PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING, REPEALING AND RECREATING, AND CREATING RULES

To amend HFS 196.02; 196.04 (1) (b), (2) (b) 4., Table HFS 196.04, 196.04 (1) (b), 196.05 (2) (a) and (b), 196.07 and HFS 196 Appendix; to repeal and recreate HFS 196.03 (6); and to create HFS 196.03 (1g), (1r) and (4m), 196.04 (1) (d) and (e), and 196.045, relating to restaurants and affecting small businesses.

Analysis Prepared by the Department of Health and Family Services

Statute interpreted

The rules interpret ss. 254.61 to 254.62, 254.64 to 254.72, 254.74 and 254.85, Stats.

Statutory authority

The Department's authority to amend and create these rules is found in ss. 254.71 (6) and 254.74 (1), Stats.

Explanation of agency authority

Section 254.62 (2) directs the Department to promulgate rules that establish a food sanitation manager certification program.

Section 254.71 (6), Stats., gives the Department the authority to promulgate rules that establish a fee for certifying and recertifying food service practices, that specify standards for approval of training courses for recertifying food protection practices, and that establish procedures for issuing certificates of food protection practices, including application submittal and review.

Section 254.74 (1) (a), Stats., authorizes the Department to administer and enforce the rules it promulgates relating to restaurants. Paragraph (d) of that subsection directs the Department to prescribe rules and fix standards, including rules covering the general sanitation and cleanliness of restaurants, the proper handling and storing of food on such premises, the construction and sanitary condition of the premises and equipment to be used, and the location and servicing of equipment.

Related statutes or rules

Sections 93.07 (1) and 97.30 (5), Stats., are related insofar as they authorize the Department of Agriculture, Trade and Consumer Protection to regulate retail food establishments, such as grocery stores. The Department of Agriculture, Trade and Consumer Protection (DATCP) promulgated ch. ATCP 75 under its authority in ss. 93.07 (1) and 97.30 (5), Stats. Both HFS 196 and ATCP 75 contain the same appendix entitled, “Wisconsin Food Code.” The Department of Health and Family Services and DATCP are simultaneously promulgating these changes to the Wisconsin Food Code for their respective chapters of administrative code. These proposed changes will positively affect operators of retail food operations and the general public throughout the state by simplifying and clarifying the language of the Code, and will allow health inspectors to spend more time in complex or problematic food establishments, thereby promoting a safer public food supply.

Plain language analysis

This order proposes revising ch. HFS 196, relating to restaurants, including its Appendix, known as the Wisconsin Food Code. The operator of every restaurant in the state must have a permit from the Department of Health and Family Services or an agent local health department before the restaurant may open for business and the restaurant must maintain its permit in order for it to continue operating. The permit signifies that the restaurant complies with the requirements in ch. HFS 196, which is intended to protect public health and safety. The requirements of this chapter are enforced either by the Department or a local health department that the Department has designated as the Department's agent.

The Department's current rules for restaurants were established in 1985 and most recently revised in 2001. Through sections one to six of this order, the Department is proposing to make the following revisions in HFS 196:

- change the term "limited term restaurant" to "pre-packaged restaurant;"
- define the terms "caterer," "contract cook" and "pre-packaged restaurant;"
- modify table HFS 196.04 to eliminate reference to the term "limited;"
- clarify that caterers operating from their permitted restaurants need not obtain additional permits for locations where the caterer serves food; and
- specify operating conditions under which contract cooks are not required to obtain restaurant permits.

Section seven of this order pertains to the Wisconsin Food Code Appendix to HFS 196 and contains the bulk of the proposed changes. The existing Wisconsin Food Code is modeled after the 1999 Food and Drug Administration (FDA) Model Food Code, which contains model requirements for safeguarding public health and ensuring food is unadulterated and honestly presented when offered to the consumer. It represents FDA's best advice for a uniform system of provisions that address the safety and protection of food offered at retail and in food service. Over 44 U.S. states and territories have adopted some version of the FDA Model Food Code and 9 states or territories are in the rulemaking process to adopt the FDA Model Food Code. The Department, which regulates Wisconsin restaurants under ch. HFS 196, and the Department of Agriculture, Trade, and Consumer Protection (DATCP), which licenses and inspects retail food establishments, such as grocery stores under ch. ATCP 75, jointly adopted the Wisconsin Food Code in 2001 for their respective regulatory activities. A common Wisconsin Food Code for restaurants and retail food establishments ensures that the same rules will apply to all types of food establishments, including combinations. Although DATCP and DHFS (or their local agents) coordinate their activities so that a combined grocery store and restaurant is regulated by DATCP or DHFS, but not both, joint adoption and updating of the Wisconsin Food Code is still important for consistent regulation.

The FDA revised its Model Food Code in 2001. The Department proposes to update the Wisconsin Food Code to the 2001 FDA Model Food Code, which reflects the most currently available science and trends in food safety. In addition, the Department proposes to clarify or correct areas of the Wisconsin Food Code that do not reflect current Department policy. Revisions to the Wisconsin Food Code will also reflect modifications from both the Wisconsin Conference on Food Protection and the National Conference on Food Protection, as well as mutually agreed upon suggestions derived from two years of field application by both the Department and DATCP.

The Department is amending its Wisconsin Food Code Appendix to enable readers to see exactly how the Department proposes to change its wording. The proposed changes are highlighted throughout the Appendix to facilitate readers' identification of the proposed changes. In addition, the proposed changes to the Food Code are described below.

- ***Broad-Based Changes to the Wisconsin Food Code***

1. The federal 2001 Model Food Code changed the format of defined terms throughout the Food Code to indicate that the terms are defined. Defined terms are now indicated by small capitalization. New definitions have also been added to the rule.

2. The temperature required to hold hot foods hot was lowered from 140 F º to 135 F º.

3. References to other Wisconsin state agencies and applicable administrative rules have been clearly identified. After each reference, the agency's contact information is provided in a note.

4. The term "lavatory" has been changed to "handsink."

5. The term "employee" was changed to "food employee" where appropriate.

6. References to Salmonella typhi are replaced with Salmonella Spp since all Salmonella species can cause illness. This also includes changing Latin Binomial names to today's scientific nomenclature, such as E. coli 0157:H7 changed to Shiga toxin-producing E. coli.

7. References to the Department of Commerce now include the statement “as enforced by the Department of Commerce” or similar wording.

- ***Specific Changes to the Wisconsin Food Code***

Chapter 1 - Definitions

1. Definitions for the following terms have been added: "Casing;” "Commingle;" "Disclosure;" "Egg;" “Exclude;” "FDA;" “Reminder;" "Restrict;" "Restricted Egg;" "Risk;" and "Shiga toxin-producing Escherichia coli."

2. The definitions where renumbered starting at 1-201.10(B)(9).

3. In section 1-201.10(B)(1), the definition for “Accredited examination” was modified to “Accredited examination program” and changed to reflect the language accepted at the national conference for food protection.

4. In section 1-201.10(B)(39), the definition for “game animal” was modified to reflect current CFR references and include game fish to the definition.

5. In section 1-201.10(B)(45), the definition for “highly susceptible population” was reformatted for clarification.

6. In section 1-201.10(B)(48), the definition for “juice” was modified to include juice as a whole beverage, an ingredient of a beverage and a puree as an ingredient of a beverage.

7. In section 1-201.10(B)(51m), in the definition for “meal,” the phrase “individual pastry items generally sold with a beverage” was removed. This area will be clarified in the MOU between the DHFS and DATCP.

8. In section 1-201.10(B)(53m), the definition of “mobile food establishment” has been modified to clarify restaurant or retail mobile food establishments and service base requirements.

9. In section 1-201.10(B)(54m), the definition of “new” was modified to reflect the date on which the Wisconsin Food Code became effective, i.e., February 1, 2001, and to include the word “agent.”

10. In section 1-201.10(B)(66)(c), Shell EGGs that are not hard-boiled, that have been treated to destroy all viable **Salmonellae** have been added to the list of foods that are not considered potentially hazardous.

11. In section 1-201.10(B)(67), the definition of “poultry” has been modified to include pigeon.

12. In section 1-201.10(B)(71), the definition of “ready-to-eat food” has been modified to clearly indicate what constitutes a ready-to-eat food.

13. In section 1-201.10(B)(99), the definition of “utensil” has been modified to include temperature-sensing probes.

14. The definition and use of the term “limited food establishment” was discontinued. That term has been replaced by the term “pre-packaged restaurant,” which has been defined in HFS 196.

15. The term “group residence” has been deleted.

Chapter 2 – Management and Personnel

1. Section 2-102.11 was broken out into paragraphs, but remains essentially the same, with the exception of paragraph (A), in which the wording was changed from "complying with the code" to "having no risk factor violations during the inspection." In (B), the word “current” was added.

2. In section 2-103.11(K), a cross-reference to 3-301.11(D) was added that allows employees to contact ready to eat foods with their bare hands if an approved program is in place.

3. Section 2-2 was modified to exclude food employees with sudden onset of vomiting or diarrhea from a food establishment.

4. Section 2-201.11(C) was modified to clarify that employees with past illness, as specified in the code, that work with a highly susceptible population must report that information to the person in charge. The phrase “within one month” was added to specify the reporting time if past illness was Shigella spp.

5. In sections 2-201.12 (B)(2) and 2-201.12(C)(2), the phase "or other pathogens which can be transmitted through food" was deleted.

6. Section 2-201.12(B)(1) was clarified to reference the symptoms of an ill food worker. All symptoms are included except jaundice, which is addressed separately in the code.

7. In section 2-201.12(D)(2), a correction was made in the current code to change the phrase "more than 30 calendar days " to "10 calendar days.”

8. Section 2-201.13 was clarified to place the responsibly of removing a restriction or exclusion of an ill food worker on the local public health agency or regulatory authority.

9. Section 2-301.12 was reformatted to match the FDA 2001 Food Code. All language remains essentially the same, except for the inclusion of prosthetic devices.

10. Section 2-301.14 added paragraph (H), indicating that hands must be washed when putting on gloves to work with food.

11. In section 2-301.15, the cross-reference to 2-301.12 was added to clarify handwashing procedures and the cross-reference to 5-203.11(B) was added to clarify when an automatic handwashing facility can be used.

12. In section 2-301.16(A)(1)(2), the CFR references were updated and the section was reformatted to match 2001 FDA Food Code with respect to hand sanitizers.

13. In section 2-303.11, the language was modified to prohibit medical information jewelry on the hands or arms of a food employee.

Chapter 3 – Food

1. In section 3-101.11, notes were added informing operators of common ingredients that may cause allergic reactions or cause adverse reactions.

2. Section 3-201.11(B) was modified to allow licensed or unlicensed nonprofit organizations to offer for sale baked goods that are not from a commercial bakery as long as they are not considered to be potentially hazardous.

3. Section 3-201.11(E) was clarified to give the food establishment more options when asked by regulators to identify a whole muscle intact beef steak.

4. Section 3-201.11(G) was added to indicate that shell eggs not treated to destroy Salmonellae must be labeled with safe handling instructions. This paragraph includes the Code of Federal Regulations reference on safe handling of eggs.

5. Section 3-201.12 was modified to clearly specify that low acid or acidified canned foods must be produced in a food processing plant.

6. Section 3-201.17 was modified to require meeting the application requirements for serving wild game by Department of Natural Resources and to update current department policy regarding game feeds. References were also added to the Wisconsin meat inspection bureau and ch. ATCP 55.

7. Section 3-202.11 added a paragraph (C), which requires that eggs, are received at minimum ambient temperature of 45° F.

8. Section 3-202.110 was added, pertaining to requirements for pre-packaged juice.

9. Section 3-202.12 was modified to correct the federal regulation reference.

10. Section 3-203.11(B) was amended to clarify that the section pertains to the display of shell shellstock.

11. Section 3-203.11(D) was added to allow repackaging of shellstock at retail if certain criteria are followed.

12. Section 3-203.11(D) was added, which allows retail stores to repack shucked shellstock for consumer self-service display with specific requirements.

13. Section 3-203.12 was modified to remove the requirement of a variance and a HACCP Plan and require an approved record-keeping system.

14. Section 3-301.11 was modified to remove the formal approval process for touching ready-to-eat foods with bare hands and clearly identify the requirements that must be met for bare hand contact with ready-to-food to occur. Also, a note was added to this section giving information concerning latex allergies.

15. 3-302.13 was modified to include the word “meringue”.

16. Section 3-304.14 (E) was added, which allows storage of in-use wiping cloths solutions off the floor if such storage can be done in such a manner as to prevent contamination.

17. In section 3-401.11, the phrase "oven parameters" and the word “pork” was deleted.

18. In section 3-403.11(D), the reference to 3-501.16(C) was removed.

19. Section 3-306.13 was renumbered to clarify and separate individual provisions.

20. Section 3-401.11(A)(3) was modified to require wild game at wild game feeds to be cooked to at least 165° F for 15 seconds.

21. Section 3-401.11(B) was changed to reflect the expanded roast cooking chart from the Food & Drug Administration and the United State Department of Agriculture.

22. Section 3-401.11(D) was modified to indicate that raw foods or light cooked food may be offered for sale as ready to eat only on a consumer's request or selection.

23. Section 3-404.11 was added, pertaining to requirements for juice packaged in a food establishment.

24. In sections 3-501.12, 3-501.13 and 3-501.14, the cross-reference 3-501.16(A)(2) was added requiring potentially hazardous foods to be held at or below 41ºF.

25. Section 3-501.14(A) and (D) were modified to clarify the language. In (A), the language was clarified regarding the parameters for cooling foods. In (D), the word “raw” was added in reference to shell eggs and a cross-reference was made to 3-202.11(C).

26. Section 3-501.16(B) was added, which indicates that Shell eggs that have not been treated to destroy Salmonellae must be stored in refrigeration equipment that maintains an ambient air temperature of 41° F.

27. Section 3-501.16(C) was added to allow time a s a public health control for up to six hours as long as the food does not exceed 70° F.

28. Section 3-501.17 was modified to clarify the language on datemarking of ready-to-eat hazardous food. This clearly identifies the types of food that do not need to be datemarked.

29. Section 3-501.17 (I) was added to include an exemption from the 7-day datemarking requirement for ready-to-eat reduced oxygen packaged food.

30. Section 3-501.18 was modified to more clearly and concisely indicate when ready-to-eat, potentially hazardous food should be discarded.

31. Section 3-501.19 (A)(5) was added to include time as a public health control for cheese curds.

32. Section 3-502.11 was modified to remove the requirement of a variance for brewing alcoholic beverages and to add sprouting seeds and beans and Molluscan shellfish life support systems as requiring a variance.

33. Section 3-502.12 was modified to correct the federal regulation reference in paragraph (B)(2)(c). Section (B)(5) was clarified to indicate that when the vacuum-packaged food product is frozen, the counting of days toward expiration stops and restarts when the product is thawed.

34. Section 3-602.11(B)(6) was added to indicate that when canthaxanthin, color additive, is added to salmon type fish, it needs to be included on the ingredients list.

35. Section 3-603.11 was modified to include the current Food & Drug Administration model code language on food establishments providing consumers with an advisory on consuming undercooked or raw animal foods. Wisconsin already requires the disclosure statement and now is also including the reminder statement. The word “milk” as been removed from the language in 3-306.11(A).

36. Section 3-801.11(A) was reformatted and now includes the juice processing requirements for a food establishment that serves a highly susceptible population.

37. Section 3-801.11(C) was deleted, which has the effect of now allowing reserving of food in unopened and original packages. The remainder of the section was re-lettered.

38. Section 3-801.11 added a paragraph (D), which indicates that food establishments serving a highly susceptible population shall not handle ready-to-eat foods with their bare hands.

Chapter 4 – Equipment, Utensils and Linens

1. Section 4-301.12(D)(2) was amended to clarify the language relating to limitations on the use of two-compartment sinks and to follow the FDA 2001 food code format. There is, essentially, no language change.

2. Section 4-301.13m was deleted and recreated as section 4-301.16. The section was modified by adding other cross-reference to the code and clarifying it to indicate how the sanitizer sink can be used for food preparation.

3. Section 4-501.114 replaces the reference to the Department of Health & Family Services with the appropriate cross-reference in section 7-204.11.

4. In section 4-501.114(C)(2), the cross-reference to section 7-204.11 was removed because it is an incorrect reference.

5. Section 3-502.11(E) was added, indicating that a variance is required from the department for operating shellfish display tanks.

6. Section 4-204.112 removes the term "mimicking device" and clarifies that the temperatures can be measured using a simulated food product.

7. Section 4-204.117 was added to require both detergents and sanitizers be automatically dispensed and that the warewashing machine incorporate visual means that chemicals are being delivered or a visual or audible alarm to signal when detergents and sanitizers are not dispensed.

8. Section 4-302.12 was re-lettered and a paragraph (B) was added to address the need for a suitable small-diameter probe for measuring the temperature of thin masses of food such as meat patties.

9. In section 4-603.12(A), the term "scupper" was removed.

Chapter 5 –Water, Plumbing and Waste

1. Section 5-101.12 was amended by replacing language that was recommended from the Wisconsin Department of Commerce, the state agency that regulates this requirement. This section deals with flushing and disinfection of water supply systems.

2. Section 5-103.12 added a cross-reference for temporary food establishments.

3. In section 5-202.11(B), language recommended by the Wisconsin Department of Commerce was added.

4. In section 5-202.12(C)(1), language was inserted to give clarification on when a hands free handsink should be installed.

5. In section 5-202.12(C)(2), language was inserted to clarify that handwash sinks equipped with certain type faucets shall provide a flow of water for at least 15 seconds without the need for reactivation.

Chapter 6 – Physical Facilities

1. Section 6-201.19 was added to clearly indicate that the general public is not allowed to enter or exit a food establishment through a food processing area.

2. Section 6-202.10 was added to indicate that food establishments shall meet Wisconsin's commercial building code requirements.

3. Section 6-202.15(D)(2) was added to clarify that air curtains are for control of flying insects only.

4. Section 6-202.18 added the term "base", which is the current term used for licensing purposes.

5. In section 6-202.111, a cross reference to 3-201.11(B) regarding non-potentially baked goods sold by non-profit organizations was added.

6. In section 6-501.115(B)(4), the Food & Drug Administration recommended language regarding allowing pets in common dining area of institutional care facilities at times other than during meals was added.

Chapter 7-Poisonous or Toxic Materials

In section, 7-204.14 the term "approve" was modified to lower case because the term "approve" refers to a reference in the code of federal regulations.

Chapter 8 – Public Toilet Rooms

1. In sections 8-101 and 8-102, notes on how to contact the Department of Commerce were inserted and the flexibility of reference to applicable Department of Commerce rules was increased.

Chapter 9 – Mobile food Establishments

1. The title "Part 9-6 Toilet Facilities" was deleted because it was a misprint in the original draft of the Wisconsin Food Code.

Chapter 10 – Temporary Food Establishments

1. In section 10-104.11, a paragraph (C) was added, which is an exception to paragraphs (A) and (B). The addition of paragraph (C) allows a Temporary Food Establishment to go to an approved facility for washing equipment & utensils at the end of the day if the Temporary Food Establishment has enough clean equipment & utensil to operate for daily operations.

Chapter 11 – Special Organizations

The Department has proposed no changes to chapter 11.

Chapter 12 – Certified Food Manager

1. Section 12-101.11 was modified to clearly indicate when a certified food manager is required.

The Department and DATCP are simultaneously promulgating these changes to the Wisconsin Food Code for their respective chapters of administrative code. These proposed changes will positively affect operators of food service operations and the general public throughout the state by simplifying and clarifying the language of the Code, and will allow health inspectors to spend more time in complex or problematic food establishments, thereby promoting a safer public food supply.

Summary of, and comparison with, existing or proposed federal regulation

The proposed Wisconsin Food Code Appendix to ch. HFS 196 is based on the 2001 edition of federal Model Food Code. The U. S. Food and Drug Administration publishes the *Food Code*, a model that assists food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry. Local, state, tribal, and federal regulators use the FDA *Food Code* as a model to develop or update their own food safety rules and to be consistent with national food regulatory policy. The Model Food Code provides practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness. The Code is a reference document for regulatory agencies that oversee food safety in food service establishments, retail food stores, and other food establishments at the retail level. Food safety is a top priority for DHHS and USDA, and they strongly endorse and encourage states' adoption of the Code.

Comparison with rules in adjacent states

Minnesota – Minnesota's rule was originally developed from the 1995 FDA Model Code. Since that time, Minnesota has amended the rule to more closely reflect the 1997 FDA Model Code. The

differences between these proposed rules and those of Minnesota's pertain primarily to two areas. The first is the requirement for the consumer advisory statement, which Minnesota has chosen not to adopt. The consumer advisory statement in the model food code requires that if animal products are served in a raw or undercooked condition that the consumer must be informed of the risks associated with consuming undercooked or raw animal products. The second is that Minnesota has a more stringent requirement relating to standardized food equipment. Wisconsin requires that equipment meet American National Standards Institute (ANSI) standards, but also has formed a variance and equipment committee to review and approve equipment in the state that is not ANSI-approved.

Iowa – Iowa's rule is modeled on the 1997 FDA Model Code. Iowa allows limited bare hand contact with special provisions, which is much like Wisconsin's current and proposed rule.

Michigan – Michigan's rule is adopted from the 1999 FDA Model Code and is largely the same as Wisconsin's current rule.

Illinois – Illinois's rule is adopted from the 1995 FDA Model Code. Like Wisconsin, Illinois is currently revising its rule based on the 2001 FDA Model Code.

Summary of factual data and analytical methodologies

The FDA revised its Model Food Code in 2001 and added a supplement in 2003, which reflects the most currently available science, and trends in food safety. The Department and DATCP reviewed these changes and received comments from local health agencies as well as modifications from both the Wisconsin Conference on Food Protection and the 2002 National Conference on Food Protection. Mutually agreed upon suggestions derived from two years of field application by both the Department and DATCP were also included in the preliminary draft. Once the preliminary draft was prepared, a Food Code Committee was formed which included representation from: DHFS, DATCP, school food service, local health departments, the Wisconsin Restaurant Association, Tavern League, Grocers Association, and the University of Wisconsin Extension – Food Science. The Food Code Committee developed the revisions contained in this proposed rule.

Analysis and supporting documents used to determine effect on small business

The proposed rule changes clarify the existing rule's intent and, in some cases, gives restaurants increased flexibility to utilize current science in food safety.

Anticipated costs incurred by private sector

The proposed changes to ch. HFS 196 will have little or no fiscal impact on Wisconsin restaurants and will not add any business costs.

Effect on small business

The proposed changes to ch. HFS 196 will have a minimal effect on restaurants. The proposed rule changes principally clarify rule intent and allow flexibility for restaurant compliance.

Agency contact person

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Place where comments are to be submitted and deadline for submission

The public comment period for this rule closed on October 22, 2004.

Rule text

SECTION 1. HFS 196.02 is amended to read:

HFS 196.02 **Applicability.** The provisions of this chapter, including the appendix, apply to any restaurant, mobile restaurant, temporary restaurant or special organization serving meals, except that ch. 9 of the appendix applies only to mobile restaurants and ch.10 of the appendix applies only to temporary restaurants ~~and ch. 11 of the appendix applies only to special organizations serving meals~~. Chapter 12 of the appendix does not apply to temporary restaurants or to special organizations serving meals.

SECTION 2. HFS 196.03 (1g), (1r) and (4m) are created to read:

HFS 196.03 (1g) "Catering" is the activity of providing food for a specific event at a location other than the licensed restaurant on a contractual, prearranged basis to a predefined subset of the general public, such as invited guests to a wedding or similar celebration, or to participants in an organized group or activity. Catering does not include the sale of individual meals directly to the consumer.

(1r) "Contract Cook" is a person who specializes in a home food service and prepares food in the home of an individual only for members of that household and houseguests for private parties.

(4m) "Pre-packaged restaurant" means a restaurant that serves only individually wrapped single food servings that are prepared and packaged off-premise by a licensed processor with preparation on the premise limited to heating and serving.

SECTION 3. HFS 196.03 (6) is repealed and recreated to read:

HFS 196.03 (6) "Special organization serving meals" means a restaurant licensed under s. 254.64, Stats., operated by a church or a religious, fraternal, youth or patriotic organization or a service club or civic organization that prepares, serves or sells meals to which members of the general public are invited, for at least 4 but not more than 12 days during any 12-month period. "Meals", as used in this subsection, does not include a meal that is incidental to normal activities intended exclusively for members of the particular special organization nor does it include a meal served in conjunction with a church worship service, such as a funeral or wedding or to persons who attended that service.

SECTION 4. HFS 196.04 (1) (b) is amended to read:

HFS 196.04 (1) (b) An incidental food service as defined in ~~(41m)~~ (46m) of part 1–2 of the appendix is exempt from the permit requirement under par.(a).

SECTION 5. HFS 196.04 (1) (d) and (e) are created to read:

HFS 196.04 (1) (d) A contract cook who adheres to all of the following is exempt from the permit requirement under par. (a):

1. The contract cook is paid for their service, culinary skills, technique, or expertise.

2. The contract cook either uses food provided by the party employing the cook's services or the cook shops for food from a list provided by the private party.

3. The contract cook uses only the home kitchen of the party requesting the food service to prepare food for the party.

4. The contract cook does not prepare or store food in bulk quantities for use at multiple sites or for meals served to the general public. If a contract cook prepares or stores food in bulk quantities for use at multiple sites or for meals served to the general public, the contract cook shall obtain a restaurant permit.

5. The contract cook does not transport any portion of a meal prepared by the contract cook from one location to another location. If a contract cook transports any portion of a meal prepared by the contract cook from one location to another location, the contract cook shall obtain a restaurant permit.

(e) A caterer operating from his or her licensed restaurant is not required to obtain additional restaurant permits for the locations where he or she serves food.

SECTION 6. HFS 196.04 (2) (b) 4. and table HFS 196.04 are amended to read:

HFS 196.04 (2) (b) 4. For a pre-packaged restaurant, that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, an annual permit fee of $75.

