Food Service Sanitation Ordinance 2014

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CHAPTER 62, *Health and Sanitation*, of the Code of Ordinances of the City of Joplin Food Service Sanitation Ordinance

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Chapter 1: Definitions

1-101.10 Food Code. These provisions shall be known as the Food Code, hereinafter referred to as "this Code."

1-102.10 Food Safety, Illness Prevention, and Honest Presentation. The purpose of this Code is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

1-103.10 Statement. This Code establishes definitions; set standards for management and personnel, food operations, equipment and facilities, and drinking and non-drinking water and wastewater; and establishes procedures for approval to open, Hazard Analysis and Critical Control Points (HACCP) plans, and enforcement by the department.

1-201.10 Statement of Application and Listing of Terms.

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

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

Accredited Program.

(1) **"Accredited program"** means a food protection manager certification program that has been evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs that certify individuals.

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

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

Additive.

(1) **"Food additive"** means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, radiation intended for any such use, if such substance is not generally recognized as safe under the conditions of its use; except *such term does not include a pesticide chemical residue in or on a raw agricultural commodity or processed food; a pesticide chemical; a color additive; any substance used in accordance with a sanction or approval granted prior to the enactment of relevant federal laws; a new animal drug; or an ingredient in, or intended for use in, a dietary supplement.*

(2) **"Color additive"** means a dye, pigment, or other substance, which is capable of imparting color when added or applied to food, drug, cosmetic, or to the human body and requires prior approval by the Food and Drug Administration (FDA); except *such term does not include any material which the Secretary of Health and Human Services, by regulation, determines is used or intended to be used solely for a purpose or purposes other than coloring or any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color, whether before or after harvest.*

"Adulterated" means a food that:

(1) Bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this subdivision if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2) Bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section 196.085, RSMo; or

(3) Consists, in whole or in part, of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) Has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(5) Is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or

(6) Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(7) Any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(8) Any substance has been substituted wholly or in part therefore; or

(9) Damage or inferiority has been concealed in any manner; or

(10) Any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or

(11) It is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent (0.4%), harmless natural wax not in excess of four-tenths of one percent (0.4%), harmless natural gum, and pectin; provided, that this subdivision shall not apply to any confectionery, by reason of its containing less than five percent (5%) by weight of alcohol, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances; or

(12) It bears or contains a coal tar color other than one from a batch, which has been certified under authority of the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.).

"Approval to open" means certificate issued by the regulatory authority authorizing a food establishment to commence operations as a food establishment due to its meeting minimum requirements set forth by the regulatory authority.

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

Asymptomatic.

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

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

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

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

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

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

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

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"CFR" means Code of Federal Regulations and is a compilation of the general and permanent rules published in the Federal Register by the executive department and agencies of the federal government.

CIP.

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

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

"Commingle" means:

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

(2) To combine shucked shellfish from containers with different container codes or different shucking dates.

Comminuted.

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

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

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

"Confirmed foodborne disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

Core item.

(1) **"Core item"** means a provision that, if in noncompliance, may lead to conditions favorable for food contamination, illness, or environmental health hazards. A core item includes violations related to general sanitation, operational controls, sanitation standard operating

procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

(2) **"Core item"** means a provision in this Code that is not designated as a priority item.

"Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

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

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

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

"Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

"Department" means the City of Joplin Health Department.

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

Drinking Water.

(1) "Drinking water", traditionally known as "potable water", means water which is safe for human consumption in that it is free from impurities in amounts sufficient to cause disease or harmful physiological effects and, for the purpose of this Code, must meet the standards of the EPA, Department of Natural Resources or the department prior to serving to the general public.

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

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

Easily Cleanable.

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

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

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

(c) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

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

(a) The appropriateness of stainless steel for a food preparation surface as opposed to the lack

of need for stainless steel to be used for floors or for tables used for consumer dining; or

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

"Easily moveable" means:

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

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

Egg.

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

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

(a) *A balut;*

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

(c) *An egg product.*

Egg Product.

(1) "Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs.

(2) *"Egg product" does not include food, which contains eggs only in a relatively small proportion such as cake mixes.*

"Employee" means the operator, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

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

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

Equipment.

(1) "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

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

"Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

Extensive renovation.

(1) "Extensive renovation" means a physical change to portions of the food establishment designated for food preparation, food storage, and/or warewashing. Examples include, but are not limited to, building additions, demolition of interior or exterior walls, the addition or removal of hand sinks, three compartment sinks or service sinks. *Repair or replacement of broken, dated or worn equipment/items shall not be considered an extensive renovation.*

(2) "Extensive renovation" means a substantial change in the foods prepared, sold or served as to require additional equipment or different food handling processes or procedures. This includes changing the type of food service operation, such as fast food to full service.

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

Fish.

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

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

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

"Food-contact surface" means:

(1) A surface of equipment or a utensil with which food normally comes into contact; or

(2) A surface of equipment or a utensil from which food may drain, drip, or splash:

(a) Into a food, or

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

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

Food Establishment.

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

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

(b) Relinquishes possession of food to a consumer, directly or indirectly, through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and

(2) "Food establishment" includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location; and

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

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

(a) *An establishment that offers only prepackaged foods that are not potentially hazardous foods;*

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

(c) *A food processing plant; including those that are located on the premises of a food*

establishment;

(d) *A kitchen in a private home if only food that is not potentially hazardous food, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;*

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

(f) *A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation, that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed four (4), and breakfast is the only meal offered;*

(g) *A private home that receives catered or home-delivered food; or*

(h) *Where local codes allow, individual stands in which only foods meeting the following conditions are sold, sampled or served:*

(i) *Non-potentially hazardous processed food, except low acid canned and acidified foods as specified in 21 CFR 113 and 114 respectively, including, but not limited to breads, cookies, fruit pies, jams, jellies, preserves, fruit butters, honey, sorghum, cracked nuts, packaged spices and spice mixes, dry cookie, cake, bread, and soup mixes;*

(ii) *The seller is the individual actually producing the food or an immediate family member residing in the producer's household with extensive knowledge about the food;*

(iii) *The seller only sells, samples or serves the food directly to the end consumer;*

(iv) *All processed packaged foods bear a label stating the name and address of the manufacturer/processor preparing the food, common name of the food, name of all the ingredients in the food in order of predominance, the net weight of the food in English or metric units, and a statement that the product is prepared in a kitchen that is not subject to inspection by the department. It is recommended that honey manufacturers/processors include this additional statement to their product label: "Honey is not recommended for infants less than twelve (12) months of age"; and*

(v) *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 inspection by the department if the foods specified in Part 3. H. (I) of this definition, are sold, sampled or served in unpackaged, individual portions. The department shall have the final authority in determining whether a food is non-potentially hazardous and may enjoin individuals who violate the provisions of this subparagraph from selling, sampling or serving these foods.*

Food Processing Plant.

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

(2) *"Food processing plant" does not include a food establishment.*

Game Animal.

(1) "Game animal" means an animal, the products of which are food that is not classified as livestock, poultry or fish.

(2) "Game animal" includes mammals such as reindeer, deer, antelope, water buffalo, 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.

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

"HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Handwashing Sink.

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

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

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Health menace" means a situation that does not carry the urgency of an imminent health hazard, yet carries the threat of potentially serious health consequences if not corrected.

"Health practitioner" means a physician licensed to practice medicine, a nurse practitioner, or physician assistant.

"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" meat means a meat to which liquid substances have been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping."

Juice.

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

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

"Kitchenware" means food preparation and storage utensils.

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

"Linens" means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments including cloth gloves.

"Livestock" means cattle, sheep, swine, goat, horse, mule or other equine.

Major Food Allergen.

(1) "Major food allergen" means:

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

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

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

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

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

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, goats, elk, bison, llama, alpaca, and other edible animals including game animals, *except fish and poultry.*

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.

"Operator" means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person.

Packaged.

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

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

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

"Person in charge (PIC)" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

Personal Care Items.

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

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

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

(1) Values between zero (0) and seven (7) indicate acidity;

(2) Values between seven (7) and fourteen (14) indicate alkalinity; and

(3) The value for pure distilled water is seven (7), which is considered neutral.

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

"Plumbing fixture" means a receptacle or device that:

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

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

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

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

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

(2) Pesticides, 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.

(1) "Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:

(a) The rapid and progressive growth of infectious or toxigenic microorganisms;

(b) The growth and toxin production of *Clostridium botulinum*; or

(c) In raw shell eggs, the growth of *Salmonella Enteritidis*.

(2) "Potentially hazardous food" includes 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; and garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.

(3) *"Potentially hazardous food" does not include:*

(a) *An air-cooled hard-boiled egg with shell intact;*

(b) *A food with an A_w value of eighty-five one-hundredth (0.85) or less;*

(c) *A food with a pH level of four and six-tenths (4.6) or below when measured at seventy-five degrees Fahrenheit (75ºF);*

(d) *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; and*

(e) *A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of S. Enteritidis in eggs or C.*

botulinum cannot occur, such as a food that has an A_w value above eighty-five one-hundredths (0.85) and a pH level above four and six-tenths (4.6) when measured at seventy-five degrees Fahrenheit (75°F)and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.

(f) *A food that does not support the growth of microorganisms as specified under Paragraph 1. of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.*

"Poultry" means:

(1) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites or squabs), whether live or dead, as defined by USDA; and

(2) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined by USDA.

"Premises" means:

(1) The physical facility, its contents, and the contiguous land or property under the control of the operator; or

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

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

Priority Item.

(1) **"Priority item"** means a provision that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or an environmental health hazard. A priority item's application supports, facilitates or enables the elimination, prevention or reduction of hazards associated with foodborne illness or injury to an acceptable level.

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

(3) **"Priority item"** includes an item that requires the incorporation of specific actions, equipment or procedures 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

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

"Private water system" means individual drinking water supplies available to the general public not included under the rules governing public water supplies.

"Public water system" means a piped water system that provides water to the public for human consumption, if the system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. The system includes any collection, treatment, storage or distribution facilities used in connection with the system. A public water system is either a community water system or a noncommunity water system.

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

Ready-to-Eat Food.

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

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

as specified in ¶ 3-401.11(C); or
(b) Is a raw or partially cooked animal food and the consumer is advised as specified in Subparagraphs 3-401.11(D)(1) and (3); or
(c) Is prepared in accordance with a special process approved by the department; 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 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) Thermally processed low-acid foods packaged in hermetically sealed containers.

Reduced Oxygen Packaging.

(1) "Reduced oxygen packaging" means:
(a) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately twenty-one percent (21%) at sea level); and
(b) A process as specified in Subparagraph (1) (a) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(2) "Reduced oxygen packaging" includes:
(a) Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;
(b) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;
(c) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;

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

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

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

"Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

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

"Re-service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

"Restricted use pesticide" means a pesticide product labeled for use only 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; or

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

"Sanitization" means the application of cumulative heat or chemicals on cleaned food- contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five (5) logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

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

"Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this Code.

"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 (1) or both shells removed.

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

Single-Use Articles.

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

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

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of negative ten degrees Fahrenheit (- 10°F) to twenty-five degrees Fahrenheit (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means:

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

(2) A non food-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 renders it difficult to clean.

"Special process" means a modification or waiver of one or more requirements of this Code, authorized in written form, by the department, if in the opinion of the department, a health hazard or nuisance will not result.

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

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

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

"Temporary food event or celebration" means a fair, festival, carnival, celebration, grand opening, non-profit fundraiser, customer appreciation, promotional, seasonal or other occasion where food is advertised and served to the public on a temporary basis from a fixed location.

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

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

"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 (1) or more vending machines are installed and operated and includes the storage areas and areas on the

premises that are used to service and maintain the vending machines.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

"Wild mushroom identification expert" means an individual who provides the regulatory authority with a letter or certificate verifying successful completion of a wild mushroom identification course provided by either an accredited college or university or a mycological society.

Chapter 2: Management and Personnel

2-101.11 Assignment.

(A) Except as specified in ¶ (B) of this section, the operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation [P].

(B) *In a food establishment with two (2) or more separate food operations/departments that are the legal responsibility of the same operator that are located on the same premises, the operator may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each food operation/department on the premises* [P].

2-102.11 Demonstration of Knowledge. Based on the risks inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis and Critical Control Point principles, and the requirements of this Code. The person in charge shall demonstrate this knowledge by:

(A) Complying with this Code by having no violations of priority items during the current inspection [P];

(B) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program [P]; or

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

(1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee [P];

(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 [P];

(3) Describing the symptoms associated with the diseases that are transmissible through food [P];

(4) Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness [P];

(5) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish [P];

(6) Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish [P];

(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food [P];

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

(a) Cross contamination [P],

(b) Hand contact with ready-to-eat foods [P],

(c) Handwashing [P], and

(d) Maintaining the food establishment in a clean condition and in good repair [P];

(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 [P];

(10) Explaining the relationship between food safety and providing equipment that is [P]:

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

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

(11) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment [P];
(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 [P];
(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 [P];
(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 [P];
(15) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by law, this Code, or an agreement between the regulatory authority and the food establishment [P];
(16) Explaining the responsibilities, rights, and authorities assigned by this Code to the [P]:
(a) Food employee [P],
(b) Conditional employee [P],
(c) Person in charge [P],
(d) Regulatory authority [P]; and
(17) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees [P].

2-102.20 Food Protection Manager Certification. A person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with ¶ 2- 102.11(B).

2-103.11 Person in Charge. The person in charge shall ensure that:
(A) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under § 6-202.111;
(B) Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;
(C) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Code;
(D) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;
(E) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;
(F) Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under § 4-203.11 and ¶ 4-502.11(B);

(G) Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;
(H) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under § 3-603.11 that the food is not cooked sufficiently to ensure its safety;
(I) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;
(J) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under § 3-304.16;
(K) Employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;
(L) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties; and
(M) Food employees and conditional employees are informed of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under ¶ 2-201.11(A).

2-201.10 Department Reserves Right to Adjust Parameters for Exclusions and/or Restrictions. The department may adjust the parameters for excluding, restricting, and reinstating a food employee to address public health concerns as they relate to a confirmed foodborne disease outbreak or an individual's symptoms or diagnosed illness.

2-201.11 Responsibility of Operator, Person in Charge, Food Employees, and Conditional Employees.

(A) The operator shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness [P].
(B) The food employee or conditional employee shall notify the person in charge when they have any symptom, diagnosed illness or exposure as specified in §§ 2-201.12 or 2-201.13 [P].
(C) The person in charge shall notify the regulatory authority when a food employee is jaundiced, [P] or diagnosed by a health practitioner with an illness due to Norovirus, [P], hepatitis A virus, [P] *Shigella* spp., [P] ENTEROHEMORRHAGIC or shiga toxin-producing ESCHERICHIA COLI, [P] or *Salmonella typhi* [P].
(D) The person in charge shall ensure that a conditional employee who exhibits or reports a symptom, who reports a diagnosed illness, or reports a history of exposure as specified in §§ 2-201.12 or 2-201.13, is prohibited from becoming a food employee until the conditional employee meets the criteria for reinstatement as specified in §§ 2-201.12 or 2-201.13 [P].
(E) A food employee shall comply with:
  (1) An exclusion and the provisions specified in this Code; [P] or
  (2) A restriction and the provisions specified in this Code [P].

2-201.12 Exclusions and Reinstatement.

(A) A food employee symptomatic with:
  (1) Vomiting [P] or diarrhea [P] shall be:

(a) Excluded by the person in charge, *except when the symptom is from a noninfectious condition* [P]; and
(b) Reinstated by the person in charge, if the food employee:
(i) Is asymptomatic for at least twenty-four (24) hours [P]; or
(ii) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition [P].

(2) Jaundice and the onset of jaundice occurred within the last seven (7) calendar days [P] shall be:
(a) Excluded by the person in charge, *unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection* [P]; and
(b) Reinstated if the person in charge obtains approval from the regulatory authority and the food employee meets one of the following conditions:
(i) Has been jaundiced for more than seven (7) calendar days [P];
(ii) Has been symptomatic with symptoms other than jaundice for more than fourteen (14) calendar days [P]; or
(iii) Provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection [P].

(3) Acute onset of sore throat with fever [P] shall be:
(a) Excluded by the person in charge [P]; and
(b) Reinstated if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions [P]:
(i) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than twenty-four (24) hours [P];
(ii) Has at least one (1) negative throat specimen culture for *Streptococcus pyogenes* infection [P]; or
(iii) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection [P].

(B) A food employee diagnosed with:

(1) An infection from hepatitis A virus within fourteen (14) calendar days from the onset of any illness symptoms, or within seven (7) calendar days of the onset of jaundice or an infection from hepatitis A virus without developing symptoms [P] shall be:
(a) Excluded by the person in charge [P]; and
(b) Reinstated if the person in charge obtains approval from the regulatory authority and the food employee meets one of the following conditions [P]:
(i) Has been jaundiced for more than seven (7) calendar days [P];
(ii) Has been symptomatic with symptoms other than jaundice for more than fourteen (14) calendar days [P]; or
(iii) Provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection [P].

(2) An infection from Norovirus [P] shall be:
(a) Excluded by the person in charge [P]; and
(b) Reinstated if the person in charge obtains approval from the regulatory authority and the food employee meets one of the following conditions [P]:
(i) Provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection [P];

(ii) Has been asymptomatic for more than forty-eight (48) hours [P]; or
(iii) Did not develop symptoms and more than forty-eight (48) hours have passed since the food employee was diagnosed [P].

(3) An infection from *Shigella* spp. [P] shall be:
(a) Excluded by the person in charge [P]; and
(b) Reinstated if the person in charge obtains approval from the regulatory authority and the food employee meets one of the following conditions [P]:
(i) Provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken no earlier than forty-eight (48) hours after discontinuance of antibiotics and at least twenty-four (24) hours apart [P];
(ii) Has been asymptomatic for more than seven (7) calendar days [P]; or
(iii) Did not develop symptoms and more than seven (7) calendar days have passed since the food employee was diagnosed [P].

(4) An infection from ENTEROHEMORRHAGIC or shiga toxin-producing E. *coli* [P] shall be:
(a) Excluded by the person in charge [P]; and
(b) Reinstated if the person in charge obtains approval from the regulatory authority and the food employee meets one of the following conditions [P]:
(i) Provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from ENTEROHEMORRHAGIC or shiga toxin-producing ESCHERICHIA COLI based on test results that show two (2) consecutive negative stool specimen cultures that are taken no earlier than forty-eight (48) hours after discontinuance of antibiotics and at least twenty-four (24) hours apart [P];
(ii) Has been asymptomatic for more than seven (7) calendar days [P]; or
(iii) Did not develop symptoms and more than seven (7) days have passed since the food employee was diagnosed [P].

(5) An infection from *Salmonella typhi*, or reports a previous infection with *Salmonella typhi* within the past three (3) months, without having received antibiotic therapy as determined by a health practitioner [P] shall be:
(a) Excluded by the person in charge [P]; and
(b) Reinstated if the person in charge obtains approval from the regulatory authority and the food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *S. typhi* infection [P].

2-201.13 Restrictions and Reinstatement.

(A) A food employee exposed to, or is the suspected source of, a confirmed foodborne disease outbreak, because they consumed or prepared food implicated in the outbreak; consumed food at an event or food establishment prepared by a person infected or ill with an illness listed in this section; attended or worked in a setting where there is a confirmed foodborne disease outbreak, is living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed foodborne disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by [P]:

(1) Norovirus [P] shall be:
(a) Restricted by the person in charge [P]; and
(b) Reinstated by the person in charge if one of the following condition is met:
(i) More than forty-eight (48) hours have passed since the last day the food employee was potentially exposed [P]; or

(ii) More than forty-eight (48) hours have passed since the food employee's household contact became asymptomatic [P].

