Modifications From Agency

DATCP Docket No. 15-R-16 **Final Rule Draft**
Rules Clearinghouse No. 17-074 **February 2, 2020**

PROPOSED ORDER
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION ADOPTING RULES

The Wisconsin department of agriculture, trade and consumer protection hereby proposes the following rule ***to repeal*** and ***recreate*** ch. ATCP 75 ***relating to*** retail food establishments, and ***to repeal*** and ***recreate*** ch. ATCP 75, Appendix, *Wisconsin Food Code,* also ***relating to*** retail food establishments and affecting small business.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("Department" or "DATCP") proposes to repeal and recreate Wis. Admin. Code ch. ATCP 75 (Retail Food Establishments) and Wis. Admin. Code ch. ATCP 75, Appendix (*Wisconsin Food Code*). This rule revision is necessary because the current rule reflects regulations derived from a federal Food and Drug Administration (FDA) model food code dating from 2009. This rule will bring Wisconsin regulatory requirements into substantial accord with the more recent 2013 *Model Food Code* issued by the FDA.

The Department typically updates the *Wisconsin Food Code* every four years without revising Wis. Admin. Code ch. ATCP 75, but with the present revision, the Department is also updating Wis. Admin. Code ch. ATCP 75 itself, due to the July 2016 merger of the Department's Division of Food Safety with the Department of Health Service (DHS) Food Safety and Recreational Licensing Section (FSRLS) and the resulting creation of the Division of Food and Recreational Safety (DFRS) within DATCP. The merger of the two former entities necessitated a merger of the rules appertaining to FSRLS and DFS respectively, including the rules affecting retail food establishments ("RFEs.") The present rule merges, clarifies, and updates the rules regulating all RFEs, both meal-serving establishments (restaurants) and non-meal serving enterprises.

Statutes Interpreted

- Wis. Stat. § 97.30, "Retail food establishments."
- Wis. Stat. § 97.29, "Food processing plants."

- Wis. Stat. § 97.42, "Compulsory inspection of livestock or poultry, and meat or poultry products."
- Wis. Stat. § 97.605, "Lodging and vending licenses."
- Wis. Stat. § 97.61, "Vending machine commissary outside the state."

Statutory Authority

Statutory Authority: Wis. Stat. §§ 93.07 (1), 97.09 (4), 97.30 (5).

Explanation of Statutory Authority

The Department has broad general authority, pursuant to Wis. Stat. § 93.07 (1), to adopt rules to implement programs under its jurisdiction. The Department also has general authority, pursuant to Wis. Stat. § 97.09 (4), to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The Department has specific authority, pursuant to Wis. Stat. § 97.30 (5), to adopt rules for RFEs concerning fees; to set facility construction and maintenance standards; and to set rules for the design, installation, maintenance, and cleaning of equipment and utensils; personnel sanitation; food handling, display, and storage; and food sources and food labeling.

Related Statutes and Rules

Since the merger with DHS's FSRLS in July of 2016, the Department has almost total regulatory responsibility for post-harvest food, pursuant to Wis. Stat. ch. 97 and inter-related administrative rules that strive for consistency with federal laws, regulations, and guidance. Relevant administrative rules cover retail food establishments (ATCP 75 and its Appendix), food processing plants (ATCP 70), dairy plants and farms (ATCP 65), and food warehouses (ATCP 71), as well as meat and poultry inspection and processing (ATCP 55). With the proposed rule revision, the Department rule will largely mirror the 2013 FDA *Model Food Code*, as well as FDA *Model Food Code* updates accepted by the FDA since 2013.

Plain Language Analysis

The rule updates Wis. Admin. Code ch. ATCP 75 by incorporating significant rule provisions in the now-repealed Wis. Admin. Code ch. DHS 196 (Restaurants) and by repealing requirements in Wis. Admin. Code ch. ATCP 75 concerning agent programs. Agent program rules are currently found in Wis. Admin. Code ch. ATCP 74 (Local Agents and Regulation), which also incorporates provisions from the repealed Wis. Admin. Code ch. DHS 192.

The transfer of DHS' FSRLS to DATCP's Division of Food Safety necessitated the merger of two food safety regulatory systems. One regulatory paradox was particularly in need of resolution: Restaurant operators could not wholesale food under the DHS rules, while RFE operators under DATCP's authority could engage in a limited amount of wholesaling without holding a food processing plant license. By statute, the Department now licenses restaurants as RFEs, and therefore, restaurants enjoy the same limited ability to wholesale food. The

Department undertook the present rule-making process and by January of 2018 had developed a draft rule that for the first time included definitions of "wholesale" and "retail". The Department initially proposed to retain certain limitations and requirements derived from Wis. Admin. Code ch. ATCP 70 (Food Processing Plants) addressed to food processing activities for wholesale conducted by an RFE. The Department presented a final draft reflecting that framework to the Board of Agriculture, Trade and Consumer Protection ("Board") in January 2018. Although the Board approved the draft, it became apparent in the aftermath of the Board meeting that industry participants felt that less restrictive limits and definitions would still adequately protect public health.

In light of this feedback, the Department opted to form a work group comprised of industry and local health department agent program representatives to further revise the rule. During deliberations, the work group determined that the safety of many food processing activities for wholesale, when done by RFEs, could be ensured by compliance with ATCP 75 and the ATCP 75 Appendix, and thus, no additional application of ATCP 70 requirements was necessary. The work group recognized that additional training would be necessary for local health department agent personnel, along with Department sanitarians, assigned to inspect RFEs performing these food processing activities for wholesale. The Department, as part of its ongoing work to train thoroughly food safety personnel at the state and local level, is committed to providing the necessary training.

The work group extensively discussed whether an RFE conducting food processing activities for wholesale, yet exempt from having to hold a food processing plant license, should be required to develop a written recall plan (as required in ATCP 70). Dairy plants and food processing plants must develop a written recall plan, but the work group reached consensus that this requirement was poorly suited and likely ineffective for businesses predominantly engaged in retail activities. As a result, the revised rule states that RFEs are responsible for notifying their wholesale customers of any adulterated or misbranded products that the RFE may have sold to them, as deemed appropriate for the protection of public health. The RFE operator will choose the notification mechanism.

The work group's efforts culminated in the newly revised final draft of ATCP 75, which does all of the following: a) re-defines "wholesale" and "retail", b) clarifies the exemption for RFEs from the requirement to hold a food processing plant license when conducting limited (not more than 25% of gross annual food sales) food processing activities for wholesale, and c) re-draws boundaries on what types of food processing activities for wholesale are allowed. Perhaps the most important change in the wholesale and retail definitions is that the Department will no longer regard the transfer of food between two RFEs or food processing plants as wholesaling, so long as the same license holder operates the two businesses involved and the licensee transferring the food does not relinquish control of the food. This change reflects current guidance by the FDA and follows the United States Department of Agriculture (USDA) interpretations related to differentiating "retail" from "wholesale" transactions involving meat and poultry products.

The revised definitions for "wholesale" and "retail" reflect industry practice and the de facto usage of these terms in the marketplace, as well as the FDA's interpretation and sanction of current industry practice. The new definitions also appear in the completed and published

revision to Wis. Admin. Code ch. ATCP 70 (Food Processing Plants). The revised rule does continue to prohibit RFEs from processing canned low-acid or acidified foods for wholesale without holding a food processing plant license and complying with the requirements stated in Wis. Admin. Code ch. ATCP 70. The aim of the update definitions is to promote clarity and uniformity and ideally to facilitate enhanced business opportunities for industry participants.

RFEs operate under a wide range of business models, ranging from traditional restaurants, bakeries, and markets where all sales are made directly to consumers, on the one hand, to larger operations performing varying degrees of processing and wholesaling, on the other hand. The revisions to the rule take cognizance of a recently introduced business model in which a licensed RFE transports prepared food and conducts sales of individual meals directly to a workplace's employees or guests of employees, for a limited number of days each week. Within boundaries delineated in the rule, an additional RFE license is not required for the workplace meal sales. The work group reviewed and approved this revision.

Some RFEs perform food processing for wholesale activities, which are regulated at the federal level by the FDA. This rule revision is calculated to ensure that these businesses do not fall outside the sweep of appropriate regulation. Wis. Admin. Code ch. ATCP 75 and its Appendix specifically govern retail sales and the internal transfer of food between businesses operated by the same license-holding entity. As revised, the rule, with the addition of federal requirements for juice and seafood processing, will apply to RFEs that conduct wholesaling only to a limited extent ($\leq$ 25% of gross annual food sales). Businesses that predominantly wholesale the food they process must effectuate enhanced food safety systems, as required by provisions in Wis. Admin. Code ch. ATCP 70.

With this rule revision, the Department has sought to eliminate duplication, clarify expectations, and, to the extent possible, avoid the need to procure multiple licenses for the same business. However, the Department justifiably weighed these objectives in the balance with safety concerns arising from gaps in regulation. Accordingly, this rule proposes that any business holding either a meat establishment license issued by the Department, or a grant of meat / poultry inspection from the federal government, must also obtain an RFE license if the business manufactures for retail sale any meat or poultry products that are never produced under meat inspection and never bear an inspection legend. Prior to this rule revision, meat establishments were allowed to retail up to 25% of *total* meat sales without holding an RFE license because of the frequent state or federal inspection of meat processing overall. However, it was adjudged during recent discussions that the available meat inspection resources are insufficient to adequately oversee meat and poultry products sold at retail without the state or federal mark of inspection and other safeguards attendant upon RFE status. Federal meat inspection staff are explicitly directed not to inspect retail meat and food operations. The rule revision eliminates the above-described exemption from the requirement to hold an RFE license. Expectations will thus be identical to those for businesses already licensed as RFEs to produce meat and poultry products only for retail sale.

The rule also defines and clarifies the rules for micro-markets, vending machines, and the vending machine commissaries defined in statute as serving both of those business types. The Department will license vending machine commissaries as food processing plants, which reflects the operations of these commissaries. In addition, the Department defines micro-

markets so as to acknowledge that the latter typically operate without a human on the premises at all times to oversee operations, which is a requirement for other types of RFEs.

The revised Wis. Admin. Code ch. ATCP 75 Appendix, *Wisconsin Food Code,* provides greater clarification regarding variances and Hazard Analysis Critical Control Point ("HACCP") plans, including the procedure for variance applications. New language also simplifies the protocols that establishments must follow when performing vacuum packing and sous-vide processing.

A significant change in the *Wisconsin Food Code* pertains to cheese curds. The Department based the revised language on a recent study of the likelihood of pathogenic bacterial growth on cheese curds. The study validates the current 24-hour-at-room-temperature limit for display of cheese curds processed under Cheddar cheese-making conditions. This scientific support of storage requirements for cheese curds allows the Department to meet Standard 1 of the FDA's Voluntary National Retail Food Regulatory Standards Program by providing validation for any protocols that differ substantively from the FDA *Model Food Code*.

After evaluating local public health department agent program and industry comments, the Department originally chose to add requirements for making recent inspection results available to the public, and a prohibition against any grading or scoring of RFEs based on inspection reports or other criteria. The intent of these provisions was to avoid problems arising in the event that different jurisdictions utilized discrepant grading or scoring systems or some jurisdictions employed a grading system while others did not. The Department believes that actual inspection reports tend to be more informative than grades or scores and allow consumers to draw their own conclusions about the merits of a given RFE. The Department has been aware that the City of Milwaukee, which is an agent of the Department, received a grant from the FDA contingent upon it implementing a grading program. Milwaukee's grading program is now entering its third year. Because there is no clear statutory authorization or prohibition of grading or scoring systems, and because ATCP 75 as currently written is silent on this issue, the Department has removed rule language pertaining to a grading or scoring system.

This revised rule also harmonizes the different requirements that previously existed across DHS and DFS rules as to mobile RFE bases. The enforcement of divergent sets of rules had created a licensing inequity as between various individual operations, depending on the agency conducting oversight. The proposed rule eliminates these inconsistencies and standardizes the requirements for those bases.

The Department is statutorily bound to base licensing fees for RFEs not serving meals on "gross receipts from food sales at the retail food establishment during the previous license year." The Department is not statutorily prohibited from considering food safety risks associated with activities at these RFEs, as the original license fees in statute are also based on whether potentially hazardous food is processed. Statute also allows the Department to revise in rule license fees for RFEs not serving meals. In accordance with these statutory boundaries, the Department has added an additional gross food sale receipt volume range and several risk factors to the criteria for setting licensing fees for RFEs not serving meals.

Finally, the rule renumbers and consolidates many provisions in the *Wisconsin Food Code* so as to enable greater ease of use and to allow for the intercalation of provisions pertaining to micro-markets and vending machines.

Federal and Surrounding State Programs

Federal Programs

The FDA does not directly regulate retail food safety, but it does issue the *Model Food Code* for direct adoption by state programs or for use as a guide used in formulating state regulations.

Surrounding State Programs

This rule is generally consistent with rules in neighboring states. The states surrounding Wisconsin have each adopted various versions of the FDA *Model Food Code*. Wisconsin's criteria for calculating RFE license fees differ somewhat from those in surrounding states as to the emphasis placed on complexity and risk of food safety hazards.

- RFEs in Illinois are licensed at the county or municipal level. Cook County does not have a separate category for mobile RFE bases. Licensing fees for RFEs are based on whether the establishment has seats for customers, and if not, the total area occupied by the business. Chicago differentiates between licenses for mobile food dispensers and mobile food preparers.

- Minnesota employs different license categories for mobile and stationary retail food businesses, with fees based on sales volume. There is no separate Minnesota license category for mobile RFE bases. RFEs (other than restaurants) in Minnesota are primarily regulated by the Department of Agriculture. Minnesota restaurants are primarily regulated by county or municipal agencies. Hennepin County, for example, sets license fees based on menu breadth, degree of hazard of menu items, and size of operation, with separate categories for mobile and itinerant businesses.

- Iowa has a separate license category for a commissary serving a mobile RFE. RFEs in Iowa include restaurants.

- Michigan includes restaurants as a type of RFE and categorizes mobile operations and mobile commissary operations separately.

Data and Analytical Methodologies

The Department reviewed past changes to the FDA *Model Food Code* as well as pending changes adopted in recent Conference for Food Protection meetings. The Department has also reviewed Wisconsin statutes and rules for food processing plants, meat and poultry inspection, and dairy plants, as well as current industrial practices to identify areas where greater consistency can be achieved and discrepancies eliminated between the two food inspection programs existing prior to July 2016. The Department solicited feedback on the rule from members of the Food Safety Advisory Council (FSAC), a group comprised of businesspeople and local health department agent representatives. The Department tested proposed changes in license fee criteria for RFEs not serving meals by applying the criteria to businesses familiar to

FSAC members and by evaluating any license fee change for each RFE in a representative county. Upon learning of industry concerns about the proposed licensing and regulatory requirements for RFEs conducting food processing for wholesale activities and/or transferring food between different businesses within a single company, a work group comprised of industry and local health department agent personnel was convened to review and revise the requirements. This work group approved the requirements in the present revised rule.

Analysis and Supporting Documents for Effect on Small Business

As noted, the Department utilized and incorporated the 2013 FDA *Model Food Code* where it did not conflict with the Department's compliance and enforcement programs. The Department worked to combine the duties, activities, and expectations of both DHS and DATCP in a way that eliminates duplication, clarifies expectations, and, to the extent possible, ensures that small businesses do not need multiple licenses. Within statutory boundaries, the Department has also revised the license fee criteria for RFEs not serving meals, adding a category of gross food sale receipts volume and by considering food safety risks. The Department tested the fiscal effect of these changes by hypothetically applying the criteria to businesses in a representative county and evaluating the license fee change to each RFE.

Effect on Small Business

The rule is not anticipated to have a major economic effect on RFEs since the rule serves mainly to replace and update current rules. Already-licensed mobile RFEs serving meals will see no change in requirements, because their bases were licensed under the DHS rules that were transferred to the Department. For operators with a base, serving mobile RFEs that only sell nonperishable packaged foods, the effect will be minimal regulatory and fee changes. The only operators who may face increased regulatory requirements and associated expenses are those operators of bases who perform complex processing and preparation of potentially hazardous food.

Certain food processing activities for wholesale performed in RFEs, in which all of these activities account for not more than 25% of gross annual food sales, must also be done under the federally-mandated HACCP system. Specifically, fish and fishery products processing must be performed under a Seafood HACCP system (as required in 21 CFR 123), and juice processing must be performed under a Juice HACCP system (as required in 21 CFR 120).

The proposed rule modifies the criteria for assigning license fees. For purposes of pragmatism, the rule tethers the cost of a given license to the complexity and risk of the food safety hazards associated with the particular activity, and not solely to the size of the RFE and the dollar volume of sales. In many cases, larger RFEs that may have been paying a higher license fee because of their sales volumes will now pay lower fees if their processing is not complex or high-risk. The Department's analyses suggest that the overall change in total license fee revenue will be negligible. The proposed licensing fee criteria more fairly reflect the time and personnel costs to the Department for inspections, as the inspection process itself is risk-based.

Eliminating the exemption from the requirement to obtain an RFE license, in order to conduct retail sales of meat or poultry products that do not bear an inspection legend, should not pose a major fiscal impact on meat establishments operating under state or federal meat inspection programs. Both meat inspection programs require all inspected products to be produced under HACCP. HACCP plans for cured or shelf-stable products, developed in compliance with state or federal meat inspection requirements, will meet requirements in the revised rule applicable to such products made only under an RFE license.

DATCP Contact

Questions and comments related to this rule may be directed to:

Steve Ingham, Administrator
Division of Food and Recreational Safety
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4701
Email: Steve.Ingham@wisconsin.gov

SECTION 1. ATCP 75 is repealed and recreated to read:

Chapter ATCP 75

RETAIL FOOD ESTABLISHMENTS

Subchapter I – Definitions and General Provisions

ATCP 75.01 Authority and purpose.

ATCP 75.02 Applicability.

ATCP 75.03 Adoption of Wisconsin food code.

ATCP 75.04 Definitions.

Subchapter II – Licensing and Fees

ATCP 75.06 Retail food establishments; licensing.

ATCP 75.063 Retail food establishments; license exemptions.

ATCP 75.065 Retail food establishments; license exemption for food processing.

ATCP 75.067 License holder responsibilities.

ATCP 75.07 Mobile retail food establishment base; licensing.

ATCP 75.075 Plan review.

ATCP 75.08 Retail food establishment fees.

Subchapter III – Enforcement and Appeals

ATCP 75.10 Enforcement.

ATCP 75.12 Suspension or revocation of license.

ATCP 75.14 Appeals of actions by the department; right of hearing.

ATCP 75.16 Appeals of actions by agent health departments.

Subchapter IV – Standards for Retail Food Establishments

ATCP 75.18 Qualifications of an authorized representative conducting inspections.

ATCP 75.20 Inspections.

Subchapter V – Vending Machines

ATCP 75.30 Applicability.

ATCP 75.32 Approval of vending machines and related equipment.

ATCP 75.34 Vending machine records.

ATCP 75.36 Maintenance and service connections.

ATCP 75.38 Sanitization.

ATCP 75.40 Waste disposal.

ATCP 75.42 Delivery of foods.

Subchapter VI – Micro Markets

ATCP 75.44 Applicability of rules.

ATCP 75.46 Location.

ATCP 75.48 License holder responsibilities.

ATCP 75.50 Nature and source of food and beverages offered for sale.

ATCP 75.52 Equipment.

ATCP 75.54 Security.

ATCP 75.56 Routine maintenance at a micro market.

Subchapter I — Definitions and General Provisions

ATCP 75.01 Authority and purpose.

(1) The department licenses and regulates retail food establishments as defined in this chapter under s. 97.30, Stats. Under s. 97.41 (1m), Stats., the department may also authorize local health departments as local agents of the department to license and regulate retail food establishments.

(2) The department has adopted this chapter under authority provided in ss. 93.07 (1), 97.12, 97.30 (5), 97.33, 97.613, 97.62, 97.625, 97.65 and 227.14 (1s), Stats., which authorizes the department to prescribe rules for retail food establishments and to enforce those rules for the purpose of protecting public health and safety. This chapter, including ch. ATCP 75 Appendix, establishes definitions; sets standards for management and personnel and for safe food operations, equipment, and facilities; provides for retail food establishment plan review, license issuance, inspection, and enforcement actions; and requires food protection practices certification for retail food establishment operators.

(3) During an inspection to evaluate compliance with this chapter and the Appendix, the department or its agent shall assess existing facilities or equipment that were in use before the effective date of this chapter and the Appendix….[LRB inserts date] based on all of the following considerations:

(a) Compliance with food-contact surface requirements in ch. ATCP 75 Appendix, part 4-101.

(b) Compliance with requirements for cooling, heating, and holding temperature capability in equipment, under ch. ATCP 75 Appendix part 4-301.11.

ATCP 75.02 Applicability.

(1) The provisions of this chapter, including ch. ATCP 75 Appendix, apply to any retail food establishment as defined in this chapter.

(2) A business or an organization operating as a retail food establishment that is exempt from licensing as a retail food establishment shall still meet the requirements as specified under sub. (1).

ATCP 75.03 Adoption of Wisconsin food code. As permitted by s. 227.14 (1s), Stats., an amended version of the 2013 U.S. food and drug administration (FDA) model food code, adopted as ch. ATCP 75 Appendix, is adopted and retitled the Wisconsin food code and is in the format of the FDA–recommended food code to ensure uniformity.

ATCP 75.04 Definitions. In this chapter:

(1) "Active managerial control" means the purposeful incorporation of systems in a retail food establishment that proactively reduce the risk of foodborne illness hazards through monitoring and verification.

(2) "Additional area" means a non-contiguous, separately located area that is on the same premises, but that is not a part of the primary food processing or warewashing operation, but contributes to the overall food operation. "Additional area" includes but is not limited to a banquet staging area, bakery preparation area, produce preparation area, or outdoor cooking area.

(3) "Adulterated" has the meaning specified in 21 USC 342.

(4) "Agent" means the city, county, village, or consortium health department designated by the department, in accordance with s. 97.41 Stats., to issue licenses and make investigations and inspections of retail food establishments under this chapter.

(5) "Amenable" means animal species or products made from animal species subject to mandatory inspection under state or federal meat and poultry inspection regulations.

(6) "Catering" means contracting for the preparation and service of a defined amount of food at a specific location, other than the licensed retail food establishment, to a defined set of guests at a wedding or similar event, or to participants in an organized group or activity. Catering does not include sale of individual meals directly to the consumer.

(7) "Certified food protection manager" means a person who holds a valid certificate of food protection practices issued under s. 97.33, Stats.

(8) "Cold holding" means maintaining a time/temperature controlled for safety food (TCS) under refrigeration at a temperature of 41°F or below.

(9) "Concession stand" means a food stand that serves meals in connection with a youth sporting event, operated exclusively for the benefit of a participating youth sports team or program, or the governing youth sports organization.

(10) "Condiment" means a non-meal food item added to food to enhance flavor or enjoyment.

Note: Sauces, dressings, relishes and spices are examples of condiments.

(11) "Contract cook" is a person who is under contract to only prepare food onsite, with food provided by the contractor, for a private occasion to the contractor or the contractor's guests.

(12) "Cooling" means the process of reducing the temperature of a TCS food by refrigeration or alternate methods to a temperature of 41°F or below within a defined time period. Cooling

does not include removing a TCS food from refrigeration during processing at ambient air temperature and then immediately returning the food to refrigeration.

(13) "Department" means the Wisconsin department of agriculture, trade, and consumer protection.

(14) "Division" means the division of food and recreational safety.

(15) "Extensively remodeled" means the condition of an existing retail food establishment that has undergone reconstruction or repair that altered the design or operation of the food service area, beyond redecorating, cosmetic refurbishing, replacing like equipment, or altering seating design or capacity.

(16) "Food" has the meaning given in s. 97.01 (6), Stats.

(17) "General public" means any person choosing to patronize a retail food establishment including, but not limited to employees, members, guests, customers, or occupants of private clubs, industrial plants, offices, or businesses. "General public" does not include any of the following:

(a) Members of a household or personal guests in a private home, who are served a meal prepared by a member of the household.

(b) Persons who are served a free meal by a religious or other nonprofit charitable organization, as defined under 26 USC 501 (c), at a kitchen, shelter or similar location where meals are served to the needy.

(c) Members and guests of a religious organization, such as a church, synagogue, temple, or mosque, who are served a meal in conjunction with a religious service or celebration when members of the religious organization prepare the meal.

(d) Members and guests of a fraternal, patriotic, or service organization who are served a meal prepared by the organization's members or affiliates, when the meal is part of, or incidental to, a meeting of the organization.

(e) Employees attending an occasional meal prepared by their coworkers for the purpose of expressing appreciation or building workplace morale.

(f) Guests attending a meal served in connection with a birthday, anniversary, or similar celebration, if persons participating in the celebration prepare the food.

(g) Residents, patients, employees, or visitors of patients or residents of a health care facility, defined in s. 150.84 (2), Stats.

(h) Residents, clients, employees, or visitors of residents or clients of a facility licensed under ch. 48, Stats.

(i) Inmates, residents, employees, or guests of inmates or residents of a prison, defined in s. 302.01, Stats., a county jail, defined in s. 302.30, Stats., a juvenile correctional facility, defined in s. 938.02 (10p), Stats., or a juvenile detention facility, defined in s. 938.02 (10r), Stats.

(17) "Health department" has the meaning given it in s. 250.01 (4), Stats.

(18) "Hot holding" means maintaining a TCS food at a temperature of 135°F. or above after cooking or reheating.

(19) "Imminent health hazard" means a condition that presents a substantial likelihood to cause severe adverse health consequences or death.

(20) "Locally sponsored sporting event" means a competitive game, taking place inside or outside, specifically for youth, that is organized or sponsored by one or more local business, governmental, or other civic organization, or by parents of the youth, including a school–sponsored interscholastic sports competition.

(21) "Meal" means food that is ordered, prepared for, or served to a customer with or without a beverage and is obtained from the retail food establishment in a ready-to-eat form with the expectation of immediate consumption, although consumption may occur at another location. "Meal" does not include single-bite sized free food samples or an equivalent portion given away to demonstrate the characteristics of the food.

(22) "Micro market" means any indoor, unstaffed, self-service area that is accessible only to persons authorized by the person in control of the premise and not accessible to the general public, where a customer may obtain unit servings of food or beverage, either in bulk or in package before payment at an automated kiosk or by other automated method, without the necessity of replenishing the area between each transaction. A micro-market does not include a vending machine and does not include a device which dispenses only bottled, prepackaged, or canned soft drinks, a one cent vending device, a device only dispensing candy, gum, nuts, nut meats, cookies, or crackers, or a device dispensing only prepackaged Grade A pasteurized milk products.

(23) "Micro market operator" means the person maintaining a place of business in the state and responsible for the operation of one or more micro markets.

(24) "Mobile retail food establishment" has the meaning of "mobile food establishment" given in ch. ATCP 75 Appendix part 1-201.10 (B).

(25) "Mobile or transient retail food establishment-not serving meals" means any of the following:

(a) A mobile retail food establishment, as defined in sub. (24), or a transient retail food establishment, as defined in sub. (39), where food processing is conducted primarily for direct retail sale of "time/temperature control for safety food" to consumers at the mobile or transient

facility, and does not prepare, serve, or sell any meals.

(b) A mobile retail food establishment, as defined in sub. (24), or a transient retail food establishment, as defined in sub. (39), from which food is sold to consumers at retail, whether or not that mobile or transient facility sells "time/temperature control for safety food" or processes food, and does not prepare, serve, or sell any meals.

(26) "Mobile or transient retail food establishment-serving meals" means a mobile retail food establishment, as defined in sub. (24), or a transient retail food establishment, as defined in sub. (39), that prepares, serves, or sells any meals.

(27) "New retail food establishment" means a retail food establishment not previously operated by the current license applicant.

(28) "Occasional" or "occasionally" means not more than 12 days for non-meal food sales and not more than 3 days for meal food sales during any licensing year.

(29) "Person" has the meaning in ch. ATCP 75 Appendix part 1-201.10.

(30) "Personal Chef" means an individual hired to prepare meals in a person's private home for that individual, their family, or non-paying guests.

(31) "Potluck" means an event to which all of the following conditions apply:

(a) Attendees of the event provide food and beverages to be shared with other attendees and consumed at the event.

(b) No compensation is provided to any person who conducts or assists in providing the event or who provides food and beverages to be shared at the event, and no compensation is paid by any person for consumption of food or beverages at the event.

(c) The event is sponsored by any of the following:

1. A church.

2. A religious, fraternal, youth, or patriotic organization or service club.

3. A civic organization.

4. A parent–teacher organization.

5. A senior citizen center or organization.

6. An adult day care center.

(32) "Retail" means selling food or food products directly to any consumer only for consumption by the consumer or the consumer's immediate family or non-paying guests.

(33) "Retail food establishment" includes all of the following:

(a) Retail food establishment- not serving meals as defined in sub. (34).

(b) Retail food establishment- serving meals as defined in sub. (35).

(c) Vending machine as defined in sub. (40).

(d) Micro market as defined in sub. (22).

(e) Mobile or transient retail food establishment-not serving meals as defined in sub. (25).

(f) Mobile or transient retail food establishment-serving meals as defined in sub. (26).

(g) Retail food establishment serving prepackaged meals as defined in sub. (36).

(34) "Retail food establishment- not serving meals" means any of the following:

(a) A permanent retail food establishment where food processing is conducted primarily for direct retail sale of "time/temperature controlled for safety food" to consumers at the facility, and the total non-meal sales exceed 50% of all retail food sales.

