall meet state DRINKING WATER quality standards. <sup>P</sup>

### **Public Health Guideline**

Bacteriological and chemical standards have been developed for public DRINKING WATER supplies to protect public health. All DRINKING WATER supplies must meet standards required by LAW.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### 5-102.12 Nondrinking Water.

- (A) A nonDRINKING WATER supply shall be used only if its use is APPROVED.<sup>P</sup>
- (B) NonDRINKING WATER shall be used only for nonculinary purposes such as air conditioning, nonfood EQUIPMENT cooling and fire protection.<sup>P</sup>

### **Public Health Guideline**

Food establishments may use nonDRINKING WATER for purposes such as air-conditioning or fire protection. NonDRINKING WATER is not monitored for bacteriological or chemical quality or safety as is DRINKING WATER. Consequently, certain safety precautions must be observed to prevent the contamination of food, DRINKING WATER, or food-contact surfaces. Identifying the piping designated as nonDRINKING WATERlines and inspection for cross connections are examples of safety precautions.

## Requirement

### 5-102.13 Sampling.

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

### **Public Health Guideline**

Wells and other types of individual water supplies may become contaminated through faulty EQUIPMENT or environmental contamination of ground water. Periodic sampling is required by LAW to monitor the safety of the water and to detect any change in quality. The controlling agency must be able to ascertain that this sampling program is active and that the safety of the water is in conformance with the appropriate standards.

Laboratory results are only as accurate as the sample submitted. Care must be taken not to contaminate samples. Proper sample collection and timely transportation to the laboratory are necessary to ensure the safety of DRINKING WATER used in the establishment.

## Requirement

### 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.

### **Public Health Guideline**

The most recent water sampling report must be kept on file to document a safe water supply.

<sup>P</sup> = Priority Item

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## Requirement

### 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.<sup>Pf</sup>

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.<sup>Pf</sup>

(C) Hot and cold or tempered water must be provided at all handwashing sinks in the establishment.<sup>Pf</sup>

### **Public Health Guideline**

Availability of sufficient water is a basic requirement for proper sanitation within a food establishment. An insufficient supply of safe water will prevent the proper cleaning of items such as EQUIPMENT and UTENSILS and of food worker's hands.

Hot water required for washing items such as EQUIPMENT and UTENSILS and food worker's hands must be available in sufficient quantities to meet demand during peak water usage periods. Booster heaters for warewashers that use hot water for sanitizing are designed to raise the temperature of hot water to a level that ensures SANITIZATION. If the volume of water reaching the booster heater is not sufficient or hot enough, the required temperature for SANITIZATION cannot be reached. Manual washing of food EQUIPMENT and UTENSILS is most effective when hot water is used. Unless UTENSILS are clean to sight and touch, they cannot be effectively sanitized.

## Requirement

### 5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, EQUIPMENT, and nonfood EQUIPMENT that are required to use water except that water supplied as specified under ¶¶ 5-104.12(A) and (B) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.<sup>Pf</sup>

### **Public Health Guideline**

Inadequate water pressure could lead to situations that place the public health at RISK. For example, inadequate pressure could result in improper handwashing or EQUIPMENT operation. Sufficient water pressure ensures that EQUIPMENT such as mechanical warewashers operate according to manufacturer's specifications.

## Requirement

### 5-104.11 System.

Water shall be received from the source through the use of:

(A) An APPROVED public water main;<sup>Pf</sup> or

<sup>P</sup> = Priority Item

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

- (1) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,<sup>Pf</sup>
- (2) Water transport vehicles,<sup>Pf</sup> and
- (3) Water containers.<sup>Pf</sup>

### **Public Health Guideline**

Inadequate water systems may serve as vehicles for contamination of food or food contact surfaces. This requirement is intended to ensure that sufficient volumes of water are provided from supplies shown to be safe, through a distribution system that is protected.

## **Requirement**

### **5-104.12 Alternative Water Supply. (Amended)**

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;<sup>Pf</sup>
- (B) One or more closed portable water containers;<sup>Pf</sup>
- (C) An enclosed vehicular water tank;<sup>Pf</sup>
- (D) An on-PREMISES water storage tank;<sup>Pf</sup> or
- (E) Piping, tubing, or hoses connected to an adjacent APPROVED source.<sup>Pf</sup>

### **Public Health Guideline**

Water from an APPROVED source can be contaminated if inappropriately conveyed. Improperly constructed and maintained water mains, pumps, hoses, connections, and other appurtenances, as well as transport vehicles and containers, may result in contamination of safe water and render it HAZARDOUS to human health.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 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

### Requirement

#### 5-201.11 Approved.

(A) A PLUMBING SYSTEM and hoses conveying water shall be constructed and repaired with APPROVED materials according to LAW.<sup>P</sup>

(B) A water filter shall be made of SAFE MATERIALS.<sup>P</sup>

### **Public Health Guideline**

PLUMBING SYSTEMS and hoses conveying water must be made of APPROVED materials and be SMOOTH, durable, nonabsorbent, and corrosion-resistant. If not, the system may constitute a health HAZARD because unsuitable surfaces may harbor disease organisms or it may be constructed of materials that may contaminate the water supply.

### Requirement

#### 5-202.11 Approved System and Cleanable Fixtures.

(A) A PLUMBING SYSTEM shall be designed, constructed, and installed according to LAW.<sup>P</sup>

(B) A PLUMBING FIXTURE such as a handwashing facility, toilet, or urinal shall be easily cleanable.

### **Public Health Guideline**

Water within a system will leach minute quantities of materials out of the components of the system. To make sure none of the leached matter is toxic or in a form that may produce detrimental effects, even through long-term use, all materials and components used in water systems must be of an APPROVED type. New or replacement items must be tested and APPROVED based on current standards.

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Improperly designed, installed, or repaired water systems can have inherent deficiencies such as improper access openings, dead spaces, and areas difficult or impossible to clean and disinfect. Dead spaces allow water quality to degrade since they are out of the constant circulation of the system. Fixtures such as WAREWASHING sinks that are not EASILY CLEANABLE may lead to the contamination of food products.

## Requirement

### 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. <sup>Pf</sup>
- (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.

### **Public Health Guideline**

Warm water is more effective than cold water in removing the fatty soils encountered in kitchens. An adequate flow of warm water will cause soap to lather and aid in flushing soil quickly from the hands. An inadequate water flow or water temperature may lead to poor handwashing practices by food workers. A mixing valve or combination faucet is needed to provide properly tempered water for handwashing. Steam mixing valves are not allowed for this use because they are hard to control and injury by scalding is a possible HAZARD.

## Requirement

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

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

### **Public Health Guideline**

During periods of extraordinary demand, DRINKING WATER systems may develop negative pressure in portions of the system. If a connection exists between the system and a source of contaminated water during times of negative pressure, contaminated water may be drawn into and foul the entire system. Standing water in sinks, dipper wells, steam kettles, and other EQUIPMENT may become contaminated with cleaning chemicals or food residue. To prevent the introduction of this liquid into the water supply through back siphonage, various means may be used.

The water outlet of a DRINKING WATER system must not be installed so that it contacts water in sinks, EQUIPMENT, or other fixtures that use water. Providing an air gap between the water supply

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outlet and the flood level rim of a PLUMBING FIXTURE OR EQUIPMENT prevents contamination that may be caused by backflow.

**Requirement**

**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.<sup>P</sup>

**Public Health Guideline**

In some instances an air gap is not practical such as is the case on the lower rinse arm for the final rinse of warewashers. This arm may become submerged if the machine drain becomes clogged. If this failure occurs, the machine tank would fill to the flood level rim, which is above the rinse arm. A backflow prevention device is used to avoid potential backflow of contaminated water when an air gap is not practical. The device provides a break to the atmosphere in the event of a negative pressure within the system.

Minerals contained in water and solid particulate matter carried in water may coat moving parts of the device or become lodged between them over time. This may render the device inoperative. To minimize such an occurrence, only devices meeting certain standards of construction, installation, maintenance, inspection, and testing for that application may be used. The necessary maintenance can be facilitated by installing these devices in accessible locations.

**Requirement**

**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.

**Public Health Guideline**

Water conditioning devices must be designed for easy disassembly for servicing so that they can be maintained in a condition that allows them to perform the function for which they were designed.

**Requirement**

**5-203.11 Handwashing Facilities.**

(A) Except as specified in ¶¶ (B), (C), (D) and (E) of this section, at least 1 handwashing sink or the number of handwashing sinks necessary for their convenient use by employees in areas

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specified under § 5-204.11, shall be provided. Food establishments opened prior to July 1, 1965 are exempt from this requirement provided that employees can meet the requirements under §§ 2-301.12 and 2-301.13.<sup>Pf</sup>

*(B) If APPROVED and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least one handwashing sink.*

(C) An adequate number of handwashing stations shall be provided for each temporary food establishment to include:

- (1) A minimum of one enclosed container that has a minimum water capacity of five gallons;<sup>Pf</sup>
- (2) A spigot that can be opened to provide a constant flow of water;<sup>Pf</sup>
- (3) Soap;<sup>Pf</sup>
- (4) Water;<sup>Pf</sup>
- (5) Paper towels;<sup>Pf</sup> and
- (6) A collection container for wastewater with a minimum capacity of five gallons.<sup>Pf</sup>

(D) For mobile food units:

- (1) Class II, III and IV mobile food units must provide a handwashing sink;
- (2) Notwithstanding subparagraph (1) of this paragraph, Class II and III mobile food units licensed prior to September 4, 2012 may provide a handwashing system as described in ¶ (C) of this section if by January 1, 2018 the unit is upgraded to meet the requirements in paragraph (D)(1). There must be a minimum initial volume of five gallons of water available for handwashing at the beginning of the workday.<sup>Pf</sup>

(E) Outdoor cooking and BEVERAGE dispensing operations must be equipped with or located adjacent to a plumbed handwashing sink. Outdoor cooking and BEVERAGE dispensing operations that are not permanently constructed may provide a handwashing system that meets the requirements of paragraph 5-203.11(C) if APPROVED by the REGULATORY AUTHORITY.<sup>Pf</sup>

### **Public Health Guideline**

Because handwashing is such an important factor in the prevention of foodborne illness, sufficient facilities must be available to make handwashing not only possible, but likely.