Table HFS 196.04 **Determination of Restaurant Permit Category**	
Complexity Factors	**Point(s)**
Food is not prepared until an order is placed.	0
No more than 2 food items are held hot for one meal period or for a maximum of 4 hours, whichever is less.	0
Food preparation is limited to mixing together prepackaged products that do not need to be cooked further except for aesthetic reasons (such as frozen soup concentrate with milk), or to condiment preparation (such as slicing pickles and onions).	0
The potential for cross–contaminating food is low.	0
The restaurant contains a self–service salad or food bar.	1
The restaurant handles raw poultry, meat, or seafood.	1
The seating capacity of the restaurant or operation is 50 or more.	1
Food is served through a drive–through window for food pickup.	1

Delivery of ready–to–eat products to the homes or workplaces of customers comprises at least 25% of food sales volume.	1
Potentially hazardous foods are cooled or reheated.	1
Food is prepared in one location and then transported to be served in another location.	1
The restaurant contains or uses banquet facilities.	1
Food is served that requires preparation ~~that is beyond the definition of "limited" as defined above. Activities~~ activities such as chopping, dicing, slicing, boiling, cooling, blanching, or reheating ~~occur~~ in order for that product to be served.	1

SECTION 7. HFS 196.045 is created to read:

HFS 196.045 Special Organizations Serving Meals. (1) APPLICABLE RULES. In addition to the specific requirements of this chapter, Chapter 1 to Chapter 7 in the appendix apply to special organizations serving meals as applicable.

(2) SUPERVISION. An individual who has successfully completed a department-approved food handler training course or who has been trained in food handling by the department or agent staff shall personally supervise meal preparation and serving.

(3) APPROVED COURSES. (a) A department approved food handler training course shall consist of a minimum of 2 hours instruction time in all of the following subjects:

1. Temperature control of potentially hazardous food during preparation.

2. Storage.

3. Transportation and serving.

4. Effective cleaning and sanitizing of utensils and equipment

5. Storage of utensils and equipment.

6. Food worker personal hygiene; effective handwashing techniques.

7. Food worker health.

8. Prevention of foodborne illness.

9. Safe food sources.

10. The storage and the use of toxic products.

(b) The department, or its agent, may require that additional subjects be addressed relating to the particular food service operation.

(5) EQUIPMENT AND UTENSILS. Residential sinks, refrigerators, freezers and mechanical dishwashing machines for washing multi-use eating and drinking utensils and pots, pans and other cooking utensils may be used. Dishpans may be used to accomplish the final sanitizing rinse.

SECTION 8. HFS 196.05 (2) (a) and (b) are amended to read:

HFS 196.05 (2) (a) The department or its agent shall perform a food safety inspection of every restaurant that does not function as a ~~limited food establishment, as defined in s. 1-201.10 (45m) of the appendix,~~ pre-packaged restaurant at least once every 12 months.

(b) The department or its agent may increase the interval between inspections specified in par. (a) for a ~~limited food establishment, as defined in s. 1-201.10 (45m) of the appendix~~ pre-packaged restaurant, if the ~~limited food establishment~~ pre-packaged restaurant is assigned an inspection frequency based on a written department–approved risk–based inspection schedule that assigns a lower risk to the establishment and that is being uniformly applied by the department or its agent. Every ~~limited food establishment~~ pre-packaged restaurant shall be inspected at least once every 18 months.

SECTION 9. HFS 196.07 is amended to read:

HFS 196.07 Adoption of Wisconsin food code. As permitted by s. 227.14 (1s), Stats., an amended version of the ~~1999~~ 2001 U.S. food and drug administration (FDA) recommended model food code adopted as the appendix of this chapter and retitled the Wisconsin food code is in the format of the FDA–recommended food code to ensure uniformity between the Wisconsin department of health and family services and the Wisconsin department of agriculture, trade and consumer protection in the application and enforcement of food safety requirements.

SECTION 10. HFS 196 Appendix is amended to read:

Wisconsin Food Code

PREFACE

Information to Assist the User

The following information explains the organizational format and the meaning of explanatory conventions used in the Wisconsin Food Code, which are intended to make the code easier to use.

Structural Nomenclature

Each chapter of the food code is divided into the following subunits. The system of numbering for a chapter and any of its subunits uses the following format:

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

Internal cross-referencing is widely used throughout the code to eliminate the need for restating provisions. For example, fixtures and devices necessary for handwashing are relevant to both the plumbing (Chapter 5) and the facilities (Chapter 6) portions. To alert the reader to relevant information and provide a system by which each violation is recorded under the one most appropriate provision, the Code uses the phrase "...as specified under (followed by a Code cite such as a section or paragraph)." It must be determined within the context of the provision whether the cross reference simply provides information to explain the requirement or whether the observed violation is properly recorded against the provision that is cited after the word "under."

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

Section Designations Based on Categories of Importance

Requirements contained in the Food Code are identified as being in one of 3 categories of importance: critical; "swing" (i.e., those that may or may not be critical depending on the circumstances); and noncritical. A bold superscripted letter C after a section title indicates that all of the provisions within that section are critical unless otherwise indicated. Any provisions that are "swing" items are followed by a bold, superscripted letter S. Any provisions that are noncritical are followed by a bold, superscripted letter N.

Categories of Importance		
Superscripted letter $^{\mathbf{C}}$	Critical	Indicates that all of the provisions within that section are critical unless otherwise indicated
Superscripted letter $^{\mathbf{S}}$	Swing	The requirement may or may not be critical depending on the circumstances.
Superscripted letter $^{\mathbf{N}}$	Noncritical	Noncritical item

Any unmarked provisions within a section that has a superscripted letter C after the section title are critical. All provisions following a section title that is not marked with a superscripted letter C are noncritical.

Font Style

Portions of some sections are written in Italics. These provisions are not requirements, but are included in the code to convey relevant information about specific exceptions and alternative means for compliance. Defined words and terms are capitalized (small caps) in the text of the Wisconsin Food Code to alert the reader to the fact that there is a specific meaning assigned to the capitalized words and terms, and that the meaning of a provision is to be interpreted in the defined context. A concerted effort was also made to capitalize all forms and combinations of those defined words and terms that are related to the definition.

Font Style	
Italics Text	Provisions are not requirements, but are provided to convey relevant information about specific exceptions and alternative means for compliance.
CAPITALIZED WORDS and TERMS	Indicates the CAPITALIZED word(s) or term(s) is defined under section 1-201.10(B)

Chapter 1
Purpose and Definitions

Parts

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

1-1 TITLE, INTENT, SCOPE

Subparts

1-101 Title
1-102 Intent
1-103 Authority and ~~purpose~~ Purpose
1-104 Scope

Title **1-101.10 Food Code.**

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

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

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

1-103.10 Authority and ~~purpose~~ Purpose.

Chapters s. 254 and s. 97 of the Wisconsin statutes gives the department of health and family services and the department of agriculture, trade and consumer protection the authority to prescribe rules for FOOD ESTABLISHMENTS as defined in subparagraphs. 1-201.10 (B)~~(31)~~ (37) and to enforce these rules for the purpose of protecting public health and safety. This Code establishes definitions; sets standards for management and personnel, FOOD operations, and EQUIPMENT and facilities; and provides for FOOD ESTABLISHMENT plan review, PERMIT issuance, inspection, FOOD EMPLOYEE RESTRICTION, and PERMIT suspension.

Note: You can contact the Department of Health and Family Services, Food Safety and Recreational Licensing Section, P.O. Box 2659, Madison, WI 53701-2659 or calling 608-288-2835

Note: You can contact the Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, P. O. Box 8911, Madison, WI 53708-8911 or calling 608-224-4700

Scope **1-104.10 Applicability.**

This chapter applies to all FOOD ESTABLISHMENTS defined in subparagraph 1-201.10 (B)~~(31)~~ (37), regardless of whether the FOOD ESTABLISHMENT is subject to LICENSING under this chapter or related statutes.

1-104.11 Modifications ~~And~~ and Waivers.

When it appears to the DEPARTMENT that strict adherence to provision of this chapter is impractical for a particular FOOD ESTABLISHMENT, the DEPARTMENT may APPROVE a modification in this chapter for that facility if the DEPARTMENT is provided with satisfactory proof that the grant of a VARIANCE will not jeopardize the public's health, safety or welfare.

1-104.12 Procedure For Variance Request.

(A) Request for modification or waiver of the requirements of this chapter shall be submitted in writing to the REGULATORY AUTHORITY having jurisdiction along with documentation specified in (D) of this section.

(B) The REGULATORY AUTHORITY shall review the request and forward it to the DEPARTMENT with recommendations for APPROVAL or disapproval

(C) On receipt of a complete VARIANCE request as specified in this section, the DEPARTMENT shall review the request and grant or deny the request in writing within 30 working days. If the VARIANCE is granted the REGULATORY AUTHORITY shall maintain a copy of the VARIANCE in the FOOD ESTABLISHMENT's inspection history file.

(D) Documentation justifying a proposed modification or waiver from the requirements of this chapter shall include the following information:

(1) A statement of the proposed VARIANCE from this chapter requirement citing relevant chapter section numbers.

(2) An analysis of the rationale for how the potential public health HAZARDS and nuisances addressed by the relevant chapter section will be alternatively addressed by the proposed VARIANCE; and

(3) A HACCP PLAN, if relevant to the VARIANCE request or required by the DEPARTMENT.

(4) A statement from the REGULATORY AUTHORITY having jurisdiction indicating support or disapproval of the proposed VARIANCE request.

1-2 DEFINITIONS

Subpart

1-201 Applicability and Terms Defined

Applicability and Terms Defined

1-201.10 Statement of Application and Listing of Terms.

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

(B) Terms Defined.

(1) **"Accredited examination program"** means a FOOD protection manager certification ~~examination~~ program that has been evaluated and listed by ~~an~~ a Conference for Food Protection recognized accrediting agency~~, approved by the Conference for Food Protection,~~ as conforming to ~~national~~ the

Conference for Food Protection standards for accreditation of FOOD protection manager certification programs.

(2) **Additive.**

(a) **"Food additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.

(b) **"Color additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.

(3) **"Adulterated"** has the meaning stated in s. 97.02 Stats.

(3m) **"Agent"** means the city, county or village designated by the DEPARTMENT to issue ~~permits~~ PERMITS to and make investigations and inspections of FOOD ESTABLISHMENTS.

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

(5) **"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.

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

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

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

(9) **"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.

(10) **CIP.**

(a) **"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.

(b) ***"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.*

(11) **"CFR"** means CODE OF FEDERAL REGULATIONS. Citations in this Code to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR 178.1010 refers to Title 21, Part 178, Section 1010.

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

(a) Is published annually by the U.S. Government Printing Office; and

(b) Contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

(13) **"Commingle"** means:

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

(b) To combine SHUCKED SHELLFISH from containers with different container codes or different shucking dates.

(14) **Comminuted.**

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

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

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

(16) **"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.

(17) "**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.

(18) **"Critical control point"** means a point or procedure in a specific FOOD system where loss of control may result in an unacceptable health RISK.

(19) **Critical Item.**

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

(b) **"Critical item"** is an item that is denoted in this Code with an asterisk [c].

(20) **"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.

(20m) **"Department"** means the department of health and family services or the department of agriculture, trade and consumer protection.

(21) **"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 in their entirety, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

(22) **Drinking Water.**

(a) **"Drinking water"** means water that meets the requirements of ch. NR 809, Safe Drinking Water.

(b) **"Drinking water"** is traditionally known as "potable water

(c) **"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.

(23) **"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.

(24) **Easily Cleanable.**

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

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

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

(iii) 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.

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

(i) 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

(ii) 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.

(25) **"Easily movable"** means:

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

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

(26) **"Egg"** means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

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

(28) **"EPA"** means the U.S. Environmental Protection Agency.

(29) **Equipment.**

(a) **"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.

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

(30) **"Exclude"** means to prevent a PERSON from working as a FOOD EMPLOYEE or entering a FOOD ESTABLISHMENT except for those areas open to the GENERAL PUBLIC.

(30m) **"Existing"** in reference to a FOOD ESTABLISHMENT, means a FOOD ESTABLISHMENT operating under a PERMIT OR LICENSE issued by the REGULATORY AUTHORITY before the effective date of this Code.

(31) **"FDA"** means the U.S. Food and Drug Administration.

(32) **Fish.**

(a) **"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.

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

(33) **"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.

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

(35) **"Food-contact surface"** means:

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

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

(i) Into a FOOD, or

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

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

(37) **Food Establishment** means an operation that stores, PREPARES, serves, vends, sells or otherwise provides FOOD for human consumption. The term "food establishment" includes a "restaurant" as defined in s. 254.61(5) Stats.; a "retail food establishment" as defined in s. 97.30, Stats.; and a "temporary restaurant" as defined in s. 254.61(5m) Stats.

(38) **Food Processing Plant.**

(a) **"Food processing plant"** means a commercial operation that manufactures, PACKAGES, labels, or stores FOOD for human consumption and does not provide FOOD directly to a CONSUMER.

(b) ***"Food processing plant"*** *does not include a* FOOD ESTABLISHMENT *as defined under Subparagraph* 1-201.10(B)~~(31)~~ (37).

(39) **Game Animal.**

(a) **"Game animal"** means an animal, the products of which are FOOD, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR ~~Subchapter A – Mandatory Meat Inspection, Part~~ 301 Definitions, as POULTRY in 9 CFR ~~Subchapter C – Mandatory Poultry Products Inspection, Part~~ 381, Poultry Products Inspection Regulations, or as FISH as defined in Subparagraph 1-201.10(B)~~(26)~~ (31).

(b) **"Game animal"**, except as provided in (c) of this section includes:

(i) "Fur-bearing animals", "Game", "Game animals", "Game birds", ~~and~~ "Wild animals", and "Game Fish" as defined in s. 29.001(30), (33), (36), ~~and~~ (39), and (41) of the Wisconsin Statutes.

(ii) Animals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, bear, and muskrat; aquatic and nonaquatic birds such as wild ducks and geese, quail, and pheasant; nonaquatic reptiles such as rattlesnakes; aquatic reptiles such as alligators and turtles; and aquatic mammals;

(c) **"Game animal"** does not include:

(i) Captively raised game animals and birds obtained from inspected sources APPROVED by the department of agriculture, trade and consumer protection or other REGULATORY AUTHORITY having jurisdiction.

(ii) Ratites such as ostrich, emu, and rhea.

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

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

(41m) **"General Public"** means PERSONS who are served a MEAL, but are not part of the household.

(a) **"General public"** includes but is not limited to members and guest of churches, religious, fraternal, youth or patriotic organizations, and members, guest, EMPLOYEES, customers and occupants of public or private service clubs, civic organizations, industrial plants, office buildings and businesses.

(b) **"General public"** does not include personal guest in private homes; residents or EMPLOYEES of governmental institutions; residents, patients or EMPLOYEES of health care facilities or of community-based residential facilities, defined in s. 50.01 (1), Stats.; residents, clients or EMPLOYEES of facilities licensed under ch. 48, Stats.; visitors of patients or of residents of health care facilities, community-based residential facilities, defined in s. 50.01, Stats., or governmental institutions; and visitors of residents or clients of facilities licensed under ch. 48. Stats.

~~(36) **Group Residence.**~~

~~(a) **"Group residence"** means a private or public housing corporation or institutional facility that provides living quarters and MEALs.~~

~~(b) **"Group residence"** includes a domicile for unrelated PERSONS such as a retirement home or a long-term health care facility.~~

(42) **"HACCP plan"** means a written document that delineates the formal procedures for following the HAZARD Analysis CRITICAL CONTROL POINT principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

(43) **"Hazard"** means a biological, chemical, or physical property that may cause an unacceptable CONSUMER health RISK.

(44) **"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.

(45) **"Highly susceptible population"** means a group of PERSONS who are more likely than other populations to experience foodborne disease because they are ~~immunocompromised, older adults, or preschool age children~~

(a) Immunocompromised.

(b) Older adults or

(c) Preschool age children.

(45m) **"Hot Water"** means water at a temperature of 110°F (43°C) or higher as required by this Code.

(46) **"Immediate danger to health"** 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:

(a) The number of potential injuries, and

(b) The nature, severity, and duration of the anticipated injury.

(46m) **"Incidental food service"** means MEALS or FOOD offered to the CONSUMER that is not a primary activity of the FOOD ESTABLISHMENT LICENSED by the department of health and family services or the department of agriculture, trade and consumer protection or their AGENTs; that comprises less than 50 % of gross annual FOOD sales of the FOOD ESTABLISHMENT excluding sales of alcoholic BEVERAGES. A FOOD ESTABLISHMENT operated within another FOOD ESTABLISHMENT as an independent business is not an "incidental food service".

(47) **"Injected"** means manipulating a MEAT so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the MEAT such as by PROCESSES which may be referred to as "injecting," "pinning," or "stitch pumping.

(48) **"Juice"**, when used in the context of FOOD safety, means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. ~~This definition does not apply to standards of identity.~~ Juice includes juice as a whole BEVERAGE, an ingredient of a BEVERAGE and a purée as an ingredient of a BEVERAGE.

(49) **"Kitchenware"** means FOOD PREPARATION and storage UTENSILS.

(50) **"Law"** means applicable local, state, and federal statutes, regulations, and ordinances.

~~(45m) **"Limited food establishment"** means the serving of food which is prepared and PACKAGED off the PREMISES with PREPARATION or PROCESSING on the PREMISES limited to heating and/or serving with SINGLE-SERVICE ARTICLES.~~

(51) **"Linens"** means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

(51m) **"Meal"** means any READY TO EAT FOOD served or sold to the GENERAL PUBLIC in individual or prePACKAGED single portions or servings for immediate on-PREMISES consumption, or transported off-PREMISES in individual prePACKAGED carryout servings, or specifically preordered individual or multiple serving portions which are transported to an off-PREMISES location for immediate consumption with or without further PREPARATION. A MEAL may or may not consist wholly or in part of POTENTIALLY HAZARDOUS FOOD.

(a) **"Meal"** includes but is not limited to sandwiches, individual portions of cured and pickled FOOD sold from bulk containers, hard boiled EGGS, hot READY-TO-EAT soup, ~~individual pastry items generally sold with a beverage,~~ raw or cooked PROCESSED FOODS sold or served in individual portions, or ingredients PREPARED, service or served or sold at retail for human consumption by any fixed or MOBILE FOOD ESTABLISHMENT or pushcart, coffee shop, cafeteria, cafe, luncheonette, grill, tearoom, sandwich shop, drive-in RESTAURANT, caterer, whether the caterer sells MEALs or lunches at a stated price or is contracted by the MEAL or on an hourly basis, commissary, delicatessen, industrial feeding establishment, private organization operating a FOOD service in a hospital, or TEMPORARY FOOD ESTABLISHMENT.

(b) **"Meal"** does not include soft drinks, ice cream, milk, milk drinks, ices and confections or free lunches served by taverns consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured

~~fish~~ FISH or bread and butter. Nor does a MEAL include FOOD items sold by the weight, count or piece in individual ~~packages~~ PACKAGES requiring further ~~preparation~~ PREPARATION for consumption at another location.

(52) **"Meat"** means the flesh of animals used as FOOD including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, *except FISH, POULTRY, and wild* GAME ANIMALS *as specified under Subparagraphs* 3-201.17*.*

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

(53m) **"Mobile food establishment"** means a:

(a) ~~restaurant~~ Restaurant or retail FOOD ESTABLISHMENT ~~operating~~ where FOOD is served or sold from a movable vehicle, push cart, trailer or boat which periodically or continuously changes location and ~~wherein meals or lunches are prepared or sold to the consumer for immediate consumption, excepting those vehicles used in delivery of pre-ordered FOOD prepared in a licensed FOOD ESTABLISHMENT~~ requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in 9-103.11(D).

(b) "Mobile food establishment" does not include a vehicle which is used solely to transport or deliver FOOD or a common carrier regulated by the state or federal government, or a movable concession stand designed to operate as a TEMPORARY FOOD ESTABLISHMENT or a traveling retail FOOD ESTABLISHMENT.

(54) **"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*.

(54m) "**New",** in reference to a FOOD ESTABLISHMENT, means operating with a PERMIT from the DEPARTMENT or its AGENT for first time on or after ~~[effective date]~~ February 1, 2001.

(54n) **"Occasional"** means not more than 3 days during any 12-month period.

(54p) **"Operator"** means the owner or PERSON responsible to the owner for the operation of the FOOD ESTABLISHMENT.

(55) **Packaged.**

(a) **"Packaged"** means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT as defined in s. 97.01 (12) Stats.

(b) ***"Packaged"*** *does not include a wrapper, carryout 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.*

(56) **"Permit/License"** means the document issued by the REGULATORY AUTHORITY that authorizes a PERSON to operate a FOOD ESTABLISHMENT.

(57) **"Permit/License holder"** means the entity that:

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

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

(58) **"Person"** means an individual, partnership, association, firm, company, corporation, organization, municipality, county, town, or state agency, whether tenant, owner, lessee or licensee, or the agent, heir or assignee of any of these.

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

(60) **Personal Care Items.**

(a) **"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.

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

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

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

(62) **"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.

(63) **"Plumbing fixture"** means a receptacle or device that:

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

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

(c) Requires both a water supply connection and a discharge to the drain system of the PREMISES.

(64) **"Plumbing system"** means the water supply system, the drain system, the vent system, PLUMBING FIXTURES, plumbing appliances and plumbing appurtenances which serve a building, structure or PREMISES.

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

(a) Cleaners and SANITIZERS, which include cleaning and SANITIZING agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(b) Pesticides, *except cleaners and SANITIZERS*, which include substances such as insecticides and rodenticides;

(c) 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

(d) 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.

(66) **Potentially Hazardous Food.**

(a) **"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:

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

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

(iii) In raw shell EGGS, the growth of ***Salmonella* Enteritidis**.

(b) **"Potentially hazardous food"** includes an animal FOOD (a FOOD of animal origin) that is raw or heat-treated; a FOOD of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition.

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

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

(ii) A FOOD with an a_w value of 0.85 or less;

(iii) A FOOD with a pH level of 4.6 or below when measured at 24°C (75°F);

(iv) A FOOD, in an unopened HERMETICALLY SEALED CONTAINER, that is commercially ~~processed~~ PROCESSED to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

(v) 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~~ EGGS or* ***C. botulinum*** *can not occur, such as a FOOD that has an a_w and a pH that are above the levels specified under Subparagraphs (c)(ii) and (iii) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or*

(vi) A FOOD that does not support the growth of microorganisms as specified under Subparagraph (a) 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.

(67) **Poultry.**

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

(i) Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations; and

(ii) Any migratory waterfowl, game bird, ~~or squab~~ such as pheasant, partridge, quail, grouse, or guinea~~s~~, or pigeon or squab, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection ~~Program~~ Regulations.

(b) **"Poultry"** does not include ratites.

(68) **"Premises"** means each individual building, space or stand where FOOD is PREPARED, served or sold:

(a) The PHYSICAL FACILITY, its contents, and the contiguous land or property under the control of the PERMIT/LICENSE HOLDER; or

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

(68m) **"Preparation"** See Processing (69m)

(69) **"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.

(69m) **"Processing/Preparation"** means the manufacture or preparation of FOOD for sale or service through the process of canning, extracting, fermentation, distilling, pickling, freezing, baking, assembling, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling or PACKAGING, or through any other treatment or preservation process.

(70) **"Public water system"** means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system is either a "community water system" or a "non-community water system". Such system includes:

(a) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

(71) **Ready-to-Eat Food.**

(a)**"Ready-to-eat food"** means FOOD that:

(i) ~~is~~ Is in a form that is edible without ~~washing, cooking, or~~ additional PREPARATION ~~by the FOOD ESTABLISHMENT or the CONSUMER and that is reasonably expected to be consumed in that form~~ to achieve FOOD safety, as specified under ¶ 3-401.11(A) – (C) or § 3-401.12 or 3-402.11; or

(ii) Is a raw or partially cooked animal FOOD and the CONSUMER is advised as specified under Subparagraphs 3-401.11(D)(1) and (2); or

(iii) Is PREPARED in accordance with a VARIANCE that is granted as specified under Subparagraphs 3-401.11(D)(1) and (3); and

(iv) May receive additional PREPARATION for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

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

(i) ~~POTENTIALLY HAZARDOUS Food that is UNPACKAGED and cooked to the temperature and time required for the specific FOOD under Subpart 3-401~~ Raw animal FOOD that is cooked as specified under § 3-401.11 or 3-401.12, or frozen as specified under § 3-402.11;

(ii) Raw, washed, cut fruits, vegetables ~~and raw seed sprouts~~ that are washed as specified under § 3-302.15;

(iii) ~~Whole, raw fruit~~ Fruits and vegetables that are ~~presented for consumption without the need for further washing, such as at a buffet~~ cooked for hot holding, as specified under § 3-401.13;

(iv) All POTENTIALLY HAZARDOUS Food that is cooked to the temperature and time required for the specified FOOD under Subpart 3-401 and cooled as specified in § 3-501.14;

(v) ~~Other~~ Plant FOOD ~~presented for consumption~~ for which further washing ~~or~~, cooking, or other PROCESSING is not required for FOOD safety, and from which rinds, peels, husks, or shells, if naturally present are removed;

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

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

(viii) 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

(ix) FOODS manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(72) **Reduced Oxygen Packaging.**

(a) **"Reduced oxygen packaging"** means:

(i) 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 surrounding, 21% oxygen atmosphere, and

(ii) A PROCESS as specified in Subparagraph (a)~~(1)~~(i) of this definition that involves a FOOD for which ***Clostridium botulinum*** is identified as a microbiological HAZARD in the final PACKAGED form.

(b) **"Reduced oxygen packaging"** includes:

(i) 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, such as sous vide;

(ii) 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; and

(iii) 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.

(73) **"Refuse"** means solid waste not carried by water through the SEWAGE system.

(74) **"Regulatory authority"** means the local, state, or federal enforcement body or authorized representative having jurisdiction over the FOOD ESTABLISHMENT.

(75) **"Reminder"** means a written statement concerning the health RISK of consuming animal FOODS raw, undercooked, or without otherwise being processed to eliminate pathogens.

(76) **"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; and unwrapped SINGLE-SERVICE or SINGLE-USE ARTICLES.

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

(78) **"Restricted use pesticide"** means a pesticide which, with respect to certain or all of its uses, is classified under the federal act or s. ATCP 29, as a restricted-use pesticide for use only by certified applicators.

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

(79t) **"Risk Factor"** means the improper practices or procedures that have been identified by the centers for Disease Control and Prevention (CDC) as the most prevalent contributing factors of foodborne illness or injury. "Risk factors" includes:

(i.) Poor personal hygiene;

(ii.) FOOD from unsafe source;

(iii.) Inadequate cooking;

(iv.) Improper holding temperatures; and

(v) Contaminated EQUIPMENT.

(80) **"Safe material"** means:

(a) 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;

(b) An ADDITIVE that is used as specified in ' 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or

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

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

(81m) **"School Lunchroom**" means the room or rooms where MEALS are served to students, faculty or staff of a school and their quests. In the subsection, "school" means any of the following:

(a) A public school as described in s. 115.01(1), Stats.;

(b) A private school as described in s. 115.001 (3r), Stats.;

(c) A vocational, technical or adult education school; or

(d) A college or university.