(2) *Shigella* spp. [P] shall be:

(a) Restricted by the person in charge [P]; and

(b) Reinstated by the person in charge if one of the following condition is met:

(i) More than three (3) calendar days have passed since the last day the food employee was potentially exposed [P]; or

(ii) More than three (3) calendar days have passed since the food employee's household contact became asymptomatic [P].

(3) ENTEROHEMORRHAGIC or shiga toxin-producing ESCHERICHIA COLI [P] shall be:

(a) Restricted by the person in charge [P]; and

(b) Reinstated by the person in charge if one of the following condition is met [P]:

(i) More than three (3) calendar days have passed since the last day the food employee was potentially exposed [P]; or

(ii) More than three (3) calendar days have passed since the food employee's household contact became asymptomatic [P].

(4) *S. typhi* [P] shall be:

(a) Restricted by the person in charge [P]; and

(b) Reinstated by the person in charge if one of the following condition is met [P]:

(i) More than fourteen (14) calendar days have passed since the last day the food employee was potentially exposed [P]; or

(ii) More than fourteen (14) calendar days have passed since the food employee's household contact became asymptomatic [P].

(B) A food employee exposed to, or is the suspected source of, a confirmed hepatitis A outbreak, because they consumed or prepared food implicated in the outbreak; consumed food at an event or food establishment prepared by a person diagnosed with hepatitis A virus; attended or worked in a setting where there is a confirmed hepatitis A outbreak; works with, and has knowledge about, an individual diagnosed with hepatitis A virus; or is living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by [P]:

(1) Hepatitis A virus [P] shall be:

(a) Restricted by the person in charge [P]; and

(b) Reinstated by the person in charge if one of the following condition is met [P]:

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

(ii) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A [P];

(iii) The food employee is immune to hepatitis A virus infection because of IG administration [P];

(iv) More than thirty (30) calendar days have passed since the last day the food employee was potentially exposed [P]; or

(v) More than thirty (30) calendar days have passed since the food employee's household contact became jaundiced [P].

(C) A food employee living in the same household as, and has knowledge about, an individual who was exposed as specified in Subsection (B) of this section to [P]:

(1) Hepatitis A virus [P] shall be:

(a) Restricted by the person in charge [P]; and

(b) Reinstated by the person in charge if one of the following condition is met [P]:

(i) The food employee complies with one of the conditions as specified in Part (B)(1)(b) (i) – (v) of this section [P]; or
(ii) The food employee receives additional training about hepatitis A symptoms and preventing the transmission of infection, proper handwashing procedures, and protecting ready-to-eat food from contamination introduced by bare hand contact [P].

(D) A food employee infected with:
(1) A skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered [P] shall be:
(a) Restricted by the person in charge [P]; and
(b) Reinstated by the person in charge if the skin, infected wound, cut, or pustular boil is properly covered with one of the following [P]:
(i) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist [P];
(ii) An impermeable cover on the arm, if the infected wound or pustular boil is on the arm [P]; or
(iii) A dry, durable, tight-fitting bandage, if the infected wound or pustular boil is on another part of the body [P].

2-301.11 Clean Condition. Food employees shall keep their hands and exposed portions of their arms clean [P].

2-301.12 Cleaning Procedure.
(A) Except as specified in ¶ (D) of this section, food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least twenty (20) seconds, using a cleaning compound in a handwashing sink that is equipped as specified under § 5-202.12 and Subpart 6-301 [P].
(B) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:
(1) Rinse under clean, running warm water; [P]
(2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer; [P]
(3) Rub together vigorously for at least ten (10) to fifteen (15) seconds [P] while:
(a) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, [P] and
(b) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, fingertips, and areas between the fingers; [P]
(4) Thoroughly rinse under clean, running warm water; [P] and
(5) Immediately follow the cleaning procedure with thorough drying using a method as specified under § 6-301.12. [P]
(C) *To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.*
(D) *If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.*

2-301.14 When to Wash. Food employees shall clean their hands and exposed portions of their arms as specified under § 2-301.12 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles [P] and:
(A) After touching bare human body parts other than clean hands and clean, exposed portions of

arms; [P]

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

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

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

(E) After handling soiled equipment or utensils; [P]

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

(G) When switching between working with raw food and working with ready-to-eat food; [P]

(H) Before donning gloves for working with food; [P] and

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

2-301.15 Where to Wash. Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

2-301.16 Hand Antiseptics.

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

(1) Comply with one of the following:

(a) Be an approved drug that is listed in the Food and Drug Administration (FDA) publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness; or

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

(2) Comply with one of the following:

(a) Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 CFR 170.39 – Threshold of regulation for substances used in food contact articles; or

(b) Comply with and be listed as:

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

(ii) 21 CFR 182 – Substances Generally Recognized as Safe, 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and

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

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

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

(2) Limited to situations that involve no direct contact with food by the bare hands.

(C) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least hundred milligrams per liter (100 mg/L) chlorine.

2-302.11 Maintenance.

(A) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(B) *Unless wearing intact gloves in good repair*, a food employee may not wear fingernail polish or

artificial nails when working with exposed food.

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.

2-304.11 Clean Condition. Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

2-401.11 Eating, Drinking, or Using Tobacco.

(A) Except as specified in ¶ (B) of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result. [P]

(B) *A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:*

(1) *The employee's hands;*

(2) *The container; and*

(3) *Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.*

2-401.12 Discharges from the Eyes, Nose, and Mouth. Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles. [P]

2-402.11 Effectiveness.

(A) Except as provided in ¶ (B) of this section, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(B) *This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.*

2-403.11 Handling Prohibition.

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

(B) *Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacean in display tanks if they wash their hands as specified under § 2-301.12 and ¶ 2-301.14(C).*

Chapter 3: Food

3-101.11 Safe, Unadulterated, and Honestly Presented. Food shall be safe, unadulterated, and, as specified under § 3-601.12, honestly presented. [P]

3-201.11 Compliance with Food Law.

(A) Food shall be obtained from inspected and approved sources that comply with law.[P]

(B) Food prepared in a private home may not be used or offered for human consumption in a food establishment.[P]

(C) Packaged food shall be labeled as specified in law, including 21 CFR 101 Food Labeling; 9 CFR 317 Labeling, Marking Devices, and Containers; and 9 CFR 381 Subpart N Labeling and Containers, and as specified under §§ 3-202.17 and 3-202.18. [P]

(D) Fish, other than those specified in paragraph 3-402.11(B), that are intended for consumption in raw or undercooked form and allowed as specified in 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.[P]

(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: [P]

(1) Obtained from a food processing plant that packages the steaks and labels them to indicate that the steaks meet the definition of whole-muscle, intact beef; [P] 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, [P] and

(3) If individually cut in a food establishment:

(a) Cut from whole-muscle, intact beef that is labeled by a food processing plant as specified in Subparagraph (E)(1) of this section or identified as specified in Subparagraph (E)(2) of this section, [P]

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

(c) If packaged for undercooking in a food establishment, labeled as specified in Subparagraph (E)(1) of this section or identified as specified in (E)(2) of this section. [P]

(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(I) and 9 CFR 381.125(b). [P]

(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). [P]

3-201.12 Food in a Hermetically Sealed Container. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant. [P]

3-201.13 Fluid Milk and Milk Products. Fluid milk and milk products shall be obtained from sources that comply with grade A standards as specified in law. [P]

3-201.14 Fish.

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

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

(2) Approved for sale or service. [P]

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

3-201.15 Molluscan Shellfish.

(A) Molluscan shellfish shall be obtained from sources according to law and the requirements

specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.[P]

(B) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List. [P]

3-201.16 Wild Mushrooms.

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

(B) *This section does not apply to:*

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

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

3-201.17 Game Animals.

(A) If game animals are received for sale or service they shall be commercially raised for food [P] and:

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

(2) Under a voluntary inspection program administered by the U.S. Department of Agriculture (USDA) and/or Missouri Department of Agriculture (MDA) for [P]:

(a) Game animals, such as exotic animals (reindeer, elk, deer, antelope or water buffalo), that are "inspected and approved" in accordance with USDA and/or MDA law. [P]

(b) Rabbits that are "inspected and certified" in accordance with USDA and/or MDA law. [P]

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

(C) *Any political subdivision, elementary or secondary school or any charitable, religious, fraternal or other not-for-profit organization may prepare or serve wild game provided there is no charge for the wild game served according to Section 252.244, RSMo.*

3-202.11 Temperature.

(A) Except as specified in ¶ (B) of this section, refrigerated, potentially hazardous food shall be at a temperature of forty-one degrees Fahrenheit (41°F) or below when received. [P]

(B) If a temperature other than forty-one degrees Fahrenheit (41°F) for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

(C) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (45°F) or less.[P]

(D) Potentially hazardous 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 one hundred thirty- five degrees Fahrenheit (135°F) or above. [P]

(E) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen. [P]

(F) Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse. [P]

3-202.12 Additives. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) Food ingredients and sources of radiation, or pesticide residues

that exceed provisions specified in 40 CFR 180 Tolerances for pesticides chemicals in food, and exceptions. [P]

3-202.13 Eggs. Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA. [P]

3-202.14 Eggs and Milk Products, Pasteurized.

(A) Egg products shall be obtained pasteurized. [P]

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

(1) Be obtained pasteurized; [P] and

(2) Comply with Grade A Standards as specified in law. [P]

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

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

3-202.15 Package Integrity. Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants. [P]

3-202.16 Ice. Ice for use as a food or a cooling medium shall be made from drinking water. [P]

3-202.17 Shucked Shellfish, Packaging and Identification.

(A) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:

(1) Name, address, and certification number of the shucker, packer, or repacker of the molluscan shellfish; and

(2) The "sell by" or "best if used by" date for packages with a capacity of less than one and eighty-nine hundredths liter (1.89 L) (one-half (0.5) gallon) or the date shucked for packages with a capacity of one and eighty-nine hundredths liter (1.89 L) (one- half (0.5) gallon) or more.

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

3-202.18 Shellstock Identification.

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

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

(a) The harvester's identification number that is assigned by the shellfish control authority, [P]

(b) The date of harvesting, [P]

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

(d) The type and quantity of shellfish, [P] and

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

(2) Except as specified in ¶ (D) of this section, on each dealer's tag or label, the following information in the following order: [P]

(a) The dealer's name and address, and the certification number assigned by the shellfish control authority, [P]

(b) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested, [P]

(c) The same information as specified for a harvester's tag under Subparagraphs (A) (1)(b)-(d) of this section, [P] 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 ninety (90) days." [P]

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

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

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

3-202.19 Shellstock, Condition. When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

3-202.110 Juice Treated. Pre-packaged juice shall:

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

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

(C) Bear a warning label with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." [P]

3-203.11 Molluscan Shellfish, Original Container.

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

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

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

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

(C) *Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:*

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

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

(D) *Shucked shellfish may be removed from the container in which they were received and repacked in consumer self service containers where allowed by law if:*

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

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

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

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

3-203.12 Shellstock, Maintaining Identification.

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

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

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

(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; [P] 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, [P] and

(b) Ensuring that shellstock from one (1) 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. [P]

3-301.11 Preventing Contamination from Hands.

(A) Food employees shall wash their hands as specified under § 2-301.12.

(B) Except when washing fruits and vegetables as specified under § 3-302.15, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment. [P]

(C) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

3-301.12 Preventing Contamination When Tasting. A food employee may not use a utensil more than once to taste food that is to be sold or served. [P]

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

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

(1) Separating raw animal foods during storage, preparation, holding, and display from:

(a) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables, [P] and

(b) Cooked ready-to-eat food; [P]

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

(a) Using separate equipment for each type,[P] or
(b) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, [P] and
(c) Preparing each type of food at different times or in separate areas; [P]

(3) Cleaning equipment and utensils as specified under ¶ 4-602.11 (A) and sanitizing as specified under § 4-703.11;
(4) Except as specified under Subparagraph 3-501.15(B)(2) and in ¶ (B) of this section, storing the food in packages, covered containers, or wrappings;
(5) Cleaning hermetically sealed containers of food of visible soil before opening;
(6) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
(7) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under § 6-404.11; and
(8) Separating fruits and vegetables, before they are washed as specified under § 3-302.15 from ready-to-eat food.

(B) *Subparagraph (A)(4) of this section does not apply to:*
(1) *Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;*
(2) *Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;*
(3) *Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;*
(4) *Food being cooled as specified under Subparagraph 3-401.15(B)(2); or*
(5) *Shellstock.*

3-302.12 Food Storage Containers, Identified with Common Name of Food. *Except for containers holding food that can be readily and unmistakably recognized such as dry pasta,* working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

3-302.13 Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes. Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not: [P]

(A) Cooked as specified under Subparagraphs 3-401.11(A)(1) or (2); [P] or
(B) Included in ¶ 3-401.11(D).[P]

3-302.14 Protection from Unapproved Additives.

(A) Food shall be protected from contamination that may result from the addition of, as specified in § 3-202.12:
(1) Unsafe or unapproved food or color additives; [P] and
(2) Unsafe or unapproved levels of approved food and color additives. [P]

(B) A food employee may not:
(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; [P] or
(2) *Except that grapes*, serve or sell food specified under Subparagraph (B)(1) of this section that is treated with sulfiting agents before receipt by the food establishment.[P]

3-302.15 Washing Fruits and Vegetables.

(A) Except as specified in ¶ (B) of this section and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be

thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

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

3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient. After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food. [P]

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

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

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

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

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

3-304.11 Food Contact with Equipment and Utensils. Food shall only contact surfaces of:

(A) Equipment and utensils that are cleaned as specified under Part 4-6 of this Code and sanitized as specified under Part 4-7 of this Code; [P] or

(B) Single-service and single-use articles. [P]

3-304.12 In-Use Utensils, Between-Use Storage. During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

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

(B) In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(C) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under §§ 4-602.11 and 4-702.11;

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

(E) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

(F) In a container of water if the water is maintained at a temperature of at least one hundred thirty-five degrees Fahrenheit (135°F) and the container is cleaned at a frequency specified under Subparagraph 4-602.11(D)(7).

3-304.13 Linens and Napkins, Use Limitation. Linens and napkins may not be used in contact with food *unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.*

3-304.14 Wiping Cloths, Use Limitation.

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

(1) Maintained dry; and

(2) Used for no other purpose.

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

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

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

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

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

(E) Containers of chemical sanitizing solutions specified in Subparagraph (B)(1) of this section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single- service, or single-use articles.

(F) Single-use disposable sanitizer wipes shall be used in accordance with Environmental Protection Agency (EPA)-approved manufacturer's label use instructions.

3-304.15 Gloves, Use Limitation.

(A) If used, single-use gloves shall be used for only one task such as working with ready-to- eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. [P]

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

(C) *Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.*

(D) Cloth gloves may not be used in direct contact with food, *unless the food is subsequently cooked as required under Part 3-4 such as frozen or a primal cut of meat*.

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

(A) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.

(B) Except as specified in ¶ (C) of this section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

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

3-304.17 Refilling Returnables.

(A) A take-home food container returned to a food establishment may not be refilled at a food establishment with a potentially hazardous food.

(B) Except as specified in ¶ (C), a take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified under ¶ 4-603.17(B).

(C) *Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under ¶¶ 4-204.13 (A), (B), and (D).*

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 six inches (6") above the floor.

(B) *Food in packages and working containers may be stored less than six inches (6") above the floor on case lot handling equipment, such as dollies, pallets, racks and skids.*

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

3-305.12 Food Storage, Prohibited Areas. Food may not be stored:

(A) In locker rooms;
(B) In toilet rooms;
(C) In dressing rooms;
(D) In garbage rooms;
(E) In mechanical rooms;
(F) Under sewer lines that are not shielded to intercept potential drips;
(G) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
(H) Under open stairwells; or
(I) Under other sources of contamination.

3-305.13 Vended Potentially Hazardous Food, 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.

3-305.14 Food Preparation. During preparation, unpackaged food shall be protected from environmental sources of contamination.

3-306.11 Food Display. *Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption,* food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means. [P]

3-306.12 Condiments, Protection.

(A) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

(B) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

3-306.13 Consumer Self-Service Operations.

(A) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. [P] *This paragraph does not apply to:*
(1) *Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;*
(2) *Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or*
(3) *Raw, frozen, shell-on shrimp or lobster.*

(B) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination. [P]

(C) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

3-306.14 Returned Food and Re-Service of Food.

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

(B) Except as specified under ¶ 3-801.11(G), *a container of food that is not potentially hazardous may be re-served from one (1) consumer to another if*:

(1) *The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or*

(2) *The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.*

3-307.11 Miscellaneous Sources of Contamination. Food shall be protected from contamination that may result from a factor or source not specified under Subparts 3-301 – 3-306.

3-401.11 Raw Animal Foods.

(A) Except as specified under ¶ (B) and in ¶¶ (C) and (D) of this section, raw animal foods such as eggs, 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) One hundred forty-five degrees Fahrenheit (145°F) or above for fifteen (15) seconds for: [P]

(a) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service, [P] and

(b) Except as specified under Subparagraphs (A)(2) and (A)(3) and ¶(B), and in ¶ (C) of this section, fish and meat including game animals commercially raised for food as specified under Subparagraph 3-201.17(A)(1) and game animals under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2); [P]

(2) One hundred fifty-five degrees Fahrenheit (155°F) for fifteen (15) seconds or the temperature specified in the following chart that corresponds to the holding time for ratitites, 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 voluntary inspection program as specified under Subparagraph 3-201.17(A)(2); and raw eggs that are not prepared as specified under Subparagraph (A)(1)(a) of this section: [P]; or

Minimum Temperature ° F	**Minimum Time**
145	3 minutes
150	1 minute
158	<1 second (instantaneous)

(3) One hundred sixty-five degrees Fahrenheit (165°F) or above for fifteen (15) seconds for poultry, baluts, wild game animals as specified under Subparagraphs 3- 201.17(A)(3) and (4), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites. [P]

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

(1) In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:

Oven Type	**Oven Temperature Based on Roast Weight**	
	Less than 4.5 kg (10 lbs)	*4.5 kg (10 lbs) or More*
Still Dry	350°F or more	250°F or more
Convection	325°F or more	250°F or more
High Humidity[1]	250°F or less	250°F or less
[1] Relative humidity greater than ninety percent (90%) for at least one (1) hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides one hundred percent (100%) humidity.		

; and

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

Temperature °F	Time[1] in Minutes	Temperature °F	Time1 in Seconds
130	112	147	134
131	89	149	85
133	56	151	54
135	36	153	34
136	28	155	22
138	18	157	14
140	12	158	0
142	8		
144	5		
145	4		
[1]*Holding time may include postoven heat rise.*			

(C) *A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:*

(1) *The food establishment serves a population that is not a highly susceptible population,* [P]

(2) *The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under ¶ 3-201.11(E),* [P] *and*

(3) *The steak is cooked on both the top and bottom to a surface temperature of one hundred forty-five degrees Fahrenheit (145°F) or above and a cooked color change is achieved on all external surfaces.* [P]

(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;* [P]

(2) *The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat;* [P] *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;* [P] *or*

(4) *The department approves a special process from ¶ (A) or (B) of this section as specified in § 8-103.10 based on a HACCP plan that:*

(a) *Is submitted by the operator 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 approved conditions of the special process.*

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; [P]

(B) Covered to retain surface moisture; [P]

(C) Heated to a temperature of at least one hundred sixty-five degrees Fahrenheit (165°F) in all parts of the food; [P] and

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

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 one hundred thirty-five degrees Fahrenheit (135°F).