(b) A permanent retail food establishment from which food is sold to consumers at retail, whether or not that facility sells "time/temperature controlled for safety food" or processes food, and the total non-meal sales exceed 50% of all retail food sales.

(35) "Retail food establishment- serving meals" means a permanent retail food establishment operating as a restaurant where the total meal sales exceed 50% of all retail food sales. A retail food establishment- serving meals includes any building, room, or place where meals are prepared, served, or sold to the general public and all places used in connection with the building, room, or place; and any public or private school lunchroom for which food service is provided by contract. A retail food establishment- serving meals does not include any of the following:

(a) Taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter.

(b) Non-profit organizations, under 26 USC 501 (c), including churches, religious, fraternal, youth, or patriotic organizations; service clubs; and civic organizations that occasionally prepare, serve, or sell meals to transients or the general public.

(c) Any public or private school lunchroom for which food service is directly provided by the school.

(d) Bed and breakfast establishments.

(e) A licensed vending machine that serves food or beverages.

(f) Any college campus as defined in s. 36.05 (6m), Stats., institution as defined in s. 36.51 (1) (b), Stats., or technical college that serves meals only to the students enrolled in the college campus, institution, or school or to authorized elderly persons under s. 36.51 or 38.36, Stats.

(g) A concession stand at a locally sponsored sporting event, such as a little league game.

(h) A potluck event.

(36) “Retail food establishment serving prepackaged meals” means a retail food establishment-serving meals that only serves individually wrapped single food servings that are prepared and packaged off–premises by a food processing plant or retail food establishment, licensed under s. ATCP 75.06 (1), with preparation at the retail food establishment limited to heating and serving by establishment personnel.

(37) “Special event” means (a) A department-recognized event that is sponsored, planned, organized, and publicly advertised by organizations that include the following:

1. Neighborhood associations.
2. Religious groups.
3. Cultural groups.
4. Political parties.
5. Churches.
6. Schools.
7. Sports teams.
8. Fraternal organizations.
9. Non-profit organizations.
10. City, county, state or federal governments.

(b) Special events are limited to gatherings of people for concerts; sporting events; trade shows; flea markets or farmers markets; public exhibitions by artists, craftsman, or vehicle enthusiasts; a fair, carnival, circus, or governmentally recognized celebration based on a specific calendar date such as a holiday or anniversary; or any other event approved by the regulatory agency. A “potluck” is not a "special event”.

(38) "Time/temperature control for safety food" or "TCS food" has the meaning given in ch. ATCP 75 Appendix part 1-201.10 (B).

(39) "Transient retail food establishment" means a temporary retail food establishment that operates at a fixed location in conjunction with a special event and sells or serves food for a period of no more than 14 consecutive days or in conjunction with an occasional sales promotion.

(40) "Vending machine" means any self–service device offered for public use that, 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 micro-market or 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.

(41) "Vending machine location" has the meaning in s. 97.01 (15w), Stats.

(42) "Vending machine operator" has the meaning prescribed in s. 97.01 (15y), Stats.

(43) "Wholesale" means the sale of any food to a person or commercial entity who will either re-sell it, distribute it for re-sale, or use it as an ingredient in a product that will be offered for sale. Wholesale includes activities in which the processor relinquishes control of the food. Wholesale does not include the movement of food between two food processing plants or retail food establishments licensed to the same licensee, except for the movement of dairy products as specified in s. ATCP 65.04.

Subchapter II – Licensing and Fees

ATCP 75.06 Retail food establishments; licensing.

(1) LICENSE REQUIRED. Except as provided under s. ATCP 75.063, no person may operate a retail food establishment without a valid license issued by the department or its agent. Issuance of a retail food establishment license shall be done in accordance with all of the following:

(a) Each retail food establishment shall have a separate license.

(b) The current retail food establishment license issued by the department or its agent shall be posted in a place visible to the general public. A license may not be altered or defaced.

(c) A retail food establishment license is not transferable between persons or establishments.

Note: An agent, as defined in s. ATCP 75.04(4), has authority under s. 97.615 (2) (d), Stats., to establish and collect fees for licenses issued by the agent. The operator of a retail food establishment licensed by an agent should contact the agent for its license fee schedule.

(2) LICENSE DURATION AND RENEWAL.

(a) Each license issued under this subchapter expires on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year, except when any of the following conditions exist:

1. The agent of a city of the 1st class may issue to a retail food establishment the license required under sub. (1) at any time during the year. A license issued under this subdivision shall expire one year from the date of its issuance.

2. The license holder may request an extension to the term of a license, issued under par. (a) by the agent of a city of the 1st class, for the purpose of aligning the annual term of any other license or permit issued to that retail food establishment with the annual term of a license to be issued to that retail food establishment under subd. 1. The agent may require the license holder that receives an extension under this subdivision to pay a prorated fee in an amount determined by dividing the license fee imposed under s. 97.41 (4), Stats., by 12 and multiplying the quotient

by the number of months by which the license issued under par. (a) is extended under this subdivision.

(b) Each license shall be renewed annually as provided in sub. (3).

(c) Transient retail food establishment licenses shall be valid for a period not to exceed 14 days in conjunction with a specific special event.

(3) LICENSE APPLICATION AND RENEWAL. (a) *Initial license.* A person applying for a retail food establishment license shall apply on a form provided by the department or its agent. The applicant shall fully complete the application form and send it with all applicable fees required under this section and any previous fees due to the department.

Note: To obtain a copy of the retail food establishment license application form, or to determine which agent to contact for an application form, call (608) 224–4923 or send an email to datcpdfslicensing@wi.gov.

(b) *License renewal.* To renew the license of a retail food establishment, the license holder shall pay the fee, specified under Table ATCP 75.08 B, to the department before the license expires, along with any previous fees due to the department. If the license holder does not make the payment to renew the license of a retail food establishment to the department before the license expiration date, the late fee specified under Table ATCP 75.08 B shall be paid in addition to the license fee.

Note: Contact the department at (608) 224–4720 for questions regarding a retail food establishment license renewal or to determine which agent to contact.

(c) *Refusal of license issuance or renewal.* The department or its agent may refuse to issue or renew a license to operate a retail food establishment under any of the following circumstances:

1. The department or its agent has not conducted a pre-licensing inspection of a new retail food establishment.

2. The license holder has not corrected a violation for which the department or agent has issued a written health or safety related order at the retail food establishment.

3. The license holder has not paid all applicable fees under s. ATCP 75.08, including the permit fee, pre-licensing fee, reinspection fee, or other applicable fees.

4. The license holder or applicant has modified, repaired, or maintained the retail food establishment in a manner that does not comply with ch. ATCP 75 Appendix.

5. The license holder or applicant has violated ch. 97, Stats., ch. ATCP 75, or any order, ordinance, or regulation created by a village, city, county, or local board of health having jurisdiction, provided such violation is related to the operation of the retail food establishment.

(4) ACTION ON LICENSE APPLICATION. Within 30 business days after the department or its agent receives a complete license application, the department or its agent shall do one of the following:

(a) Grant the application.

(b) Deny the application. If the department or its agent denies the application it shall give the applicant written notice specifying the reasons for the denial.

(5) PRE-LICENSING INSPECTION. Except as specified in pars. (a), (b), and (c), the department or its agent may not issue a license for a new retail food establishment until it conducts a pre-licensing inspection of the new retail food establishment for compliance with this chapter and all fees in Table ATCP 75.08 B have been paid, including any applicable pre-licensing fee.

(a) A pre-licensing inspection may not be conducted for a transient retail food establishment, vending machine, or vending machine operator.

(b) A pre-licensing inspection may not be conducted and a pre-licensing fee may not be charged under any of the following conditions:

1. An individual license holder transfers ownership of the retail food establishment to an immediate family member, as defined in s. 97.605 (4) (a) 2., Stats.

2. A retail food establishment remains at the location for which the license was issued and at least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued retains an ownership interest in the newly formed sole proprietorship or business entity that will be the license holder.

3. A mobile retail food establishment license holder transfers from an agent issued license to a State-issued license.

(c) Initial inspection of micro-market. The department or its agent may issue a license for a new retail food establishment that is a micro-market before it inspects the new retail food establishment that is a micro-market for compliance with this chapter. Before one year after the date that the department or its agent issues a license for a new retail food establishment that is a micro-market, it shall inspect the new retail food establishment for compliance with this chapter.

(6) CONDITIONAL LICENSE. Except as provided in s. 93.135, Stats., the department may condition the initial issuance, renewal, or continued validity of a license issued under this section upon the requirement that the license holder correct a violation of this chapter and its Appendix, s. 97.605, Stats., or ordinances adopted under s. 97.615 (2) (g), Stats., within a period of time specified by the department or its agent. If the condition is not met within the specified time or after an extension of time as approved by the department or its agent, the license is void. No person may operate a retail food establishment after a license has been voided under this paragraph, and any person who does so shall be subject to the penalties under ss. 97.72 and 97.73, Stats. A license holder, whose license is voided under this paragraph, may appeal the

decision under ss. ATCP 75.14 or 75.16. The license holder may reapply for a new license when they have met requirements under this chapter.

(7) VOIDED LICENSE FOR FAILURE TO PAY FEES. If an applicant or license holder fails to pay all applicable fees, late fees, and processing charges under s. ATCP 75.08 (3) within 15 days after the applicant or owner receives notice of an insufficiency or within 45 days after the expiration of the license, whichever occurs first, the license is void. A license holder, whose license is voided under this subsection, may appeal the decision under ss. ATCP 75.14 or 75.16. In an appeal concerning a voided license under this subsection, the burden of proof is on the license applicant or holder to show that all applicable fees, late fees, and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the retail food establishment is deemed to be operation without a license and is subject to the fees under s. ATCP 75.08 (3) (e) in addition to the fees otherwise due, unless the applicant or license holder meets its burden of proof under this subsection.

(8) LICENSE HOLDER QUALIFICATIONS**.** To qualify for a license, an applicant shall do all of the following:

(a) Be an owner of the retail food establishment or an officer of the legal entity owning the retail food establishment.

(b) Comply with the requirements of this chapter.

(c) Allow authorized representatives of the department or its agent access to the retail food establishment and provide required information to those authorized representatives.

(d) Pay the applicable license fees at the time the application is submitted.

ATCP 75.063 Retail food establishments; license exemptions. A retail food establishment license is not required under s. 97.30 (2) (b), Stats., or this section for any of the following:

(1) A retail food establishment that sells only packaged foods or fresh fruits and vegetables, provided the establishment does not sell "time/temperature control for safety food" and does not engage in food processing.

(2) A retail food establishment operated by a person holding a food processing plant license under s. 97.29, Stats., if all the following apply:

(a) The person operates the retail food establishment at the same location as the licensed food processing plant.

(b) Sales from the retail food establishment are included in the computation of the food processing plant license fee under s. ATCP 70.06.

(c) Retail food sales from that location comprise no more than 25% by dollar volume of all food sales from that location.

(d) The operator of the food processing plant is not engaged in the activity of a retail food establishment – serving meals.

(3) A retail food establishment operated by a person holding a dairy plant license under s. 97.20, Stats., if all the following apply:

(a) The person operates the retail food establishment at the same location as the licensed dairy plant.

(b) Food sales from that location, other than sales of dairy products produced at that location, comprise no more than 25% by dollar volume of all dairy and nondairy food sales from that location.

(c) The operator of the dairy plant is not engaged in the activity of a retail food establishment – serving meals.

(4) A vending machine commissary, including one that supports operations of a micro market, or a warehouse supporting operations of vending machines or a micro market.

(5) A retail food establishment primarily engaged in selling honey, cider, sorghum, or maple syrup produced by the operator of the retail food establishment, if the operator conducts no other food processing activities at that retail food establishment.

(6) A retail food establishment – not serving meals, operated occasionally by a religious, charitable or nonprofit organization as defined under 26 USC 501 (c).

(7) A retail food establishment – serving meals, operated by a church; religious, fraternal, youth, or patriotic organization; service club; or civic organization, as defined under 26 USC 501 (c), that occasionally prepares, serves, or sells meals to transients or the general public.

(8) A contract cook who does all of the following:

(a) Is paid for his or her service, culinary skills, technique, or expertise.

(b) Uses the food provided by the contractor employing the cook's services.

(c) Does not prepare or store food in quantities sufficient 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 food processing plant license.

(d) 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 food processing plant license.

(9) A personal chef who does all of the following:

(a) Is paid for his or her service, culinary skills, technique, or expertise.

(b) Either uses food provided by the contractor employing the chef's services or the chef shops for food from a list provided by the contractor.

(c) Uses only the home kitchen of the contractor to prepare food for the contractor, contractor's family, or contractor's non-paying guests.

(d) Does not prepare or store food in quantities sufficient for use at multiple sites or for meals served to the general public. If a personal chef prepares or stores food in bulk quantities for use at multiple sites or for meals served to the general public, the personal chef shall obtain a food processing plant license.

(e) Does not transport any portion of a meal prepared by the personal chef from one location to another location. If a personal chef transports any portion of a meal prepared by the personal chef from one location to another location, the personal chef shall obtain a food processing plant license.

(10) The location where a caterer is serving food that was prepared at the caterer's licensed retail food establishment.

(11) At a business location to which a licensed retail food establishment transports prepared food and conducts sales of individual meals directly to a work place's employees or the guests of the employees for no more than 2 days in any 7 day period at the same location, if all of the following requirements are met:

(a) The license holder shall conduct all food preparation activities at the licensed retail food establishment, except for final assembly at the service location.

(b) The license holder shall transport all food to the service location.

(c) The license holder shall conduct all food service and sales.

(d) The license holder shall provide food service utensils in sufficient quantity to adequately facilitate the meal service.

(e) The license holder shall clean and sanitize onsite food equipment before and after use.

(f) The license holder shall return all food, utensils, and service ware to the licensed retail food establishment for disposal or cleaning and sanitizing

(g) The license holder and business shall have a written agreement requiring adequate access and use of conveniently located restrooms by the license holder staff at the service location. The license holder shall furnish the written agreement to the division or its agent upon request.

(h) In the absence of adequate hand washing facilities, the license holder shall provide portable handwash facilities (i.e. foot pump, electrical, or battery operated) at the service location during food service.

(i) The license holder shall employ a certified food protection manager, as defined in s. ATCP 75.04 (7), who shall be present at the service location during food service.

(j) The license holder shall transport and hold food at temperatures, according to either the requirements in ch. ATCP 75 Appendix or an approved time-as-a-public-health-control-plan.

ATCP 75.065 Retail food establishments; license exemption for food processing. (1) A license holder may wholesale up to 25% of the gross annual sales of food that is manufactured and used in the retail food establishment without obtaining an additional food processing plant license under ch. ATCP 70. This exemption does not allow the manufacturing for wholesale or distribution of any of the following:

(a) Food that must be processed, in compliance with 21 CFR 108, 113, 114, in hermetically sealed containers.

(b) Dairy products or amenable meat and poultry products, except as allowed in ch. ATCP 55

(c) Food processed at a mobile or transient retail food establishment.

(2) The following items may be processed in a retail food establishment under the 25% wholesale exemption in sub. (1):

(a) Juice processed in compliance with 21 CFR 120.

(b) Fish and fishery products processed in compliance with 21 CFR 123.

(3) The license holder is responsible for notifying, as deemed appropriate by the license holder, wholesale customers of any adulterated or misbranded products as necessary to protect public health. No written recall plan is required. Examples of customer notification could include website language, email, mail system, face-to-face, or other effective methods.

ATCP 75.067 License holder responsibilities. Upon acceptance of the license issued by the department or its agent, the license holder shall do all of the following in order to retain the license:

(1) Comply with the provisions of this chapter and its Appendix, including the conditions of a variance granted as specified in ch. ATCP 75 Appendix part 1-106.14.

(2) If a license holder is required to operate with a HACCP plan, under ch. ATCP 75 Appendix part 1-106.11, it shall comply with the plan as specified in ch. ATCP 75 Appendix part 1-106.14.

(3) Immediately contact the department or its agent to report an illness of a food employee or conditional employee as specified in ch. ATCP 75 Appendix part 2-201.11(B).

(4) Immediately discontinue operations and notify the department or its agent if an imminent health hazard may exist.

(5) Replace existing facilities and equipment that no longer comply with the criteria set forth in ch. ATCP 75 Appendix.

(6) Comply with directives of the department or its agent including deadlines for taking corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department or its agent for the license holder's retail food establishment or in response to community emergencies.

(7) Accept notices issued and served by the department or its agent according to law.

(8) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with ch. ATCP 75 Appendix, and any other directive of the department or its agent, including deadlines for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

ATCP 75.07 Mobile retail food establishment base; licensing. **(1)** Except for a mobile retail food establishment that operates only as a transient retail food establishment, each mobile retail food establishment shall have a base with its own license. The license holder shall submit a copy of the base license to the department or its agent upon application for a mobile retail food establishment license.

(2) The base shall be appropriate to support all the activities that will occur at the mobile retail food establishment, such as food preparation activities, cleaning and sanitization, storage, water and waste water handling and disposal.

(3) The license holder shall post a copy of the base license in a visible location in the mobile retail food establishment.

(4) The license holder shall provide a regulatory authority inspection report from the last 12 months for the base location upon request by the department or its agent.

(5) The license holder shall provide a copy of the schedule for the use of the base to the department or its agent upon request.

(6) The license holder, upon the department or its agent's request, shall provide details showing how the license holder will store, prepare, and hold for service, food in the mobile retail food establishment.

(7) The department and its agent shall honor a current base license from another state, if the license holder meets the relevant conditions under this section.

(8) The department may grant a variance, as specified in ch. ATCP 75 Appendix part 1-104.11, for a mobile food establishment to operate without a licensed base.

ATCP 75.075 Plan review. An applicant or license holder of a new or extensively remodeled retail food establishment shall submit a retail food establishment plan to the department or its agent. The department or its agent may require an applicant or license holder to submit this documentation when a change of ownership has occurred.

(1) APPROVAL REQUIRED. An applicant or license holder shall obtain plan approval from the department or its agent before any of the following occurs:

(a) The applicant or license holder begins construction of a retail food establishment.

(b) The license holder modifies or extensively remodels a retail food establishment.

(2) APPLICATION FOR PLAN APPROVAL. (a) An applicant for plan approval shall submit all of the following to the department or its agent:

1. A fully and accurately completed, signed, and dated application for plan approval on a form provided by the department or its agent.

2. Equipment layout plans.

3. Equipment schedules.

4. Detailed descriptions of food processing operations.

5. Menus.

6. Copies of other state, county, or municipal approvals relating to the operation of the retail food establishment.

7. A copy of the plans and specifications drawn to scale or a drawing indicating distance of separation measured in feet in accordance with the applicable requirements of this chapter.

8. Any other information required by the department or its agent regarding the operation of the retail food establishment as it relates to the health, safety, and welfare of the public.

Note: To obtain a copy of the plan approval application form, send an email to datcpdfslicensing@wisconsin.gov or contact the Bureau of Food and Recreational Businesses at (608) 224−4700 or PO Box 8911, Madison, Wisconsin 53708−8911.

(b) If the department or its agent receives a plan or application that is not completed as specified in par. (a), the department shall contact the plan applicant to seek additional information.

(c) Within 30 days after receipt of complete information under par. (a), or any additional information requested under par. (b), the department or its agent shall approve or deny the plan. If the department or its agent approves the plan, the department or its agent shall issue a plan approval letter to the plan applicant. If the department or its agent denies a plan, it shall give the plan applicant the reason for the denial, in writing. The plan applicant may appeal the decision made by the department or its agent under ss. ATCP 75.14 and 75.16.

ATCP 75.08 Retail food establishment fees. (1) LICENSE CATEGORY ASSIGNMENT.

(a) *Criteria*.

1. Except for a retail food establishment serving only prepackaged foods or meals, a transient retail food establishment, a vending machine, a micro market, or a mobile retail food establishment base with no food preparation, the department or its agent shall assign a retail food establishment to a license category by evaluating the complexity of the retail food establishment based on the criteria specified in Table A in this section.

2. The department or its agent shall assign a retail food establishment, whose point value is not greater than 2.5, to the simple license category.

3. The department or its agent shall assign a retail food establishment, whose point value is more than 2.5, but not greater than 4.5, to the moderate license category.

4. The department or its agent shall assign a retail food establishment, whose point value is 4.5 or more, to the complex license category.

5. If the department or its agent orders a retail food establishment closed, or it has caused a foodborne illness outbreak, the department or its agent shall immediately assign the retail food establishment to the complex category for the current and following licensing year. If no further outbreaks or closures occur, the department or its agent may reduce the license to the appropriate license category assignment.

Note: The cause of a foodborne illness outbreak is determined using standard epidemiological practices.

(b) *Point values for determining factors for assigning a retail food establishment's license category.*

Table A

Determining Factors for Assigning License Categories	**Point Value**
A retail food establishment that only sells pre-packaged food or meal items, regardless if the food items are time/temperature controlled for safety food.	0
The retail food establishment does not serve meals and has annual gross food sale receipts less than $25,000	0.25
The retail food establishment does not serve meals and has annual gross food sale receipts more than $25,000 but not more than $1,000,000	0.5
The retail food establishment does not serve meals and has annual gross food sale receipts more than $1,000,000 but not more than $5,000,000	1
The retail food establishment does not serve meals and has annual gross food sale receipts more than $5,000,000	2
The retail food establishment contains a self–service salad or food bar.*	1
The retail food establishment handles raw poultry, meat, eggs, or seafood.	1

The retail food establishment has a variance under 3-502.11 (special processing methods**) or a required HACCP plan under 3-502.12 (reduced oxygen packaging) of ch. ATCP 75 Appendix, Wisconsin Food Code.	1
The retail food establishment has an approval under 3-301.11 (bare hand contact plan) or 3-501.19 (time as a public health control plan) of ch. ATCP 75 Appendix, Wisconsin Food Code.	1
The retail food establishment has a catering operation or processes, packages, or holds customer preordered meals or food items.	1
The retail food establishment does cold holding, hot holding, or reheating of time/temperature control for safety foods.	1
The retail food establishment does cooling of cooked or reheated time/temperature control for safety foods.	1
The retail food establishment prepares TCS food at their location and then transports it to be sold, under the wholesale exemption for retail food establishments	1
The retail food establishment serves or sells food that requires food processing activities including chopping, dicing, mixing, slicing, blanching, boiling, cooking, packaging, and assembly in order for that product to be served or sold.	1
The retail food establishment has one or more additional areas where food preparation activities occur.	1
The retail food establishment specifically prepares or serves food to a population identified as highly susceptible, such as a nursing home or day care.	1
The retail food establishment has a customer seating capacity greater than 75, or operates a motor vehicle drive-through service window for food purchase and service.	1

* If only "condiments" or other non-meal, ready-to-eat, non-TCS foods are offered or displayed for customer self-service, that display does not qualify as a salad or food bar, such as, but not limited to, pickles, onions, non-TCS dessert topping, relishes, garnishes, and bakery items.

** Smoking, curing, using food additives or components for preservation rather than flavor, reduced oxygen packaging, operating a molluscan shellfish life-support system, custom processing, sprouting seeds or beans, or any other method as determined by the department to require a variance.

(c) *Request for different license category assignment*. The license holder may ask the department or its agent to reconsider the retail food establishment's license category assignment within 30 days of the category assignment.

Note: To request reconsideration of license category assignment, contact the Bureau of Food and Recreational Businesses at 608−224-4700 or send your written request to the Bureau of Food and Recreational businesses at P.O. Box 8911 Madison, WI 53708-8911. For an agent reconsideration, please contact the agent health department.

(2) FEE SCHEDULE. An applicant to the department for a retail food establishment license shall pay an annual license fee as indicated in Table B:

Table B

Type of Retail Food Establishment	License Fee	PreLicensing Inspection Fee	Reinspection Fee	Additional Reinspection Fees	Late Fee	Operating Without a License Fee
Retail Food Establishment – not serving meals (includes mobile retail food establishment – not serving meals)						
Prepackaged TCS food	$45.00		$90.00	$90.00	$9.00	$90.00
Simple (final food product is Non-TCS)	$60.00		$90.00	$90.00	$12.00	$100.00
Simple (TCS)	$190.00		$190.00	$190.00	$38.00	$100.00
Moderate	$265.00		$190.00	$190.00	$53.00	$100.00
Complex	$685.00		$450.00	$450.00	$137.00	$100.00
Retail Food Establishment – serving meals (includes Retail food establishment serving prepackaged meals and mobile retail food establishments – serving meals)						
Prepackaged TCS	$105.00	$130.00	$98.00	$130.00	$21.00	$749.00

Simple	$230.00	$320.00	$240.00	$320.00	$46.00	$749.00
Moderate	$330.00	$470.00	$353.00	$470.00	$66.00	$749.00
Complex	$540.00	$770.00	$578.00	$770.00	$108.00	$749.00
Transient Retail Food Establishment						$749.00
Non-TCS food	$75.00					
TCS Food	$170.00					
Prepackaged TCS food only	$45.00					
Mobile Retail Food Establishment Base						
No food preparation or processing activities	$45.00		$45.00	$45.00	$9.00	$90.00
All other base license fees are calculated on the risk category assignment in Table A in this section for the activity conducted at the base.						
Vending						
Vending machine operator	$125.00				$25.00	$749.00
Vending machine license	$9.00 per machine					$27.00 per machine
Micro Markets						
Single location	$40.00				$8.00	$80.00
Multiple locations (on the same premises).	$60.00				$12.00	$100.00

Note: A person applying for an annual retail food establishment license may be required to pay, in addition to the license fee listed in Table B, a weights and measures inspection fee under s. ATCP 92.12.

(3) TYPES OF FEES. (a) *Pre-licensing inspection fee.* The applicant shall pay to the department the applicable pre-licensing inspection fee listed in Table B before a license is issued to a new retail food establishment under s. ATCP 75.06.

(b) *License fee.*

1. Except as specified in subd. 2., the applicant shall pay an annual license fee to the department, as listed in Table B, for each retail food establishment that the applicant applies for a license to operate under s. ATCP 75.06. The department or its agent shall base the annual license fee on the point values assigned to the retail food establishment under Table A.

2. Table A does not apply to a retail food establishment serving prepackaged meals or a retail food establishment - not serving meals with only prepackaged foods, a transient retail food establishment, a mobile retail food establishment base with no food service or processing activities, a vending machine and vending machine operator, or a micro market. Fees for these retail food establishments are listed separately in Table B.

(c) *Late fee.* If the license holder does not pay the fee for a license renewal before the expiration date of the license, the license holder shall pay to the department the applicable late fee, as indicated in Table B, in addition to the renewal license fee.

(d) *Reinspection fee.* If the department reinspects a retail food establishment because the department has found a violation of ch. 97, Stats., this chapter, or its appendix during the preceding inspection, the department shall charge the license holder the reinspection fee specified in Table B. A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a license renewal application to the license holder. If an additional reinspection is

641 required to correct violations of ch. 97, Stats., this chapter, or its Appendix, the department shall
642 assess an additional reinspection fee as listed in Table B.
643 (e) *Operating without a license fee.* Any license holder found to be operating a retail food
644 establishment without a license shall pay to the department the applicable fee indicated in Table
645 B for their designated license category. For any license holder found to be operating a vending
646 machine without a license, the license holder shall pay to the department 3 times the annual
647 vending machine license fee listed in Table B, in addition to all applicable fees.
648 **Note:** Anyone operating a retail food establishment without a license is also subject to a fine of not less than
649 $100 nor more than $1,000 under s. 97.72, Stats.
650 (f) *Fees for special condition inspections.* For each inspection or consultation activity that
651 is not directly related to the department's licensing responsibilities, the department may charge
652 the requestor $175.
653 (g) *Fee for operating without a certified food protection manager.* The department shall
654 charge the license holder $150 for operating without a certified food manager as defined in s.
655 ATCP 75.04 (7).
656 **Note:** Certified food manager requirements may be found in Chapter 12 of ch. ATCP 75 Appendix.
657 **(3)** METHOD OF PAYMENT. If the applicant or license holder pays for a retail food
658 establishment license by check or other draft drawn upon an account containing insufficient
659 funds, the applicant or license holder shall, within 15 days after receipt of notice from the
660 department of the insufficiency, pay all applicable fees and the financial institution's
661 processing charges by cashier's check or other certified draft, or money order.
662 **Subchapter III – Enforcement and Appeals**
663 **ATCP 75.10 Enforcement. (1)** INSPECTIONS AND ACCESS TO THE PREMISES.

(a) *Inspections.* Under s. 97.12 (1) Stats., for the purpose of enforcing this chapter, the department and its agents may, at reasonable hours, enter and inspect any premises for which a license is required under this chapter or any farm, factory, warehouse, building, room, establishment or place at or in which foods are manufactured, processed, packed, packaged, stored or held for sale, and may enter any vehicle, including a vehicle used to transport or hold foods in commerce. The department and its agents may also secure samples or specimens, including samples or specimens of food and any product or substance that may affect food, examine and copy relevant documents and records, and obtain photographic and other evidence needed to enforce this chapter or a rule promulgated under this chapter. The department shall examine any samples secured and shall conduct other inspections and examinations needed to determine whether there is a violation of this chapter. The department shall pay or offer to pay the market value of samples taken.

(b) *Reinspections.* The department or its agent may reinspect a retail food establishment whenever an inspection or the investigation of a complaint reveals the existence of a violation that is potentially hazardous to the health and welfare of patrons or employees of the retail food establishment. The time between an inspection, investigation, and a reinspection shall be sufficient to allow the license holder time to correct the deficiencies. The department shall charge a reinspection fee, according to Table ATCP 75.08 B or the applicable charges as determined by an agent. If an additional reinspection is required because the license holder has not corrected a violation, the department shall assess the license holder an additional reinspection fee according to Table ATCP 75.08 B, or the applicable charges as determined by an agent. The department may order the license holder to show just cause why the license should not be suspended or revoked under s. ATCP 75.12.

(2) GENERAL ORDERS TO CORRECT VIOLATIONS. (a) If upon inspection of a retail food establishment, the department or agent finds that the retail food establishment is not designed, constructed, equipped or operated as required under ch. 97 Stat., ch. ATCP 75 or its Appendix, the department or agent shall issue a written order to correct the violation. The order shall specify the correction needed for compliance and the deadline by which the license holder shall make the correction. The department or agent, at its discretion, may extend the deadline specified in the order.

(b) If the license holder does not make the corrections to the violations by the deadline stated in the order, or any extension of time granted for compliance, the department or agent may issue an order under s. ATCP 75.12 to suspend or revoke the license to operate the retail food establishment.

(c) Under s. 97.12 (5), Stats., any person who fails to comply with an order of the department shall forfeit $50 for each day of noncompliance after the order is served upon or directed to the person. A person may appeal a forfeiture under s. ATCP 75.14.

(3) HOLD ORDERS. As specified under s. 97.12 (2) Stats.:

(a) Whenever any duly authorized inspector of the department has reasonable cause to believe that any food examined by him or her is adulterated or misbranded and is dangerous to health or misleading to the injury or damage of the purchaser or consumer, the inspector shall issue and deliver to the owner or custodian of the food a holding order prohibiting the sale or movement of the food for any purpose until the analysis or examination of the sample obtained has been completed. A holding order may be effective for a period of no longer than 14 days from the time of its delivery and it may be reissued for one additional 14−day period if necessary to complete the analysis or examination of the food.

(b) No food described in a holding order issued and delivered under par. (a) may be sold or moved for any purpose without the approval of the department until such analysis or examination has been completed within the time specified in par. (a). Upon completion of the analysis or examination either of the following may apply:

1. If the department upon completed analysis or examination determines that the food described in such holding order is not adulterated or misbranded, then the owner or custodian thereof shall be promptly notified in writing, and such holding order shall terminate upon notification.

2. Where the analysis or examination shows that the food is adulterated or misbranded and is dangerous to health or misleading to the injury or damage of the purchaser or consumer, the owner or custodian of the food shall be notified in writing within the effective time of the holding order. Such notice has the effect of a special order issued under s. 93.18, Stats. Upon receipt of a notice, the food subject to the holding order may not be sold, moved, disposed of or brought into compliance with applicable standards without the approval of the department. If such food is not brought into compliance, sold, moved, or disposed of within 30 days, or other agreed upon period of time, from the date the owner or custodian received notice that the food was adulterated or misbranded, the department may issue an order directing the disposition of the food. Such an order has the effect of a special order issued under s. 93.18, Stats.

(c) Any person violating an order issued under this subsection may be fined not more than the maximum amount or imprisoned not more than one year in the county jail or both. The maximum fine under this paragraph equals $10,000 plus the retail value of the product moved, sold, or disposed of in violation of the order issued under this subsection.

(4) SPECIAL ORDERS AND ORDERS TO ABATE A DANGER TO PUBLIC HEALTH. As specified

733 under s. 97.12 (3), Stats.:

734 (a) The department may issue a special order as provided under s. 93.18 Stats., to any
735 person engaged in the production, processing, sale, or distribution of food if the department
736 finds a violation of this chapter or the rules promulgated under this chapter. An order shall state
737 the violations found and shall specify a deadline for correction.

738 (b) If the department finds that a piece of equipment, a facility, or a practice used is a
739 danger to public health, it may order that the situation be abated or eliminated immediately and
740 that the equipment, facility or practice not be used until the violation is corrected and the
741 correction is confirmed by the department. The department may, instead of issuing an order,
742 accept written agreements of voluntary compliance, which have the effect of an order.

743 **ATCP 75.12 Suspension or revocation of license.** The department may, by summary
744 order and without prior notice or hearing, suspend a license issued under this chapter if the
745 department finds that there has been a substantial failure to comply with the applicable
746 requirements of this chapter and the rules promulgated under this chapter and that the
747 continuation of the violations constitutes a serious danger to public health. The order shall be in
748 writing, have the force and effect of an order issued under s. 93.18, Stats., and is subject to right
749 of hearing before the department, if requested within 10 days after date of service.

750 **ATCP 75.14 Appeals of actions by the department; right of hearing.** If requested in
751 writing within 10-days after date of the service of an order, a hearing shall be conducted within
752 10 days after receipt of a request for a hearing. Enforcement of the order shall not be stayed
753 pending action on the hearing.

ATCP 75.16 Appeals of actions by agent health departments. If an agent issues a license under this chapter, the agent shall create and follow enforcement and appeal procedures under s. 66.0417 Stats.

Subchapter IV – Standards for Retail Food Establishments

ATCP 75.18 Qualifications of an authorized representative conducting inspections. An authorized representative of the department or its agent who inspects a retail food establishment or conducts a plan review for compliance with ch. ATCP 75 and its Appendix shall meet the staffing qualification requirements set forth in s. ATCP 74.08.

ATCP 75.20 Inspections. (1) REFUSED INSPECTION; PROCESS. If a person denies access to the department or its agent, the department or its agent shall inform the person of all the following:

(a) The license holder is required to allow access to the department or its agent as specified under s. ATCP 75.10 (1).

(b) Access is a condition of the acceptance and retention of a retail food establishment license to operate as specified under s. ATCP 75.06 (3) (c).

(c) If the license holder denies access to a retail food establishment to an authorized representative of the department or its agent, the department or its agent may apply for an inspection warrant to allow access as provided in law under s. 66.0119, Stats.

(2) REPORTING OF REFUSED ACCESS. If the person in charge continues to refuse access after the department or its agent presents credentials, the explanation in sub. (1), and makes a final request for access, the department or its agent shall document details of the denial of access on an inspection report form.

(3) FREQUENCY OF INSPECTION. (a) The department or its agent shall inspect a retail food establishment at least once during the licensing period.

(b) The department may approve, upon request, an increase in the interval between inspections beyond 12 months if any of the following conditions exist:

1. The retail food establishment is fully complying with a department-approved HACCP plan as specified in ch. ATCP 75 Appendix part 1-106.14.

2. The agent submits a plan to the department, requesting an inspection frequency based on the risk of food establishment operations using criteria under s. ATCP 75.08 (1) (a) and (b). The total number of inspections performed shall equal the number of licenses issued.

Note: The intent of this provision is to allow greater inspection frequency for high-risk retail food establishments by decreasing inspection frequency for low-risk retail food establishments.

(4) INSPECTION DOCUMENTATION. The department or its agent shall document all of the following on an inspection report form:

(a) Administrative information about the retail food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required at the retail food establishment.

(b) The conditions or other violations from this chapter and ch. ATCP 75 Appendix, that require corrective action by the license holder. An accompanying narrative shall contain all of the following:

1. A factual description of the violation observed, including location of the observed violation.

2. Citation and a brief description of the statute, administrative code, or local ordinance for the observed violation.

3. A statement indicating what corrective action the license holder has taken, or shall take, to regain compliance with the administrative rule, statute, or local ordinance.

4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action deadline. The corrective action deadline shall be based on the following criteria:

a. The nature of the potential hazard involved and the complexity of the corrective action needed. The department or its agent may agree to or specify additional time, not to exceed 72 hours after the inspection, for the license holder to correct violations of a priority item.

b. The license holder has a maximum time of 10 calendar days after the inspection for the license holder to correct violations of a priority foundation item or HACCP Plan deviation as defined in ch. ATCP 75 Appendix.

c. The license holder shall correct core items, as defined in ch. ATCP 75 Appendix, by a deadline agreed to or specified by the department or its agent, but no later than 90 calendar days after the inspection. The department or its agent may approve a written compliance schedule that extends beyond 90 calendar days, if the license holder submits a written schedule of compliance and no health hazard exists, or will result, from allowing an extended schedule for compliance.

(5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. At the conclusion of the inspection, an authorized representative of the department shall sign the completed inspection report. The department or its agent shall then perform an exit interview and obtain a signature on the inspection report from the license holder's designated person in charge, as that term is used in ch. ATCP 75 Appendix part 2-101.11(A). A copy of the inspection report shall be left with the person in charge at the completion of the inspection or emailed or otherwise presented within 2 business days after completion of the inspection.

(6) REFUSAL TO SIGN INSPECTION REPORT. If the license holder's designated person in charge refuses to sign the inspection report, the department or its agent shall do all of the following:

(a) Inform the person who declines to sign the inspection report that a written acknowledgment of receipt is not an agreement with findings.

(b) Inform the person that refusal to sign the inspection report will not affect the license holder's obligation to correct the violations noted in the inspection report by the deadlines specified.

(c) Document the refusal to sign in the inspection report.

(7) POSTING OF INSPECTION REPORTS. The department and its agents shall make inspection reports available to the public on the internet.

Subchapter V – Vending Machines

ATCP 75.30 Applicability. (1) In addition to the specific requirements of ch. ATCP 75, vending machines shall meet applicable requirements in chapters 1 to 7 in ch. ATCP 75 Appendix.

(2) The provisions of this chapter apply to any vending machine offered for public use, except a vending machine which dispenses only pastry items, which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions or are otherwise not time/temperature control for safety foods, or prepackaged Grade A pasteurized milk or milk products.

ATCP 75.32 Approval of vending machines and related equipment. (1) APPROVAL AUTHORITY. All vending machines and related equipment used at a vending machine location

shall be approved by the department, using construction criteria developed by the National Sanitation Foundation (NSF) or the National Automatic Merchandising Association (NAMA).

(2) INSPECTION FOR EVIDENCE OF APPROVAL. Whenever an authorized representative or agent of the department inspects a vending machine and finds that the vending machine does not contain an identifiable license as required under s. ATCP 75.06, the authorized representative or agent of the department shall place the vending machine in a non-vend position by sealing the money or credit card insert slot, as applicable. Failure of the operator to maintain a non-vend condition until an authorized representative or agent of the department is satisfied that the vending machine is properly licensed and identified shall be cause for an action under ss. 97.65, 97.72, and 97.73, Stats.

ATCP 75.34 Vending machine records. (1) A vending machine location record shall be maintained on file at the license holder's place of business within the State. That record shall include all of the following location information for each machine:

(a) Complete street address of the building.

(b) The floor level in the building.

(c) The room or area on the floor.

(2) The entry under each machine in the vending machine location record shall include the machine serial number and model number, the department's license number, and a designation of the machine by primary vending purpose. Primary vending purposes are:

(a) Heated.

(b) Refrigerated.

(c) Beverages.

(d) Food other than beverages.

(e) A combination of any 2 of pars. (a) to (d).

ATCP 75.36 Maintenance and service connections. (1) REPLACEMENT PARTS. All replacement parts and tubing shall be equal to or exceed original equipment specifications. Any clear tubing used shall be replaced with clear tubing only. No part built in as a function of the vending machine may be removed or bypassed.

(2) SERVICE CONNECTIONS. (a) *Utility openings.* All service connections through an exterior wall of the machine, including water, gas, electrical and refrigeration connections, shall be grommeted or closed to prevent the entry of insects and rodents.

(b) *Miscellaneous openings*. Miscellaneous openings into the cabinet and through the cabinet wall, other than coin entrance, money or credit card slots, coin returns, and crown pullers, but including openings for optional service connections or alternate installations, shall be provided with effective closures by the manufacturer. The closures shall be provided for these not–in–use openings, and shall be easily identifiable, properly marked or adequately described in the instruction manual for their intended use.

(c) *Disconnection safeguards*. All service connections to utilities shall be of a type that will discourage their unauthorized or unintentional disconnection.

ATCP 75.38 Sanitization. (1) CLEANING AND SANITIZING FACILITIES. Approved facilities for cleaning and sanitizing equipment shall be available for each vending machine location or at a central location. At a central location, product contact surfaces shall be protected from contamination during storage, transportation, and installation. Facilities for cleaning and sanitizing shall include either a permanently fixed three-compartment sink large enough to accommodate the immersion of the largest equipment and utensil or portable washing facilities

such as a service wagon, metal or plastic pails, or another mobile device which can be moved from one location to another.

(2) CLEANED IN PLACE. In machines designed so that food−contact surfaces are not readily removable, all surfaces intended for in−place cleaning shall be designed and fabricated so that all of the following conditions are met:

(a) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen.

(b) Cleaning and sanitizing solutions will contact all food−contact surfaces.

(c) The system is self−draining or capable of being completely evacuated.

(d) The procedures used result in thorough cleaning and sanitizing of the equipment.

ATCP 75.40 Waste disposal. (1) REMOVAL. All trash and other food product waste material shall be removed from the vending machine location as frequently as may be necessary to prevent attracting vermin, or creating a nuisance and unsightliness, and shall be disposed of in a manner that will not attract insects or rodents.

(2) CONTAINERS. Self−closing, leak-proof and easily cleanable refuse containers shall be provided in the vicinity of each machine or machines to receive cartons, wrappers, and other items of refuse.

(3) WASTE COLLECTION. (a) Containers shall be provided within all machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, and other internal wastes.

(b) An automatic shutoff device shall be provided, which will place the vending machine out of operation before a container overflows. The cutoff mechanism shall be set at a point to permit removal of the waste container from the machine without spillage.

(c) Containers and surfaces on which wastes may accumulate shall be readily removable for cleaning, easily cleanable, and corrosion resistant.

ATCP 75.42 Delivery of foods. Foods, including beverages and ingredients, in transit to vending machine locations shall be protected from contamination with dirt, dust, insects, rodents, and other foreign material. Similar protection shall be provided for single–service containers, as defined in ch. ATCP 75 Appendix part 1-201.10, and for the product contact surfaces of equipment, containers, and devices in transit to machine locations.

Subchapter VI — Micro Markets

ATCP 75.44 Applicability of rules. This chapter and chapters 1 to 7 in ch. ATCP 75 Appendix, except for Part 2-1, apply to a micro market, as defined in s. ATCP 75.04 (22).

ATCP 75.46 Location. A micro market shall be located in the interior of a building that is not accessible to the general public. Access to the micro market shall be limited to a defined population of employees, guests, or occupants of the building where the establishment is located.

ATCP 75.48 License holder responsibilities. (1) REQUIREMENTS. The license holder shall assure that all of the following conditions are met:

(a) Food is from sources that comply with law.

(b) Packaged food is provided in tamper-evident packaging.

(c) Food is protected from potential sources of cross contamination.

(d) Food is maintained at safe temperatures during storage, transport and display.

(2) MICRO MARKET OVERSIGHT. Each micro market shall have a sign readily visible at the automated payment station stating all of the following:

(a) The name and mailing address of the license holder responsible for the establishment and to whom complaints and comments should be addressed.

(b) The telephone, email, or web information for the responsible license holder, when applicable.

ATCP 75.50 Nature and source of food and beverages offered for sale. All of the following requirements apply to a micro market:

(1) A license holder shall offer only commercially packaged foods properly labeled for individual retail sale.

(2) Food preparation by consumers is limited to heating or reheating food in a microwave oven.

(3) Dispensing of bulk food is prohibited.

ATCP 75.52 Equipment. (1) REFRIGERATED DISPLAY EQUIPMENT FEATURES. A micro market offering refrigerated or frozen foods shall be equipped with refrigeration or freezer units that have all of the following features:

(a) Self-closing doors that allow food to be viewed without opening the door to the refrigerated cooler or freezer.

(b) An automatic self-locking mechanism that prevents the consumer from accessing the unit upon failure of the refrigeration unit to maintain the appropriate temperature.

(2) REFRIGERATED DISPLAY EQUIPMENT MAINTENANCE. Automatic self-locking mechanisms that have been activated shall require an onsite visit by the license holder or designee to evaluate and restore access to the refrigeration equipment.

(3) FOOD SERVICE EQUIPMENT LIMITATIONS. Beverages shall be dispensed in amounts intended for a single serving size. Beverage dispensers connected to the building water supply shall be equipped with backflow prevention.

ATCP 75.54 Security. A micro market license holder shall provide and maintain continuous video surveillance of areas where consumers view, select, handle, and purchase products. The surveillance shall provide sufficient resolution to identify situations that may compromise food safety or result in food tampering. Video surveillance recordings shall meet all of the following requirements:

(1) The license holder shall retain video surveillance recordings for at least 14 days after the date of the surveillance.

(2) The license holder shall make retained video surveillance recordings available for inspection upon request by the department or its agent within 24 hours of a request.

ATCP 75.56 Routine maintenance at a micro market. The license holder shall maintain the micro market, food, equipment and utensils in a clean, sanitary and unadulterated condition. This includes the following activities:

(1) Checking food supplies and equipment for signs of product damage or tampering, and discarding damaged or tampered-with food.

(2) Verifying refrigeration equipment is operating properly including any temperature display and self-locking mechanism.

(3) Cleaning food service dispensing and merchandising equipment and food display areas.

(4) Stocking food and disposable single-use and single-service supplies.

(5) Checking inventory for recalled foods.

(6) Performing any other reasonable actions to maintain a clean, sanitary and unadulterated condition in the micro market.

SECTION 2. ATCP 75 Appendix, *Wisconsin Food Code*, is repealed and recreated 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, 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)

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

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

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

The purpose of this type of cross reference is to:

1) Alert the reader to relevant information, and

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

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

The purpose of this type of cross reference is to:

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

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

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

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

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

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

The 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 specific equipment, the requirement is delineated under the appropriate principle (e.g., Design and Construction) and listed separately in the index.

Categories of Importance:

Priority Items, Priority Foundation Items, and Core Items

Requirements contained in the Food Code are identified as being in one of 3 categories of importance:

PRIORITY ITEM (i.e., a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard);

PRIORITY FOUNDATION ITEM (i.e., a provision in this Code whose application supports, facilitates, or enables one or more PRIORITY ITEMS); and

CORE ITEM (i.e., a provision in this Code that is not designated as a PRIORITY ITEM or a PRIORITY FOUNDATION ITEM and that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance).

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

Font Style

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

TEXT IN "caps" Defined words and terms are in "caps" in the text to indicate that they are defined under ¶ 1−201.10 (B) or § 12−101.12, 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.

Chapter 1 Purpose and Definitions

Parts

1–1 TITLE, INTENT, SCOPE
1–2 DEFINITIONS

1–1 TITLE, INTENT, SCOPE

Subparts

1-101 Title
1-102 Intent
1-103 Scope
1-104 Authority and Purpose
1-105 Variances
1-106 HACCP Plans
1-107 Confidentiality

Title **1–101.10 Food Code.**

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

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

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

Scope **1–103.10 Statement.**

(A) This Code establishes definitions; sets standards for management and personnel, FOOD operations, and EQUIPMENT and facilities; and EMPLOYEE RESTRICTION.

(B) Under s. ATCP 75.02, this Appendix applies to all retail FOOD ESTABLISHMENTS, regardless of whether the retail FOOD ESTABLISHMENT is subject to licensing.

Authority and Purpose

1–104.10 Applicability.

Chapter 97, Stats., give the department of agriculture, trade and consumer protection the authority to prescribe rules for FOOD ESTABLISHMENTS and to enforce these rules for the purpose of protecting public health and safety.

1–104.11 Modifications 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.

1–105.12 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).

(B) As required in § 1-106.13, a local inspector 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 as specified in § 1-106.12, if relevant to the VARIANCE request or required by the DEPARTMENT.

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

HACCP Plan Requirement

1-106.11 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP PLAN, a LICENSE applicant or LICENSE HOLDER shall submit a properly prepared HACCP PLAN as specified under § 1106.12 and the relevant provisions of this Code if:

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

(2) A VARIANCE is required as specified under Subparagraph 3-401.11(D) (4), § 3502.11, or ¶ 4-204.110(B);

(3) The DEPARTMENT determines that a FOOD preparation or PROCESSING method requires a VARIANCE based on a plan submittal, an inspectional finding, or a VARIANCE request.

(B) Before engaging in REDUCED OXYGEN PACKAGING without a VARIANCE as specified under § 3-502.12, a LICENSE applicant or LICENSE HOLDER shall submit a properly prepared HACCP PLAN.

Contents – HACCP Plan

1-106.12 Contents of a HACCP Plan.

For a FOOD ESTABLISHMENT that is required under § 1-106.12 to have a HACCP PLAN, the plan and specifications shall indicate:

(A) General information such as the name of the license applicant or LICENSE HOLDER, the FOOD ESTABLISHMENT address, and contact information;

(B) A categorization of the types of TIME/TEMPERATURE CONTROL FOR SAFETY FOODS that are to be controlled under the HACCP PLAN; [Pf]

(C) A flow diagram or chart for each specific FOOD or category type that identifies:

(1) Each step in the process; [Pf]

(2) The HAZARDS and controls for each step in the flow diagram or chart; [Pf]

(3) The steps that are CRITICAL CONTROL POINTS; [Pf]

(4) Ingredients, materials, and EQUIPMENT used in the preparation of that FOOD; [Pf] and

(5) Formulations or recipes that delineate methods and procedural control measures that address the FOOD safety concerns involved; [Pf]

(D) A CRITICAL CONTROL POINTS summary for each specific FOOD or category type that clearly identifies:

(1) Each CRITICAL CONTROL POINT, [Pf]

(2) The CRITICAL LIMITS for each CRITICAL CONTROL POINT, [Pf]

(3) The method and frequency for monitoring and controlling each CRITICAL CONTROL POINT by the designated FOOD EMPLOYEE or the PERSON IN CHARGE, [Pf]

(4) The method and frequency for the PERSON IN CHARGE to routinely verify that the FOOD EMPLOYEE is following standard operating procedures and monitoring CRITICAL CONTROL POINTS, [Pf]

(5) Action to be taken by the designated food employee or the PERSON IN CHARGE if the CRITICAL LIMITS for each CRITICAL CONTROL POINT are not met, [Pf] and

(6) Records to be maintained by the PERSON IN CHARGE to demonstrate that the HACCP PLAN is properly operated and managed; [Pf] and

(E) Supporting documents such as:

(1) FOOD EMPLOYEE and supervisory training plan that addresses the FOOD safety issues of concern; [Pf]

(2) Copies of blank records forms that are necessary to implement the HACCP PLAN; [Pf]

(3) Additional scientific data or other information, as required by the DEPARTMENT, supporting the determination that FOOD safety is not compromised by the proposal. [Pf]

(F) Any other information required by the DEPARTMENT.

Submittal **1-106.13 HACCP Plan and Variance Submittal.**

A LICENSE applicant or LICENSE HOLDER shall submit properly prepared HACCP PLAN and VARIANCE requests to the local inspector. After review, the inspector shall forward the submissions to the DEPARTMENT for approval.

Conformance **1-106.14 Conformance with Approved Variance and HACCP Plan Procedures**

If the DEPARTMENT grants a VARIANCE as specified in 1-104.11, of a HACCP PLAN is otherwise required as specified under section 1-106.11, the LICENSE HOLDER shall:

(A) Comply with the HACCP PLANS and procedures that are submitted as specified under section 1-106.12 and APPROVED as a basis for the modification or wavier; [P] and

(B) Maintain and provide to the REGULATORY AUTHORITY or the DEPARTMENT, upon request, records specified under section 1-106.12 that demonstrate that the following routinely employed;

(1) Procedure for monitoring the CRITICAL CONTROL POINTS, [P]

(2) Monitoring of the CRITICAL CONTROL POINTS. [Pf]

(3) Verification of the effectiveness of the operation or process, [Pf] and

(4) Necessary corrective actions if there is a failure at a CRITICAL CONTROL POINT. [Pf]

Confidentiality **1-107.10 Trade Secrets.**

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

1–2 DEFINITIONS
Subpart
1–201 Applicability and Terms Defined

Applicability and Terms Defined **1–201.10 Statement of Application and Listing of Terms.**

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

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

Accredited Program.

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

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

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

Additive.

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

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

"Adulterated" has the meaning stated in s. 97.02, Stats.

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

Asymptomatic.

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

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

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

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

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

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

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

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

"CFR" means Code of Federal Regulations. Citations in this Code to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

CIP.

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

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

"Commingle" means:

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

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

Comminuted.

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

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

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

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

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

Core Item.

(1) **"Core item"** means a provision in this Code that is not designated as a PRIORITY ITEM or a PRIORITY FOUNDATION ITEM.

(2) **"Core item"** includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

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

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

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

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a CRITICAL CONTROL POINT to minimize the RISK that the identified FOOD safety HAZARD may occur.

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

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

"Department" means the department of agriculture, trade and consumer protection as applicable.

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

Drinking Water.

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

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

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

"Dry storage area" means a room or area designated for the storage of PACKAGED or containerized bulk FOOD that is not TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD and dry goods such as SINGLE–SERVICE items

Easily Cleanable.

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

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

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

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

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

(a) The appropriateness of stainless steel for a FOOD preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for CONSUMER dining; or

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

"Easily movable" means:

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

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

Egg.

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

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

(a) A BALUT;

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

(c) An EGG PRODUCT.

Egg Product.

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

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

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

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

Equipment.

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

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

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

"Existing" in reference to a FOOD ESTABLISHMENT, means a FOOD ESTABLISHMENT operating under a LICENSE issued by the REGULATORY AUTHORITY before [the effective date of this code]

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

Fish.

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

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

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

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

"Food–contact surface" means:

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

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

(a) Into a FOOD, or

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

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

“Food Establishment”

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

(a) Stores, prepares, PACKAGES, serves, vends food directly to the CONSUMER, or otherwise provides FOOD for human consumption such as a restaurant as defined in s. 97.01 (14g), Stats.; satellite or catered feeding location; catering operation if the operation provides FOOD directly to a CONSUMER or to a conveyance used to transport people; market; vending location; institution; or FOOD bank; and

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

(2) **"Food establishment"** includes:
An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the PREMISES; and regardless of whether there is a charge for the FOOD.

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

(a) *An establishment that offers only prePACKAGED FOODS that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOODS;*

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

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

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

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

(f) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers FOOD to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 8, breakfast is the only meal offered, the number of guests served does not exceed 20; or

(g) A private home that receives catered or home-delivered FOOD.

Food Processing Plant.

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

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

Game Animal.

(1) **"Game animal"** means an animal, the products of which are FOOD, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2 - Definitions, or as POULTRY, or as FISH.

(2) **"Game animal"** includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat; and nonaquatic reptiles such as land snakes.

(3) **"Game animal"** *does not include RATITES.*

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

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

Note: A copy of the "Grade A Pasteurized Milk Ordinance" may be secured from the Department of Health and Human Services, Public Health Service, Food and Drug Administration, Division of Plant and Dairy Food Safety (HFS316), 5100 Paint Branch Parkway, College Park, MD 20740–3835 or you can contact the Wisconsin department of agriculture, trade and consumer protection.

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

Handwashing Sink.

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

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

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

"Health practitioner" means a physician licensed to practice medicine, or if allowed by LAW, a nurse practitioner, physician assistant, or similar medical professional.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned FOODS, to maintain the commercial sterility of its contents after PROCESSING.

"Highly susceptible population" means PERSONS who are more likely than other people in the general population to experience foodborne disease because they are:

(1) Immunocompromised; preschool age children, or older adults; and

(2) Obtaining FOOD at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(1) The number of potential injuries; and

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

"Injected" means manipulating MEAT to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping."

Juice.

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

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

"Kitchenware" means FOOD preparation and storage UTENSILS.

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

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

"License holder" means the entity that:

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

(2) Possesses a valid LICENSE, as applicable, to operate a FOOD ESTABLISHMENT.

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

Major Food Allergen.

(1) **"Major food allergen"** means:

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

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

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

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

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

"Meat" means the flesh of animals used as FOOD including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, *except FISH, POULTRY, and wild GAME ANIMALS as specified under Subparagraphs 3–201.17 (A) (3) and (4).*

Mechanically Tenderized.

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

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

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

"Milk and milk products" means grade A milk and grade A milk products.

Mobile Food Establishment.

(1) **"Mobile food establishment"** means a restaurant or retail FOOD ESTABLISHMENT where FOOD is served or sold from a movable vehicle, intrastate railway car, push cart, trailer, or boat which periodically or continuously changes location and requires a SERVICE BASE to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in ¶ 9–103.11 (D).

(2) **"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.*

"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.*

"New" in reference to a FOOD ESTABLISHMENT, means operating with a LICENSE from the DEPARTMENT or its agent for the first time on or after [the effective date of this code].

Non–Continuous Cooking.

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

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

"Operator" means the LICENSE HOLDER or PERSON responsible to the LICENSE HOLDER for the operation of the FOOD ESTABLISHMENT.

Packaged.

(1) **"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.

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

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

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

Personal Care Items.

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

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

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

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

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

"Plumbing fixture" means a receptacle or device that:

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

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

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

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

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

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

(3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and PERSONAL CARE ITEMS that may be deleterious to health; and

(4) Substances that are not necessary for the operation and maintenance of the establishment and are on the PREMISES for retail sale, such as petroleum products and paints.

"Poultry" means:

(1) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, RATITES, or squabs), whether live or dead, as defined in 9 CFR 381.1 — Poultry Products Inspection Regulations Definitions, Poultry; and

(2) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1 — Voluntary Poultry Inspection Regulations, Definitions.

"Premises" means:

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

(2) The PHYSICAL FACILITY, its contents, and the land or property not described under Subparagraph (1) of this definition, if its facilities and contents are under the control of the 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.

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

Priority Item.

(1) **"Priority item"** means a provision in this Code whose application contributes directly to the elimination, prevention, or reduction to an acceptable level, HAZARDS associated with foodborne illness or injury and there is no other provision that more directly controls the HAZARD.

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

(3) **"Priority item"** is an item that is denoted in this Code with a superscript P-[P].

Priority foundation Item.

(1) **"Priority foundation item"** means a provision in this Code whose application supports, facilitates, or enables one or more PRIORITY ITEMS.

(2) **"Priority foundation item"** includes an item that requires the purposeful incorporation of specific actions, EQUIPMENT or procedures by industry management to attain control of RISK FACTORS that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary EQUIPMENT, HACCP PLAN, documentation or record keeping, and labeling; and

(3) **"Priority foundation item"** is an item that is denoted in this Code with a superscript Pf–[Pf].

"Processed" means:

(1) The preparation of FOOD for sale or service through the process of, 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.

(2) PROCESSED does not mean the canning of FOOD or the smoking of FISH in a FOOD ESTABLISHMENTS.

"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, as defined in s. 281.61 (1) (c), Stats. A PUBLIC WATER SYSTEM is either a "community water system" as defined in s. 281.62 (1) (a), Stats., or a "non−community water system" as defined in s. 281.62 (1) (b), Stats. Such system includes:

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

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

"Pushcart" means a MOBILE FOOD ESTABLISHMENT solely moved by the efforts of the operator and not designed to be towed.

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

Ready−to−Eat Food.

(1) **"Ready−to−eat"** means FOOD that:

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

(b) Is a raw or partially cooked animal FOOD and the CONSUMER is advised as specified in Subparagraphs 3−401.11 (D) (1) and (3); or

(c) Is prepared in accordance with a VARIANCE that is granted as specified under Subparagraph 3−401.11 (D) (4); and

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

(2) **"Ready−to−eat food"** includes:

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

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

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

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

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

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

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

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

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

Reduced Oxygen Packaging.

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

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

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

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

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

(b) Modified atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the PACKAGING material or the respiration of the FOOD. Modified atmosphere PACKAGING includes: reduction in the proportion of

oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and

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

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

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

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

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

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

"Re–service" means the transfer of FOOD that is unused and returned by a CONSUMER after being served or sold and in the possession of the CONSUMER, to another PERSON.

"Restrict" means to limit the activities of a FOOD EMPLOYEE so that there is no RISK of transmitting a disease that is transmissible through FOOD and the FOOD EMPLOYEE does not work with exposed FOOD, clean EQUIPMENT, UTENSILS, LINENS; or unwrapped SINGLE–SERVICE or SINGLE–USE ARTICLES.

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

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, or ATCP 29, and that is limited to use by or under the direct supervision of a certified applicator.

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

"Risk control plan (RCP)" means a written plan developed by the FOOD ESTABLISHMENT OPERATOR in conjunction with the REGULATORY AUTHORITY that describes a system for controlling specific out−of−control foodborne illness RISK FACTORS.

"Risk Factor" means the improper practices or procedures that have been identified by the Centers for Disease Control and Prevention (CDC) through epidemiological data, as the most prevalent contributing factors of foodborne illness or injury. RISK FACTORS include:

(1) Poor personal hygiene;

(2) FOOD from unsafe source;

(3) Inadequate cooking;

(4) Improper holding temperatures; and

(5) Contaminated EQUIPMENT.

"Safe material" means:

(1) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any FOOD;

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

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

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

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

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

"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.

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

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

"Shellstock" means raw, in−shell MOLLUSCAN SHELLFISH.

"Shiga toxin−producing Escherichia coli" (STEC) means any E. coli capable of producing Shiga toxins (also called verocytotoxins.) STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild, nonbloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea), to hemolytic uremic syndrome (HUS – a type of kidney failure). Examples of serotypes of **STEC** include: E. coli O157:H7; E. coli O157:NM; E. coli O26:H11; E. coli O145:NM; E. coli O103:H2; and E. coli O111:NM. **STEC** are sometimes referred to as VTEC (verocytotoxigenic E. coli) or as EHEC (Enterohemorrhagic E. coli). EHEC are a subset of **STEC** which can cause hemorrhagic colitis or HUS.

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

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

Single−Use Articles.

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

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

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

“Smooth” means:

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

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

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

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

“Temperature measuring device” means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of FOOD, air, or water.

“Temporary food establishment” means a FOOD ESTABLISHMENT that operates 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.

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

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

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

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

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

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

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

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
** PA means Product Assessment required

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

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

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
** PA means Product Assessment required

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

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

(b) A FOOD in an unopened HERMETICALLY SEALED CONTAINER that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(c) A FOOD that because of its pH or A_W value, or interaction of A_W pH values, is designated as a non-TCS FOOD in Table A or B of this definition;

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

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

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

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

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

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

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

"Variance" means a written document issued by the DEPARTMENT that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the DEPARTMENT, a health HAZARD or nuisance will not result from the modification or waiver.

"Vending machine" has the meaning given in s. 97.01 (15p), Stats.

Note: Section 97.01 (15p), 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.

"Vending machine commissary" means any building, room or place in the state at which FOODS, containers, transport equipment, or supplies for VENDING MACHINES or micro markets are kept, handled, prepared, or stored by a VENDING MACHINE OPERATOR or micro market operator, except a place at which the OPERATOR is licensed to manufacture, distribute, or sell FOOD products under ch. 97, Stats.

“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.

"Vending machine operator" has the meaning prescribed in s. 97.01 (15y), Stats., namely, the person maintaining a place of business in the state and responsible for the operation of one or more vending machines.

“Warewashing” means the cleaning and SANITIZING of UTENSILS and FOOD–CONTACT SURFACES of EQUIPMENT.

“Whole–muscle, intact beef” means whole muscle beef that is not INJECTED, MECHANICALLY TENDERIZED, reconstructed, or scored and marinated, from which beef steaks may be cut.

Chapter

2 Management and Personnel

Parts

2–1 SUPERVISION
2-2 EMPLOYEE HEALTH
2–3 PERSONAL CLEANLINESS
2–4 HYGIENIC PRACTICES
2-5 RESPONDING TO CONTAMINATION EVENTS

2–1 SUPERVISION

Subparts

2–101 Responsibility
2–102 Knowledge
2–103 Duties

Responsibility **2–101.11 Assignment.**

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

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

Knowledge **2–102.11 Demonstration.**

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

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

(B) Being a current certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM as specified in chapter 12 of the this Code; [Pf] or

Note: FOOD ESTABLISHMENTS meeting the applicability requirements specified in § 12–101.11 are required to employ at least one individual who is a certified food manager that holds a valid certificate of food protection practices as required in s. 97.33 (1r), Stats.

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

(1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a FOOD EMPLOYEE; [Pf]

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

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

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

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

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

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

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

(a) Cross contamination, [Pf]

(b) Hand contact with READY–TO–EAT FOODS, [Pf]

(c) Handwashing, [Pf] and

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

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

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

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

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

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

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

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

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

(15) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP PLAN if a plan is required by the LAW, this Code, an approved procedure, or a RISK CONTROL PLAN developed by the REGULATORY AUTHORITY and the establishment; [Pf]

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

(a) FOOD EMPLOYEE, [Pf]

(b) CONDITIONAL EMPLOYEE, [Pf]

(c) PERSON IN CHARGE, [Pf]

(d) REGULATORY AUTHORITY; [Pf] and

(17) Explaining how the PERSON IN CHARGE, FOOD EMPLOYEES, and CONDITIONAL EMPLOYEES comply with reporting responsibilities and EXCLUSION or RESTRICTION of FOOD EMPLOYEES. [Pf]

2-102.12 Certified Food Protection Manager

(A) At least one FOOD ESTABLISHMENT EMPLOYEE that has supervisory and management responsibility and the authority to direct and control FOOD preparation and service shall be a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM as specified in chapter 12 of this Code.

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

2–102.20 Food Protection Manager Certification.

(A) A PERSON IN CHARGE who demonstrates knowledge by being a FOOD protection manager that is certified by a FOOD protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of FOOD Protection Manager Certification Programs, as specified in chapter 12 of this Code, is deemed to comply with ¶2-102.11(B).

(B) A FOOD ESTABLISHMENT that has an EMPLOYEE that is certified by a FOOD protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of FOOD Protection Manager Certification Programs, as specified in chapter 12 of this Code, is deemed to comply with §2-102.12.

Duties

2–103.11 Person in Charge.

The PERSON IN CHARGE shall ensure that:

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

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

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

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

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

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

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

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

(I) EMPLOYEES are properly maintaining the temperatures of TIME/TEMPERATURE CONTROL FOR SAFETY FOODS during hot and cold holding through daily oversight of the EMPLOYEE'S routine monitoring for FOOD temperatures; [Pf]

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

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

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

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

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

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

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

2–2 Food Employee Health

Subparts

2–201 Responsibilities of License Holder, Person in Charge, Food Employees, and Conditional Employees

Responsibilities and Reporting Symptoms and Diagnosis

2–201.11 Responsibility of License Holder, Person in Charge, and Conditional Employees.

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

reportable symptoms

(1) Has any of the following symptoms:

(a) Vomiting, [P]

(b) Diarrhea, [P]

(c) Jaundice, [P]

(d) Sore throat with fever, [P] or

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

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

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

(iii) On other parts of the body, *unless the lesion is covered by a dry, durable, tight–fitting bandage;* [P]

reportable diagnosis

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

(a) Norovirus, [P]

(b) Hepatitis A virus, [P]

(c) *Shigella* spp., [P]

(d) SHIGA TOXIN–PRODUCING *ESCHERICHIA COLI*, [P]

(e) Typhoid fever (caused by *Salmonella* Typhi); [P] or

(f) *Salmonella* (nontyphoidal); [P]

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

reportable past illness

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

reportable history of exposure

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

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

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

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

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

reportable history of exposure

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

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

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

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

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

responsibility of person in charge to notify the regulatory authority

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

(1) Jaundiced, [Pf] or

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

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

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

(1) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under Subparagraphs (A)(1) - (3) of this section, is prohibited from becoming a FOOD EMPLOYEE until the CONDITIONAL EMPLOYEE meets the criteria for the specific symptoms or diagnosed illness as specified under § 2201.13; [P] and

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

responsibility of the person in charge to exclude or restrict

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

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

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

responsibility of food employees and conditional employees to report

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

responsibility of food employees to comply

(F) A FOOD EMPLOYEE shall:

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

(2) Comply with a RESTRICTION as specified under Subparagraphs 2201.12(D)(2), (E)(2), (F)(2), (G), (H)(2), or ¶¶ 2-201.12 (H), (I), or (J) and comply with the provisions specified under ¶¶ 2-201.13(D) - (J). [P]

conditions of exclusion and restriction

2–201.12 Exclusions and Restrictions.

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

symptomatic with vomiting or diarrhea

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

(1) Symptomatic with vomiting or diarrhea; [P] or

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

jaundiced or diagnosed with ***hepatitis A infection***

(B) EXCLUDE a FOOD EMPLOYEE who is:

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

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

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

diagnosed or reported previous illness with typhoid fever

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

diagnosed with an asymptomatic infection from ***Norovirus***

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

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

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

diagnosed with ***Shigella spp.*** *infection and asymptomatic*

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

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

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

diagnosed with ***STEC*** *and asymptomatic*

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

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

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

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

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

symptomatic with sore throat with fever

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

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

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

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

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

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

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

Managing Exclusions and Restrictions

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

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

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

removing exclusion for food employee who was symptomatic and not diagnosed

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

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

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

Norovirus diagnosis

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

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

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

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

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

Shigella spp. diagnosis

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

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

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

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

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

STEC diagnosis

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

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

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

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

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

Nontyphoidal Salmonella diagnosis

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

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

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

Retaining exclusion for food employee that remains symptomatic

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

hepatitis A virus or jaundice diagnosis - *removing exclusions*

(B) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under ¶ 2–201.12 (B) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY and one of the following conditions is met:

(1) The FOOD EMPLOYEE has been jaundiced for more than 7 calendar days; P

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

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

Typhoid fever diagnosis - removing exclusions

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

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

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

Norovirus diagnosis - removing exclusion or restriction

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

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

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

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

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

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

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

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

(b) At least 24 hours apart; [P]

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

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

STEC diagnosis — removing exclusion or restriction

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

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

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

(b) At least 24 hours apart; [P]

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

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

nontyphoidal Salmonella – removing exclusion or restriction

(G) Reinstate a FOOD EMPLOYEE who was EXCLUDED as specified under Subparagraph 2-201.12(A) (2) or who was RESTRICTED as specified under ¶ 2201.12(G) if the PERSON IN CHARGE obtains APPROVAL from the REGULATORY AUTHORITY [P] and one of the following conditions is met:

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

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

(b) At least 24 hours apart; [P]

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

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

sore throat with fever — removing exclusion or restriction

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

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

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

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

uncovered infected wound or pustular boil — removing restriction

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

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

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

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

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

(J) Reinstate a FOOD EMPLOYEE who was RESTRICTED as specified under ¶ 2201.12(J) and was exposed to one of the following pathogens as specified under Subparagraph 2-201.11(A)(4)(a-d) or 2-201.11(A)(5)(a-d):

Norovirus

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

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

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

Shigella spp. or STEC

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

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

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

Typhoid fever (S. Typhi)

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

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

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

hepatitis A

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

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

(b) The FOOD EMPLOYEE is immune to hepatitis A virus infection because of vaccination against hepatitis A; [P]

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

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

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

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

(i) Hepatitis A symptoms and preventing the transmission of infection, [P]

(ii) Proper handwashing procedures, [P] and

(iii) Protecting READY–TO–EAT FOOD from contamination introduced by bare hand contact. [P]

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

Hands and Arms **2–301.11 Clean Condition.**

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

2–301.12 Cleaning Procedure.

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

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

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

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

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

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

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

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

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

(C) *To avoid recontaminating their hands or surrogate prosthetic devices, FOOD EMPLOYEES may use disposable paper towels or similar clean barriers when*

touching surfaces such as manual operated faucet handles on a HANDWASHING SINK or the handle of a restroom door.

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

2–301.13 Special Handwash Procedures.

Reserved.

2–301.14 When to Wash.

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

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

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

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

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

(E) After handling soiled EQUIPMENT or UTENSILS; [P]

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

(G) When switching between working with raw FOOD and working with READY–TO–EAT FOOD; [P]

(H) Before putting on gloves to initiate a task that involves working with FOOD; [P] and

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

2–301.15 Where to Wash.

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

2–301.16 Hand Antiseptics.

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

(1) Comply with one of the following:

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

(b) Have active antimicrobial ingredients that are listed in the FDA monograph for Over The Counter Health–Care Antiseptic Drug Products as an antiseptic handwash; [Pf] and

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

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

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

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

(d) A prior sanction listed under 21 CFR 181 – Prior Sanctioned FOOD Ingredients, [Pf] or

(e) A FOOD Contact Notification that is effective, [Pf] and

(3) Be applied only to hands that are cleaned as specified under § 2–301.12. [Pf]

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

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

(2) Limited to situations that involve no direct contact with FOOD by the bare hands. [Pf]

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

Fingernails **2–302.11 Maintenance.**

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

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

Jewelry **2–303.11 Prohibition.**

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

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

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

2–4 HYGIENIC PRACTICES

Subparts

2–401 Food Contamination Prevention
2–402 Hair Restraints
2–403 Animals

Food Contamination Prevention

2–401.11 Eating, Drinking, or Using Tobacco.

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

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

(1) *The EMPLOYEE'S hands;*

(2) *The container; and*

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

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

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

2-401.13 Bandages, Finger Cots, or Stall products on Wrists, Hands or Fingers

An impermeable cover such as a bandage, finger cot or stall located on the wrist, hand or finger of a FOOD EMPLOYEE working with exposed FOOD shall be covered with a single-use glove. [Pf]

Hair Restraints

2–402.11 Effectiveness.

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

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

Animals **2–403.11 Handling Prohibition.**

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

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

2–5 RESPONDING TO CONTAMINATION EVENTS

Subparts

2–501 Procedures for Responding

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

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

Chapter 3 Food

Parts

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

3–1 CHARACTERISTICS

Subparts

3–101 Condition

Condition **3–101.11 Safe, Unadulterated, and Honestly Presented.**

FOOD shall be safe, unADULTERATED, and, as specified under § 3–601.12, honestly presented. [P]

Note: The following common ingredients may cause allergic reactions: EGGS (albumen, whites, meringue); Milk and 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, and FOOD colors.

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

Subparts

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

Sources **3–201.11 Compliance with Food Law.**

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

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

(C) PACKAGED FOOD shall be labeled as specified in LAW, including 21 CFR 101 - Food Labeling; 9 CFR 317 - Labeling, Marking Devices, and Containers; and 9 CFR 381 Subpart N - Labeling and Containers; and as specified under §§ 3–202.17, 3–202.18; and s. ATCP 55.30. [Pf]

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

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

(1) Obtained from a FOOD PROCESSING PLANT that, upon request by the purchaser, PACKAGES the steaks and labels them, to indicate that the steaks meet the definition of WHOLE–MUSCLE, INTACT BEEF, [Pf] or

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

(3) If individually cut in a FOOD ESTABLISHMENT:

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

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

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

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

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

(H) EGGS shall be:

(1) From an EGG handler complying with the requirements of ATCP 88 and holding a FOOD PROCESSING PLANT license under s. 97.29, Stats.,

(2) From an EGG handler complying with the LAW of another state, or

(3) Sold directly to the consumer by an EGG producer exempted under s.97.28, Stats., and s. ATCP 88.02 and selling nest–run or washed, candled, graded, sized, or packaged EGGS from a flock of not more than 150 laying birds owned by the producer.

3–201.12 Food in a Hermetically Sealed Container.

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

3–201.13 Fluid Milk and Milk Products.

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

3–201.14 Fish.

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

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

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

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

3–201.15 Molluscan Shellfish.

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

Note: You may obtain a copy by contacting US Food and Drug Administration Center for Food Safety and Applied Nutrition 5100 Paint Branch Parkway College Park, MD 20740–3835, 1–888–SAFEFOOD or by contacting www.cfsan.fda.gov. You can also contact the department of agriculture, trade and consumer protection (see §1–103.10).

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

3–201.16 Wild Mushrooms.

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

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

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

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

3–201.17 Game Animals.

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

(1) Commercially raised for FOOD [P] and:

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

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

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

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

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

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

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

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

(b) Slaughtered and PROCESSED according to:

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

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

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

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

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

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

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

Specifications for Receiving

3–202.11 Temperature.

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

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

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

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

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

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

(G) Cheese curds intended for the production of Cheddar cheese manufactured at a Wisconsin–licensed dairy plant as specified in ch. ATCP 65, Wis. Admin. Code, may be received at temperatures other than 5°C (41°F); if

a) They are immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 5°C (41°F) or less and meet cooling requirements as specified under § 3-501.14 (B), or [P]

b) They are held at ambient air temperatures according to the requirements of § 3-501.19 (D)

3–202.12 Additives.

FOOD may not contain unAPPROVED FOOD ADDITIVES or ADDITIVES that exceed amounts specified in 21 CFR 170 to 180 relating to FOOD ADDITIVES, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181 to 186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21 (b) Use of Food Ingredients and Sources of Radiation, or pesticide residues that exceed provisions specified in 40 CFR 180 Tolerances and Exemptions for Pesticide Chemical Residues in Food. [P]

3–202.13 Eggs.

EGGS shall be received clean and sound and may not exceed the RESTRICTED EGG tolerances as specified in s. ATCP 88.26. [P]

3–202.14 Eggs and Milk Products, Pasteurized.

(A) EGG PRODUCTS shall be obtained pasteurized. [P]

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

(1) Be obtained pasteurized; [P] and

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

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

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

3–202.15 Package Integrity.

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

3–202.16 Ice.

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

3–202.17 Shucked Shellfish, Packaging and Identification.

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

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

(2) The "sell by" or "best if used by" date for PACKAGES with a capacity of less than 1.89 L (one–half gallon) or the date shucked for PACKAGES with a capacity of 1.89 L (one–half gallon) or more. [Pf]

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

3–202.18 Shellstock Identification.

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

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

(a) The harvester's identification number that is assigned by the SHELLFISH CONTROL AUTHORITY, [Pf]

(b) The date of harvesting, [Pf]

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

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

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

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

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

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

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

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

(B) A container of SHELLSTOCK that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under ¶ (A) of this section shall be subject to a hold order, as allowed by 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.

Commercially Processed

3–202.110 Juice Treated.

Pre–PACKAGED JUICE shall:

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

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

Note: For JUICE PACKAGED in a FOOD ESTABLISHMENT see 3–404.11

Original Containers and Records

3–203.11 Molluscan Shellfish, Original Container.

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

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

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

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

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

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

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

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

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

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

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

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

3–203.12 Shellstock, Maintaining Identification.

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

(B) The date when the last SHELLSTOCK from the container is sold or served shall be recorded on the tag or label. Pf

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

(1) Using an APPROVED record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under ¶ (B) of this section; Pf and

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

(a) Preserving source identification by using a record keeping system as specified under Subparagraph (C) (1) of this section, Pf and

(b) Ensuring that SHELLSTOCK from one tagged or labeled container are not COMMINGLED with SHELLSTOCK from another container with different CERTIFICATION NUMBERS; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the CONSUMER. Pf

3-203.13 Grinding Log, Ground Beef

(A) Grinding records shall be kept for any raw ground beef manufactured in a retail FOOD ESTABLISHMENT as specified under 9 CFR 320.1(b)(4), 320.2 and 320.3. This does not apply to non-intact products such as mechanically tenderized or needle injected raw beef.

(B) Retail FOOD ESTABLISHMENTS, including restaurants, that grind beef for sale as raw ground beef or another not READY-TO-EAT FOOD, shall maintain the following records:

1) The establishment number or license number of the facility that supplies the beef used to grind each lot of raw ground beef product;

2) All beef supplier lot numbers and production dates;

3) The names of the supplied beef, including beef components and any materials (rework or regrind) carried over from one production lot to the next;

4) The date and time each lot of raw ground beef product is produced;

5) The date and time when grinding EQUIPMENT and other related FOODCONTACT SURFACES are cleaned and sanitized.

NOTE: A ground beef lot is defined as the amount of ground beef produced during an identified date and time period from one complete clean up to another.

(C) The required records are to be maintained at the grinding establishment and are to be kept for a minimum of 1 year.

(D) If a facility grinds beef and sells it all in the ready to eat form (e.g., cooked hamburger), it is exempt from the requirements of this section.

3–3	**PROTECTION FROM CONTAMINATION AFTER RECEIVING**	
	Subparts	
	3–301	**Preventing Contamination by Employees**
	3–302	**Preventing Food and Ingredient Contamination**
	3–303	**Preventing Contamination from Ice Used as a Coolant**
	3–304	**Preventing Contamination from Equipment, Utensils, and Linens**
	3–305	**Preventing Contamination from the Premises**
	3–306	**Preventing Contamination by Consumers**
	3–307	**Preventing Contamination from Other Sources**

Preventing Contamination by Employees

3–301.11 Preventing Contamination from Hands.

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

(B) *Except when washing fruits and vegetables as specified under § 3–302.15 or as specified in ¶¶ (D) and (E) of this section,* FOOD EMPLOYEES may not contact exposed, READY–TO–EAT FOOD with their bare hands and shall use suitable UTENSILS such as deli tissue, spatulas, tongs, single–use gloves, or dispensing EQUIPMENT. [P]

(C) FOOD EMPLOYEES shall minimize bare hand and arm contact with exposed FOOD that is not in a ready–to–eat form. [Pf]

(D) *Paragraph (B) of this section does not apply to a FOOD EMPLOYEE that contacts exposed, READY-TO-EAT FOOD with bare hands at the time the READY-TO-EAT FOOD is being added as an ingredient to a FOOD that:*

(1) Contains a raw animal FOOD and is to be cooked in the FOOD ESTABLISHMENT to heat all parts of the FOOD to the minimum temperatures specified in ¶¶ 3-401.11(A)-(B) or §3-401.12; or

(2) Does not contain a raw animal FOOD but is to be cooked in the FOOD ESTABLISHMENT to heat all parts of the FOOD to a temperature of at least 63°C (145°F).

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

(1) The LICENSE HOLDER obtains prior APPROVAL from the REGULATORY AUTHORITY;

(2) Written procedures are maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that include:

(a) For each bare hand contact procedure, a listing of the specific READY–TO–EAT FOODS that are touched by bare hands,

(b) Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under §§ 5–203.11, 5–204.11, 5–205.11, 6–301.11, 6–301.12, and 6–301.14, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;

(3) A written EMPLOYEE health policy that details how the FOOD ESTABLISHMENT complies with §§ 2–201.11, 2–201.12, and 2–201.13 including:

(a) Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through FOOD as specified under ¶ 2–201.11 (A),

(b) Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge their responsibilities as specified under ¶ 2–201.11 (E) and (F), and

(c) Documentation that the PERSON IN CHARGE acknowledges the responsibilities as specified under ¶¶ 2–201.11 (B), (C) and (D), and §§ 2–201.12 and 2–201.13;

(4) Documentation that FOOD EMPLOYEES acknowledge that they have received training in:

(a) The RISKS of contacting the specific READY–TO–EAT FOODS with bare hands,

(b) Proper handwashing as specified under § 2–301.12,

(c) When to wash their hands as specified under § 2–301.14,

(d) Where to wash their hands as specified under § 2–301.15,

(e) Proper fingernail maintenance as specified under § 2–302.11,

(f) Prohibition of jewelry as specified under § 2–303.11, and

(g) Good hygienic practices as specified under §§2–401.11 and 2–401.12; Documentation that hands are washed before FOOD preparation and as necessary to prevent cross contamination by FOOD EMPLOYEES as specified under §§ 2–301.11, 2–301.12, 2–301.14, and 2–301.15 during all hours of operation when the specific READY–TO–EAT FOODS are prepared;

(5) Documentation that FOOD EMPLOYEES contacting READY–TO–EAT FOOD with bare hands use two or more of the following control measures to provide additional safeguards to HAZARDS associated with bare hand contact:

(a) Double handwashing,

(b) Nail brushes,

(c) A hand antiseptic after handwashing as specified under § 2–301.16,

(d) Incentive programs such as paid sick leave that assist or encourage FOOD EMPLOYEES not to work when they are ill, or

(e) Other control measures approved by the REGULATORY AUTHORITY; and

(6) Documentation that corrective action is taken when Subparagraphs (E) (1) - (6) of this section are not followed.

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.

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

Preventing Food and Ingredient Contamination

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

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

(1) Except as specified in (1) (d) below, separating raw animal FOODS during storage, preparation, holding, and display from:

(a) Raw READY–TO–EAT FOOD including other raw animal FOOD such as FISH for sushi or MOLLUSCAN SHELLFISH, or other raw READY–TO–EAT FOOD such as fruits and vegetables, [P] and

(b) Cooked READY–TO–EAT FOOD; [P]

(c) Fruits and vegetables before they are washed as specified under § 3-302.15.

(d) *Frozen, commercially PROCESSED and PACKAGED raw animal FOOD may be stored or displayed with or above frozen, commercially PROCESSED and PACKAGED, READY–TO–EAT FOOD.*

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

(a) Using separate EQUIPMENT for each type, [P] or

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

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

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

(4) Except as specified in Subparagraph 3-501.15 (B)(2) and in ¶ (B) of this section, storing the FOOD in PACKAGES, covered containers, or wrappings;

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

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

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

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

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

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

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

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

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

(5) SHELLSTOCK.

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

Except for containers holding FOOD that can be readily and unmistakably recognized such as dry pasta, working containers holding FOOD or FOOD ingredients that are removed from their original packages for use in the FOOD ESTABLISHMENT, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the FOOD.

3–302.13 Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes.

Pasteurized EGGS or EGG products shall be substituted for raw shell EGGS in the preparation of FOODS such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG–fortified BEVERAGES that are not: [P]

(A) Cooked as specified under Subparagraphs 3–401.11 (A) (1) or (2); [P] or

(B) Included in ¶ 3–401.11 (D). [P]

3–302.14 Protection from Unapproved Additives.

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

(1) Unsafe or unAPPROVED FOOD or COLOR ADDITIVES; [P] and

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

(B) A FOOD EMPLOYEE may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a FOOD considered to be a good source of vitamin B1; [P] or

(2) *Except for grapes*, serve or sell FOOD specified under Subparagraph (B)(1) of this section that is treated with sulfiting agents before receipt by the FOOD ESTABLISHMENT. [P]

3–302.15 Washing Fruits and Vegetables.

(A) *Except as specified in ¶ (B) of this section and except for whole, raw fruits and vegetables that are intended for washing by the CONSUMER before consumption*, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in READY–TO–EAT form.

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

(C) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR 173.315, Chemicals used in the washing or to assist in the peeling of fruits and vegetables, for the washing of raw, whole fruits and vegetables shall be used in accordance with the manufacturer's instructions. [Pf]

Preventing Contamination from Ice Used as a Coolant

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

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

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

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

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

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

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

Preventing Contamination from Equipment, Utensils, and Linens

3–304.11 Food Contact with Equipment and Utensils.

FOOD shall only contact surfaces of:

(A) EQUIPMENT and UTENSILS that are cleaned as specified under Part 4–6 of this Code and SANITIZED as specified under Part 4–7 of this Code; [P]

(B) SINGLE–SERVICE and SINGLE–USE ARTICLES; [P] or

(C) LINENS, such as cloth napkins, as specified under § 3-304.13 that are laundered as specified under Part 4-8 of this Code. [P]

3–304.12 In–Use Utensils, Between–Use Storage.

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

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

(B) In FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD with their handles above the top of the FOOD within containers or EQUIPMENT that can be closed, such as bins of sugar, flour, or cinnamon;

(C) On a clean portion of the FOOD preparation table or cooking EQUIPMENT only if the in–use UTENSIL and the FOOD–CONTACT SURFACE of the FOOD preparation table or cooking EQUIPMENT are cleaned and SANITIZED at a frequency specified under §§ 4–602.11 and 4–702.11;

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

(E) In a clean, protected location if the UTENSILS, such as ice scoops, are used only with a FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

(F) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified under Subparagraph 4–602.11 (D)(7).

3–304.13 Linens and Napkins, Use Limitation.

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

3–304.14 Wiping Cloths, Use Limitation.

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

(1) Maintained dry; and

(2) Used for no other purpose.

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

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

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

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

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

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

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

3–304.15 Gloves, Use Limitation.

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

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

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

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

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

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

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

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

3–304.17 Refilling Returnables.

(A) Except as specified in ¶¶ (B) - (E) of this section, empty containers returned to a FOOD ESTABLISHMENT for cleaning and refilling with FOOD shall be cleaned and refilled in a regulated FOOD PROCESSING PLANT. [P]

(B) *A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with FOOD if the FOOD container is:*

(1) *Designed and constructed for reuse and in accordance with the requirements specified under Part 4-1 and 4-2;* [P]

(2) *One that was initially provided by the FOOD ESTABLISHMENT to the CONSUMER, either empty or filled with FOOD by the FOOD ESTABLISHMENT, for the purpose of being returned for reuse;*

(3) *Returned to the FOOD ESTABLISHMENT by the CONSUMER after use;*

(4) *Subject to the following steps before being refilled with FOOD*:

(a) *Cleaned as specified under Part 4-6 of this Code,*

(b) *Sanitized as specified under Part 4-7 of this Code;* [P]

(c) *Visually inspected by a FOOD EMPLOYEE to verify that the container, as returned, meets the requirements specified under Part 4-1 and 4-2;* [P] *and*

(C) *A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with BEVERAGE if:*

(1) *The BEVERAGE is not a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;*

(2) *The design of the container and of the rinsing EQUIPMENT and the nature of the BEVERAGE, when considered together, allow effective cleaning at home or in the FOOD ESTABLISHMENT;*

(3) *The CONSUMER-owned container returned to the FOOD ESTABLISHMENT for refilling is refilled for sale or service only to the same CONSUMER; and*

(4) *The container is refilled by:*

(a) *An EMPLOYEE of the FOOD ESTABLISHMENT, or*

(b) *The owner of the container if the BEVERAGE system includes a contamination-free transfer process as specified under ¶¶ 4-204.13(A), (B), and (D) that cannot be bypassed by the container owner.*

(D) *Consumer-owned, personal take-out BEVERAGE containers, such as thermally insulated bottles, 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).*

(E) *CONSUMER-owned containers that are not FOOD-specific may be filled at a water VENDING MACHINE or system.*

Preventing Contamination from the Premises

3–305.11 Food Storage.

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

(1) In a clean, dry location;

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

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

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

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

3–305.12 Food Storage, Prohibited Areas.

FOOD may not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In dressing rooms;

(D) In garbage rooms;

(E) In mechanical rooms;

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

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

(H) Under open stairwells; or

(I) Under other sources of contamination.

3–305.13 Vended Time/Temperature Control for Safety Food, Original Container.

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD dispensed through a VENDING MACHINE shall be in the PACKAGE in which it was placed at the FOOD ESTABLISHMENT or FOOD PROCESSING PLANT at which it was prepared.

3–305.14 Food Preparation.

During preparation, unPACKAGED FOOD shall be protected from environmental sources of contamination.

Preventing Contamination by Consumers

3–306.11 Food Display.

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

3–306.12 Condiments, Protection.

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

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

3–306.13 Consumer Self–Service Operations.

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

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

(2) Ready–to–cook individual portions for immediate cooking and consumption on the PREMISES such as CONSUMER–cooked MEATS or CONSUMER–selected ingredients for Mongolian barbecue; or

(3) Raw, frozen, shell–on shrimp or lobster.

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

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

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

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

(B) Except as specified under ¶ 3–801.11 (G), *a container of FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be RE-SERVED from one CONSUMER to another if:*

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

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

Preventing Contamination from Other Sources

3–307.11 Miscellaneous Sources of Contamination.

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

3–4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

Subparts

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

Cooking **3–401.11 Raw Animal Foods.**

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

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

(a) Raw EGGS that are broken and prepared in response to a CONSUMER'S order and for immediate service, [P] and

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

(2) 68°C (155°F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for RATITES, MECHANICALLY TENDERIZED, and INJECTED MEATS; the following if they are COMMINUTED: FISH, MEAT, GAME ANIMALS commercially raised for FOOD as specified under Subparagraph 3–201.17 (A) (1), and GAME ANIMALS under a voluntary inspection program as specified under Subparagraph 3–201.17 (A)(2); and raw EGGS that are not prepared as specified under Subparagraph (A)(1)(a): [P]

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

; or

(3) 74°C (165°F) or above for 15 seconds for POULTRY, BALUTS, wild GAME ANIMALS as specified under ¶ 3–201.17 (A)(3) and (4), stuffed FISH, stuffed

MEAT, stuffed pasta, stuffed POULTRY, stuffed RATITES, or stuffing containing FISH, MEAT, POULTRY, or RATITES. [P]

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

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

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

[1]Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture–impermeable bag that provides 100% humidity.

; and

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

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

[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 upon CONSUMER request or selection in a READY–TO–EAT form if:*

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

(2) *The FOOD, if served or offered for service by CONSUMER selection from a children's menu, does not contain COMMINUTED MEAT;* [Pf] *and*

(3) *The CONSUMER is informed as specified under § 3–603.11 that to ensure its safety, the FOOD should be cooked as specified under ¶ (A) or (B); or*

(4) *The DEPARTMENT grants a VARIANCE from ¶ (A) or (B) of this section as specified in § 1–105.11 based on a HACCP PLAN that:*

(a) *Is submitted by the LICENSE HOLDER and APPROVED as specified under § 1–106.13,*

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

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

3–401.12 Microwave Cooking.

Raw animal FOODS cooked in a microwave oven shall be:

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

(B) Covered to retain surface moisture;

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

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

3–401.13 Plant Food Cooking for Hot Holding.

Plant foods such as fruits, and vegetables, roots and grains that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F). [Pf]

3–401.14 Non–Continuous Cooking of Raw Animal Foods.

Raw animal FOODS that are cooked using a NON–CONTINUOUS cooking process shall be:

(A) Subject to an initial heating process that is no longer than sixty minutes in duration; [P]

(B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked TIME/TEMPERATURE CONTROL SAFETY FOOD under ¶ 3–501.14 (A); [P]

(C) After cooling, held frozen or cold, as specified for TIME/TEMPERATURE CONTROL SAFETY FOOD under ¶ 3–501.16 (A) (2); [P]

(D) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11 (A) – (C); [P]

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

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

(1) Have obtained prior APPROVAL from the REGULATORY AUTHORITY; [Pf]

(2) Are maintained in the FOOD ESTABLISHMENT and are available to the REGULATORY AUTHORITY upon request; [Pf]

(3) Describe how the requirements specified under ¶ (A) - (E) of this section are to be monitored and documented by the LICENSE HOLDER and the corrective actions to be taken if the requirements are not met; [Pf]

(4) Describe how the FOODS, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as FOODS that must be cooked as specified under ¶ (D) of this section prior to being offered for sale or service; [Pf] and

(5) Describe how the FOODS, after initial heating but prior to cooking as specified under ¶ (D) of this section, are to be separated from READY−TO−EAT FOODS as specified under ¶ 3−302.11. [Pf]

Freezing **3−402.11 Parasite Destruction.**

(A) Except as specified in ¶ (B) of this section, before service or sale in READY−TO−EAT form, raw, raw−marinated, partially cooked, or marinated−partially cooked FISH shall be:

(1) Frozen and stored at a temperature of −20°C (−4°F) or below for a minimum of 168 hours (7 days) in a freezer; [P]

(2) Frozen at −35°C (−31°F) or below until solid and stored at −35°C (−31°F) or below for a minimum of 15 hours; [P] or

(3) Frozen at −35°C (−31°F) or below until solid and stored at −20°C (−4°F) or below for a minimum of 24 hours. [P]

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

(1) *MOLLUSCAN SHELLFISH;*

(2) *A scalloped product consisting only of the shucked adductor muscle;*

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

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

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

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

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

(5) FISH eggs that have been removed from the skein and rinsed.

3–402.12 Records, Creation and Retention.

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

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

(C) If raw, raw–marinated, partially cooked, or marinated–partially cooked FISH are served or sold in READY–TO–EAT form, and the FISH are raised and fed as specified in Subparagraph 3–402.11 (B)(4), a written agreement or statement from the supplier or aquaculturist stipulating that the FISH were raised and fed as specified in Subparagraph 3–402.11 (B)(4) shall be obtained by the PERSON IN CHARGE and retained in the records of the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH. [Pf]

3–403.10 Preparation for Immediate Service.

Cooked and refrigerated FOOD that is prepared for immediate service in response to an individual CONSUMER order, such as a roast beef sandwich au jus, may be served at any temperature.

Reheating

3–403.11 Reheating for Hot Holding.

(A) Except as specified under ¶¶ (B), (C), and (E) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 74°C (165°F) for 15 seconds. [P]

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

(C) READY–TO–EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that has been commercially PROCESSED and PACKAGED in a FOOD PROCESSING PLANT that is inspected by the REGULATORY AUTHORITY that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) when being reheated for hot holding. [P]

(D) Reheating for hot holding as specified under ¶¶ (A) - (C) of this section shall be done rapidly and the time the FOOD is between 5°C (41°F) and the temperatures specified under ¶¶ (A) - (C) of this section may not exceed 2 hours. [P]

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

Other Methods **3–404.11 Treating Juice.**

JUICE PACKAGED in a FOOD ESTABLISHMENT shall be:

(A) Treated under a HACCP PLAN as specified by the DEPARTMENT in § 1-105.12, to attain a 5–log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; [P] or

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

(1) As specified under § 3–602.11, [Pf] and

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

Note: For prepackaged JUICE see 3–202.110.

3–5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

Subparts

3–501 Temperature and Time Control

3–502 Specialized Processing Methods

Temperature and Time Control **3–501.11 Frozen Food.**

Stored frozen FOODS shall be maintained frozen.

3–501.12 TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, Slacking.

Frozen TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is SLACKED to moderate the temperature shall be held:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; or

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

3–501.13 Thawing.

Except as specified in ¶ (D) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be thawed:

(A) Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less; [Pf] or

(B) Completely submerged under running water:

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

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

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

(a) The time the FOOD is exposed to the running water and the time needed for preparation for cooking, [Pf] or

(b) The time it takes under refrigeration to lower the FOOD temperature to 5°C (41°F); [Pf]

(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, [Pf] or

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

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

(E) REDUCED OXYGEN PACKAGED FISH that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:

(1) Prior to its thawing under refrigeration as specified in ¶ (A) of this section; or

(2) Prior to, or immediately upon completion of, its thawing using procedures specified in ¶ (B) of this section.

3–501.14 Cooling.

(A) Cooked TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cooled:

(1) Within 2 hours from 57°C (135°F) to 21°C (70°F); [P] and

(2) Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less. [P]

(B) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cooled within 4 hours to 5°C (41°F) or less, if:

(1) Prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna. [P]

(2) Cheese curds received as specified in ¶ 3–202.11 (G), which are intended to be sold at temperatures of 5°C (41°F) or less. [P]

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

(D) Raw EGGS shall be received as specified under ¶ 3–202.11 (C) and immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 5°C (41°F) or less. [P]

3–501.15 Cooling Methods.

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

(1) Placing the FOOD in shallow pans; [Pf]

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

(3) Using rapid cooling EQUIPMENT; [Pf]

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

(5) Using containers that facilitate heat transfer; [Pf]

(6) Adding ice as an ingredient; [Pf] or

(7) Other effective methods. [Pf]

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

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

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

3–501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding.

(A) *Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under § 3–501.19*, and except as specified under ¶¶ (B) - (D) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be maintained:

(1) At 57°C (135°F) or above, *except that roasts cooked to a temperature and for a time specified in ¶ 3–401.11 (B) or reheated as specified in ¶ 3–403.11 (E) may be held at a temperature of 54°C (130°F) or above;* [P] or

(2) At 5°C (41°F) or less. [P]

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

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

on–premises preparation • prepare and hold cold

3–501.17 Ready–to–Eat, Time/Temperature Control for Safety Food, Date Marking.

(A) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under § 3–502.12, and except as specified in ¶¶ (E), (F), and (H) of this section, refrigerated, READY–TO–EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and held in a FOOD ESTABLISHMENT for more than 24 hours shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded when held at a temperature 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. Pf

commercially processed food • *open and hold cold*

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

(1) The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; Pf and

(2) The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use–by date if the manufacturer determined the use–by date based on FOOD safety. Pf

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

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

(1) *Using a method APPROVED by the REGULATORY AUTHORITY for refrigerated, READY–TO–EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;*

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

(3) *Marking the date or day the original container is opened in a FOOD ESTABLISHMENT, with a procedure to discard the FOOD on or before the last date or day by which the FOOD must be consumed on the premises, sold, or discarded as specified under ¶ (B) of this section; or*

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

(E) *Paragraphs (A) and (B) of this section do not apply to individual meal portions served or rePACKAGED for sale from a bulk container upon a CONSUMER'S request.*

(F) Paragraphs (A) and (B) of this section do not apply to SHELLSTOCK.

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

(1) *Deli salads, such as ham salad, seafood salad, chicken salad, EGG salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 117 - Current Good Manufacturing Practice, Hazard Analysis, And Risk-Based Preventive Controls For Human Food;*

(2) *Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 - Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;*

(3) *Semi–soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;*

(4) *Cultured dairy products as defined in 21 CFR 131 Milk and cream, such as yogurt, sour cream, and buttermilk;*

(5) *Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 CFR 114 Acidified foods;*

(6) *Shelf stable, dry fermented sausages, such as pepperoni and Genoa ; and*

(7) *Shelf stable salt–cured products such as prosciutto and Parma (ham).*

(H) *Paragraphs (A) and (B) of this section do not apply to cheese curds held under ¶ 3-501.19 (D).*

3–501.18 Ready–to–Eat, Time/Temperature Control for Safety Food, Disposition.

(A) A FOOD specified in ¶ 3–501.17 (A) or (B) shall be discarded if it:

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

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

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

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

3–501.19 Time as a Public Health Control.

(A) Except as specified under ¶ (E) of this section, if time without temperature control is used as the public health control for a working supply of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD before cooking, or for READY–TO–EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is displayed or held for sale or service:

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

(a) Methods of compliance with Subparagraphs (B)(1) - (4), (C)(1) - (5), or (D)(1) - (6) of this section; [Pf] and

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

Time - maximum up to 4 hours

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

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

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

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

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

Time - maximum up to 6 hours

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

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

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

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

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

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

(4) The FOOD shall be:

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

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

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

Time — Cheese Curds intended for the production of Cheddar cheese

(D) If time without temperature control used as the public health control to display cheese curds intended for the production of Cheddar cheese:

(1) The cheese curds shall not be held for more than 24 hours from the time of manufacturing; [P]

(2) The cheese curds must be manufactured according to LAW; [P]

(3) The cheese curds must be PACKAGED at a FOOD ESTABLISHMENT or FOOD PROCESSING PLANT; [Pf]

(4) The cheese curds must be labeled as specified in § 3–602.11 including the date or the date and time of manufacture; [Pf] and

Note: Cheese curds marked only with the date of manufacture must be discarded by 12:00pm of that date if held at ambient temperature. Cheese curds marked with the date and time of manufacture may be held up to 24 hour from the date and time of manufacture prior to being discarded if held at ambient temperature.

(5) The establishment shall maintain records indicating the amount of product displayed and the amount of product discarded for each day that cheese curds are displayed at ambient temperature for sale. [Pf]

(6) Cheese curds in unmarked containers or PACKAGES that exceed the 24–hour limit, shall be discarded. [P]

(E) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not use time as specified under ¶¶ (A) to (D) of this section as the public health control for raw EGGS and cheese curds intended for the production of Cheddar cheese.

Specialized Processing Methods

3–502.11 Variance Requirement.

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the DEPARTMENT as specified in § 1–104.11 and under § 1–105.12 before: [Pf]

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

(B) Curing FOOD; [Pf]

(C) Using FOOD ADDITIVES or adding components such as vinegar: [Pf]

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

(2) To render a FOOD so that it is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; [Pf]

(D) PACKAGING TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method except where the growth of and toxin formation by ***Clostridium botulinum*** and the growth of ***Listeria monocytogenes*** are controlled as specified under § 3–502.12 ; [Pf]

(E) Operating a MOLLUSCAN SHELLFISH life–support system display tank used to store or display shellfish that are offered for human consumption; [Pf]

(F) Custom processing animals that are for personal use as FOOD and not for sale or service in a FOOD ESTABLISHMENT; [Pf]

(G) Preparing FOOD by another method that is determined by the DEPARTMENT to require a VARIANCE; [Pf] or

(H) Sprouting seeds or beans. [Pf]

(I) The slaughter and evisceration of FISH, other than MOLLUSCAN SHELLFISH. [Pf]

Clostridium botulinum and Listeria monocytogenes Controls

3–502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3–502.11, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of ***Clostridium botulinum*** and the growth of ***Listeria monocytogenes***. [P]

(B) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall implement a HACCP PLAN that contains the information specified by the DEPARTMENT under §§ 1-106.11 and 1-106.12 and that: [Pf]

(1) Identifies the FOOD to be PACKAGED; [Pf]

(2) Except as specified under ¶¶ (C) - (E) of this section, requires that the PACKAGED FOOD shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria: [Pf]

(a) Has a A_w of 0.91 or less, [Pf]

(b) Has a pH of 4.6 or less, [Pf]

(c) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA or DEPARTMENT using substances

specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact PACKAGE, [Pf] or

(d) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables; [Pf]

(3) Describes how the PACKAGE shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: [Pf]

(a) Maintain the FOOD at 5°C (41°F) or below, [Pf] and

(b) Discard the FOOD if within 30 calendar days of its PACKAGING if it is not served for on−PREMISES consumption, or consumed if served or sold for off−PREMISES consumption; [Pf]

(4) Limits the refrigerated shelf life to no more than 30 calendar days from PACKAGING to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; [P]

(5) Includes operational procedures that:

(a) Prohibit contacting READY−TO−EAT FOOD with bare hands as specified under ¶ 3−301.11 (B), [Pf]

(b) Identify a designated work area and the method by which: [Pf]

(i) Physical barriers or methods of separation of raw FOODS and READY−TO− EAT FOODS minimize cross contamination, [Pf] and

(ii) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential HAZARDS of the operation, [Pf] and

(c) Delineate cleaning and SANITIZATION procedures for FOOD−CONTACT SURFACES; [Pf] and

(6) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the: [Pf]

(a) Concepts required for a safe operation, [Pf]

(b) EQUIPMENT and facilities, [Pf] and

(c) Procedures specified under Subparagraph (B) (5) of this section and ¶ 1-106.12. [Pf]

(7) Is provided to the DEPARTMENT prior to implementation as specified under ¶¶ 1-106.11 and 1-106.13.

Fish

(C) *Except for FISH that is frozen before, during, and after PACKAGING*, a FOOD ESTABLISHMENT may not PACKAGE FISH using a REDUCED OXYGEN PACKAGING method. [P]

Cook–Chill or Sous Vide

(D) Except as specified under ¶ (C) and ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a cook–chill or sous vide process shall:

(1) Provide to the DEPARTMENT prior to implementation, a HACCP PLAN that contains the information as specified by the DEPARTMENT under §§ 1-106.11 and 1-106.12; [Pf]

(2) Ensure the FOOD is:

(a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES but within the same business entity with no distribution or sale of the PACKAGED product to another business entity or the CONSUMER, [Pf]

(b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under §§ 3–401.11 (A), (B), and (C), [P]

(c) Protected from contamination before and after cooking as specified under Parts 3–3 and 3–4, [P]

(d) Placed in a PACKAGE with an oxygen barrier and sealed before cooking, or placed in a PACKAGE and sealed immediately after cooking and before reaching a temperature below 57°C (135°F), [P]

(e) Cooled to 5°C (41°F) in the sealed PACKAGE or bag as specified under § 3–501.14 and: [P]

(i) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of PACKAGING; [P]

(ii) Held at 5°C (41°F) or less for no more than 7 days, at which time the FOOD must be consumed or discarded; [P] or

(iii) Held frozen with no shelf life restriction while frozen until consumed or used. [P]

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, [Pf]

(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, [Pf] and

(h) Labeled with the product name and the date PACKAGED; [Pf] and

(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP PLAN and:

(a) Make such records available to the REGULATORY AUTHORITY upon request, [Pf] and

(b) Hold such records for at least 6 months; [Pf] and

(4) Implement written operational procedures as specified under Subparagraph (B)(5) of this section and a training program as specified under Subparagraph (B)(6) of this section. [Pf]

Cheese

(E) Except as specified under ¶ (F) of this section, a FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED OXYGEN PACKAGING method shall:

(1) Limit the cheeses PACKAGED to those that are commercially manufactured in a FOOD PROCESSING PLANT with no ingredients added in the FOOD ESTABLISHMENT and that meet the Standards of Identity as specified in 21 CFR 133.150 — Hard cheeses, 21 CFR 133.169 — Pasteurized process cheese or 21 CFR 133.187 — Semisoft cheeses; [P]

(2) Have a HACCP PLAN that contains the information specified by the DEPARTMENT under § 1-106.12 and as specified under ¶¶ (B)(1), (B)(3)(a), (B)(5), and (B)(6) of this section; [Pf]

(3) Labels the PACKAGE on the principal display panel with a "use by" date that does not exceed 30 days from its PACKAGING or the original manufacturer's "sell by" or "use by" date, whichever occurs first; [Pf] and

(4) Discards the REDUCED OXYGEN PACKAGED cheese if it is not sold for off–PREMISES consumption or consumed within 30 calendar days of its PACKAGING. [Pf]

(F) *A HACCP PLAN is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:*

(1) *Labeled with the production time and date,*

(2) *Held at 5°C (41°F) or less during refrigerated storage, and*

(3) *Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.*

3–6 FOOD IDENTITY, PRESENTATION, AND ON–PREMISES LABELING

Subparts

3–601	**Accurate Representation**
3–602	**Labeling**
3–603	**Consumer Advisory**

Accurate Representation

3–601.11 Standards of Identity.

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

3–601.12 Honestly Presented.

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

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

Labeling

3–602.11 Food Labels.

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

(B) Label information shall include:

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

(2) If made from two or more ingredients, a list of ingredients and subingredients in descending order of predominance by weight, including a

declaration of artificial colors, artificial flavors and chemical preservatives, if contained in the FOOD;

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

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

(5) The name of the FOOD source for each MAJOR FOOD ALLERGEN contained in the FOOD unless the FOOD source is already part of the common or usual name of the respective ingredient. [Pf]

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

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

(C) Bulk FOOD that is available for CONSUMER self–dispensing shall be prominently labeled with the following information in plain view of the CONSUMER:

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

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

(D) *Bulk, unPACKAGED FOODS such as bakery products and unPACKAGED FOODS that are portioned to CONSUMER specification need not be labeled if:*

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

(2) *There are no state or local LAWS requiring labeling*.

(3) *The FOOD is manufactured or prepared on the PREMISES of the FOOD ESTABLISHMENT or at another FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT that is owned by the same PERSON and is regulated by the FOOD regulatory agency that has jurisdiction.*

3–602.12 Other Forms of Information.

(A) If required by LAW, CONSUMER warnings shall be provided.

(B) FOOD ESTABLISHMENT or manufacturers' dating information on FOODS may not be concealed or altered.

Consumer Advisory

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

(A) Except as specified in ¶ 3–401.11 (C) and Subparagraph 3–401.11 (D)(4) and under ¶ 3–801.11 (C), if an animal FOOD such as beef, EGGS, FISH, lamb, pork, POULTRY, shellfish, or any other FOOD item allowed by LAW that 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 LICENSE HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, as specified in ¶¶ (B) and (C) of this section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means. [Pf]

(B) DISCLOSURE shall include:

(1) A description of the animal–derived FOODS, such as "oysters on the half shell (raw oysters)," and "raw–EGG Caesar salad," and "hamburgers (can be cooked to order);" [Pf] or

(2) Identification of the animal–derived FOODS by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients. [Pf]

(C) REMINDER shall include asterisking the animal–derived FOODS requiring DISCLOSURE to a footnote that states:

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

(2) 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; [Pf] 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. [Pf]

3–7 CONTAMINATED FOOD

Subparts

3–701 Disposition

Disposition

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

(A) FOOD that is unsafe, ADULTERATED, or not honestly presented as specified under § 3–101.11 shall be discarded or reconditioned according to an APPROVED procedure. P

(B) FOOD that is not from an APPROVED source as specified under §§ 3–201.11 - 3–201.17 shall be discarded. P

(C) READY–TO–EAT FOOD that may have been contaminated by an EMPLOYEE who has been RESTRICTED or EXCLUDED as specified under § 2–201.12 shall be discarded.
P

(D) FOOD that is contaminated by FOOD EMPLOYEES, CONSUMERS, or other PERSONS through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded. P

3–8 SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS

Subparts

3–801 Additional Safeguards

Additional Safeguards

3–801.11 Pasteurized Foods, Prohibited Re-–Service, and Prohibited Food.

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

(A) The following criteria apply to JUICE:

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

(2) PrePACKAGED JUICE or a prePACKAGED BEVERAGE containing JUICE, that bears a warning label as specified in 21 CFR 101.17 (g) Food labeling, warning, notice, and safe handling statements, JUICES that have not been specifically PROCESSED to prevent, reduce, or eliminate the presence of pathogens, or a PACKAGED JUICE or BEVERAGE containing JUICE, that bears a warning label as specified under ¶ 3–404.11 (B) may not be served or offered for sale; P and

(3) UnPACKAGED JUICE that is prepared on the PREMISES for service or sale in a READY–TO–EAT form shall be processed under a HACCP PLAN required by the DEPARTMENT under § 1-106.12, and as specified in 21 CFR 120 - Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls. P

(B) Pasteurized EGGS or EGG PRODUCTS shall be substituted for raw EGGS in the preparation of: [P]

(1) FOODS such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG–fortified BEVERAGES, [P] and

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

(C) The following FOODS may not be served or offered for sale in a READY–TO–EAT form: [P]

(1) Raw animal FOODS such as raw FISH, raw–marinated FISH, raw MOLLUSCAN SHELLFISH, and steak tartare; [P]

(2) A partially cooked animal FOOD such as lightly cooked FISH, rare MEAT, soft–cooked EGGS that are made from raw shell EGGS, and meringue; [P] and

(3) Raw seed sprouts. [P]

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

(E) Time only, as the public health control as specified under ¶ 3–501.19 (E), may not be used for raw EGGS and cheese curds. [P]

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

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

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

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

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

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

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

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

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

(d) *Contains the information specified by the DEPARTMENT under 1-106.12, including procedures that:*

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

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

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

Re-service of Food

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

Prohibited Re-service of Food

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

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

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

Chapter 4 Equipment, Utensils, and Linens

Parts

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

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

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

Multiuse **4–101.11 Characteristics.**

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

(A) Safe; [P]

(B) Durable, CORROSION–RESISTANT, and nonabsorbent;

(C) Sufficient in weight and thickness to withstand repeated WAREWASHING;

(D) Finished to have a SMOOTH, EASILY CLEANABLE surface; and

(E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

4–101.12 Cast Iron, Use Limitation.

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

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

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

4–101.13 Lead, Use Limitation.

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

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls > or = 1.1 L (1.16 QT)	1.0
Small Hollowware (excluding cups & mugs)	Bowls < 1.1 L (1.16 QT)	2.0
Flat Tableware	Plates, Saucers	3.0

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

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

4–101.14 Copper, Use Limitation.

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

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

4–101.15 Galvanized Metal, Use Limitation.

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

4–101.16 Sponges, Use Limitation.

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

4–101.17 Wood, Use Limitation.

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

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

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

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

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

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

(1) *Untreated wood containers; or*

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

4–101.18 Nonstick Coatings, Use Limitation.

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

4–101.19 Nonfood–Contact Surfaces.

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

Single–Service and Single–Use

4–102.11 Characteristics.

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

(A) May not:

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

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

(B) Shall be:

(1) Safe, [P] and

(2) Clean.

DESIGN AND CONSTRUCTION

4-2 Subparts

4–201	**Durability and Strength**
4–202	**Cleanability**
4–203	**Accuracy**
4–204	**Functionality**
4–205	**Acceptability**

Durability and Strength

4–201.11 Equipment and Utensils.

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

4–201.12 Food Temperature Measuring Devices.

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

Cleanability

4–202.11 Food–Contact Surfaces.

(A) Multiuse FOOD–CONTACT SURFACES shall be:

(1) SMOOTH; [Pf]

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

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

(4) Finished to have SMOOTH welds and joints; [Pf] and

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

(a) Without being disassembled, [Pf]

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

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

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

4–202.12 CIP Equipment.

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

(1) Cleaning and SANITIZING solutions circulate throughout a fixed system and contact all interior FOOD–CONTACT SURFACES, [Pf] and

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

(B) CIP EQUIPMENT that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior FOOD–CONTACT SURFACES throughout the fixed system are being effectively cleaned.

4–202.13 "V" Threads, Use Limitation.

Except for hot oil cooking or filtering EQUIPMENT, "V" type threads may not be used on FOOD–CONTACT SURFACES.

4–202.14 Hot Oil Filtering Equipment.

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

4–202.15 Can Openers.

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

4–202.16 Nonfood–Contact Surfaces.

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

4–202.17 Kick Plates, Removable.

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

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

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

4–202.18 Ventilation Hood Systems, Filters.

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

Accuracy

4–203.11 Temperature Measuring Devices, Food.

(A) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to ± 1°C in the intended range of use. [Pf]

(B) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to ± 2°F in the intended range of use. [Pf]

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

(A) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to ± 1.5°C in the intended range of use. [Pf]

(B) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit shall be accurate to ± 3°F in the intended range of use. [Pf]

4–203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

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

Functionality **4–204.11 Ventilation Hood Systems, Drip Prevention.**

Exhaust ventilation hood systems in FOOD preparation and 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.

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

(1) Be specifically designed and equipped to maintain the commercial sterility of aseptically PACKAGED FOOD in a homogenous liquid form for a specified duration from the time of opening of the PACKAGING within the EQUIPMENT; [P] and

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

4–204.14 Vending Machine, Vending Stage Closure.

The dispensing compartment of a VENDING MACHINE including a machine that is designed to vend prePACKAGED snack FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD such as chips, party mixes, and pretzels shall be equipped with a self– closing door or cover if the machine is:

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

(B) Available for self–service during hours when it is not under the full–time supervision of a FOOD EMPLOYEE.

4–204.15 Bearings and Gear Boxes, Leakproof.

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

4–204.16 Beverage Tubing, Separation.

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

4–204.17 Ice Units, Separation of Drains.

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

4–204.18 Condenser Unit, Separation.

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

4–204.19 Can Openers on Vending Machines.

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

4–204.110 Molluscan Shellfish Tanks.

(A) Except as specified under ¶ (B) of this section, MOLLUSCAN SHELLFISH life support system display tanks may not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the CONSUMER that the shellfish are for display only. [P]

(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 § 1–105.11 and under § 1–105.12 and a HACCP PLAN that: [Pf]

(1) Is submitted by the LICENSE HOLDER and APPROVED as specified by the DEPARTMENT under 1-106.11 and 1-106.12; [Pf] and

(2) Ensures that:

(a) Water used with FISH other than MOLLUSCAN SHELLFISH does not flow into the molluscan tank, [Pf]

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

(c) The identity of the source of the SHELLSTOCK is retained as specified under § 3–203.12. [Pf]

4–204.111 Vending Machines, Automatic Shutoff.

(A) A machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall have an automatic control that prevents the machine from vending FOOD:

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

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

(B) When the automatic shutoff within a machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is activated:

(1) In a refrigerated VENDING MACHINE, the ambient temperature may not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; [P] or

(2) In a hot holding VENDING MACHINE, the ambient temperature may not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked. [P]

4–204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot FOOD storage unit, the sensor of a TEMPERATURE MEASURING DEVICE shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot FOOD storage unit.

(B) Except as specified in ¶ (C) of this section, cold or hot holding EQUIPMENT used for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be designed to include and shall be equipped with at least one integral or permanently affixed TEMPERATURE MEASURING DEVICE that is located to allow easy viewing of the device's temperature display.

(C) *Paragraph (B) of this section does not apply to EQUIPMENT for which the placement of a TEMPERATURE MEASURING DEVICE is not a practical means for measuring the ambient air surrounding the FOOD because of the design, type, and use of the EQUIPMENT, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated FOOD transport containers, and salad bars.*

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

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

4–204.113 Warewashing Machine, Data Plate Operating Specifications.

A 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; [Pf] and

(B) As the water enters the hot water SANITIZING final rinse manifold or in the chemical SANITIZING solution tank. [Pf]

4–204.116 Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for SANITIZATION in manual 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); [Pf] and

(B) Provided with a rack or basket to allow complete immersion of EQUIPMENT and UTENSILS into the hot water. [Pf]

4–204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A WAREWASHING machine that is installed after adoption of this Code by the department, shall be equipped to:

(A) Automatically dispense detergents and SANITIZERS; [Pf] and

(B) Incorporate a visual means to verify that detergents and SANITIZERS are delivered or a visual or audible alarm to signal if the detergents and SANITIZERS are not delivered to the respective washing and SANITIZING cycles. [Pf]

4–204.118 Warewashing Machines, Flow Pressure Device.

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

(B) If the flow pressure measuring device is upstream of the fresh hot water SANITIZING rinse control valve, the device shall be mounted in a 6.4 millimeter or one–fourth inch Iron Pipe Size (IPS) valve.

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

4–204.119 Warewashing Sinks and Drainboards, Self–Draining.

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

4–204.120 Equipment Compartments, Drainage.

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

4–204.121 Vending Machines, Liquid Waste Products.

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

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

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

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

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

4–204.122 Case Lot Handling Equipment, Moveability.

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

4–204.123 Vending Machine Doors and Openings.

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

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

(2) Being effectively gasketed;

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

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

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

Equipment Standards

4–205.11 Food Equipment, Certification and Classification.

(A) Except as specified under ¶ (B) of this section, FOOD EQUIPMENT that is certified or classified for sanitation by an American National Standards Institute

(ANSI) –accredited certification program is deemed to comply with Parts 4–1 and 4–2 of this Chapter.

(B) For FOOD EQUIPMENT that is not certified or classified for sanitation by an American National Standards Institute (ANSI) –accredited certification program, the specifications for the equipment shall be submitted by the LICENSE HOLDER to the DEPARTMENT for evaluation.

4-3 NUMBERS AND CAPACITIES

Subparts

4-301 Equipment

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

4-303 Cleaning Agents and Sanitizers

Equipment **4–301.11 Cooling, Heating, and Holding Capacities.**

EQUIPMENT for cooling and heating FOOD, and holding cold and hot FOOD, shall be sufficient in number and capacity to provide FOOD temperatures as specified under Chapter 3. [Pf]

4–301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in ¶ (C) of this section, a sink with at least 3 compartments shall be provided for manually washing, rinsing, and SANITIZING EQUIPMENT and UTENSILS. [Pf]

(B) Sink compartments shall be large enough to accommodate immersion of the largest EQUIPMENT and UTENSILS. If EQUIPMENT or UTENSILS are too large for the WAREWASHING sink, a WAREWASHING machine or alternative EQUIPMENT as specified in ¶ (C) of this section shall be used. [Pf]

(C) *Alternative manual WAREWASHING EQUIPMENT may be used when there are special cleaning needs or constraints and its use is APPROVED by the DEPARTMENT. 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 LICENSE HOLDER shall have its use APPROVED by the DEPARTMENT; and

(2) The LICENSE HOLDER shall limit the number of KITCHENWARE items cleaned and SANITIZED in the 2–compartment sink, and shall limit WAREWASHING to batch operations for cleaning KITCHENWARE such as between cutting one type of raw MEAT and another or cleanup at the end of a shift, and shall:

(a) Make up the cleaning and SANITIZING solutions immediately before use and drain them immediately after use, and

(b) Use a detergent–SANITIZER to SANITIZE and apply the detergent–SANITIZER in accordance with the manufacturer's label instructions as specified under § 4–501.115, or

(c) Use a hot water SANITIZATION immersion step as specified under ¶ 4–603.16 (C).

(E) A 2–compartment sink may not be used for WAREWASHING operations where cleaning and SANITIZING solutions are used for a continuous or intermittent flow of KITCHENWARE or TABLEWARE in an ongoing WAREWASHING process.

4–301.13 Drainboards.

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

4–301.14 Ventilation Hood Systems, Adequacy.

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

4–301.15 Clothes Washers and Dryers.

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

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

4–301.16 Food Preparation Sinks.

Unless an alternative method is APPROVED by the REGULATORY AUTHORITY, in NEW FOOD ESTABLISHMENTS and at the time of change in the OPERATOR of an EXISTING FOOD ESTABLISHMENT, if food items are placed into a sink compartment below the flood level rim for the purposes of cleaning or thawing, the OPERATOR shall provide a FOOD preparation sink that meets the requirements as specified in §§ 4–205.11, 5–202.13, and 5–402.11.

Utensils, Temperature Measuring Devices, and Testing Devices

4–302.11 Utensils, Consumer Self–Service.

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

4–302.12 Food Temperature Measuring Devices

(A) FOOD TEMPERATURE MEASURING DEVICES shall be provided and readily accessible for use in ensuring attainment and maintenance of FOOD temperatures as specified under Chapter 3. Pf

(B) A TEMPERATURE MEASURING DEVICE with a suitable small–diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH filets. Pf

4–302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing.

(A) In manual WAREWASHING operations, a TEMPERATURE MEASURING DEVICE shall be provided and readily accessible for frequently measuring the washing and SANITIZING temperatures. Pf

(B) In hot water mechanical WAREWASHING operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the UTENSIL surface temperature. Pf

4–302.14 Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in mg/L of SANITIZING solutions shall be provided. Pf

4-303.11 Cleaning Agents and Sanitizers, Availability

(A) Cleaning agents that are used to clean EQUIPMENT and UTENSILS as specified under Part 4-6, shall be provided and available for use during all hours of operation.

(B) Except for those that are generated on-site at the time of use, chemical SANITIZERS that are used to SANITIZE EQUIPMENT and UTENSILS as specified as under Part 4-7, shall be provided and available for use during all hours of operation.

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 underlines on which water has condensed;

(7) Under open stairwells; or

(8) Under other sources of contamination.

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

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

Installation

4–402.11 Fixed Equipment, Spacing or Sealing.

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

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

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

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

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

(1) SEALED; or

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

4−402.12 Fixed Equipment, Elevation or Sealing.

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

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

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

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

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

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

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

4-5 MAINTENANCE AND OPERATION

Subparts

4−501 Equipment

4−502 Utensils and Temperature and Pressure Measuring Devices

Equipment **4−501.11 Good Repair and Proper Adjustment.**

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

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

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

(D) 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 laundering wiping cloths; and drainboards or other EQUIPMENT used to substitute for drainboards as specified under § 4–301.13 shall be cleaned:

(A) Before use;

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

4–501.15 Warewashing Machines, Manufacturers' Operating Instructions.

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

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

4–501.16 Warewashing Sinks, Use Limitation.

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

(B) If a WAREWASHING sink is used to wash wiping cloths, the sink shall be cleaned as specified under § 4–501.14 before and after each time it is used to wash wiping cloths.

4–501.17 Warewashing Equipment, Cleaning Agents.

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

4–501.18 Warewashing Equipment, Clean Solutions.

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

4–501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual WAREWASHING EQUIPMENT shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions. Pf

4–501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

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

(1) For a stationary rack, single temperature machine, 74°C (165°F); Pf

(2) For a stationary rack, dual temperature machine, 66°C (150°F); Pf

(3) For a single tank, conveyor, dual temperature machine, 71°C (160°F); Pf or

(4) For a multi-tank, conveyor, multi-temperature machine, 66°C (150°F). Pf

(B) The temperature of the wash solution in spray–type warewashers that use chemicals to SANITIZE may not be less than 49°C (120°F). Pf

4–501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.

If immersion in hot water is used for SANITIZING in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above. [P]

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

(A) Except as specified in ¶ (B) of this section, in a mechanical operation, the temperature of the fresh hot water SANITIZING rinse as it enters the manifold may not be more than 90°C (194°F), or less than: [Pf]

(1) For a stationary rack, single temperature machine, 74°C (165°F); [Pf] or

(2) For all other machines, 82°C (180°F). [Pf]

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

4–501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water SANITIZING rinse in a WAREWASHING machine, as measured in the water line immediately downstream or upstream from the fresh hot water SANITIZING rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch).

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

A chemical SANITIZER used in a SANITIZING solution for a manual or mechanical operation at contact times specified under ¶ 4–703.11 (C) shall meet the criteria specified in § 7–204.11 SANITIZERS, Criteria, shall be used in accordance with the EPA–registered label use instructions, [P] and shall be used as follows:

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

Concentration Range	Minimum Temperature	
mg/L	pH 10 or less °C (°F)	pH 8 or less °C (°F)
25–49	49 (120)	49 (120)
50–99	38 (100)	24 (75)
100	13 (55)	13 (55)

(B) An iodine solution shall have a:

(1) Minimum temperature of 20°C (68°F), [P]

(2) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, [P] and

(3) Concentration between 12.5 mg/L and 25 mg/L; [P]

(C) A quaternary ammonium compound solution shall: [P]

(1) Have a minimum temperature of 24°C (75°F), [P]

(2) Have a concentration as specified under § 7–204.11 and as indicated by the manufacturer's use directions included in the labeling, [P] and

(3) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA–registered label use instructions; [P]

(D) If another solution of a chemical specified under ¶¶ (A) - (C) of this section is used, the LICENSE HOLDER shall demonstrate to the REGULATORY AUTHORITY that the solution achieves SANITIZATION and the use of the solution shall be APPROVED; [P] or

(E) If a chemical SANITIZER other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA–registered label use instructions. [P]

(F) If a chemical SANITIZER is generated by a device located on-site at the FOOD ESTABLISHMENT it shall be used as specified in ¶¶(A)-(D) of this section and shall be produced by a device that:

(1) Complies with regulation as specified in §§ 2(q)(1) and 12 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), [P]

(2) Complies with 40 CFR 152.500 Requirement for Devices and 40 CFR 156.10 Labeling Requirements, [P]

(3) Displays the EPA device manufacturing facility registration number on the device, [Pf] and

(4) Is operated and maintained in accordance with manufacturer's instructions. [Pf]

4–501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent–Sanitizers.

If a detergent–SANITIZER is used to SANITIZE in a cleaning and SANITIZING procedure where there is no distinct water rinse between the washing and SANITIZING steps, the agent applied in the SANITIZING step shall be the same detergent–SANITIZER that is used in the washing step.

4–501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration.

Concentration of the SANITIZING solution shall be accurately determined by using a test kit or other device. [Pf]

Utensils and Temperature and Pressure Measuring Devices

4–502.11 Good Repair and Calibration.

(A) UTENSILS shall be maintained in a state of repair or condition that complies with the requirements specified under Parts 4–1 and 4–2 or shall be discarded.

(B) FOOD TEMPERATURE MEASURING DEVICES shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. [Pf]

(C) Ambient air temperature, water pressure, and water TEMPERATURE MEASURING DEVICES shall be maintained in good repair and be accurate within the intended range of use.

4–502.12 Single–Service and Single–Use Articles, Required Use.

A FOOD ESTABLISHMENT without facilities specified under Parts 4–6 and 4–7 for cleaning and SANITIZING KITCHENWARE and TABLEWARE shall provide only single–use KITCHENWARE, SINGLE–SERVICE ARTICLES, and SINGLE–USE ARTICLES for use by FOOD EMPLOYEES and SINGLE–SERVICE ARTICLES for use by CONSUMERS. [P]

4–502.13 Single–Service and Single–Use Articles, Use Limitation.

(A) SINGLE–SERVICE and SINGLE–USE ARTICLES may not be reused.

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

4–502.14 Shells, Use Limitation.

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

4-6 CLEANING OF EQUIPMENT AND UTENSILS

Subparts

4–601 Objective

4–602	**Frequency**
4–603	**Methods**

Objective

4–601.11 Equipment, Food-–Contact Surfaces, Nonfood-–Contact Surfaces, and Utensils.

(A) EQUIPMENT FOOD–CONTACT SURFACES and UTENSILS shall be clean to sight and touch. [Pf]

(B) The FOOD–CONTACT SURFACES of cooking EQUIPMENT and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(C) NONFOOD–CONTACT SURFACES of EQUIPMENT shall be kept free of an accumulation of dust, dirt, FOOD residue, and other debris.

Frequency

4–602.11 Equipment Food-Contact Surfaces and Utensils.

(A) EQUIPMENT FOOD–CONTACT SURFACES and UTENSILS shall be cleaned:

(1) Except as specified in ¶ (B) of this section, before each use with a different type of raw animal FOOD such as beef, FISH, lamb, pork, or POULTRY; [P]

(2) Each time there is a change from working with raw FOODS to working with READY–TO–EAT FOODS; [P]

(3) Between uses with raw fruits and vegetables and with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; [P]

(4) Before using or storing a FOOD TEMPERATURE MEASURING DEVICE; [P] and

(5) At any time during the operation when contamination may have occurred. [P]

(B) *Subparagraph (A)(1) of this section, does not apply if the FOOD–CONTACT SURFACE or UTENSIL is in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature as specified under § 3–401.11 than the previous type.*

(C) Except as specified in ¶ (D) of this section, if used with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, EQUIPMENT FOOD–CONTACT SURFACES and UTENSILS shall be cleaned throughout the day at least every 4 hours. [P]

(D) *Surfaces of UTENSILS and EQUIPMENT contacting TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be cleaned less frequently than every 4 hours if:*

(1) *In storage, containers of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;*

(2) *UTENSILS and EQUIPMENT are used to prepare FOOD in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:*

(a) *The UTENSILS and EQUIPMENT are cleaned at the frequency in the following chart that corresponds to the temperature; and*

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C − 7.2°C (>41°F − 45°F)	20 hours
>7.2°C − 10.0°C (>45°F − 50°F)	16 hours
>10.0°C − 12.8°C (>50°F − 55°F)	10 hours

(b) *The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the FOOD ESTABLISHMENT;*

(3) *Containers in serving situations such as salad bars, delis, and cafeteria lines hold READY−TO−EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is maintained at the temperatures specified under Chapter 3, are intermittently combined with additional supplies of the same FOOD that is at the required temperature, and the containers are cleaned at least every 24 hours;*

(4) *TEMPERATURE MEASURING DEVICES are maintained in contact with FOOD,*
such as when left in a container of deli FOOD or in a roast, held at temperatures specified under Chapter 3;

(5) *EQUIPMENT is used for storage of PACKAGED or unPACKAGED FOOD such as a reach−in refrigerator and the EQUIPMENT is cleaned at a frequency necessary to preclude accumulation of soil residues;*

(6) *The cleaning schedule is APPROVED based on consideration of:*

(a) *Characteristics of the EQUIPMENT and its use,*

(b) *The type of FOOD involved,*

(c) *The amount of FOOD residue accumulation, and*

(d) *The temperature at which the FOOD is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or*

(7) *In−use UTENSILS are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the UTENSILS and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.*

(E) *Except when dry cleaning methods are used as specified under § 4−603.11*, surfaces of UTENSILS and EQUIPMENT contacting FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall be cleaned:

(1) At any time when contamination may have occurred;

(2) At least every 24 hours for iced tea dispensers and CONSUMER self−service UTENSILS such as tongs, scoops, or ladles;

(3) Before restocking CONSUMER self−service EQUIPMENT and UTENSILS such as condiment dispensers and display containers; or

(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 more frequently as necessary to preclude accumulation of soil or mold, or

(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

4–602.12 Cooking and Baking Equipment.

(A) The FOOD–CONTACT SURFACES of cooking and baking EQUIPMENT shall be cleaned at least every 24 hours. *This section does not apply to hot oil cooking and filtering EQUIPMENT if it is cleaned as specified in Subparagraph 4–602.11 (D)(6).*

(B) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

4–602.13 Nonfood-Contact Surfaces.

NonFOOD–CONTACT SURFACES of EQUIPMENT shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

Methods

4–603.11 Dry Cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only SURFACES that are soiled with dry FOOD residues that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(B) Cleaning EQUIPMENT used in dry cleaning FOOD–CONTACT SURFACES may not be used for any other purpose.

4–603.12 Precleaning.

(A) FOOD debris on EQUIPMENT and UTENSILS shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a WAREWASHING machine with a prewash cycle.

(B) If necessary for effective cleaning, UTENSILS and EQUIPMENT shall be preflushed, presoaked, or scrubbed with abrasives.

4–603.13 Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a WAREWASHING machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes the items to the unobstructed spray from all cycles; and

(B) Allows the items to drain.

(C) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only SURFACES that are soiled with dry FOOD residues that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(D) Cleaning EQUIPMENT used in dry cleaning FOOD–CONTACT SURFACES may not be used for any other purpose.

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 scraped 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 3compartment 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.

4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

Subparts

4–701 Objective

4–702 Frequency

4–703 Methods

Objective **4–701.10 Food–Contact Surfaces and Utensils.**

EQUIPMENT FOOD–CONTACT SURFACES and UTENSILS shall be SANITIZED.

Frequency **4–702.11 Before Use After Cleaning.**

UTENSILS and FOOD–CONTACT SURFACES of EQUIPMENT shall be SANITIZED before use after cleaning. [P]

Methods **4–703.11 Hot Water and Chemical.**

After being cleaned, EQUIPMENT FOOD–CONTACT SURFACES and UTENSILS shall be SANITIZED in:

(A) Hot water manual operations by immersion for at least 30 seconds and as specified under § 4–501.111; [P]

(B) Hot water mechanical operations by being cycled through EQUIPMENT that is set up as specified under §§ 4–501.15, 4–501.112, and 4–501.113 and achieving a UTENSIL surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; [P] or

(C) Chemical manual or mechanical operations, including the application of SANITIZING chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under § 4–501.114. Contact times shall be consistent with those on EPA–registered label use instructions by providing:

(1) Except as specified under Subparagraph (C)(2) of this section, a contact time of at least 10 seconds for a chlorine solution specified under ¶ 4–501.114 (A), [P]

(2) A contact time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of 8 or less and a temperature of at least 24°C (75°F), [P]

(3) A contact time of at least 30 seconds for other chemical SANITIZING solutions, [P] or

(4) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields SANITIZATION as defined in Subparagraph 1–201.10 (B). [P]

4-8	**LAUNDERING**	
	Subparts	
	4–801	**Objective**
	4–802	**Frequency**
	4–803	**Methods**

Objective **4–801.11 Clean Linens.**

Clean LINENS shall be free from FOOD residues and other soiling matter.

Frequency

4–802.11 Specifications.

(A) LINENS that do not come in direct contact with FOOD shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in ¶ 3–304.15 (D) shall be laundered before being used with a different type of raw animal FOOD such as beef, FISH, lamb, pork, or POULTRY.

(C) LINENS that are used as specified under § 3–304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of FOOD and clean serving UTENSILS.

Methods

4–803.11 Storage of Soiled Linens.

Soiled LINENS shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of FOOD, clean EQUIPMENT, clean UTENSILS, and SINGLE–SERVICE and SINGLE–USE ARTICLES.

4–803.12 Mechanical Washing.

(A) Except as specified in ¶ (B) of this section, LINENS shall be mechanically washed.

(B) *In FOOD ESTABLISHMENTS in which only wiping cloths are laundered as specified in ¶ 4–301.15 (B), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a WAREWASHING sink that is cleaned as specified under § 4–501.14.*

4–803.13 Use of Laundry Facilities.

(A) Except as specified in ¶ (B) of this section, laundry facilities on the PREMISES of a FOOD ESTABLISHMENT shall be used only for the washing and drying of items used in the operation of the establishment.

(B) *Separate laundry facilities located on the PREMISES for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering FOOD ESTABLISHMENT items.*

4-9 PROTECTION OF CLEAN ITEMS

Subparts

4–901	**Drying**
4–902	**Lubricating and Reassembling**
4–903	**Storing**
4–904	**Preventing Contamination**

Drying

4–901.11 Equipment and Utensils, Air–Drying Required.

After cleaning and SANITIZING, EQUIPMENT and UTENSILS:

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

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

4–901.12 Wiping Cloths, Air–Drying Locations.

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

Lubricating and Reassembling

4–902.11 Food–Contact Surfaces.

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

4–902.12 Equipment.

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

Storing

4–903.11 Equipment, Utensils, Linens, and Single–Service and Single–Use Articles.

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

(1) In a clean, dry location;

(2) Where they are not exposed to splash, dust, or other contamination; and

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

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

(1) In a self–draining position that allows air drying; and

(2) Covered or inverted.

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

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

4–903.12 Prohibitions.

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

(1) In locker rooms;

(2) In toilet rooms;

(3) In garbage rooms;

(4) In mechanical rooms;

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

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

(7) Under open stairwells; or

(8) Under other sources of contamination.

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

Preventing Contamination

4–904.11 Kitchenware and Tableware.

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

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

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

4–904.12 Soiled and Clean Tableware.

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

4–904.13 Preset Tableware.

(A) Except as specified in ¶ (B) of this section, TABLEWARE that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) *Preset TABLEWARE may be exposed if:*

(1) *Unused settings are removed when a CONSUMER is seated; or*

(2) *Settings not removed when a CONSUMER is seated are cleaned and SANITIZED before further use.*

4–904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing.

After being cleaned and SANITIZED, EQUIPMENT and UTENSILS shall not be rinsed before air drying or use unless:

(A) The rinse is applied directly from a potable water supply by a WAREWASHING machine that is maintained and operated as specified under Subparts 4–204 and 4–501; and

(B) The rinse is applied only after the EQUIPMENT and UTENSILS have been SANITIZED by the application of hot water or by the application of a chemical SANITIZER solution whose EPA–registered label use instructions call for rinsing off the SANITIZER after it is applied in a commercial warewashing machine.

Chapter 5 Water, Plumbing, and Waste

Parts

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

5-1 WATER

Subparts

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

Source **5–101.11 Approved System.**

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

(A) A PUBLIC WATER SYSTEM; [P] or

(B) A nonPUBLIC WATER SYSTEM that is 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. [P]

5–101.12 System Flushing and Disinfection.

A DRINKING WATER system shall be flushed and disinfected as per the State Uniform Plumbing Code, chs. SPS 381 to 387, before being placed into service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

5–101.13 Bottled Drinking Water.

BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources in accordance with ch. ATCP 70 relating to processing and bottling of BOTTLED DRINKING WATER. [P]

Quality

5–102.11 Standards.

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. [P]

Note: You can contact the department of natural resources at bureau of drinking water and groundwater, P.O. Box 7921, Madison, WI, 53707, or http://dnr.wi.gov/topic/drinkingwater/contact.html.

5–102.12 Nondrinking Water.

(A) A nonDRINKING WATER supply shall be used only if its use is APPROVED. [P]

(B) NonDRINKING WATER shall be used only for nonculinary purposes such as air conditioning, nonFOOD EQUIPMENT cooling, and fire protection. [P]

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. [Pf]

5–102.14 Sample Report.

The most recent sample report for each nonPUBLIC WATER SYSTEM shall be retained on file in the FOOD ESTABLISHMENT or the report shall be maintained as specified by state water quality regulations.

Quantity and Availability

5–103.11 Capacity.

(A) The water source and system shall be of sufficient capacity to meet the peak water demands of the FOOD ESTABLISHMENT. [Pf]

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the FOOD ESTABLISHMENT. [Pf]

5–103.12 Pressure.

Water under pressure shall be provided to all fixtures, EQUIPMENT, and 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.* [Pf]

Distribution, Delivery, and Retention

5–104.11 System.

Water shall be received from the source through the use of:

(A) An APPROVED public water main; [Pf] or

(B) A nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances, which shall be constructed, maintained, and operated according to the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services, and chs. NR 809, Safe Drinking Water and NR 812, Well Construction and Pump Installation as enforced by the Wisconsin department of natural resources: [Pf]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Note: You can contact the Department of natural resources at bureau of drinking water and groundwater, P.O. Box 7921, Madison, WI, 53707, or http://dnr.wi.gov/topic/drinkingwater/contact.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; [Pf]

(B) One or more closed portable water containers; [Pf]

(C) An enclosed vehicular water tank; [Pf]

(D) An on–PREMISES water storage tank; [Pf] or

(E) Piping, tubing, or hoses connected to an adjacent APPROVED source. [Pf]

5-2 PLUMBING SYSTEM

Subparts

5–201	**Materials**
5–202	**Design, Construction, and Installation**
5–203	**Numbers and Capacities**
5–204	**Location and Placement**
5–205	**Operation and Maintenance**

Materials

5–201.11 Approved.

(A) A PLUMBING SYSTEM and hoses conveying water shall be constructed and repaired with APPROVED materials according to the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services. [P]

(B) A water filter shall be made of SAFE MATERIALS. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Design, Construction, and Installation

5–202.11 Approved System and Cleanable Fixtures.

(A) A PLUMBING SYSTEM shall be designed, constructed, installed and maintained to conform to the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services.

(B) A PLUMBING FIXTURE such as a HANDWASHING SINK, toilet, or urinal shall be EASILY CLEANABLE.

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

5–202.12 Handwashing Sink Installation.

(A) A HANDWASHING SINK shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet. [Pf]

(B) A steam mixing valve may not be used at a HANDWASHING SINK.

(C) A HANDWASHING SINK:

(1) At a newly constructed FOOD ESTABLISHMENT when a HANDWASHING SINK, 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.

An air gap between the water supply inlet and the flood level rim of the PLUMBING FIXTURE, EQUIPMENT, or nonFOOD EQUIPMENT shall comply with the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

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 the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services. [P]

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

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 Sink.

(A) Except as specified in ¶¶ (B) and (C) of this section, at least 1 HANDWASHING SINK, a number of HANDWASHING SINKS necessary for their convenient use by EMPLOYEES in areas specified under § 5–204.11, and not fewer than the number of HANDWASHING SINKS required by LAW shall be provided. [Pf]

(B) *If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, automatic handwashing facilities may be substituted for HANDWASHING SINKS in a FOOD ESTABLISHMENT that has at least 1 HANDWASHING SINK.*

5–203.12 Toilets and Urinals.

At least 1 toilet and not fewer than the toilets required by LAW shall be provided. If authorized by LAW and urinals are substituted for toilets, the substitution shall be done as specified in LAW.

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

5–203.13 Service Sink.

(A) At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

5–203.14 Backflow Prevention Device, When Required.

A PLUMBING SYSTEM shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the FOOD ESTABLISHMENT, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention as required by the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services, by:

(A) Providing an air gap as specified under § 5–202.13; [P] or

(B) Installing an APPROVED backflow prevention device as specified under § 5–202.14. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

5–203.15 Backflow Prevention Device, Carbonator.

If not provided with an air gap as specified under § 5–202.13, an APPROVED dual check valve with an intermediate vent conforming to the State Uniform Plumbing Code chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services, shall be installed upstream from a carbonating device and downstream from any copper in the water supply line. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Location and Placement

5–204.11 Handwashing sink.

A HANDWASHING SINK shall be located:

(A) To allow convenient use by EMPLOYEES in FOOD preparation, FOOD dispensing, and WAREWASHING areas; [Pf] and

(B) In, or immediately adjacent to, toilet rooms. [Pf]

5–204.12 Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

5–204.13 Conditioning Device, Location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

Operation and Maintenance

5–205.11 Using a Handwashing Sink.

(A) A HANDWASHING SINK shall be maintained so that it is accessible at all times for EMPLOYEES use. [Pf]

(B) A HANDWASHING SINK may not be used for purposes other than handwashing. [Pf]

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions. [Pf]

5–205.12 Prohibiting a Cross Connection.

(A) A PERSON may not create a cross connection by connecting a pipe or conduit between the DRINKING WATER system and a nonDRINKING WATER system or a water system of unknown quality. [P]

(B) The piping of a nonDRINKING WATER system shall be durably identified so that it is readily distinguishable from piping that carries DRINKING WATER. [Pf]

5–205.13 Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the PERSON IN CHARGE. [Pf]

5–205.14 Water Reservoir of Fogging Devices, Cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications; [P] and

(2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under ¶ (B) of this section, whichever is more stringent. [P]

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts; [P]

(2) Brush–cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution; [P]

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; [P] and

(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution. [P]

5–205.15 System Maintained in Good Repair.

A PLUMBING SYSTEM shall be:

(A) Repaired according to the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services; [P] and

(B) Maintained in good repair.

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK

Subparts

5–301 Materials
5–302 Design and Construction
5–303 Numbers and Capacities
5–304 Operation and Maintenance

Materials

5–301.11 Approved.

Materials that are used in the construction of a mobile water tank, MOBILE FOOD ESTABLISHMENT water tank, and appurtenances shall be:

(A) Safe; [P]

(B) Durable, CORROSION–RESISTANT, and nonabsorbent; and

(C) Finished to have a SMOOTH, EASILY CLEANABLE surface.

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; [P]

(B) Durable, CORROSION−RESISTANT, and nonabsorbent;

(C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

(D) Finished with a SMOOTH interior surface; and

(E) Clearly and durably identified as to its use if not permanently attached.

Numbers and Capacities

5–303.11 Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and DRINKING WATER system when compressed air is used to pressurize the water tank system. [P]

5–303.12 Protective Cover or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other APPROVED protective cover or device shall be provided for a water inlet, outlet, and hose.

5–303.13 Mobile Food Establishment Tank Inlet.

A MOBILE FOOD ESTABLISHMENT'S water tank inlet shall be:

(A) 19.1 mm (three–fourths inch) in inner diameter or less; and

(B) Provided with a hose connection of a size or type that will prevent its use for any other service.

Operation and Maintenance

5–304.11 System Flushing and Sanitization.

A water tank, pump, and hoses shall be flushed and SANITIZED between before being placed in service after construction, repair, modification, and periods of nonuse. [P]

5–304.12 Using a Pump and Hoses, Backflow Prevention.

A PERSON shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply is prevented.

5–304.13 Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under § 5–303.12.

5–304.14 Tank, Pump, and Hoses, Dedication.

(A) Except as specified in ¶ (B) of this section, a water tank, pump, and hoses used for conveying DRINKING WATER shall be used for no other purpose. [P]

(B) *Water tanks, pumps, and hoses APPROVED for liquid FOODS may be used for conveying DRINKING WATER if they are cleaned and SANITIZED before they are used to convey water.*

5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

Subparts

5–401 Mobile Holding Tank
5–402 Retention, Drainage, and Delivery
5–403 Disposal Facility

Mobile Holding Tank

5–401.11 Capacity and Drainage.

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

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

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

Retention, Drainage, and Delivery

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.

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

(B) *Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.*

(C) *If allowed by LAW, a WAREWASHING machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.*

(D) *If allowed by LAW, a WAREWASHING or culinary sink may have a direct connection.*

location and placement

5–402.12 Grease Trap.

If used, a grease trap shall be located to be easily accessible for cleaning as required by the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services.

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

operation and maintenance

5–402.13 Conveying Sewage.

SEWAGE shall be conveyed to the point of disposal through an APPROVED plumbing system which may be a public sewer, a private onsite wastewater treatment system or other approved system in accordance with chs. SPS 382 to 384, as administered by the Wisconsin department of safety and professional services. Servicing of sewage system components shall be in accordance with ch. NR 113, as administered by the Wisconsin department of natural resources. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Note: You can contact the department of natural resources at bureau of watershed management, P.O. Box 7921, Madison, WI, 53707, or dnr.wi.gov/topic/watersheds/.

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 BASE or by a SEWAGE transport vehicle in such a way that a public health HAZARD or nuisance is not created. [Pf]

5–402.15 Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

Disposal Facility

5–403.11 Approved Sewage System.

design and construction

SEWAGE shall be disposed through an APPROVED facility that is:

(A) A public SEWAGE treatment plant; [P] or

(B) A private SEWAGE system that is sized, constructed, maintained, and operated according to the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services. [P]

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

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 the State Uniform Plumbing Code, chs. SPS 381 to 387, as enforced by the Wisconsin department of safety and professional services.

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

5-5 REFUSE, RECYCLABLES, AND RETURNABLES

Subparts

5–501	**Facilities on the Premises**
5–502	**Removal**
5–503	**Facilities for Disposal and Recycling**

Facilities on the Premises
materials, design, construction, and installation

5–501.10 Indoor Storage Area.

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

5–501.11 Outdoor Storage Surface.

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

5–501.12 Outdoor Enclosure.

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

5–501.13 Receptacles.

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

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

5–501.14 Receptacles in Vending Machines.

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

5–501.15 Outside Receptacles.

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

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

numbers and capacities

5–501.16 Storage Areas, Rooms, and Receptacles, Capacity and Availability.

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

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

(C) If disposable towels are used at HANDWASHING SINKS, a waste receptacle shall be located at each HANDWASHING SINK or group of adjacent HANDWASHING SINKS.

5–501.17 Toilet Room Receptacle, Covered.

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

5–501.18 Cleaning Implements and Supplies.

(A) Except as specified in ¶ (B) of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for REFUSE, recyclables, and returnables.

(B) *If APPROVED, off–PREMISES–based cleaning services may be used if on–PREMISES cleaning implements and supplies are not provided.*

location and placement

5-501.19 Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location.

(A) An area designated for REFUSE, recyclables, returnables, and, except as specified in ¶ (B) of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE−SERVICE and SINGLE− USE ARTICLES and a public health HAZARD or nuisance is not created.

(B) *A redeeming machine may be located in the PACKAGED FOOD storage area or CONSUMER area of a FOOD ESTABLISHMENT if FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE−SERVICE and SINGLE−USE ARTICLES are not subject to contamination from the machines and a public health HAZARD or nuisance is not created.*

(C) The location of receptacles and waste handling units for REFUSE, recyclables, and returnables may not create a public health HAZARD or nuisance or interfere with the cleaning of adjacent space.

operation and maintenance

5–501.110 Storing Refuse, Recyclables, and Returnables.

REFUSE, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

5–501.111 Areas, Enclosures, and Receptacles, Good Repair.

Storage areas, enclosures, and receptacles for REFUSE, recyclables, and returnables shall be maintained in good repair.

5–501.112 Outside Storage Prohibitions.

(A) Except as specified in ¶ (B) of this section, REFUSE receptacles not meeting the requirements specified under ¶ 5−501.13 (A) such as receptacles that are not rodent−resistant, unprotected plastic bags and paper bags, or baled units that contain materials with FOOD residue may not be stored outside.

(B) *Cardboard or other PACKAGING material that does not contain FOOD residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.*

5–501.113 Covering Receptacles.

Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be kept covered:

(A) Inside the FOOD ESTABLISHMENT if the receptacles and units:

(1) Contain FOOD residue and are not in continuous use; or

(2) After they are filled; and

(B) With tight–fitting lids or doors if kept outside the FOOD ESTABLISHMENT.

5–501.114 Using Drain Plugs.

Drains in receptacles and waste handling units for REFUSE, recyclables, and returnables shall have drain plugs in place

5–501.115 Maintaining Refuse Areas and Enclosures.

A storage area and enclosure for REFUSE, recyclables, or returnables shall be maintained free of unnecessary items, as specified under § 6–501.114, and clean.

5–501.116 Cleaning Receptacles.

(A) Receptacles and waste handling units for REFUSE, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, or SINGLE–SERVICE and SINGLE–USE ARTICLES, and waste water shall be disposed of as specified under § 5–402.13.

(B) Soiled receptacles and waste handling units for REFUSE, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

Removal

5–502.11 Frequency.

REFUSE, recyclables, and returnables shall be removed from the PREMISES at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

5–502.12 Receptacles or Vehicles.

REFUSE, recyclables, and returnables shall be removed from the PREMISES by way of:

(A) Portable receptacles that are constructed and maintained according to LAW; or

(B) A transport vehicle that is constructed, maintained, and operated according to LAW.

Facilities for Disposal and Recycling

5–503.11 Community or Individual Facility.

Solid waste not disposed of through the SEWAGE system such as through grinders and pulpers shall be recycled or disposed of in an APPROVED public or private community recycling or REFUSE facility; or solid waste shall be disposed of in an individual REFUSE facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to LAW.

Chapter

6 Physical Facilities

Parts

6–1 MATERIALS FOR CONSTRUCTION AND REPAIR
6–2 DESIGN, CONSTRUCTION, AND INSTALLATION
6–3 NUMBERS AND CAPACITIES
6–4 LOCATION AND PLACEMENT
6–5 MAINTENANCE AND OPERATION

6-1 MATERIALS FOR CONSTRUCTION AND REPAIR

Subparts

6–101 Indoor Areas
6–102 Outdoor Areas

Indoor Areas **6–101.11 Surface Characteristics.**

(A) Except as specified in ¶ (B) of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

(1) SMOOTH, durable, and EASILY CLEANABLE for areas where FOOD ESTABLISHMENT operations are conducted;

(2) Closely woven and EASILY CLEANABLE carpet for carpeted areas; and

(3) Nonabsorbent for areas subject to moisture such as FOOD preparation areas, walk–in refrigerators, WAREWASHING areas, toilet rooms, MOBILE FOOD ESTABLISHMENT SERVICE BASE, and areas subject to flushing or spray cleaning methods.

(B) In a TEMPORARY FOOD ESTABLISHMENT:

(1) *If graded to drain, a floor may be concrete, machine–laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other APPROVED materials that are effectively treated to control dust and mud; and*

(2) *Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.*

Outdoor Areas **6–102.11 Surface Characteristics.**

(A) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(B) Exterior surfaces of buildings and MOBILE FOOD ESTABLISHMENTS shall be of weather–resistant materials and shall comply with LAW.

(C) Outdoor storage areas for REFUSE, recyclables, or returnables shall be of materials specified under §§ 5–501.11 and 5–501.12.

6-2 DESIGN, CONSTRUCTION, AND INSTALLATION

Subparts

6–201 Cleanability

6–202 Functionality

Cleanability **6–201.11 Floors, Walls, Doors, and Ceilings.**

Except as specified under § 6–201.14 and *except that antislip floor coverings or applications that may be used for safety reasons*, floors, floor coverings, walls, wall coverings, doors, and ceilings shall be designed, constructed, and installed so they are SMOOTH and EASILY CLEANABLE.

6–201.12 Floors, Walls, and Ceilings, Utility Lines.

(A) Utility service lines and pipes may not be unnecessarily exposed.

(B) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

6–201.13 Floor and Wall Junctures, Coved, and Enclosed or Sealed.

(A) In FOOD ESTABLISHMENTS in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1 mm (one thirty–second inch).

(B) The floors in FOOD ESTABLISHMENTS in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and SEALED.

6–201.14 Floor Carpeting, Restrictions and Installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in FOOD preparation areas, FOOD storage areas, walk–in refrigerators, WAREWASHING areas, toilet room areas where HANDWASHING SINKS, toilets, and urinals are located, REFUSE storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under ¶(A) of this section, it shall be:

(1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

6–201.15 Floor Covering, Mats and Duckboards.

Mats and duckboards shall be designed to be removable and EASILY CLEANABLE.

6–201.16 Wall and Ceiling Coverings and Coatings.

(A) Wall and ceiling covering materials shall be attached so that they are EASILY CLEANABLE.

(B) *Except in areas used only for dry storage*, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and SEALED to provide a SMOOTH, nonabsorbent, EASILY CLEANABLE surface.

6–201.17 Walls and Ceilings, Attachments.

(A) Except as specified in ¶ (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be EASILY CLEANABLE.

(B) *In a CONSUMER area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.*

6–201.18 Walls and Ceilings, Studs, Joists, and Rafters.

Except for TEMPORARY FOOD ESTABLISHMENTS, studs, joists, and rafters may not be exposed in areas subject to moisture.

6–201.19 Public Entrances and Exits.

Public entrances and exits shall be located so that it is not possible for patrons using the facilities to pass through 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 ESTABLISHMENT shall meet the Wisconsin Commercial Building Code, chs. SPS 361 to 366, as enforced by the Wisconsin department of safety and professional services.

Note: Contact the Safety and Building Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Functionality **6–202.11 Light Bulbs, Protective Shielding.**

(A) Except as specified in ¶ (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter–resistant in areas where there is exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; or unwrapped SINGLE–SERVICE and SINGLE–USE ARTICLES.

(B) *Shielded, coated, or otherwise shatter–resistant bulbs need not be used in areas used only for storing FOOD in unopened PACKAGES, if:*

(1) *The integrity of the PACKAGES cannot be affected by broken glass falling onto them; and*

(2) *The PACKAGES are capable of being cleaned of debris from broken bulbs before the PACKAGES are opened.*

(C) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

6–202.12 Heating, Ventilating, Air Conditioning System Vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make–up air intake and exhaust vents do not cause contamination of FOOD, FOOD–CONTACT SURFACES, EQUIPMENT, or UTENSILS.

6–202.13 Insect Control Devices, Design and Installation.

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(B) Insect control devices shall be installed so that:

(1) The devices are not located over a FOOD preparation area; and

(2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE–SERVICE and SINGLE–USE ARTICLES.

6–202.14 Toilet Rooms, Enclosed.

Except where a toilet room is located outside a FOOD ESTABLISHMENT and does not open directly into the FOOD ESTABLISHMENT such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the PREMISES shall be completely enclosed and provided with a tight–fitting and self–closing door.

6–202.15 Outer Openings, Protected.

(A) Except as specified in ¶¶ (B), (C), (D), and (E) of this section, outer openings of a FOOD ESTABLISHMENT shall be protected against the entry of insects and rodents by:

(1) Filling or closing holes and other gaps along floors, walls, and ceilings;

(2) Closed, tight–fitting windows; and

(3) Solid, self–closing, tight–fitting doors.

(B) *Paragraph (A) of this section, does not apply if a FOOD ESTABLISHMENT opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.*

(C) *Exterior doors used as exits need not be self–closing if they are:*

(1) *Solid and tight–fitting;*

(2) *Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the FOOD ESTABLISHMENT; and*

(3) *Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.*

(D) Except as specified in ¶¶ (B) and (E) of this section, if the windows or doors of a FOOD ESTABLISHMENT, or of a larger structure within which a FOOD ESTABLISHMENT is located, are kept open for ventilation or other purposes or a TEMPORARY FOOD ESTABLISHMENT is not provided with windows and doors as specified under ¶ (A) of this section, the openings shall be protected against the entry of insects and rodents by:

(1) 16 mesh to 25.4mm (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) does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.*

6–202.16 Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs of a FOOD ESTABLISHMENT shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

6–202.17 Outdoor Food Vending Areas, Overhead Protection.

Except for machines that vend canned BEVERAGES, if located outside, a machine used to vend FOOD shall be provided with overhead protection.

6–202.18 Outdoor Service Base Areas, Overhead Protection.

Except for areas used only for the loading of water or the discharge of SEWAGE and other liquid waste, through the use of a closed system of hoses, SERVICE BASES shall be provided with overhead protection.

6–202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.

Exterior walking and driving surfaces shall be graded to drain.

6–202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.

Outdoor REFUSE areas shall be constructed in accordance with LAW and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the REFUSE and from cleaning the area and waste receptacles.

6–202.111 Private Homes and Living or Sleeping Quarters, Use Prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting FOOD ESTABLISHMENT operations. [P]

6–202.112 Living or Sleeping Quarters, Separation.

Living or sleeping quarters provided for lodging registration clerks or resident managers on the PREMISES of a FOOD ESTABLISHMENT shall be separated from rooms and areas used for FOOD ESTABLISHMENT operations by complete partitioning and solid self– closing doors

6-3 NUMBERS AND CAPACITIES
Subparts

6–301	**Handwashing Sinks**
6–302	**Toilets and Urinals**
6–303	**Lighting**
6–304	**Ventilation**
6–305	**Dressing Areas and Lockers**
6–306	**Service Sinks**

Handwashing Sinks.

6–301.10 Minimum Number

HANDWASHING SINKS shall be provided as specified under § 5–203.11.

6–301.11 Handwashing Cleanser, Availability.

Each HANDWASHING SINK or group of 2 adjacent HANDWASHING SINKS shall be provided with a supply of hand cleaning liquid, powder, or bar soap. [Pf]

6–301.12 Hand Drying Provision.

Each HANDWASHING SINK or group of adjacent HANDWASHING SINKS shall be provided with:

(A) Individual, disposable towels; [Pf]

(B) A continuous towel system that supplies the user with a clean towel; [Pf] or

(C) A heated–air hand drying device; [Pf] or

(D) A hand drying device that employs an air–knife system that delivers high velocity, pressurized air at ambient temperatures. [Pf]

6–301.13 Handwashing Aids and Devices, Use Restrictions.

A sink used for FOOD preparation or UTENSIL washing , or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a HANDWASHING SINK as specified under §§ 6–301.11 and 6–301.12 and ¶ 5–501.16 (C).

6–301.14 Handwashing Signage.

A sign or poster that notifies FOOD EMPLOYEES to wash their hands shall be provided at all HANDWASHING SINKS used by FOOD EMPLOYEES and shall be clearly visible to FOOD EMPLOYEES.

6–301.20 Disposable Towels, Waste Receptacle.

A HANDWASHING SINK or group of adjacent HANDWASHING SINKS that 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. [Pf]

Lighting

6–303.11 Intensity.

The light intensity shall be:

(A) At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk–in refrigeration units and dry FOOD storage areas and in other areas and rooms during periods of cleaning;

(B) At least 215 lux (20 foot candles):

(1) At a surface where FOOD is provided for CONSUMER self–service such as buffets and salad bars or where fresh produce or PACKAGED FOODS are sold or offered for consumption,

(2) Inside EQUIPMENT such as reach–in and under–counter refrigerators; and

(3) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, WAREWASHING, and EQUIPMENT and UTENSIL storage, in toilet rooms; and

(C) At least 540 lux (50 foot candles) at a surface where a FOOD EMPLOYEE is working with FOOD or working with UTENSILS or EQUIPMENT such as knives, slicers, grinders, or saws where EMPLOYEE safety is a factor.

Ventilation **6–304.11 Mechanical.**

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided. Ventilation systems shall be installed and operated according to the Wisconsin Commercial Building Code, chs. SPS 361 to 366, as enforced by the Wisconsin department of safety and professional services.

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Dressing Areas and Lockers **6–305.11 Designation.**

(A) Dressing rooms or dressing areas shall be designated if EMPLOYEES routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of EMPLOYEES' clothing and other possessions.

Service Sinks **6–306.10 Availability.**

A service sink or curbed cleaning facility shall be provided as specified under ¶ 5–203.13 (A).

6-4 LOCATION AND PLACEMENT

Subparts

6–401	**Handwashing Sinks**
6–402	**Toilet Rooms**
6–403	**Employee Accommodations**
6–404	**Distressed Merchandise**
6–405	**Refuse, Recyclables, and Returnables**

Handwashing Sinks **6–401.10 Conveniently Located.**

HANDWASHING SINKS shall be conveniently located as specified under § 5–204.11.

Toilet Rooms

6–402.11 Convenience and Accessibility.

Toilet rooms shall be conveniently located and accessible to EMPLOYEES during all hours of operation.

Employee Accommo-dations

6–403.11 Designated Areas.

(A) Areas designated for EMPLOYEES to eat, drink, and use tobacco shall be located so that FOOD, EQUIPMENT, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES cannot occur.

Distressed Merchandise

6–404.11 Segregation and Location.

Products that are held by the LICENSE HOLDER for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES. Pf

Refuse, Recyclables, and Returnables

6–405.10 Receptacles, Waste Handling Units, and Designated Storage Areas.

Units, receptacles, and areas designated for storage of REFUSE and recyclable and returnable containers shall be located as specified under § 5–501.19.

6-5 MAINTENANCE AND OPERATION

Subparts

6–501 Premises, Structures, Attachments, and Fixtures - Methods

Premises, Structures, Attachments, and Fixtures - Methods

6–501.11 Repairing.

PHYSICAL FACILITIES shall be maintained in good repair.

6–501.12 Cleaning, Frequency and Restrictions.

(A) The PHYSICAL FACILITIES shall be cleaned as often as necessary to keep them clean.

(B) *Except for cleaning that is necessary due to a spill or other accident*, cleaning shall be done during periods when the least amount of FOOD is exposed such as after closing.

6–501.13 Cleaning Floors, Dustless Methods.

(A) Except as specified in ¶ (B) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust–arresting compounds.

(B) *Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:*

(1) *Without the use of dust–arresting compounds; and*

(2) *In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.*

6–501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

(A) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health HAZARD or nuisance or unLAWful discharge.

6–501.15 Cleaning Maintenance Tools, Preventing Contamination.

FOOD preparation sinks, HANDWASHING SINKS, and WAREWASHING EQUIPMENT may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes. [Pf]

6–501.16 Drying Mops.

After use, mops shall be placed in a position that allows them to air–dry without soiling walls, EQUIPMENT, or supplies.

6–501.17 Absorbent Materials on Floors, Use Limitation.

Except as specified in ¶ 6–501.13 (B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

6–501.18 Cleaning of Plumbing Fixtures.

PLUMBING FIXTURES such as HANDWASHING SINKS, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

6–501.19 Closing Toilet Room Doors.

Except during cleaning and maintenance operations, toilet room doors as specified under § 6–202.14 shall be kept closed.

6–501.110 Using Dressing Rooms and Lockers.

(A) Dressing rooms shall be used by EMPLOYEES if the EMPLOYEES regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be used for the orderly storage of EMPLOYEE clothing and other possessions.

6–501.111 Controlling Pests.

The PREMISES shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the PREMISES by:

(A) Routinely inspecting incoming shipments of FOOD and supplies;

(B) Routinely inspecting the PREMISES for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under §§ 7–202.12, 7–206.12, and 7–206.13; [Pf] and

(D) Eliminating harborage conditions.

6–501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the PREMISES at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

6–501.113 Storing Maintenance Tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES; and

(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

6–501.114 Maintaining Premises, Unnecessary Items and Litter.

The PREMISES shall be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as EQUIPMENT that is nonfunctional or no longer used; and

(B) Litter.

6–501.115 Prohibiting Animals.

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT. [Pf]

(B) *Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE–SERVICE and SINGLE–USE ARTICLES cannot result:*

(1) *Edible FISH or decorative FISH in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;*

(2) *Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;*

(3) *In areas that are not used for FOOD preparation and that are usually open for customers, such as dining and sales areas, SERVICE ANIMALS that are controlled by the disabled EMPLOYEE or person, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;*

(4) *Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:*

(a) *Effective partitioning and self–closing doors separate the common dining areas from FOOD storage or FOOD preparation areas,*

(b) *Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present, and*

(c) *Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and*

(5) *In areas that are not used for FOOD preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly 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 cannot result.*

(D) *Only dogs may be allowed in the outside seating areas of a FOOD ESTABLISHMENT if the following requirements are strictly followed:*

(1) *Applies to the exterior areas of outdoor dining of a FOOD ESTABLISHMENT only. Live animals are not allowed in the interior portions of the FOOD ESTABLISHMENT.*

(2) *A separate entrance is provided to reach the outdoor dining area so that dogs never enter the FOOD ESTABLISHMENT.*

(3) *The OPERATOR shall provide signage alerting customers that dogs are allowed in outdoor seating areas. Signage shall be approved by REGULATORY AUTHORITY.*

(4) *No food or BEVERAGE preparation shall be allowed in the outdoor dining area.*

(5) *Customer multi-use or reusable UTENSILS such as plates, silverware, glasses and bowls shall not be stored, displayed or pre-set in the outdoor dining area.*

(6) *FOOD shall not be served to pets in the outdoor dining areas of a FOOD ESTABLISHMENT. However, water may be provided by the FOOD ESTABLISHMENT for consumption by the dog in SINGLE-USE disposable containers.*

(7) *EMPLOYEES shall be prohibited from having direct contact with dogs while on duty.*

(8) *Dogs shall not be allowed on chairs, seats, benches, and tables.*

(9) *The outdoor dining areas of a FOOD ESTABLISHMENT shall be maintained clean at all times*

(10) *In cases where excrement or other bodily fluids (urine, saliva, and vomit) are deposited, an EMPLOYEE shall immediately clean the affected area.*

Chapter 7 Poisonous or Toxic Materials

Parts

7–1 LABELING AND IDENTIFICATION
7–2 OPERATIONAL SUPPLIES AND APPLICATIONS
7–3 STOCK AND RETAIL SALE

7-1 LABELING AND IDENTIFICATION

Subparts

7–101 Original Containers
7–102 Working Containers

Original Containers

7–101.11 Identifying Information, Prominence.

Containers of POISONOUS OR TOXIC MATERIALS and PERSONAL CARE ITEMS shall bear a legible manufacturer's label. [Pf]

Working Containers

7–102.11 Common Name.

Working containers used for storing POISONOUS OR TOXIC MATERIALS such as cleaners and SANITIZERS taken from bulk supplies shall be clearly and individually identified with the common name of the material. [Pf]

7-2 OPERATIONAL SUPPLIES AND APPLICATIONS

Subparts

7-201 Storage
7-202 Presence and Use
7-203 Container Prohibitions
7-204 Chemicals
7-205 Lubricants
7-206 Pesticides
7-207 Medicines
7-208 First Aid Supplies
7-209 Other Personal Care Items

Storage

7–201.11 Separation.

POISONOUS OR TOXIC MATERIALS shall be stored so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES by:

(A) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning; [P] and

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE or SINGLE–USE ARTICLES. *This paragraph does not apply to EQUIPMENT and UTENSIL cleaners and SANITIZERS that are stored in WAREWASHING areas for availability and convenience if the materials are stored to prevent contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES.* [P]

Presence and Use

7–202.11 Restriction.

(A) Only those POISONOUS OR TOXIC MATERIALS that are required for the operation and maintenance of a FOOD ESTABLISHMENT, such as for the cleaning and SANITIZING of EQUIPMENT and UTENSILS and the control of insects and rodents, shall be allowed in a FOOD ESTABLISHMENT. [Pf]

(B) *Paragraph (A) of this section does not apply to PACKAGED POISONOUS OR TOXIC MATERIALS that are for retail sale.*

7–202.12 Conditions of Use.

POISONOUS OR TOXIC MATERIALS shall be:

(A) Used according to:

(1) LAW and this Code,

(2) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a FOOD ESTABLISHMENT, [P]

(3) The conditions of certification, if certification is required, for use of the pest control materials, [P] and

(4) Additional conditions that may be established by the DEPARTMENT; and

(B) Applied so that:

(1) A HAZARD to EMPLOYEES or other PERSONS is not constituted, [P] and

(2) Contamination including toxic residues due to drip, drain, fog, splash, or spray on FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES is prevented, and for a RESTRICTED USE PESTICIDE, this is achieved by: [P]

(a) Removing the items, [P]

(b) Covering the items with impermeable covers, [P] or

(c) Taking other appropriate preventive actions, [P] and

(d) Cleaning and SANITIZING EQUIPMENT and UTENSILS after the application. [P]

(C) A RESTRICTED USE PESTICIDE shall be applied only by an applicator certified and licensed in accordance to ss. 94.704 and 94.705, Stats.; and ss. ATCP 29.25 and 29.26. [Pf]

Container Prohibitions

7–203.11 Poisonous or Toxic Material Containers.

A container previously used to store POISONOUS OR TOXIC MATERIALS may not be used to store, transport, or dispense FOOD. [P]

Chemicals

7–204.11 Sanitizers, Criteria.

Chemical SANITIZERS, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to FOOD-CONTACT SURFACES shall:

(A) Meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (FOODCONTACT SURFACE SANITIZING solutions)[P], or

(B) Meet the requirements as specified in 40 CFR 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance -Non-food determinations. [P]

7–204.12 Chemicals for Washing, Treatment, Storage, and Processing of Fruits and Vegetables, Criteria.

(A) Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:

(1) Be an approved FOOD ADDITIVE listed for this intended use in 21 CFR 173, [P] or

(2) Be generally recognized as safe (GRAS) for this intended use, [P] or

(3) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), [P] and

(4) Meet the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices. [P]

(B) Chemicals, including those generated on-site, used as an antimicrobial agent in the treatment, storage, and PROCESSING of fruits and vegetables in a FOOD ESTABLISHMENT shall:

(1) Meet the requirements in 7-204.11 and 7-204.12 (A), and,

(2) Be appropriately cleared by FDA and be used in accordance with the manufacturer's instructions, and also (if applicable),

(3) Be appropriately registered with EPA and be used in accordance with the EPA registered label use instructions.

7–204.13 Boiler Water Additives, Criteria.

Chemicals used as boiler water ADDITIVES shall meet the requirements specified in 21 CFR 173.310 — Boiler water additives. [P]

7–204.14 Drying Agents, Criteria.

Drying agents used in conjunction with SANITIZATION shall:

(A) Contain only components that are listed as one of the following:

(1) Generally recognized as safe for use in FOOD as specified in 21 CFR 182 - Substances Generally Recognized as Safe, or 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, [P]

(2) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe, [P]

(3) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to FOOD as described in 21 CFR 170.30 Eligibility for classification as generally recognized as safe (GRAS), [P]

(4) Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h), [P]

(5) APPROVED for use as a drying agent under a prior sanction as described in the Federal Food Drug and Cosmetic Act (FFDCA) § 201(s) (4); [P]

(6) Specifically regulated as an indirect FOOD ADDITIVE for use as a drying agent as specified in 21 CFR Parts 174-178, [P] or

(7) APPROVED for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; [P] and

(B) When SANITIZATION is with chemicals, the approval required under Subparagraph (A)(5) or (A)(7) of this section, or the regulation as an indirect FOOD ADDITIVE required under Subparagraph (A)(6) of this section, shall be specifically for use with chemical SANITIZING solutions. [P]

Lubricants

7–205.11 Incidental Food Contact, Criteria.

Lubricants shall meet the requirements specified in 21 CFR 178.3570 — Lubricants with incidental food contact, if they are used on FOOD–CONTACT SURFACES, on bearings and gears located on or within FOOD–CONTACT SURFACES, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into FOOD or onto FOOD–CONTACT SURFACES. [P]

Pesticides

7–206.11 Restricted Use Pesticides, Criteria.

(A) RESTRICTED USE PESTICIDES specified under ¶ 7–202.12 (C) shall meet the requirements specified in 40 CFR 152 Subpart I - Classification of Pesticides, [P]

(B) RESTRICTED USE PESTICIDES specified under ¶ 7–202.12 (C) shall meet the requirements of ch. 94, Stats., and ch. ATCP 29. [P]

7–206.12 Rodent Bait Stations.

Rodent bait shall be contained in a covered, tamper–resistant bait station. [P]

7–206.13 Tracking Powders, Pest Control and Monitoring.

(A) Except as specified in ¶ (B) of this section, a tracking powder pesticide may not be used in a FOOD ESTABLISHMENT. [P]

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES.

Medicines

7–207.11 Restriction and Storage.

(A) *Except for medicines that are stored or displayed for retail sale*, only those medicines that are necessary for the health of EMPLOYEES shall be allowed in a FOOD ESTABLISHMENT. [Pf]

(B) Medicines that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be labeled as specified under § 7–101.11 and located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES. [P]

7–207.12 Refrigerated Medicines, Storage.

Medicines belonging to EMPLOYEES or to children in a day care center that require refrigeration and are stored in a FOOD refrigerator shall be:

(A) Stored in a PACKAGE or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; [P] and

(B) Located so they are inaccessible to children. [P]

First Aid Supplies

7–208.11 Storage.

First aid supplies that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use shall be:

(A) Labeled as specified under § 7–101.11; [Pf] and

(B) Stored in a kit or a container that is located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, and LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES. [P]

Other Personal Care Items

7–209.11 Storage.

Except as specified under §§ 7–207.12 and 7–208.11, EMPLOYEES shall store their PERSONAL CARE ITEMS in facilities as specified under ¶ 6–305.11 (B).

7-3 STOCK AND RETAIL SALE

Subparts

7–301 Storage and Display

Storage and Display

7–301.11 Separation.

POISONOUS OR TOXIC MATERIALS shall be stored and displayed for retail sale so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE and SINGLE–USE ARTICLES by:

(A) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning; [P] and

(B) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE–SERVICE or SINGLE–USE ARTICLES. [P]

Chapter 8 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

Public Toilet Rooms

8–101.10 Public Toilet Rooms.

For the purpose of this chapter, public toilet rooms are those toilet facilities that are available to the general public.

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 meet the requirements specified by the Wisconsin Commercial Building Code, chs. SPS 361 to 366, and enforced by the Wisconsin department of safety and professional services.

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

8–101.12 Carry Out Food Establishments.

Carry out FOOD ESTABLISHMENTS with no on–PREMISE dining that allow customers to enter the establishment shall provide a toilet room for the public as specified by the Wisconsin Commercial Building Code, chs. SPS 361 to 366, and enforced by the Wisconsin department of safety and professional services.

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

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

Supervision **8–201.11 Control of Operator.**

The condition and maintenance of the toilet rooms shall be the responsibility of the FOOD ESTABLISHMENT OPERATOR or designee.

Location **8–201.12 Location.**

(A) Public toilet rooms shall be located so that it is not necessary for patrons using the facilities to pass through FOOD PROCESSING, serving or storage areas or an area where UTENSILS are washed.

(B) All public toilet rooms at a new or substantially remodeled FOOD ESTABLISHMENT shall be readily available to the patrons of the FOOD ESTABLISHMENT.

8–201.13 Outside Entrances.

Outside entrances to toilet rooms are not permitted in FOOD ESTABLISHMENT licensed after (the effective date of this rule), except that FOOD ESTABLISHMENTS having only outside seating may use toilet facilities with outside entrances if the toilet facilities are readily accessible to patrons.

8–201.14 Gender Designation.

The door leading into each toilet room as specified by the Wisconsin Commercial Building Code, chs. SPS 361 to 366, shall be marked to identify whether it is for men or women.

Note: Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

8–201.15 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.

8–201.16 Toilet Maintenance.

Public toilet rooms shall:

(A) Have a supply of toilet tissue available at each toilet; and

(B) Be clean and in good repair.

8-3	HANDWASHING
	Subparts
	8–301 Located and Equipped

Located and Equipped

8–301.11 Handwashing facilities.

Handwashing facilities:

(A) Shall be located in all public toilet rooms.

(B) Shall be equipped to provide water at a temperature as specified in § 5–202.12.

(C) Shall be provided with soap and single use hand drying devices; and

(D) If used by FOOD EMPLOYEES, shall comply with ¶ 5–202.12 (C), 5-203.11, 5205.11 and 6–301.14.

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

9-1 GENERAL REQUIREMENTS

Subparts

9–101 Applicable Code
9–102 Warewashing Operation
9–103 Service Base
9–104 Boundary of Operation

Applicable Code

9–101.10 Applicable Code.

In addition to the specific requirements of this chapter, Chapter 1 through Chapter 7 of this Code apply to MOBILE FOOD ESTABLISHMENTS as applicable.

Warewashing Operations

9–102.11 Warewashing Operation.

WAREWASHING EQUIPMENT is not required on a MOBILE FOOD ESTABLISHMENT if any of the following conditions apply:

(A) FOOD is limited to prePACKAGED FOOD items and BEVERAGES dispensed in single servings from covered urns or other protected EQUIPMENT;

(B) Additional equipment is available so that cleaning frequency requirements are met as required in 4-602.11 and equipment is replenished as necessary, and warewashing facilities are provided at the service base; or

(C) UTENSILS and serving EQUIPMENT are limited to SINGLE–SERVICE ARTICLES only.

Service Base

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, 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, 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.

Boundary of Operation

9–104.11 Boundary Of Operation.

(A) Except as specified 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 the REGULATORY AUTHORITY, 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 the REGULATORY AUTHORITY at any time while it is in operation.

(D) At a TEMPORARY FOOD event, if APPROVED by the REGULATORY AUTHORITY, a MOBILE FOOD ESTABLISHMENT may not be required to return to the base every 24 hours if it can be shown that the MOBILE 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

Watering Point **9–201.11 Water Point.**

(A) Potable water for the MOBILE FOOD ESTABLISHMENT shall be readily available or obtained from the SERVICE BASE. The MOBILE FOOD ESTABLISHMENT shall return to the SERVICE BASE whenever the amount of water in storage tank does not equal at least 3.8 liters (1 gallon) and potable water is not readily available.

(B) Hoses used for conveying DRINKING WATER shall be constructed and maintained as specified in § 5–302.16.

Storage Tank **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 only serves BEVERAGES or prepared 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; or

(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 Part 5–3, and shall be provided with a gauge graduated to read water volume in gallons or liters.

9-3 LIQUID WASTE

Subparts

9–301	**Waste Storage Tank**
9–302	**Construction and Maintenance**
9–303	**Disposal**

Waste Storage Tank **9–301.11 Waste Storage Tank.**

Every MOBILE FOOD ESTABLISHMENT shall have a wastewater storage tank as specified in Part 5–4.

Construction and Maintenance

9–302.11 Construction and Maintenance.

A MOBILE FOOD ESTABLISHMENT waste storage tank shall meet the requirements under 5-301.11 (B) and (C).

Disposal

9–303.11 Disposal.

(A) Every SERVICE BASE and MOBILE FOOD ESTABLISHMENT shall meet the requirements under subpart 5-4, as applicable, and

(B) 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 PUSHCARTS

Subparts

9-401 Scope of Operation

9-402 Specific Requirements

Scope of Operation

9-401.11 Scope of Operation

(A) TIME\TEMPERATURE CONTROL SAFETY FOOD activities are limited:

(1) To cooking and service of pre-formed MEATS such as; hamburgers, bratwurst, frankfurters, or preformed portions of POULTRY or FISH, and

(2) Service of hot or cold held FOOD prepared at a licensed facility.

(B) FOOD preparation is limited to activities described under (A) and final meal assembly.

(C) All FOOD shall be stored on the pushcart.

Specific Requirements

9-402.11 Specific Requirements

(A) The PUSHCART shall be equipped with overhead protection, such as an umbrella.

(B) The PUSHCART shall provide adequate shielding to protect FOOD from contamination.

(C) Every PUSHCART shall have a SERVICE BASE of operations consisting of an enclosed building of sufficient size to accommodate PUSHCARTS for servicing, cleaning, inspection, maintenance and storage.

9-5 OPERATION AND INSTALLATION

Subparts

9–501 Bottled or Liquefied Gas

9–502 Toilet Facilities

Bottled or Liquefied Gas

9–501.11 Bottled or Liquefied Gas.

If bottled or liquefied gas is used within a MOBILE FOOD ESTABLISHMENT, the OPERATOR shall have it securely installed.

Note: The department of safety and professional services has rules that govern bottled and liquefied gas. Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Toilet Facilities

9–502.11 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 Code Provisions
10–102 Food Operation Limitation
10–103 Food Employee Handwashing
10–104 Warewashing

Applicable Code

10–101.10 Applicable Code Provisions.

In addition to the specific requirements of this chapter, Chapters 1 through 7 of this Code apply to TEMPORARY FOOD ESTABLISHMENTS as applicable.

Food Operation Limitations

10–102.11 Food 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 ESTABLISHMENT operations may be limited in terms of the number of individuals served, methods of preparation and storage, the kinds of UTENSILS used, or the type of FOOD served.

Food Employee Handwashing

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 nonself–closing spigot or valve that allows a continuous flow of water over the hands.

Warewashing **10–104.11 Manual Warewashing.**

(A) Except in ¶ (C) of this section, when water under pressure is available on site, manual WAREWASHING EQUIPMENT shall meet requirements as specified in § 4–301.12.

(B) Except in ¶ (C) of this section, when water is not available under pressure on site, manual WAREWASHING EQUIPMENT shall meet requirements as specified in § 4–301.12 (C), and FOOD operations may be limited as specified in § 10–102.11.

(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 § 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**

Roof, Sidewalls, and Floors **10–201.11 Roof, Sidewalls, and Floors.**

(A) TEMPORARY FOOD ESTABLISHMENTS 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 pests and rodents.

Enclosure **10–203.11 Enclosure of Kitchen.**

(A) With the exception of ¶ (B) of this section, UTENSIL washing and FOOD preparation, except for final assembly and service, 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

Subparts

10–301	**Toilet Facilities**
10–302	**Water Supply**
10–303	**Sanitary Waste**

Toilet Facilities **10–301.11 Toilet Facilities.**

The OPERATOR of a TEMPORARY FOOD ESTABLISHMENT shall arrange for public or private toilet facilities during all hours of operation for use by personnel operating the TEMPORARY FOOD ESTABLISHMENT.

Note: Guidance on the number of public toilet facilities can be found in the Wisconsin Commercial Building Code, chs. SPS 361 to 366. Contact the Safety and Buildings Division at the department of safety and professional services, P.O. Box 2509, Madison, WI 53701, telephone 608–266–3151 and 711 (TTY) or http://dsps.wi.gov/sb/SB–HomePage.html.

Water Supply **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.

Sanitary Waste **10–303.11 Sanitary Waste Disposal.**

(A) Except as provided in ¶ (B) of this section, a TEMPORARY FOOD ESTABLISHMENT shall connect to an APPROVED sewage disposal system as specified in § 5–403.11.

(B) When a TEMPORARY FOOD ESTABLISHMENT cannot 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 Vending

Parts

11-1 GENERAL REQUIREMENTS
11-2 DESIGN AND LOCATION
11-3 FOOD PROTECTION
11-4 VENDING EQUIPMENT
11-5 CLEANING AND SANITIZATION
11-6 WASTE COLLECTION

11-1 GENERAL REQUIREMENTS

Subparts

11-101 Applicable Code Provisions
11-102 Applicability

General Requirements

11–101.10 Applicable Code Provisions.

In addition to the specific requirements of this chapter, Chapters 1 through 7 of this Code apply to VENDING MACHINES as applicable.

Applicability

11-102.11 Applicability.

The provisions of this subchapter apply to any self-service FOOD VENDING MACHINE offered for public use, except a VENDING MACHINE which dispenses only bottled, prepackaged or canned soft drinks, candy, gum, nuts, nut meats, cookies, crackers, pastry items which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less under standard conditions, or prepackaged Grade A pasteurized milk or milk products.

11-2 DESIGN AND LOCATION

Subparts

11-201 Design
11-202 Location

Design **11-201.11 Approval authority.**

All VENDING MACHINES and related EQUIPMENT used at a VENDING MACHINE LOCATION shall be APPROVED by:

(A) The DEPARTMENT, on the basis of construction criteria developed by the national sanitation foundation (NSF) or the national automatic merchandising association (NAMA); or

(B) A testing laboratory APPROVED by the DEPARTMENT. Testing laboratories APPROVED by the DEPARTMENT are the national sanitation foundation (NSF) and laboratories participating in the national automatic merchandising association (NAMA) VENDING MACHINE evaluation program.

Note: DEPARTMENT approval is based upon the NSF or NAMA construction criteria. Copies of the criteria can be obtained by writing the National Sanitation Foundation, P.O. Box 130140, 789 N Dixboro Rd., Ann Arbor, Michigan 48105 or the National Automatic Merchandising Association, 20 N. Wacker Drive, suite 3500, Chicago, Illinois 60606.

Location **11-202.11 Vending Machine Location.**

(A) Record.

(1) A VENDING MACHINE LOCATION record shall be maintained on file at the operator's place of business within the state. That record shall include the following location information for each machine:

(a) Post office address of the building;

(b) The floor level in the building; and

(c) The room or area on the floor.

(2) The entry under each machine in the VENDING MACHINE LOCATION record shall include the machine serial number and model number, the DEPARTMENT'S license number, and a designation of the machine by primary vending purpose. Primary vending purposes are heated, refrigerated, beverages, food other than beverages, and a combination of any 2 of these.

(B) Standards.

(1) The area in which VENDING MACHINES are placed shall be well-lighted, maintained in good repair and kept clean and free from accumulation of filth, garbage, or rubbish as specified in 6-501.11, 6-501.12 and 6-501.114.

(2) The floor area on which a VENDING MACHINE is located shall be smooth and of cleanable construction as specified in 6-201.11

(3) VENDING MACHINES may not be located where there is overhead leakage or under drains or waste piping and the area around a VENDING MACHINE shall be free from excessive condensation as specified in 4-401.11(A).

(4) VENDING MACHINES may not be located in areas that are subjected to flooding or to the accumulation of water.

(5) VENDING MACHINES may not be located in areas where there is an undue amount of air-borne dust or dirt or in areas of factories where workers must wear respirators.

(6) Each VENDING MACHINE LOCATION where unpackaged FOOD or ingredients are handled shall have adequate handwashing facilities as specified in 5202.12, 5-204.11, 5-205.11, and Subpart 6-301.

11-3 FOOD PROTECTION

Subparts

11-301	**Food Protection**
11-302	**Delivery of Foods**
11-303	**Single-Service Articles**
11-304	**Personnel**

Protection **11-301.11 Food Protection.**

(A) Source.

(1) Except as specified in (2), TIME/TEMPERATURE CONTROL FOR SAFETY FOOD for VENDING MACHINES shall be obtained from a FOOD PROCESSING PLANT, or other APPROVED source according to LAW, that is regulated by the FOOD regulatory agency that has jurisdiction over the plant [P]

(2) LICENSED FOOD ESTABLISHMENTS or other establishments APPROVED by the DEPARTMENT may prepare, PACKAGE, stock and replenish VENDING MACHINES located on their PREMISES. [P]

(B) Packaging. TIME/TEMPERATURE CONTROL FOR SAFETY FOOD offered for sale through VENDING MACHINES shall be dispensed to the CONSUMER in the individual original container or wrapper into which it was placed at the manufacturer's or processor's plant, except the following:

(1) FOODS with natural protective coverings which are not ordinarily eaten with the FOOD, need not be wrapped or be in containers;

(2) FOODS dispensed into APPROVED SINGLE-SERVICE ARTICLES inside the VENDING MACHINE immediately prior to delivery to the customer need not be wrapped or be in covered containers.

Delivery

11-302.11 Delivery of Foods.

(A) Protection. FOODS, including BEVERAGES and ingredients, in transit to VENDING MACHINE LOCATIONS shall be protected from the elements, dirt, dust, insects, rodents, and other contamination. Similar protection shall be provided for SINGLESERVICE containers and for the product contact surfaces of equipment, containers, and devices in transit to machine locations.

(B) FOOD temperatures. Readily perishable FOODS, including BEVERAGES and ingredients, in transit to vending machine locations shall be maintained at a temperature of not more than 41°F. (5°C.) or at a temperature of not less than 135°F. (57°C), as appropriate.

Single Service Articles

11-303.11 Single-Service Articles.

(A) Storage. All SINGLE-SERVICE ARTICLES which receive FOOD from machines dispensing these products in bulk, shall be purchased in sanitary cartons or PACKAGES which protect the containers from contamination, shall be stored in a clean dry place until used and shall be handled in a sanitary manner. The containers shall be stored in the original carton or PACKAGE in which they were placed at the point of manufacture until introduced into the container magazine or dispenser of the VENDING MACHINE. The VENDING MACHINE magazine or dispenser shall protect the FOOD CONTACT SURFACE of SINGLE-SERVICE ARTICLES from manual contact, dust, insects, rodents, and other contamination.

(B) Dispensing. All SINGLE-SERVICE ARTICLES with which FOOD normally comes in contact, including straws, spoons, forks, and containers, shall be furnished to the customer in the original individual wrapper, unopened, or in a sanitary SINGLESERVICE dispenser APPROVED by the DEPARTMENT.

Personnel **11-304.11 Personnel.**

EMPLOYEES shall wash their hands immediately prior to engaging in any VENDING MACHINE servicing operation which may bring them in contact with FOODS, including BEVERAGES or ingredients, or with product contact surfaces of UTENSILS, containers or EQUIPMENT. While engaged in the servicing operations, EMPLOYEES shall wear clean outer garments.

11-4 VENDING EQUIPMENT

Subparts

11-401 Vending Equipment

Equipment **11-401.11 Vending Equipment**

(A) Vending equipment temperatures.

(1) VENDING MACHINES shall maintain frozen FOODS at a temperature of 0°F. (18°C.) or below except in VENDING MACHINES with automatic defrosting in which the temperature shall not exceed 10°F. (-12 °C.). VENDING MACHINES dispensing TIME/TEMPERATURE CONTROL FOR SAFETY FOOD shall meet the requirements as specified in 3-202.11, 3-401.11, 3-501.16 and be provided with adequate refrigeration or heating units and thermostatic controls which ensure that these FOOD temperatures are maintained at all times.

(2) VENDING MACHINES shall also have controls which prevent the machine from vending the TIME/TEMPERATURE CONTROL FOR SAFETY FOOD as required under 4-204.111.

(3) When a vending machine is in a no vend status, it must be manually serviced onsite prior to reactivation.

(B) Thermometers.

(1) A thermometer accurate to ±2°F. or 1°C. shall be provided in the VENDING MACHINE to indicate the air temperature of the warmest part of the cold FOOD storage area of the machine or the coldest part of the hot FOOD storage area of the machine, as applicable.

(2) This thermometer shall be visible to the EMPLOYEE during normal filling and servicing operations.

(C) Dispensing EQUIPMENT. VENDING MACHINE dispensing EQUIPMENT shall meet the requirements specified under 4-204.13 and 4-2014.14, as applicable.

(D) Can openers. Can openers on VENDING MACHINES shall meet the requirements specified under 4-204.19.

(E) Equipment maintenance.

(1) Maintenance. VENDING MACHINES and related EQUIPMENT shall be maintained in a clean and sanitary condition and in good repair.

(2) Replacement parts. All replacement parts and tubing shall be equal to or exceed original EQUIPMENT specifications. Where clear tubing is used, it shall be replaced with clear tubing. No part built in as a function of the VENDING MACHINE may be removed or bypassed.

(3) VENDING MACHINE doors and access openings shall meet the requirements under section 4-204.123.

(4) Disconnection safeguards. All service connections to utilities shall be of a type which will discourage their unauthorized or unintentional disconnection.

11-5 CLEANING AND SANITIZATION

Subparts

11-501 Cleaning and Sanitization

Cleaning and Sanitization

11-501.11 Cleaning and Sanitization

(A) Cleaning and SANITIZING of vending equipment shall meet the requirements specified under sections 4-301.12, 4-603.14, 4-603.16, and 4-703.11.

(B) Cleaned in place. In machines designed so that FOOD-CONTACT SURFACES are not readily removable, all surfaces intended for in-place cleaning shall be designed and fabricated to meet the requirements under 4-202.12.

11-6 WASTE COLLECTION

Subparts

11-601 Waste Collection

Waste Collection

11-601.11 Waste collection.

(A) Waste collection for liquid waste products from VENDING MACHINES shall conform to standards set forth in section 4-204.121.

(B) Containers and surfaces on which wastes may accumulate shall be readily removable for cleaning, easily cleanable, and corrosion resistant.

Chapter

12 Certified Food Protection Manager

Parts

12–1 DEFINITIONS
12–2 CERTIFICATION REQUIREMENT
12–3 APPROVED EXAMINATION
12–4 FOOD SAFETY FOR SMALL OPERATORS - RECERTIFICATION

12-1 DEFINITIONS

Subparts

12–101 Applicability and Terms Defined

Applicability

12–101.11 Statement of Application.

The provisions of this chapter do not apply to:

(A) A Retail FOOD ESTABLISHMENT-serving meals with prePACKAGED FOODS as defined in s. ATCP 75.103 (4m),

(B) A Retail FOOD ESTABLISHMENT – not serving meals as defined in s. 97.30, Stats., that sells only PACKAGED FOODS or fresh fruits and vegetables, and

(C) A Retail food establishment booth or mobile unit when participating in a temporary food event.

12–101.12 Definition of Terms.

(A) **"Certified food manager"** means an individual who operates a retail FOOD ESTABLISHMENT or is a MANAGER of a retail FOOD ESTABLISHMENT, who has successfully passed an exam from an ACCREDITED PROGRAM or a DEPARTMENT APPROVED course as specified under 12-401.11.

(B) "Food Handler" means anyone who handles or assembles food in a food establishment; Chefs, line cooks and possibly servers are examples. A server who assembles salads, scoops ice cream or cuts desserts would be considered a food handler.

(C) **"Manager"** means an individual who has direct authority over or exercises control or supervision over the EMPLOYEES and operations of a retail FOOD ESTABLISHMENT.

(D) **"Testing service"** means the developer of a FOOD protection practices examination.

12-2 FOOD MANAGER CERTIFICATION

Subparts

12–201 Certification Requirement

Certification Requirement

12–201.11 General.

(A) Food protection manager certification is required for:

(1) An individual who operates a retail FOOD ESTABLISHMENT or at least one MANAGER of a retail FOOD ESTABLISHMENT, shall have a certificate that states that the individual or MANAGER has passed an exam from an ACCREDITED PROGRAM on FOOD protection practices as required in s. 97.33, Stats. And 2102.12; provided, however, that:

(a) A NEW retail FOOD ESTABLISHMENT or a retail FOOD ESTABLISHMENT undergoing a change of OPERATOR shall have a certified FOOD protection MANAGER within 90 days of the initial day of operation.

(b) A retail FOOD ESTABLISHMENT that is not in compliance because of EMPLOYEE turnover or other loss of a CERTIFIED FOOD protection MANAGER, shall have 90 days from the date of the loss of a CERTIFIED FOOD protection MANAGER to comply with this chapter.

(2) An individual who conducts, maintains, manages, or operates a school lunchroom that is in a school that is participating in the national school lunch program under 42 USC 1751 to 1769j for which food service is directly provided by the school unless the operator or manager of the lunchroom, or his or her designee, is a certificate holder. For purposes of this subsection, the "operator or manager of the lunchroom" is the individual responsible for the administration of food services for a private school, charter school established under s. 118.40 (2r), or school district. A private school, charter school established under s. 118.40 (2r), or school district complies with the requirements of this subsection if the school or school district has one certificate holder. The individual designated to be the CERTIFIED FOOD MANAGER will become certified within the time specified in this subparagraph.

Post Certificate

(B) A retail FOOD ESTABLISHMENT shall post a certificate issued under 12-201.11 (A) in a conspicuous place on the PREMISES of the retail FOOD ESTABLISHMENT.

12–201.12 Expiration Date.

A FOOD protection MANAGER certificate shall expire 5 years after the date of issue:

An individual whose certification has expired more than 90 days shall be required to take and pass an APPROVED examination as specified in § 12–301.11 to be certified.

12-3 APPROVED EXAMINATION

Subparts

12–301 Examination Criteria

12–301.11 Examination Criteria.

The examination shall be evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs.

12-4 Food Safety for Small Operators - Recertification

Subparts

12–401 Food Safety for Small Operators - Recertification

12–402 Food Safety for Small Operators - Recertification Training Course Approval

Recertification **12–401.11 Food Safety for Small Operators - Recertification.**

(A) A FOOD Safety for Small Operators credential may be obtained under the following conditions:

1) Operates or manages a retail food establishment employing 5 or fewer food handlers.

(a) Has previously completed, passed and received their initial FOOD MANAGER CERTIFICATION;

(b) The current certification or credential has not expired more than 90 days, and

(c) Has successfully completed a recertification training course APPROVED by the DEPARTMENT as specified under § 12–402.11.

Expiration

(B) Each credential is valid for 5 years from the date of issuance

(C) Individuals who do not renew their credential within 90 days after the expiration date, shall be required to be certified by passing an APPROVED examination as specified in § 12–201.11.

Post Certificate

(D) A retail FOOD ESTABLISHMENT shall post a certificate issued under 12-401.11 (A) in addition, to the initial certification required under 12-201.11, in a conspicuous place on the PREMISES of the retail FOOD ESTABLISHMENT.

Recertification Training Course Approval

12–402.11 Recertification Training Course Approval.

(A) Training courses in FOOD protection practices to prepare FOOD 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 TIME/TEMPERATURE CONTROL FOR SAFETY 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 TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(7) Storage and use of toxic products;

(8) HACCP concepts and practices; and

(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 the Department of Agriculture, Trade and Consumer Protection, Division of Food and Recreational Safety, P.O. Box 8911, Madison, WI 53708–8911, telephone 608–224–4700

SECTION 3. EFFECTIVE DATE: This rule shall take effect 90 days following publication in the Wisconsin administrative register, as provided under s. 227.22 (2), Stats.

Dated this _____day of _____, 2020.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By: _____
Randy J. Romanski
Interim Secretary