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

(83) **"Service animal"** means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(84) **"Service Base"** 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.

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

(86) **"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.

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

(88) **"Shiga toxin-producing *Escherichia coli*"** means any ***E. coli*** capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). This includes, but is not limited to, ***E. coli*** reported as serotype O157:H7, O157:NM, and O157:H-.

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

(90) **"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.

(91) **Single-Use Articles.**

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

(b) **"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.

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

(93) **"Smooth"** means:

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

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

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

~~(93m) "**Special organization serving meals"** means a FOOD ESTABLISHMENT LICENSED under 254.64, operated by a church or a religious, fraternal, youth or patriotic organization or a service club or civic organization that PREPARES, serves or sells MEALS to which members of the GENERAL PUBLIC are invited, for at least 4 but not more than 12 days during any 12-month period. "MEALS", as used in this subsection, does not include a MEAL that is incidental to normal activities intended exclusively for members of the particular special organization nor does it include a MEAL served in conjunction with a church worship service, such as a funeral or wedding or to PERSONS who attended that service.~~

(94) **"Table-mounted equipment"** means EQUIPMENT that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(95) **"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.

(96) **"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of FOOD, air, or water.

(97) **"Temporary food establishment"** means a FOOD ESTABLISHMENT that operates at a fixed location for a period of no more than 14 consecutive days in conjunction with a single event or celebration such as a fair, carnival, circus, public exhibition, anniversary sale or OCCASIONAL sales promotion.

(98) **"USDA"** means the U.S. Department of Agriculture.

(99) **"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.

(100) **"Variance"** means a written document issued by the DEPARTMENT that authorizes a modification or waiver of one or more requirements of this Code.

(101) **"Vending machine"** ~~any self–service device offered for public use which, upon insertion of a coin or token, or by other means, dispenses unit servings of FOOD or BEVERAGE either in bulk or in PACKAGE, without the necessity of replenishing the device between each vending operation. "Vending machine" does not include a device which dispenses only bottled, prePACKAGED or canned soft drinks, a one cent vending device, a vending machine dispensing only candy, gum, nuts, nut meats, cookies or crackers, or a vending machine dispensing only prePACKAGED grade A pasteurized milk or milk products~~has the meaning given in s. 254.61 (7), Stats.

Note: Section 254.61 (7), Stats., defines vending machines as any self–service device offered for public use which, upon insertion of a coin or token, or by other means, dispenses unit servings of FOOD or BEVERAGE either in bulk or in PACKAGE, without the necessity of replenishing the device between each vending operation. "Vending machine" does not include a device which dispenses only bottled, prePACKAGED or canned soft drinks, a one cent vending device, a vending machine dispensing only candy, gum, nuts, nut meats, cookies or crackers, or a vending machine dispensing only prePACKAGED grade A pasteurized milk or milk products

(102) **"Vending machine location"** means the room, enclosure, space, or area where one or more VENDING MACHINES are installed and operated and includes the storage areas and areas on the PREMISES that are used to service and maintain the VENDING MACHINES.

(103) **"Warewashing"** means the cleaning and SANITIZING of UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT.

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

Chapter 2
Management and Personnel

Parts

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

2-1 SUPERVISION

Subparts

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

Responsibility **2-101.11 Assignment.**[C]

The PERMIT HOLDER shall be the PERSON IN CHARGE or shall designate a PERSON IN CHARGE.

Knowledge **2-102.11 Demonstration.**

Based on the RISKS of foodborne illness inherent to the FOOD operation, during inspections and upon request the PERSON IN CHARGE shall demonstrate to the REGULATORY AUTHORITY knowledge of foodborne disease prevention, application of the HAZARD ANALYSIS CRITICAL CONTROL POINT principles, and the requirements of this Code. The PERSON IN CHARGE shall demonstrate this knowledge by ~~being a certified FOOD manager who has shown proficiency by meeting requirements of for Food Manager Certification specified in Chapter 12, or by demonstrating food safety principles based on the licensed establishment's specific food operations. The areas of knowledge may include the following~~:

(A) Complying with this Code by having no risk factor violations during the current inspection;~~,~~

(B) By being a current certified FOOD manager who has shown proficiency by meeting requirements for Food Manager Certification specified in Chapter 12, or

Note: FOOD ESTABLISHMENTS meeting the applicability requirements specified in 12–101.11 are required to employ at least one person who is a Certified Food Manager as required in s. 254.71(1), Stats.

(C) By demonstrating FOOD safety principles based on the LICENSED establishment's specific FOOD operations. The areas of knowledge include:

~~(A)~~ (1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a FOOD EMPLOYEE;

~~(B)~~ (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;

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

~~(D)~~ (4) Explaining the significance of the relationship between maintaining the time and temperature of POTENTIALLY HAZARDOUS FOOD and the prevention of foodborne illness;

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

~~(F)~~ (6) Stating the required FOOD temperatures and times for safe cooking of POTENTIALLY HAZARDOUS FOOD including MEAT, POULTRY, EGGS, and FISH.

~~(G)~~ (7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating OF POTENTIALLY HAZARDOUS FOOD;

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

~~(1)~~ (a) Cross contamination,

~~(2)~~ (b) Hand contact with READY-TO-EAT FOODS,

~~(3)~~ (c) Handwashing, and

~~(4)~~ (d) Maintaining the FOOD ESTABLISHMENT in a clean condition and in good repair;

~~(I)~~ (9) Explaining the relationship between food safety and providing EQUIPMENT that is:

~~(1)~~ (a) Sufficient in number and capacity, and

~~(2)~~ (b) Properly designed, constructed, located, installed, operated, maintained, and cleaned;

~~(J)~~ (10) Explaining correct procedures for cleaning and SANITIZING UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT;

~~(K)~~ (11) 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;

~~(L)~~ (12) 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;

~~(M)~~ (13) 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;

~~(N)~~ (14) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP PLAN if a plan is required by the LAW, this Code, or an agreement between the REGULATORY AUTHORITY and the establishment; and

~~(O)~~ (15) Explaining the responsibilities, rights, and authorities assigned by this Code to the:

~~(1)~~ (a) FOOD EMPLOYEE,

~~(2)~~ (b) PERSON IN CHARGE, and

~~(3)~~ (c) REGULATORY AUTHORITY.

Duties

2-103.11 Person in Charge.

The PERSON IN CHARGE shall ensure that:

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

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

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

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

(E) FOOD 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, free of visible ADULTERATION, and accurately presented, by routinely monitoring the FOOD EMPLOYEES' observations and periodically evaluating FOODS upon their receipt;

(F) FOOD 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 FOOD EMPLOYEES' routine monitoring of the cooking temperatures using appropriate TEMPERATURE MEASURING DEVICES properly scaled and calibrated as specified under ss. 4-203.11 and & 4-502.11(B);

(G) FOOD EMPLOYEES are using proper methods to rapidly cool POTENTIALLY HAZARDOUS FOODS that are not held hot or are not for consumption within 4 hours, through daily oversight of the FOOD 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) FOOD EMPLOYEES are properly SANITIZING cleaned multiuse EQUIPMENT and UTENSILS before they are reused, through routine monitoring of solution temperature and exposure time for hot water SANITIZING, and chemical concentration, pH, temperature, and exposure time for chemical SANITIZING;

(J) CONSUMERS are notified that clean TABLEWARE is to be used when they return to self-service areas such as salad bars and buffets as specified under 3-304.16.

(K) Except when otherwise APPROVED as specified in §3-301.11(D), FOOD 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~~; AS SPECIFIED UNDER § 3-301.11(B)~~ and

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

(M) The REGULATORY AUTHORITY is notified of any fire, flood, electrical power outage or similar emergency circumstances by which FOOD may become contaminated or, as a result of the emergency occurrence, it is unlikely that the FOOD ESTABLISHMENT can hold POTENTIALLY HAZARDOUS FOOD at temperatures required under this Code.

2-2 FOOD EMPLOYEE HEALTH

Subpart

2-201 Disease or Medical Condition

Disease or Medical Condition *employer requires* FOOD *employee reporting of:* ***health status***

2-201.11 Responsibility of the Person in Charge to Require Reporting by Food Employees and Applicants.[C]

The PERMIT HOLDER shall inform FOOD EMPLOYEE applicants to whom a conditional offer of employment is made and current FOOD EMPLOYEES to report to the PERSON IN CHARGE, any information about their health as it relates to diseases that are transmissible through FOOD. A FOOD EMPLOYEE or applicant shall report the information in a manner that allows the PERSON IN CHARGE to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified under ¶ (C) of this section, if the FOOD EMPLOYEE or applicant:

FOOD *employee is ill*

(A) Is diagnosed with an illness due to:

(1) ***Salmonella*** ~~***Typhis***~~ ***spp.***,

(2) ***Shigella*** spp.,

(3) SHIGA TOXIN-PRODUCING ***ESCHERICHIA. COLI***,~~*spp., such as* ***Escherichia coli O157H7***,~~

(4) Hepatitis A virus; or

(5) Any other pathogen that can be transmitted through FOOD such as: ~~***Salmonella*** *spp., (non-typhoid);*~~ ***Entamoeba histolytica***, ***Campylobacter*** spp.; ~~Calicivirus~~ ***Norovirus***; ***Cryptosporidium*** spp.; ***Giardia*** spp.; ***Yersinia*** ~~spp.~~ ***enterocolitica***; ***Staphylococcus aureus***; or ***Listeria monocytogenes***.

Note: A complete listing of communicable diseases that can be transmitted through FOOD can be obtained from any local health DEPARTMENT.

FOOD *employee has symptom of: intestinal illness*

(B) Has a symptom caused by illness, infection, or other source that is:

(1) Associated with an acute gastrointestinal illness such as:

(a) Diarrhea,

(b) Fever,

(c) Vomiting,

(d) Jaundice, or

(e) Sore throat with fever, or

Boil or infected wound

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

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

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

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

FOOD *employee previously ill*

(C) ~~Had~~ Works with a HIGHLY SUSCEPTIBLE POPULATION and has had a past illness from:

(1) ~~***S. Typhi***~~ ***Salmonella spp.*** within the past three months,

(2) ***Shigella*** ~~species or~~ ***spp***. within the past month,

(3) Shiga toxin- producing ***E. COLI***, ~~such as ***E. coli*** 0157:H7,~~ within the past month, or

~~(3)~~ (4) Hepatitis A virus within the past month;

excluding ill FOOD *employee*

2-201.12 Exclusions and Restrictions.[C]

The PERSON IN CHARGE shall:

(A) EXCLUDE a FOOD EMPLOYEE from a FOOD ESTABLISHMENT if the FOOD EMPLOYEE is diagnosed with an infectious agent specified under ¶ 2-201.11(A)~~,~~ : or has a sudden onset of vomiting or diarrea as specified under ¶ 2-201.11(B)(1)(a) & (c) that cannot be attributed to a noninfectious condition.

restricting food employee: (serving general population)

(B) Except as specified under ¶ (C) or (D) of this section, RESTRICT a FOOD EMPLOYEE from working with exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES, in a FOOD ESTABLISHMENT if the FOOD EMPLOYEE is:

with symptom of illness or of past illness

(1) Suffering from a symptom specified under ¶ 2-201.11(B) (1)(b), (e), or (B)(2), or

(2) Not experiencing a symptom of acute gastroenteritis specified under Subparagraph 2-201.11(B)(1) but has a stool that yields a specimen culture that is positive for ***Salmonella*** ~~***Typhi***~~ ***Spp.***, ***Shigella*** spp., SHIGA TOXIN-PRODUCING ***E. COLI*** ~~*spp.*or other pathogens which can be transmitted through FOOD~~;

excluding food employee: (serving high-risk

(C) If the population served is a HIGHLY SUSCEPTIBLE POPULATION, EXCLUDE a FOOD EMPLOYEE who:

population)with symptom of illness or of past illness

(1) Is experiencing a symptom of acute gastrointestinal illness specified under Subparagraph 2-201.11(B)(1),

(2) Is not experiencing a symptom of acute gastroenteritis specified under Subparagraph 2-201.11(B)(1) but has a stool that yields a specimen culture that is positive for ~~***S. Typhi***~~ ***Salmonella spp.***, ***Shigella*** spp., SHIGA TOXIN-PRODUCING ***E. COLI*** ~~*spp., or other pathogens which can be transmitted through FOOD*~~,

(3) Had a past illness from ~~***S. Typhi***~~ ***Salmonella spp.*** within the last 3 months, or

(4) Had a past illness from ***Shigella*** spp. or SHIGA TOXIN-PRODUCING ***E. COLI***. ~~*spp.*~~ within the last month; and

excluding and restricting jaundiced food employee

(D) For a FOOD EMPLOYEE who is jaundiced related to Hepatitis A:

(1) If the onset of jaundice occurred within the last 10 calendar days, EXCLUDE the FOOD EMPLOYEE from the FOOD ESTABLISHMENT, or

(2) If the onset of jaundice occurred more than ~~30~~ 10 calendar days before:

(a) EXCLUDE the FOOD EMPLOYEE from a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION, or

(b) RESTRICT the FOOD EMPLOYEE from activities specified under ¶ 2-201.12(B), if the FOOD ESTABLISHMENT does not serve a HIGHLY SUSCEPTIBLE POPULATION.

2-201.13 Removal of Exclusions and Restrictions.

reinstating an ***excluded*** *food employee who is:*

(A) The PERSON IN CHARGE may remove an EXCLUSION specified under ¶ 2-201.12(A) or ¶ 2-201.11(B)(1)(a) &(c) if:

(1) The PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY; ~~and~~ or

no longer ill or free of jaundice

(2) The PERSON EXCLUDED as specified under ¶ 2-201.12(A) provides to the PERSON IN CHARGE written ~~medical documentation~~ APPROVAL from ~~a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, that specifies that the excluded PERSON may work in an unrestricted capacity in a FOOD ESTABLISHMENT, including an establishment that serves a HIGHLY SUSCEPTIBLE POPULATION, because the PERSON is free of the infectious agent of concern as determined by~~ the local public health agency or the REGULATORY AUTHORITY; or

(3) The person excluded as specified under ¶ 2-201.11(B)(1)(a) & (c) due to symptoms that cannot be attributed to a noninfectious condition is asymptomatic for at least 24-hours.

reinstating a ***restricted*** *food employee who is*

(B) The PERSON IN CHARGE may remove a RESTRICTION specified under:

(1) Subparagraph 2-201.12(B)(1) if the RESTRICTED PERSON:

free of symptoms

(a) Is free of the symptoms specified under ¶ 2-201.11(B)(1)(b), (e) or (2) and no foodborne illness occurs that may have been caused by the RESTRICTED PERSON,

(b) Is suspected of causing foodborne illness but:

(i) Is free of the symptoms specified under ¶ 2-201.11(B)(1)(b), (e) or (2), and

free of suspected

(ii) Provides written ~~medical documentation~~ APPROVAL from ~~a physician licensed to~~

infectious agent

~~practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, stating that the restricted PERSON is free of the infectious agent that is suspected of causing the PERSON'S symptoms or causing foodborne illness, as determined by~~ the local public heath agency or the REGULATORY AUTHORITY, or

has symptoms that are not caused by an infectious agent

(c) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or

no longer a shedder

(2) Subparagraph 2-201.12(B)(2) if the RESTRICTED PERSON provides written medical documentation from a physician, licensed to practice medicine, according to the criteria specified by local public heath agency or the REGULATORY AUTHORITY that indicates the stools are free of ***Salmonella*** ~~***Typhi***~~ ***Spp.***, ***Shigella*** spp., or SHIGA TOXIN-PRODUCING ***E. COLI*** ~~SPP.~~, whichever is the infectious agent of concern.

*reinstating an **excluded** food employee serving: high-risk population*

(C) The PERSON IN CHARGE may remove an EXCLUSION specified under ¶ 2-201.12(C) if the EXCLUDED PERSON provides written medical documentation from a physician licensed to practice medicine:

(1) That specifies that the PERSON is free of:

(a) The infectious agent of concern as specified by the REGULATORY AUTHORITY, or

(b) Jaundice as specified under ¶ 2-201.13(D) if hepatitis A virus is the infectious agent of concern; or

(2) If the PERSON is EXCLUDED under Subparagraph 2-201.12(C)(1), stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.

reinstating an food employee who is:

(D) The PERSON IN CHARGE may remove an EXCLUSION specified under Subparagraph 2-201.12(D)(1) and Subparagraph 2-201.12(D)(2)(a) and a RESTRICTION specified under Subparagraph 2-201.12(D)(2)(b) if:

not suspect source of illness

(1) No foodborne illness occurs that may have been caused by the EXCLUDED or RESTRICTED PERSON and the PERSON provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, that specifies that the PERSON is free of hepatitis A virus as specified by the local public heath agency or the REGULATORY AUTHORITY or

suspect source of illness

(2) The EXCLUDED or RESTRICTED PERSON is suspected of causing foodborne illness and complies with the requirements specified by the local public heath agency or the REGULATORY AUTHORITY.

2-201.14 Responsibility of a Food Employee or an Applicant to Report to the Person in Charge.[c]

A FOOD EMPLOYEE or a PERSON to whom a conditional offer of employment is made as a FOOD EMPLOYEE shall:

(A) Report 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)-(C); and

(B) Comply with EXCLUSIONS and RESTRICTIONS that are specified under ¶¶ 2-201.12(A)-(D).

2-201.15 Reporting by the Person in Charge.[C]

The PERSON IN CHARGE shall notify the REGULATORY AUTHORITY that a FOOD EMPLOYEE is diagnosed with an illness due to, ***Salmonella*** ~~***Typhi***~~ ***Spp.***, ***Shigella*** spp., SHIGA TOXIN-PRODUCING ***E. COLI.*** ~~*spp.*~~, hepatitis A virus, or other pathogen which can be transmitted through FOOD.

2-3	**PERSONAL CLEANLINESS**	
	Subparts	
	2-301	**Hands and Arms**
	2-302	**Fingernails**
	2-303	**Jewelry**
	2-304	**Outer Clothing**

Hands and Arms **2-301.11 Clean Condition.**[C]

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

2-301.12 Cleaning Procedure.[C]

(A) Except as specified in ¶ ~~(B)~~ (D) of this section, FOOD EMPLOYEES shall clean their hands and exposed portions of their arms ~~with~~ (or surrogate prosthetic devices for hands or arms) for at least 20 seconds, using a cleaning compound in a ~~lavatory~~ handsink that is equipped as specified under § 5-202.12.

(B) FOOD EMPLOYEES shall use the following cleaning procedure:

(1) Vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms (or by vigorously rubbing ~~together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water.~~ the surrogate prosthetic devices for hands or arms) for at least 10 to 15 seconds, followed by;

(2) Thorough rinsing under clean, running warm water; and

(3) Immediately follow the cleaning procedure with thorough drying of cleaned hands and arms (or surrogate prosthetic devices) using a method as specified under § 6-301.12.

(C) FOOD EMPLOYEES shall pay particular attention to the areas underneath the fingernails ~~and between the fingers~~ during the cleaning procedure.

~~(C) After effective cleaning, hands must be dried by one of the methods specified in section 6.301.12.~~

~~(B)~~ (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.*

2-301.13 Special Handwash Procedures.[c]

Reserved.

2-301.14 When to Wash.[c]

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

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

(B) After using the toilet room;

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

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

(E) After handling soiled EQUIPMENT or UTENSILS;

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

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

(H) Before putting on gloves for working with FOOD; and

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

2-301.15 Where to Wash.

(A) FOOD EMPLOYEES shall clean their hands as specified in § 2-301.12, in a ~~handwashing lavatory~~ handsink or APPROVED automatic handwashing facility as specified in ¶ 5-203.11(B), or an APPROVED pre-wash sink as specified in ¶ (B); and may not clean their hands in a ~~warewash sink or 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.

(B) The REGULATORY AUTHORITY may APPROVE the use of a pre-wash/pre-scrape sink compartment for handwashing provided that the PERMIT/LICENSE HOLDER can demonstrate that sink can be used in a manner that minimizes the RISK of contamination.

2-301.16 Hand Sanitizers.

(A) A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:

(1) Comply with one of the following:

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

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

(2) ~~Comply with one of the following~~ Consist of components that are:

(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~~ Listed for such use in contact with *food* in 21 CFR 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; or

(b) ~~Comply with and be listed in:~~ Exempt from regulation as *food additives* under 21 CFR 170.39 - *Threshold of regulation for substances used in food-contact articles*; or

~~(i) 21 CFR 178 – In direct Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a FOOD ADDITIVE with conditions of safe use, or~~ (c) Generally recognized as safe (GRAS) for the intended use in contact with *food* within the meaning of the Federal Food, Drug and Cosmetic Act (FFDCA); 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~~ (d) Permitted for such use by an effective Food Contact Substance Notification as defined by paragraph 409(h) of the FFDCA and listed in FDA's Inventory of Effective Premarket Notifications for Food Contact Substances; and

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

(B) If a hand sanitizer or a chemical hand sanitizing 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 chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

Fingernails **2-302.11 Maintenance.**

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

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

Jewelry **2-303.11 Prohibition.**

While PREPARING FOOD, FOOD EMPLOYEES may not wear jewelry including medical information jewelry on their arms and hands. *This section does not apply to a plain ring such as a wedding band ~~and medical alert jewelry~~.*

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

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

2-4	HYGIENIC PRACTICES
	Subparts
	2-401 Food Contamination Prevention
	2-402 Hair Restraints
	2-403 Animals

Food Contamination Prevention

2-401.11 Eating, Drinking, or Using Tobacco.[c]

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

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

(1) The FOOD 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.[c]

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.

2-402.11 Effectiveness.

Hair Restraints

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

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

Animals

2-403.11 Handling Prohibition.[c]

(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)-(4).

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

Chapter 3

Food

Parts

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

3-1 CHARACTERISTICS

Subparts

3-101 Condition

Condition

3-101.11 Safe, Unadulterated, and Honestly Presented.[C]

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

Note: The following common ingredients may cause allergic reactions: Eggs (albumen, whites, meringue); Milk & Milk Products (Whey, Nonfat Dry Milk, casein, Sodium Caseinate etc.); Peanuts (peanut butter, unrefined peanut oil and flour); Wheat & Wheat Proteins (malt, caramel color, flour); Tree Nuts (almonds, walnuts, pecans etc.; each is a separate allergen, or the unrefined oils of these products); Soybeans and Soy Products (hydrogenated soy protein, tofu, and unrefined soybean oil); Fish; Shellfish; and Crustaceans.

Note: The following common ingredients may cause adverse reactions: Monosodium Glutamate, Strawberries, Chocolate, Sulfites, Food Colors.

Note: For more information contact the Food Allergy Network, 11781 Lee Jackson Hwy., Suite 160
Fairfax, VA 22033-3309 or by calling 1-800-929-4040.

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

Subparts

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

Sources

3-201.11 Compliance with Food Law.[C]

(A) FOOD shall be obtained from sources that comply with all LAWs relating to FOOD and FOOD labeling.

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

(C) PACKAGED FOOD shall be labeled as specified in LAW, including 21 CFR 101 FOOD Labeling; 9 CFR 317 Labeling, Marking Devices, and Containers; and 9 CFR 381 Subpart N Labeling and Containers; and as specified under §§ 3-202.17, 3-202.18; and ch. ATCP 55.30 of Wisconsin Administrative Code.

(D) ~~Fish~~ *FISH, other than MOLLUSCAN SHELLFISH, that are intended for consumption in their raw form and allowed as specified in Subparagraph 3-401.11(C)(1) may be offered for sale or service if they are obtained from a supplier that freezes the FISH as specified under § 3-402.11; or frozen on the PREMISES as specified under § 3-402.11 and records are retained as specified under § 3-402.12.*

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

(1) Obtained from a FOOD PROCESSING PLANT that, upon request by the purchaser, PACKAGES the steaks and labels them, ~~or issues a letter of guarantee~~ to indicate that they meet the definition of WHOLE-MUSCLE, INTACT BEEF; or

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

(3) If individually cut in a FOOD ESTABLISHMENT:

(a) Cut from WHOLE-MUSCLE INTACT BEEF that is labeled by a FOOD PROCESSING PLANT ~~to indicate that the beef meats the definition of WHOLE MUSCLE, INTACT beef~~ as specified in Subparagraph (1) or identified as specified in Subparagraph (2) of this section,

(b) PREPARED so they remain intact, and

(c) If PACKAGED for undercooking in a FOOD ESTABLISHMENT, labeled ~~to indicate that they meet the definition of whole MUSCLE, INTACT BEEF~~ as specified in Subparagraph (1) or identified as specified in Subparagraph (2) of this section.

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

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

3-201.12 Food in a Hermetically Sealed Container.[C]

~~FOOD~~ Low acid or acidified foods as defined in 21 CFR 113 &114, in a HERMETICALLY SEALED CONTAINER shall be obtained from a FOOD PROCESSING PLANT that is regulated by the FOOD regulatory agency that has jurisdiction over the plant.

3-201.13 Fluid Milk and Milk Products.[C]

Fluid milk and milk products shall be obtained from sources that comply with GRADE A STANDARDS as specified in ch. ATCP 80 of Wisconsin Administrative Code.

3-201.14 Fish.[C]

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

(1) Commercially and legally caught or harvested; or

(2) APPROVED for sale or service.

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

3-201.15 Molluscan Shellfish.[C]

(A) MOLLUSCAN SHELLFISH shall be obtained from sources ~~approved~~ APPROVED by the DEPARTMENT 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 Manual of Operations Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish.

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

3-201.16 Wild Mushrooms.[C]

(A) Except as specified in ¶ (B) of this section, identification of mushroom species picked in the wild shall have a written buyer specification which is to remain on file in the FOOD ESTABLISHMENT for a minimum of 90 days from the date of sale or service. This written specification shall include:

(1) Identification by the Latin binomial with author and common name,

(2) Identification in the fresh state,

(3) The name of the PERSON making the identification,

(4) A statement of their qualifications and training.

(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.[C]

(A) Except as specified in ¶ (B) and (C) of this section, GAME ANIMALS may not be received for PROCESSING, sale and/or service for consumption by the GENERAL PUBLIC in a FOOD ESTABLISHMENT.

(B) Wild GAME ANIMALS may be served ~~to private gatherings or PROCESSED~~ in a FOOD ESTABLISHMENT or other approved facility provided that the following conditions are met:

(1) Wild GAME ANIMALS are legally taken,

(2) A permit from the department of natural resources is obtained for serving wild GAME ANIMALS~~,~~ . Section 29.541 of the Wisconsin Statutes allows the Department of Natural Resources to issue permits to serve lawfully taken and possessed wild game to guests at restaurants, clubs, hotels, boarding houses and taverns.