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 (60) minutes in duration;[P]

(B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked potentially hazardous food under ¶ 3-501.14(A); [P]

(C) After cooling, held frozen or cold, as specified for potentially hazardous food under ¶ 3-501.16(A)(2); [P]

(D) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature of at least one hundred sixty-five degrees Fahrenheit (165 °F) for fifteen (15) seconds; [P]

(E) Cooled according to the time and temperature parameters specified for cooked potentially hazardous food under ¶ 3-501.14(A) if not either hot held as specified under ¶ 3- 501.16(A), served immediately, or held using time as a public health control as specified under § 3-501.19 after complete cooking; [P] and

(F) Prepared and stored according to written procedures that:

(1) Have obtained prior approval from the regulatory authority;

(2) Are maintained in the food establishment and are available to the regulatory authority upon request;

(3) Describe how the requirements specified under ¶ (A)-(E) of this Section are to be monitored and documented by the operator and the corrective actions to be taken if the requirements are not met;

(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; 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(D).

3-402.11 Parasite Destruction.

(A) Except as specified in ¶ (B) of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

(1) Frozen and stored at a temperature of negative four degrees Fahrenheit (-4°F) or below for a

minimum of one hundred sixty-eight 168 hours (seven (7) days) in a freezer; [P]

(2) Frozen at negative thirty-one degrees Fahrenheit (-31°F) or below until solid and stored at negative thirty-one degrees Fahrenheit (-31°F) or below for a minimum of fifteen (15) hours; [P] or

(3) Frozen at negative thirty-one degrees Fahrenheit (-31°F) or below until solid and stored at negative four degrees Fahrenheit (-4°F) or below for a minimum of twenty- four (24) hours. [P]

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

(1) *Molluscan shellfish;*

(2) *Tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern); or*

(3) *Aquacultured fish, such as salmon, that:*

(a) *If raised in open water, are raised in net-pens, or*

(b) *Are raised in land-based operations such as ponds or tanks, and*

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

(4) Fish eggs that have been removed from the skein and rinsed.

3-402.12 Records, Creation and Retention.

(A) Except as specified in ¶ 3-402.11 (B) and ¶ (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for ninety (90) 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 ninety (90) calendar days beyond the time of service or sale of the fish.

3-403.10 Preparation for Immediate Service. Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

3-403.11 Reheating for Hot Holding.

(A) Except as specified under ¶¶ (B) and (C) and in ¶ (E) of this section, potentially hazardous 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 one hundred sixty-five degrees Fahrenheit (165°F) for fifteen (15) seconds. [P]

(B) Except as specified under ¶ (C) of this section, potentially hazardous food reheated in a microwave oven for hold holding shall be reheated so that all parts of the food reach a temperature of at least one hundred sixty-five degrees Fahrenheit (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating. [P]

(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 one hundred thirty-

five degrees Fahrenheit (135°F) for hot holding. [P]

(D) Reheating for hot holding as specified under ¶¶ (A) – (C) of this section shall be done rapidly and the time the food is between forty-one degrees Fahrenheit (41°F) and the temperatures specified under ¶¶ (A) – (C) of this section may not exceed two (2) hours.[P]

(E) *Remaining unsliced portions of meat roasts that are cooked as specified under ¶ 3-401.11 (B) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under ¶ 3-401.11(B).*

3-404.11 Treating Juice. Juice packaged in a food establishment shall be:

(A) Treated under a HACCP plan as specified in § 8-201.14 to attain a five (5) log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; [P] or

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

(1) As specified under § 3-602.11, and

(2) As specified in 21 CFR 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." [P]

3-501.11 Frozen Food. Stored frozen foods shall be maintained frozen.

3-501.12 Potentially Hazardous Food, Slacking. Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

(A) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit (41°F) or less; or

(B) At any temperature if the food remains frozen.

3-501.13 Thawing. Except as specified in ¶ (D) of this section, potentially hazardous food shall be thawed:

(A) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit (41°F) or less; or

(B) Completely submerged under running water:

(1) At a water temperature of seventy degrees Fahrenheit (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 forty-one degrees Fahrenheit (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) and (B) to be above forty-one degrees Fahrenheit (41°F), for more than four (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 forty-one degrees Fahrenheit (41°F);

(C) As part of a cooking process if the food that is frozen is:

(1) Cooked as specified under ¶ 3-401.11(A) or (B) or § 3-401.12, or

(2) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

(D) *Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order*.

3-501.14 Cooling.

(A) Cooked potentially hazardous food shall be cooled:

(1) Within two (2) hours from one hundred thirty-five degrees Fahrenheit (135°F) to seventy degrees Fahrenheit (70°F); [P] and

(2) Within a total of six (6) hours from one hundred thirty-five degrees Fahrenheit (135°F) to forty-one degrees Fahrenheit (41°F) or less. [P]

(B) Potentially hazardous food shall be cooled within four (4) hours to forty-one degrees Fahrenheit (41°F) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna. [P]

(C) Except as specified under ¶ (D) of this section, a potentially hazardous food received in compliance with laws allowing a temperature above forty-one degrees Fahrenheit (41°F) during shipment from the supplier as specified in ¶ 3-202.11(B), shall be cooled within four (4) hours to forty-one degrees Fahrenheit (41°F) or less. [P]

(D) Raw eggs shall be received as specified under ¶ 3-202.11(C) and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (45ºF) or less. [P]

3-501.15 Cooling Methods.

(A) Cooling shall be accomplished in accordance with the time and temperature criteria specified under § 3-501.14 by using one or more of the following methods based on the type of food being cooled:

(1) Placing the food in shallow pans;

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

(3) Using rapid cooling equipment;

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

(5) Using containers that facilitate heat transfer;

(6) Adding ice as an ingredient; or

(7) Other effective methods.

(B) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

(1) Arranged in the equipment to provide maximum heat transfer through the container walls; and

(2) Loosely covered, or uncovered if protected from overhead contamination as specified under Subparagraph 3-305.11(A)(2), during the cooling period to facilitate heat transfer from the surface of the food.

3-501.16 Potentially Hazardous Food, 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 one hundred thirty-five degrees Fahrenheit (135°F) or above, *except that roasts cooked to a temperature and for a time specified under § 3-401.11(B) or reheated as specified in ¶ 3-403.11(E) may be held at a temperature of one hundred thirty degrees Fahrenheit (130°F) or above,* [P] or

(2) At forty-one degrees Fahrenheit (41°F) or less. [P]

(B) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (45°F) or less. [P]

(C) *Potentially hazardous food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under ¶ (A) of this section, while contained within specially designed equipment that complies with the design and construction requirements as*

specified under ¶ 4-204.13(E).

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

(A) Except when packaging food using a reduced oxygen packaging method as specified under § 3-502.12, and except as specified in ¶¶ (E) and (F) of this section, refrigerated, ready-to-eat, potentially hazardous food, prepared and held in a food establishment for more than twenty-four (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 forty-one degrees Fahrenheit (41°F) or less for a maximum of seven (7) days. [P]

(B) Except as specified in ¶¶ (E) – (G) of this section, refrigerated, ready-to-eat, potentially hazardous 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 twenty four (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: [P]

(1) The day the original container is opened in the food establishment shall be counted as Day 1; [P] 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. [P]

(C) Except as specified in ¶¶ (E) – (G) of this section, a ready-to-eat, potentially hazardous food prepared in a food establishment and subsequently frozen or a ready-to-eat, potentially hazardous food prepared in a food processing plant and subsequently opened and frozen in a food establishment, shall be clearly marked: [P]

(1) As required based on the temperature and time combinations specified in ¶ (A) of this section; [P] and

(2) When the food is placed into the freezer, to indicate the length of time before freezing that the food is held refrigerated and which is, including the day of preparation; [P] and

(3) When the food is removed from the freezer and is to be consumed within twenty-four (24) hours, mark the food with the next day as the date with which the foods shall be consumed, sold or discarded; [P] or

(4) When the food is removed from the freezer, to indicate the date by which the food shall be consumed on the premises, sold or discarded which is seven (7) days or less after the food is removed from the freezer, minus the time before freezing, that the food is held refrigerated, if the food is maintained at forty-one degrees Fahrenheit (41°F) or less before and after freezing. [P]

(D) A refrigerated, ready-to-eat, potentially hazardous food ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous 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. [P]

(E) *A date marking system that meets the criteria stated in ¶¶ (A) - (C) of this section may include:*

(1) *Using a method approved by the regulatory authority for refrigerated, ready-to-eat potentially hazardous food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;*

(2) *Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under ¶ (A) of this section;*

(3) *Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be*

consumed on the premises, sold, or discarded as specified under ¶(B) of this section; or

(4) *Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.*

(F) *Paragraphs (A) - (C) of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.*

(G) *Paragraph (B) of this section does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:*

(1) *Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110 Current good manufacturing practice in manufacturing, packing, or holding human food;*

(2) *Hard cheeses containing not more than thirty-nine percent (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 fifty percent (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;*

(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; and*

(8) *Unsliced portions of ready-to-eat fermented sausages and salt-cured products such as cooked bologna and cooked salami with the original casing maintained on the remaining portion.*

3-501.18 Ready-to-Eat, Potentially Hazardous Food, Disposition.

(A) A food specified in ¶¶ 3-501.17(A) - (C) shall be discarded if it:

(1) Exceeds the temperature and time combination specified in ¶ 3-501.17(A), except time that the product is frozen; [P]

(2) Is in a container or package that does not bear a date or day; [P] or

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

(B) Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in ¶ 3-501.17(A). [P]

3-501.19 Time as a Public Health Control.

(A) Except as specified under ¶ (D) of this section, if time without temperature control is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous 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:

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

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

(B) If time without temperature control is used as the public health control up to a maximum of four (4) hours:

(1) The food shall have an initial temperature of forty-one degrees Fahrenheit (41°F) or less when removed from cold holding temperature control, or one hundred thirty-five degrees Fahrenheit (135°F) or greater when removed from hot holding temperature control; [P]

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

(3) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded within four (4) hours from the point in time when the food is removed from temperature control; [P] and

(4) The food in unmarked containers or packages, or marked to exceed a four (4) hour limit shall be discarded. [P]

(C) If time without temperature control is used as the public health control up to a maximum of six (6) hours:

(1) The food shall have an initial temperature of forty-one degrees Fahrenheit (41°F) or less when removed from temperature control and the food temperature may not exceed seventy degrees Fahrenheit (70°F) within a maximum time period of six (6) hours; [P]

(2) The food shall be monitored to ensure the warmest portion of the food does not exceed seventy degrees Fahrenheit (70°F) during the six (6) hour period, unless an ambient air temperature is maintained that ensures the food does not exceed seventy degrees Fahrenheit (70°F) during the six (6) hour holding period; [P]

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

(a) The time when the food is removed from forty-one degrees Fahrenheit (41°F) or less cold holding temperature control, [P] and

(b) The time that is six (6) hours past the point in time when the food is removed from cold holding temperature control; [P]

(4) The food shall be:

(a) Discarded if the temperature of the food exceeds seventy degrees Fahrenheit (70°F), [P] or

(b) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six (6) hours from the point in time when the food is removed from forty-one degrees Fahrenheit (41°F) or less cold holding temperature control; [P] and

(5) The food in unmarked containers or packages, or marked with a time that exceeds the six (6) hour limit shall be discarded. [P]

(D) A food establishment that serves a highly susceptible population may not use time as specified under ¶¶ (A), (B), or (C) of this section as the public health control for raw eggs.

3-502.11 Special Processes. A food establishment shall obtain approval for a special process from the department as specified in § 8-103.10 and under § 8-103.11 before:

(A) Smoking food as a method of food preservation rather than as a method of flavor enhancement; [P]

(B) Curing food; [P]

(C) Using food additives or adding components such as vinegar:

(1) As a method of food preservation rather than as a method of flavor enhancement, [P] or

(2) To render a food so that it is not potentially hazardous; [P]

(D) Packaging food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under § 3-502.12; [P]

(E) Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption; [P]
(F) Custom processing animals; [P]
(G) Sprouting seeds or beans; [P] or
(H) Preparing food by another method that is determined by the department to require approval. [P]

3-502.12 Reduced Oxygen Packaging Without a Special Process, Criteria.

(A) Except for a food establishment that obtains approval as specified under § 3-502.11, a food establishment that packages potentially hazardous food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*. [P]
(B) A food establishment that packages potentially hazardous food using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified under § 8-201.14 and that:
(1) Identifies the food to be packaged;
(2) Except as specified under ¶¶ (C) - (E) of this section, requires that the packaged food shall be maintained at forty-one degrees Fahrenheit (41°F) or less and meet at least one (1) of the following criteria:
(a) Has an a_w of ninety-one hundredths (0.91) or less,
(b) Has a pH of four and six tenths (4.6) or less,
(c) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact package, or
(d) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;
(3) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
(a) Maintain the food at forty-one degrees Fahrenheit (41°F) or below, and
(b) Discard the food if within fourteen (14) calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off- premises consumption;
(4) Limits the refrigerated shelf life to no more than fourteen (14) calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; [P]
(5) Includes operational procedures that:
(a) Prohibit contacting ready-to-eat food with bare hands as specified under ¶ 3-301.11(B),
(b) Identify a designated work area and the method by which:
(i) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and
(ii) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, and
(c) Delineate cleaning and sanitization procedures for food-contact surfaces; and
(6) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
(a) Concepts required for a safe operation,
(b) Equipment and facilities, and
(c) Procedures specified under Subparagraph (B)(5) of this section and § 8-201.14.
(C) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method. [P]

(D) Except as specified under ¶ (C) of this section, a food establishment that packages food using a cook-chill or sous vide process shall:
  (1) Implement a HACCP plan that contains the information as specified under § 8- 201.14;
  (2) Ensure the food is:
    (a) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer,
    (b) Cooked to heat all parts of the food to a temperature and for a time as specified under § 3-401.11, [P]
    (c) Protected from contamination before and after cooking as specified under Parts 3- 3 and 3-4, [P]
    (d) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below one hundred thirty-five degrees Fahrenheit (135°F), [P]
    (e) Cooled to forty-one degrees Fahrenheit (41°F) in the sealed package or bag as specified under § 3-501.14 and subsequently: [P]
      (i) Cooled to thirty-four degrees Fahrenheit (34°F) within forty-eight (48) hours of reaching forty-one degrees Fahrenheit (41°F) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging; [P]
      (ii) Cooled to thirty-four degrees Fahrenheit (34°F) within forty-eight (48) hours of reaching forty-one degrees Fahrenheit (41°F), removed from refrigeration equipment that maintains a thirty-four degrees Fahrenheit (34°F) food temperature and then held at forty-one degrees Fahrenheit (41°F) or less for no more than seventy-two (72) hours, at which time the food must be consumed or discarded; [P]
      (iii) Cooled to thirty-eight degrees Fahrenheit (38°F) or less within twenty-four (24) hours of reaching forty-one degrees Fahrenheit (41°F) and held there for no more than seventy-two (72) hours from packaging, at which time the food must be consumed or discarded; [P] or
      (iv) Held frozen with no shelf life restriction while frozen until consumed or used.[P]
    (f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily,
    (g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, and
    (h) Labeled with the product name and the date packaged; and
  (3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:
    (a) Make such records available to the regulatory authority upon request, and
    (b) Hold such records for at least six (6) months; and
  (4) Implement written operational procedures as specified under Subparagraph (B)(5) of this section and a training program as specified under Subparagraph (B)(6) of this section.

(E) A food establishment that packages cheese using a reduced oxygen packaging method shall:
  (1) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses; [P]
  (2) Have a HACCP plan that contains the information specified under § 8-201.14 and as specified under ¶¶(B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section;
  (3) Labels the package on the principal display panel with a "use by" date that does not exceed thirty

(30) days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

(4) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty (30) calendar days of its packaging.

3-601.11 Standards of Identity. Packaged food shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 Definitions and standards of identity or composition, and the general requirements in 21 CFR 130 – Food Standards: General and 9 CFR 319 Subpart A- General.

3-601.12 Honestly Presented.

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

(B) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

3-602.11 Food Labels.

(A) Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR 101 – Food labeling, and 9 CFR 317 Labeling, marking devices, and containers.

(B) Label information shall include:

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

(2) If made from two (2) or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

(3) An accurate declaration of the quantity of contents;

(4) The name and place of business of the manufacturer, packer, or distributor; and

(5) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.

(6) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) – (5), nutrition labeling as specified in 21 CFR 101 – Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

(7) For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.

(C) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

(1) The manufacturer's or processor's label that was provided with the food; or

(2) A card, sign, or other method of notification that includes the information specified under Subparagraphs (B)(1), (2), and (5) of this section.

(D) *Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:*

(1) *A health, nutrient content, or other claim is not made; and*

(2) *The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.*

3-602.12 Other Forms of Information.

(A) If required by law, consumer warnings shall be provided.

(B) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

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, 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 operator 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. [P]

(B) Disclosure shall include:

(1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order);" or

(2) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(1) Regarding the safety of these items, written information is available upon request;

(2) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or

(3) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

(A) A food that is unsafe, adulterated, or not honestly presented as specified under § 3-101.11 shall be discarded or reconditioned according to an approved procedure. [P]

(B) Food that is not from an approved source as specified under §§ 3-201.11-.17 shall be discarded. [P]

(C) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under § 2-201.12 and § 2-201.13 shall be discarded. [P]

(D) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges or other means shall be discarded. [P]

(E) Violations of §§ 3-301.11, 3-307.11, 3-501.13, 3-501.16, 3-501.17, 3-501.19 or other violations that may cause food to be unsafe or adulterated. [P]

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 nine (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, Juice 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 and as specified in 21 CFR Part 120 – Hazard Analysis and Critical Control Point Systems, Subpart B Pathogen Reduction, 120.24 Process controls. [P]

(B) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:[P]
  (1) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, [P] and
  (2) Except as specified in ¶ (F) of this section, recipes in which more than one (1) egg is broken and the eggs are combined; [P]

(C) The following foods may not be served or offered for sale in a ready-to-eat form: [P]
  (1) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare, [P]
  (2) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; [P] and
  (3) Raw seed sprouts. [P]

(D) Under no circumstances shall bare hand contact with ready-to-eat food be allowed. [P]

(E) Time only, as the public health control as specified under ¶ 3-501.19(D) may not be used for raw eggs. [P]

(F) *Subparagraph (B)(2) of this section does not apply if:*
  (1) *The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under Subparagraph 3-401.11(A)(1), and served immediately, such as an omelet, soufflé, or scrambled eggs;*
  (2) *The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or*
  (3) *The preparation of the food is conducted under a HACCP plan that:*
    (a) *Identifies the food to be prepared,*
    (b) *Prohibits contacting ready-to-eat food with bare hands,*
    (c) *Includes specifications and practices that ensure:*
      (i) *Salmonella* Enteritidis *growth is controlled before and after cooking, and*
      (ii) *Salmonella* Enteritidis *is destroyed by cooking the eggs according to the temperature and time specified in Subparagraph 3-401.11(A)(2),*
    (d) *Contains the information specified under § 8-201.14 including procedures that:*
      (i) *Control cross contamination of ready-to-eat food with raw eggs, and*
      (ii) *Delineate cleaning and sanitization procedures for food-contact surfaces; and*
    (e) *Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.*

(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.

Chapter 4: Equipment, Utensils and Linens

4-101.11 Characteristics. Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be: [P]

(A) Safe; [P]
(B) Durable, corrosion-resistant, and nonabsorbent;
(C) Sufficient in weight and thickness to withstand repeated warewashing;
(D) Finished to have a smooth, easily cleanable surface; and
(E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

4-101.12 Cast Iron, Use Limitation.

(A) Except as specified in ¶¶ (B) and (C) of this section, cast iron may not be used for utensils or food-contact surfaces of equipment.
(B) *Cast iron may be used as a surface for cooking.*
(C) *Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.*

4-101.13 Lead, Use Limitation.

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

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

(B) Pewter alloys containing lead in excess of five hundredths of one percent (0.05%) may not be used as a food-contact surface. [P]
(C) Solder and flux containing lead in excess of two tenths of one percent (0.2%) may not be used as a food-contact surface.

4-101.14 Copper, Use Limitation.

(A) Except as specified in ¶ (B) of this section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below six (6) such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator. [P]
(B) *Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six (6) in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.*

4-101.15 Galvanized Metal, Use Limitation. Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food. [P]

4-101.16 Sponges, Use Limitation. Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

4-101.17 Wood, Use Limitation.