## **Requirement**

### **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.

(A) Except as specified in ¶ (B) of this section, toilet facilities shall be installed according to ORS 455.010 through 455.895 (2010 Oregon Structure Specialty CODE) for the number of toilets.<sup>Pf</sup>

*(B) Food establishments with occupancy of 15 or less to include both food workers and patrons may have only one toilet fixture and adjacent lavatory on the premises.*

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**Public Health Guideline**

Adequate, sanitary toilet facilities are necessary for the proper disposal of human waste, which carries pathogenic microorganisms, and for preventing the spread of disease by flies and other insects.

Toilet facilities must be of sanitary design and kept clean and in good repair to prevent food contamination and to motivate food workers to use sanitary practices in the establishment. To minimize hand contact with fecal waste, toilet tissue is necessary for hygienic cleaning following use of toilet facilities. Toilet tissue must be supplied to meet the demand.

**Requirement****5-203.13 Service Sink.**

- (A) At least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.
- (B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.
- (C) Mobile food units shall provide toilet facilities as provided for in § 6-402.11.<sup>Pf</sup>

**Public Health Guideline**

Mop water and similar liquid wastes are contaminated with microorganisms and other filth. Waste water must be disposed of in a sanitary manner that will not contaminate food or food EQUIPMENT. A service sink or curbed cleaning facility with a drain allows for such disposal.

**Requirement****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; .<sup>P</sup> or
- (B) Installing an APPROVED backflow prevention device as specified under § 5-202.14. .<sup>P</sup>

**Public Health Guideline**

The delivery end of hoses attached to hose bibbs on a DRINKING WATER line may be dropped into containers filled with contaminated water or left in puddles on the floor or in other possible sources of contamination. A backflow prevention device must be installed on the hose bibb to prevent the back siphonage of contaminated liquid into the DRINKING WATER system during occasional periods of negative pressure in the water line.

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**Requirement****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. .<sup>P</sup>
- (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.*

**Requirement****5-204.11 Handwashing Facilities.**

A handwashing sink shall be located:

- (A) To allow convenient use by food workers in food preparation, food dispensing, and WAREWASHING areas; .<sup>Pf</sup> and
- (B) In, or immediately adjacent to, toilet rooms. .<sup>Pf</sup>

**Public Health Guideline**

Hands are probably the most common vehicle for the transmission of pathogens to foods in an establishment. Hands can become soiled with a variety of contaminants during routine operations. Some people are unlikely to wash their hands unless properly equipped handwashing facilities are accessible in the immediate work area. Improperly located handwashing facilities may be blocked by portable EQUIPMENT or stacked full of soiled UTENSILS and other items, rendering the facility unavailable for regular food worker use. Nothing must block the approach to a handwashing facility thereby discouraging its use, and the facility must be kept clean and well stocked with soap and sanitary towels to encourage frequent use.

**Requirement****5-204.12 Backflow Prevention Device, Location.**

A backflow prevention device shall be located so that it may be serviced and maintained.

**Public Health Guideline**

Backflow prevention devices are meant to protect the DRINKING WATER system from contamination caused by backflow. If improperly placed, backflow prevention devices will not work. If inconveniently located, these devices may not be accessed when systems are extended, altered, serviced, or replaced. Over a period of time, unserviced devices may fail and system contamination may occur.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****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.

**Public Health Guideline**

When not located for easy maintenance, conditioning devices will be inconvenient to access and devices such as filters, screens, and water softeners will become clogged because they are not properly serviced.

**Requirement****5-205.11 Using a Handwashing Facility.**

(A) A handwashing facility shall be maintained so that it is accessible at all times for food worker use. .<sup>Pf</sup>

(B) A handwashing facility may not be used for purposes other than handwashing. .<sup>Pf</sup>

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions. .<sup>Pf</sup>

**Public Health Guideline**

Facilities must be maintained in a condition that promotes handwashing and restricted for that use. Convenient accessibility of a handwashing facility encourages timely handwashing that provides a break in the chain of contamination from the hands of food workers to food or food-contact surfaces. Sinks used for food preparation and WAREWASHING can become sources of contamination if used as handwashing facilities by food workers returning from the toilet or from duties that have contaminated their hands.

**Requirement****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. .<sup>Pf</sup>

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

**Public Health Guideline**

NONDRINKING WATER may be of unknown or questionable origin. Wastewater is either known or suspected to be contaminated. Neither of these sources can be allowed to contact and contaminate the DRINKING WATER system.

## Requirement

### 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. <sup>Pf</sup>

### **Public Health Guideline**

Water system devices (such as filters and backflow preventers) are affected by the water in the system. How devices are affected depends on water quality, especially pH, hardness, and suspended particulate matter in the water. Complexity of the device is also a factor. Manufacturer recommendations, as well as inspection and maintenance schedules for these devices, must be strictly followed to prevent failure during operation.

## Requirement

### 5-205.14 Water Reservoir of Fogging Devices, Cleaning.(Deleted)

- (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; <sup>P</sup> and
  - (2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under ¶ (B) of this section, whichever is more stringent. <sup>P</sup>
- (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; <sup>P</sup>
  - (2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution; <sup>P</sup>
  - (3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; <sup>P</sup> and
  - (4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution. <sup>P</sup>

### **Public Health Guideline**

Water reservoirs that have poor water exchange rates, such as reservoirs for some humidifiers or aerosol or fogging devices, and that are directly or indirectly open to the atmosphere, may be contaminated with respiratory pathogens such as ***Legionella pneumophila***. This organism is extremely infectious and can be transmitted through very small droplets of a fogger or humidifier. It is important that the manufacturer's cleaning and maintenance schedule be scrupulously followed to prevent a reservoir from colonization by ***Legionella pneumophila*** bacterium.

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## **Requirement**

### **5-205.15 System Maintained in Good Repair.**

A PLUMBING SYSTEM shall be:

(A) Repaired according to LAW;<sup>P</sup> and

(B) Maintained in good repair.

### **Public Health Guideline**

Improper repair or maintenance of any portion of the PLUMBING SYSTEM may result in potential health HAZARDS such as cross connections, backflow, or leakage. These conditions may result in the contamination of food, EQUIPMENT, UTENSILS, LINENS, or single-service or single-use articles. Improper repair or maintenance may result in the creation of obnoxious odors or nuisances, and may also adversely affect the operation of WAREWASHING EQUIPMENT or other EQUIPMENT that depends on sufficient volume and pressure to perform its intended functions.

<sup>P</sup> = Priority Item

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## 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**

#### Requirement

##### 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;<sup>P</sup>
- (B) Durable, corrosion-resistant, and nonabsorbent; and
- (C) Finished to have a SMOOTH, EASILY CLEANABLE surface.

#### **Public Health Guideline**

Materials used in the construction of a mobile water tank are affected by the water they contact. Tank liners may deteriorate and flake. Metals or platings can be toxic. To prevent the degradation of the water quality, it is important that the materials used in the construction of the tank are suitable for such use.

#### Requirement

##### 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.

#### **Public Health Guideline**

The tank must be a closed system from the filling inlet to the outlet to prevent contamination of water. It is important that the bottom of the tank be sloped to the outlet to allow the tank to drain completely, to facilitate the proper cleaning and disinfection of the tank. Some tanks are designed with an access opening to facilitate the cleaning and servicing of the water tank. The access must be constructed to prevent the opening from becoming a source of contamination of the water.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****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.

**Public Health Guideline**

The tank must be a closed system from the filling inlet to the outlet to prevent contamination of water. It is important that the bottom of the tank be sloped to the outlet to allow the tank to drain completely, to facilitate the proper cleaning and disinfection of the tank. Some tanks are designed with an access opening to facilitate the cleaning and servicing of the water tank. The access must be constructed to

prevent the opening from becoming a source of contamination of the water.

**Requirement****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.

**Public Health Guideline**

V-type threads are difficult to clean if contaminated with food or waste. To prevent the contamination of the DRINKING WATER, this type of thread should only be used on water tank inlets and outlets if the connection is permanent which eliminates exposed, difficult-to-clean threads.

**Requirement****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.

**Public Health Guideline**

Water tanks are equipped with a vent to preclude distortion during filling or draining. The vent should be equipped with a suitable screen or filter to protect the tank against the entry of insects or other vermin that may contaminate the water supply.

## Requirement

### 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.

### **Public Health Guideline**

Both the inlet and outlet must be sloped to drain to prevent the pooling of possibly contaminated water or sanitizing solution

## Requirement

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

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

- (A) Safe;<sup>P</sup>
- (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.

### **Public Health Guideline**

Hoses used to fill potable water tanks should be dedicated for that one task and should be identified for that use only to prevent contaminating the water. Hoses must be made of a material that will not leach detrimental substances into the water.

## Requirement

### 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.<sup>P</sup>

### **Public Health Guideline**

Compressor pistons are lubricated with oil to minimize wear. Some of the oil is carried into the air-lines and if not intercepted may contaminate the tank and water lines.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### **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.

### **Public Health Guideline**

Protective EQUIPMENT provided for openings of the water supply must be in use to prevent contamination that may be present where the supply is exposed to the environment, i.e., at water inlets or outlets or the ends of transfer hoses.

## Requirement

### **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.

### **Public Health Guideline**

Mobile units may be particularly vulnerable to environmental contamination if soiled hose connections are coupled to the tank inlet.

## Requirement

### **5-304.11 System Flushing and Disinfection.**

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse. <sup>P</sup>

### **Public Health Guideline**

Contaminants of various types may be introduced into a water system during construction or repair or other incidents. The system must be flushed and sanitized after maintenance and before it is placed into service to prevent contamination of the water introduced into the tank.

## Requirement

### **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.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Public Health Guideline**

When a water system includes a pump, or a pump is used in filling a water tank, care must be taken during hookup to prevent negative pressure on the supplying water system. Backflow prevention to protect the water supply is especially necessary during cleaning and sanitizing operations on a mobile system.

**Requirement**

**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.

**Public Health Guideline**

When not connected for use, water inlets, outlets, and hose fittings should be closed to the environment. Unless capped or otherwise protected, filling inlets, outlets, and hoses may become contaminated by dust or vermin.

**Requirement**

**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.<sup>P</sup>
- (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.*

**Public Health Guideline**

Hoses, pumps, and tanks used for food or water may not be used for other liquids because this may contaminate the water supply. If a hose, tank, or pump has been used to transfer liquid food, the EQUIPMENT must be cleaned and sanitized before using it for water delivery. Failure to properly clean and sanitize the EQUIPMENT would introduce nutrients, and possibly bacteria, into the water as well as inactivate residual chlorine from public water supplies.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

### Subparts

- 5-401 Mobile Holding Tank
- 5-402 [Retention, Drainage, and Delivery](#)
- 5-403 [Disposal Facility](#)

### Requirement

#### 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.
- (C) For a mobile food unit selling only BEVERAGES, such as coffee, espresso, or soda, and where most of the potable water supply is used in the product, the waste water retention tank may be at least one half the volume of the potable water storage tank. This determination must be made by the REGULATORY AUTHORITY.

#### **Public Health Guideline**

Liquid waste from a mobile or temporary food establishment must be stored in a properly constructed waste tank to discourage the attraction of flies and other vermin. The waste tank must be 15% larger than the water storage tank to allow for storage of wastes and used water from the DRINKING WATER supply tank. The drain from the waste tank must be larger than the filling hose to prevent the use of the DRINKING WATER filling hose to drain the waste tank.

### Requirement

#### 5-402.10 Establishment Drainage System.

Food establishment drainage systems, including grease traps that convey SEWAGE shall be designed and installed as specified under ¶ [5-205.11\(A\)](#).

#### **Public Health Guideline**

The drainage system must be designed and installed properly to prevent the backup of SEWAGE and the possible contamination of foods or food-contact surfaces in the establishment.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****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.<sup>P</sup>

(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.*

**Public Health Guideline**

Improper plumbing installation or maintenance may result in potential health HAZARDS such as cross connections, back siphonage or backflow. These conditions may result in the contamination of food, UTENSILS, EQUIPMENT, or other food-contact surfaces. It may also adversely affect the operation of EQUIPMENT SUCH AS WAREWASHING machines.

**Requirement****5-402.12 Grease Trap.**

If used, a grease trap shall be located to be easily accessible for cleaning.

**Public Health Guideline**

Failure to locate a grease trap so that it can be properly maintained and cleaned could result in the harborage of vermin and/or the failure of the SEWAGE system.

**Requirement****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.<sup>P</sup>

**Public Health Guideline**

Improper disposal of waste provides a potential for contamination of food, UTENSILS, and EQUIPMENT and, therefore, may cause serious illness or disease outbreaks. Proper removal is required to prevent contamination of ground surfaces and water supplies, or creation of other unsanitary conditions that may attract insects and other vermin.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### **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.<sup>Pf</sup>

(A) *Mobile food units that generate only gray water liquid wastes may hand-carry those wastes to a specific disposal location APPROVED by the REGULATORY AUTHORITY.*

(B) The waste transport container must be designed and intended to hold and transport gray water without leaks or spills and have a capacity no greater than 20 gallons.<sup>Pf</sup>

### **Public Health Guideline**

Improper disposal of waste provides a potential for contamination of food, UTENSILS, and EQUIPMENT and, therefore, may cause serious illness or disease outbreaks. Proper removal is required to prevent contamination of ground surfaces and water supplies, or creation of other unsanitary conditions that may attract insects and other vermin.

## Requirement

### **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.

### **Public Health Guideline**

Improper disposal of waste provides a potential for contamination of food, UTENSILS, and EQUIPMENT and, therefore, may cause serious illness or disease outbreaks. Proper removal is required to prevent contamination of ground surfaces and water supplies, or creation of other unsanitary conditions that may attract insects and other vermin.

## Requirement

### **5-403.11 Approved Sewage Disposal System.**

SEWAGE shall be disposed through an APPROVED facility that is:

(A) A public SEWAGE treatment plant;<sup>P</sup> or

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

### **Public Health Guideline**

Many diseases can be transmitted from one PERSON to another through fecal contamination of food and water. This transmission can be indirect. Proper disposal of human wastes greatly reduces the RISK of fecal contamination. This CODE provision is intended to ensure that wastes will

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not contaminate ground surfaces or water supplies; pollute surface waters; be accessible to children or pets; or allow rodents or insects to serve as vectors of disease from this source.

## **Requirement**

### **5-403.12 Other Liquid Wastes and Rainwater.**

Condensate drainage and other nonSEWAGE liquids and rainwater shall be drained from point of discharge to disposal according to LAW.

### **Public Health Guideline**

Liquid food wastes and rainwater can provide a source of bacterial contamination and support populations of pests. Proper storage and disposal of wastes and drainage of rainwater eliminate these conditions.

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## 5-5 REFUSE, RECYCLABLES, AND RETURNABLES

### Subparts

- 5-501 Facilities on the Premises
- 5-502 [Removal](#)
- 5-503 [Facilities for Disposal and Recycling](#)

### Requirement

#### 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](#) through [6-201.18](#), [6-202.15](#), and [6-202.16](#).

### Requirement

#### 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.

### Requirement

#### 5-501.12 Outdoor Enclosure.

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

### Requirement

#### 5-501.13 Receptacles.

- (A) Except as specified in ¶ (B) of this section, receptacles and waste handling units for REFUSE, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.
- (B) *Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.*

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## Requirement

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

A REFUSE receptacle may not be located within a VENDING MACHINE, except that a receptacle for BEVERAGE bottle crown closures may be located within a VENDING MACHINE.

## Requirement

### **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 onsite 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.

## Requirement

### **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 sinks, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

## Requirement

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

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

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**Requirement****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.*

**Requirement****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 singleservice 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.

**Requirement****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.

**Requirement****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.

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## Requirement

### **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.*

## Requirement

### **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.

## Requirement

### **5-501.114 Using Drain Plugs.**

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

## Requirement

### **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.

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## Requirement

### **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.

### **Public Health Guideline for 5-501.10 through 5-501.116**

Proper storage and disposal of garbage and REFUSE are necessary to minimize the development of odors, prevent such waste from becoming an attractant and harborage or breeding place for insects and rodents, and prevent the soiling of food preparation and food service areas. Improperly handled garbage creates nuisance conditions, makes housekeeping difficult, and may be a possible source of contamination of food, EQUIPMENT, and UTENSILS.

Storage areas for garbage and REFUSE containers must be constructed so that they can be thoroughly cleaned in order to avoid creating an attractant or harborage for insects or rodents. In addition, such storage areas must be large enough to accommodate all the containers necessitated by the operation in order to prevent scattering of the garbage and REFUSE.

All containers must be maintained in good repair and cleaned as necessary in order to store garbage and REFUSE under sanitary conditions as well as to prevent the breeding of flies.

Garbage containers should be available wherever garbage is generated to aid in the proper disposal of REFUSE.

Outside receptacles must be constructed with tight-fitting lids or covers to prevent the scattering of the garbage or REFUSE by birds, the breeding of flies, or the entry of rodents. Proper EQUIPMENT and supplies must be made available to accomplish thorough and proper cleaning of garbage storage areas and receptacles so that unsanitary conditions can be eliminated.

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.

**Requirement****5-501.11 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.

**Public Health Guideline**

REFUSE, recyclables, and returnable items, such as BEVERAGE cans and bottles, usually contain a residue of the original contents. Spillage from these containers soils receptacles and storage areas and becomes an attractant for insects, rodents, and other pests.

The handling of these materials entails some of the same problems and solutions as the handling of garbage and REFUSE. Problems are minimized when all of these materials are removed from the premises at a reasonable frequency.

**Requirement****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.

**Public Health Guideline**

REFUSE, recyclables, and returnable items, such as BEVERAGE cans and bottles, usually contain a residue of the original contents. Spillage from these containers soils receptacles and storage areas and becomes an attractant for insects, rodents, and other pests.

The handling of these materials entails some of the same problems and solutions as the handling of garbage and REFUSE. Problems are minimized when all of these materials are removed from the premises at a reasonable frequency.

**Requirement****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.

**Public Health Guideline**

Alternative means of solid waste disposal must be conducted properly to prevent environmental consequences and the attraction of insects, rodents, and other pests.

## Chapter 6

### Physical Facilities

#### 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

#### Requirement

##### 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 suitable 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.*

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**Public Health Guideline**

Floors, walls, and ceilings that are constructed of SMOOTH and durable surface materials are more easily cleaned. Floor surfaces that are graded to drain and consist of effectively treated materials will prevent contamination of foods from dust and organisms from pooled moisture. The special requirements for carpeting materials and nonabsorbent materials in areas subject to moisture are intended to ensure that the clean ability of these surfaces is retained.

Although food served from the temporary food establishments is subject to the same potential for contamination as food served in permanent establishments, the limited capabilities and short duration of operation are recognized by less stringent requirements for surface characteristics.

**Requirement****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.

**Public Health Guideline**

The requirements concerning surface characteristics of outdoor areas are intended to facilitate maintenance and minimize the accumulation of dust and mud on walking and driving areas, provide durable exterior building surfaces, and prevent the attracting, harboring, or breeding of insects, rodents, and other pests where REFUSE, recyclables, or returnables are stored.

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## 6-2 DESIGN, CONSTRUCTION, AND INSTALLATION

### Subparts

- 6-201 Cleanability
- 6-202 **Functionality**

### Requirement

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

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

### **Public Health Guideline**

Floors that are of SMOOTH, durable construction and that are nonabsorbent are more easily cleaned. Requirements and restrictions regarding floor coverings, utility lines, and floor/wall junctures are intended to ensure that regular and effective cleaning is possible and that insect and rodent harborage is minimized.

### Requirement

#### 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.

### **Public Health Guideline**

Floors that are of SMOOTH, durable construction and that are nonabsorbent are more easily cleaned. Requirements and restrictions regarding floor coverings, utility lines, and floor/wall junctures are intended to ensure that regular and effective cleaning is possible and that insect and rodent harborage is minimized.

**Requirement****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.

**Public Health Guideline**

When cleaning is accomplished by spraying or flushing, coving and sealing of the floor/wall junctures is required to provide a surface that is conducive to water flushing. Grading of the floor to drain allows liquid wastes to be quickly carried away, thereby preventing pooling which could attract pests such as insects and rodents or contribute to problems with certain pathogens such as *Listeria monocytogenes*.

**Requirement****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.

**Public Health Guideline**

Requirements and restrictions regarding floor carpeting are intended to ensure that regular and effective cleaning is possible and that insect harborage is minimized. The restrictions for areas not suited for carpeting materials are designed to ensure clean ability of surfaces where accumulation of moisture or waste is likely.

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

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

**Public Health Guideline**

Requirements regarding mats and duckboards are intended to ensure that regular and effective cleaning is possible and that accumulation of dirt and waste is prevented.

**Requirement****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.

**Public Health Guideline**

Walls and ceilings that are of SMOOTH construction, nonabsorbent, and in good repair can be easily and effectively cleaned. Special requirements related to the attachment of accessories and exposure of wall and ceiling studs, joists, and rafters are intended to ensure the clean ability of these surfaces.

**Requirement****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.*

**Public Health Guideline**

Walls and ceilings that are of SMOOTH construction, nonabsorbent, and in good repair can be easily and effectively cleaned. Special requirements related to the attachment of accessories and exposure of wall and ceiling studs, joists, and rafters are intended to ensure the clean ability of these surfaces.

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

Studs, joists, and rafters may not be exposed in areas subject to moisture. This requirement does not apply to temporary food establishments.

**Public Health Guideline**

Walls and ceilings that are of SMOOTH construction, nonabsorbent, and in good repair can be easily and effectively cleaned. Special requirements related to the attachment of accessories and exposure of wall and ceiling studs, joists, and rafters are intended to ensure the clean ability of these surfaces.

**Requirement****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.

**Public Health Guideline**

Shielding of light bulbs helps prevent breakage. Light bulbs that are shielded, coated, or otherwise shatter-resistant are necessary to protect exposed food, clean EQUIPMENT, UTENSILS and LINENS, and unwrapped single-service and single-use articles from glass fragments should the bulb break.

**Requirement****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.

**Public Health Guideline**

Heating and air conditioning system vents that are not properly designed and located may be difficult to clean and result in the contamination of food, food preparation surfaces, EQUIPMENT, OR UTENSILS by dust or other accumulated soil from the exhaust vents.

**Requirement****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.

**Public Health Guideline**

Insect electrocution devices are considered supplemental to good sanitation practices in meeting this CODE requirement for controlling the presence of flies and other insects in a food establishment.

Improper design of the device and dead insect collection tray could allow dead insect parts and injured insects to escape, rendering the device itself a source of contamination.

Exposed food and food-contact surfaces must be protected from contamination by insects or insect parts. Installation of the device over food preparation areas or in close proximity to exposed food and/or food-contact surfaces could allow dead insects and/or insect parts to be impelled by the electric charge, fall, or be blown from the device onto food or food-contact surfaces.

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

A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door *except that this requirement does not apply to a toilet room that 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.*

**Public Health Guideline**

Completely enclosed toilet facilities minimize the potential for the spread of disease by the movement of flies and other insects between the toilet facilities and food preparation areas.

**Requirement****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

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

(2) Properly designed and installed air curtains; or

(3) Other effective means.

(E) Paragraph (D) of this section does not apply:

(1) if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

(2) The establishment develops a pest management plan to control the presence of flying insects or other pests. The pest management plan must be APPROVED by the REGULATORY AUTHORITY prior to implementation. <sup>Pf</sup>

### **Public Health Guideline**

Insects and rodents are vectors of disease-causing microorganisms that may be transmitted to humans by contamination of food and food-contact surfaces. The presence of insects and rodents is minimized by protecting outer openings to the food establishment.

In the National Fire Protection Association's NFPA 101, Life Safety CODE®, 1994 Edition, doors to exit enclosures such as stairs, horizontal exits, or exit passageways are required to be self-closing. The Life Safety CODE does not require exterior doors used as exits to be self-closing, but they can be.

The intent of Subparagraph 6-202.15(A)(3) is to protect food establishments from the entry of insects and rodents by keeping doors closed when not in use. Self-closing devices allow a door to return to its closed position after use. If an exterior door is not routinely used for entry or exit because its use is restricted by the fire protection authority for emergency use only, it is not a portal for the entry of pests and does not need a self-closing device. Doors not requiring a self-closing device include exterior emergency exit doors that open into a public way from a fire and that meet the criteria in ¶6-202.15(C). Check with the local Fire Marshall for specific requirements.

**Requirement****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.

**Public Health Guideline**

Walls and roofs provide a barrier to protect the interior and foods from the weather, windblown dirt and debris, and flying insects.

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

If located outside, a machine used to vend food shall be provided with overhead protection *except that machines vending canned BEVERAGES need not meet this requirement.*

**Public Health Guideline**

The potential for contamination from airborne dust and particulates or inclement weather is present in outside areas. Overhead protection minimizes the potential for contamination of food under such conditions.

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

SERVICING AREAS shall be provided with overhead protection *except that 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, need not be provided with overhead protection.*

**Public Health Guideline**

Pooled water, which may result if overhead protection is not provided for outdoor SERVICING AREAS, attracts wild animals and birds and creates a condition suitable for the breeding of insects.

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

Exterior walking and driving surfaces shall be graded to drain.

**Public Health Guideline**

If foot traffic is allowed to occur from undrained areas, contamination will be tracked into the establishment. Surfaces graded to drain properly minimize these conditions. Pooled water on exterior walking and driving surfaces may also attract rodents and breed insects.

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**Requirement**

**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.

**Public Health Guideline**

If REFUSE areas are not graded properly waste water will pool and attract insects and rodents.

**Requirement**

**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.<sup>P</sup>

**Public Health Guideline**

Areas or facilities that are not compatible with sanitary food establishment operations must be located and/or separated from other areas of the establishment to preclude potential contamination of food and food-contact surfaces from POISONOUS OR TOXIC MATERIALS, dust or debris, the presence of improperly designed facilities and EQUIPMENT, and the traffic of unauthorized and/or unnecessary PERSONS or pets.

Further, Article IV of the Amendments to the U.S. Constitution ensures the right of PERSONS to be secure in their homes against unreasonable search and seizure. This provision could hinder the state or local public health authority’s access to conduct routine inspections of a food establishment operated in the living area of a private home. A search warrant may be the only mechanism by which to gain entry; yet, it may be difficult to obtain and might not authorize the necessary inspectional activities.

<sup>P</sup> = Priority Item

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## Requirement

### **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.

### **Public Health Guideline**

Areas or facilities that are not compatible with sanitary food establishment operations must be located and/or separated from other areas of the establishment to preclude potential contamination of food and food-contact surfaces from POISONOUS OR TOXIC MATERIALS, dust or debris, the presence of improperly designed facilities and EQUIPMENT, and the traffic of unauthorized and/or unnecessary PERSONS or pets. Further, Article IV of the Amendments to the U.S. Constitution ensures the right of PERSONS to be secure in their homes against unreasonable search and seizure. This provision could hinder the state or local public health authority's access to conduct routine inspections of a food establishment operated in the living area of a private home. A search warrant may be the only mechanism by which to gain entry; yet, it may be difficult to obtain and might not authorize the necessary inspectional activities.

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## 6-3 NUMBERS AND CAPACITIES

### Subparts

6-301	Handwashing Facilities
6-302	Toilets and Urinals
6-303	Lighting
6-304	Ventilation
6-305	Dressing Areas and Lockers

### Requirement

#### 6-301.10 Minimum Number.

Handwashing facilities shall be provided as specified under § 5-203.11.

#### **Public Health Guideline**

Because handwashing is such an important factor in the prevention of foodborne illness, sufficient facilities must be available to make handwashing not only possible, but likely.

### Requirement

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

Each handwashing sink or group of two (2) adjacent lavatories shall be provided with a supply of hand cleaning liquid, powder, or bar soap.<sup>Pf</sup>

#### **Public Health Guideline**

Hand cleanser must always be present to aid in reducing microorganisms and particulate matter found on hands.

### Requirement

#### 6-301.12 Hand Drying Provision.

Each handwashing SINK or group of adjacent handwashing sinks shall be provided with:

- (A) Individual, disposable towels;<sup>Pf</sup>
- (B) A continuous towel system that supplies the user with a clean towel;<sup>Pf</sup> or
- (C) A heated-air hand drying device<sup>Pf</sup> or

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(D) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. <sup>Pf</sup>

### **Public Health Guideline**

Provisions must be provided for hand drying so that food workers will not dry their hands on their clothing or other unclean materials.

## **Requirement**

### **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).

## **Requirement**

### **6-301.14 Handwashing Signage.**

A sign or poster that notifies food workers to wash their hands shall be provided at all handwashing SINKS used by food workers and shall be clearly visible to food workers.

### **Public Health Guideline**

A sign or poster is required to remind food workers to wash their hands. Because handwashing is such an important factor in the prevention of foodborne illness, sufficient facilities must be available to make handwashing not only possible, but likely.

## **Requirement**

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

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

### **Public Health Guideline**

Waste receptacles at handwashing lavatories are required for the collection of disposable towels so that the paper waste will be contained, will no contact food directly or indirectly, and will not become an attractant of insects or rodents.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Requirement****6-302.10 Minimum Number.**

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

**Public Health Guideline**

Adequate, sanitary toilet facilities are necessary for the proper disposal of human waste, which carries pathogenic microorganisms, and for preventing the spread of disease by flies and other insects.

Toilet facilities must be of sanitary design and kept clean and in good repair to prevent food contamination and to motivate food workers to use sanitary practices in the establishment. To minimize hand contact with fecal waste, toilet tissue is necessary for hygienic cleaning following use of toilet facilities. Toilet tissue must be supplied to meet the demand.

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

A supply of toilet tissue shall be available at each toilet. <sup>Pf</sup>

**Public Health Guideline**

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

**Requirement****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;
  - (3) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, WAREWASHING, and EQUIPMENT and UTENSIL storage, and in toilet rooms; and
- (C) At least 540 lux (50 foot candles) at a surface where a food worker is working with food or working with UTENSILS or EQUIPMENT such as knives, slicers, grinders, or saws where food worker safety is a factor.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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**Public Health Guideline**

Lighting levels are specified so that sufficient light is available to enable food worker to perform certain functions such as reading labels; discerning the color of substances; identifying toxic materials; recognizing the condition of food, UTENSILS, and supplies; and safely conducting general food establishment operations and clean-up. Properly distributed light makes the need for cleaning apparent by making accumulations of soil conspicuous.

**Requirement****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.

**Public Health Guideline**

When mechanical ventilation is necessary, it must have adequate capacity to ensure that soiling of walls, ceilings, and other EQUIPMENT is minimized; obnoxious odors or toxic fumes are effectively removed; and no HAZARDS or nuisances involving accumulation of fats, oils, and similar wastes are created. Balancing of the exhaust and make-up air must be ensured so that the system can operate efficiently.

**Requirement****6-305.11 Designation.**

(A) Dressing rooms or dressing areas shall be designated if food workers routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of food workers' clothing and other possessions.

**Public Health Guideline**

Street clothing and PERSONAL belongings can contaminate food, food EQUIPMENT, and food-contact surfaces. Proper storage facilities are required for articles such as purses, coats, shoes, and PERSONAL medications.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### 6-306.10 Availability.

A service sink or curbed cleaning facility shall be provided as specified under [§ 5-203.13 \(A\)](#).

### **Public Health Guideline**

A service sink or curbed facility is required so that the cleanliness of the food establishment can be maintained, attractants for insects and rodents minimized, and contamination of food and EQUIPMENT by accumulated soil prevented. Liquid wastes generated during cleaning must be disposed of in a sanitary manner to preclude contamination of food and food EQUIPMENT. A service sink is provided to prevent the improper disposal of wastes into other sinks such as food preparation and handwashing sinks.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 6-4 LOCATION AND PLACEMENT

### Subparts

- 6-401 Handwashing Facilities
- 6-402 Toilet Rooms
- 6-403 Employee Accommodations

### Requirement

#### 6-401.10 Conveniently Located.

Handwashing facilities shall be conveniently located as specified under [§ 5-204.11](#).

#### **Public Health Guideline**

Facilities must be located in or adjacent to toilet rooms and convenient to the different work stations of the food worker for proper and routine handwashing to prevent contamination of the food and food-contact surfaces.

### Requirement

#### 6-402.11 Convenience and Accessibility. (Amended)

- (A) Toilet rooms shall be conveniently located and accessible to EMPLOYEES during all hours of operation.
- (B) Toilet facilities for the customer are required only in establishments constructed or extensively remodeled after May 11, 1974,
- (C) Food establishments limited to drive-in or handout service are not required to provide toilet rooms facilities for the customer.

#### **Public Health Guideline**

Toilet rooms must be conveniently accessible to food workers at all times to encourage food worker use of appropriate facilities for the disposing of human wastes as needed followed by proper handwashing.

### Requirement

#### 6-403.11 Designated Areas.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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- (A) Areas designated for food worker 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.

### **Public Health Guideline**

Because food workers could introduce pathogens to food by hand-to-mouth-to-food contact and because street clothing and PERSONAL belongings carry contaminants, areas designated to accommodate food worker's PERSONAL needs must be carefully located. Food, food EQUIPMENT and UTENSILS, clean LINENS, and single-service and single-use articles must not be in jeopardy of contamination from these areas.

## **Requirement**

### **6-404.11 Segregation and Location.**

Products that are held by a Public school Sponsor, Private school Sponsor, and Residential Child Care Institution Sponsor or Competitive Food Sales vendor 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.<sup>Pf</sup>

### **Public Health Guideline**

Products which are damaged, spoiled, or otherwise unfit for sale or use in a food establishment may become mistaken for safe and wholesome products and/or cause contamination of other foods, EQUIPMENT, UTENSILS, LINENS, or single-service or single-use articles. To preclude this, separate and segregated areas must be designated for storing unsalable goods.

## **Requirement**

### **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](#).

### **Public Health Guideline**

Waste materials and empty product containers are unclean and can be an attractant to insects and rodents. Food, EQUIPMENT, UTENSILS, LINENS, and single-service and single use articles must be protected from exposure to filth and unclean conditions and other contaminants. This CODE provision addresses these concerns by requiring the facility to be segregated, to be located to allow cleaning of adjacent areas, and to preclude creation of a nuisance.

## 6-5 MAINTENANCE AND OPERATION

### Subparts

#### 6-501 Premises, Structures, Attachments, and Fixtures – Methods

### Requirement

#### 6-501.11 Repairing.

The PHYSICAL FACILITIES shall be maintained in good repair.

### **Public Health Guideline**

Poor repair and maintenance compromises the functionality of the PHYSICAL FACILITIES. This requirement is intended to ensure that the PHYSICAL FACILITIES are properly maintained in order to serve their intended purpose.

### Requirement

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

- (A) The PHYSICAL FACILITIES shall be cleaned as often as necessary to keep them clean.
- (B) Cleaning shall be done during periods when the least amount of food is exposed such as after closing. *This requirement does not apply to cleaning that is necessary due to a spill or other accident.*

### **Public Health Guideline**

Cleaning of the PHYSICAL FACILITIES is an important measure in ensuring the protection and sanitary preparation of food. A regular cleaning schedule should be established and followed to maintain the facility in a clean and sanitary manner. Primary cleaning should be done at times when foods are in protected storage and when food is not being served or prepared.

### Requirement

#### 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*

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(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.*

### **Public Health Guideline**

Dustless floor cleaning methods must be used so that food; EQUIPMENT, UTENSILS, and LINENS; and single-service and single-use articles are not contaminated.

### **Requirement**

#### **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.

### **Public Health Guideline**

Both intake and exhaust ducts can be a source of contamination and must be cleaned regularly. Filters that collect particulate matter must be cleaned or changed frequently to prevent overloading of the filter. Outside areas under or adjacent to exhaust duct outlets at the exterior of the building must be maintained in a clean and sanitary manner to prevent pest attraction.

### **Requirement**

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

Food preparation sinks, handwashing SINKS, and WAREWASHING EQUIPMENT may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.<sup>Pf</sup>

### **Public Health Guideline**

Maintenance tools used to repair the PHYSICAL FACILITIES must be cleaned in a separate area to prevent contamination of food and food preparation and WAREWASHING areas.

### **Requirement**

#### **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.

### **Public Health Guideline**

Mops can contaminate food and food preparation areas if not properly cleaned and stored after use. Mops should be cleaned and dried in a sanitary manner away from food flow areas.

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## Requirement

### **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.

#### **Public Health Guideline**

Cleanliness of the food establishment is important to minimize attractants for insects and rodents, aid in preventing the contamination of food and EQUIPMENT, and prevent nuisance conditions. A clean and orderly food establishment is also conducive to positive food worker attitudes that can lead to increased attention to PERSONAL hygiene and improved food preparation practices. Use of specified cleaning procedures is important in precluding avoidable contamination of food and EQUIPMENT and nuisance conditions.

Temporary floor coverings such as sawdust can contaminate food, attract insects and rodents, and become a nuisance to the food operation.

## Requirement

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

PLUMBING FIXTURES SUCH AS HANDWASHING SINKS, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

#### **Public Health Guideline**

Handwashing facilities are critical to food protection and must be maintained in operating order at all times so they will be used.

Facilities must be maintained in a condition that promotes handwashing and restricted for that use. Convenient accessibility of a handwashing facility encourages timely handwashing that provides a break in the chain of contamination from the hands of food workers to food or food-contact surfaces. Sinks used for food preparation and WAREWASHING can become sources of contamination if used as handwashing facilities by food workers returning from the toilet or from duties that have contaminated their hands.

## Requirement

### **6-501.19 Closing Toilet Room Doors.**

Toilet room doors as specified under § 6-202.14 shall be kept closed except during cleaning and maintenance operations.

#### **Public Health Guideline**

Toilet room doors must remain closed except during cleaning operations to prevent insect and rodent entrance and the associated potential for the spread of disease.

**Requirement****6-501.110 Using Dressing Rooms and Lockers.**

- (A) Dressing rooms shall be used by food workers if the workers regularly change their clothes in the establishment.
- (B) Lockers or other suitable facilities shall be used for the orderly storage of worker clothing and other possessions.

**Public Health Guideline**

Street clothing and PERSONAL belongings can contaminate food, food EQUIPMENT, and food preparation surfaces and consequently must be stored in properly designated areas or rooms.

**Requirement****6-501.111 Controlling Pests.**

The premises shall be maintained free of insects, rodents, and other pests <sup>Pf</sup>. 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](#); <sup>Pf</sup> and
- (D) Eliminating harborage conditions.

**Public Health Guideline**

Insects and other pests are capable of transmitting disease to man by contaminating food and food-contact surfaces. Effective measures must be taken to control their presence in food establishments.

**Requirement****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.

**Public Health Guideline**

Dead rodents, birds, and insects must be removed promptly from the facilities to ensure clean and sanitary facilities and to preclude exacerbating the situation by allowing carcasses to attract other pests.

<sup>P</sup> = Priority Item

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**Requirement****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 singleservice and single-use articles; and
- (B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

**Public Health Guideline**

Brooms, mops, vacuum cleaners, and other maintenance EQUIPMENT can contribute contamination to food and food-contact surfaces. These items must be stored in a manner that precludes such contamination. To prevent harborage and breeding conditions for rodents and insects, maintenance EQUIPMENT must be stored in an orderly fashion to PERMIT cleaning of the area.

**Requirement****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.

**Public Health Guideline**

The presence of unnecessary articles, including EQUIPMENT that is no longer used, makes regular and effective cleaning more difficult and less likely. It can also provide harborage for insects and rodents.

Areas designated as EQUIPMENT storage areas and closets must be maintained in a neat, clean, and sanitary manner. They must be routinely cleaned to avoid attractive or harborage conditions for rodents and insects.

**Requirement****6-501.115 Prohibiting Animals.**

- (A) Except as specified in ¶ (B), (C), (D) and (E) of this section, live animals may not be allowed on the premises of a food establishment.<sup>Pf</sup>
- (B) *A food establishment shall PERMIT the use of a SERVICE ANIMAL by an individual with a disability on its premises unless the SERVICE ANIMAL poses a direct threat to the health and safety of others.*

- (1) For purposes of section 6-501.115 the term “direct threat” means a significant RISK to the health or safety of others that cannot be eliminated by modification of policies, practices, or procedures or by provision of auxiliary aids or services.
- (2) In determining whether a SERVICE ANIMAL poses a direct threat to the health or safety of others, a food establishment must make an individualized assessment, based on reasonable judgment that relies on the best available objective evidence, to ascertain: The nature, duration, and severity of the RISK; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the RISK.
- (3) A food establishment may ask an individual with a disability to remove a SERVICE ANIMAL from the premises if:
- (a) The animal is out of control and the animal’s handler does not take effective action to control it; or
  - (b) The animal is not housebroken.
- (C) Live animals may be allowed in the following situations if the contamination of food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped single-service and single-use articles can not result:
- (1) Edible FISH or decorative FISH in aquariums, shellFISH or crustacea on ice or under refrigeration, and shellFISH and crustacean 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) Pets in the common dining areas of group residences at times other than during meals if:
    - (a) Effective partitioning and self-closing doors separate the common s 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
    - (d) 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 restricted, such as in a variety store that sells pets or a tourist park that displays animals.
  - (4) 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 restricted, such as in a variety store that sells pets or a tourist park that displays animals.
- (D) Live or dead FISH bait may be stored if contamination of food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped single-service and single-use articles can not result.
- (E) Pet dogs may be allowed in outside seating areas of a food establishment under the following conditions:
- (1) The food establishment prepares written procedures that include:
    - (a) A diagram of the outdoor area to be designated as available to CONSUMERS with pet dogs;<sup>Pf</sup>

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- (b) The establishment's procedure for assuring that employees do not touch, pet or otherwise handle pet dogs and for immediately cleaning accidents involving dog waste. The procedure must also describe the location of materials and EQUIPMENT necessary to clean up accidents involving dog waste;<sup>Pf</sup> and
- (c) The establishment's procedure for notifying employees and CONSUMERS of the requirements of this paragraph.<sup>Pf</sup>
- (2) Pet dogs may not come into contact with serving dishes, UTENSILS and TABLEWARE. Pet dogs are also not allowed on chairs, tables and other furnishings.<sup>Pf</sup>
- (3) Employees and CONSUMERS may not provide food to pet dogs.<sup>Pf</sup>
- (4) Pet dogs must be on a leash and under control of the CONSUMER at all times.<sup>Pf</sup>
- (5) At no time may pet dogs be PERMITTED to travel through the indoor or non-designated outdoor portions of the food establishment.<sup>Pf</sup>

### **Public Health Guideline**

Animals carry disease-causing organisms and can transmit pathogens to humans through direct and/or indirect contamination of food and food-contact surfaces. The restrictions apply to live animals with limited access allowed only in specific situations and under controlled conditions and to the storage of live and dead FISH bait. Food workers with a support animal are required under § 2-301.14 to wash their hands after each contact with the support animal to remove bacteria and soil. Animals shed hair continuously and may deposit liquid or fecal waste, creating the need for vigilance and more frequent and rigorous cleaning efforts.

The definition for "SERVICE ANIMAL" is adapted from 28 CFR 36.104 adopted pursuant to the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.). A SERVICE ANIMAL performs some of the functions that PERSONS with a disability cannot perform for themselves, such as those provided by "seeing eye dogs"; alerting PERSONS with hearing impairments to sounds; pulling wheelchairs or carrying and picking up things for PERSONS with mobility impairments; and assisting PERSONS with mobility impairments with balance. A SERVICE ANIMAL is not considered to be a pet. Under Title III of the ADA, privately owned businesses that serve the public are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their SERVICE ANIMALS onto business premises in whatever areas customers are generally allowed. Some, but not all, SERVICE ANIMALS wear special collars or harnesses. Some, but not all, are licensed or certified and have identification papers.

Decisions regarding a food worker or applicant with a disability who needs to use a SERVICE ANIMAL should be made on a case-by-case basis. An employer must comply with health and safety requirements, but is obligated to consider whether there is a reasonable accommodation that can be made.

Guidance is available from the U.S. Department of Justice, Civil Rights Division, Disability Rights Section or the U.S. Equal Employment Opportunity Commission, the federal agency which has the lead in these matters, in documents such as, "Commonly Asked Questions About SERVICE ANIMALS in Places of Business"; "The Americans with Disabilities Act Questions and Answers"; "A Guide to Disability Rights Laws"; and "Americans with Disabilities Act Title III Technical Assistance Manual, 1994 Supplement." The ADA Information Line is 800-514-0301 (voice) or 800-514-0383 (TDD) and the Internet Home Page address is <http://www.usdoj.gov/crt/ada/adahom1.htm> .

<sup>P</sup> = Priority Item

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## 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

#### Requirement

##### 7-101.11 Identifying Information, Prominence.

Containers of POISONOUS OR TOXIC MATERIALS and PERSONAL CARE ITEMS shall bear a legible manufacturer's label. <sup>Pf</sup>

#### **Public Health Guideline**

The accidental contamination of food or food-contact surfaces can cause serious illness. Prominent and distinct labeling helps ensure that poisonous and toxic materials including PERSONAL CARE ITEMS are properly used.

#### Requirement

##### 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. <sup>Pf</sup>

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**Public Health Guideline**

It is common practice in food establishments to purchase many POISONOUS OR TOXIC MATERIALS including cleaners and sanitizers in bulk containers. Working containers are frequently used to convey these materials to areas where they will be used, resulting in working containers being stored in different locations in the establishment. Identification of these containers with the common name of the material helps prevent the dangerous misuse of the contents.

**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

**Requirement****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<sup>P</sup> and
- (B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above food, EQUIPMENT, UTENSILS, LINENS, and single-service or single-use articles.<sup>P</sup> *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.*

**Public Health Guideline**

Separation of poisonous and toxic materials in accordance with the requirements of this section ensures that food, EQUIPMENT, UTENSILS, LINENS, and single-service and single-use articles are

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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properly protected from contamination. For example, the storage of these types of materials directly above or adjacent to food could result in contamination of the food from spillage.

## Requirement

### 7-202.11 Restriction.

- (A) Only those POISONOUS OR TOXIC MATERIALS that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of EQUIPMENT and UTENSILS and the control of insects and rodents, shall be allowed in a food establishment<sup>Pf</sup>
- (B) Paragraph (A) of this section does not apply to PACKAGED POISONOUS OR TOXIC MATERIALS that are for retail sale.

## **Public Health Guideline**

The presence in the establishment of POISONOUS OR TOXIC MATERIALS that are not required for the maintenance and operation of the establishment represents an unnecessary RISK to both food workers and CONSUMERS.

Preserving food safety depends in part on the appropriate and proper storage and use of POISONOUS OR TOXIC MATERIALS that are necessary to the maintenance and operation of a food establishment. Even those that are necessary can pose a HAZARD if they are used in a manner that contradicts the intended use of the material as described by the manufacturer on the material's label. If additional POISONOUS OR TOXIC MATERIALS are present, there is an unwarranted increased potential of contamination do to improper storage (e.g., overhead spillage that could result in the contamination of food, food contact surfaces, or food EQUIPMENT) or inappropriate application.

## Requirement

### 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,<sup>P</sup>
- (3) The conditions of certification, if certification is required, for use of the pest control materials,<sup>P</sup> and
- (4) Additional conditions that may be established by the state or local public health authority;<sup>P</sup> and

(B) Applied so that:

- (1) A HAZARD to food workers or other PERSONS is not constituted,<sup>P</sup> and

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- (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: <sup>P</sup>
- (a) Removing the items, <sup>P</sup>
  - (b) Covering the items with impermeable covers, <sup>P</sup> or
  - (c) Taking other appropriate preventive actions, <sup>P</sup> and
  - (d) Cleaning and sanitizing EQUIPMENT and UTENSILS after the application. <sup>P</sup>
- (C) A RESTRICTED USE PESTICIDE shall be applied only by an applicator certified as defined in 7 USC 136(e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a PERSON under the direct supervision of a certified applicator. <sup>Pf</sup>

### **Public Health Guideline**

Failure to properly use POISONOUS OR TOXIC MATERIALS can be dangerous. Many POISONOUS OR TOXIC MATERIALS have general use directions on their label. Failure to follow the stated instructions could result in injury to food workers and CONSUMER through direct contact or the contamination of food.

Particular precautions must be taken during the application of POISONOUS OR TOXIC MATERIALS to prevent the contamination of food and other food-contact surfaces. Residues of certain materials are not discernible to the naked eye and present an additional RISK to the worker and CONSUMER.

Because of the toxicity of restricted-use pesticides, they can only be applied by certified operators. A certified operator would be aware of the dangers involved in the contamination of food and food-contact surfaces during the application of these materials. Improperly applied pesticides present health RISKS to workers as well as CONSUMERS and special precautions must be taken when restricted-use pesticides are applied.

## **Requirement**

### **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. <sup>P</sup>

### **Public Health Guideline**

Use of poisonous or toxic material containers to store, transport, or dispense food is prohibited because of the potential for contamination of the food. The RISK of serious medical consequences to anyone consuming food stored in these containers coupled with the lack of confidence that all of the material could or would be removed in the wash and sanitizing procedures are reasons for prohibiting this practice.

<sup>P</sup> = Priority Item

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

Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions).<sup>P</sup>

**Public Health Guideline**

Chemical sanitizers are included with POISONOUS OR TOXIC MATERIALS because they may be toxic if not used in accordance with requirements listed in the CFR. Large concentrations of sanitizer in excess of the CFR requirements can be harmful because residues of the materials remain. The CFR reference that is provided lists concentrations of sanitizers that are considered safe.

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

- (A) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 Chemicals used in washing or to assist in the peeling of fruits and vegetables.<sup>P</sup>
- (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.

**Requirement****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.<sup>P</sup>

**Requirement****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:

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<sup>Pf</sup> = Priority Foundation Item

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- (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,<sup>P</sup>
  - (2) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,<sup>P</sup>
  - (3) APPROVED for use as a drying agent under a prior sanction specified in 21 CFR 181 - Prior-Sanctioned Food Ingredients,<sup>P</sup>
  - (4) Specifically regulated as an indirect food ADDITIVE for use as a drying agent as specified in 21 CFR Parts 175-178,<sup>P</sup> or
  - (5) APPROVED for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles;<sup>P</sup> and
- (B) When SANITIZATION is with chemicals, the approval required under Subparagraph (A)(3) or (A)(5) of this section or the regulation as an indirect food ADDITIVE required under Subparagraph (A)(4) of this section, shall be specifically for use with chemical sanitizing solutions.<sup>P</sup>

### **Public Health Guideline**

If the sanitizer, chemical wash, boiler water ADDITIVE, or drying agent used is not made up of components that are APPROVED as food ADDITIVES or generally recognized as safe, illness may result. This could be due to residues that may remain from the use of compounds such as unrecognized drying agent. This is why only those chemicals that are listed in the CFR can be used.

21 CFR section 173.315 specifically identifies chemicals that may be used in washing fruits and vegetables, but it **does not specify any maximum level** (2000 ppm or otherwise) of chemical usage for sodium hypochlorite. FDA acknowledges the use of sodium hypochlorite on fruits and vegetables and also allows calcium hypochlorite to be used interchangeably with sodium hypochlorite under 21 CFR 173.315.

## **Requirement**

### **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.<sup>P</sup>

### **Public Health Guideline**

Lubricants used on food EQUIPMENT may directly or indirectly end up in the food. Therefore, the lubricants used must be APPROVED as food ADDITIVES or generally recognized as safe and listed in the CFR. Lubricants that are not safe present the possibility of foodborne illness if they find their way into the food.

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## Requirement

### **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. <sup>P</sup>

## Requirement

### **7-206.12 Rodent Bait Stations.**

Rodent bait shall be contained in a covered, tamper-resistant bait station. <sup>P</sup>

### **Public Health Guideline**

Open bait stations may result in the spillage of the poison being used. Also, it is easier for pests to transport the potentially toxic bait throughout the establishment. Consequently, the bait may end up on food-contact surfaces and ultimately in the food being prepared or served.

## Requirement

### **7-206.13 Tracking Powders, Pest Control and Monitoring.**

(A) A tracking powder pesticide may not be used in a food establishment. <sup>P</sup>

(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.

### **Public Health Guideline**

The use of tracking powder pesticides presents the potential for the powder to be dispersed throughout the establishment. Consequently, the powder could directly or indirectly contaminate food being prepared. This contamination could adversely affect both the safety and quality of the food and, therefore, tracking powder pesticides are not allowed.

## Requirement

### **7-207.11 Restriction and Storage.**

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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(A) Only those medicines that are necessary for the health of food workers shall be allowed in a food establishment. *This section does not apply to medicines that are stored or displayed for retail sale.*<sup>Pf</sup>

(B) Medicines that are in a food establishment for the workers' 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.<sup>P</sup>

**Public Health Guideline**

Medicines that are not necessary for the health of workers present an unjustified RISK to the health of other workers and CONSUMERS due to misuse and/or improper storage. There are circumstances that require food workers or children in a day care center to have PERSONAL medications on hand in the establishment. To prevent misuse, PERSONAL medications must be labeled and stored in accordance with the requirements stated for POISONOUS OR TOXIC MATERIALS. Proper labeling and storage of medicines to ensure that they are not accidentally misused or otherwise contaminate food or food contact surfaces.

**Requirement**

**7-207.12 Refrigerated Medicines, Storage.**

Medicines belonging to workers 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;<sup>P</sup> and
- (B) Located so they are inaccessible to children.<sup>P</sup>

**Public Health Guideline**

Some food worker medications may require refrigerated storage. If food worker medications are stored in a food refrigerator, precautions must be taken to prevent the contamination of other items stored in the same refrigerator.

**Requirement**

**7-208.11 Storage.**

First aid supplies that are in a food establishment for the workers' use shall be:

- (A) Labeled as specified under § 7-101.11<sup>Pf</sup> and
- (B) Stored in a kit or a container that is located to prevent the contamination of food, EQUIPMENT, UTENSILS, and LINENS, and single-service and single-use articles.<sup>P</sup>

**Public Health Guideline**

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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First aid supplies for food worker use must be identified and stored in accordance with the requirements of this CODE in order to preclude the accidental contamination of food, food EQUIPMENT, and other food-contact surfaces.

**Requirement**

**7-209.11 Storage.**

Except as specified under §§ 7-207.12 and 7-208.11, workers shall store their PERSONAL CARE ITEMS in facilities as specified under ¶ 6-305.11(B).

**Public Health Guideline**

A food worker’s PERSONAL CARE ITEMS may serve as a source of contamination and may contaminate food, food EQUIPMENT, and food-contact surfaces if they are not properly labeled and stored.

**7-3 STOCK AND RETAIL SALE**

**Subpart**

**7-301 Storage and Display**

**Requirement**

**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<sup>Pf</sup> and
- (B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above food, EQUIPMENT, UTENSILS, LINENS, and single-service or single-use articles.<sup>P</sup>

**Public Health Guideline**

POISONOUS OR TOXIC MATERIALS held for sale on store shelves or stored in stock rooms present a RISK of contamination of food, EQUIPMENT, utensils, LINENS, and single-service and single-use articles if not stored properly.

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 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

8-6 CONSTITUTIONAL PROTECTION

8-7 NOTICES

8-8 REMEDIES

#### 8-1 CODE APPLICABILITY

##### Subparts

8-101 Use for Intended Purpose

8-102 [Additional Requirements](#)

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## Requirement

### **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 Sponsor that the facilities or EQUIPMENT will be replaced as specified under ¶ 8-304.11(G).
- (C) Plans submitted shall be reviewed and commented on by an environmental health specialist registered in accordance with ORS chapter 700.

## Requirement

### **8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.**

(Deleted)

## Requirement

### **8-103.10 Modifications and Waivers. (Deleted)**

## Requirement

### **8-103.11 Documentation of Proposed Variance and Justification.**

(Deleted)

## Requirement

### **8-103.12 Conformance with Approved Procedures. (Deleted)**

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## 8-2 PLAN SUBMISSION AND APPROVAL

### Subparts

- 8-201 Facility and Operating Plans
- 8-202 Confidentiality
- 8-203 Construction Inspection and Approval

### Requirement

#### 8-201.11 When Plans Are Required. (Amended)

A Public school Sponsor or Private school Sponsor or Residential Child Care Institution Sponsor or Competitive Food Sales vendor shall submit to the state or local public health authority properly prepared plans and specifications for review and approval before:

- (A) The construction of a School food establishment;<sup>Pf</sup>
- (B) The conversion of an existing structure for use as a food establishment;<sup>Pf</sup> or
- (C) The remodeling of a food establishment or a change of the type of food establishment or food operation as specified under ¶ 8-302.14(C) if the state or local public health authority determines that plans and specifications are necessary to ensure compliance with this CODE.<sup>Pf</sup>
- (D) **(Deleted)**

### Requirement

#### 8-201.12 Contents of the Plans and Specifications. (Amended)

The plans and specifications for a Public school Sponsor, Private school Sponsor, Residential Child Care Institution Sponsor or Competitive Food Sales vendor food establishments shall include, as required by the state or local public health authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with this 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

<sup>P</sup> = Priority Item

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- (F) Other information that may be required by the state or local public health authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

**Requirement**

**8-201.13 When a HACCP Plan is Required. (Deleted)**

**Requirement**

**8-201.14 Contents of a HACCP Plan. (Deleted)**

**Requirement**

**8-202.10 Trade Secrets.**

The state or local public health 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](#).

**Requirement**

**8-203.10 Preoperational Inspections.**

The state or local public health 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.

<sup>P</sup> = Priority Item

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## 8-3 PERMIT TO OPERATE

### Subparts

- 8-301 Requirement
- 8-302 [Application Procedure](#)
- 8-303 [Issuance](#)

### Requirement

8-301.11 Prerequisite for Operation. (Deleted)

### Requirement

8-302.11 Submission 30 Calendar Days Before Proposed Opening. (Deleted)

### Requirement

8-302.12 Form of Submission. (Deleted)

### Requirement

8-302.13 Qualifications and Responsibilities of Applicants. (Deleted)

### Requirement

8-302.14 Contents of the Application. (Deleted)

### Requirement

#### 8-303.10 New, Converted, or Remodeled Establishments

For food establishments that are required to submit plans as specified under [§ 8-201.11](#), the state or local public health authority shall issue a letter to the Public school Sponsor, Private school Sponsor, Residential Child Care Institution Sponsor or Competitive Food Sales vendor 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.

## Requirement

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

(Deleted)

## Requirement

### 8-303.30 Denial of Application for Permit, Notice. (Deleted)

## Requirement

### 8-304.10 Responsibilities of the Regulatory Authority. (Amended)

- (A) At the time a State Agency – Sponsor Agreement is first APPROVED, ODE shall provide the Public School, Private School or RCCI Sponsor of NSLP or SBP a copy of the OAR and this CODE so that the Public School, Private School or RCCI Sponsor is notified of the compliance requirements and the conditions of retention, as specified under § 8-304.11, that are applicable to the State Agency – Sponsor Agreement.
- (B) *Failure to provide the information specified in ¶(A) of this section does not prevent the state or local public health authority from taking authorized action or seeking remedies if the Public School, Private School or RCCI Sponsor fails to comply with the OAR and this CODE.*

## Requirement

### 8-304.11 Responsibilities of the Public and Private Schools and Residential Child Care Institution Sponsors and Competitive Food Sales vendors.

(Amended)

The school Sponsor or Competitive Food Sales vendor shall:

- (A) (Deleted)
- (B) (Deleted)
- (C) (Deleted)
- (D) Immediately contact the state or local public health authority to report an illness of a food worker as specified under ¶ 2-201.11(B);
- (E) (Deleted)
- (F) (Deleted)

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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- (G) Replace existing facilities and EQUIPMENT specified in § 8-101.10 with facilities and EQUIPMENT that comply with this CODE if:
- (1) The state or local public health 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 state or local public health authority directs the replacement to meet current code requirements after the sponsor has been closed for a minimum of 12 consecutive months, 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 FOOD ESTABLISHMENT or in response to community emergencies;
- (I) **(Deleted)**
- (J) **(Deleted)**

## Requirement

### 8-304.20 Permits Not Transferable (Deleted)

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## 8-4 INSPECTION AND CORRECTION OF VIOLATIONS

### Subparts

#### 8-401 Frequency

#### Requirement

##### **8-401.10 Establishing Inspection Interval. (Amended)**

(A) Public school Sponsors and Private school Sponsors and Residential Child Care Institution Sponsors as well as Competitive Food Sales vendors shall request an inspection at least twice every school year (July1 through June 30) from the state or local public health authority.

(B) (Deleted)

(C) (Deleted)

#### Requirement

##### **8-401.20 Performance- and Risk-Based. (Deleted)**

#### Requirement

##### **8-402.10 Competency of Inspectors.**

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

#### Requirement

##### **8-402.11 Allowed at Reasonable Times after Due Notice. (Deleted)**

#### Requirement

##### **8-402.20 Refusal, Notification of Right to Access, and Final Request for Access.**

(Deleted)

<sup>P</sup> = Priority Item

<sup>Pf</sup> = Priority Foundation Item

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## Requirement

### **8-402.30 Refusal, Reporting. (Deleted)**

## Requirement

### **8-402.40 Inspection Order to Gain Access. (Deleted)**

## Requirement

### **8-403.10 Documenting Information and Observations. (Amended)**

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 employee food handler certificates; and
- (B) Specific factual observations of violative conditions or other deviations from this Code that require correction by the sponsor 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 specified under § 2-102.11,
  - (2) Failure of food workers and the person in charge to demonstrate their knowledge of their responsibility to report a disease or medical condition as specified under §§ 2-201.11,
  - (3) Nonconformance with priority items or priority foundation items of this Code,
  - (4) Failure of the appropriate food workers 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.

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## Requirement

### **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

## Requirement

### **8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.**

At the conclusion of the inspection, or following an agreement between the sponsor and the REGULATORY AUTHORITY for an alternative timely method of delivery, and according to LAW, the REGULATORY AUTHORITY shall provide a copy of the completed inspection report and the notice to correct VIOLATIONS to the sponsor or to the PERSON IN CHARGE, and request a signed acknowledgment of receipt.

## Requirement

### **8-403.40 Refusal to Sign Acknowledgment. (Deleted)**

## Requirement

### **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.

**Requirement**

**Imminent Health Hazard 8-404.11 Ceasing Operations and Reporting.**

**(Deleted)**

**Requirement**

**8-404.12 Resumption of Operations.**

**(Deleted)**

**Requirement**

**Violation of Priority Item or Priority Foundation Item 8-405.11 Timely Correction.**

**(Deleted)**

**Requirement**

**8-405.20 Verification and Documentation of Correction.**

**(Deleted)**

**Requirement**

**Core Item Violation 8-406.11 Time Frame for Correction.**

**(Deleted)**

P = Priority Item

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## 8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

### *Subpart*

#### Requirement

#### **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 worker or CONDITIONAL worker 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 worker 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 worker or CONDITIONAL worker .

#### Requirement

#### **8-501.20 Restriction or Exclusion of Food Worker. (Amended)**

Based on the findings of an investigation related to a FOOD worker or CONDITIONAL worker who is suspected of being infected or diseased, the REGULATORY AUTHORITY may issue an order to the suspected FOOD worker, CONDITIONAL worker or Person in Charge instituting one or more of the following control measures:

- (A) RESTRICTING the FOOD worker or CONDITIONAL worker ;
- (B) EXCLUDING the FOOD worker or CONDITIONAL worker ; or
- (C) (Deleted)

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## Requirement

### **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 worker or the Sponsor 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 worker or Sponsor shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
- (C) States that the suspected food worker or Sponsor may request an appeal hearing by submitting a timely request as provided under ORS chapter 183; and
- (D) Provides the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

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# Annex

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## Food Safety Inspection Decision Making Tree

Date: \_\_\_\_\_ Sponsor/School: \_\_\_\_\_

*Food Safety Question:*

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*Information Gathered:*

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*Decision:*

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## Resources

- 2009 FDA Food CODE
- Oregon Division 150: Sanitation Rule
- School Nutrition Association <http://www.asfsa.org/Content.aspx?id=90>
- Centers for Disease Control and Prevention [www.cdc.gov/foodsafety](http://www.cdc.gov/foodsafety)
- CNP web site: <http://www.ode.state.or.us/search/page/?id=48>
- Partnership for Food Safety Education (Fight BAC!) [www.fightbac.org](http://www.fightbac.org)
- Food and Drug Administration [www.cfsan.fda.gov](http://www.cfsan.fda.gov)
- Food Safety and Inspection Service [www.fsis.usda.gov](http://www.fsis.usda.gov)
- Government Food Safety Information [www.foodsafety.gov](http://www.foodsafety.gov)
- USDA *Serving it Safe* manual [http://www.fns.usda.gov/tn/Resources/serving\\_safe.html](http://www.fns.usda.gov/tn/Resources/serving_safe.html)
- USDA/FDA Food borne Illness Education Information Center at the National Agricultural Library  
[http://fsrio.nal.usda.gov/nal\\_display/index.php?info\\_center=1&tax\\_level=1&tax\\_subject=60](http://fsrio.nal.usda.gov/nal_display/index.php?info_center=1&tax_level=1&tax_subject=60)  
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P = Priority Item

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