(a) A permit will not be issued where the principal purpose is to provide a profit for an individual or any operator of a tavern or food facility. DNR permits are required for serving of game by civic clubs, sportsmen's clubs, churches and other organizations of similar purpose and where any proceeds that may accrue for such serving are used for a recognized public service.

(b) Permits may be issued for serving private parties where the applicant, because of the number of guests or other justifiable reasons, desires to serve game at a public location. It must be clearly established that the party will be strictly private.

(c) After DNR approval DHFS, DATCP or its authorized Agent will review the application.

(3) The FOOD ESTABLISHMENT is closed to the GENERAL PUBLIC during the SERVICE of wild game animals. The FOOD ESTABLISHMENT cannot operate the regular food service unless two or more separate and independent kitchens are available within the establishment.

(4) All wild game is to be completely separated from regular food while stored at the facility in coolers, freezers, etc., and marked plainly with content of PACKAGE.

~~(4)~~ (5) FOOD ESTABLISHMENTS without separate facilities shall effectively clean and SANITIZE all FOOD-CONTACT SURFACES used to PREPARE, store and serve wild GAME ANIMALS prior to resuming regular operations.

~~(5)~~ (6) Notice is made to persons attending the MEAL that the wild GAME ANIMAL is not from an APPROVED source. Notice is made to the public with any advertisement used, and, notice is posted at the door of the establishment where patrons will enter advising them that some or all of the wild game being served has been donated. It will further advise that these meats may not have been inspected or PROCESSED at an APPROVED ~~source~~ facility.

~~(6)~~ (7) No wild GAME ANIMAL may be brought into a FOOD ESTABLISHMENT with the hide or feathers attached, and without prior evisceration.

~~(7)~~ (8) Wild GAME ANIMAL MEAT is cooked to an internal temperature as specified in §3-401.11

(9) All food must be prepared in the facility from the raw state on the day of the event. An exception is for processed foods (jerky, venison sausage, etc.), which must have been processed at a licensed FOOD ESTABLISHMENT. No food may be prepared in a person's home and brought to the establishment to heat and serve.

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

(1) Commercially raised for FOOD and:

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

(b) Under a routine inspection program conducted by a regulatory agency other

than the agency that has animal health jurisdiction, and

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

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

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

(2) Under a voluntary inspection program administered by the USDA or Wisconsin Meat Inspection Bureau for GAME ANIMALS such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and APPROVED" in accordance with 9 CFR 352 ~~Voluntary~~ Exotic Animals, Voluntary Inspection and ATCP 55 Meat & Poultry Inspection ~~Program~~ or rabbits that are PROCESSED and slaughtered at a LICENSED PROCESSING plant;

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

Specifications for Receiving

3-202.11 Temperature.[c]

(A) Except as specified in ¶ (B) of this section, refrigerated, POTENTIALLY HAZARDOUS FOOD shall be at a temperature of 5°C (41°F) or below when received.

(B) *If a temperature other than 5°C (41°F) for a POTENTIALLY HAZARDOUS FOOD is specified in LAW governing its distribution, such as LAWS governing milk, and MOLLUSCAN SHELLFISH, ~~and shell EGGS~~ the FOOD may be received at the specified temperature.*

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

~~(C)~~ (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 ~~60~~ 57.2°C (~~140~~ 135°F) or above.

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

~~(E)~~ (F) Upon receipt, POTENTIALLY HAZARDOUS FOOD shall be free of evidence of previous temperature abuse.

3-202.12 Additives.[c]

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 ~~318.7 Approval of substances for use in the preparation of products~~ Subpart C Section 424.21(b) FOOD Ingredients And Sources of Radiation, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

3-202.13 Shell Eggs.[c]

Shell EGGS shall be received clean and sound and may not exceed the RESTRICTED EGG tolerances as specified in ch. ATCP 88, of Wisconsin Administrative Code.

3-202.14 Eggs and Milk Products, Pasteurized.[C]

(A) Liquid, frozen, and dry EGGS and EGG products shall be obtained pasteurized.

(B) Fluid and dry milk and milk products complying with GRADE A STANDARDS as specified in LAW shall be obtained pasteurized.

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

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

3-202.15 Package Integrity.[C]

FOOD PACKAGES shall be in good condition and protect the integrity of the contents so that the FOOD is not exposed to ADULTERATION or potential contaminants.

3-202.16 Ice.[C]

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

3-202.17 Shucked Shellfish, Packaging and Identification.

(A) Raw SHUCKED SHELLFISH shall be obtained in nonreturnable PACKAGES which bear a legible label that identifies the:

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

(2) The "sell by" date for PACKAGES with a capacity of less than 1.87 L (one-half gallon) or the date shucked for PACKAGES with a capacity of 1.87 L (one-half gallon) or more.

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

3-202.18 Shellstock Identification.[C]

(A) SHELLSTOCK shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the SHELLSTOCK, as specified in the National Shellfish Sanitation Program Manual of Operations Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish, and that list:

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

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

CONTROL AUTHORITY,

(b) The date of harvesting,

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

(d) The type and quantity of shellfish, and

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

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

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

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

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

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

(B) A container of SHELLSTOCK that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under ¶ (A) of this section shall be subject to a hold order, as allowed by s. 254.85 stats. and s. 97.12 stats., or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

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

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

3-202.19 Shellstock, Condition.

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

3-202.110 Juice Treated.

Pre-PACKAGED JUICE shall:

(A) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120;

(B) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most

resistant microorganism of public health significance as specified in 21 CFR Part 120.24; or

(C) Bear a warning label as specified in 21 CFR Section 101.17(g).

Original Containers and Records

3-203.11 Molluscan Shellfish, Original Container.

(A) Except as specified in ¶¶(B), (C) and ~~(C)~~ (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 by a FOOD EMPLOYEE in SINGLE-USE containers for retail sale.*

(1) The labeling information for the shellfish is on each container as specified under § 3-202.17

(2) The labeling information as specified under § 3-202.17, is retained in a written log which correlates with the date when, or dates during which, the shellfish are sold or served;

(3) The written log is maintained for 90 days, and

(4) The shellfish are protected from contamination.

3-203.12 Shellstock, Maintaining Identification.[c]

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

(B) The identity of the source of SHELLSTOCK that are sold or served shall be maintained by retaining SHELLSTOCK tags or labels for 90 calendar days from the date the container is emptied by:

(1) Using an APPROVED record keeping system that keeps the tags or labels in

chronological order correlated to the date when, or dates during which, the SHELLSTOCK are sold or served; and

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

~~(a) Using only 1 tagged or labeled container at a time, or~~

~~(b) Using more than 1 tagged or labeled container at a time and obtaining a VARIANCE from the DEPARTMENT as specified in 1–104.11, based on a HACCP PLAN that:~~

~~(i) Is submitted by the PERMIT HOLDER and APPROVED as specified under 1–104.12.~~

~~(ii)~~ (a) ~~Preserves~~ Preserving source identification by using a record keeping system as specified under Subparagraph (B)(1) of this section, and

~~(ii)~~ (b) ~~Ensures~~ Ensuring that SHELLSTOCK from one tagged or labeled container are not COMMINGLED with SHELLSTOCK from another container ~~before being ordered by the CONSUMER~~ with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label.

3-3 PROTECTION FROM CONTAMINATION AFTER RECEIVING

Subparts

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

Preventing Contamination by Food Employees

3-301.11 Preventing Contamination from Hands.[c]

(A) FOOD EMPLOYEES shall wash their hands as specified under § 2-301.12.

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

~~(B)~~ (C) Except when washing fruits and vegetables as ~~required~~ specified under § 3-302.15 or ~~under other APPROVED exceptions~~ as specified in ¶ (D) of this section, FOOD EMPLOYEES may not contact exposed, READY-TO-EAT FOOD with their bare hands~~. FOOD EMPLOYEES~~ and shall use suitable UTENSILS such as deli tissue, spatulas, tongs, SINGLE-USE gloves or dispensing EQUIPMENT ~~when handling READY-TO-EAT FOOD~~.

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

(D) FOOD EMPLOYEES not serving HIGHLY SUSCEPTIBLE POPULATION, may contact exposed, READY-TO-EAT FOOD with their bare hands if:

(1) The PERMIT HOLDER complies with § 2-201.11;

(2) The PERSON IN CHARGE complies with Subparagraphs 2-102.11(C)(1)-(3) and (8), ¶ 2-103.11 (D), and §§ 2-201.12, 2-201.13; and posts handwash signs as specified in 6-301.14.

(3) The PERSON IN CHARGE maintains a documented program in the FOOD ESTABLISHMENT that is readily available at all times for use by EMPLOYEES and for REGULATORY AUTHORITY review upon request, and that specifies:

(a) The tasks requiring contact by bare hands (eg., vegetable/salad PREPARATION, grill line and sandwich PREPARATION),

(b) The FOOD categories (deli meats, cheeses, vegetables) that will be contacted by bare hands,

(c) A training program for the FOOD EMPLOYEES that specifies:

(i) Who is responsible for the training,

(ii) The program content, including instructions to FOOD EMPLOYEES about the hazards associated with the FOOD categories specified in Subparagraph (D)(3)(b) of this section, not to work when they are ill with any of the symptoms or diagnoses specified under § 2-201.11, good hygienic practices, proper handwashing as specified in §§§ 2-301.12, 2-301.14, and 2-301.15, the principles of safe FOOD PREPARATION procedures, cross contamination, and

(iii) The frequency of the training including periodic refresher sessions,

(4) The PERSON IN CHARGE maintains documentation at the FOOD ESTABLISHMENT verifying that FOOD EMPLOYEES have been trained as specified in Subparagraph (D)(3)(c)(ii)

(5) The PERSON IN CHARGE ensures compliance with the program:

(a) As specified in Subparagraph (D)(3) of this section,

(b) Amends it as required by the REGULATORY AUTHORITY;

(c) Reviews the program annually, and documents changes, and

(d) BY ROUNTINELY MONITORING FOOD EMPLOYEES

(6) FOOD EMPLOYEES comply with the program specified in Subparagraph (D)(3) of this section, Part 2-3, and Part 2-4.

Note: A template is a available by contacting the department of health and family service or the department of agriculture, trade, & consumer protection.

Note: Workers and consumers exposed to latex gloves and other products containing natural rubber latex may develop allergic reactions such as skin rashes; hives; nasal, eye, or sinus symptoms; asthma; and (rarely) shock.

3-301.12 Preventing Contamination when Tasting.[c]

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

Preventing Food **3-302.11 Packaged and Unpackaged Food - Separation, Packaging, and**

and Ingredient Contamination

Segregation.[c]

(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 vegetables, and

(b) Cooked READY-TO-EAT FOOD;

(2) *Except when combined as ingredients*, separating types of raw animal FOODS from each other such as beef, FISH, lamb, pork, and POULTRY during storage, PREPARATION, holding, and display by:

(a) Using separate EQUIPMENT for each type, or

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

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

(3) Cleaning EQUIPMENT and UTENSILS as specified under ¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11;

(4) Except as specified in ¶ (B) of this section, storing the FOOD in PACKAGES, covered containers, or wrappings;

(5) Cleaning HERMETICALLY SEALED CONTAINERS of FOOD of visible soil before opening;

(6) Protecting FOOD containers that are received PACKAGED together in a case or overwrap from cuts when the case or overwrap is opened;

(7) Storing damaged, spoiled, or recalled FOOD being held in the FOOD ESTABLISHMENT as specified under § 6-404.11; and

(8) Separating fruits and vegetables, before they are washed as specified under § 3-302.15 from READY-TO-EAT FOOD.

(B) *Subparagraph (A)(4) of this section does not apply to:*

(1) *Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;*

(2) *PRIMAL CUTS, quarters, or sides of raw MEAT or slab bacon that are hung on clean, SANITIZED hooks or placed on clean, SANITIZED racks;*

(3) *Whole, uncut, processed MEATS such as country hams, and smoked or cured sausages that are placed on clean, SANITIZED racks;*

(4) *FOOD being cooled as specified under Subparagraph 3-501.15(B)(2); or*

(5) *SHELLSTOCK*.

3-302.12 Food Storage Containers, Identified with Common Name of Food.

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 *except that containers holding FOOD that can be readily and unmistakably recognized such as dry pasta need not be identified*.

3-302.13 Pasteurized Eggs, Substitute for Raw Shell Eggs for Certain Recipes.[c]

Pasteurized EGGS or EGG products shall be substituted for raw shell EGGS in the PREPARATION of FOODS such as Caesar salad, hollandaise or bernaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG-fortified BEVERAGES that are not:

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

(B) Included in Subparagraph 3-401.11(D).

3-302.14 Protection from Unapproved Additives.[c]

(A) FOOD shall be protected from contamination that may result from the addition of, as specified in § 3-202.12:

(1) Unsafe or unAPPROVED FOOD or COLOR ADDITIVES; and

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

(B) A FOOD EMPLOYEE may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a FOOD considered to be a good source of vitamin B_1; or

(2) Serve or sell FOOD specified under Subparagraph (B)(1) of this section that is treated with sulfiting agents before receipt by the FOOD ESTABLISHMENT, *except that grapes need not meet this subparagraph*.

3-302.15 Washing Fruits and Vegetables.

(A) 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 except as specified in ¶ (B) of this section and *except that whole, raw fruits and vegetables that are intended for washing by the CONSUMER before consumption need not be washed before they are sold*.

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

Preventing Contamination from Ice Used as a Coolant

3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient.

After use as a medium for cooling the exterior surfaces of FOOD such as melons or FISH, PACKAGED FOODS such as canned BEVERAGES, or cooling coils and tubes of EQUIPMENT, ice may not be used as FOOD.

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

(A) Except as specified in ¶ (E) 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 chicken 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.

~~(E) Bottled or canned BEVERAGES may be stored in ice water with a chlorine residual of at least 50 mg/L, provided that the top of the container is not submerged.~~

Preventing Contamination from Equipment, Utensils, and Linens

3-304.11 Food Contact with Equipment and Utensils.[c]

FOOD shall only contact surfaces of 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.

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; or

(E) In a clean, protected location if the UTENSILS, such as ice scoops, are used only with a FOOD that is not POTENTIALLY HAZARDOUS.

(F) In a container of water if the water is maintained at a temperature of at least ~~60~~ 57.2°C (~~140~~ 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 and Working Containers, Use Limitation.

(A) Cloths that are in use for wiping FOOD spills shall be used for no other purpose.

(B) Cloths used for wiping FOOD spills shall be:

(1) Dry and used for wiping FOOD spills from TABLEWARE and carry-out containers; or

(2) Wet and cleaned as specified under ¶ 4-802.11(D), stored in a chemical SANITIZER at a concentration specified in § 4-501.114, and used for wiping spills from FOOD-CONTACT and nonFOOD-CONTACT SURFACES of EQUIPMENT.

(C) Dry or wet cloths that are used with raw animal FOODS shall be kept separate from cloths used for other purposes, and wet cloths used with raw animal FOODS shall be kept in a separate SANITIZING solution.

(D) Wet wiping cloths used with a freshly made SANITIZING solution and dry wiping cloths shall be free of FOOD debris and visible soil.

(E) Working containers of SANITIZING solutions for storage of in-use wiping cloths may be placed above the floor if used in a manner to prevent contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, SINGLE-SERVICE or SINGLE-USE ARTICLES.

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3-304.15 Gloves, Use Limitation.

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

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

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

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

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

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

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

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

3-304.17 Refilling Returnables.

(A) A take-home FOOD container returned to a FOOD ESTABLISHMENT may not be refilled at a FOOD ESTABLISHMENT with a POTENTIALLY HAZARDOUS FOOD.

(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)*.

Preventing Contamination from the Premises

3-305.11 Food Storage.

(A) Except as specified in ¶¶ (B) and (C) of this section, FOOD shall be protected from contamination by storing the FOOD:

(1) In a clean, dry location;

(2) Where it is not exposed to splash, dust, or other contamination; and

(3) At least 15 cm (6 inches) above the floor.

(B) *FOOD in PACKAGES and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling EQUIPMENT as specified under § 4-204.122*.

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

3-305.12 Food Storage, Prohibited Areas.

FOOD may not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In dressing rooms;

(D) In garbage rooms;

(E) In mechanical rooms;

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

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

(H) Under open stairwells; or

(I) Under other sources of contamination.

3-305.13 Vended Potentially Hazardous Food, 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.

Preventing Contamination by Consumers

3-306.11 Food Display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption, FOOD on display shall be protected from contamination by the use of PACKAGING; counter, service line, or salad bar FOOD guards; display cases; or other effective means.

3-306.12 Condiments, Protection.

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

(B) Condiments at a VENDING MACHINE LOCATION shall be in individual PACKAGES or provided in dispensers that are filled at an APPROVED location, such as the FOOD ESTABLISHMENT that provides FOOD to the VENDING MACHINE LOCATION, a FOOD PROCESSING PLANT that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the VENDING MACHINE LOCATION.

3-306.13 Consumer Self-Service Operations.[C]

(A) Raw, unPACKAGED animal FOOD, such as beef, lamb, pork, POULTRY, and FISH may not be offered for CONSUMER self-service. *This paragraph does not apply to:*

(1) CONSUMER self-service of READY-TO-EAT FOODS at buffets or salad bars that serve FOODS such as sushi or raw shellfish;

(2) ~~ready~~ 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~~ Raw, frozen, shell-on shrimp or lobster.

(B) CONSUMER self-service operations for READY-TO-EAT FOODS shall be provided with suitable UTENSILS or effective dispensing methods that protect the FOOD from contamination.[N]

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

3-306.14 Returned Food and Reservice of Food.[C]

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

(B) Except as specified under ¶ 3-801.11(C), *a container of* FOOD *that is not POTENTIALLY HAZARDOUS may be transferred from one* CONSUMER *to another if:*

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

or wine; or

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

Preventing Contamination from Other Sources

3-307.11 Miscellaneous Sources of Contamination.

FOOD shall be protected from contamination that may result from a factor or source not specified under Subparts 3-301 - 3-306.

3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN
STOP 2/25/04

Subparts

3-401 Cooking
3-402 Freezing
3-403 Reheating
3-404 Other Methods

Cooking

3-401.11 Raw Animal Foods.[c]

(A) Except as specified under ¶ (B) and in ¶¶(C) and (D) of this section, raw animal FOODS such as EGGS, FISH, MEAT, POULTRY, and FOODS containing these raw animal FOODS, shall be cooked to heat all parts of the FOOD to a temperature and for a time that complies with one of the following methods based on the FOOD that is being cooked:

(1) 63°C (145°F) or above for 15 seconds for:

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

(b) Except as specified under Subparagraphs (A)(2) and (3) and ¶ (B) of this section, FISH~~,~~ and MEAT~~, and pork~~ including GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3-201.17(C)(1) and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3-201.17(C)(2);

(2) 68°C (155°F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites and INJECTED MEATS; the following if they are COMMINUTED: FISH, MEAT, GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3-201.17(C)(1), and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3-201.17(C)(2); and raw EGGS that are not PREPARED as specified under Subparagraph (A)(1)(a) of this section:

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

;or

(3) 74°C (165°F) or above for 15 seconds for POULTRY, Wild GAME ANIMALS as specified under Subparagraphs 3-201.17(B), stuffed FISH, stuffed MEAT, stuffed pasta, stuffed POULTRY, stuffed ratites, or stuffing containing FISH, MEAT, POULTRY, or ratites.

(B) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham, shall be cooked as specified in the following chart:

Temperature °C (°F)	**Time[1]**	**Temperature °C (°F)**	**Time1**	**Temperature °C (°F)**	**Time[1]**
~~54~~ 54.4 (130)	112 min.	~~62~~ 60.0 (~~144~~ 140)	~~5~~ 12 min.	~~67.2~~ 66.1 (~~153~~ 151)	~~34~~ 54 sec.
~~56~~ 55.0 (~~132~~ 131)	~~71~~ 89 min.	~~63~~ 61.1 (~~145~~ 142)	4 8 min.	~~67.8~~ 67.2 (~~154~~ 153)	~~27~~ 34 sec.
~~57~~ 56.1 (~~134~~ 133)	~~45~~ 56 min.	~~63.3~~ 62.2 (~~146~~ 144)	~~169 sec.~~ 5 min.	68.3 (155)	22 sec.
~~58~~ 57.2 (~~136~~ 135)	~~28~~ 36 min.	~~63.9~~ 62.8 (~~147~~ 145)	~~134 sec.~~ 4 min.	~~68.9~~ 69.4 (~~156~~ 157)	~~17~~ 14 sec.
~~59~~ 57.8 (~~138~~ 136)	~~18~~ 28 min.	~~64.4~~ 63.9 (~~148~~ 147)	~~107~~ 134 sec.	~~68.9~~ 70.0 (~~156~~ 158)	~~17~~ 0 sec.
~~60~~ 58.9 (~~140~~ ~~138~~)	~~12~~ 18 min.	65.0 (149)	85 sec.	~~69.4 (157)~~	~~14 sec.~~
~~60.6 (141)~~	~~9 min.~~	~~65.6 (150)~~	~~67 sec.~~	~~70.0 (158)~~	~~11 sec.~~
~~61 (142)~~	~~8 min.~~	~~66.1 (151)~~	~~54 sec.~~	~~70.6 (159)~~	~~10 sec.~~
~~61.7 (143)~~	~~6 min.~~	~~66.7 (152)~~	~~43 sec.~~	~~71.1 (160)~~	~~10 sec.~~
[1] *Holding time may include postoven heat rise.*					

(C) *A raw or undercooked WHOLE-MUSCLE, INTACT BEEF steak may be served or offered for sale in a READY-TO-EAT form if:*

(1) *The FOOD ESTABLISHMENT serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION,*

(2) *The steak is labeled to indicate that it meets the definition of "WHOLE-MUSCLE, INTACT BEEF" as specified under ¶ 3-201.11(E), and*

(3) *The steak is cooked on both the top and bottom to a surface temperature of 63°C (145°F) or above and a cooked color change is achieved on all external surfaces.*

(D) *A raw animal FOOD such as raw EGG, raw FISH, raw-marinated FISH, raw MOLLUSCAN SHELLFISH, or steak tartare; or a partially cooked FOOD such as lightly cooked FISH, soft cooked EGGS, or rare MEAT other than WHOLE-MUSCLE, INTACT BEEF steaks as specified in ¶ (C) of this section, may be served or offered for sale ~~in~~ upon consumer request or selection in a READY-TO-EAT form if:*

(1) ~~The~~ *As specified under 3-801.11(C)(1)-(2), the FOOD ESTABLISHMENT serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION, and*

(2) *The CONSUMER is informed as specified under § 3-603.11 that to ensure its safety,*

the FOOD should be cooked as specified under ¶ (A) or (B) of this section; or

(3) *The DEPARTMENT grants a VARIANCE from ¶ (A) or (B) of this section as specified in §*1-104.11 *based on a HACCP PLAN that:*

(a) *Is submitted by the PERMIT HOLDER and APPROVED as specified under §*1-104.12*,*

(b) *Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe FOOD, and*

(c) Verifies that EQUIPMENT and procedures for FOOD PREPARATION and training of FOOD EMPLOYEES at the FOOD ESTABLISHMENT meet the conditions of the VARIANCE.

3-401.12 Microwave Cooking.[c]

Raw animal FOODS cooked in a microwave oven shall be:

(A) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(B) Covered to retain surface moisture;

(C) Heated to a temperature of at least 74°C (165°F) in all parts of the FOOD; and

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

3-401.13 Plant Food Cooking for Hot Holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of ~~60~~ 57.2°C (~~140~~ 135°F).

Freezing

3-402.11 Parasite Destruction.[c]

(A) Except as specified in ¶ (B) of this section, before service or sale in READY-TO-EAT form, raw, raw-marinated, partially cooked, or marinated-partially cooked FISH other than MOLLUSCAN SHELLFISH shall be frozen throughout to a temperature of:

(1) -20°C (-4°F) or below for 168 hours (7 days) in a freezer; or

(2) -35°C (-31°F) or below for 15 hours in a blast freezer.

(B) *If the FISH are 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), the FISH may be served or sold in a raw, raw-marinated, or partially cooked READY-TO-EAT form without freezing as specified under ¶ (A) of this section.*

3-402.12 Records, Creation and Retention.

(A) Except as specified in ¶ 3-402.11(B) and ¶ (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked FISH are served or sold in READY-TO-EAT form, the PERSON IN CHARGE shall record the freezing temperature and time to which the FISH are subjected and shall retain the records at the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH.

(B) *If the* FISH *are frozen by a supplier, a written agreement or statement from the supplier stipulating that the* FISH *supplied are frozen to a temperature and for a time specified under § 3-402.11 may substitute for the records specified under ¶ (A) of this section*.

Reheating

3-403.10 Reheating 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.[c]

(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 74°C (165°F) for 15 seconds.

(B) Except as specified under ¶ (C) of this section, POTENTIALLY HAZARDOUS FOOD reheated in a microwave oven for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 74°C (165°F) and the FOOD is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.

(C) READY-TO-EAT FOOD taken from a commercially PROCESSED, HERMETICALLY SEALED CONTAINER, or from an intact PACKAGE from a FOOD PROCESSING PLANT that is inspected by the FOOD REGULATORY AUTHORITY that has jurisdiction over the plant, shall be heated to a temperature of at least ~~60~~ 57.2°C (~~140~~ 135°F) for hot holding.

(D) Reheating for hot holding shall be done rapidly and the time the FOOD is between the temperature specified under ¶ 3-501.16~~(B) or (C)~~ (A)(2) and 74°C (165°F) may not exceed 2 hours.

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

Other Methods

3-404.11 Treating Juice.

JUICE PACKAGED in a FOOD ESTABLISHMENT shall be:

(A) Treated under a HACCP PLAN to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

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

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

(2) As specified in 21 CFR 101.17(g) with the phrase, "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."

Subparts

3-501	**Temperature and Time Control**
3-502	**Specialized Processing Methods**

Temperature and Time Control

3-501.11 Frozen Food.

Stored frozen FOODS shall be maintained frozen.

3-501.12 Potentially Hazardous Food, Slacking.

Frozen POTENTIALLY HAZARDOUS FOOD that is SLACKED to moderate the temperature shall be held:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less, as specified in 3-501.16(A)(2) or;

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

3-501.13 Thawing.