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, wood and wood wicker may not be

used as a food-contact surface.

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

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

(2) *Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of two hundred thirty degrees Fahrenheit (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 requirements specified in 21 CFR 178.3800 Preservatives for wood.*

4-101.18 Nonstick Coatings, Use Limitation. Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

4-101.19 Nonfood-Contact Surfaces. Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

4-102.11 Characteristics. Materials that are used to make single-service and single-use articles:

(A) May not:

(1) Allow the migration of deleterious substances, [P] or

(2) Impart colors, odors, or tastes to food; and

(B) Shall be:

(1) Safe, [P] and

(2) Clean.

4-201.11 Equipment and Utensils. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

4-201.12 Food Temperature Measuring Devices. Food temperature measuring devices may not have sensors or stems constructed of glass, *except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.* [P]

4-202.11 Food-Contact Surfaces.

(A) Multiuse food-contact surfaces shall be:

(1) Smooth; [P]

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

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

(4) Finished to have smooth welds and joints; [P] and

(5) Except as specified in ¶ (B) of this section, accessible for cleaning and inspection by one of the following methods:

(a) Without being disassembled,

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

(c) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.

(B) *Subparagraph (A)(5) of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.*

4-202.12 CIP Equipment.

(A) CIP equipment shall meet the characteristics specified under § 4-202.11 and shall be designed and constructed so that:

(1) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, and

(2) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

(B) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

4-202.13 "V" Threads, Use Limitation. *Except for hot oil cooking or filtering equipment,* "V" type threads may not be used on food-contact surfaces.

4-202.14 Hot Oil Filtering Equipment. Hot oil filtering equipment shall meet the characteristics specified under § 4-202.11 or § 4-202.12 and shall be readily accessible for filter replacement and cleaning of the filter.

4-202.15 Can Openers. Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

4-202.16 Nonfood-Contact Surfaces. Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

4-202.17 Kick Plates, Removable. Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

(A) Removable by one of the methods specified under Subparagraph 4-202.11(A)(5) or capable of being rotated open; and

(B) Removable or capable of being rotated open without unlocking equipment doors.

4-202.18 Ventilation Hood Systems, Filters. Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

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 plus or minus one degree Celsius (±1.0°C) in the intended range of use.

(B) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus two degrees Fahrenheit (±2.0°F) in the intended range of use.

4-203.12 Temperature Measuring Devices, Ambient Air and Water.

(A) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to plus or minus one and one-half degree Celsius (±1.5°C) in the intended range of use.

(B) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus three degrees Fahrenheit (±3°F) in the intended range of use.

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment. Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of seven (7) kilopascals (one pound (1 lb) per square inch) or smaller and shall be accurate to plus or minus fourteen (± 14) kilopascals (plus or minus two pounds (± 2 lb) per square inch) in the range indicated on the manufacturer's data plate.

4-204.11 Ventilation Hood Systems, Drip Prevention. Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils,

linens, and single-service and single-use articles.

4-204.12 Equipment Openings, Closures and Deflectors.

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

(B) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least five (5) millimeters (two-tenths 0.2"of one 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 upward as specified under ¶ (B) of this section.

4-204.13 Dispensing Equipment, Protection of Equipment and Food. In equipment that dispenses or vends liquid food or ice in unpackaged form:

(A) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(B) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(C) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or

(2) Available for self-service during hours when it is not under the full-time supervision of a food employee; and

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

(E) Dispensing equipment in which potentially hazardous food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under ¶ 3- 501.16(C) shall:

(1) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; [P] and

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

4-204.14 Vending Machine, Vending Stage Closure. The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not 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 employee.

4-204.15 Bearings and Gear Boxes, Leakproof. Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

4-204.16 Beverage Tubing, Separation. *Except for cold plates that are constructed integrally with an ice storage bin,* beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

4-204.17 Ice Units, Separation of Drains. Liquid waste drain lines may not pass through an ice machine or ice storage bin.

4-204.18 Condenser Unit, Separation. If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

4-204.19 Can Openers on Vending Machines. Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

4-204.110 Molluscan Shellfish Tanks.

(A) Except as specified under ¶ (B) of this section, molluscan shellfish life-support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(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 special process approved by the department as specified in § 8-103.10 and a HACCP plan that:

(1) Is submitted by the operator and approved as specified under § 8-103.11; and

(2) Ensures that:

(a) Water used with fish other than molluscan shellfish does not flow into the molluscan tank,

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

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

4-204.111 Vending Machines, Automatic Shutoff.

(A) A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food:

(1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Chapter 3; [P] and

(2) If a condition specified under Subparagraph (A)(1) of this section occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Chapter 3. [P]

(B) When the automatic shutoff within a machine vending potentially hazardous food is activated:

(1) In a refrigerated vending machine, the ambient temperature may not exceed forty-one degrees Fahrenheit (41°F) for more than thirty (30) minutes immediately after the machine is filled, serviced, or restocked; [P] or

(2) In a hot holding vending machine, the ambient temperature may not be less than one hundred thirty-five degrees Fahrenheit (135°F) for more than one-hundred twenty (120) minutes immediately after the machine is filled, serviced, or restocked. [P]

4-204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the

warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(B) Except as specified in ¶ (C) of this section, cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one (1) 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 one degree Celsius (1°C) or two degrees Fahrenheit (2°F) in the intended range of use.

4-204.113 Warewashing Machine, Data Plate Operating Specifications. A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

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

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

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

4-204.114 Warewashing Machines, Internal Baffles. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

4-204.115 Warewashing Machines, Temperature Measuring Devices. A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

(A) In each wash and rinse tank; and

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

4-204.116 Manual Warewashing Equipment, Heaters and Baskets. If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

(A) Designed with an integral heating device that is capable of maintaining water at a temperature not less than one hundred seventy-one degrees Fahrenheit (171°F); and

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

4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers. A warewashing machine that is installed after January 2000 shall be equipped to:

(A) Automatically dispense detergents and sanitizers; and

(B) Incorporate a visual means to verify that detergents and sanitizers are automatically dispensed and delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

4-204.118 Warewashing Machines, Flow Pressure Device.

(A) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and

(B) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a one-fourth inch (1/4”) Iron Pipe Size (IPS) valve.

(C) *Paragraphs (A) and (B) of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse*.

4-204.119 Warewashing Sinks and Drainboards, Self-Draining. Sinks and drainboards of warewashing sinks and machines shall be self-draining.

4-204.120 Equipment, Drainage. Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

4-204.121 Vending Machines, Liquid Waste Products.

(A) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

(B) Vending machines that dispense liquid food in bulk shall be:

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

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

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

4-204.122 Case Lot Handling Apparatuses, Moveability. Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

4-204.123 Vending Machine Doors and Openings.

(A) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch (1/16") by:

(1) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than twelve (12) or more mesh to one inch (1");

(2) Being effectively gasketed;

(3) Having interface surfaces that are at least one-half inch (1/2") 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 one-sixteenth inch (1/16").

4-205.10 Food Equipment, Certification and Classification. Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with Parts 4-1 and 4-2 of this Chapter.

4-301.11 Cooling, Heating, and Holding Capacities. Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Chapter 3.

4-301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in ¶ (C) of this section, a sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

(B) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing

machine or alternative equipment as specified in ¶ (C) of this section shall be used.

(C) *Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:*
  (1) *High-pressure detergent sprayers;*
  (2) *Low- or line-pressure spray detergent foamers;*
  (3) *Other task-specific cleaning equipment;*
  (4) *Brushes or other implements; or*
  (5) *2-compartment sinks as specified under ¶¶ (D) and (E) of this section; or*
  (6) *Receptacles that substitute for the compartments of a multi-compartment sink.*

(D) Before a two (2) compartment sink is used:
  (1) The operator shall have its use approved; and
  (2) The operator shall limit the number of kitchenware items cleaned and sanitized in the two (2) compartment sink, and shall limit warewashing to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or cleanup at the end of a shift, and shall:
    (a) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and
    (b) Use a detergent-sanitizer to sanitize and apply the detergent- sanitizer in accordance with the manufacturer's label instructions and as specified under § 4- 501.115, or
    (c) Use a hot water sanitization immersion step as specified under ¶ 4-603.16(C).

(E) A 2-compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

4-301.13 Drainboards. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

4-301.14 Ventilation Hood Systems, Adequacy. Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

4-301.15 Clothes Washers and Dryers.

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

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

4-302.11 Utensils, Consumer Self-Service. A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

4-302.12 Food Temperature Measuring Devices.

(A) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Chapter 3.

(B) A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

4-302.13 Temperature Measuring Devices, Manual Warewashing. In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

4-302.14 Sanitizing Solutions, Testing Devices. A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

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;
  (8) In a room with a mechanical clothes washer or dryer; or
  (9) Under other sources of contamination.

(B) *A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.*

(C) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

4-402.11 Fixed Equipment, Spacing or Sealing.

(A) Equipment that is fixed because it is not easily moveable 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 one thirty-second inch (1/32”); 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 moveable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:
  (1) Sealed; or
  (2) Elevated on legs as specified under ¶ 4-402.12(D).

4-402.12 Fixed Equipment, Elevation or Sealing.

(A) Except as specified in ¶¶ (B) and (C) of this section, floor-mounted equipment that is not easily moveable shall be sealed to the floor or elevated on legs that provide at least a six inch (6”) clearance between the floor and the equipment.

(B) *If no part of the floor under the floor-mounted equipment is more than six inches (6”) from the point of cleaning access, the clearance space may be only four inches (4”).*

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

(D) Except as specified in ¶ (E) of this section, counter-mounted equipment that is not easily moveable shall be elevated on legs that provide at least four inch (4”) clearance between the table and the equipment.

(E) *The clearance space between the table and counter-mounted equipment may be:*
  (1) *Three inches (3”) if the horizontal distance of the table top under the equipment is no more than twenty inches (20”) from the point of access for cleaning; or*
  (2) *Two inches (2”) if the horizontal distance of the table top under the equipment is no more than three inches (3”) from the point of access for cleaning.*

4-501.11 Good Repair and Proper Adjustment.

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

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

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

4-501.12 Cutting Surfaces. Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

4-501.13 Microwave Ovens. Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10 Microwave ovens.

4-501.14 Warewashing Equipment, Cleaning Frequency. A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under § 4-301.13 shall be cleaned:

(A) Before use;

(B) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(C) If used, at least every twenty-four (24) hours.

4-501.15 Warewashing Machines, Manufacturer's Operating Instructions.

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

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

4-501.16 Warewashing Sinks, Use Limitation.

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

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

4-501.17 Warewashing Equipment, Cleaning Agents. When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in ¶ 4-301.12 (C), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

4-501.18 Warewashing Equipment, Clean Solutions. The wash, rinse, and sanitize solutions shall be maintained clean.

4-501.19 Manual Warewashing Equipment, Wash Solution Temperature. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than one hundred ten degrees Fahrenheit (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.

4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

(A) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

(1) For a stationary rack, single temperature machine, one hundred sixty-five degrees Fahrenheit (165°F);

(2) For a stationary rack, dual temperature machine, one hundred fifty degrees Fahrenheit (150°F);
(3) For a single tank, conveyor, dual temperature machine, one hundred sixty degrees Fahrenheit (160°F); or
(4) For a multi-tank, conveyor, multi-temperature machine, one hundred fifty degrees Fahrenheit (150°F).

(B) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than one hundred twenty degrees Fahrenheit (120°F).

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures. If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at one hundred seventy-one degrees Fahrenheit (171°F) or above. [P]

4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(A) Except as specified in ¶ (B) of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than one hundred ninety-four degrees Fahrenheit (194°F), [P] or less than:
(1) For a stationary rack, single temperature machine, one hundred sixty-five degrees Fahrenheit (165°F); [P] or
(2) For all other machines, one hundred eighty degrees Fahrenheit (180°F). [P]

(B) *The maximum temperature specified under ¶ (A) of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws*.

4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure. The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than thirty-five (35) kilopascals (five pounds (5 lb) per square inch) or more than two hundred (200) kilopascals (thirty pounds (30 lb) per square inch).

4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified under ¶ 4-703.11(C) shall meet the criteria specified under § 7-204.11 Sanitizers, Criteria, shall be used in accordance with the EPA-registered label use instructions, and shall be used as follows: [P]

(A) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart; [P]

Concentration Range	**Minimum Temperature**	
mg/L	pH 10 or less (°F)	pH 8 or less (°F)
25-49	120	120
50-99	100	75
100	55	55

(B) An iodine solution shall have a:
(1) Minimum temperature of sixty-eight degrees Fahrenheit (68 °F), [P]
(2) pH of five (5.0) or less or a pH no higher than the level for which the manufacturer specifies

the solution is effective, [P] and

(3) Concentration between twelve and one-half (12.5) mg/L and twenty-five (25) mg/L; [P]

(C) A quaternary ammonium compound solution shall:

(1) Have a minimum temperature of seventy-five degrees Fahrenheit (75°F),[P]

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

(3) Be used only in water with five hundred (500) mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions; [P]

(D) If another solution of a chemical specified under ¶¶ (A) –(C) of this section is used, the operator shall demonstrate to the regulatory authority that the solution achieves sanitization and the use of the solution shall be approved; [P] 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. [P]

4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent- Sanitizers. If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent- sanitizer that is used in the washing step.

4-501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration. Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

4-502.11 Good Repair and Calibration.

(A) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under Parts 4-1 and 4-2 or shall be discarded.

(B) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(C) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

4-502.12 Single-Service and Single-Use Articles, Required Use. A food establishment without facilities specified under Parts 4-6 and 4-7 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers. [P]

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

(A) Single-service and single-use articles may not be reused.

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

4-502.14 Shells, Use Limitations. Mollusk and crustacean shells may not be used more than once as serving containers.

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. [P]

(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.

4-602.11 Equipment Food-Contact Surfaces and Utensils.

(A) Equipment food-contact surfaces and utensils shall be cleaned:

(1) Except as specified in ¶ (B) of this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry; [P]

(2) Each time there is a change from working with raw foods to working with ready-to-eat foods;[P]

(3) Between uses with raw fruits and vegetables and with potentially hazardous food; [P]

(4) Before using or storing a food temperature measuring device; [P] and

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

(B) *Subparagraph (A)(1) of this section does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified under § 3-401.11 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.*

(C) Except as specified in ¶ (D) of this section, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours. [P]

(D) *Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned less frequently than every four (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**
41°F or less	24 hours
>41°F - 45°F	20 hours
>45°F - 50°F	16 hours
>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 twenty-four (24) hours;*

(4) *Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Chapter 3;*

(5) *Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;*

(6) *The cleaning schedule is approved based on consideration of:*

(a) *Characteristics of the equipment and its use,*

(b) *The type of food involved,*

(c) *The amount of food residue accumulation, and*

(d) *The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or*

(7) *In-use utensils are intermittently stored in a container of water in which the water is maintained at one hundred thirty-five degrees Fahrenheit (135°F) or more and the utensils and container are cleaned at least every twenty-four (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 shall be cleaned:

(1) At any time when contamination may have occurred;
(2) At least every twenty-four (24) hours for iced tea dispensers and consumer self- service utensils such as tongs, scoops, or ladles;
(3) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
(4) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:
(a) At a frequency specified by the manufacturer, or
(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

4-602.12 Cooking and Baking Equipment.

(A) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty-four (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 twenty-four (24) hours by using the manufacturer's recommended cleaning procedure.

4-602.13 Nonfood-Contact Surfaces. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

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.
(B) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

4-603.12 Precleaning.

(A) Food debris on equipment and utensils shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.
(B) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

4-603.13 Loading of Soiled Items, Warewashing Machines. Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes the items to the unobstructed spray from all cycles; and
(B) Allows the items to drain.

4-603.14 Wet Cleaning.

(A) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.
(B) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment. If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in ¶ 4-301.12 (C) in accordance with the following procedures:

(A) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
(B) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle

accumulation; and

(C) Equipment and utensils shall be washed as specified under ¶ 4-603.14(A).

4-603.16 Rinsing Procedures. Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

(A) Use of a distinct, separate water rinse after washing and before sanitizing if using:
  (1) A 3-compartment sink,
  (2) Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified in ¶ 4-301.12(C), or
  (3) A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

(B) Use of a detergent-sanitizer as specified under § 4-501.115 if using:
  (1) Alternative warewashing equipment as specified in ¶ 4-301.12 (C) that is approved for use with a detergent-sanitizer, or
  (2) A warewashing system for CIP equipment;

(C) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a 2-compartment sink operation;

(D) If using a warewashing machine that does not recycle the sanitizing solution as specified under ¶ (E) of this section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:
  (1) Integrated in the application of the sanitizing solution, and
  (2) Washed immediately after each application; or

(E) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

4-603.17 Returnables, Cleaning for Refilling.

(A) Except as specified in ¶¶ (B) and (C) of this section, returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant. [P]

(B) *A food-specific container for beverages may be refilled at a food establishment if:*
  (1) *Only a beverage that is not a potentially hazardous food is used as specified under ¶ 3-304.17(A);*
  (2) *The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;*
  (3) *Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;*
  (4) *The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and*
  (5) *The container is refilled by:*
    (a) *An employee of the food establishment, or*
    (b) *The owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the container owner.*

(C) *Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.*

4-701.10 Food-Contact Surfaces and Utensils. Equipment food-contact surfaces and utensils shall be sanitized.

4-702.11 Before Use After Cleaning. Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning. [P]

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 thirty (30) seconds and as specified under § 4-501.111; [P]

(B) Hot water mechanical operations by being cycled through equipment that is set up as specified under §§ 4-501.15, 4-501.112, and 4-501.113 and achieving a utensil surface temperature of one hundred sixty degrees Fahrenheit (160°F) as measured by an irreversible registering temperature indicator; [P] or

(C) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under § 4-501.114. Contact times shall be consistent with those on EPA-registered label use instructions by providing:

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

(2) A contact time of at least seven (7) seconds for a chlorine solution of fifty (50) mg/L that has a pH of ten (10) or less and a temperature of at least one hundred degrees Fahrenheit (100°F) or a pH of eight (8) or less and a temperature of at least seventy- five degrees Fahrenheit (75°F), [P]

(3) A contact time of at least thirty (30) seconds for other chemical sanitizing solutions, [P] or

(4) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in Subparagraph 1-201.10(B). [P]

4-801.11 Clean Linens. Clean linens shall be free from food residues and other soiling matter.

4-802.11 Specifications.

(A) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in ¶ 3-304.15(D) shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork, or poultry.

(C) Linens and napkins that are used as specified under § 3-304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

4-803.11 Storage of Soiled Linens. Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

4-803.12 Mechanical Washing.

(A) Except as specified in ¶ (B) of this section, linens shall be mechanically washed.

(B) *In food establishments in which only wiping cloths are laundered as specified in ¶ 4-301.15 (B), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under § 4-501.14.*

4-803.13 Use of Laundry Facilities.

(A) Except as specified in ¶ (B) of this section, laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

(B) *Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food*

establishment items.

4-901.11 Equipment and Utensils, Air-Drying Required. After cleaning and sanitizing, equipment and utensils:

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

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

4-901.12 Wiping Cloths, Air-Drying Locations. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in ¶ 4-301.15(B) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. *This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under § 4-501.114.*

4-902.11 Food-Contact Surfaces. Lubricants as specified under § 7-205.11 shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

4-902.12 Equipment. Equipment shall be reassembled so that food-contact surfaces are not contaminated.

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 six inches (6") 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 six inches (6") above the floor on dollies, pallets, racks, and skids that are designed as specified under § 4- 204.122*.

4-903.12 Prohibitions.

(A) Except as specified in ¶ (B) of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:
  (1) In locker rooms;
  (2) In toilet rooms;
  (3) In garbage rooms;
  (4) In mechanical rooms;
  (5) Under sewer lines that are not shielded to intercept potential drips;
  (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  (7) Under open stairwells;
  (8) In a room with a mechanical clothes washer or dryer; or
  (9) 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.*

4-904.11 Kitchenware and Tableware.

(A) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.

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

(C) Except as specified under ¶ (B) of this section, single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

4-904.12 Soiled and Clean Tableware. Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

4-904.13 Preset Tableware.

(A) Except as specified in ¶ (B) of this section, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) *Preset tableware may be exposed if:*

(1) *Unused settings are removed when a consumer is seated; or*

(2) *Settings not removed when a consumer is seated are cleaned and sanitized before further use.*

4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing. After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

(A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under Subparts 4-204 and 4-501; and

(B) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA-registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

Chapter 5: Water, Plumbing and Waste

5-101.11 Approved System. Drinking water shall be obtained from an approved source that is:
(A) A public water system; [P] or
(B) A private water system. [P]

5-101.12 System Flushing and Disinfection. A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification, and after an emergency situation, such as a flood, that may introduce contaminants to the system. [P]

5-101.13 Bottled Drinking Water. Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129 - Processing and Bottling of Bottled Drinking Water. [P]

5-102.11 Standards.
(A) Well and Water Supply Standards.
(1) Public water systems shall:
(a) Be in compliance with 10 CSR 60 - Safe Drinking Water Commission; [P] and
(b) Non-community water supplies shall have a valid permit to dispense water from the Department of Natural Resources (DNR). A current copy of the permit must be available to the regulatory authority. [P]
(2) Private well water supplies shall:
(a) Be located and constructed in accordance with 10 CSR 23 - Division of Geology and Land Survey. [P]
(b) The well casing shall extend a minimum of twelve inches (12") above grade; [P] and
(c) The top of the casing and well seal shall be free of openings that may allow the entry of contaminants. [P]
(3) Private water supplies that are determined by the regulatory authority to potentially be influenced by surface water or shallow ground water (i.e. springs, bored and dug wells) shall be equipped with a treatment system that includes: [P]
(a) Microfiltration using a filter with a one (1) micron absolute or smaller pore size; [P] and
(b) A chlorinator as specified in § 5-102.16. [P]
(B) Standards. Except for non drinking water:
(1) Water supplies that serve food establishments shall provide safe drinking water; [P]
(2) Contaminate levels and monitoring shall be accordance with Chapter 10 CSR 60- 4; [P] and
(3) Bacteriological, chemical, and radiological contaminants shall be within levels acceptable to the department. Supplies deemed unsafe by the department or DNR shall not be used as a potable water supply. [P]

5-102.12 Non Drinking Water.
(A) A non drinking water supply shall only be used only if its use is approved. [P]
(B) Nondrinking water shall be used for non-culinary purposes such as air conditioning, nonfood equipment cooling, and fire protection. [P]

5-102.13 Sampling. Water from a private water system or non-community public supplies shall be sampled at least annually by the regulatory authority and tested for the presence of coliform bacteria.
(A) Non-community public supplies shall be sampled by the operator of the food establishment as required by DNR.
(B) Private water supplies required to have continuous disinfection shall be:
(1) Sampled at least annually by the regulatory authority and tested for the presence of nitrates;
(2) Tested by the regulatory authority for free available chlorine between one-half (0.5) and four (4) parts per million (ppm) at the time of each routine inspection; and

(3) Tested weekly by the operator for appropriate chlorine concentrations. Results shall be maintained in a log available for review by the regulatory authority.

(C) Any water supply may be sampled by the regulatory authority and be tested for chemical or other contaminants whenever the regulatory authority believes there is a need for such tests.

5-102.14 Sample Report. The most recent sample report for a private water system shall be retained on file in the food establishment and made available for review by the regulatory authority.

5-102.15 Actions Taken Based on Sample Results.

(A) The operator of a food establishment using a public water supply testing positive for bacterial, chemical, or other contaminants shall comply with the requirements of DNR to regain a potable water supply.

(B) The operator of a food establishment using a public water supply testing positive for bacterial, chemical, or other contaminants shall comply with the requirements of the regulatory authority concerning the use of the water until the water supply is deemed safe by the regulatory authority.

(C) The operator of a food establishment using a private water supply testing positive for total coliform bacteria shall:

(1) Disinfect the well and distribution system according to the guidelines of the department.

(2) Have the supply tested for the presence of nitrates and install a chlorinator to provide continuous disinfection as specified in § 5-102.16, if:

(a) After two (2) attempts at disinfecting the well and distribution system, subsequent sample results continue to be positive for coliform bacteria; or

(b) A pattern of positive coliform bacteria sample results is established.

(D) The operator of a food establishment using a private water supply testing positive for *E. coli* or fecal coliform shall be issued a boil order and comply with the provisions of § 5-102.17 until the water supply is deemed safe by the regulatory authority.

5-102.16 Continuous Disinfection.

(A) Private water supplies that have been determined by the regulatory authority to require continuous disinfection shall be equipped with a positive feed liquid chlorinator and storage capacity to provide at least thirty (30) minutes of retention time based on pump capacity. The chlorinator will be set and maintained to supply chlorine concentrations between one-half (0.5) and four (4) parts per million (ppm) free available chlorine.

(B) Private water supplies equipped with a chlorinator that continue to test positive for coliform or *E. coli* bacteria, or establish a pattern of chlorine residuals not at the required levels, shall provide a new water supply by:

(1) Drilling a new well;

(2) Connecting to a public water supply, if available; or

(3) Other means acceptable to the regulatory authority.

5-102.17 Boil Orders, Boil Advisories and Limit Use Orders. If the DNR, department or water supplier issues a boil order, boil advisory or a limit use order for a water supply serving a food establishment, the operator shall comply with the terms of the order as it applies to the food establishment. [P]

(A) Requirements of a boil order or limit use order issued due to bacteriological concerns shall include:

(1) Discontinuing use of ice machines and disposing of ice made with affected water. [P]

(2) Discontinuing use of post mix soda machines. [P]

(3) Discontinue serving ice tea, lemonade or other cold drinks prepared with affected water. [P]

(4) Discontinue preparing ice tea, lemonade or other cold drinks with affected water. [P]

(5) Using a hand sanitizer after handwashing. [P]

(6) Using bottled water, water that has been boiled for three (3) minutes or water that has been chlorinated, retained for thirty (30) minutes and tested to assure a residual of one-half (0.5) to four (4) ppm free available chlorine for washing produce and other culinary uses. [P]

(7) Rendering faucets, accessible to the public, inoperative or posting a sign stating "Unsafe for Drinking" at these faucets. [P]

(B) After a boil order or limit use order is lifted, all water lines should be flushed and manufacturer's recommendations followed to disinfect or replace water filters and water softeners.

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. [P]

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. [P]

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 to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

5-104.11 System. Except as specified in § 5-104.12, water shall be received from the source through the use of:

(A) An approved public water main; or

(B) A private water main, water pumps, pipes, hoses, connections, and other appurtenances that shall be constructed, maintained, and operated according to law.

(C) Hauled water and water transportation tanks shall not be used as a primary water supply.

5-104.12 Alternative Water Supply. Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

(A) A supply of containers of commercially bottled drinking water;

(B) One (1) or more closed portable water containers;

(C) An enclosed vehicular water tank;

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

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

5-201.11 Approved.

(A) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law. [P]

(B) A water filter shall be made of safe materials. [P]

5-202.11 Approved System and Cleanable Fixtures.

(A) A plumbing system shall be designed, constructed, and installed according to law. [P]

(B) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.

5-202.12 Handwashing Sink, Installation.

(A) A handwashing sink shall be equipped to provide water at a temperature of at least one hundred degrees Fahrenheit (100°F) through a mixing valve or combination faucet.

(B) A steam mixing valve may not be used at a handwashing sink.

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

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

5-202.13 Backflow Prevention, Air Gap. An air gap between the water supply inlet and the flood level

rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch (1"). [P]

5-202.14 Backflow Prevention Device, Design Standard. A backflow or backsiphonage prevention device, installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction and installation for that specific application and type of device. [P]

5-202.15 Conditioning Device, Design. A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

5-203.11 Handwashing Sinks.

(A) Except as specified in ¶¶ (B) of this section, at least one (1) handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified under § 5-204.11, and not fewer than the number of handwashing sinks required by law shall be provided. [P]

(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 (1) handwashing sink.*

5-203.12 Toilets and Urinals. At least one (1) toilet and not fewer than the toilets required by law shall be conveniently provided. [P] If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified by law.

5-203.13 Service Sink. At least one (1) service sink or one (1) curbed cleaning facility equipped with hot and cold running water and 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, unless otherwise approved by the department and a public health hazard or nuisance is not created.

5-203.14 Backflow Prevention Device, When Required. A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

(A) Providing an air gap as specified under § 5-202.13; [P] or

(B) Installing an approved backflow prevention device as specified under § 5-202.14. [P]

5-203.15 Backflow Prevention Device, Carbonator.

(A) If not provided with an air gap as specified under § 5-202.13, a dual check valve with an intermediate vent preceded by a screen of not less than one hundred (100) mesh to one inch (1") shall be installed upstream from a carbonating device and downstream from any copper in the water supply line. [P]

(B) *A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under ¶ (A) of this section.*

(C) Carbonated beverage dispensers conforming to the backflow protection requirements, established in National Sanitation Foundation standard eighteen (18) and listed as such by an independent testing laboratory, shall be deemed to meet the requirements as specified in Subsection (A) of this section.

5-204.11 Handwashing Sinks. A handwashing sink shall be located:

(A) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; [P] and

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

5-204.12 Backflow Prevention Device, Location. A backflow prevention device shall be located so that it may be serviced and maintained.

5-204.13 Conditioning Device, Location. A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

5-205.11 Using a Handwashing Sink.

(A) A handwashing sink shall be maintained so that it is accessible at all times for employee use.

(B) A handwashing sink may not be used for purposes other than handwashing.

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

5-205.12 Prohibiting a Cross Connection.

(A) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a non drinking water system or a water system of unknown quality, except sprinkler systems for fire suppression. [P]

(B) The piping of a non drinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.

5-205.14 Water Reservoir of Fogging Devices, Cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications; [P] and

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

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts; [P]

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

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

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

5-205.15 System Maintained in Good Repair. A plumbing system shall be:

(A) Repaired according to law; [P] and

(B) Maintained in good repair.

5-301.11 Approved. Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:

(A) Safe; [P]

(B) Durable, corrosion-resistant, and nonabsorbent; and

(C) Finished to have a smooth, easily cleanable surface.

5-302.11 Enclosed System, Sloped to Drain. A mobile water tank shall be:

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

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

5-302.12 Inspection and Cleaning Port, Protected and Secured. If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

(A) Flanged upward at least one-half inch (0.5”); and

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

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

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

5-302.13 "V" Type Threads, Use Limitation. A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

5-302.14 Tank Vent, Protected. If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

(A) Sixteen (16) mesh to one inch (1") screen or equivalent when the vent is in a protected area; or
(B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

5-302.15 Inlet and Outlet, Sloped to Drain.

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

5-302.16 Hose, Construction and Identification. A hose used for conveying drinking water from a water tank shall be:

(A) Safe; [P]
(B) Durable, corrosion-resistant, and nonabsorbent;
(C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
(D) Finished with a smooth interior surface; and
(E) Clearly and durably identified as to its use if not permanently attached.

5-303.11 Filter, Compressed Air. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system. [P]

5-303.12 Protective Cover or Device. A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

5-303.13 Mobile Food Establishment Tank Inlet. A mobile food establishment's water tank inlet shall be:

(A) Three-fourths inch (3/4") 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.

5-304.11 System Flushing and Sanitization. A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse. [P]

5-304.12 Using a Pump and Hoses, Backflow Prevention. A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

5-304.13 Protecting Inlet, Outlet, and Hose Fitting. If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under § 5-303.12.

5-304.14 Tank, Pump, and Hoses, Dedication.

(A) Except as specified in ¶ (B) of this section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose. [P]
(B) *Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.*

5-401.11 Capacity and Drainage. A sewage holding tank in a mobile food establishment shall be:

(A) Sized fifteen percent (15%) larger in capacity than the water supply tank; and
(B) Sloped to a drain that is one inch (1") in inner diameter or greater, equipped with a shut-off valve.

5-402.10 Establishment Drainage System. Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under ¶ 5-202.11(A).

5-402.11 Backflow Prevention.

(A) Except as specified in ¶¶ (B), (C), (D), and (E) of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed. [P]
(B) *Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.*
(C) *If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (5') 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.*

(E) *As otherwise approved by the regulatory authority.*

5-402.12 Grease Trap. If used, a grease trap shall be located to be easily accessible for cleaning.

5-402.13 Conveying Sewage. Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law. [P]

5-402.14 Removing Mobile Food Establishment Wastes. Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

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.

5-403.11 Approved Sewage Disposal System. Sewage shall be disposed through an approved facility.

(A) On-site wastewater treatment systems serving food establishments which generate three thousand (3,000) gallons or less of wastewater per day and are maintained in a subsurface treatment and disposal system shall be regulated by the DHSS. [P]

(1) Any on-site wastewater treatment system installed after January 1, 1996, shall be constructed according to 19 CSR 20-3.060 Minimum Construction Standards for On-Site Sewage Disposal Systems or applicable local ordinance. [P]

(2) On-site wastewater treatment systems shall be maintained and operated to preclude surfacing or discharging effluent, production of odors or the creation of a habitat for insect breeding, contamination of surface water or groundwater or creation of a nuisance or health hazard. [P]

(3) Malfunctioning systems shall be renovated according to 19 CSR 20-3.060 Minimum Construction Standards for On-site Sewage Disposal Systems or applicable local ordinance. [P]

(B) Wastewater treatment and disposal systems serving food establishments which generate more than three thousand (3,000) gallons of wastewater per day (flow rates determined by 19 CSR 20-3.060), or are connected into waste stabilization ponds, or other alternative systems which discharge shall be regulated by the DNR.

(1) Any wastewater treatment system installed after the effective date of this rule, shall have a National Pollutant Discharge Elimination System (NPDES) Permit, General Permit, Exemption Letter issued by the DNR or utilize a Non-Discharge Lagoon. Non-discharge lagoons shall be fenced with a small animal tight fence and be built in substantial compliance with DNR's 3,000 Gallon per Day or Less No-Discharge Permit Exemption for Domestic Wastewater Design Guidance document. [P]

(2) Wastewater treatment systems shall be maintained and operated to preclude the production of odors or creation of a habitat for insect breeding, growth of tall weeds or trees on or in a lagoon or its berm, or creation of a nuisance or health hazard. [P]

(3) The 3,000 Gallon per Day or Less No-Discharge Permit Exemption for Domestic Wastewater Design Guidance is hereby incorporated by reference in this rule as published May 12, 2009 and is available on the web at www.dnr.mo.gov/pubs/pub1319.pdf or by contacting the Department of Natural Resources, PO Box 176, Jefferson City, MO 65102, (800) 361-4827. This rule does not incorporate any subsequent amendments or additions.

(C) A public sewage treatment plant or otherwise according to law.

5-403.12 Other Liquid Wastes and Rainwater. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

5-501.10 Indoor Storage Area. If located within the food establishment, a storage area for refuse,

recyclables, and returnables shall meet the requirements specified under §§ 6-101.11, 6-201.11 – 6-201.18, 6-202.15, and 6-202.16.

5-501.11 Outdoor Storage Surface. An outdoor storage surface for refuse, recyclables, and returnables shall be:

(A) Sloped to drain; and

(B) Constructed of nonabsorbent, smooth and durable material, such as concrete or asphalt, if there is evidence of vermin or a creation of a nuisance or health hazard.

5-501.12 Outdoor Enclosure. If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

5-501.13 Receptacles.

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

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

5-501.14 Receptacles in Vending Machines. *Except that a receptacle for beverage bottle crown closures,* a refuse receptacle may not be located within a vending machine

5-501.15 Outside Receptacles.

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

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

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, commonly discarded or where recyclables or returnables are placed.

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

5-501.17 Toilet Room Receptacle, Covered. A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

5-501.18 Cleaning Implements and Supplies.

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

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

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

(A) An area designated for refuse, recyclables, returnables, and, except as specified in ¶ (B) of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

(B) *A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles*

are not subject to contamination from the machines and a public health hazard or nuisance is not created.

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

5-501.110 Storing Refuse, Recyclables, and Returnables. Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

5-501.111 Areas, Enclosures, and Receptacles, Good Repair. Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

5-501.112 Outside Storage Prohibitions.

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

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

5-501.113 Covering Receptacles. Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

(A) Inside the food establishment if the receptacles and units:

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

(2) After they are filled; and

(B) With tight-fitting lids or doors if kept outside the food establishment.

5-501.114 Using Drain Plugs. Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

5-501.115 Maintaining Refuse Areas and Enclosures. A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under § 6-501.114, and clean.

5-501.116 Cleaning Receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under § 5-402.13.

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

5-502.11 Frequency. Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

5-502.12 Receptacles or Vehicles. Refuse, recyclables, and returnables shall be removed from the premises by way of:

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

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

5-503.11 Community or Individual Facility. Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

Chapter 6: Physical Facilities

6-101.11 Surface Characteristics.

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

(1) Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;

(2) Closely woven and easily cleanable carpet for carpeted areas; and

(3) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

(B) *In a temporary food establishment:*

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

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

6-102.11 Surface Characteristics.

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

(B) Exterior surfaces of buildings and mobile food establishments shall be of weather- resistant materials and shall comply with law.

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

6-201.11 Floors, Walls, and Ceilings. Except as specified under § 6-201.14 and except for antislip floor coverings or applications may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

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

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

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

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

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

(A) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than one thirty-second inch (1/32”).

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

6-201.14 Floor Carpeting, Restrictions and Installation.

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

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

(1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
(2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

6-201.15 Floor Covering, Mats and Duckboards. Mats and duckboards shall be designed to be removable and easily cleanable.

6-201.16 Wall and Ceiling Coverings and Coatings.

(A) Wall and ceiling covering materials shall be attached so that they are easily cleanable.
(B) *Except in areas used only for dry storage*, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

6-201.17 Walls and Ceilings, Attachments.

(A) Except as specified in ¶ (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.
(B) *In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean*.

6-201.18 Walls and Ceilings, Studs, Joists, and Rafters. *Except for temporary food establishments*, studs, joists, and rafters may not be exposed in areas subject to moisture.

6-202.11 Light Bulbs, Protective Shielding.

(A) Except as specified in ¶ (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.
(B) *Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:*
(1) *The integrity of the packages cannot be affected by broken glass falling onto them; and*
(2) *The packages are capable of being cleaned of debris from broken bulbs before the packages are opened*.
(C) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

6-202.12 Heating, Ventilating, Air Conditioning System Vents. Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

6-202.13 Insect Control Devices, Design and Installation.

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.
(B) Insect control devices shall be installed so that:
(1) The devices are not located over a food preparation area; and
(2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

6-202.14 Toilet Rooms, Enclosed. *Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall*, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

6-202.15 Outer Openings, Protected.

(A) Except as specified in ¶¶ (B), (C), and (E) and under ¶ (D) of this section, outer openings of a food establishment shall be protected against the entry of insects and rodents by:
  (1) Filling or closing holes and other gaps along floors, walls, and ceilings;
  (2) Closed, tight-fitting windows; and
  (3) Solid, self-closing, tight-fitting doors.

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

(C) *Exterior doors used as exits need not be self-closing if they are:*
  (1) *Solid and tight-fitting;*
  (2) *Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and*
  (3) *Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use*.

(D) Except as specified in ¶¶ (B) and (E) of this section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under ¶ (A) of this section, the openings shall be protected against the entry of insects and rodents by:
  (1) Sixteen (16) mesh to one inch (1") screens;
  (2) Properly designed and installed air curtains to control flying insects; or
  (3) Other effective means.

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

6-202.16 Exterior Walls and Roofs, Protective Barrier. Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

6-202.17 Outdoor Food Vending Areas, Overhead Protection. *Except for machines that vend canned beverages*, if located outside, a machine used to vend food shall be provided with overhead protection;

6-202.18 Outdoor Servicing Areas, Overhead Protection. *Except for areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses*, servicing areas shall be provided with overhead protection.

6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain. Exterior walking and driving surfaces shall be graded to drain.

6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain. Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain and if there is evidence of vermin or a creation of a nuisance or health hazard, outdoor receptacles for refuse shall be stored on a smooth, hard surface such as concrete or machine-laid asphalt.

6-202.111 Private Homes and Living or Sleeping Quarters, Use Prohibition. A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations. [P]

6-202.112 Living or Sleeping Quarters, Separation. Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

6-301.10 Minimum Number. Handwashing sinks shall be provided as specified under § 5- 203.11.
6-301.11 Handwashing Cleanser, Availability. Each handwashing sink or group of two (2) adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.
6-301.12 Hand Drying Provision. Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

(A) Individual, disposable towels;
(B) A continuous towel system that supplies the user with a clean towel; or
(C) A heated-air hand drying device; or
(D) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

6-301.13 Handwashing Aids and Devices, Use Restrictions. A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing sink as specified under §§ 6-301.11 and 6-301.12 and ¶ 5-501.16(C).
6-301.14 Handwashing Signage. A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.
6-301.20 Disposable Towels, Waste Receptacle. A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified under ¶ 5-501.16 (C).
6-302.10 Minimum Number. Toilets and urinals shall be provided as specified under § 5- 203.12.
6-302.11 Toilet Tissue, Availability. A supply of toilet tissue shall be available at each toilet.
6-303.11 Intensity. The light intensity shall be:

(A) At least ten (10) foot candles at a distance of thirty inches (30") above the floor, in walk- in refrigeration units and dry storage areas and in other areas and rooms during periods of cleaning;
(B) At least twenty (20) foot candles:
    (1) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
    (2) Inside equipment such as reach-in and under-counter refrigerators; and
    (3) At a distance of thirty inches (30") above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
(C) At least fifty (50) foot candles at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

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.
6-305.11 Designation.

(A) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.
(B) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

6-306.10 Availability. A service sink or curbed cleaning facility shall be provided as specified under ¶ 5-203.13(A).
6-401.10 Conveniently Located. Handwashing sinks shall be conveniently located as specified under § 5-204.11.
6-402.11 Convenience and Accessibility. Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.

6-403.11 Designated Areas.

(A) Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

6-404.11 Segregation and Location. Products that are held by the operator 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.

6-405.10 Receptacles, Waste Handling Units, and Designated Storage Areas. Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under § 5-501.19.

6-501.11 Repairing. Physical facilities shall be maintained in good repair.

6-501.12 Cleaning, Frequency and Restrictions.

(A) Physical facilities shall be cleaned as often as necessary to keep them clean.

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

6-501.13 Cleaning Floors, Dustless Methods.

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

(B) *Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:*

(1) *Without the use of dust-arresting compounds; and*

(2) *In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.*

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

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

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

6-501.15 Cleaning Maintenance Tools, Preventing Contamination. Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes. [P]

6-501.16 Drying Mops. After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

6-501.17 Absorbent Materials on Floors, Use Limitation. Except as specified in ¶ 6- 501.13(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors;

6-501.18 Cleaning of Plumbing Fixtures. Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

6-501.19 Closing Toilet Room Doors. *Except during cleaning and maintenance operations,* toilet room doors as specified under § 6-202.14 shall be kept closed.

6-501.110 Using Dressing Rooms and Lockers.

(A) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

6-501.111 Controlling Pests. The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises. [P] Control measures shall include:

(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; and
(D) Eliminating harborage conditions.

6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests. Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

6-501.113 Storing Maintenance Tools. Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

6-501.114 Maintaining Premises, Unnecessary Items and Litter. The premises shall be free of:

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

6-501.115 Prohibiting Animals.

(A) Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the premises of a food establishment. [P]
(B) *Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:*
  (1) *Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;*
  (2) *Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;*
  (3) *In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;*
  (4) *Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:*
    (a) *Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,*
    (b) *Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and*
    (c) *Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and*
  (5) *In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.*

(C) *Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.*

Chapter 7: Poisonous or Toxic Materials

7-101.11 Identifying Information, Prominence. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label. [P]

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. [P]

7-201.11 Separation. Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning; [P] and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. *This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.* [P]

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. [P]

(B) *Paragraph (A) of this section does not apply to packaged poisonous or toxic materials that are for retail sale.*

7-202.12 Conditions of Use. Poisonous or toxic materials shall be:

(A) Used according to:

(1) Law and this Code,[P]

(2) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment, [P]

(3) The conditions of certification, if certification is required, for use of the pest control materials, [P] and

(4) Additional conditions that may be established by the regulatory authority; and

(B) Applied so that:

(1) A hazard to employees or other persons is not constituted, [P] and

(2) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by: [P]

(a) Removing the items, [P]

(b) Covering the items with impermeable covers, [P] or

(c) Taking other appropriate preventive actions, [P] and

(d) Cleaning and sanitizing equipment and utensils after the application. [P]

(C) A restricted use pesticide shall be applied only by an applicator certified by the Missouri Department of Agriculture, a state with a reciprocal agreement, or a person under the direct supervision of a certified applicator.

7-203.11 Poisonous or Toxic Material Containers. A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.[P]

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). [P] 40 CFR 180.940 is hereby incorporated by reference in this rule as published May 12, 2009

and is available on the web at http://edocket.access.gpo.gov/cfr_2004/julqtr/40cfr180.940.html or by contacting the U.S. Government Printing Office, PO Box 979050, St. Louis, MO 63197-9000, (866) 512-1800. This rule does not incorporate any subsequent amendments or additions.

7-204.12 Chemicals for Washing, Treatment, Storage and Processing 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. [P]

(B) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishment shall meet the requirements specified in 21 CFR 173.368 Ozone.

7-204.13 Boiler Water Additives, Criteria. Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310 Boiler water additives. [P]

7-204.14 Drying Agents, Criteria. Drying agents used in conjunction with sanitization shall:

(A) Contain only components that are listed as one of the following:

(1) Generally recognized as safe for use in food as specified in 21 CFR 182 – Substances Generally Recognized as Safe, or 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, [P]

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

(3) Approved for use as a drying agent under a prior sanction specified in 21 CFR 181 –Prior-Sanctioned Food Ingredients, [P]

(4) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175-178, [P] 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; [P] 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. [P]

7-205.11 Incidental Food Contact, Criteria. Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food- contact surfaces. [P]

7-206.11 Restricted Use Pesticides, Criteria. Restricted use pesticides specified under ¶ 7- 202.12(C) shall meet the requirements specified in 40 CFR 152 Subpart I – Classification of Pesticides. [P]

7-206.12 Rodent Bait Stations. Rodent bait shall be contained in a covered, tamper-resistant bait station. [P]

7-206.13 Tracking Powders, Pest Control and Monitoring.

(A) Except as specified in ¶ (B) of this section, a tracking powder pesticide may not be used in a food establishment. [P]

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

7-207.11 Restriction and Storage.

(A) *Except for medicines that are stored or displayed for retail sale*, only those medicines that are necessary for the health of employees shall be allowed in a food establishment.

(B) Medicines that are in a food establishment for the employees' use shall be labeled as specified under § 7-101.11 and located to prevent the contamination of food, equipment, utensils, linens,

and single-service and single-use articles. [P]

7-207.12 Refrigerated Medicines, Storage. Medicines on the premises that require refrigeration and are stored in a food refrigerator shall be:

(A) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; [P] and

(B) Located so they are inaccessible to children. [P]

7-208.11 Storage. First aid supplies that are in a food establishment for the employees' use shall be:

(A) Labeled as specified under § 7-101.11; and

(B) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles. [P]

7-209.11 Storage. Except as specified under §§ 7-207.12 and 7-208.11, employees shall store their personal care items in facilities as specified under ¶ 6-305.11(B).

7-301.11Separation. Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning; [P] and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. [P]

Chapter 8: Compliance and Enforcement

8-1 CODE APPLICABILITY

Use for Intended Purposes

8-101.10 Public Health Protection. 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 food is in commercial transport or offered to the consumer. The Department Director or authorized representative may temporarily waive, in the event of natural disasters, state of emergencies or other similar events, provisions of this Code if in the opinion of the regulatory authority a health hazard or nuisance will not result from the waiver.

Additional Requirements

8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.

(A) If necessary to protect against public health hazards or nuisances, the regulatory authority may impose specific requirements in addition to the requirements contained in this Code that are authorized by law.

(B) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the regulatory authority's file for the food establishment.

Variances

8-103.10 Modifications and Waivers. The regulatory authority may grant a special process by modifying or waiving the requirements of the Code if in the opinion of the regulatory authority a health hazard or nuisance will not result from the special process. If a special process is granted, the regulatory authority shall retain the information specified under § 8-103.11 in its records for the food establishment.

8-103.11 Documentation of Proposed Special Process and Justification. Before the regulatory authority waives or modifies a requirement of this Code, the information that shall be provided by the person requesting approval for a special process includes:

(A) A statement of the proposed modification or waiver of the Code requirement citing relevant Code section numbers;

(B) A statement as to why the special process is necessary;

(C) Written procedures for how the modification or waiver will be implemented;

(D) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Code sections will be alternatively addressed by the proposal; and

(E) A HACCP plan if required that includes the information specified under § 8-201.14 as it is relevant to the request.

8-103.12 Conformance with Approved Procedures. If the regulatory authority grants a special process as specified in §8-103.10, or a HACCP plan is otherwise required as specified under §8-201.13, the permit holder shall:

(A) Comply with the HAACP plans and procedures that are submitted as specified under §8-201.14 and approved as a basis for the modification or waiver; and

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

(1) Procedures for monitoring critical control points,

(2) Monitoring of the critical control points,
(3) Verification of the effectiveness of an operation or process, and
(4) Necessary corrective actions if there is failure at a critical control point.

8-103.13 If Conditions or Provisions Change. If conditions change or provisions, upon which a special process is approved, are not followed, the regulatory authority may revoke the approval and the operator shall be required to meet the provisions of this Code.

8-2 PLAN SUBMISSION AND APPROVAL

Facility and Operating Plans

8-201.11 When Plans Are Required. A permit applicant or permit holder shall submit to the regulatory authority properly prepared plans and specifications for review and approval before:
(A) The construction of a food establishment;
(B) The conversion of an existing structure for use as a food establishment; or
(C) The remodeling of a food establishment or a change of a type of food establishment if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this Code.

8-201.12 Contents of the Plans and Specifications. The plans and specifications for a food establishment, including a food establishment specified under §8-201.13, shall include, as required by the regulatory authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with Code provisions:
(A) Intended menu;
(B) Anticipated volume of food to be stored, prepared, and sold or served;
(C) Proposed layout, mechanical schematics, construction materials, and finish schedules;
(D) Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
(E) Evidence that standard procedures that ensure compliance with the requirements of this Code are developed or are being developed; and
(F) Other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

8-201.13 When a HACCP Plan is Required.
(A) Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under § 8-201.14 and the relevant provisions of this Code if:
(1) Submission of a HACCP plan is required according to law;
(2) A special process is required as specified under § 3-401.11 (D)(4), 3-502.11, ¶ 4-204.110(B); or
(3) The regulatory authority determines that a Food preparation or processing method requires a special process based on a plan submittal specified under § 8-201.12, an inspectional finding, or a special process request.
(B) A permit applicant or permit holder shall have a properly prepared HACCP plan as specified under § 3-502.12.

8-201.14 Contents of a HACCP Plan. For a food establishment that is required under § 8-201.13 to have a HACCP plan, the plan and specifications shall indicate:

(A) A categorization of the types of potentially hazardous foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the regulatory authority;
(B) A flow diagram by specified food or category type identifying critical control points and providing information on the following:
  (1) Ingredients, materials, and equipment used in the preparation of that food, and
  (2) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
(C) Food employee and supervisory training plan that addresses the food safety issues of concern;
(D) A statement of standard operating procedures of the plan under consideration including clearly identifying:
  (1) Each critical control point,
  (2) The critical limits for each critical control point,
  (3) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,
  (4) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points,
  (5) Action to be taken by the person in charge if the critical limits for each critical control point are not met and
  (6) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
(E) Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

Confidentiality

8-202.10 Trade Secrets. The regulatory authority shall treat as confidential in accordance with law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under §§ 8-201.12 and 8-201.14.

Construction Inspection and Approval

8-203.10 Preoperational Inspections. The regulatory authority shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified under ¶ 8-201.12(E), and is in compliance with law and this Code.

8-3 PERMIT TO OPERATE

Requirement

8-301.11 Prerequisite for Operation. A person may not operate a food establishment without a valid permit to operate issued by the regulatory authority.

Application Procedure

8-302.11 Submission 30 Calendar Days Before Proposed Opening. An applicant shall submit an application for a permit at least 30 calendar days before the date planned for opening a food establishment or the expiration date of the current permit for an existing facility.
8-302.12 Form of Submission. A person desiring to operate a food establishment shall submit to the regulatory authority a written application for a permit on a form provided by the regulatory authority.

8-302.13 Qualifications and Responsibilities of Applicants. To qualify for a permit an applicant shall:

(A) Be an owner of the food establishment or an officer of the legal ownership;
(B) Comply with the requirements of this Code;
(C) As specified under § 8-402.11, agree to allow access to the food establishment and to provide required information; and
(D) Pay the applicable permit fees at the time the application is submitted.
(E) Certain food establishments may be exempted from the permit or fee requirements as determined by the regulatory authority.

Issuance

8-303.10 New, Converted, or Remodeled Establishments. For food establishments that are required to submit plans as specified under § 8-201.11 the regulatory authority shall issue a permit to the applicant after:

(A) A properly completed application is submitted;
(B) The required fee is submitted;
(C) The required plans, specifications, and information are reviewed and approved; and
(D) A preoperational inspection as specified in § 8-203-10 shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Code.

8-303.20 Existing Establishments, Permit Renewal, and Change of Ownership. The regulatory authority may renew a permit for an existing food establishment or may issue a permit to a new owner of an existing food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this Code.

8-303-30 Denial of Application for Permit, Notice. If an application for a permit to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

(A) The specific reasons and Code citations for the permit denial;
(B) The actions, if any, that the applicant must take to qualify for a permit; and
(C) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

Conditions of Retention

8-304.10 Responsibilities of the Regulatory Authority

(A) The regulatory authority shall make available a copy of this Code so that the permit holder is notified of the compliance requirements and the conditions of retention, as specified under § 8-304.11, that are applicable to the permit.
(B) Failure to provide the information specified in ¶ (A) of this section does not prevent the regulatory authority from taking authorized action or seeking remedies if the permit holder fails to comply with this Code or an order, warning, or directive of the regulatory authority.

8-304.11 Responsibilities of the Permit Holder. Upon acceptance of the permit issued by the regulatory authority, the permit holder in order to retain the permit shall:

(A) Post the permit in a location in the food establishment that is conspicuous to consumers;
(B) Comply with the provisions of this Code including the conditions of a granted special process as specified under § 8-103.12, and approved plans as specified under § 8-201.12;
(C) If a food establishment is required under § 8-201.13 to operate under a HACCP plan, comply with the plan as specified under § 8-103.12;

(D) Immediately contact the regulatory authority to report an illness of an employee as specified under ¶ 2-201.11;
(E) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under § 8-404.11;
(F) Allow representatives of the regulatory authority access to the food establishment as specified under § 8-402.11;
(G) Replace existing facilities and equipment with facilities and equipment that comply with this Code if:
  (1) The regulatory authority directs the replacement of the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted,
  (2) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership, or
  (3) The facilities and equipment are replaced in the normal course of operation;
(H) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the permit holder's food establishment or in response to community emergencies;
(I) Accept notices issued and served by the regulatory authority according to law; and
(J) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Code or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

8-304.20 Permits Not Transferable. A permit may not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another if the food operation changes from the type of operation and the change in operation is not approved.

8-4 INSPECTION AND CORRECTION OF VIOLATIONS

Frequency

8-401.10 Establishing Inspection Interval.
(A) Except as specified in ¶ (B) of this section, the regulatory authority shall inspect a food establishment at least once every 12 months.
(B) The regulatory authority will determine the interval between inspections by:
  (1) Assigning an inspection frequency based on a written risk-based facility assessment that is being uniformly applied throughout the jurisdiction.
  (2) Determining if a food establishment is fully operating under an approved and validated HACCP plan as specified under § 8-201.14 and ¶¶ 8-103.12(A) and (B).
  (3) Inspecting as needed when a complaint is received which justifies inspection of the food establishment.
(C) The regulatory authority shall inspect vending location operations, if the operation provides potentially hazardous foods, on a frequency determined by the regulatory authority.
(D) The regulatory authority shall periodically inspect modified food establishments as defined in Chapter 9 of this Code, at the discretion of the regulatory authority.

8-401.20 Performance and Risk-Based. Within the parameters specified in § 8-401.10, the regulatory authority shall prioritize, and conduct more frequent inspections based upon its assessment of a food

establishment's history of compliance with this Code and the establishment's potential as a vector of food borne illness by evaluating:

(A) Past performance, for nonconformance with Code or HACCP plan requirements that are priority;
(B) Past performance, for numerous or repeat violations of Code or HACCP plan requirements that are non-priority;
(C) Past performance, for complaints investigated and found to be valid;
(D) The hazards associated with the particular foods that are prepared, stored, or served;
(E) The type of operation including the methods and extent of food storage, preparation, and service;
(F) The number of people served; and
(G) Whether the population served is a highly susceptible population.

Access

8-402.11 Allowed at Reasonable Times after Due Notice. After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the food establishment is in compliance with this Code by allowing access to the establishment, allowing inspection, and providing information and records specified in this Code and to which the regulatory authority is entitled according to law, during the food establishment's hours of operation and other reasonable times.

8-402.20 Refusal, Notification of Right to Access, and Final Request for Access. If a person denies access to the regulatory authority, the regulatory authority shall:

(A) Inform the person that:
  (1) The permit holder is required to allow access to the regulatory authority as specified under § 8-402.11 of this Code,
  (2) Access is a condition of the acceptance and retention of a food establishment permit to operate as specified under ¶ 8-304.11(F), and
  (3) If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and
(B) Make a final request for access.

8-402.30 Refusal, Reporting. If after the regulatory authority presents credentials and provides notice as specified under § 8-402.11, explains the authority upon which access is requested, and makes a final request for access as specified in § 8-402.20, the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

8-402.40 Inspection Order to Gain Access. If denied access to a food establishment for an authorized purpose and after complying with § 8-402.20, the regulatory authority may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

Report of Findings

8-403.10 Documenting Information and Observations. The regulatory authority shall document on an inspection report form specific factual observations of violative conditions or other deviations from this Code that require correction by the permit holder.

8-403.20 Specifying Time Frame for Corrections. The regulatory authority shall specify on the inspection report from the time frame for correction of the violations as specified under § 8-405.11.

8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt. At the conclusion of the inspection and according to law, the regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the permit holder or to the person in charge, and request a signed acknowledgment of receipt.

8-403.40 Refusal to Sign Acknowledgment. The regulatory authority shall:

(A) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in § 8-403.30 that:
  (1) An acknowledgment of receipt is not an agreement with findings,
  (2) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified, and
  (3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the regulatory authority's historical record for the food establishment; and

(B) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

8-403.50 Public Information. Except as specified in § 8-202.10 or any information that would be protected under HIPAA (Health Insurance Portability and Accountability Act), the regulatory authority shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

Imminent Health Hazard

8-404.11 Ceasing Operations and Reporting.

(A) Except as specified in ¶ (B) of this section, a permit holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

(B) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

8-404.12 Resumption of Operations. If operations are discontinued as specified under § 8-404.11 or otherwise according to law, the permit holder shall obtain approval from the regulatory authority before resuming operations.

Item Violation

8-405.11 Timely Correction.

(A) Except as specified in ¶ (B) of this section, a permit holder, shall at the time of inspection correct a priority violation of this Code and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(B) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the permit holder to correct priority Code violations or HACCP plan deviations.

8-405.20 Verification and Documentation of Correction. After the permit holder has corrected violations resulting in a non-compliant inspection or HACCP plan deviation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the regulatory authority's records.

8-406.10 Compliance Designation. A facility shall be considered as being in non-compliance with this Code when:

(A) Ten or more uncorrected non-priority violations are documented during a pre-open inspection.

(B) Fifteen or more uncorrected non-priority violations are documented during a routine inspection.

(C) One or more uncorrected priority violation(s) are documented during a routine inspection.

(D) One or more identical repeat priority violation(s) are documented on consecutive routine inspections.
(E) The facility violates any term or condition of the permit as specified under § 8-304.11.

8-406.11 Time Frame for Correction.
(A) Except as specified in ¶ (B) of this section, the permit holder shall correct non-priority violations by a date and time agreed to or specified by the regulatory authority but no later than 90 calendar days after the inspection.
(B) The regulatory authority may approve a compliance schedule that extends beyond the time limits specified under ¶ (A) of this section if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

Investigation and Control

8-501.10 Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis. The regulatory authority shall act when it has reasonable cause to believe that a food employee has a 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 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 employee and other employees.

8-501.20 Restriction or Exclusion of Food Employee, or Summary Suspension of Permit. Based on the findings of an investigation related to a food employee who is suspected of being infected or diseased, the regulatory authority may issue an order to the suspected food employee or permit holder instituting one or more of the following control measures:
(A) Restricting the food employee's services to specific areas and tasks in a food establishment that present no risk of transmitting the disease;
(B) Excluding the food employee from a food establishment; or
(C) Closing the food establishment by summarily suspending a permit to operate in accordance with law.

8-501.30 Restriction or Exclusion Order: Warning or Hearing Not Required, Information Required In Order. Based on the findings of the investigation as specified in § 8-501.10 and to control disease transmission, the regulatory authority may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing if the order:
(A) States the reasons for the restriction or exclusion that is ordered;
(B) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
(C) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request as provided in law; and
(D) Provides the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

8-501.40 Release of Food Employee from Restriction or Exclusion. The regulatory authority shall release a food employee from restriction or exclusion according to law and the conditions as stated in §§ 2-201.12 and 2-201.13 are met.

8-6 CONSTITUTIONAL PROTECTION

Procedural Safeguards

8-601.10 Preservation of Rights. The regulatory authority shall justly apply the remedies according to law and this Code, to preserve the rights to equal protection and due process of a person to whom the remedies are applied.

Judicial Review

8-602.10 Rights of Recipients of Orders or Decisions. A recipient of a regulatory authority order or decision may file a petition for judicial review in a court of competent jurisdiction after available administrative appeal remedies are exhausted.

8-7 NOTICES

Service of Notice

8-701.10 Proper Methods. A notice issued in accordance with this Code shall be considered to be properly served if it is served by one of the following methods:

(A) The notice is personally served by the regulatory authority, a law enforcement officer, or a person authorized to serve a civil process to the permit holder, the person in charge, or person operating a food establishment without a permit;

(B) The notice is sent by the regulatory authority to the last known address of the permit holder or the person operating a food establishment without a permit, by registered or certified mail or by other public means so that a written acknowledgment of receipt may be acquired; or

(C) The notice is provided by the regulatory authority in accordance with another manner of service authorized in law.

8-701.20 Restriction or Exclusion Order, Hold Order or Summary Suspension. An employee restriction or exclusion order, an order to hold and not distribute food, such as a hold, detention, embargo, or seizure order which is hereinafter referred to as a hold order or a summary suspension order shall be:

(A) Served as specified in ¶ 8-701.10(A); or

(B) Clearly posted by the regulatory authority at a public entrance to the food establishment and a copy of the notice sent by first class mail to the permit holder or to the owner or custodian of the food, as appropriate.

8-701.30 When Notice is Effective. Service is effective at the time of the notice's receipt or if service is made as specified in ¶ 8-701.20(B), at the time of the notice's posting.

8-701.40 Proof of Proper Service. Proof of proper service may be made by affidavit of the person making service or by admission of the receipt signed by the permit holder, the person operating a food establishment without a permit to operate, or an authorized agent.

8-8 REMEDIES

Criteria for Seeking Remedies

8-801.10 Conditions Warranting Remedy. The regulatory authority may seek an administrative or judicial remedy to achieve compliance with the provisions of this Code if a person in charge of a food establishment or a person who owns or controls food in transport that is intended for commerce:

(A) Fails to have a valid permit to operate a food establishment as specified under §8-301.11;
(B) Violates any term or condition of a permit as specified under §8-304.11;
(C) Allows serious or repeated Code violations to remain uncorrected beyond time frames for correction approved, directed, or ordered by the regulatory authority under ¶¶ 8-405.11(A) and (B), and ¶¶ 8-406.11(A) and (B);
(D) Fails to comply with a regulatory authority order issued as specified in §8-501.20 concerning an employee suspected of having a disease transmissible through food by infected persons;
(E) Fails to comply with a hold order as specified in§§ 8-701.20 and 8-803.10;
(F) Fails to comply with an order issued as a result of a hearing for an administrative remedy as specified in §§ 8-806.30 or 8-806.40; or
(G) Fails to comply with a summary suspension order issued by the regulatory authority as Specified in §§ 8-701.20 and 8-804.10;
(H) Fails to follow an order to discard food as specified in § 8-803.95.

Administrative Remedies

Inspection Orders

8-802.10 Gaining Access to Premises and Records. The regulatory authority may order access for one or more of the following purposes, subject to law for gaining access:

(A) If admission to the premises of a food establishment is denied or other circumstances exist that would justify an inspection order under law, to make an inspection including taking photographs or videos;
(B) To examine and sample the food, equipment, surfaces; and
(C) To examine the records on the premises relating to employee work, or food purchased, received, or used by the food establishment.

8-802.20 Contents of Inspection Order. The regulatory authority's inspection order shall:

(A) Stipulate that access be allowed on or to the described premises, food, or records under the order's provisions;
(B) Provide a description that specifies the premises, food, or records subject to the order; and
(C) Specify areas to be accessed and activities to be performed.

Holding, Examination and Destruction of Food

8-803.10 Hold Order, Justifying Conditions and Removal of Food.

(A) According to time limits imposed by law, the regulatory authority may place a hold order on a food that:
  (1) Originated from an unapproved source;
  (2) May be unsafe, adulterated, or not honestly presented;
  (3) Is not labeled according to law, or, if raw molluscan shellfish, is not tagged or labeled according to law; or
  (4) Is otherwise not in compliance with this Code.
(B) If the regulatory authority has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the regulatory authority may remove the food that is subject to the order to a place of safekeeping.

8-803.20 Hold Order, Warning or Hearing Not Required. The regulatory authority may issue a hold order to a permit holder or to a person who owns or controls the food, as specified in §8-701.20, without prior warning, notice of a hearing, or a hearing on the hold order.

8-803.30 Hold Order, Contents. The hold order notice shall:

(A) State that food subject to the order may not be used, sold, moved from the food establishment, or destroyed without a written release of the order from the regulatory authority;

(B) State the specific reasons for placing the food under the hold order with reference to the applicable provisions of this Code and the hazard or adverse effect created by the observed condition;

(C) Completely identify the food subject to the hold order by the common name, the label information, a container description, the quantity, regulatory authority's tag of identification information, and location;

(D) State that the permit holder has the right to an appeal hearing and may request a hearing by submitting a timely request as specified in §§ 8-805.10 and 8-805.20;

(E) State that the regulatory authority may order the destruction of the food if a timely request for an appeal hearing is not received; and

(F) Provide the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

8-803.40 Hold Order, Official Tagging of Food.

(A) The regulatory authority shall securely place an official tag or label on the food or containers or otherwise conspicuously identify food subject to the hold order.

(B) The tag or other method used to identify a food that is the subject of a hold order shall include a summary of the provisions specified in § 8-803.10 and shall be signed and dated by the regulatory authority.

8-803.50 Hold Order, Food May Not Be Used or Moved.

(A) Except as specified in ¶ (B) of this section, a food placed under a hold order may not be used, sold, served, or moved from the establishment by any person.

(B) The regulatory authority may allow the permit holder the opportunity to store the food in an area of the food establishment if the food is protected from subsequent deterioration and the storage does not restrict operations of the establishment.

8-803.60 Examining, Sampling, and Testing Food. The regulatory authority may examine, sample, and test food in order to determine its compliance with this Code.

8-803.70 Hold Order, Removing the Official Tag. Only the regulatory authority may remove hold order tags, labels, or other identification from food subject to a hold order.

8-803.80 Destroying or Denaturing Food. If a hold order is sustained upon appeal or if a timely request for an appeal hearing is not filed, the regulatory authority may order the permit holder or other person who owns or has custody of the food to bring the food into compliance with this Code or to destroy or denature the food under the regulatory authority's supervision.

8-803.90 Releasing Food from Hold Order. The regulatory authority shall issue a notice of release from a hold order and shall remove hold tags, labels, or other identification from the food if the hold order is vacated.

8-803.95 Condemnation of Food. The regulatory authority may condemn and forbid the sale of, or cause to be removed or destroyed, any food which is adulterated or misbranded or as otherwise stated in § 3-701.11.

Summary Permit Suspension

8-804.10 Conditions Warranting Action. The regulatory authority may summarily suspend a permit

to operate a food establishment if it determines through inspection, or examination of employees, food, records, or other means as specified in this Code, that an imminent health hazard exists, or any violation of § 8-801.10 exists.

8-804.20 Summary Suspension, Warning or Hearing Not Required. The regulatory authority may summarily suspend a person's permit as specified in § 8-804.10 by providing written notice as specified in § 8-701.20 of the summary suspension to the permit holder or person in charge, without prior warning, notice of a hearing, or a hearing.

8-804.30 Contents of the Notice. A summary suspension notice shall state:

(A) That the food establishment permit is immediately suspended and that all food operations shall immediately cease;

(B) The reasons for summary suspension with reference to the provisions of this Code that are in violation;

(C) The name and address of the regulatory authority representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and

(D) That the permit holder may request an appeal hearing by submitting a timely request as specified in §§ 8-805.10 and 8-805.20.

8-804.40 Time Frame for Reinspection. After receiving a written request from the permit holder stating that the conditions cited in the summary suspension order no longer exist, the regulatory authority shall conduct a reinspection of the food establishment for which the permit was summarily suspended within 2 business days, which means 2 days during which the regulatory authority's office is open to the public.

8-804.50 Term of Suspension, Reinstatement of Permit.

(A) A summary suspension shall remain in effect until the conditions cited in the notice-of suspension no longer exist and their elimination has been confirmed by the regulatory authority through reinspection and other means as appropriate.

(B) The suspended permit shall be reinstated immediately if the regulatory authority determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the permit holder or person in charge.

Hearings Administration

8-805.10 Response to Notice of Hearing or Request for Hearing, Basis and Time Frame.

(A) A person who receives a notice of hearing for an administrative remedy as specified in §§ 8.701.10 through 8.701.40, § 8-801.10, or § 8-805.30(A) and elects to respond to the notice shall file a response to notice as specified in § 8-805.20 within 7 calendar days after service.

(B) A permit applicant may request a hearing regarding the disposition of an application for a new or revised permit if the regulatory authority does not issue or deny the permit within the time frame specified in law.

(C) A permit holder may request a hearing to address concerns about the regulatory authority's denial of application for a permit or request for a special process, or compliance actions, except that a hearing request does not stay the regulatory authority's restriction or exclusion of employees specified in §§ 8-501.10 - 8-501.40, a hold order specified in §8-803.10, or the imposition of a summary suspension specified in § 8-804.10.

(D) A person desiring a hearing in response to a denial of an application for permit or an adverse administrative determination shall submit a hearing request to the regulatory authority within 10 calendar days of the date of the denial, inspection, or compliance action, unless the regulatory authority specifies in certain situations that the request shall be submitted within a shorter period of time.

8-805.20 Response to a Notice of Hearing or Request for Hearing, Required Form and Contents. A response to a hearing notice or a request for hearing as specified in § 8-805.10 shall be in written form and contain the following:

(A) If a response to notice of hearing,
  (1) An admission or denial of each allegation of fact;
  (2) A statement as to whether the respondent waives the right to a hearing; and may also contain a request to the regulatory authority for a settlement of the proceeding by consent agreement, if the regulatory authority will provide this opportunity.

(B) If a request for hearing,
  (1) A statement of the issue of fact specified in ¶ 8-805.30(B) for which the hearing is requested; and
  (2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.

(C) If either a response to notice of hearing or a request for a hearing,
  (1) A statement indicating whether the presence of witnesses for the regulatory authority is required; and
  (2) The name and address of the respondent's or requester's legal counsel, if any.

8-805.30 Provided Upon Request. The regulatory authority shall hold hearings according to law and the provisions of this Code:

(A) As determined necessary by law or the regulatory authority to accomplish the purpose and intent of this Code specified in § 8-101.10; and

(B) As requested by a permit applicant or a permit holder if:
  (1) Requested as specified in § 8-805.10, and
  (2) The request demonstrates that there is a genuine and material issue of fact that justifies that a hearing be held.

8-805.40 Provided in Accordance with Law. Hearings shall be conducted according to law, administrative procedures, and this Code.

8-805.50 Timeliness, Appeal Proceeding Within 5 Business Days, Other Proceeding Within 30 Calendar Days.

(A) The regulatory authority shall afford a hearing:
  (1) Except as provided in ¶ (B) of this section, within 5 business days after receiving a written request for an appeal hearing from:
    (a) A person who is excluded by the regulatory authority from working in a food establishment as specified in §§ 8-501.10 - 8-501.40,
    (b) A permit holder or person whose food is subject to a hold order as specified in Subpart 8-803, or
    (c) A permit holder whose permit is summarily suspended as specified in Subpart 8-804; and
  (2) Within 30 calendar days but no earlier than 7 calendar days after the service of a hearing notice to consider administrative remedies for other matters as specified in ¶ 8-805.10(C) or for matters as determined necessary by the regulatory authority.

(B) A permit holder or person who submits a request for a hearing as specified above in Subparagraphs (A) (1) (a)-(c) of this section may waive the prompt hearing in the written request to the regulatory authority.

8-805.60 Notice, Contents. A notice of hearing shall contain the following information:

(A) Time, date, and place of the hearing;

(B) Purpose of the hearing;

(C) Facts that constitute the basis or reason for the hearing including specific details of violations

or allegations;

(D) The rights of the respondent, including the right to be represented by counsel and to present witnesses and evidence on the respondent's behalf as specified in§ 8-807.10;

(E) At the regulatory authority's discretion, the procedure for the respondent to request an offer from the regulatory authority to settle the matter;

(F) The consequences of failing to appear at the hearing;

(G) The maximum sanctions or penalties as specified in ¶¶ 8-806.40(8)(D) that may result from the hearing if the hearing concerns a proposed administrative remedy and if the facts are found to be as alleged;

(H) If the hearing concerns a proposed administrative remedy, a statement specifying the form and time frame for response as specified in § 8-805.10;

(I) Notification that the written response shall include the information specified in § 8-805.20; and

(J) The name and address of the person to whom such written response shall be addressed.

8-805.70 Proceeding Commences Upon Notification. A hearing proceeding commences at the time the regulatory authority notifies the respondent of the hearing proceeding.

8-805.80 Procedure, Expeditious and Impartial. Hearings shall be conducted in an expeditious and impartial manner.

8-805.90 Confidential.

(A) Hearings or portions of hearings may be closed to the public:

(1) If compelling circumstances, such as the need to discuss in the hearing a person's medical condition or a food establishment's trade secrets, indicate that it would be prudent; and

(2) According to law, such as an open meetings law.

(B) A party to a hearing shall maintain confidentiality of discussions that warrant closing the hearing to the public.

8-805.100 Record of Proceeding. A complete record of a hearing shall be prepared under the direction of the person conducting the hearing and maintained as part of the regulatory authority's records for the food establishment. Except as required by law, a verbatim transcript of the hearing need not be prepared.

Hearing Officer, Purpose Qualifications, Appointments and Powers

8-806.10 Appointment by Regulatory Authority and Purpose. The regulatory authority may appoint a person such as an adjudicator, administrative law judge, or examiner, hereinafter referred to as a hearing officer, who presides over a proceeding initiated by the regulatory authority or by a person contesting an action of the regulatory authority, to perform one or more of the following:

(A) Hear the facts presented by an applicant or a permit holder;

(B) Make a decision or recommendation concerning administrative remedies to achieve compliance with this Code; or

(C) Address other concerns or allegations appropriately raised according to law, in the matter before the hearing officer.

8-806.20 Qualifications. A hearing officer shall be knowledgeable of the provisions of this chapter and the law as they relate to hearings, and be:

(A) A regulatory authority representative other than the person who inspects the food establishment or who has any other role in making the decision that is being contested; or

(B) An individual who is not employed by the regulatory authority.

8-806.30 Powers, Administration of Hearings.

(A) A hearing officer shall have the following powers in a hearing in which the hearing officer

presides:

(1) Setting and conducting the course of a hearing requested in accordance with or authorized by this Code,

(2) Issuing subpoenas in the name of the regulatory authority at the request of a party to a hearing, administering oaths and affirmations, examining witnesses, receiving evidence,

(3) Approving a consent agreement on the issues involved in the hearing entered into by the regulatory authority and the respondent after the respondent receives a hearing notice,

(4) Sustaining, modifying, rescinding, or vacating an order or directive of the regulatory authority in an appeal hearing proceeding, and if the order or directive is sustained, ordering appropriate measures to execute the regulatory authority's order or directive; and

(B) Unless a party appeals to the head of the regulatory authority within 15 days of the hearing or a lesser number of days specified by the hearing officer:

(1) Rendering a binding decision and final order in a proceeding after conducting a hearing, if the respondent has not waived the right to a hearing, and

(2) Then notifying the respondent of the decision and the order which contains the findings and conclusions of law.

8-806.40 Powers, Administrative Remedies. The hearing officer shall have the following powers in a hearing proceeding concerning an administrative remedy specified in§§ 8-801.10 and 8-805.30:

(A) Issuing orders to abate or correct violations of this Code and establishing a schedule for the abatement or correction of violations;

(B) Making a finding of fact regarding the occurrence of each violation and assessing, levying, and ordering a reasonable civil penalty, according to law and not to exceed the amount specified in ¶ 8-813.10(B) for each violation of this Code that is alleged and found to be committed, and calculated based on each day a violation occurs as specified in ¶ 8-813.10(C);

(C) Suspending, revoking, modifying, or imposing reasonable restrictions or conditions on a permit to operate a food establishment, or ordering the closure of a food establishment that is operated without a valid permit as required under§ 8-301.11 of this Code;

(D) Making a finding of fact regarding the occurrence of each violation of the regulatory authority's or hearing officer's lawful order issued in accordance with this Code and assessing, levying, and ordering a reasonable civil penalty, in accordance with law and not to exceed the amount specified in ¶ 8-813.10(B) for each violation of this Code that is alleged and found to be committed, and calculated based on each day a violation occurs as specified in ¶ 8-813.10(C);

(E) Deferring or suspending the imposition of a decision or execution of an order, and imposing a probationary period, upon the condition that the respondents comply with the hearing officer's reasonable terms and conditions;

(F) Dismissing the appeal if the matter is settled between the regulatory authority and the respondent after a hearing notice is served;

(G) Ordering reinspection of a food establishment to determine compliance with a hearing officer's order;

(H) Suspending or ordering the payment of a fee established by the regulatory authority for a reinspection that is required to determine compliance and for the reinstatement of a permit after suspension;

(I) Retaining and exercising jurisdiction for a specific period of time not to exceed 90 calendar days after the hearing officer's decision and final order is issued, over a respondent who receives a hearing notice; and

(J) Modifying or setting aside an order by rehearing upon the hearing officer's own motion, the motion of the regulatory authority, or the motion of the respondent.

Rights of Parties and Evidence

8-807.10 Rights of Parties. Parties to a hearing may be represented by counsel, examine and cross examine witnesses, and present evidence in support of their position.

8-807.20 Evidence to be Presented by the Regulatory Authority. The regulatory authority shall present at the hearing its evidence, orders, directives, and reports related to the proposed or appealed administrative remedy.

8-807.30 Evidence to be Excluded. Evidence shall be excluded:

(A) If it is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized by the state's courts; or

(B) Otherwise according to law.

8-807.40 Testimony under Oath. Testimony of parties and witnesses shall be made under oath or affirmation administered by a duly authorized official.

8-807.50 Written Evidence. Written evidence may be received if it will expedite the hearing without substantial prejudice to a party's interests.

8-807.60 Documentary Evidence. Documentary evidence may be received in the form of a copy or excerpt.

Settlement

8-808.10 Authorization. The regulatory authority may settle a case after a notice of hearing is served by providing a respondent with an opportunity to request a settlement before a hearing commences on the matter and by entering into a consent agreement with the respondent.

8-808.20 Respondent Acceptance of Consent Agreement Is Waiver of Right to Appeal. Respondents accepting a consent agreement waive their right to a hearing on the matter.

Judicial Remedies

Inspection Orders

8-809.10 Gaining Access to Premises and Records. The regulatory authority may seek access for one or more of the following purposes, according to law for gaining access:

(A) If admission to the premises of a food establishment is denied or other circumstances exist that would justify an inspection order under law, to make an inspection including taking photographs or videos;

(B) To examine and sample the food, equipment, or surfaces; and

(C) To examine the records on the premises relating to employee work, food purchased, received, or used by the food establishment.

8-809.20 Contents of Court Petition. In the absence of a specific set of requirements established by law, in its petition to the court to compel access, the regulatory authority shall:

(A) Describe in detail the premises, food, or records on or to which access was denied;

(B) Detail the legal authority to regulate and to have access for a specific purpose on or to the premises, food, or records where access was denied; and

(C) Provide information that the food establishment possesses a valid permit from the regulatory authority and that it applies to the premises where access was denied; or

(D) Provide information that a person is known to be or suspected of operating a food establishment without possessing a valid permit as specified in law and under this Code.

8-809.30 Sworn Statement of Denied Access. The regulatory authority shall demonstrate to the Court

by affidavit, sworn testimony, or both that:

(A) Access on or to the premises, food, or records was denied after the regulatory authority acted as specified in §§ 8-402.20 and 8- 402.30; or

(B) There is reason to believe that a food establishment is being operated on the premises and that access was denied or is sought under a regulatory authority's reasonable administrative plan to enforce the provisions of this Code.

8-809.40 Contents of an Order. Upon petition of the regulatory authority, the court may issue an inspection order that:

(A) Includes the information specified in ¶¶ 8-802.20(A) - (C); and

(B) Orders or authorizes any other identified agencies and persons including law enforcement agencies to execute, or assist with the execution of, the order.

8-809.50 Optional Contents of an Order. Upon petition of the regulatory authority, the court may further issue an inspection order that:

(A) Provides a maximum time limit for the order's execution;

(B) Authorizes law enforcement officers who assist in the order's execution to use necessary force against persons or property to execute the order; and

(C) Requires that the agencies or persons ordered or authorized to execute the order shall report to the court the date and time of the order's execution and the findings reached by the inspection, examination, or sampling conducted under the order.

Means of Instituting Judicial Enforcement Proceedings

8-810.10 Institution of Proceedings.

(A) Proceedings to enforce this Code may be instituted by the regulatory authority according to law by issuing a citation or summons, by filing a misdemeanor complaint' affidavit and request for a warrant of arrest with the court of competent jurisdiction, or by referring the complaint to a grand jury for indictment, as appropriate.

(B) The regulatory authority may designate a representative to issue summons or citations or sign warrants on behalf of the agency.

Criminal Proceedings

8-811.10 Authorities, Methods, Fines, and Sentences.

(A) The regulatory authority may seek to enforce the provisions of this Code and its orders by instituting criminal proceedings as provided in law against the permit holder or other persons who violate its provisions.

(B) A person who violates a provision of this Code shall be guilty of a misdemeanor, punishable by:

(1) A fine of not more than $500 dollars, or by imprisonment not exceeding 100 days, or both the fine and imprisonment; or

(2) If the person has been convicted once of violating this Code or if there is an intent to defraud or mislead, a fine not exceeding $500 or imprisonment not exceeding 100 days or both.

(C) Each day on which a violation occurs is a separate violation under this section.

Injunctive Proceeding

8·812.10 Petitions for Injunction. The regulatory authority may, according to law, petition a Court of competent jurisdiction for temporary or permanent injunctive relief to achieve compliance with the provisions of this Code or its orders.

Civil Proceedings

8-813.10 Petitions, Penalties, and Continuing Violations.

(A) The regulatory authority may petition a court of competent jurisdiction to enforce the provisions of this Code or its administrative orders and according to law collect penalties and fees for violations.

(B) In addition to any criminal fines and sentences imposed as specified in§ 8-811.10, or to being enjoined as specified in § 8-812.10, a person who violates a provision of this Code, any rule or regulation adopted in accordance with law related to food establishments within the scope of this Code, or to any term, condition, or limitation of a permit issued as specified in §§ 8-303.10 and 8-303.20 is subject to a civil penalty not exceeding $500.

(C) Each day on which a violation occurs is a separate violation under this section.

Chapter 9: Modified Food Establishments

9-101.10 Compliance Requirements for Temporary Food Establishments. It is the intent of these regulations to require the following establishments or business types to comply with all sections of the Joplin Food Service Sanitation Ordinance and other applicable City of Joplin ordinances and Codes not specifically waived or modified below in §§ 9-101.11 – 9-101.14.

(A) All applicable City of Joplin permits must be obtained before food can be prepared or dispensed.

(B) With nonprofit status, organizations are exempt from the regulations of a Temporary Food Establishment as stated in the Chapter 196, RSMo.

9-101.11 Conventional Temporary Food Establishments. Conventional Temporary Food Establishment means a food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration as defined in Chapter 1. Conventional Temporary Food Establishments are those that prepare, serve or sample food in conjunction with fairs, festivals, promotional events or similar venues, including sampling at farmer's markets.

9-101.12 Deviations for Conventional Temporary Food Establishments. The following deviations shall apply to Conventional Temporary Food Establishments:

(A) Facilities will not be required to operate inside a fully enclosed structure if:
  (1) Watertight overhead covering that spans the entire work area, including food preparation, dishwashing and food storage areas is provided; and
  (2) There are no significant vectors present.

(B) Facilities will be allowed to cook food on an outdoor grill/smoker provided that;
  (1) All food preparation is conducted within the confines of overhead covering;
  (2) The grill/smoker is designed with a lid to afford protection from the elements;
  (3) The grill/smoker is able to achieve proper cooking and holding temperature requirements; and
  (4) Once food is removed from grill/smoker, it must be protected during transport from environment and temperature abuse.

(C) Facilities using ice to cool food as allowed must provide drainage for the container to prevent standing water.

(D) Facilities will not be required to provide a permanent plumbing system if:
  (1) Potable water and sewer utilities cannot be readily obtained; and
  (2) The facility meets the applicable requirements of Chapter 5.

(E) Unless a facility is offering only pre-packaged foods, a fully equipped and functional handwashing station shall be provided and available for use within 25 ft of food preparation areas with a direct unobstructed path.

(F) Facilities operating longer than 24 consecutive hours will not be required to have a three compartment sink if:
  (1) The operator has an approved Commissary to return to on a daily basis to wash utensils by an approved method;
  (2) The event is less than 24 hours in duration and the operator provides adequate spare utensils to get through the operating period; or
  (3) The operator develops a menu and processes that does not require any warewashing activity while in operation, such as the use of single service articles.

(G) Facilities are required to have access to restrooms for employees.

(H) Facilities must be located as far as reasonably possible from vectors of disease.

9-101.13 Non-Conventional Temporary Food Establishments. Non-Conventional Temporary Food Establishment means a food establishment that operates for a period that may exceed fourteen (14)

consecutive days with prior authorization from the Joplin Health Department. It is not the intent of this regulation to authorize Non-Conventional Temporary Food Establishments to operate year-round. The Joplin Health Department reserves the right to determine if an individual Non-Conventional Temporary Food Establishment will be authorized to continue operations in exceedance of fourteen (14) days. Food items served will be limited to pre-packaged frozen meats, non-Potentially Hazardous Foods or sampling of Ready-To-Eat foods. Non-Conventional Temporary Food Establishments are those that prepare, serve or sample food in conjunction with promotional events, seasonal retail stands or other venues as determined by the Department. Types of approved facilities include, but are not limited to, the following with specific requirements as detailed in § 9-101.14.

9-101.14 Deviations for Non-Conventional Temporary Food Establishments. The following deviations shall apply to Non-Conventional Temporary Food Establishments:

(A) Outdoor promotional cooking must be sponsored by and located adjacent to the supporting licensed and permanent food establishment providing full access to all necessary equipment to facilitate food related activities.
  (1) Facilities will be allowed to cook food on an outdoor grill/smoker provided that;
    (a) All food preparation is conducted inside an approved facility;
    (b) The grill/smoker is designed with a lid to afford protection from the elements;
    (c) The grill/smoker is able to achieve proper cooking and holding temperature requirements; and
    (d) Once food is removed from grill/smoker, it must be protected during transport from environment and temperature abuse.
    (e) A fully equipped and functional handwashing station shall be provided and available for use

(B) Seasonal retail stands are limited to preparing, selling or sampling simple foods, such as Ready-To-Eat Potentially Hazardous Foods, including but not limited to dips, cheese, smoked sausages, or non-Potentially Hazardous Foods, including but not limited to roasted nuts. Seasonal retail stands must operate inside a shopping center or other similar structure providing full access to all necessary equipment to support food related activities.
  (1) Seasonal retail stands shall not be required to provide the following:
    (a) A permanent plumbing system if:
      (i) Potable water and sewer utilities cannot be readily obtained; and
      (ii) The facility meets the applicable requirements of Chapter 5.
    (b) A three compartment sink if:
      (i) The operator develops a menu and processes that does not require any warewashing activity while in operation, such as the use of single service articles; or
      (ii) The operator has an approved Commissary to return to on a daily basis to wash utensils by an approved method.
    (c) A mop sink if the operator provides an approved written contract to the regulatory authority allowing for the use of sinks in an approved host facility; and
    (d) A hand sink if only prepackaged foods are offered.
  (2) Facility must provide a written contractual agreement granting permission for the use of approved shared equipment not specified above.
  (3) Facility must provide adequate sneeze shields or counter protective device for display and service to protect foods from contamination.
  (4) If food is prepared offsite, the food must be made in an approved food establishment and protected from environmental contamination and temperature abuse during transport.

(C) Pre-packaged frozen meat may be sold out of a truck or other approved structure provided that:
(1) The meat must remain in a frozen state at all times; and
(2) The meat must be protected from environmental contamination at all times.

9-201.10 Compliance Requirements for Mobile Food Establishments. It is the intent of these regulations to require the following establishments or business types to comply with all sections of the Joplin Food Service Sanitation Ordinance not specifically waived or modified below in § 9-202.10.

(A) All Mobile Food Establishments must conform to other City of Joplin ordinances and Codes as applicable.
(B) All applicable City of Joplin permits must be obtained before food can be prepared or dispensed.
(C) All Mobile Food Establishments are required to report daily to an approved Commissary for servicing.
(1) A Commissary must be permitted by the Joplin Health Department if located within Joplin city limits and meet all applicable standards.
(2) If located outside of Joplin city limits, the operator must show proof that the Commissary possesses a valid license or permit and has had a satisfactory inspection from the appropriate regulatory authority for that location within the past 12 months.
(3) If the operator does not own the Commissary, an approved written contract must be provided to the regulatory authority allowing for the use of an approved Commissary.

9-201.11 Mobile Food Establishments. Mobile Food Establishment means a food establishment selling, offering for sale, or dispensing food for human consumption from any vehicle or a readily movable unit with wheels. The classifications for Mobile Food Establishments are as follows:

(A) Mobile Food Vehicle means a self-contained food establishment that is fully enclosed with walls, floors and ceilings with service windows and doors, designed to be readily movable from which food is composed, compounded, processed or prepared and from which food is vended, sold or given away.
(B) Pushcart means a vehicle designed to be readily movable, serving non-Potentially Hazardous Foods or fully cooked heat-&-serve Potentially Hazardous Foods maintained at proper temperatures. Unpackaged, non-Potentially Hazardous Foods approved for sale from a pushcart shall be limited to popcorn, pretzels and similar bakery products, shaved ice, snow cones, cut non-Potentially Hazardous Food produce, cracked nuts or nutmeats.
(1) Low Risk Pushcarts are limited to serving non-Potentially Hazardous Foods or fully cooked heat-&-serve Potentially Hazardous Foods such as, but not limited to, frankfurters and pre-made pizza.
(2) High Risk Pushcarts are limited to serving commercially-prepared, fully cooked heat-&-serve Potentially Hazardous Foods such as, but not limited to, chili and barbeque beef.
(C) Food Peddler means a retail food establishment operating from a vehicle designated to be readily movable from which commercially-made Potentially Hazardous Foods that are pre-packaged, portioned and kept in ready-to-eat units, such as frozen or refrigerated foods, can be vended, sold or given away. A food peddler cannot compose, compound, thaw, reheat, cut, cook, process or prepare the food being sold or given away.
(D) Commissary means an approved Food Establishment to which a Mobile Food Establishment or transportation vehicle returns to daily for servicing of vehicles and equipment, including the storage and preparation of food.

9-202.10 Deviations for Mobile Food Vehicles. The following deviations shall apply to Mobile Food Vehicles:

(A) Mobile Food Vehicles will not be required to:
  (1) Provide a permanent plumbing system if:
    (a) Potable water and sewer utilities cannot be readily obtained; and
    (b) The facility meets the applicable requirements of Chapter 5;
  (2) Provide restrooms;
  (3) Provide a mop sink provided that a mop sink is located in the Commissary;
  (4) Provide a handwashing sink if only unopened pre-packaged foods are offered.
(B) Mobile Food Vehicles will be required to meet the following additional requirements:
  (1) Mechanical cold- and hot-holding equipment to maintain proper food temperatures.
  (2) Pressurized hot and cold running water at an approved handwashing sink.
  (3) All food preparation must occur inside the Mobile Food Vehicle, except at the Commissary.
(C) Mobile Food Vehicles must report daily to an approved Commissary.

9-202.11 Deviations for Pushcarts. The following deviations shall apply to Pushcarts:
(A) All of the deviations in §§ 9-202.10 (A) - (C) apply to Pushcarts.
(B) Pushcarts will not be required to be fully enclosed.
(C) Pushcarts will be required to meet the following additional requirements:
  (1) Low Risk Pushcarts are required to provide:
    (a) a handwashing sink; and
    (b) mechanical hot-holding equipment if serving Potentially Hazardous Foods.
  (2) High Risk Pushcarts are required to provide:
    (a) a handwashing sink;
    (b) a three compartment sink; and
    (c) mechanical cold- and hot-holding equipment.
  (3) All food preparation and food storage shall occur on the Pushcart or in the Commissary.
  (4) Low Risk Pushcarts shall provide adequate spare utensils to last for the operational period between commissary visits.
  (4) Spigots for coffee and soft drinks shall be kept covered at all times except when drinks are being drawn, unless other protection is provided.
  (5) Potentially Hazardous Foods shall be discarded at the end of the daily operational period, except for those held under proper cold-holding temperature by mechanical refrigeration.
  (6) Pushcarts shall provide watertight overhead covering that spans the entire work area, including food preparation, dishwashing and food storage areas.
  (7) Pushcarts shall be constructed of approved materials. The facility shall contact the regulatory authority to ensure that Pushcart construction is acceptable.
  (8) Pushcart sites shall be chosen to minimize exposure to environmental contamination.

9-202.12 Deviations for Food Peddlers. The following deviations shall apply to Food Peddlers:
(A) All of the deviations in §§ 9-202.10 (A) - (C) apply to Food Peddlers.
(B) Food peddlers will not be required to provide a hand washing sink.
(C) Food peddlers will be required to meet the following additional requirements:
  (1) Provide an approved Commissary as stated in § 9-301.10(B); and
  (2) Provide watertight overhead covering that spans the entire food storage area.

9-301.10 Compliance Requirements for Farmers Markets. It is the intent of these regulations to require the following establishments or business types to comply with all sections of the Joplin Food Service Sanitation Ordinance and other applicable City of Joplin ordinances and Codes not specifically waived or modified below in § 9-302.10.

(A) All applicable City of Joplin permits must be obtained before food can be prepared or dispensed.
(B) With nonprofit status, organizations are exempt from the regulations of a Farmers Market as stated in Chapter 196, RSMo.

9-301.11 Farmers Markets. A Farmers Market means a prescribed location(s) where two or more producers gather on set days and times to sell or dispense agricultural products and/or other related food products directly to consumers. The sale of agriculture products is the primary business of the market. This does not include individual farmers who grow and sell whole uncut fruits and vegetables from the farm, roadside or truck.

9-302.10 Rules and Deviations for Farmers Markets. The following rules and deviations shall apply to Farmers Market:

(A) Adequate refrigeration such as mechanical must be provided to maintain products at the following temperatures:
  (1) Raw meat, fish and poultry must be held frozen;
  (2) Shell eggs must be held at 45°F or below; and
  (3) PHFs must be held at 41°F or below.
(B) Facilities are not allowed to sell raw unpasteurized milk or unpasteurized milk products, including soft cheeses, per Joplin City Ordinance 62-142.
(C) Raw and processed meat products such as, but not limited to, bacon, jerky and sausage, shall either meet exemptions as specified by law or bear the Missouri Department of Agriculture or USDA stamp of inspection and meet all labeling requirements.
(D) Dairy products including but not limited to milk, cheese, yogurt and butter must be produced in a State Milk Board Regulated facility.
(E) Operators must meet approval from FDA process standards for certain food products, such as, but not limited to:
  (1) Acidified and low acid foods such as, but not limited to, salsa and canned vegetables;
  (2) Fermented foods such as, but not limited to, kimchee, sauerkraut and kambucha; and
  (3) Canned products must meet approval except for products defined in § 1-201.10 under Food Establishment (3)(h)(i).
(F) Facilities preparing, dispensing or sampling Potentially Hazardous Foods shall meet the requirements of a Temporary Food Establishment.
(I) Facilities are required to have access to restrooms for employees.
(G) Facilities must be located as far as reasonably possible from vectors of disease.

9-401.10 Compliance Requirements for Cottage Foods. Cottage Food Production Operations must comply with all requirements as set forth in Chapter 196, RSMo, Section 196.268.

9-402.11 Rules and Deviations for Cottage Food. The regulatory authority has the final decision making authority of what foods may be produced and sold as Cottage Foods.

9-401.12 Cottage Food Sales. Direct sales to the end consumer shall be made from the domestic residence or individual stand.

9-402.13 Inspection or Investigation. In the event of a foodborne outbreak involving a Cottage Food, the regulatory authority has the authority to conduct an inspection and/or investigation of the operation.

9-401.14 Embargo. In the event that any Cottage Food is found to be unsafe, adulterated, or otherwise unfit for human consumption, the regulatory authority has the authority to confiscate or destroy the product.

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