Except as specified in ¶ (D) of this section, POTENTIALLY HAZARDOUS FOOD shall be thawed:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less, as specified in 3-501.16(A)(2) or;

(B) Completely submerged under running water:

(1) At a water temperature of 21°C (70°F) or below,

(2) With sufficient water velocity to agitate and float off loose particles in an overflow, and

(3) For a period of time that does not allow thawed portions of READY-TO-EAT FOOD to rise above 5°C (41°F), as specified in 3-501.16(A)(2) or

(4) For a period of time that does not allow thawed portions of a raw animal FOOD requiring cooking as specified under ¶ 3-401.11(A) or (B) to be above 5°C (41°F) as specified in 3-501.16(A)(2), for more than 4 hours including:

(a) The time the FOOD is exposed to the running water and the time needed for PREPARATION for cooking, or

(b) The time it takes under refrigeration to lower the FOOD temperature to 5°C (41°F) as specified in 3-501.16(A)(2).

(C) As part of a cooking PROCESS if the FOOD that is frozen is:

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

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

(D) *Using any procedure if a portion of frozen READY-TO-EAT FOOD is thawed and PREPARED for immediate service in response to an individual CONSUMER'S order.*

3-501.14 Cooling.[c]

(A) Cooked POTENTIALLY HAZARDOUS FOOD shall be cooled:

(1) ~~Within 2 hours, from 60°C (140°F) to 21°C (70°F); and~~ From 57.2°C (135°F) to 5°C (41°F) or less in 6 hours, provided that

(2) Within ~~4 hours, from 21°C (70°F) to 5°C (41°F) or less~~ at least the first 2 hours the FOOD is cooled from 57.2°C (135°F) to 21°C (70°F).

(B) POTENTIALLY HAZARDOUS FOOD shall be cooled within 4 hours to 5°C (41°F) or less as specified in 3-501.16(A)(2), if PREPARED from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna.

(C) Except as specified in ¶ (D) of this section, a POTENTIALLY HAZARDOUS FOOD received in compliance with LAWS allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in ¶ 3-202.11(B), shall be cooled within 4 hours to 5°C (41°F) or less as specified in 3-501.16(A)(2).

(D) ~~Shell~~ Raw shell EGGS ~~need not comply with ¶ (C) of this section if the eggs are~~ shall be received as specified under ¶ 3-202.11(C) and immediately ~~upon their receipt~~ placed in refrigerated EQUIPMENT that ~~is capable of maintaining FOOD at~~ maintains an ambient air temperature of 5°C (41°F) or less.

3-501.15 Cooling Methods.

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

(1) Placing the FOOD in shallow pans;

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

(3) Using rapid cooling EQUIPMENT;

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

(5) Using containers that facilitate heat transfer;

(6) Adding ice as an ingredient; or

(7) Other effective methods.

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

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

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

3-501.16 Potentially Hazardous Food, Hot and Cold Holding.[c]

(A) Except during PREPARATION, *cooking, or cooling, or when time is used as the public health control as specified under § 3-501.19,* and except as specified in ¶ (B) and (C) of this section, POTENTIALLY HAZARDOUS FOOD shall be maintained:

~~(A)~~ (1) At ~~60~~ 57.2°C (~~140~~ 135°F) or above, *except that roasts cooked to a temperature and for a time specified ~~under~~ in ¶ 3-401.11(B) or reheated as specified in ¶ 3-403.11(E) may be held at a temperature of 54°C (130°F)*; or

~~(B)~~ (2) At 5°C (41°F) or less.

(B) Shell EGGS that have not been treated to destroy all viable **Salmonellae** shall be stored in refrigerated EQUIPMENT that maintains an ambient air temperature of 5°C (41°F) or less.

(C) Potentially Hazardous Foods may be held out of cold holding temperature control from 41°F up to 70°F for up to 6 hours if the following procedures are followed:

(1) For food that is held without cold holding temperature control, written procedures shall be maintained in the food establishment for monitoring the warmest portion of the food or an ambient temperature to ensure that temperature does not exceed 70°F during the 6 hour holding period;

(2) The FOOD shall be marked or otherwise identified to indicate the time that is 6 hours past the point in time when the FOOD is removed from cold holding temperature control;

(3) The FOOD shall be cooked and served, served if READY-TO-EAT, or discarded, within 6 hours from the point in time when the FOOD is removed from cold holding temperature control;

(4) The FOOD in unmarked containers or PACKAGES or marked to exceed a 6 hour limit shall be discarded; and

(5) APPROVED written procedures shall be maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request, that ensure compliance with:

(a) Subparagraphs (C)(1)-(5) of this section, and

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

(6) This provision may not be used as a public health control for raw eggs in a food establishment that serves highly susceptible populations.

on-premises preparation
· *prepare and hold cold*

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

(A) Except as specified in ¶¶ (D), (E) and (G) of this section, refrigerated, READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD PREPARED and held ~~refrigerated at 5°C (41°F) or less~~ in a FOOD ESTATABLISHMENT for more than 24 hours ~~in a FOOD ESTATABLISHMENT~~ shall be clearly marked ~~at the time of preparation~~ to indicate ~~that~~ the date or day by which the FOOD shall be consumed on the PREMISES, ~~or sold within 7 calendar days or less from the day that the FOOD is prepared, including the day of preparation~~ sold or discarded, based on the temperature and time combination of 5°C (41°F) or less for a maximum of 7 days. The day of PREPARATION shall be counted as Day 1.

Note: Any system for internal marking or use to identify when a product should be disposed of is satisfactory.

commercially processed food
·open and hold cold

• prepare, freeze, thaw, immediate use

(B) Except as specified in ¶¶ (D), (E), (G) and (H) of this section, refrigerated, a READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD PREPARED in and PACKAGED by a FOOD ESTABLISHMENT and subsequently frozen, shall be PROCESSING PLANT shall be clearly marked at the time the original container is opened in a FOOD ESTABLISHMENT and, if the FOOD is held for more than 24 hours, to indicate when the date or day by which the FOOD shall be consumed or on the PREMISES, sold in the following methods: or discarded, based on the temperature and time combinations specified in ¶ (A); and

(1) When the FOOD is thawed, it shall be consumed or sold within 24 hours; or The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; and

• prepare, hold cold, freeze, thaw, hold cold

(2) When the FOOD is placed into the freezer, indicate the length of time before freezing that the FOOD is held refrigerated, including the day of preparation, which must be within 7 calendar days or less from the day of preparation, if the FOOD is maintained at 5oC (41oF) or less 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.

(3) When the FOOD is removed from the freezer, indicate when the FOOD shall be consumed or sold which must be within, 7 calendar 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 5oC (41oF) or less before and after freezing.

commercially processed food
• open and hold cold

(C) Except as specified in ¶¶ (E), (F) and (G) of this section, a container of refrigerated, READY–TO– EAT POTENTIALLY HAZARDOUS FOOD prepared and PACKAGED by a FOOD PROCESSING PLANT shall be marked, at the time the original container is opened in a FOOD ESTABLISHMENT, to indicate that the FOOD shall be consumed or sold within 7 calendar days or less, including the day the container is opened, if the FOOD is maintained at 5oC (41oF) or less *A 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, may be marked as specified in ¶ (A) or (B) of this section, or by an alternative method acceptable to the REGULATORY AUTHORITY.*

(D) Except as specified in ¶¶ (E), (F) and (G) of this section, a container of refrigerated, READY–TO–EAT, POTENTIALLY HAZARDOUS FOOD prepared and PACKAGED by a FOOD PROCESSING PLANT and subsequently opened and frozen in a FOOD ESTABLISHMENT shall be marked to indicate when the FOOD shall be consumed or sold in the following methods:

• open, freeze, thaw, immediate use

(1) When the FOOD is thawed, it shall be consumed or sold within 24 hours; or

• open, hold cold, freeze, thaw, hold cold

(2) When the FOOD is placed into the freezer indicate the time between the opening of the original container and freezing that the FOOD is held refrigerated, including the day of opening the original container, which must be within, 7 calendar days or less, if the FOOD is maintained at 5oC (41oF) or less.

(3) When the FOOD is removed from the freezer, mark when the FOOD shall be consumed or sold which must be within, 7 calendar days, minus the time before freezing, that the FOOD is held refrigerated, if the FOOD is maintained at 5oC (41oF) or less before and after freezing.

~~(E)~~ (D) *Paragraphs ¶¶ (A) ~~– (D)~~ and(B) of this section do not apply to individual MEAL portions served or rePACKAGED for sale from a bulk container upon a CONSUMER'S request.*

(E) Paragraph ¶¶ (A) and (B) of this section does not apply to the following when the face has been cut, but the remaining portion is whole and intact:

(1) Fermented sausages produced in a federally or state of Wisconsin inspected FOOD PROCESSING PLANT that are not labeled "Keep Refrigerated" and which retain the original CASING on the product;

(2) Shelf stable, dry, fermented sausages; and

(3) Shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally or state of Wisconsin inspected FOOD PROCESSING PLANT that are not labeled "Keep Refrigerated".

(F) 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.

~~(F)~~ (G) *Paragraphs ~~(C) and (D)~~ (A) and (B) of this section do not apply to:*

(1) Aged Hard Cheeses, such as Cheddar, ~~Colby, or Swiss~~ Parmesan, Asiago old, Asiago medium cheese, or Romano, as specified in 21 CFR 133.150,

(2) ~~*Whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing*~~ Semisoft cheeses, *such as* Colby, Asiago fresh & soft, Edam, Monterey Jack, Muenster, or Swiss as specified in 21 CFR 133. 187,

(3) Pasteurized process cheeses as specified in 21 CFR 133.169, or

(4) Cheese Curds.

~~(G)~~ (H) ~~Smoked~~ *Paragraph (B) of this section do not apply to* smoked FISH sold at retail which must comply with the dating, labeling and temperature requirements specified in Chapter ATCP 70.22 Labeling and Sale of Smoked Fish.

(I) *Paragraph (A) and (B) of this section do not apply to* READY-TO-EAT REDUCED OXYGEN PACKAGED FOODS that meet the requirement as specified in ¶ 3-502.12.

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

(A) A FOOD specified under ¶ 3-501.17(A) or (B) shall be discarded if it:

(1) Exceeds either of the temperature and time combinations specified in 3-501.17(A), except time that the product is frozen;

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

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

(B) ~~A FOOD specified under Subparagraph 3–501.17(B)(1) or (D)(1) shall be discarded if~~

~~not consumed or sold within 24 hours after thawing~~ Refrigerated, READY TO EAT, POTENTIALLY HAZARDOUS FOOD PREPARED in a FOOD ESTABLISHMENT and dispensed 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).

~~(C) A FOOD specified under Subparagraphs 3–501.17(B)(2) and (3) or (D)(2) and (3) shall be discarded on or before the most recent date indicated on the FOOD container or PACKAGE if the FOOD is not consumed or sold by that date.~~

~~(D) A FOOD specified under ¶ 3–501.17(C) shall be discarded if not consumed or sold within, including the day of opening the original container, 7 calendar days after the date that the original package is opened in a FOOD ESTABLISHMENT.~~

~~(E) A FOOD specified under ¶ 3–501.17(A), (B), (C), or (D) shall be discarded if the FOOD is:~~

> ~~(1) Marked as specified under ¶ 3–501.17(A), (B), (C), or (D) and the FOOD is not consumed or sold before the most recent date expires;~~
>
> ~~(2) In a container or PACKAGE which does not indicate a date or time; or~~
>
> ~~(3) Inappropriately marked that exceeds the requirements as specified under ¶ 3–501.17(A), (B), (C), or (D).~~

~~(F) Refrigerated, READY–TO–EAT, POTENTIALLY HAZARDOUS FOOD prepared in a FOOD ESTABLISHMENT and dispensed through a VENDING MACHINE with an automatic shut–off control that is activated at a temperature of 5oC (41oF) shall be discarded if not sold within 7 days.~~

~~(G) A refrigerated, potentially hazardous, READY–TO–EAT FOOD ingredient or a portion of a refrigerated, potentially hazardous, READY–TO–EAT FOOD that is subsequently combined with additional ingredients or portions of FOOD shall retain the date marking of the earliest or first–prepared ingredient or portion and shall be discarded as specified under ¶¶ 3–501.18(A) – (F).~~

3-501.19 Time as a Public Health Control.[c]

(A) Except as specified under ¶ (B) of this section, if time only, rather than time in conjunction with temperature, 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 service for immediate consumption:

> (1) The FOOD shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the FOOD is removed from temperature control,
>
> (2) The FOOD shall be cooked and served, served if READY-TO-EAT, or discarded, within 4 hours from the point in time when the FOOD is removed from temperature control,
>
> (3) The FOOD in unmarked containers or PACKAGES or marked to exceed a 4 hour limit shall be discarded, and
>
> (4) APPROVED written procedures shall be maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request, that ensure compliance with:

(a) Subparagraphs (A)(1)-(4) of this section, and

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

(5) Subparagraph (A)(1),(2), & (3) of this section does not apply to fresh cheese curd if:

(a) it is manufactured in a licensed dairy plant.

(b) is packaged at a FOOD ESTABLISHMENT OR FOOD PROCESSING PLANT,

(c) is not displayed for sale out of temperature control that exceeds 24 hours after manufacturing,

(d) is labeled as specified in 3-602.11, and

(i) is labeled with the date and time of production if displayed out of temperature control, or

(ii) just the date of production if curd is discarded at the end of the manufacturing day.

(B) In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION, time only, rather than time in conjunction with temperature, may not be used as the public health control for raw EGGS.

Specialized Processing Methods

3-502.11 Variance Requirement.[c]

~~A FOOD ESTABLISHMENT shall obtain a VARIANCE from the DEPARTMENT as specified in 1–104.11 and under 1–104.12 before smoking FOOD as a method of FOOD preservation rather than as a method of flavor enhancement; curing FOOD; brewing alcoholic BEVERAGES; using FOOD ADDITIVES or adding components such as vinegar as a method of FOOD preservation rather than as a method of flavor enhancement or to render a FOOD so that it is not POTENTIALLY HAZARDOUS; packaging FOOD using a REDUCED OXYGEN PACKAGING method *except as specified under § 3–502.12 where a barrier to* **Clostridium botulinum** *in addition to refrigeration exists*; custom PROCESSING animals that are for personal use as FOOD and not for sale or service in a FOOD ESTABLISHMENT; or preparing, serving or transporting FOOD by another method that is determined by the DEPARTMENT to require a VARIANCE.~~

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the DEPARTMENT as specified in 1-104.11 and under 1-104.12 before:

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

(B) Curing FOOD;

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

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

(2) To render a FOOD so that it is not POTENTIALLY HAZARDOUS;

(D) PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method *except as specified*

*under § 3-502.12 where a barrier to **Clostridium botulinum** in addition to refrigeration exists;*

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

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

(G) PREPARING, serving or transporting FOOD by another method that is determined by the DEPARTMENT to require a VARIANCE; or

(H) Sprouting seeds or beans in a FOOD ESTABLISHMENT.

3-502.12 Reduced Oxygen Packaging, Criteria.[c]

(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3-502.11, a FOOD ESTABLISHMENT that PACKAGES FOOD using a REDUCED OXYGEN PACKAGING method and ***Clostridium botulinum*** is identified as a microbiological HAZARD in the final PACKAGED form shall ensure that there are at least two barriers in place to control the growth and toxin formation of ***C. botulinum***.

(B) A FOOD ESTABLISHMENT that PACKAGES FOOD using a REDUCED OXYGEN PACKAGING method and ***Clostridium botulinum*** is identified as a microbiological HAZARD in the final PACKAGED form shall have a HACCP PLAN that contains the information specified by the DEPARTMENT and that:

(1) Identifies the FOOD to be PACKAGED;

(2) Limits the FOOD PACKAGED to a FOOD that does not support the growth of ***Clostridium botulinum*** because it complies with one of the following:

(a) Has an a_w of 0.91 or less,

(b) Has a pH of 4.6 or less,

(c) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 CFR 318.7 Approval of substances for use in the PREPARATION of products ~~and~~ specified in 9 CFR ~~381.147 Restrictions on the use of substances in poultry products~~ 424.21, "Use of food ingredients and sources of radiation", and is received in an intact ~~package~~ PACKAGE, or

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

(3) Specifies methods for maintaining FOOD at 5°C (41°F) or below;

(4) Describes how the PACKAGES shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

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

(b) Discard the FOOD:

(I) Within 14 calendar days of its PACKAGING if it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption; or

(ii) Within 30 calendar days of its PACKAGING if it is one of the FOODS specified ¶ (D).

(5) ~~Limits~~ Except as specified in ¶ (D)or the time the product is maintained frozen the refrigerated shelf life is limited to no more than 14 calendar days; ~~except as specified in ¶ (D)~~ from PACKAGING to consumption, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(6) Includes operational procedures that:

(a) Prohibit contacting FOOD with bare hands,

(b) Identify a designated 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 restricted to responsible trained personnel familiar with the potential HAZARDS of the operation, and

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

(7) 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)(6) of this section and by DEPARTMENT.

(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.

(D) The following ROP PROCESSED FOODS may have a "USE BUY" ~~of more that~~ up to 30 days, if APPROVED by the DEPARTMENT:

(1) Standardized hard or semi-soft cheeses containing high numbers of non-pathogenic competitive microorganisms. These cheeses are to be limited to one single piece of cheese per PACKAGE (no multiple slices).

(2) Cooked and cured meat products PROCESSED and formulated at the FOOD ESTABLISHMENT where PACKAGED, that are not further sliced or other wise portioned by use of a UTENSIL; such as sausages, whole muscled MEATS and jerky products. Except that bacon, if cured and smoked by the FOOD ESTABLISHMENT, may contain multiple slices in a single PACKAGE.

Note: MEAT products PROCESSED at USDA or WDA LICENSED MEAT establishments and received by the FOOD ESTABLISHMENT for PROCESSING and sale will not be considered for extended shelf life beyond 14 days.

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

Subparts

3-601	**Accurate Representation**
3-602	**Labeling**
3-603	**Consumer Advisory**

Accurate Representation

3-601.11 Standards of Identity.

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

3-601.12 Honestly Presented.

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

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

Labeling

3-602.11 Food Labels.

(A) FOOD PACKAGED in a FOOD ESTABLISHMENT, shall be labeled as specified in LAW, including 21 CFR 101 - Food Labeling, and 9 CFR 317 Labeling, Marking Devices, and Containers.

(B) Label information shall include:

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

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

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

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

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

(6) 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.

Note: The following common ingredients may cause allergic reactions:
Eggs (albumen, whites, meringue); Milk & Milk Products (Whey, Nonfat Dry Milk, casein, Sodium Caseinate etc.); Peanuts (peanut butter, unrefined peanut oil, and flour); Wheat & Wheat Proteins (malt, caramel color, flour,);Tree Nuts (almonds, walnuts, pecans etc., each is a separate allergen, or the unrefined oils of these products); Soybeans and Soy Products (hydrogenated soy protein, tofu and unrefined soybean oil);Fish; Shellfish; and Crustaceans.

Note: The following common ingredients may cause adverse reactions: Monosodium Glutamate, Strawberries, Chocolate, Sulfites, Food Colors.

(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 a list of ingredients as specified under Subparagraphs (B)(1)and (2) of this section is kept on file for each bulk unPACKAGED FOOD product at the FOOD ESTABLISHMENT and is made available for inspection by CONSUMERS, and if a health, nutrient content, or claim is not made.*

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.

(C) Infant formula may not be sold or offered for sale after the code date specified by the manufacturer on the infant formula label.

Consumer Advisory

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

~~Except as specified in ¶ 3–401.11(C) and Subparagraph 3–401.11(D)(3) and under ¶ 3–801.11(D), if an animal FOOD such as beef, eggs, FISH, lamb, milk, pork, POULTRY, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a READY–TO–EAT form as a deli, menu, vended, or other item; or as a raw ingredient in another READY–TO–EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS.~~

(A) Except as specified in ¶ 3-401.11(C) and Subparagraph 3-401.11(D)(3) and under ¶ 3-801.11(C), if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in paragraphs (B) and (C) of this section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(B) DISCLOSURE shall include:

(1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," and "raw-egg Caesar salad,";

(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, such as "animal foods that are ordered rare or medium rare may be undercooked and will only be served on consumers

request."; Or

3) Identification of the specific animal derived foods in question, (i.e. steaks, hamburgers, eggs, ceasar salad dressing, and etc.) in the footnote that states that the items are served raw or undercooked, or contain raw or undercooked ingredients, such as "rare or medium rare hamburgers may be undercooked and only served on consumers request."

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

(1) Regarding the consumption of raw or undercooked animal products, written information is available upon request;

(2) Whether dining out or preparing food at home, consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or

(3) Whether dining out or preparing food at home, consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

3-7	**CONTAMINATED FOOD**
	Subpart
	3-701 Disposition

Disposition **3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.**[C]

(A) A FOOD that is unsafe, ADULTERATED, or not honestly presented as specified under § 3-101.11 shall be reconditioned according to an APPROVED procedure or discarded.

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

(C) READY-TO-EAT FOOD that may have been contaminated by a FOOD EMPLOYEE who has been RESTRICTED or EXCLUDED as specified under § 2-201.12 shall be discarded.

(D) FOOD that is contaminated by FOOD EMPLOYEES, CONSUMERS, or other PERSONS through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

3-8	**SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS**
	Subpart
	3-801 Additional Safeguards

Additional Safeguards **3-801.11 Pasteurized Foods~~, Prohibited Reservice,~~ and Prohibited Food.**[C]

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

(A) The following criteria apply to JUICE:

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

(2) PrePACKAGED JUICE or a prePACKAGED BEVERAGE containing JUICE, that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, or a PACKAGED JUICE or BEVERAGE containing JUICE, that bears a warning label as specified under ¶ 3-404.11(B) may not be served or offered for sale; and

(3) UnPACKAGED JUICE that is PREPARED on the PREMISES for service or sale in a READY-TO-EAT form shall be PROCESSED under a HACCP PLAN that contains the information specified in 21 CFR Part 120 – Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls.

(B) Pasteurized shell EGGS or pasteurized liquid, frozen, or dry EGGS or EGG products shall be substituted for raw shell EGGS in the PREPARATION of:

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

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

(C) ~~FOOD in an unopened original package may not be re-served; and~~ The following FOODS may not be served or offered for sale in a READY-TO-EAT form:

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

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

(3) Raw seed sprouts.

(D) FOOD EMPLOYEES *may not contact* READY-TO-EAT FOOD as specified under §3-301.11(C).

(E) 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 by the DEPARTMENT *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.*

Chapter 4
Equipment, Utensils, and Linens

Parts

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

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

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

Multiuse

4-101.11 Characteristics.[C]

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

(A) Safe;

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

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

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

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

4-101.12 Cast Iron, Use Limitation.

(A) Except as specified in ¶¶ (B) and (C) of this section, cast iron 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~~ PROCESS from cooking through service.*

4-101.13 Lead in Ceramic, China, and Crystal Utensils, Use Limitation.
Ceramic, china, crystal UTENSILS, and decorative UTENSILS such as hand painted ceramic or china that are used in contact with FOOD shall be lead-free or contain levels of lead not exceeding the limits of the following UTENSIL categories:

Utensil Category	Description	Maximum Lead mg/L
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls 1.1 L (1.16 QT)	1.0
Small Hollowware	Bowls < 1.1 L (1.16 QT)	2.0
Flat Utensils	Plates, Saucers	3.0

4-101.14 Copper, Use Limitation.[c]

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

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

4-101.15 Galvanized Metal, Use Limitation.[c]

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

4-101.16 Sponges, Use Limitation.

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

4-101.17 Lead in Pewter Alloys, Use Limitation.

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

4-101.18 Lead in Solder and Flux, Use Limitation.

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

4-101.19 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, peel boards, proof boards and salad bowls; and

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

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

used.

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

(1) Untreated wood containers; or

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

4-101.110 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.

4-101.111 Nonfood-Contact Surfaces.

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

Single-Service and Single-Use

4-102.11 Characteristics.[C]

Materials that are used to make SINGLE-SERVICE and SINGLE-USE ARTICLES:
(A) May not:

(1) Allow the migration of deleterious substances, or

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

(B) Shall be:

(1) Safe, and

(2) Clean.[N]

4-2 DESIGN AND CONSTRUCTION

Subparts

4-201 Durability and Strength
4-202 Cleanability
4-203 Accuracy
4-204 Functionality
4-205 Acceptability

Durability and Strength

4-201.11 Equipment and Utensils.

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

4-201.12 Food Temperature Measuring Devices.[C]

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

Cleanability

4-202.11 Food-Contact Surfaces.[c]

(A) Multiuse FOOD-CONTACT SURFACES shall be:

(1) SMOOTH;

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

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

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

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

(a) Without being disassembled,

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

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

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

4-202.12 CIP Equipment.

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

(1) Cleaning and SANITIZING solutions circulate throughout a fixed system and contact all interior FOOD-CONTACT SURFACES, and

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

(B) CIP EQUIPMENT that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior FOOD-CONTACT SURFACES throughout the fixed system are being effectively cleaned.

4-202.13 ”V” Threads, Use Limitation.

Except for hot oil cooking or filtering EQUIPMENT, ”V” type threads may not be used on FOOD-CONTACT SURFACES.

4-202.14 Hot Oil Filtering Equipment.

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

4-202.15 Can Openers.

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

4-202.16 Nonfood-Contact Surfaces.

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

4-202.17 Kick Plates, Removable.

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

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

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

4-202.18 Ventilation Hood Systems, Filters.

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

Accuracy

4-203.11 Temperature Measuring Devices, Food.

(A) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to ± 1°C in the intended range of use.

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

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

(A) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to ± 1.5°C in the intended range of use.

(B) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to ± 3°F in the intended range of use.

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water SANITIZING rinse shall have increments of 7 kilopascals (1 pounds per square inch) or smaller and shall be accurate to ± 14 kilopascals (± 2 pounds per square inch) in the 100-170 kilopascals (15-25 pounds per square inch) range.

Functionality

4-204.11 Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in FOOD ~~preparation~~ PREPARATION and WAREWASHING areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

4-204.12 Equipment Openings, Closures and Deflectors.

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

(B) An opening located within the top of a unit of EQUIPMENT that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (two-tenths of an inch).

(C) Except as specified under ¶ (D) of this section, fixed piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending into EQUIPMENT shall be provided with a watertight joint at the point where the item enters the EQUIPMENT.

(D) If a watertight joint is not provided:

(1) The piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the FOOD; and

(2) The opening shall be flanged as specified under ¶ (B) of this section.

4-204.13 Dispensing Equipment, Protection of Equipment and Food.

In EQUIPMENT that dispenses or vends liquid FOOD or ice in unPACKAGED form:

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

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

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

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

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

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

4-204.14 Vending Machine, Vending Stage Closure.

The dispensing compartment of a VENDING MACHINE including a machine that is designed to vend prePACKAGED snack FOOD that is not POTENTIALLY HAZARDOUS 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 can not leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES.

4-204.16 Beverage Tubing, Separation.

BEVERAGE tubing and cold-plate BEVERAGE cooling devices may not be installed in contact with stored ice. *This section does not apply to cold plates that are constructed integrally with an ice storage bin*.

4-204.17 Ice Units, Separation of Drains.

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

4-204.18 Condenser Unit, Separation.

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

4-204.19 Can Openers on Vending Machines.

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

4-204.110 Molluscan Shellfish Tanks.

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

(B) MOLLUSCAN SHELLFISH life-support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a VARIANCE granted by the DEPARTMENT as specified in 1-104.11 and under 1-104.12 and a HACCP PLAN that:

(1) Is submitted by the PERMIT HOLDER and APPROVED as specified by the DEPARTMENT; 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.[C]

(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 can not maintain FOOD temperatures as specified under Chapter 3; and

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

(B) When the automatic shutoff within a machine vending POTENTIALLY HAZARDOUS FOOD is activated:

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

(2) In a hot holding VENDING MACHINE, the ambient temperature may not be less than ~~60~~ 57.2°C (~~140~~ 135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

4-204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot FOOD storage unit, the sensor of a TEMPERATURE MEASURING DEVICE shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot FOOD storage unit. ~~Alternatively, refrigerated storage units may be equipped with approved product mimicking sensors placed in devices located in the warmest part of the mechanically refrigerated storage unit in lieu of an ambient air sensor.~~

(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 integral or permanently affixed TEMPERATURE MEASURING DEVICE that is located to allow easy viewing of the device's temperature display.

(C) *Paragraph (B) of this section does not apply to EQUIPMENT for which the placement of a TEMPERATURE MEASURING DEVICE is not a practical means for measuring the ambient air surrounding the FOOD because of the design, type, and use of the EQUIPMENT, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated FOOD transport containers, and salad bars*.

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

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

4-204.113 Warewashing Machine, Data Plate Operating Specifications.

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

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

(B) Pressure required for the fresh water SANITIZING rinse *unless the machine is designed*

to use only a pumped SANITIZING *rinse;* and

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

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 SANITIZING final rinse manifold or in the chemical SANITIZING solution tank.

4-204.116 Manual Warewashing Equipment, Heaters and Baskets.

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

(A) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); and

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

4-204.117 Warewashing Machines, ~~Sanitizer Level Indicator~~ Automatic Dispensing of Detergents and Sanitizers.

~~A.~~ At a new food establishment or at the change of operator, a WAREWASHING machine ~~that uses a chemical for SANITIZATION~~ shall be equipped ~~with a device that indicates audibly or visually when more chemical SANITIZER needs to be added.~~ to:

(A) Automatically dispense detergents and SANITIZERS; and

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

4-204.118 Warewashing Machines, Flow Pressure Device.

(A) WAREWASHING machines that provide a fresh 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 water SANITIZING rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

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

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

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

4-204.120 Equipment Compartments, Drainage.

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

4-204.121 Vending Machines, Liquid Waste Products.

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

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

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

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

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

4-204.122 Case Lot Handling Equipment, Moveability.

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

4-204.123 Vending Machine Doors and Openings.

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

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

(2) Being effectively gasketed;

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

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

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

Equipment Standards

4-205.11 Food Equipment, Certification and Classification.

~~Food equipment~~ FOOD EQUIPMENT and ~~utensils~~ UTENSILS for use in FOOD ESTABLISHMENTS shall meet the published standards for sanitation of an American National Standards Institute (ANSI)-accredited equipment certification program, or the APPROVAl of the department of health and family services and the department of agriculture, trade and consumer protection.

4-3	**NUMBERS AND CAPACITIES**
	Subparts
	4-301 Equipment
	4-302 Utensils, Temperature Measuring Devices, and Testing Devices

Equipment

4-301.11 Cooling, Heating, and Holding Capacities.

(A) With the exception of ¶(B), adequate mechanical refrigeration with sufficient capacity shall be provided to maintain POTENTIALLY HAZARDOUS FOOD at or below 41°F.

(B) Ice may be used for the transportation, storage, display, cooling and service of POTENTIALLY HAZARDOUS FOOD if APPROVED by the REGULATORY AUTHORITY, and it can be demonstrated that FOOD product temperatures will be maintained at or below 41°F.

(C) Equipment sufficient in number and capacity for heating and hot holding of POTENTIALLY HAZARDOUS FOOD shall be provided to achieve and maintain FOOD temperatures as specified under Chapter 3.

4-301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in ¶ (C) of this section, a sink with at least 3 compartments shall be provided for manually washing, rinsing, and SANITIZING EQUIPMENT and UTENSILS. If the FOOD ESTABLISHMENT demonstrates an inability to effectively clean EQUIPMENT and UTENSILS, the DEPARTMENT or its AGENT municipality or county, may require a 4-compartment sink or an additional prewash sink for pre-cleaning as specified in § 4-603.12.

(B) Sink compartments shall be large enough to accommodate immersion of at least 50 % of the largest EQUIPMENT and UTENSILS cleaned and SANITIZED. If EQUIPMENT or UTENSILS are too large for the WAREWASHING sink, a WAREWASHING machine or alternative EQUIPMENT as specified in ¶ (C) of this section shall be used.

(C) *Alternative manual WAREWASHING EQUIPMENT may be used when there are special cleaning needs or constraints and its use is APPROVED. Alternative manual WAREWASHING EQUIPMENT may include:*

(1) *High-pressure detergent sprayers;*

(2) *Low- or line-pressure spray detergent foamers;*

(3) *Other task-specific cleaning EQUIPMENT;*

(4) *Brushes or other implements;*

(5) *2-compartment sinks as specified under ¶¶ (D) and (E) of this section; or*

(6) *Receptacles that substitute for the compartments of a multicompartment sink.*

(D) Before a 2-compartment sink is used:

(1) The PERMIT HOLDER shall have its use APPROVED; and

(2) The ~~nature of WAREWASHING~~ PERMIT HOLDER shall ~~be limited to batch operations for cleaning~~ limit the number of KITCHENWARE items cleaned and SANITIZED in the 2-compartment sink, and shall limit WAREWASHING to batch operations for cleaning KITCHENWARE such as between cutting one type of raw MEAT and another or cleanup at the end of a shift, and shall:

~~(a) The number of items to be cleaned shall be limited,~~

~~(b)~~ (a) ~~The~~ Make up the cleaning and SANITIZING solutions ~~shall be made up~~ immediately before use and ~~drained~~ drain them immediately after use, and

~~(c)~~ (b) ~~A~~ Use a detergent-SANITIZER ~~shall be used~~ to SANITIZE and ~~shall be applied~~ apply the detergent-SANITIZER in accordance with the manufacturer's label instructions and as specified under § 4-501.115, or

~~(d)~~ (c) ~~A~~ Use a hot water SANITIZATION immersion step ~~shall be used~~ 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.

Self- draining tables, UTENSIL racks, or drainboards 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.

~~**4–301.13m Food Preparation Sinks.**~~

~~(A) In new FOOD ESTABLISHMENTS and at the time of change in operator of an existing FOOD ESTABLISHMENT that has FOOD items that require washing or thawing, a separate sink for FOOD preparation that meets the requirements specified in ¶ 4–205.11 and § 5–402.11 shall be provided.~~

~~(B) Existing food establishments needing a sink to prepare, wash or thaw food as specified in 3–302.15 and 3–501.13(B), may use a sanitizing compartment of a warewash sink provided the following conditions are met:~~

~~(1) The installation of a separate FOOD preparation sink would not be possible because adequate space is not available;~~

~~(2) The entire warewash sink is discharged via air gap;~~

~~(3) Approval is obtained from the Department of Commerce to allow the warewash sanitizer sink compartment to be air gapped as specified in § 5–402.11;~~

~~(4) Approval is obtained from the REGULATORY AUTHORITY to use the sanitizer sink compartment for FOOD preparation ; and~~

~~(5) Cleaned and sanitized as specified in 4–501.16(B).~~

~~Note: In lieu of an air gapped sink for FOOD preparation, the REGULATORY AUTHORITY may approve the use of a sanitizer sink for FOOD preparation provided a suitable insert or utensil is used in the sink compartment to prevent backflow from sewage or overflow from adjacent sink compartments from contaminating FOOD. A suitable insert or utensil is one that terminates above the spill rim of the sink fixture preventing contamination from overflow from adjacent sink compartments.~~

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.*

4-301.16 Food Preparation Sinks.

(A) Except as specified in ¶ (B), in NEW FOOD ESTABLISHMENTS and at the time of change in OPERATOR of an existing FOOD ESTABLISHMENT that has FOOD items that require washing or thawing a separate sink for FOOD PREPARATION that meets the requirements specified in §§ 4-205.11, 5-202.13 and 5-402.11 shall be provided.

(B) *EXISTING FOOD ESTABLISHMENTS needing a sink to PREPARE, wash or thaw FOOD as specified in 3-302.15 and 3-501.13(B), may use a SANITIZING compartment of a WAREWASH sink provided the following conditions are met:*

(1) The installation of a separate FOOD PREPARATION sink would not be possible because adequate space is not available;

(2) The sanitizer sink compartment is discharged via air gap as specified in § 5-402.11;

(3) APPROVAL is obtained from the REGULATORY AUTHORITY to use the SANITIZER sink compartment for FOOD PREPARATION ; and

(4) Cleaned and SANITIZED as specified in 4-501.16(B).

Note: When a food preparation compartment is an integral part of a multi-compartment scullery sink, a suitable insert or utensil shall be used in the food preparation sink compartment to prevent cross contamination from adjacent compartments. A suitable insert or utensil is one that terminates above the rim of the compartment preventing contamination caused by overflow from adjacent sink compartments.

Utensils, Temperature Measuring Devices, and Testing Devices

4-302.11 Utensils, Consumer Self-Service.

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

4-302.12 Food Temperature Measuring Devices.

(A) FOOD TEMPERATURE MEASURING DEVICES shall be provided and readily accessible for use in ensuring attainment and maintenance of FOOD temperatures as specified under Chapter 3.

(B) A TEMPERATURE MEASURING DEVICE with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH filets.

4-302.13 Temperature Measuring Devices, Manual Warewashing.

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

4-302.14 Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in mg/L of SANITIZING solutions shall be provided.

4-4 LOCATION AND INSTALLATION

Subparts

4-401 Location
4-402 Installation

Location

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

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

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

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

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

(7) Under open stairwells; or

(8) Under other sources of contamination.

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

(C) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed FOOD;

clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

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

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

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

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

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

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

(1) SEALED to the table; or

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

4-402.12 Fixed Equipment, Elevation or Sealing.

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

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

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

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

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

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

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

4-5 MAINTENANCE AND OPERATION

Subparts	
4-501	Equipment
4-502	Utensils and Temperature and Pressure Measuring Devices

Equipment

4-501.11 Good Repair, Proper Adjustment, and Operation.

(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.

(D) ~~Equipment~~ EQUIPMENT shall be used and operated in accordance with the manufacturers' instructions and as listed and tested unless APPROVED by the REGULATORY AUTHORITY.

4-501.12 Cutting Surfaces.

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

4-501.13 Microwave Ovens.

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

4-501.14 Warewashing Equipment, Cleaning Frequency.

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

(A) Before use;

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

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

4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.

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

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

4-501.16 Warewashing Sinks, Use Limitation.

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

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

4-501.17 Warewashing Equipment, Cleaning Agents.

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

4-501.18 Warewashing Equipment, Clean Solutions.

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

4-501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual WAREWASHING EQUIPMENT shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.

4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

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

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

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

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

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

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

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.[C]

If immersion in hot water is used for SANITIZING in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above.

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

(A) Except as specified in ¶ (B) of this section, in a mechanical operation, the temperature of the fresh hot water SANITIZING rinse as it enters the manifold may not be more than 90°C (194°F), or less than:

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

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

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

4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water SANITIZING rinse in a WAREWASHING machine may not be less than 100 kilopascals (15 pounds per square inch) or more than 170 kilopascals (25 pounds per square inch) as measured in the water line immediately downstream or upstream from the fresh hot water SANITIZING rinse control valve.

4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness.[c]

A chemical SANITIZER used in a SANITIZING solution for a manual or mechanical operation at exposure times specified under ¶4-703.11(C) shall be APPROVED ~~by department of health and family services~~ as specified in § 7-204.11; shall be used in accordance with approved manufacturer's label use instructions; and shall be used as follows:

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

Minimum Concentration	Minimum Temperature	
mg/L	pH 10 or less °C (°F)	pH 8 or less °C (°F)
25	49 (120)	49 (120)
50	38 (100)	24 (75)
100	13 (55)	13 (55)

(B) An iodine solution shall have a:

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

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

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

(C) A quaternary ammonium compound solution shall:

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

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

(3) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label;

(D) If another solution of a chemical specified under ¶¶ (A)-(C) of this section is used, the PERMIT HOLDER shall demonstrate to the DEPARTMENT that the solution achieves

SANITIZATION and the use of the solution shall be APPROVED.

4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers.

If a detergent-SANITIZER is used to SANITIZE in a cleaning and SANITIZING procedure where there is no distinct water rinse between the washing and SANITIZING steps, the agent applied in the SANITIZING step shall be the same detergent-SANITIZER that is used in the washing step.

4-501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration.

Concentration of the SANITIZING solution shall be accurately determined by using a test kit or other device.

Utensils and Temperature and Pressure Measuring Devices

4-502.11 Good Repair and Calibration.

(A) UTENSILS shall be maintained in a state of repair or condition that complies with the requirements specified under Parts 4-1 and 4-2 or shall be discarded.

(B) FOOD TEMPERATURE MEASURING DEVICES shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(C) Ambient air temperature, water pressure, and water TEMPERATURE MEASURING DEVICES shall be maintained in good repair and be accurate within the intended range of use.

4-502.12 Single-Service and Single-Use Articles, Required Use.[C]

A FOOD ESTABLISHMENT without facilities specified under Parts 4-6 and 4-7 for cleaning and SANITIZING kitchenware and TABLEWARE shall provide only SINGLE-USE KITCHENWARE, SINGLE-SERVICE ARTICLES, and SINGLE-USE ARTICLES for use by FOOD EMPLOYEES and SINGLE-SERVICE ARTICLES for use by CONSUMERS.

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

(A) SINGLE-SERVICE and SINGLE-USE ARTICLES may not be reused.

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

4-502.14 Shells, Use Limitation.

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

4-6 CLEANING OF EQUIPMENT AND UTENSILS

Subparts

4-601	**Objective**
4-602	**Frequency**
4-603	**Methods**

Objective

4-601.11 Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.[C]

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be clean to sight and touch.

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

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

Frequency

4-602.11 Equipment Food-Contact Surfaces and Utensils.[C]

(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~~ FISH, lamb, pork, or ~~poultry~~ POULTRY;

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

(3) Between uses with raw fruits and vegetables and with POTENTIALLY HAZARDOUS FOOD;

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

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

(B) *Subparagraph (A)(1) of this section does not apply if the FOOD-CONTACT SURFACE or UTENSIL is in contact with a succession of different raw animal FOODS each requiring a higher cooking temperature as specified under § 3-401.11 than the previous FOOD, such as preparing raw FISH followed by cutting raw POULTRY on the same cutting board*.

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

(D) *Surfaces of UTENSILS and EQUIPMENT contacting POTENTIALLY HAZARDOUS FOOD may be cleaned less frequently than every 4 hours if:*

(1) *In storage, containers of POTENTIALLY HAZARDOUS FOOD and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;*

(2) *UTENSILS and EQUIPMENT are used to prepare FOOD in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:*

(a) The UTENSILS and EQUIPMENT are cleaned at the frequency in the following chart that corresponds to the temperature:

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours

>5.0°C - 7.2°C (>41°F - 45°F)	20 hours
>7.2°C - 10.0°C (>45°F - 50°F)	16 hours
>10.0°C - 12.8°C (>50°F - 55°F)	10 hours

; and

(b) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the FOOD ESTABLISHMENT.

(3) *Containers in serving situations such as salad bars, delis, and cafeteria lines hold READY-TO-EAT POTENTIALLY HAZARDOUS FOOD that is maintained at the temperatures specified under Chapter 3, are intermittently combined with additional supplies of the same FOOD that is at the required temperature, and the containers are cleaned at least every 24 hours;*

(4) *TEMPERATURE MEASURING DEVICES are maintained in contact with FOOD, such as when left in a container of deli FOOD or in a roast, held at temperatures specified under Chapter 3;*

(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; or*

(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 ~~60~~ 57.2°C (~~140~~ 135°F) or more and the UTENSILS and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(E) *Except when dry cleaning methods are used as specified under § 4-603.11*, surfaces of UTENSILS and EQUIPMENT contacting FOOD that is not POTENTIALLY HAZARDOUS shall be cleaned:[N]

(1) At any time when contamination may have occurred;

(2) At least every 24 hours for iced tea dispensers and CONSUMER self-service UTENSILS such as tongs, scoops, or ladles;

(3) Before restocking CONSUMER self-service EQUIPMENT and UTENSILS such as condiment dispensers and display containers;

(4) In EQUIPMENT such as ice bins and BEVERAGE dispensing nozzles and enclosed

components of EQUIPMENT such as ice makers, cooking oil storage tanks and distribution lines, BEVERAGE and syrup dispensing lines or tubes, coffee bean grinders, and water vending EQUIPMENT:

(a) At a frequency specified by the manufacturer, or

(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

4-602.12 Cooking and Baking Equipment.

(A) The FOOD-CONTACT SURFACES of cooking and baking EQUIPMENT shall be cleaned at least every 24 hours. *This section does not apply to hot oil cooking and filtering EQUIPMENT if it is cleaned as specified in Subparagraph 4-602.11(D)(6)*.

(B) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

4-602.13 Nonfood-Contact Surfaces.

NonFOOD-CONTACT SURFACES of EQUIPMENT shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

Methods

4-603.11 Dry Cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry FOOD residues that are not POTENTIALLY HAZARDOUS.

(B) Cleaning EQUIPMENT used in dry cleaning FOOD-CONTACT SURFACES may not be used for any other purpose.

4-603.12 Precleaning.

(A) FOOD debris on EQUIPMENT and UTENSILS shall be scrapped over a waste disposal unit~~, scupper,~~ or garbage receptacle or shall be removed in a WAREWASHING machine with a prewash cycle.

(B) If necessary for effective cleaning, UTENSILS and EQUIPMENT shall be preflushed, presoaked, or scrubbed with abrasives.

4-603.13 Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a WAREWASHING machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes the items to the unobstructed spray from all cycles; and

(B) Allows the items to drain.

4-603.14 Wet Cleaning.

(A) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

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

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

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

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

(B) EQUIPMENT components and UTENSILS shall be scrapped or rough cleaned to remove FOOD particle accumulation; and

(C) EQUIPMENT and UTENSILS shall be washed as specified under ¶ 4-603.14(A).

4-603.16 Rinsing Procedures.

Washed UTENSILS and EQUIPMENT shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-SANITIZER solution by using one of the following procedures:

(A) Use of a distinct, separate water rinse after washing and before SANITIZING if using:

(1) A 3-compartment sink,

(2) Alternative manual WAREWASHING EQUIPMENT equivalent to a 3-compartment sink as specified in ¶ 4-301.12(C), or

(3) A 3-step washing, rinsing, and SANITIZING procedure in a WAREWASHING system for CIP EQUIPMENT;

(B) Use of a detergent-SANITIZER as specified under § 4-501.115 if using:

(1) Alternative WAREWASHING EQUIPMENT as specified in ¶ 4-301.12(C) that is APPROVED for use with a detergent-SANITIZER, or

(2) A WAREWASHING system for CIP EQUIPMENT;

(C) Use of a nondistinct water rinse that is integrated in the hot water SANITIZATION immersion step of a 2-compartment sink operation;

(D) If using a WAREWASHING machine that does not recycle the SANITIZING solution as specified under ¶ (E) of this section, or alternative manual WAREWASHING EQUIPMENT such as sprayers, use of a nondistinct water rinse that is:

(1) Integrated in the application of the SANITIZING solution, and

(2) Wasted immediately after each application; or

(E) If using a WAREWASHING machine that recycles the SANITIZING solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the SANITIZING solution.

4-603.17 Returnables, Cleaning for Refilling.[C]

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

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

(1) *Only a BEVERAGE that is not a POTENTIALLY HAZARDOUS FOOD 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*~~ *A* FOOD *EMPLOYEE of the FOOD ESTABLISHMENT, or*

(b) *The owner of the container if the BEVERAGE system includes a contamination-free transfer process that can not be bypassed by the container owner.*

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

4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

Subparts

4-701 Objective
4-702 Frequency
4-703 Methods

Objective **4-701.10 Food-Contact Surfaces and Utensils.**

EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED.

Frequency **4-702.11 Before Use After Cleaning.[c]**

UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT shall be SANITIZED before use after cleaning.

Methods **4-703.11 Hot Water and Chemical.[c]**

After being cleaned, EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED in:

(A) Hot water manual operations by immersion for at least 30 seconds as specified under § 4-501.111;

(B) Hot water mechanical operations by being cycled through EQUIPMENT that is set up as

specified under §§ 4-501.15, 4-501.112, and 4-501.113 and achieving a UTENSIL surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; or

(C) Chemical manual or mechanical operations, including the application of SANITIZING chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under §§ 4-501.114 by providing:

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

(2) An exposure time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of 8 or less and a temperature of at least 24°C (75°F),

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

(4) An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields SANITIZATION as defined in Subparagraph 1-201.10(B)(72).

4-8 LAUNDERING

Subparts

4-801 Objective
4-802 Frequency
4-803 Methods

Objective **4-801.11 Clean Linens.**

Clean LINENS shall be free from FOOD residues and other soiling matter.

Frequency **4-802.11 Specifications.**

(A) LINENS that do not come in direct contact with FOOD shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in ¶ 3-304.15(D) shall be laundered before being used with a different type of raw animal FOOD such as beef, lamb, pork, and FISH.

(C) LINENS and napkins that are used as specified under § 3-304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of FOOD and clean serving UTENSILS.

Methods **4-803.11 Storage of Soiled Linens.**

Soiled LINENS shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of FOOD, clean EQUIPMENT, clean UTENSILS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

4-803.12 Mechanical Washing.

(A) Except as specified in ¶ (B) of this section, LINENS shall be mechanically washed.

(B) *In FOOD ESTABLISHMENTS in which only wiping cloths are laundered as specified in ¶ 4-301.15(B), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a WAREWASHING sink that is cleaned as specified under § 4-501.14.*

4-803.13 Use of Laundry Facilities.

(A) Except as specified in ¶ (B) of this section, laundry facilities on the PREMISES of a FOOD ESTABLISHMENT shall be used only for the washing and drying of items used in the operation of the establishment.

(B) *Separate laundry facilities located on the PREMISES for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering FOOD ESTABLISHMENT items.*

4-9	PROTECTION OF CLEAN ITEMS
	Subparts
	4-901 Drying
	4-902 Lubricating and Reassembling
	4-903 Storing
	4-904 Handling

Drying

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

After cleaning and SANITIZING, EQUIPMENT and UTENSILS:

(A) Shall be air-dried or used after adequate draining, before contact with FOOD; and

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

4-901.12 Wiping Cloths, Air-Drying Locations.

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

Lubricating and Reassembling

4-902.11 Food-Contact Surfaces.

Lubricants shall be applied to FOOD-CONTACT SURFACES that require lubrication in a manner that does not contaminate FOOD-CONTACT SURFACES.

4-902.12 Equipment.

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

Storing

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

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

(1) In a clean, dry location;

(2) Where they are not exposed to splash, dust, or other contamination; and

(3) At least 15 cm (6 inches) above the floor.

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

(1) In a self-draining position that allows air drying; and

(2) Covered or inverted.

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

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

4-903.12 Prohibitions.

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

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

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

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

(7) Under open stairwells; or

(8) Under other sources of contamination.

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

Handling

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.

IF TABLEWARE is preset:

(A) It shall be protected from contamination by being wrapped, covered, or inverted;

(B) Exposed, unused settings shall be removed when a CONSUMER is seated; or

(C) Exposed, unused settings shall be cleaned and SANITIZED before further use if the settings are not removed when a CONSUMER is seated.

Chapter 5
Water, Plumbing, and Waste

Parts

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

5-1 WATER

Subparts

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

Source

5-101.11 Approved System.[c]

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

(A) A PUBLIC WATER SYSTEM; or

(B) A nonPUBLIC WATER SYSTEM that is located on PREMISE and constructed, maintained, and operated according to ch. NR 809, Safe Drinking Water and ch. NR 812, Well Construction and Pump Installation as enforced by the department of natural resources.

5-101.12 System Flushing and Disinfection.[c]

~~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, as specified in Comm 82.40(8)(i).~~

All water supply systems shall be flushed and disinfected as per the State Uniform Plumbing Code in Comm 81 to 87 whenever a water supply system is put into service after installation, replacement, repair, a period of stagnation or any other situation that may contaminate the water supply system.

Note: Contact the Safety and Building Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY).or http://www.commerce.state.wi.us/SB/.

5-101.13 Bottled Drinking Water.[c]

BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources in accordance with ATCP 70 relating to Processing and Bottling of Bottled DRINKING WATER.

Quality

5-102.11 Standards.[C]

Except as specified under § 5-102.12: Water from a PUBLIC WATER SYSTEM or nonpublic water system shall meet the requirements of ch. NR 809, Safe Drinking Water governing standards for safe drinking water as enforced by the department of natural resources.

Note: You can contact he department of natural resources at Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI, 53707, or by calling 608-266-6699 or http://www.dnr.state.wi.us/environmentprotect/water.html.

5-102.12 Nondrinking Water.[C]

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

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

5-102.13 Sampling.

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

5-102.14 Sample Report.

The most recent sample report for each nonPUBLIC WATER SYSTEM serving the FOOD ESTABLISHMENT shall be retained on file at the FOOD ESTABLISHMENT and made available for inspection when requested.

Quantity and Availability

5-103.11 Capacity.[C]

(A) The water source and system shall be of sufficient capacity to meet the peak water demands of the FOOD ESTABLISHMENT.

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

5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, EQUIPMENT, and nonFOOD EQUIPMENT that are required to use water *except that water supplied as specified under ¶¶ 5-104.12(A) and (B) to a TEMPORARY FOOD ESTABLISHMENT as specified in ¶ 10-104.11(B)or in response to a temporary interruption of a water supply need not be under pressure*.

Distribution Delivery, and Retention

5-104.11 System.

Water shall be received from the source through the use of:

(A) An APPROVED public water main; or

(B) A nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances, which shall be constructed, maintained, and operated according to ~~chs. Comm 82~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce, and chs. NR 809, Safe Drinking Water and NR 812, Well Construction and Pump Installation as enforced by ~~the department of commerce and~~ the Wisconsin department of natural resources:

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151, and 711 (TTY) or http://www.commerce,state,wi,us/SB/

Note: You can contact the Department of Natural Resources at Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI, 53707, or by calling 608-266-6699 or http://www.dnr.state.wi.us/environmentprotect/water.html

5-104.12 Alternative Water Supply.

Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a TEMPORARY FOOD ESTABLISHMENT without a permanent water supply, and for a FOOD ESTABLISHMENT with a temporary interruption of its water supply through:

(A) A supply of containers of commercially BOTTLED DRINKING WATER;

(B) One or more closed portable water containers;

(C) An enclosed vehicular water tank;

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

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

5-2 PLUMBING SYSTEM

Subparts

5-201	**Materials**
5-202	**Design, Construction, and Installation**
5-203	**Numbers and Capacities**
5-204	**Location and Placement**
5-205	**Operation and Maintenance**

Materials

5-201.11 Approved.[C]

(A) A PLUMBING SYSTEM and hoses conveying water shall be constructed and repaired with APPROVED materials according to ~~Comm 82 to 86~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce.

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

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

Design, Construction, and Installation

5-202.11 Approved System and Cleanable Fixtures.[C]

(A) A PLUMBING SYSTEM shall be designed, constructed, installed and maintained to conform to ~~Comm 82 to 86~~, chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce.

(B) A PLUMBING FIXTURE~~, such as a handwashing lavatory, toilet, or urinal shall be EASILY CLEANABLE~~ and appliances shall be designed, constructed, installed and maintained to conform to chs. Comm 81 to 87, the State Uniform Plumbing Code, as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

5-202.12 ~~Handwashing Lavatory~~ Handsink, Water Temperature, and Flow.

(A) A ~~handwashing lavatory~~ handsink shall be equipped to provide water at a temperature of at least 29°C (85°F) and no more then 43.3°C (110°F) through a mixing valve or combination faucet.

(B) A steam mixing valve may not be used at a ~~handwashing lavatory~~ handsink.

(C) A ~~handwashing lavatory~~ handsink:

(1) At a newly constructed FOOD ESTABLISHMENT when a handsink, or sink faucet is replaced or installed it shall have a faucet of the type which is not hand operated.

(2) That is equipped with a self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

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

5-202.13 Backflow Prevention, Air Gap.[c]

An air gap between the water supply inlet and the flood level rim of the PLUMBING FIXTURE, EQUIPMENT, or nonFOOD EQUIPMENT shall comply with ~~Comm 82.41 (5) (a),~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY) or http://www.commerce.state.wi.us/SB/.

5-202.14 Backflow Prevention Device, Design Standard.

A backflow or backsiphonage prevention device installed on a water supply system shall meet standards for construction, installation, maintenance, inspection, and testing as specified by ~~Comm 82.41~~ chs. Comm 81 to 87; the State Uniform PlumbingCode, as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

5-202.15 Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

Numbers and Capacities

5-203.11 ~~Handwashing Lavatory~~ Handsink.[c]

(A) Except as specified in ¶¶ (B) and (C) of this section, at least 1 ~~handwashing lavatory~~ handsink, a number of ~~handwashing lavatories~~ handsinks necessary for their convenient

use by FOOD EMPLOYEES in areas specified under '§ 5-204.11, and not fewer than the number of ~~handwashing lavatories~~ handsinks required by LAW shall be provided.

(B) *If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, automatic handwashing facilities may be substituted for ~~handwashing lavatories~~ handsinks in a FOOD ESTABLISHMENT that has at least one ~~handwashing lavatory~~ handsink.*

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

5-203.12 Toilets and Urinals.[C]

The number of toilet rooms and fixtures in FOOD ESTABLISHMENTS and the ventilation of toilet rooms shall be as required ~~under ss. Comm 52.50 to 52.64, 54.12 and 55.32~~ by chs. Comm 61 to 65, the Wisconsin Commercial Building Code as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

5-203.13 Service Sink.

At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

5-203.14 Backflow Prevention Device, When Required.[C]

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~~ as required by chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce, by:

(A) Providing an air gap as specified under § 5-202.13; or

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

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

5-203.15 Backflow Prevention Device, Carbonator.[C]

An approved double check valve with an intermediate vent conforming to ~~the state plumbing code~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.

Location and Placement

5-204.11 ~~Handwashing Lavatory~~ Handsink.[C]

A ~~handwashing lavatory~~ handsink shall be located:

(A) To allow convenient use by FOOD EMPLOYEES in FOOD PREPARATION, FOOD dispensing, and WAREWASHING areas; and

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

5-204.12 Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

5-204.13 Conditioning Device, Location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

Operation and Maintenance

5-205.11 Using a ~~Handwashing Lavatory~~ Handsink.

(A) A ~~handwashing lavatory~~ handsink shall be maintained so that it is accessible at all times for FOOD EMPLOYEES use.

(B) A ~~handwashing lavatory~~ handsink may not be used for purposes other than handwashing except as specified in 2-301.15.

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

5-205.12 Prohibiting a Cross Connection.[C]

(A) *Except as specified in 9 CFR 308.3(d) for firefighting*, a PERSON may not create a cross connection by connecting a pipe or conduit between the DRINKING WATER system and a nonDRINKING WATER SYSTEM or a water system of unknown quality.

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

5-205.13 Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the PERSON IN CHARGE.

5-205.14 Water Reservoir of Fogging Devices, Cleaning.[C]

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications; and

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

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts;

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

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

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

5-205.15 System Maintained in Good Repair.[c]

A PLUMBING SYSTEM shall be:

(A) Repaired according to ~~Comm 82~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce; and

(B) Maintained in good repair.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY) or http://www.commerce.state.wi.us/SB/.

5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK

Subparts

5-301 Materials
5-302 Design and Construction
5-303 Numbers and Capacities
5-304 Operation and Maintenance

Materials

5-301.11 Approved.

Materials that are used in the construction of a mobile water tank, MOBILE FOOD ESTABLISHMENT water tank, and appurtenances shall be:

(A) Safe;

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

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

Design and Construction

5-302.11 Enclosed System, Sloped to Drain.

A mobile water tank shall be:

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

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

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

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

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

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

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

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

5-302.13 ”V” Type Threads, Use Limitation.

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

5-302.14 Tank Vent, Protected.

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

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

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

5-302.15 Inlet and Outlet, Sloped to Drain.

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

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

5-302.16 Hose, Construction and Identification.

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

(A) Safe;

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

(C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

(D) Finished with a SMOOTH interior surface; and

(E) Clearly and durably identified as to its use if not permanently attached.

Numbers and Capacities

5-303.11 Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and DRINKING WATER system when compressed air is used to pressurize the water tank system.

5-303.12 Protective Cover or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other APPROVED protective cover or device shall be provided for a water inlet, outlet, and hose.

5-303.13 Mobile Food Establishment Tank Inlet.

A MOBILE FOOD ESTABLISHMENT'S water tank inlet shall be:

(A) 19.1 mm (three-fourths inch) in inner diameter or less; and

(B) Provided with a hose connection of a size or type that will prevent its use for any other service.

Operation and Maintenance

5-304.11 System Flushing and Disinfection.[c]

A water tank, pump, and hoses shall be flushed and SANITIZED before being placed in service after construction, repair, modification, and periods of nonuse.

5-304.12 Using a Pump and Hoses, Backflow Prevention.

A PERSON shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

5-304.13 Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under § 5-303.12.

5-304.14 Tank, Pump, and Hoses, Dedication.

(A) Except as specified in ¶ (B) of this section, a water tank, pump, and hoses used for conveying DRINKING WATER shall be used for no other purpose.

(B) *Water tanks, pumps, and hoses APPROVED for liquid FOODS may be used for conveying DRINKING WATER if they are cleaned and SANITIZED before they are used to convey water.*

5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

Subparts

5-401 Mobile Holding Tank
5-402 Retention, Drainage, and Delivery
5-403 Disposal Facility

Mobile Holding Tank

5-401.11 Capacity and Drainage.

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

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

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

Retention, Drainage, and Delivery

5-402.10 Establishment Drainage System.

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

design, construction and installation

5-402.11 Backflow Prevention.[c]

A direct connection may not exist between the SEWAGE system and a drain originating from EQUIPMENT in which FOOD is placed.

5-402.12 Grease Trap.

If used, a grease trap shall be located to be easily accessible for cleaning as required by ~~Comm 82.34~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the

Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

operation and maintenance

5-402.13 Conveying Sewage.[c]

SEWAGE shall be conveyed to the point of disposal through an APPROVED sanitary SEWAGE system or other system, including use of SEWAGE transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to LAW.

5-402.14 Removing Mobile Food Establishment Wastes.

SEWAGE and other liquid wastes shall be removed from a MOBILE FOOD ESTABLISHMENT at an APPROVED waste SERVICING AREA or by a SEWAGE transport vehicle in such a way that a public health HAZARD or nuisance is not created.

5-402.15 Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

Disposal Facility *design and construction*

5-403.11 Approved Sewage System.[c]

SEWAGE shall be disposed through an APPROVED facility that is:

(A) A public SEWAGE treatment plant; or

(B) A private SEWAGE system that is sized, constructed, maintained, and operated according to ~~Comm 83~~chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711(TTY) or http://www.commerce.state.wi.us/SB/.

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 the requirements of ~~ch. Comm 82~~ chs. Comm 81 to 87, the State Uniform Plumbing Code as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

5-5 REFUSE, RECYCLABLES, AND RETURNABLES

Subparts

5-501 Facilities on the Premises
5-502 Removal
5-503 Facilities for Disposal and Recycling

Facilities on the Premises
materials, design construction, and installation

5-501.10 Indoor Storage Area.

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

5-501.11 Outdoor Storage Surface.

An outdoor storage surface for REFUSE, recyclables, and returnables shall comply with 6-102.11(A).

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.

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

5-501.15 Outside Receptacles.

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

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

numbers and capacities

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

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

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

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

5-501.17 Toilet Room Receptacle, Covered.

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

5-501.18 Cleaning Implements and Supplies.

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

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

location and placement

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

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

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

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

operation and maintenance

5-501.110 Storing Refuse, Recyclables, and Returnables.

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

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

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

5-501.112 Outside Storage Prohibitions.

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

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

5-501.113 Covering Receptacles.

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

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

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

(2) After they are filled; and

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

5-501.114 Using Drain Plugs.

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

5-501.115 Maintaining Refuse Areas and Enclosures.

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

5-501.116 Cleaning Receptacles.

(A) Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, or SINGLE-SERVICE and SINGLE-USE ARTICLES, and waste water shall be disposed of as specified under § 5-402.14.

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

Removal

5-502.11 Frequency.

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

5-502.12 Receptacles or Vehicles.

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

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

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

Facilities for Disposal and Recycling

5-503.11 Community or Individual Facility.

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

Chapter 6

Physical Facilities

Parts

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

6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

6-101 Indoor Areas
6-102 Outdoor Areas

Indoor Areas **6-101.11 Surface Characteristics.**

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

(1) SMOOTH, durable, and EASILY CLEANABLE for areas where FOOD ESTABLISHMENT operations are conducted;

(2) Closely woven and EASILY CLEANABLE carpet for carpeted areas; and

(3) Nonabsorbent for areas subject to moisture such as FOOD PREPARATION areas, walk-in refrigerators, WAREWASHING areas, toilet rooms, MOBILE FOOD ESTABLISHMENT SERVICING AREAS, and areas subject to flushing or spray cleaning methods.

(B) *In a TEMPORARY FOOD ESTABLISHMENT:*

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

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

Outdoor Areas **6-102.11 Surface Characteristics.**

(A) The outdoor walking, driving and REFUSE storage 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 area enclosures for REFUSE, recyclables, or returnables shall be of materials specified under §5-501.12.

6-2 DESIGN, CONSTRUCTION, AND INSTALLATION

Subparts	
6-201	Cleanability
6-202	Functionality

Cleanability

6-201.11 Floors, Walls, and Ceilings.

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

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

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

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

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

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

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

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

6-201.14 Floor Carpeting, Restrictions and Installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in FOOD PREPARATION areas, FOOD storage areas, walk-in refrigerators, WAREWASHING areas, toilet room areas where ~~handwashing lavatories~~ handsinks, 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.

Studs, joists, and rafters may not be exposed in areas subject to moisture. *This requirement does not apply to TEMPORARY FOOD ESTABLISHMENTS*.

6-201.19 Public Entrances and Exits

Public entrances and exits shall be located so that it is not necessary for patrons using the facilities to pass though a FOOD PREPARATION, PROCESSING area, or an area where utensils are washed. This does not prohibit the use of a chef table.

Building Code **6-202.10 Building Construction.**

The FOOD ESTABLIHSMENT shall meet chs. Comm 61 to 65, the Wisconsin Commercial Building Code as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY) or http://www.commerce.state.wi.us/SB/.

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

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

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

(1) *The integrity of the PACKAGES can not 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.

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

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) Restricted so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

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

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

(2) Properly designed and installed air curtains 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.

If located outside, a machine used to vend FOOD shall be provided with overhead protection *except that machines vending canned* BEVERAGES *need not meet this requirement.*

6-202.18 Outdoor ~~Servicing~~ Service Base Areas, Overhead Protection.

~~SERVICING~~ SERVICE BASE areas shall be provided with overhead protection *except that areas used only for the loading of water or the discharge of* SEWAGE *and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.*

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

Exterior walking and driving surfaces shall be graded to drain.

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, except as specified in 3-201.11(B).

6-202.112 Living or Sleeping Quarters, Separation.

Living or sleeping quarters located on the PREMISES of a FOOD ESTABLISHMENT such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for FOOD ESTABLISHMENT operations by complete partitioning and solid self-closing doors.

6-3 NUMBERS AND CAPACITIES

Subparts

6-301	**~~Handwashing Lavatories~~ Handsinks**
6-302	**Toilets and Urinals**
6-303	**Lighting**
6-304	**Ventilation**
6-305	**Dressing Areas and Lockers**
6-306	**Service Sinks**

~~Handwashing~~ **6-301.10 Minimum Number.**

~~Lavatories~~
Handsinks

~~Handwashing lavatory~~ Handsinks shall be provided as specified under § 5-203.11.

6-301.11 Handwashing Cleanser, Availability.

Each ~~handwashing lavatory~~ handsink or group of 2 adjacent ~~lavatories~~ handsinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

6-301.12 Hand Drying Provision.

Each ~~handwashing lavatory~~ handsink or group of adjacent ~~lavatories~~ handsinks shall be provided with:

(A) Individual, disposable towels; or

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

6-301.13 Handwashing Aids and Devices, Use Restrictions.

A sink used for FOOD preparation or UTENSIL washing except as specified in 2-301.15, 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 lavatory~~ handsink 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 lavatories~~ handsinks used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

6-301.20 Disposable Towels, Waste Receptacle.

A ~~handwashing lavatory~~ handsink or group of adjacent ~~lavatories~~ handsinks that ~~is~~ are provided with disposable towels shall be provided with a waste receptacle as specified under ¶ 5-501.16(C).

Toilets and Urinals

6-302.10 Minimum Number.

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

6-302.11 Toilet Tissue, Availability.

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

Lighting

6-303.11 Intensity.

The light intensity shall be:

(A) At least 110 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in dry FOOD storage areas and in other areas and rooms during periods of cleaning;

(B) At least 220 lux (20 foot candles):

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

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

(3) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, WAREWASHING, and EQUIPMENT and UTENSIL storage, in toilet rooms and in walk-in refrigeration units; and

(C) At least 540 lux (50 foot candles) at a surface where a FOOD EMPLOYEE is working with FOOD or working with UTENSILS or EQUIPMENT such as knives, slicers, grinders, or saws where EMPLOYEE safety is a factor.

Ventilation **6-304.11 Mechanical.**

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided. Ventilation systems shall be installed and operated according to ~~ch. Comm 64~~ chs. Comm 61 to 65, the Wisconsin Commercial Building Code as enforced by the Wisconsin department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 608-711 (TTY) or http://www.commerce.state.wi.us/SB/.

Dressing Areas and Lockers **6-305.11 Designation.**

(A) Dressing rooms or dressing areas shall be designated if EMPLOYEES routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of EMPLOYEES' clothing and other possessions.

Service Sinks **6-306.10 Availability.**

A service sink or curbed cleaning facility shall be provided as specified under § 5-203.13.

6-4 LOCATION AND PLACEMENT

Subparts

6-401	**~~Handwashing Lavatories~~ Handsink**
6-402	**Toilet Rooms**
6-403	**Employee Accommodations**
6-404	**Distressed Merchandise**
6-405	**Refuse, Recyclables, and Returnables**

~~Handwashing Lavatories~~ Handsinks **6-401.10 Conveniently Located.**

~~Handwashing lavatories~~ Handsinks shall be conveniently located as specified under § 5-204.11.

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

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

Employee **6-403.11 Designated Areas.**

Accommodations

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

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

Distressed Merchandise

6-404.11 Segregation and Location.

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

Refuse, Recyclables, and Returnables

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

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

6-5 MAINTENANCE AND OPERATION

Subparts

6-501 Premises, Structures, Attachments, and Fixtures - Methods

Premises, Structures, Attachments, and Fixtures - Methods

6-501.11 Repairing.

The PHYSICAL FACILITIES shall be maintained in good repair.

6-501.12 Cleaning, Frequency and Restrictions.

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

(B) Cleaning shall be done during periods when the least amount of FOOD is exposed such as after closing. *This requirement does not apply to cleaning that is necessary due to a spill or other accident.*

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.[C]

FOOD PREPARATION sinks, ~~handwashing lavatories~~ handsinks, and WAREWASHING EQUIPMENT may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

6-501.16 Drying Mops.

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

6-501.17 Absorbent Materials on Floors, Use Limitation.

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

6-501.18 Maintaining and Using Handsinks and Toilet Rooms.

Handsinks shall be kept clean, and maintained and used as specified under § 5-205.11.

6-501.19 Closing Toilet Room Doors.

Toilet room doors as specified under § 6-202.14 shall be kept closed *except during cleaning and maintenance operations*.

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.[C]

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

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

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

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under §§ 7-202.12, 7-206.12, and 7-206.13; and

(D) Eliminating harborage conditions.[N]

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

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

6-501.113 Storing Maintenance Tools.

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

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

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

6-501.114 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.[c]

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

(B) *Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES can not result:*

(1) *Edible FISH or decorative FISH in aquariums, SHELLFISH or crustacea on ice or under refrigeration, and SHELLFISH and crustacea in display tank systems;*

(2) *Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;*

(3) *In areas that are not used for FOOD PREPARATION and that are usually open for customers, such as dining and sales areas, SERVICE ANIMALS that are controlled by the disabled EMPLOYEE or PERSON, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;*

(4) *Pets in the common dining areas of ~~GROUP RESIDENCES~~ 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.*

(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 restricted, such as in a variety store that sells pets or a tourist park that displays animals.

(C) *Live or dead* FISH *bait may be stored if contamination of* FOOD*; clean* EQUIPMENT, UTENSILS, *and* LINENS*; and unwrapped* SINGLE-SERVICE *and* SINGLE-USE ARTICLES *can not result.*

Chapter 7
Poisonous or Toxic Materials

Parts

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

7-1 LABELING AND IDENTIFICATION

Subparts

7-101 Original Containers
7-102 Working Containers

Original Containers

7-101.11 Identifying Information, Prominence.[C]

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

Working Containers

7-102.11 Common Name.[C]

Working containers used for storing POISONOUS OR TOXIC MATERIALS such as cleaners and SANITIZERS taken from bulk supplies shall be clearly and individually identified with the common name of the material.

7-2 OPERATIONAL SUPPLIES AND APPLICATIONS

Subparts

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

Storage

7-201.11 Separation.[C]

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

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

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE or SINGLE-USE ARTICLES. *This paragraph does not apply to EQUIPMENT and UTENSIL cleaners and SANITIZERS that are stored in WAREWASHING areas for availability and convenience if the materials are stored to prevent*

contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

Presence and Use

7-202.11 Restriction.[c]

(A) Only those POISONOUS OR TOXIC MATERIALS that are required for the operation and maintenance of a FOOD ESTABLISHMENT, such as for the cleaning and SANITIZING of EQUIPMENT and UTENSILS and the control of insects and rodents, shall be allowed in a FOOD ESTABLISHMENT.[s]

(B) ¶ *(A) of this section does not apply to PACKAGED POISONOUS OR TOXIC MATERIALS that are for retail sale.*

7-202.12 Conditions of Use.[c]

POISONOUS OR TOXIC MATERIALS shall be:

(A) Used according to:

(1) LAW and this Code,

(2) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a FOOD ESTABLISHMENT,

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

(4) Additional conditions that may be established by the REGULATORY AUTHORITY; and

(B) Applied so that:

(1) A HAZARD to EMPLOYEES or other PERSONS is not constituted, and

(2) Contamination including toxic residues due to drip, drain, fog, splash or spray on FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES is prevented, and for a pesticide, this is achieved by:

(a) Removing the items,

(b) Covering the items with impermeable covers, or

(c) Taking other appropriate preventive actions, and

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

(C) A RESTRICTED USE PESTICIDE shall be applied only by an applicator certified and licensed in accordance to ss. 94.704 and 94.705 Wis. Stats.; and ss. ATCP 29.25 and 29.26 Wis. Adm. Code.

Container Prohibitions

7-203.11 Poisonous or Toxic Material Containers.[c]

A container previously used to store POISONOUS OR TOXIC MATERIALS may not be used to store, transport, or dispense FOOD.

Chemicals

7-204.11 Sanitizers, Criteria.[c]

(A) Chemical SANITIZERS applied to FOOD-CONTACT SURFACEs shall be APPROVED by department of health and family services, and

(B) ~~Chemical SANITIZERS and other chemical antimicrobials applied to FOOD-CONTACT SURFACEs shall be APPROVED by department of health and family services~~ Other chemical antimicrobials applied to FOOD-CONTACT SURFACEs shall meet the requirements specified in 21 CFR 178.1010, "Sanitizing solutions".

7-204.12 Chemicals for Washing Fruits and Vegetables, Criteria.[C]

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 lye peeling of fruits and vegetables.

7-204.13 Boiler Water Additives, Criteria.[C]

Chemicals used as boiler water ADDITIVES shall meet the requirements specified in 21 CFR 173.310 Boiler Water Additives.

7-204.14 Drying Agents, Criteria.[C]

Drying agents used in conjunction with SANITIZATION shall:

(A) Contain only components that are listed as one of the following:

(1) Generally recognized as safe for use in FOOD as specified in 21 CFR 182 - Substances Generally Recognized as Safe, or 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe,

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

(3) Approved for use as a drying agent under a prior sanction specified in 21 CFR 181 - Prior-Sanctioned Food Ingredients,

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

(5) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; and

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

Lubricants

7-205.11 Incidental Food Contact, Criteria.[C]

Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental FOOD contact, if they are used on FOOD-CONTACT SURFACES, on bearings and gears located on or within FOOD-CONTACT SURFACES, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES.

Pesticides

7-206.11 Pesticides Use, Criteria.[C]

(A) All pesticides shall be used in accordance with the Federal Insecticide, Fungicide and Rodenticide Act and the applicable Code of Federal Regulations, and with ch. 94, Wis. Stats. and ch. ATCP 29, Wis. Adm. Code.

(B) RESTRICTED USE PESTICIDES specified under ¶ 7-202.12(C) shall meet the requirements of ch. ATCP 29, of Wis. Adm. Code.

7-206.12 Rodent Bait Stations.[C]

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

7-206.13 Tracking Powders, Pest Control and Monitoring.[C]

(A) A tracking powder pesticide may not be used in a FOOD ESTABLISHMENT.

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.[N]

Medicines

7-207.11 Restriction and Storage.[C]

(A) Only those medicines that are necessary for the health of EMPLOYEES shall be allowed in a FOOD ESTABLISHMENT. *This section does not apply to medicines that are stored or displayed for retail sale.*

(B) Medicines that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be labeled as specified under § 7-101.11 and located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

7-207.12 Refrigerated Medicines, Storage.[C]

Medicines belonging to EMPLOYEES or to children in a day care center that require refrigeration and are stored in a FOOD refrigerator shall be:

(A) Stored in a PACKAGE or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and

(B) Located so they are inaccessible to children.

First Aid Supplies

7-208.11 Storage.[C]

First aid supplies that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be:

(A) Labeled as specified under § 7-101.11;[S] and

(B) Stored in a kit or a container that is located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, and LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.[S]

Other Personal Care Items

7-209.11 Storage.

Except as specified under §§ 7-207.12 and 7-208.11, EMPLOYEES shall store their PERSONAL CARE ITEMS in facilities as specified under ¶ 6-305.11(B).

7-3	**STOCK AND RETAIL SALE**
	Subpart
	7-301 Storage and Display

Storage and Display

7-301.11 Separation.[c]

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

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

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE or SINGLE-USE ARTICLES.

Chapter 8
Public Toilet Rooms

Parts

8-1 NUMBERS, AND CAPACITIES.
8-2 SUPERVISION, MAINTENANCE AND LOCATION
8-3 HANDWASHING FACILITIES

8-1 NUMBERS, AND CAPACITIES.

Subparts

8-101 Public Toilet Rooms

Numbers Capacities

8-101.11 Toilet Rooms Required.

The number of toilet rooms and fixtures in a FOOD ESTABLISHMENT and the required ventilation of toilet rooms shall ~~be required under ss. Comm 52.50 to 52.64, 54.12 and 55.32~~ meet the requirements specified by chs. Comm 61 t0 65, the Wisconsin Commercial Building Code and enforced by department of commerce.

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

8-101.12 Carry Out Food Establishments

Carry out FOOD ESTABLISHMENT with no on-PREMISE dining that allow customers to enter the establishment shall provided a toilet room for the public as specified by chs. Comm 61 to 65, the Wisconsin Commercial Building Code and enforced by department of commerce..

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/.

8-101.13 Drive-In Food Establishment

Toilet fixture requirements at drive-in FOOD ESTABLISHMENTS shall be based on 2¼ customers per car stall.

8-2 SUPERVISION, MAINTENANCE AND LOCATION

Subparts

8-201 Supervision

Control

8-201.11 Control of Operator.

Toilet rooms shall be under the supervision of the FOOD ESTABLISHMENT OPERATOR.

Enclosures

8-201.12 Enclosures.

Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid

doors which shall be closed except during cleaning or maintenance as specified in ss. 6-202.14 and 6-501.19.

8-201.13 Location.

(A) Public toilet rooms shall be located so that it is not necessary for patrons using the facilities to pass though a FOOD PREPARATION, PROCESSING, serving or storage areas or an area where UTENSILS are washed.

(B) All public toilet rooms at new or substantially remodeled FOOD ESTABLISHMENT shall be readily available to the patrons of the FOOD ESTABLISHMENT.

8-201.14 Outside Entrances.

Outside entrances to toilet rooms are not permitted, except that FOOD ESTABLISHMENT having only outside seating may use toilet facilities with outside entrances if the toilet facilities are readily accessible to patrons.

8-201.15 Sex Designation.

The door leading into each toilet room as specified ~~Comm 52.52~~, by chs. Comm 61 to 65, the Wisconsin Commercial Building Code, shall be marked to identify whether it is for men or women. ~~Words such as "MEN" or "WOMEN" shall be in letters not less than one inch high. Symbols may be used in place of words or in addition to words. Where a single toilet room is provided for use by either sex, the toilet room may be marked as "UNISEX".~~

Note: Contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 608-711 (TTY). or http://www.commerce.state.wi.us/SB/.

8-201.16 Waste Receptacles.

(A) EASILY CLEANABLE receptacles shall be provided for waste materials.

(B) Toilet rooms used by women shall be provided with a waste receptacle as specified in § 5-501.17.

Maintained **8-201.17 Toilet Maintenance.**

Public toilet rooms shall:

(A) Have a supply of toilet tissue available at each toilet.

(B) Clean and good repair.

8-3 HANDWASHING.

Subpart

8-301 Located and Equipped

Storage and Display **8-301.11 Handwashing facilities**.

Handwashing facilities shall be:

(A) Located in all public toilet rooms.

(B) Equipped to provide water at a temperature as specified §5-202.12.

(C) Provided with soap and single~~-service towels for drying hands. Approved electric hand dryers may be used as limited by s. Comm 52.60 (3)~~use hand drying devices.

(D) Public Handwash Facilities used by FOOD EMPLOYEES shall comply ¶5-202.12(C).

Chapter 9
Mobile Food Establishments

Parts

9-1 GENERAL REQUIREMENTS
9-2 WATER SUPPLY
9-3 LIQUID WASTE
9-4 PUSHCARTS
9-5 OPERATION AND INSTALLATION
~~**9-6 TOILET FACILITIES**~~

9-1 GENERAL REQUIREMENTS.

Subparts

9-101 Applicable Rules
9-102 Restricted Operation
9-103 Service Base
9-104 Boundary of Operation

9-101.10 Applicable Rules.

In addition to the specific requirements of this chapter, Chapter 1 through Chapter 7 apply to MOBILE FOOD ESTABLISHMENTS as applicable.

Warewashing

9-102.11 Restricted Operation.

MOBILE FOOD ESTABLISHMENTS meeting the following conditions are not required to have WAREWASHING EQUIPMENT as specified in Chapter 4 if:

(A) FOOD is limited to PREPACKAGED FOOD items and BEVERAGES dispensed in single servings from covered urns or other protected EQUIPMENT.

(B) Handwash facilities are available on the mobile unit.

(C) Required WAREWASHING EQUIPMENT is available at the SERVICE BASE; and

(D) UTENSILS and serving EQUIPMENT are limited to SINGLE-SERVICE ARTICLES only.

9-103.11 Service Base.

Every MOBILE FOOD ESTABLISHMENT shall have a SERVICE BASE of operations consisting of:

(A) Except as provided in ¶(D) of this section, an enclosed building of sufficient size to accommodate mobile units for servicing, cleaning, inspection and maintenance.

(B) An APPROVED water supply as specified in §§5-101.11 and 5-104.11 and 5-104.12.

(C) APPROVED facilities for liquid waste disposal as specified in §5-403.11.

(D) If APPROVED by the DEPARTMENT ~~or its AGENT~~, an enclosed building as specified in ¶(A) of this section, may not be required as a SERVICE BASE if it can be demonstrated that the lack of

such a building will not interfere with the sanitary operation or servicing, cleaning, inspection and maintenance of the MOBILE FOOD ESTABLISHMENT.

9-104.11 Boundary Of Operation.

(A) Except as in (D) of this section, each MOBILE FOOD ESTABLISHMENT shall return to its SERVICE BASE not less than once in each 24 hours for servicing and maintenance and more often if necessary.

(B) Itineraries of each MOBILE FOOD ESTABLISHMENT shall be available at the SERVICE BASE.

(C) On request of a representative of the DEPARTMENT, each MOBILE FOOD ESTABLISHMENT shall be made available for inspection for a pre-arranged period of not less than one hour between 8 a.m. and 5 p.m. at the SERVICE BASE. A MOBILE FOOD ESTABLISHMENT shall also be open to inspection by a DEPARTMENT representative at any time while it is in operation.

(D) If APPROVED by the DEPARTMENT, a MOBILE FOOD ESTABLISHMENT may not be required to return to the base every 24 hours if it can be shown that the FOOD ESTABLISHMENT can operate in a safe and sanitary manner for a longer period of time.

9-2 WATER SUPPLY

Subparts

9-201 Watering Point
9-202 Storage Tank

Water Supply **9-201.11 Water Point.**

(A) DRINKING WATER for the MOBILE FOOD ESTABLISHMENT shall be obtained from the SERVICE BASE and the vehicle shall return to the SERVICE BASE whenever the amount of water in storage does not equal at least 3.8 liters (1 gallon).

(B) The watering point for the MOBILE FOOD ESTABLISHMENT shall consist of a threaded tap installed and maintained in a manner that will assure protection against contamination.

(C) Hoses used for conveying DRINKING WATER shall be constructed and maintained as specified in §5-302.16.

Capacity **9-202.11 Water Storage Tank.**

(A) Every MOBILE FOOD ESTABLISHMENT shall be equipped with a gravity or pressurized water storage tank.

(B) The water storage tank shall be sized as specified in §5-103.11, but no smaller than the following:

(1) A MOBILE FOOD ESTABLISHMENT that serves BEVERAGES or FOOD or reheats PREPARED FOODS shall have a water storage tank with a capacity of at least 38 liters (10 gallons) for FOOD EMPLOYEE handwashing.

(2) A FOOD pushcart shall have a water storage tank with a minimum capacity of 19 liters (5 gallons) for handwashing.

(3) A MOBILE FOOD ESTABLISHMENT that PREPARES FOOD or BEVERAGES on the unit shall have a water storage tank with a capacity of at least 151 liters (40 gallons) for handwashing, UTENSIL washing and SANITIZING purposes.

(C) The water storage tank shall be constructed and maintained as specified in subchapter 5-3 and shall be:

(1) Constructed of at least 14-gauge metal or other durable FOOD grade material.

(2) Provided with a glass-sight gauge graduated to read water volume in gallons or liters.

(3) Equipped with a threaded opening on the inlet line or on the tank with a locking device for flushing and SANITIZING the tank.

(4) Flushed and SANITIZED as specified §5-304.11.

9-3	**LIQUID WASTE**	
	Subpart	
	9-301	**Waste Storage Tank**
	9-302	**Construction and Maintenance**
	9-303	**Disposal**

Storage Tank **9-301.11 Waste Storage Tank.**

Every MOBILE FOOD ESTABLISHMENT shall have a wastewater storage tank as specified in part 5-4.

9-302.11 Construction and Maintenance.

A MOBILE FOOD ESTABLISHMENT waste storage tank shall be:

(A) Constructed of metal of at least 14-gauge thickness, or other durable smooth surface material.

(B) Equipped with a discharge connection having a tight closing valve consisting of a minimum of 1½ inch half-union attachment for gravity draining.

(C) The valve specified in ¶(B) of this section shall be located between the attachment and tank proper.

(D) The waste storage tank shall be maintained in a sanitary condition.

9-303.11 Disposal.

(A) Every SERVICE BASE shall have an APPROVED sanitary septic system for sanitary disposal of liquid waste from the from the MOBILE FOOD ESTABLISHMENT wastewater collection tank.

(B) When liquid waste cannot be discharged directly to sanitary sewers, a hose with a minimum 1½ inch half-union type attachment for connection to the MOBILE FOOD ESTABLISHMENT waste water tank shall be provided.

(C) The hose used for disposal of liquid waste shall be maintained in a clean and

serviceable condition and when not in use shall be stored in a separate cabinet labeled "for waste water hose only."

9-4	**PUSHCART**	
	Subpart	
	9-401	**Locations**
	9-402	**Restricted Use**

Located **9-401.11 Locations.**

Outdoor pushcarts shall be located on a paved surface. Indoor pushcarts shall be located on permanent flooring material which is smooth and easily cleanable.

9-402.11 Restricted Use.

No pushcart may be used to sell or PROCESS a POTENTIALLY HAZARDOUS FOOD unless the following apply:

(A) POTENTIALLY HAZARDOUS FOOD PREPARED or PROCESSED on ~~a~~ an outdoor pushcart shall be entirely contained in ~~a~~ an enclosed system that precludes any contamination of the FOOD. Indoor pushcarts shall have adequate shielding to protect display and FOOD PREPARATION areas from contamination.

(B) Pushcart serving POTENTIALLY HAZARDOUS FOOD shall be mechanically equipped to keep FOOD at temperatures as specific in 3-501.16.

9-5	**OPERATION AND INSTALLATION**	
	Subpart	
	9-501	**Restrictions**
	9-502	**Bottled Or Liquefied Gas**
	9-503	**Toilet Facilities**

9-501.11 Restrictions.

(A) No MOBILE FOOD ESTABLISHMENT may be used for living or sleeping purposes.

(B) Mobile FOOD ESTABLISHMENT shall not be used for any non-FOOD ESTABLISHMENT purposes or business.

(C) Non-FOOD EMPLOYEES are not permitted in the vehicle where FOOD is PREPARED, stored and served.

(D) No FOOD, FOOD containers, wrappers, PACKAGING materials or UTENSILS may be kept in the driver's compartment of any MOBILE FOOD ESTABLISHMENT.

(E) The driver's compartment shall be separated by a partition from the area for FOOD PREPARATION, service or storage.

9-502.11 Bottled Or Liquefied Gas.

If ~~bottle~~bottled or liquefied gas is used within a MOBILE FOOD ESTABLISHMENT, the OPERATOR shall ~~show, upon demand, that the installation conforms to ch. Comm 40, rules of the~~

~~department of commerce for design, construction, location and installation of this EQUIPMENT~~have it securely installed.

Note: The Department of Commerce has rules that govern bottled and liquefied gas. For information contact the Safety and Buildings Division at the Department of Commerce, P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY). or http://www.commerce.state.wi.us/SB/

9-503.11 Toilet Facilities

The operator of a MOBILE FOOD ESTABLISHMENT shall arrange for use by personnel operating the MOBILE FOOD ESTABLISHMENT public or private toilet facilities during all hours the MOBILE FOOD ESTABLISHMENT is in operation.

Chapter 10
Temporary Food Establishments

Parts

10-1 GENERAL REQUIREMENTS.
10-2 DESIGN AND LOCATION
10-3 SANITARY FACILITIES

10-1 GENERAL REQUIREMENTS.

Subparts

10-101 Applicable Rules
10-102 Food ~~Service~~ Operation Limitation
10-103 Food Employee Handwashing
10-104 Warewashing

General **10-101.10 Applicable Rules.**

In addition to the specific requirements of this chapter, Chapter 1 through Chapter 7 apply to TEMPORARY FOOD ESTABLISHMENTS as applicable.

Limitations **10-102.11 Food ~~Service~~ Operation Limitation.**

The DEPARTMENT or its AGENT may limit and/or modify the nature of the FOOD service operation and/or the type of FOOD served at a TEMPORARY FOOD ESTABLISHMENT to protect the health and safety of the GENERAL PUBLIC. TEMPORARY FOOD ~~service~~ ESTABLISHMENT operations may be limited in terms of the number of PERSONS served, methods of PREPARATION and storage, the kinds of UTENSILS used or the type of FOOD served.

10-103.11 Food Employee Handwashing

(A) Adequate FOOD EMPLOYEE handwashing facilities shall be provided as specified in 5-203.11.

(B) When water under pressure is not available, handwashing facilities shall consist of a covered insulated container of at least five gallon capacity with a non self closing spigot or valve, that allows a continuous flow of water over the hands.

10-104.11 Manual Warewashing.

(A) ~~When~~ Except in ¶ (C) when water under pressure is available on site, manual WAREWASHING EQUIPMENT shall meet requirements as specified in §4-301.12.

(B) ~~When~~ Except in ¶ (C) when water is not available under pressure on site, manual WAREWASHING EQUIPMENT shall meet requirements as specified in §4-301.12, ~~provided~~ and FOOD operations may be limited as specified in §10-102.11:

~~(1) FOOD service is limited to prepared FOOD items (i.e., preformed meats, premade pizzas, etc.);~~

~~(2) FOOD PREPARATION is limited to cooking or reheating for immediate service;~~

~~(3) UTENSILS are limited to a spatulas, tongs, or scoops, etc., and~~

~~(4) SINGLE SERVICE ARTICLES are used for FOOD service.~~

(C) A TEMPORARY FOOD ESTABLISHMENT may return to an APPROVED facility at the end of the day for warewashing of equipment and utensils. Adequate UTENSILS must be provided and replaced with clean utensils as specified in section §4-602.11 or as often as necessary to assure safe food handling practices.

10-2 DESIGN AND LOCATION

Subparts

10-201 Roof, Sidewalls And Floors
10-202 Location
10-203 Enclosure Of Kitchen

Control **10-201.11 Roof, Sidewalls And Floors.**

(A) A TEMPORARY FOOD ESTABLISHMENT may be operated without a roof and/or sidewalls, if APPROVED.

(B) Floors shall be maintained in a sanitary condition, Dirt floors shall be covered with an APPROVED material, which will provide protection from splash and dust.

Location **10-202.11 Location.**

No TEMPORARY FOOD ESTABLISHMENT may be located within 30.5 M (100 feet) of a barn or enclosure housing animals or other source of odors or flies.

Enclosure **10-203.11 Enclosure Of Kitchen.**

(A) With the exception of ¶(B) of this section, all FOOD PREPARATION and UTENSIL washing areas with extensive FOOD PREPARATION maintained in connection with TEMPORARY FOOD ESTABLISHMENTS shall be effectively enclosed or screened.

(B) Cooking and heating devices shall be effectively separated or enclosed in order not to be accessible to the public.

10-3 SANITARY FACILITIES

Subpart

10-301 Toilet Facilities
10-302 Water Supply
10-303 Sanitary Waste

Provided **10-301.11 Toilet Facilities.**

Public toilet facilities for each sex shall be provided. ~~in accordance with Comm 61 to 65 and shall be APPROVED by the DEPARTMENT~~.

Note: Guidance on the number of public toilet facilities can be found in chs. Comm 61 to 65, the Wisconsin Commercial Building Code. Contact the Safety and Buildings Division at the

Department of Commerce , P.O. Box 2509, Madison, WI 53701, telephone 608-266-3151 and 711 (TTY) or http://www.commerce.state.wi.us/SB/.

10-302.11 Water.

The water supply for a TEMPORARY FOOD ESTABLISHMENT shall be obtained from an APPROVED source as specified in §§5-104.11 and 5-104.12.

10-303.11 Sanitary Waste Disposal.

(A) Except as provided in ¶(B) a TEMPORARY FOOD ESTABLISHMENT shall connect to APPROVED SEWAGE disposal system as specified in §5-403.11.

(B) When a TEMPORARY FOOD ESTABLISHMENT can not connect to an APPROVED SEWAGE disposal system, a container for liquid waste storage shall be provided and shall be emptied when necessary to a public sewer or other location APPROVED by the DEPARTMENT or its AGENT.

Chapter 11
~~Special Organizations~~ Chapter Reserved

~~**Parts**~~

~~**11-1 GENERAL REQUIREMENTS.**~~

~~**11-1 GENERAL REQUIREMENTS.**~~

~~**Subparts**~~

~~**11-101 Applicable Rules**~~
~~**11-102 Supervision**~~
~~**11-103 Approved Courses**~~
~~**11-104 Equipment And Utensils**~~

~~***General***~~

~~**11-101.10 Applicable Rules.**~~
~~In addition to the specific requirements of this chapter, Chapter 1 through Chapter 7 apply to SPECIAL ORGANIZATION FOOD ESTABLISHMENTS as applicable.~~

~~**11-102.11 Supervision.**~~

~~For a SPECIAL ORGANIZATION serving MEALS, an individual who successfully completed a DEPARTMENT-APPROVED FOOD handler training course or who has been trained in FOOD handling by the DEPARTMENT or AGENT staff shall be present and supervise MEAL PREPARATION and serving.~~

~~**11-103.11 Approved Courses.**~~

~~(A) A DEPARTMENT APPROVED FOOD handler training course shall consist of a minimum of 2 hours instruction time; and~~

~~(B) Consist of the following subjects: temperature control of POTENTIALLY HAZARDOUS FOOD during PREPARATION, storage, transportation and serving; effective cleaning and SANITIZING of UTENSILS and EQUIPMENT; storage of UTENSILS and EQUIPMENT; FOOD worker personal hygiene; effective handwashing techniques; FOOD worker health; prevention of foodborne illness; safe FOOD sources; and the storage and the use of toxic products.~~

~~(C) The DEPARTMENT, or its AGENT, may require that additional subjects be addressed, related to the particular FOOD service operation, to provide assurance that the public's health and safety will be protected.~~

~~**11-104.10 Equipment And Utensils.**~~

~~SPECIAL ORGANIZATIONS SERVING MEALS may use residential sinks, refrigerators, freezers and mechanical dishwashing machines for washing multi-use eating and drinking UTENSILS and pots, pans and other cooking UTENSILS. Dishpans may be used to accomplish the final SANITIZING rinse.~~

Chapter 12
Certified Food Manager

Parts

12-1 DEFINITIONS
12-2 CERTIFICATION REQUIREMENT
12-3 APPROVED EXAMINATION
12-4 RECERTIFICATION

12-1 DEFINITIONS

Subparts

12-101 Applicability and Terms Defined

12-101.11 Statement of Application.
The provisions of the chapter do not apply to ~~LIMITED~~ prePACKAGED restaurants as defined in s. HFS 196.03(4) and TEMPORARY FOOD ESTABLISHMENTS, or ~~establishment's only PROCESSING non-POTENTIALLY HAZARDOUS FOODS or not PROCESSING~~ retail food stores that do not conduct MEAL service activities.

12-101.12 Definition of Terms.

The following definitions apply only to this chapter.

(A) **"Certified manager"** means the OPERATOR or a manager of a FOOD ESTABLISHMENT who has been certified by the DEPARTMENT under this section.

(B) **"Department"** means the state of Wisconsin department of health and family services.

(C)**"Manager"** means an individual who has direct authority over or exercises control or supervision over the EMPLOYEES and operations of a FOOD ESTABLISHMENT.

(D) **"Testing service"** means the developer of a FOOD protection practices examination.

12-2 FOOD MANAGER CERTIFICATION

Subparts

12-201 Certification Requirement
12-202 Application For Certification

12-201.11 General.

One Manager

(A) The operator or at least one manager of a FOOD ESTABLISHMENT shall have a certificate issued by the DEPARTMENT that states that the operator or manager has passed a DEPARTMENT approved examination on FOOD protection practices. However:

(1) A new FOOD ESTABLISHMENT or a FOOD ESTABLISHMENT under going a change of

operator after February 1, 2001 shall have a certified FOOD manager within 90 days of the initial day of operation or provide documentation that they are scheduled within three (3) months to take and pass an approved examination as specified in 12-301.11.

One Establishment

Post Certificate

(2) FOOD ESTABLISHMENTS which are not in compliance because of employee turnover or other loss of a certified manager, shall have 90 days from the date of the loss of a certified manager to comply with this chapter, or provide documentation that the person designated to be the certified FOOD manager will become certified within the time specified in this subparagraph.

Notification Of Change

(B) If more than one FOOD ESTABLISHMENT operated by the same person is located on the same property or contiguous properties, only the operator or one manager is required to be certified.

(C) A FOOD ESTABLISHMENT shall post a certificate issued by the DEPARTMENT under this section in a conspicuous place on the premises of the FOOD ESTABLISHMENT.

(D) The operator of a FOOD ESTABLISHMENT shall promptly notify the DEPARTMENT when the CERTIFIED MANAGER terminates employment with the FOOD ESTABLISHMENT and shall supply the DEPARTMENT with the name and state certificate number of the new certified manager.

12-201.12 Expiration Date.

With the exception of ¶ (A), (B) and (C), a certificate issued under this section shall expire 5 years after the date of issue:

(A) A certificate issued to a person applying for *certification* more than 12 months after passing an approved examination shall expire 5 years from the examination date.

(B) A certificate issued to a person applying for *recertification* more than 6 months after the expiration date of a FOOD manager certification certificate shall pass an approved examination.

(C) A certificate issued to a person applying for certification by reciprocity shall expire 5 years from the date of issuance of their current certification.

12-201.13 Reciprocity.

Persons requesting certification by reciprocity shall:

(A) Hold a current certification by passing an approved examination, or

(B) Hold a current certification from an accredited program approved by the Conference on Food Protection.

12-202.11 Application For Certification.

(A) Application for certification shall be made on a form provided by the DEPARTMENT.

(B) A completed application form shall be submitted to the DEPARTMENT along with a certification fee of $10.00 and evidence that the applicant has successfully completed a written examination within the previous three years that meets the criteria as specified in §12-301.11.

(C) A person whose certification has expired more than 6 months shall be required to take and pass an approved examination as specified in §12-301.11 to became certified.

Note: To obtain a copy of the application form, write Food safety and Recreational Licensing Section, Bureau of Environmental & Occupational Health, P.O. Box 2659, Madison, Wisconsin 53701-2659.

12-202.12 Action By The Department.

Within 30 days after receiving a complete application for certification, payment of the certification fee and receipt of evidence that the applicant has passed a written examination which meets the applicable criteria of Part 12-3, the DEPARTMENT shall approve the application and issue a numbered certificate. If the application for a certificate is denied, the DEPARTMENT shall give the applicant reasons, in writing, for the denial.

12-3 APPROVED EXAMINATION

Subpart

12-301 Examination Criteria

12-301.11 Examination Criteria.

Criteria for DEPARTMENT approval of a written examination on FOOD protection practices may include the following:

(A) The testing service is:
(1) Experienced in examination development and administration on a statewide or multi-state basis;
(2) Experienced in the development of an examination pertaining to FOOD service protection practices; and
(3) Qualified in examination development, administration and measurement.

(B) The examination is currently being use by a trade or regulatory organizations;

(C) The examination is accepted by public health officials and has been administered on a statewide basis;

(D) The examination and correct answers to examination question have been reviewed by DEPARTMENT. Review includes a statistical summary of mean, standard deviation, mode, range, minimum and maximum scores, coefficient of reliability and number and percentage of applicants passing and failing the original and retake examinations;

(E) The questions and answers are consistent with the examination requirements of this chapter;

(F) Security procedures are in place which protect the examination from compromise in preparation, printing and transportation of the examination;

(G) The examination will be administered by a person certified by the testing service to administer the examination, to ensure that the examination taker and the applicant are the same person;

(H) General analyses of examination results will be available annually;

(I) The examination is available and may be taken at location geographically accessible to persons who want to take it;

(J) There is advance notice of examination dates available;

(K) An examination that is given under contract with a testing service for a specified period of time is subject to review by the DEPARTMENT upon renewal;

(L) A designated examination coordinator or contact per is available;

(M) The examination shall be evaluated and listed by an accrediting agency as specified in ¶¶1-201.10(B)(1).

(N) The examination is developed using psychometrically accepted methods involving representation from affected groups;

(O) The needs of special populations for accommodation to be able to take the examination are addressed by the testing service;

(P) A study guide and list of resources is available to persons who are preparing to take the examination;

(Q) The proposed examination is consistent with already APPROVED examination in regard to rigor and types of questions; and

(R) The proposed examination will permit reciprocity between states.

Note: To obtain a list of DEPARTMENT APPROVED FOOD manager certification examinations contact the Food Safety and Recreational Licensing Section, Division of Public Health, P.O. Box 2659, Madison , WI 53701.

12-4 RECERTIFICATION

Subpart

12-401 Recertification
12-402 Recertification Training Course Approval

12-401.11 Recertification.

(A) A certificate issued under this section may be renewed within six months of expiration, if the certified manager successfully completes a recertification training course approved by the DEPARTMENT as specified under §12-402.11. The recertification training course shall be completed prior to issuance of a new certificate.

(B) Application for recertification shall be made on a form provided by the DEPARTMENT. The application form shall be submitted to the DEPARTMENT at least 30 days before expiration of the certificate, along with evidence of successful completion of the recertification training course and payment of a $10.00 recertification fee.

(C) Persons who do not renew their certificate as specified in ¶(A) of this section, shall be required to be certified by passing an approved examination as specified in §12-201.11.

Note: To obtain a copy of the recertification application form, write Environmental Sanitation

Section, Bureau of Environmental Health, P.O. Box 2659, Madison, Wisconsin 53701-2659.

12-402.11 Recertification Training Course Approval.

(A) Training courses in FOOD protection practices to prepare certified managers for recertification are subject to approval by the DEPARTMENT in accordance with this subsection.

(B) A course shall consist of at least 3 hours of instruction time and include an examination on the information presented.

(C) A course shall cover the following subjects:

(1) Temperature control of POTENTIALLY HAZARDOUS FOOD during preparation, storage, transportation and service;

(2) Effective cleaning and sanitizing of utensils and equipment;

(3) FOOD protection, including the shelf life for foods;

(4) FOOD worker personal hygiene;

(5) Effective handwashing techniques;

(6) Identification of POTENTIALLY HAZARDOUS FOOD;

(7) Storage and use of toxic products; and

(8) HACCP concepts and practices

(9) Special problems in FOOD service sanitation.

(D) The DEPARTMENT, may authorize modification of course content to address code changes and emerging FOOD safety issues.

(E) A request for approval of a recertification training course shall be submitted to the DEPARTMENT in writing along with the proposed curriculum.

(F) The DEPARTMENT may cancel its approval of a training course at any time if its investigation reveals that the criteria in this subsection are not being met.

Note: To request approval of a recertification training course, write Food Safety and Recreational Licensing Section, Bureau of Environmental & Occupational Health, P.O. Box 2659, Madison, Wisconsin 53701-2759.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Health
and Family Services

Dated:

By: _____
Helene Nelson
Secretary

SEAL: