Washington State Retail Food Code

Chapter 246-215
Washington Administrative Code (WAC)

Effective March 1, 2022

Washington State Department of Health

April 2021

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PREFACE

On October 13, 2020, Washington State Board of Health adopted the revised chapter 246-215 Washington Administrative Code (WAC). The revised rule incorporates the 2017 U.S. Food and Drug Administration Food Code with modifications from Washington stakeholders.

Based on public comment during the 2020 COVID-19 pandemic, Washington State Board of Health elected to stagger the effective dates for the rule. Sections affected by legislative activity are effective January 15, 2021 and the effective date for the remainder of the chapter was extended to March 1, 2022.

This document includes the first set of changes to the food service rule effective January 15, 2021 in **red font**. The document includes the second set of changes effective March 1, 2022 in **blue font**.

The current version of WAC 246-215 is online: www.doh.wa.gov/Portals/1/Documents/Pubs/332-033.pdf.

Official rule language is available online: https://apps.leg.wa.gov/WAC/default.aspx?cite=246-215.

PART 1: INTENT, SCOPE, AND DEFINITIONS

01100 Intent – Food safety, illness prevention, and honest presentation (FDA Food Code 1-102.10)

The purpose of this chapter is to safeguard public health and provide to CONSUMERS FOOD that is safe, not ADULTERATED, and honestly presented.

01105 Scope – Statement (FDA Food Code 1-103.10)

This chapter establishes definitions; sets standards for management and personnel, FOOD operations, and EQUIPMENT and facilities; and provides for FOOD ESTABLISHMENT plan review, PERMIT issuance, inspection, EMPLOYEE RESTRICTION, and PERMIT suspension. This chapter adopts, with modification, the 2017 Food Code published by the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration.

01110 Applicability

(1) The requirements of this chapter apply to an operation that meets the definition of a FOOD ESTABLISHMENT as defined in 01115(50).

(2) When a LOCAL BOARD OF HEALTH adopts rules with more stringent provisions than those contained in this chapter, the more stringent rules apply.

01115 Definitions, abbreviations, and acronyms (FDA Food Code 1-201.10(B))

The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "ACCREDITED PROGRAM."

(a) 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.

(b) 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, recertification, discipline, and grievance procedures; and test development and administration.

(c) ACCREDITED PROGRAM does not refer to training functions or educational programs.

(2) "ACTIVE MANAGERIAL CONTROL" means the purposeful use of specific policies and procedures in the FOOD ESTABLISHMENT to control foodborne illness risk factors. It embodies a preventive rather than reactive approach to food safety through a continuous system of training, monitoring, and verification.

(3) "ADDITIVE."

(a) "FOOD ADDITIVE" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(s) and 21 C.F.R. 170.3(e)(1).

(b) "COLOR ADDITIVE" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(t) and 21 C.F.R. 70.3(f).

(4) "ADULTERATED" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 402.

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

(6) "ASIAN RICE-BASED NOODLES" means a rice-based pasta that contains rice powder, water, wheat starch, vegetable cooking oil, and optional ingredients to modify the pH or water activity, or to provide a preservative effect. The ingredients do not include products derived from animals. The rice-based pasta is prepared by using a traditional method that includes cooking by steaming at not less than one hundred thirty degrees Fahrenheit, for not less than four minutes.

(7) "ASYMPTOMATIC."

(a) 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.

(b) ASYMPTOMATIC includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

(8) "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.

(9) "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.

(10) "BED AND BREAKFAST OPERATION" means a private home or inn offering one or more lodging units on a temporary basis to travelers.

(11) "BEVERAGE" means a liquid for drinking, including water.

(12) "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.

(13) "CATERING OPERATION."

(a) CATERING OPERATION means a PERSON who contracts with a client to prepare a specific menu and amount of FOOD in an APPROVED FOOD ESTABLISHMENT for service to the client's guests or customers at a different location.

(b) Consistent with its application under 08325, a CATERING OPERATION APPROVED for a PERMIT may cook or perform final preparation on certain FOOD at the service location.

(14) "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.

(15) "CERTIFIED FOOD PROTECTION MANAGER" means an EMPLOYEE with the authority to implement food protection measures and who meets the certification requirements 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.

(16) "C.F.R." means Code of Federal Regulations. Citations in this chapter to the C.F.R. refer sequentially to the Title, Part, and Section numbers, such as 40 C.F.R. 180.194 refers to Title 40, Part 180, Section 194.

(17) "CIP."

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

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

(18) "COMMINGLE" means:

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

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

(19) "COMMINUTED."

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

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

(20) "COMMISSARY" means an APPROVED FOOD ESTABLISHMENT where FOOD is stored, prepared, portioned, or PACKAGED for service elsewhere.

(21) "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.

(22) "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.

(23) "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.

(24) "CORROSION-RESISTANT" 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.

(25) "COUNTER-MOUNTED EQUIPMENT" means EQUIPMENT that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(26) "CRITICAL CONTROL POINT" means a point or procedure in a specific FOOD system where loss of control might result in an unacceptable health RISK.

(27) "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 might occur.

(28) "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. The term "cut" does not include removing and discarding the exterior leaves.

(29) "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.

(30) "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.

(31) "DONATED FOOD DISTRIBUTING ORGANIZATION" means a FOOD ESTABLISHMENT that is a charitable nonprofit organization under Section 501(c) of the federal Internal Revenue Code that distributes FOOD free of charge to the needy.

(32) "DONOR" means a PERSON, corporation, association, or other organization that donates FOOD to a DONATED FOOD DISTRIBUTING ORGANIZATION under the provisions of chapter 69.80 RCW, known as the Good Samaritan Food Donation Act.

(33) "DONOR KITCHEN" means a kitchen that is used by a DONOR to handle, store, or prepare FOOD for donation to needy PERSONS through a DONATED FOOD DISTRIBUTING ORGANIZATION and which is not a residential kitchen in a private home.

(34) "DRINKING WATER."

(a) DRINKING WATER means water that meets 40 C.F.R. 141, National Primary Drinking Water Regulations.

(b) DRINKING WATER is traditionally known as "potable water."

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

(d) DRINKING WATER means potable water that is supplied in compliance with chapters 246-290 and 246-291 WAC.

(35) "DRY STORAGE" means a room or area designated for the storage of PACKAGED or containerized bulk FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and dry goods such as SINGLE-SERVICE ARTICLES.

(36) "EASILY CLEANABLE."

(a) EASILY CLEANABLE means a characteristic of a surface that:

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

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

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

(b) EASILY CLEANABLE includes a tiered application of the requirements that qualify the surface as EASILY CLEANABLE as specified in (a) of this subsection to different situations in which varying degrees of cleanability are required such as:

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

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

(37) "EASILY MOVABLE" means:

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

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

(38) "EGG."

(a) EGG means the shell EGG of avian species such as chicken, duck, goose, guinea, quail, RATITES, turkey, or any other species of fowl.

(b) EGG does not include:

(i) A BALUT;

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

(iii) An EGG PRODUCT.

(39) "EGG PRODUCT."

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

(b) EGG PRODUCT does not include FOOD which contains EGGS only in a relatively small proportion such as cake mixes.

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

(41) "EPA" means the United States Environmental Protection Agency.

(42) "EQUIPMENT."

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

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

(43) "EXCLUDE" means to prevent a PERSON from working as an EMPLOYEE in a FOOD ESTABLISHMENT or entering a FOOD ESTABLISHMENT as an EMPLOYEE.

(44) "FDA" means the United States Food and Drug Administration.

(45) "FISH."

(a) FISH means fresh or saltwater finfish, crustaceans, mollusks, 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, if such animal life is intended for human consumption.

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

(46) "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.

(47) "FOODBORNE DISEASE OUTBREAK" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common FOOD.

(48) "FOOD-CONTACT SURFACE" means:

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

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

(i) Into a FOOD; or

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

(49) "FOOD EMPLOYEE" means an individual working with FOOD that is not PACKAGED, FOOD EQUIPMENT or UTENSILS, or food-contact surfaces.

(50) "FOOD ESTABLISHMENT."

(a) FOOD ESTABLISHMENT means an operation that:

(i) Stores, prepares, PACKAGES, serves, and vends FOOD directly to the CONSUMER, or otherwise provides FOOD for human consumption such as a restaurant; satellite or catered feeding location; CATERING OPERATION if the operation provides FOOD directly to a CONSUMER or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or FOOD bank; and

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

(b) FOOD ESTABLISHMENT includes:

(i) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is PERMITTED by the REGULATORY AUTHORITY; and

(ii) 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.

(c) FOOD ESTABLISHMENT does not include:

(i) An establishment that offers only nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD prePACKAGED in a licensed FOOD ESTABLISHMENT or FOOD PROCESSING PLANT;

(ii) An establishment that offers only nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, nonREADY-TO-EAT, minimally cut, unprocessed fruits, vegetables, and fresh herbs or;

(iii) A FOOD PROCESSING PLANT, cottage FOOD operation, or other establishment for activities regulated by the Washington State Department of Agriculture or the United States Department of Agriculture;

(iv) An establishment that offers only nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, READY-TO-EAT FOOD produced in a licensed FOOD ESTABLISHMENT or FOOD PROCESSING PLANT (such as premixed soda pop, powdered creamer, pretzels, cookies, doughnuts, cake, or MEAT jerky) that are served from the original package without direct hand contact, with limited portioning, directly onto or into sanitary SINGLE-USE ARTICLES or SINGLE-SERVICE ARTICLES;

(v) An establishment that offers only nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, hot BEVERAGES (such as coffee, tea, or pasteurized apple cider) served directly into sanitary SINGLE-SERVICE ARTICLES;

(vi) An establishment that offers only dry nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, nonREADY-TO-EAT FOODS with no additional processing (such as dry beans, dry grains, in-shell nuts, coffee beans, tea leaves, or herbs for tea);

(vii) An establishment that offers only prePACKAGED frozen confections produced in a licensed FOOD ESTABLISHMENT or FOOD PROCESSING PLANT;

(viii) A residential kitchen in a private home or other location, if only FOODS that are nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD baked goods are prepared and wrapped in a sanitary manner for sale or service by a nonprofit organization operating for religious, charitable, or educational purposes and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOODS are prepared in a kitchen that is not inspected by a REGULATORY AUTHORITY;

(ix) A location where FOODS that are prepared as specified in (c)(viii) of this subsection are sold or offered for human consumption;

(x) A hotel, motel, or other similar business that maintains an ice dispensing machine for self-service use by guests and the ice is not used by a FOOD ESTABLISHMENT;

(xi) A kitchen in a private home operated as a family day care provider as defined in RCW 43.215.010 (1)(c) or an adult family home as defined in RCW 70.128.010, used only to prepare FOOD for residents and other people for whom the operation is licensed to provide care;

(xii) A private home that receives catered or home-delivered FOOD;

(xiii) A private home or other location used for a PRIVATE EVENT;

(xiv) A DONOR KITCHEN;

(xv) A location used for a POTLUCK;

(xvi) A location, not including special events as defined in RCW 82.32.033, operating thirty or fewer days per calendar year, used by a person under the age of eighteen for the sale of nonalcoholic beverages, such as

lemonade, using nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD with no direct hand contact and served directly into SINGLE-SERVICE ARTICLES; and

(xvii) 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 two, breakfast is the only meal offered, and the CONSUMER is informed in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated or inspected by the REGULATORY AUTHORITY.

(51) "FOOD PROCESSING PLANT."

(a) 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.

(b) FOOD PROCESSING PLANT does not include a FOOD ESTABLISHMENT.

(52) "FOOD WORKER CARD" means a FOOD and BEVERAGE service worker's permit as required under chapter 69.06 RCW.

(53) "GAME ANIMAL."

(a) GAME ANIMAL means an animal, the products of which are FOOD, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 C.F.R. 301.2 Definitions, or as POULTRY, or FISH.

(b) 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.

(c) GAME ANIMAL does not include RATITES.

(54) "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.

(55) "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.

(56) "HANDWASHING SINK."

(a) 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.

(b) HANDWASHING SINK includes an automatic handwashing facility.

(57) "HAZARD" means a biological, chemical, or physical property that might cause an unacceptable CONSUMER health RISK.

(58) "HEALTH PRACTITIONER" means a physician licensed to practice medicine, or if allowed by LAW, a nurse practitioner, physician assistant or similar medical professional.

(59) "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.

(60) "HIGHLY SUSCEPTIBLE POPULATION" means people who are more likely than others in the general population to experience foodborne disease because they are:

(a) Immunocompromised, PRESCHOOL age children, or older adults; and

(b) Obtaining FOOD at a facility that provides services in a custodial care, health care, or assisted living, setting including, but not limited to child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

(61) "IMMEDIATE SERVICE" means service to the public within thirty minutes of preparation.

(62) "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 a fire, flood, extended interruption of electrical or water service, SEWAGE backup, misuse of POISONOUS OR TOXIC MATERIALS, onset of an apparent FOODBORNE DISEASE OUTBREAK, gross insanitary occurrence or condition, or other circumstance that might endanger public health.

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

(64) "INTACT MEAT" means a cut of whole muscle(s) MEAT that has not undergone COMMINUTION, INJECTION, MECHANICAL TENDERIZATION, or reconstruction.

(65) "JUICE."

(a) JUICE means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or puree.

(b) JUICE does not include, for purposes of HACCP, liquids, purees, or concentrates that are not used as BEVERAGES or ingredients of BEVERAGES.

(66) "KITCHENWARE" means FOOD preparation and storage UTENSILS.

(67) "LAW" means applicable local, state, and federal statutes, regulations, and ordinances.

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

(69) "LOCAL BOARD OF HEALTH" means the county or district board of health.

(70) "LOCAL HEALTH OFFICER" means the legally qualified physician who has been appointed as the health officer for the county or district public health department.

(71) "MAJOR FOOD ALLERGEN."

(a) MAJOR FOOD ALLERGEN means:

(i) 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

(ii) A FOOD ingredient that contains protein derived from a FOOD as specified in (a)(i) of this subsection.

(b) MAJOR FOOD ALLERGEN does not include:

(i) Any highly refined oil derived from a FOOD specified in (a)(i) of this subsection and any ingredient derived from such highly refined oil; or

(ii) An 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.)

(72) "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 and POULTRY.

(73) "MECHANICALLY TENDERIZED."

(a) 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.

(b) MECHANICALLY TENDERIZED does not include processes by which solutions are INJECTED into MEAT.

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

(75) "MOBILE FOOD UNIT" means a readily movable FOOD ESTABLISHMENT.

(76) "MOBILE PRIMARY PERMIT" means a PERMIT issued by a REGULATORY AUTHORITY to operate a MOBILE FOOD UNIT within the jurisdiction of the REGULATORY AUTHORITY where the business is primarily located.

(77) "MOBILE SECONDARY PERMIT" means a PERMIT issued by a REGULATORY AUTHORITY to an applicant holding a valid MOBILE PRIMARY PERMIT as detailed in RCW 43.20.149.

(78) "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.

(79) "NONCONTINUOUS COOKING."

(a) NONCONTINUOUS 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.

(b) NONCONTINUOUS COOKING does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

(80) "PACKAGED."

(a) PACKAGED means bottled, canned, cartoned, securely bagged, or securely wrapped, whether PACKAGED in a FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT.

(b) PACKAGED does not include a wrapper, carry-out box, or other nondurable container used by a FOOD EMPLOYEE to protect the FOOD during service or delivery to the CONSUMER:

(i) Upon CONSUMER request; or

(ii) During display at a staffed, self-service buffet line, or VENDING MACHINE on the PREMISES serving food prepared by the FOOD ESTABLISHMENT, such as at a school.

(81) "PERMIT" means the document issued by the REGULATORY AUTHORITY that authorizes a PERSON to operate a FOOD ESTABLISHMENT.

(82) "PERMIT HOLDER" means the entity that:

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

(b) When required, possesses a valid PERMIT to operate a FOOD ESTABLISHMENT.

(83) "PERSON" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(84) "PERSON IN CHARGE" means the individual present at a FOOD ESTABLISHMENT who is responsible for the operation at the time.

(85) "PERSONAL CARE ITEMS."

(a) PERSONAL CARE ITEMS means items or substances that might be poisonous, toxic, or a source of contamination and are used to maintain or enhance a PERSON'S health, hygiene, or appearance.

(b) PERSONAL CARE ITEMS include items such as medicines; first-aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(86) "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 zero and seven indicate acidity and values between seven and fourteen indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

(87) "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.

(88) "PLUMBING FIXTURE" means a receptacle or device that:

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

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

(89) "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.

(90) "POISONOUS OR TOXIC MATERIALS" means substances that are not intended for ingestion and are included in four categories:

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

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

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

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

(91) "POTLUCK" means an event where:

(a) People are gathered to share FOOD;

(b) People attending the event are expected to bring FOOD to share;

(c) There is no compensation provided for people bringing FOOD to the event;

(d) There is no charge for any FOOD or BEVERAGE provided at the event; and

(e) The event is not conducted for commercial purposes.

(92) "POULTRY" means:

(a) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, RATITES, or squabs), whether live or dead, as defined in 9 C.F.R. 381.1 Poultry Products Inspection Regulations Definitions, Poultry; and

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

(93) "PREMISES" means:

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

(b) The PHYSICAL FACILITY, its contents, and the land or property not described under (a) of this subsection if its facilities and contents are under control of the PERMIT HOLDER and might 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.

(94) "PRESCHOOL."

(a) PRESCHOOL means a program that provides organized care and education for children below the age required for kindergarten entry. A PRESCHOOL operates for two or more days per week with no child enrolled on a regular basis for more than four hours per day.

(b) A PRESCHOOL does not include:

(i) Programs where the parent or guardian is present at each session;

(ii) Parent-child classes where the focus is on parent education;

(iii) Short-term parks and recreation programs;

(iv) Informal parent and child groups;
(v) Irregular babysitting;
(vi) Licensed child care; or
(vii) FOOD preparation and service operations otherwise under PERMIT or license by the REGULATORY AUTHORITY.

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

(96) "PRIVATE EVENT" means a private gathering limited to members and guests of members of a family, organization, or club, where the event is not open or advertised to the general public, and where FOOD is provided without compensation.

(97) "PUBLIC WATER SYSTEM" means a DRINKING WATER system that is operated in compliance with chapters 246-290 and 246-291 WAC.

(98) "RATITE" means a flightless bird such as an emu, ostrich, or rhea.

(99) "READY-TO-EAT FOOD."

(a) READY-TO-EAT FOOD means FOOD that:
(i) Is in a form that is edible without additional preparation to achieve FOOD safety, as specified under 03400 (1) through (3) or 03405 or 03425; or
(ii) Is raw or partially cooked animal FOOD and the CONSUMER is advised as specified under 03400 (4)(a) and (c); or
(iii) Is prepared in accordance with a VARIANCE that is granted as specified under 03400 (4)(d); and
(iv) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(b) READY-TO-EAT FOOD includes:
(i) Raw animal FOOD that is cooked as specified under 03400 or 03405, or frozen as specified under 03425;
(ii) Raw fruits and vegetables that are washed as specified under 03318;
(iii) Fruits and vegetables that are cooked for hot holding, as specified under 03410;
(iv) All TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked to the temperature and time required for the specific FOOD under 03400 through 03445 and cooled as specified under 03515;
(v) 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;
(vi) Substances derived from plants such as spices, seasonings, and sugar;
(vii) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for FOOD safety;
(viii) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: Dry, fermented sausages, such as dry salami or pepperoni; salt cured MEAT and POULTRY products, such as prosciutto ham, country cured ham, and Parma ham; and dried MEAT and POULTRY products, such as jerky or beef sticks; and
(ix) FOODS manufactured according to 21 C.F.R. Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(100) "RED HIGH RISK FACTORS" are improper practices or procedures identified as the most prevalent contributing factors to foodborne illness or injury, as listed on the Food Establishment Inspection Report form.

(101) "REDUCED OXYGEN PACKAGING."

(a) REDUCED OXYGEN PACKAGING means:

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

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

(b) REDUCED OXYGEN PACKAGING includes:

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

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

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

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

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

(102) "REFUSE" means solid waste not carried by water through a SEWAGE system.

(103) "REGULATORY AUTHORITY" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the FOOD ESTABLISHMENT. The LOCAL BOARD OF HEALTH, acting through the LOCAL HEALTH OFFICER, is the REGULATORY AUTHORITY for the activity of a FOOD ESTABLISHMENT, except as otherwise provided by LAW.

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

(105) "RESERVICE" 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. RESERVICE does not include FOOD displayed on a self-service operation as described in 03369.

(106) "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, unwrapped SINGLE-SERVICE ARTICLES or unwrapped SINGLE-USE ARTICLES.

(107) "RESTRICTED EGG" means any check, dirty EGG, incubator reject, inedible, leaker, or loss as defined in 9 C.F.R. 590.

(108) "RESTRICTED USE PESTICIDE" means a pesticide product that contains the active ingredients specified in 40 C.F.R. 152.175 Pesticides Classified for Restricted Use, and that is limited to use by or under the direct supervision of a certified applicator.

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

(110) "SAFE MATERIAL" means:

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

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

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

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

(112) "SEALED" means free of cracks or other openings that allow the entry or passage of moisture.

(113) "SERVICE ANIMAL" means any dog or miniature horse, meeting the requirements in RCW 49.60.040 that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by pre-venting or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks.

(114) "SERVICING AREA" means an operating base location to which a MOBILE FOOD UNIT 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.

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

(116) "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.

(117) "SHELLSTOCK" means raw, in-shell MOLLUSCAN SHELLFISH.

(118) "SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*" (STEC) means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). 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 include *E. coli* O157*, E. coli* O26*, and E. coli* O145.

(119) "SHUCKED SHELLFISH" means MOLLUSCAN SHELLFISH that have one or both shells removed.

(120) "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.

(121) "SINGLE-USE ARTICLES."

(a) SINGLE-USE ARTICLES means UTENSILS and bulk FOOD containers designed and constructed to be used once and discarded.

(b) SINGLE-USE ARTICLES includes items such as wax paper, butcher paper, plastic wrap, formed aluminum FOOD containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under 04100, 04200, and 04204 for multiuse UTENSILS.

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

(123) "SMOOTH" means:

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

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

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

(124) "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.

(125) "TEMPERATURE MEASURING DEVICE" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of FOOD, air, or water.

(126) "TEMPORARY FOOD ESTABLISHMENT" means a FOOD ESTABLISHMENT:

(a) Operating at a fixed location, with a fixed menu, for not more than twenty-one consecutive days in conjunction with a single event or celebration, such as a fair or festival; or

(b) Operating not more than three days a week at a fixed location, with a fixed menu, in conjunction with an APPROVED, recurring, organized event, such as a farmers market.

(127) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD (TCS) (formerly "potentially hazardous food" (PHF)).

(a) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD means a FOOD that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

(b) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD includes:

(i) 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, fresh herb-in-oil mixtures, 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

(ii) Except as specified in subsection (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 values		
	4.6 or less	>4.6 - 5.6	>5.6
≤0.92	non-TCS FOOD	non- TCS FOOD	non-TCS FOOD
>0.92 - .95	non-TCS FOOD	non- TCS FOOD	PA
>0.95	non-TCS FOOD	PA	PA

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

A_w values	pH values			
	<4.2	4.2 - 4.6	>4.6 - 5.0	>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

(c) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD does not include:

(i) 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;

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

(iii) A FOOD that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-TCS FOOD in Table A or B of this subsection;

(iv) A FOOD that is designated as product assessment required (PA) in Table A or B of this subsection 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:

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

(B) 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

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

(v) A FOOD that does not support the growth or toxic formation of pathogenic microorganisms in accordance with (c)(i) through (iv) of this subsection even though the FOOD might contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(128) "USDA" means the United States Department of Agriculture.

(129) "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.

(130) "VARIANCE" means a written document issued by the REGULATORY AUTHORITY that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the REGULATORY AUTHORITY, a health HAZARD or nuisance will not result from the modification or waiver.

(131) "VENDING MACHINE" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by electronic transaction or optional manual operation, dispenses unit servings of FOOD in bulk or in PACKAGES without the necessity of replenishing the device between each vending operation.

(132) "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.

(133) "WAREWASHING" means the cleaning and sanitizing of utensils and FOOD-CONTACT SURFACES of EQUIPMENT.

(134) "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.

PART 2: MANAGEMENT AND PERSONNEL

Subpart A - Supervision

02100 Responsibility--Assignment (FDA Food Code 2-101.11).

(1) Except as specified in subsection (2) of this section, the PERMIT HOLDER shall be the PERSON IN CHARGE or shall designate a PERSON IN CHARGE and shall ensure that a PERSON IN CHARGE is present at the FOOD ESTABLISHMENT during all hours of operation.

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

02105 Demonstration of knowledge (FDA Food Code 2-102.11).

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

(1) Complying with this chapter by having no violations of RED HIGH RISK FACTORS during the current inspection;

(2) Being a CERTIFIED FOOD PROTECTION MANAGER who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; or

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

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

(b) 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 might cause foodborne disease;

(c) Describing the symptoms associated with the diseases that are transmissible through FOOD;

(d) 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;

(e) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS, and FISH;

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

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

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

(i) Cross contamination;

(ii) Hand contact with READY-TO-EAT FOODS;

(iii) Handwashing; and

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

(i) 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;

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

(i) Sufficient in number and capacity; and

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

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

(l) 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;

(m) 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;

(n) Identifying CRITICAL CONTROL POINTS in the operation from purchasing through sale or service that when not controlled can 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 chapter;

(o) 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 chapter, or an agreement between the REGULATORY AUTHORITY and the FOOD ESTABLISHMENT;

(p) Explaining the responsibilities, rights, and authorities assigned by this chapter to the:

(i) FOOD EMPLOYEE;

(ii) CONDITIONAL EMPLOYEE;

(iii) PERSON IN CHARGE;

(iv) REGULATORY AUTHORITY; and

(q) Explaining how the PERSON IN CHARGE, FOOD EMPLOYEES and CONDITIONAL EMPLOYEES comply with reporting responsibilities and exclusion or RESTRICTION of FOOD EMPLOYEES.

02107 Certified food protection manager (FDA Food Code 2-102.12).

(1) By March 1, 2023, FOOD ESTABLISHMENTS must have at least one CERTIFIED FOOD PROTECTION MANAGER on staff as evidenced by a valid certificate available from an ACCREDITED PROGRAM. The certificate must be available upon request. If the CERTIFIED FOOD PROTECTION MANAGER leaves employment for any reason, the FOOD ESTABLISHMENT must have another CERTIFIED FOOD PROTECTION MANAGER on staff within sixty days.

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

02110 Duties – Food protection manager certification (FDA Food Code 2-102.20).

CERTIFIED FOOD PROTECTION MANAGER responsibilities include training and implementing a program of food protection and education for each PERSON IN CHARGE, so each PERSON IN CHARGE is able to successfully demonstrate knowledge described in 02105, and fulfill the duties as described in 02115 to maintain ACTIVE MANAGERIAL CONTROL.

02115 Duties – Person in charge (FDA Food Code 2-103.11).

The PERSON IN CHARGE shall ensure that:

(1) FOOD ESTABLISHMENT operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under 06290;

(2) 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;

(3) 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 chapter;

(4) EMPLOYEES are effectively cleaning their hands by routinely monitoring the EMPLOYEES' handwashing;

(5) 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, not ADULTERATED, and accurately presented, by routinely monitoring the EMPLOYEES' observations and periodically evaluating FOODS upon their receipt;

(6) EMPLOYEES are verifying that FOODS delivered to the FOOD ESTABLISHMENT during nonoperating 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;

(7) 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 04220 and 04580(2);

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

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

(10) CONSUMERS who order raw or partially cooked READY-TO-EAT FOODS of animal origin are informed as specified under 03620 that the FOOD is not cooked sufficiently to ensure its safety;

(11) 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;

(12) 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 03345;

(13) Except when approval is obtained from the REGULATORY AUTHORITY as specified under 03300(5), 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;

(14) EMPLOYEES are properly trained in FOOD safety, including FOOD allergy awareness, as it relates to their assigned duties; and

(15) 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 02205; and

(16) Written procedures and plans, such as a clean-up plan for vomit and diarrhea, where specified by this chapter and as developed by the FOOD ESTABLISHMENT to ensure ACTIVE MANAGERIAL CONTROL, are maintained and implemented as required.

02120 Food worker cards.

(1) The PERMIT HOLDER and PERSON IN CHARGE of the FOOD ESTABLISHMENT shall ensure that all FOOD EMPLOYEES are in compliance with the provisions of chapter 69.06 RCW and chapter 246-217 WAC for obtaining and renewing valid FOOD WORKER CARDS.

(2) The PERMIT HOLDER and PERSON IN CHARGE of the FOOD ESTABLISHMENT shall display or file the original or a copy of the FOOD WORKER CARD of each FOOD EMPLOYEE at the EMPLOYEE'S place of employment, to be available for inspection by the REGULATORY AUTHORITY upon request.

(3) This section does not add to, or remove from, the provisions of chapter 69.06 RCW and chapter 246-217 WAC regarding FOOD WORKER CARDS.

Subpart B - Employee Health

02200 Employee health--Reporting policy.

The PERMIT HOLDER shall require FOOD EMPLOYEES and CONDITIONAL EMPLOYEES to report to the PERSON IN CHARGE information about their health and activities as they relate to diseases that are transmissible through FOOD. A FOOD EMPLOYEE or CONDITIONAL EMPLOYEE shall report the information in a manner that allows the PERSON IN CHARGE to reduce the RISK of foodborne disease transmission, including providing necessary additional information, such as the date of onset of illness symptoms, diagnosis, or exposure to illness.

02205 Employee health--Reportable history of illness.

(1) FOOD EMPLOYEES and CONDITIONAL EMPLOYEES shall report to the PERSON IN CHARGE if they:

(a) Have diarrhea, vomiting, sore throat with fever, or jaundice (yellow skin or eyes), except as specified under 02235;

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

(i) On the hands or wrist;

(ii) On exposed portions of the arms; or

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

(c) Have an illness diagnosed by a HEALTH PRACTITIONER as due to an infection with:

(i) Norovirus;

(ii) Hepatitis A virus;

(iii) *Shigella* spp.;

(iv) SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*;

(v) *Salmonella* Typhi (Typhoid fever); or

(vi) *Salmonella* (nontyphoidal).

(2) In addition to the reporting in subsection (1) of this section, FOOD EMPLOYEES and CONDITIONAL EMPLOYEES in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION shall report to the PERSON IN CHARGE if they:

(a) Have consumed or prepared FOOD implicated in a CONFIRMED DISEASE OUTBREAK;

(b) Have attended or worked in a setting where there is a CONFIRMED DISEASE OUTBREAK;

(c) Live in the same household as someone who works at or attended a setting where there is a CONFIRMED DISEASE OUTBREAK; or

(d) Live in the same household as or have consumed FOOD prepared by a PERSON who is infected or ill with:

(i) SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*;

(ii) *Shigella*;

(iii) *Salmonella* Typhi; or

(iv) Hepatitis A virus or jaundice; or

(v) Norovirus.

02210 Employee health--Prohibit a conditional employee from becoming a food employee.

The PERSON IN CHARGE shall ensure that a CONDITIONAL EMPLOYEE who exhibits or reports symptoms or a diagnosed disease as described in 02205 (1) does not become a FOOD EMPLOYEE until they meet the requirements for the removal of RESTRICTION or EXCLUSION in 02245 and 02250. A CONDITIONAL EMPLOYEE that reports a history of exposure to disease in 02205 (2)(a) through (d) may not become a FOOD EMPLOYEE in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION until the requirements in 02250 are met.

02215 Employee health--Notify health officer.

The PERSON IN CHARGE shall notify the LOCAL HEALTH OFFICER and the REGULATORY AUTHORITY, if not the same agency, when a FOOD EMPLOYEE is:

(1) Jaundiced; or

(2) Diagnosed with an illness due to a pathogen as specified under 02205 (1)(c) and (2)(a).

02220 Employee health--Conditions of exclusion.

Except as provided in 02235, the PERSON IN CHARGE of a FOOD ESTABLISHMENT shall EXCLUDE any FOOD EMPLOYEE who is known to have:

(1) Diarrhea or vomiting;

(2) Jaundice;

(3) A diagnosed infection (symptomatic or ASYMPTOMATIC) with *Salmonella* Typhi, *Shigella*, SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*, Norovirus, or hepatitis A virus;

(4) A sore throat with fever and works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; or

(5) A previous infection with *Salmonella* Typhi within the past three months without having antibiotic therapy.

02225 Employee health--Conditions of restriction.

The PERSON IN CHARGE of a FOOD ESTABLISHMENT shall RESTRICT any FOOD EMPLOYEE who is known to have:

(1) A lesion that appears inflamed or contains pus and that is not covered;

(2) Exposure to foodborne pathogens as described in 02205 (2)(a) through (d) and works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION; or

(3) A sore throat with fever.

02230 Employee health--Aiding illness investigations.

The PERSON IN CHARGE of a FOOD ESTABLISHMENT and all EMPLOYEES shall cooperate with the REGULATORY AUTHORITY and the LOCAL HEALTH OFFICER investigating:

(1) A foodborne disease outbreak or a suspected foodborne disease outbreak; or

(2) A FOOD EMPLOYEE suspected to be infected with a disease agent that can be transmitted from a FOOD EMPLOYEE through food.

02235 Employee health--Other conditions.

A FOOD EMPLOYEE with a symptom of gastrointestinal illness, such as vomiting, diarrhea, or jaundice, may work in a FOOD ESTABLISHMENT without special RESTRICTION, provided that the FOOD EMPLOYEE furnishes written medical documentation from a HEALTH PRACTITIONER to the REGULATORY AUTHORITY or PERSON-IN-CHARGE that the symptom is due to a medical condition not transmissible through FOOD, such as Crohn's disease, irritable bowel syndrome, ulcerative colitis, or hepatitis C, cancer or pregnancy.

02240 Employee health--Complying with local health officer.

The PERSON IN CHARGE of a FOOD ESTABLISHMENT and FOOD EMPLOYEES shall comply with orders issued by the LOCAL HEALTH OFFICER for EXCLUDING EMPLOYEES from a FOOD ESTABLISHMENT or RESTRICTING EMPLOYEE activities due to a diagnosed or suspected infection by a disease agent that can be transmitted from a FOOD EMPLOYEE through FOOD until the LOCAL HEALTH OFFICER rescinds the order.

02245 Employee health--Removal of exclusion or restriction based on diagnosis.

Except as specified under 02250, the PERSON IN CHARGE shall obtain approval from the LOCAL HEALTH OFFICER before reinstating a FOOD EMPLOYEE who was RESTRICTED or EXCLUDED based on measures the LOCAL HEALTH OFFICER deems necessary using professional judgment, current standards of practice, and the best available medical and scientific information.

02250 Employee health--Removal of exclusion or restriction based on symptoms.

The PERSON IN CHARGE shall adhere to the following conditions when reinstating a FOOD EMPLOYEE who was RESTRICTED or EXCLUDED due to:

(1) Diarrhea or vomiting: Remove EXCLUSION when ASYMPTOMATIC for more than twenty-four hours;

(2) Jaundice: Remove EXCLUSION with approval of the LOCAL HEALTH OFFICER and REGULATORY AUTHORITY if not the same agency;

(3) Sore throat with fever: Remove EXCLUSION when ASYMPTOMATIC; or

(4) Uncovered infected wound or pus-filled boil: Remove RESTRICTION when skin, wound, or pus-filled boil is properly protected by an impermeable cover and, if on the hand or wrist, with a SINGLE-USE glove.

02255 Employee health--Removal of exclusion or restriction based on exposure.

The PERSON IN CHARGE of a facility that serves a HIGHLY SUSCEPTIBLE POPULATION shall get approval from the LOCAL HEALTH OFFICER and the REGULATORY AUTHORITY before reinstating a FOOD EMPLOYEE who was RESTRICTED due to any condition under 02205(2).

Subpart C - Personal Cleanliness

02300 Hands and arms--Clean condition (FDA Food Code 2-301.11).

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

02305 Hands and arms--Cleaning procedure (FDA Food Code 2-301.12).

(1) Except as specified in subsection (4) 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 05210 and Part 6, Subpart C of this chapter.

(2) 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:

(a) Rinse under clean, running warm water;

(b) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;

(c) Rub together vigorously for at least ten to fifteen seconds while:

(i) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and

(ii) 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;

(d) Thoroughly rinse under clean, running warm water; and

(e) Immediately follow the cleaning procedure with thorough drying using a method as specified under 06310.

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

(4) 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.

02310 Hands and arms--When to wash (FDA Food Code 2-301.14).

FOOD EMPLOYEES shall clean their hands and exposed portions of their arms as specified under 02305 immediately before engaging in FOOD preparation including working with exposed FOOD, clean EQUIPMENT and UTENSILS, and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES and:

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

(2) After using the toilet room;

(3) After caring for or handling SERVICE ANIMALS or aquatic animals as specified under 02415(2);

(4) Except as specified under 02400(2), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

(5) After handling soiled EQUIPMENT or UTENSILS;

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

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

(8) Before donning gloves for working with READY-TO-EAT FOOD unless a glove change is not the result of contamination; and

(9) After engaging in other activities that contaminate the hands or gloves.

02315 Hands and arms--Where to wash (FDA Food Code 2-301.15).

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.

02320 Hands and arms--Hand antiseptics (FDA Food Code 2-301.16).

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

(a) Comply with one of the following:

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

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

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

(i) A threshold of regulation exemption under 21 C.F.R. 170.39 – Threshold of Regulation for Substances Used in Food Contact Articles; or

(ii) 21 C.F.R. 178 – Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a FOOD ADDITIVE with conditions of safe use; or

(iii) A determination of generally recognized as safe (GRAS). Partial listings of substances with FOOD uses that are GRAS may be found in 21 C.F.R. 182 – Substances Generally Recognized as Safe, 21 C.F.R. 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 C.F.R. 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with FOOD, and in FDA's Inventory of GRAS Notices; or

(iv) A prior sanction listed under 21 C.F.R. 181 – Prior Sanctioned Food ingredients; or

(v) A FOOD Contact Notification that is effective; and

(c) Be applied only to hands that are cleaned as specified under 02305.

(2) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the requirements specified under subsection (1)(b) of this section, use must be:

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

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

(3) A hand antiseptic solution used as a hand dip must be maintained clean and at a strength equivalent to at least 100 MG/L chlorine.

02325 Fingernails--Maintenance (FDA Food Code 2-302.11).

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

(2) Unless wearing intact gloves in good repair, a FOOD EMPLOYEE may not wear fingernail polish or artificial fingernails while preparing FOOD.

02330 Jewelry--Prohibition (FDA Food Code 2-303.11).

Except for a single ring or wedding ring set covered by a glove in good repair, FOOD EMPLOYEES may not wear jewelry including medical information jewelry on their arms or hands while preparing FOOD.

02335 Outer clothing--Clean condition (FDA Food Code 2-304.11).

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

Subpart D - Hygienic Practices

02400 Food contamination prevention--Eating, drinking, or using tobacco (FDA Food Code 2-401.11).

(1) Except as specified in subsection (2) of this section, an EMPLOYEE may only eat, drink, or use any form of tobacco only in designated areas where exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES; or other items needing protection cannot be contaminated.

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

(a) The EMPLOYEE'S hands;

(b) The container; and

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

02405 Food contamination prevention--Discharges from the eyes, nose, and mouth (FDA Food Code 2-401.12).

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.

02406 Food contamination prevention--Use of bandages, finger cots, or finger stalls (FDA Food Code 2-401.13).

If a FOOD EMPLOYEE working with exposed FOOD uses an impermeable cover such as a bandage, finger cot or finger stall located on the wrist, hand or finger, the FOOD EMPLOYEE shall cover the area with a single-use glove.

02410 Hair restraints--Effectiveness (FDA Food Code 2-402.11).

(1) Except as provided in subsection (2) of this section, FOOD EMPLOYEES shall wear short hair or use hair restraints such as hats, hair coverings or nets, rubber bands, or hair clips to keep their hair off the face and behind their shoulders, and clothing that covers body hair to protect exposed FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.

(2) 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.

02415 Animals--Handling prohibition (FDA Food Code 2-403.11).

(1) Except as specified in subsection (2) 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 under 06570 (2)(b) through (e).

(2) FOOD EMPLOYEES with SERVICE ANIMALS may handle or care for their SERVICE ANIMALS and FOOD EMPLOYEES may handle or care for FISH in aquariums or MOLLUSCAN SHELLFISH or crustacean in display tanks if they wash their hands as specified under 02305 and 02310(3).

02500 Responding to contamination events--Clean-up of vomiting and diarrheal events (FDA Food Code 2-501.11).

(1) A FOOD ESTABLISHMENT shall have written 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.

(2) 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.

PART 3: FOOD

Subpart A - Characteristics

03100 Condition--Safe, unadulterated, and honestly presented (FDA Food Code 3-101.11).

FOOD must be safe, not ADULTERATED, and, as specified under 03605, honestly presented.

Subpart B - Sources, Specifications, and Original Containers and Records

03200 Sources--Compliance with food law (FDA Food Code 3-201.11).

(1) FOOD must be obtained from sources that comply with LAW.

(2) FOOD prepared in a private home may not be used or offered for human consumption in a FOOD ESTABLISHMENT except as otherwise provided in this chapter.

(3) PACKAGED FOOD must be labeled as specified under LAW, including chapter 69.04 RCW; 21 C.F.R. 101 Food Labeling; 9 C.F.R. 317 Labeling, Marking Devices, and Containers; 9 C.F.R. 381 Subpart N Labeling and Containers; and as specified under 03265 and 03270.

(4) FISH, other than those specified under 03425(2) (a) through (f), that are intended for consumption in raw or undercooked form and allowed as specified under 03400(4) may be offered for sale or service if they are obtained from a supplier that freezes the FISH as specified under 03425; or if they are frozen on the PREMISES as specified under 03425 and records are retained as specified under 03430.

(5) WHOLE-MUSCLE, INTACT BEEF steaks that are intended for consumption in an undercooked form without a CONSUMER advisory as specified under 03400(3) must be:

(a) 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; or

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

(c) If individually cut in a FOOD ESTABLISHMENT:

(i) Cut from WHOLE-MUSCLE, INTACT BEEF that is labeled by a FOOD PROCESSING PLANT as specified in (a) of this subsection or identified as specified in (b) of this subsection;

(ii) Prepared so they remain intact; and

(iii) If PACKAGED for undercooking in a FOOD ESTABLISHMENT, labeled as specified in (a) of this subsection or identified as specified in (b) of this subsection.

(6) 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, must be labeled to include safe handling instructions as specified in LAW, including 9 C.F.R. 317.2(l) and 9 C.F.R. 381.125(b).

(7) EGGS that have not been specifically treated to destroy all viable salmonellae must be labeled to include safe handling instructions as specified in LAW, including 21 C.F.R. 101.17(h).

03205 Sources--Food in a hermetically sealed container (FDA Food Code 3-201.12).

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

03210 Sources--Fluid milk and milk products (FDA Food Code 3-201.13).

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

03215 Sources--Fish (FDA Food Code 3-201.14).

(1) FISH that are received for sale or service must be:

(a) Commercially and legally caught or harvested; or

(b) APPROVED for sale or service.

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

03220 Sources--Molluscan shellfish (FDA Food Code 3-201.15).

(1) MOLLUSCAN SHELLFISH must be obtained from sources according to LAW and the requirements specified in the United States Department of Health and Human Services, Public Health Service, FDA, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

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

03225 Sources--Wild mushrooms.

(1) The PERMIT HOLDER shall obtain wild harvested mushrooms only from sources in Washington, Oregon, Idaho, California, Montana and British Columbia where each mushroom is individually identified in the fresh state.

(2) Only the following wild harvested mushroom species may be offered for sale or service in a FOOD ESTABLISHMENT:

(a) Hedgehog (*Hydnum repandum, H. umbilicatum*);

(b) Porcini/King Bolete (*Boletus edulis*);

(c) Lobster (*Hypomyces lactifluorum* growing on *Russula brevipes*);

(d) Pacific Golden Chanterelle (*Cantharellus formosus, C. cascadensis, C. cibarius var roseocanus*);

(e) White Chanterelle (*Cantharellus subalbidus*);

(f) Yellow Foot/Winter Chanterelle (*Craterellus tubaeformis*);

(g) Black Trumpet (*Craterellus cornucopioides*);

(h) Saffron milk cap (*Lactarius deliciosus*);

(i) Coral Hydnum/Bears Tooth (*Hericium coralloides*, *H. abietis*, *H. americanum*);

(j) Oyster (*Pleurotus populinus*, *P. pulmonarius*, *P. ostreaus*);

(k) Cauliflower mushroom (*Sparassis crispa*);

(l) Oregon Black Truffle (*Leucangium carthusianum*);

(m) Oregon White Truffle (*Tuber gibbosum*, *T. oregonense*);

(n) Blue Chanterelle (*Polyozellus multiplex*);

(o) *Morchella* species including, but not limited to, Black Morels (*Morchella elata*) and Blonde Morels (*Morchella esculenta*);

(p) Matsutake/Japanese Pine Mushroom (*Tricholoma magnivelare*).

(3) Wild harvested mushrooms prepared for IMMEDIATE SERVICE by a FOOD ESTABLISHMENT must be cooked to 135°F except for those sold for home use from grocery or farmer's markets.

(4) The PERMIT HOLDER shall keep written documentation supplied by the mushroom identifier for any wild harvested mushrooms offered for sale or service on file for ninety days after receipt. The documentation must include:

(a) The common name and Latin binomial name of the mushroom;

(b) The name, original signature, business name, mailing address, e-mail and telephone number of the mushroom identifier;

(c) The province, state, and county or counties where harvested;

(d) The date or dates of harvest;

(e) The date of sale to the FOOD ESTABLISHMENT; and

(f) The amount of product by weight.

(5) This section does not apply to dried or fresh mushrooms that are grown, processed or PACKAGED in a FOOD PROCESSING PLANT regulated by a state or federal FOOD REGULATORY AUTHORITY.

03230 Sources--Game animals (FDA Food Code 3-201.17).

(1) If GAME ANIMALS are received for sale or service they must be:

(a) Commercially raised for FOOD and:

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

(ii) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction; and

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

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

(B) 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; or

(b) 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 C.F.R. 352 Exotic Animals and Horses; Voluntary Inspection or rabbits that are "inspected and certified" in accordance with 9 C.F.R. 354 Voluntary Inspection of Rabbits and Edible Products Thereof.

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

03235 Specifications for receiving--Temperature (FDA Food Code 3-202.11).

(1) Except as specified in subsections (2) through (4) of this section, refrigerated, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be at a temperature of 41°F (5°C) or below when received.

(2) If a temperature other than 41°F (5°C) 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.

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

(4) Freshly made ASIAN RICE-BASED NOODLES received at ambient temperatures directly from a noodle processing facility licensed by Washington State Department of Agriculture must be served within four hours of production, immediately reheated in accordance with 03440(3), or immediately cooled in accordance with 03515(3).

(5) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked to a temperature and for a time specified under 03400 through 03410 and received hot must be at a temperature of 135°F (57°C) or above.

(6) A FOOD that is labeled frozen and shipped frozen by a FOOD PROCESSING PLANT must be received frozen.

(7) Upon receipt, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be free of evidence of previous temperature abuse.

03240 Specifications for receiving--Additives (FDA Food Code 3-202.12).

FOOD may not contain ADDITIVES that are not APPROVED or ADDITIVES that exceed the amounts specified in 21 C.F.R. 170-180 relating to FOOD ADDITIVES, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 C.F.R. 181-186, substances that exceed amounts specified in 9 C.F.R., Subpart C, Section 424.21(b) Food Ingredients and Sources of Radiation, or pesticide residues that exceed provisions specified in 40 C.F.R. 180 Tolerances for Pesticides Chemicals in Food, and exceptions.

03245 Specifications for receiving--Eggs (FDA Food Code 3-202.13).

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

03250 Specifications for receiving--Eggs and milkproducts, pasteurized (FDA Food Code 3-202.14).

(1) EGG PRODUCTS must be obtained pasteurized.

(2) Fluid milk, fluid milk products, dry milk, and dry milk products must meet "Grade A pasteurized" milk standards of chapter 15.36 RCW, except "Grade A raw milk" products meeting standards of chapter 15.36 RCW may be sold in retail stores in the original intact container and not used as an ingredient.

(3) Frozen milk products, such as ice cream, must be obtained pasteurized as specified in 21 C.F.R. 135 - Frozen Desserts.

(4) Cheese must be obtained pasteurized unless alternative procedures to pasteurization are specified in the C.F.R., such as 21 C.F.R. 133 - Cheeses and Related Cheese Products, for curing certain cheese varieties.

03255 Specifications for receiving--Package integrity (FDA Food Code 3-202.15).

FOOD packages must be in good condition and protect the integrity of the contents so that the FOOD is not exposed to adulteration or potential contaminants.

03260 Specifications for receiving--Ice (FDA Food Code 3-202.16).

Ice used as a FOOD or a cooling medium must be made from DRINKING WATER.

03265 Specifications for receiving--Shucked shellfish, packaging and identification (FDA Food Code 3-202.17).

(1) Raw SHUCKED SHELLFISH must be obtained in nonreturnable packages which bear a legible label that identifies the:

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

(b) 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.

(2) A package of raw SHUCKED SHELLFISH that does not bear a label or which bears a label which does not contain all of the information as specified under subsection (1) of this section is subject to a hold order, as allowed by LAW, or seizure and destruction in accordance with 21 C.F.R. Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan Shellfish.

03270 Specifications for receiving--Shellstock identification (FDA Food Code 3-202.18).

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

(a) Except as specified under subsection (3) of this section, on the harvester's tag or label, the following information in the following order:

(i) The harvester's identification number that is assigned by the SHELLFISH CONTROL AUTHORITY;

(ii) The date of harvest;

(iii) 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;

(iv) The type and quantity of shellfish; and

(v) The following statement in bold, capitalized type: **"THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS."**; and

(b) Except as specified in subsection (4) of this section, on each DEALER'S tag or label, the following information in the following order:

(i) The DEALER'S name and address, and the CERTIFICATION NUMBER assigned by the SHELLFISH CONTROL AUTHORITY;

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

(iii) The same information as specified for a harvester's tag under (a)(ii) through (iv) of this subsection; and

(iv) 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."**

(2) A container of SHELLSTOCK that does not bear a tag or label or that bears a tag or label that does not contain all of the information as specified under subsection (1)(a) of this section is subject to a hold order, as allowed by LAW, or seizure and destruction in accordance with 21 C.F.R. Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

(3) 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 must be listed first.

(4) If the harvester's tag or label is designed to accommodate each DEALER'S identification as specified under subsection (1)(a)(i) and (ii) of this section, individual DEALER tags or labels need not be provided.

03275 Specifications for receiving--Shellstock, condition (FDA Food Code 3-202.19).

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

03280 Specifications for receiving--Commercially processed treated juice (FDA Food Code 3-202.110).

PrePACKAGED JUICE must:

(1) Be obtained from a processor with a HACCP system as specified in 21 C.F.R. Part 120 Hazard Analysis and Critical Control (HACCP) Systems; and

(2) 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 C.F.R. Part 120.24 Process Controls.

03285 Original containers and records--Molluscan shellfish, original container (FDA Food Code 3-203.11).

(1) Except as specified in subsections (2) through (5) 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.

(2) 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:

(a) The source of the SHELLSTOCK on display is identified as specified under 03270 and recorded as specified under 03290; and

(b) The SHELLSTOCK are protected from contamination.

(3) 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:

(a) The labeling information for the shellfish on display as specified under 03265 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(b) The shellfish are protected from contamination.

(4) 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:

(a) The labeling information for the shellfish is on each CONSUMER self-service container as specified under 03265 and 03610 (1) and (2)(a) through (e);

(b) The labeling information as specified under 03265 is retained and correlated with the date when, or dates during which, the shellfish is sold or served;

(c) The labeling information and dates specified under (b) of this subsection are maintained for ninety days; and

(d) The shellfish are protected from contamination.

(5) SHELLSTOCK may be removed from the container in which they are received and repacked in CONSUMER self-service containers if:

(a) Each self-service container of SHELLSTOCK is plainly marked with the harvest area name, harvest area date, and original shellfish DEALER'S CERTIFICATION NUMBER, including the abbreviation of the name of the state or country in which the shellfish are harvested, or otherwise marked with a code that can be used to link the product with tag or label information as specified under 03270;

(b) The tag or label information as specified under 03270 for SHELLSTOCK is retained in a written or electronic log for ninety days that correlates the date when, or dates during which, the SHELLSTOCK sold;

(c) The SHELLSTOCK are protected from contamination; and

(d) The packaging material allows air to get to the shellfish.

03290 Original containers and records--Shellstock, maintaining identification (FDA Food Code 3-203.12).

(1) Except as specified under subsection (3)(b) of this section, SHELLSTOCK tags or labels must remain attached to the container in which the SHELLSTOCK are received until the container is empty.

(2) The date range when the first and last SHELLSTOCK from the container is sold or served must be recorded on the tag or label.

(3) The identity of the source of SHELLSTOCK that are sold or served must be maintained by retaining SHELLSTOCK tags or labels for ninety calendar days from the last date that is recorded on the tag or label, as specified under subsection (2) of this section by:

(a) 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 subsection (2) of this section; and

(b) If SHELLSTOCK are removed from its tagged or labeled container:

(i) Preserving source identification by using a recordkeeping system as specified under (a) of this subsection; and

(ii) 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.

Subpart C - Preventing Contamination After Receiving

03300 Preventing contamination by employees--Preventing contamination from hands (FDA Food Code 3-301.11).

(1) FOOD EMPLOYEES shall wash their hands as specified under 02305.

(2) Except when washing fruits and vegetables as specified under 03318 or as specified in subsection (4) 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.

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

(4) Subsection (2) of this section does not apply to a FOOD EMPLOYEE that contacts exposed, READY-TO-EAT FOOD with bare hands when the READY-TO-EAT FOOD is to be cooked in the FOOD ESTABLISHMENT to heat all parts of the FOOD to a temperature of at least 145°F (63°C) prior to service.

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

(a) The PERMIT HOLDER obtains prior approval from the REGULATORY AUTHORITY;

(b) Written procedures are maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that include:

Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under 05230, 05255, 05265, 05270, 06305, 06310, and 06320, are in an easily accessible location and in close proximity to the work station where bare hand contact procedure is conducted.

(c) A written EMPLOYEE health policy that documents how the FOOD ESTABLISHMENT complies with Part 2, Subpart B of this chapter including:

(i) 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 in 02200, including a written log of reportable EMPLOYEE illnesses maintained for ninety days;

(ii) Documentation that FOOD EMPLOYEES and CONDITIONAL EMPLOYEES acknowledge their responsibilities as specified in 02205 and 02240; and

(iii) Documentation that the PERSON IN CHARGE acknowledges the responsibilities as specified in 02215, 02220, 02255, and 08520.

(d) Documentation that FOOD EMPLOYEES acknowledge they have received training at least annually in:

(i) The RISKS of contacting READY-TO-EAT FOODS with bare hands;

(ii) Proper handwashing as specified under 02305;

(iii) When to wash their hands as specified under 02310;

(iv) Where to wash their hands as specified under 02315;

(v) Proper fingernail maintenance as specified under 02325;

(vi) Prohibition of jewelry as specified under 02330; and

(vii) Good hygienic practices as specified under 02400 and 02405.

(e) Documentation that hands are washed before FOOD preparation and as necessary to prevent cross contamination by FOOD EMPLOYEES as specified under 02300, 02305, 02310, and 02315 during all hours of operation when READY-TO-EAT FOODS are prepared;

(f) 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:

(i) Double handwashing;

(ii) Nail brushes;

(iii) A hand antiseptic after handwashing as specified under 02320;

(iv) Incentive programs provided by the FOOD ESTABLISHMENT that assist or encourage FOOD EMPLOYEES not to work when they are ill; or

(v) Other APPROVED control measures; and

(g) Documentation that corrective action is taken when (a) through (f) of this subsection are not followed;

(h) If the allowance for a FOOD ESTABLISHMENT to contact READY-TO-EAT FOOD with bare hands is voluntarily or involuntarily discontinued, suspended or revoked, a FOOD ESTABLISHMENT may not reinstate bare hand contact with READY-TO-EAT FOOD without written approval from the REGULATORY AUTHORITY.

03303 Preventing contamination by employees--Preventing contamination when tasting (FDA Food Code 3-301.12).

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

03306 Preventing food and ingredient contamination--Packaged and unpackaged food--Separation, packaging, and segregation (FDA Food Code 3-302.11).

(1) A FOOD must be protected from cross contamination by:

(a) Except as specified in (a)(iv) of this subsection, separating raw animal FOODS during storage, preparation, holding, and display from:

(i) 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;

(ii) Cooked READY-TO-EAT FOOD;

(iii) Fruits and vegetables before they are washed; and

(iv) Frozen, commercially processed and PACKAGED raw animal FOOD may be stored and displayed with or above frozen, commercially processed and PACKAGED, READY-TO-EAT FOOD.

(b) 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:

(i) Using separate EQUIPMENT for each type; or

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

(iii) Preparing each type of FOOD at different times or in separate areas.

(c) Cleaning EQUIPMENT and UTENSILS as specified under 04605(1) and SANITIZING as specified under 04710;

(d) Except as specified under 03520 and subsection (2) of this section, storing the FOOD in packages, covered containers, or wrappings;

(e) Cleaning hermetically sealed containers of FOOD of visible soil before opening;

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

(g) Storing damaged, spoiled, or recalled FOOD being held in the FOOD ESTABLISHMENT as specified under 06415; and

(h) Separating fruits and vegetables, before they are washed as specified under 03318 from READY-TO-EAT FOOD.

(2) Subsection (1)(d) of this section does not apply to:

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

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

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

(d) FOOD being cooled as specified under 03520; or

(e) SHELLSTOCK.

03309 Preventing food and ingredient contamination--Food storage containers, identified with common name of food (FDA Food Code 3-302.12).

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 must be identified with the common name of the FOOD.

03312 Preventing food and ingredient contamination--Pasteurized eggs, substitute for raw eggs for certain recipes (FDA Food Code 3-302.13).

Pasteurized EGGS or EGG PRODUCTS must be substituted for raw EGGS in the preparation of FOODS such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and EGG-fortified BEVERAGES that are not:

(1) Cooked as specified under 03400 (1)(a) or (b); or

(2) Included in 03400(4).

03315 Preventing food and ingredient contamination--Protection from unapproved additives (FDA Food Code 3-302.14).

(1) FOOD must be protected from contamination that might result from the addition of, as specified under 03240:

(a) FOOD ADDITIVES or COLOR ADDITIVES that are unsafe or not APPROVED; and

(b) Unsafe or unapproved levels of APPROVED FOOD ADDITIVES and COLOR ADDITIVES.

(2) A FOOD EMPLOYEE may not:

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

(b) Except for grapes, serve or sell FOOD specified under (a) of this subsection that is treated with sulfiting agents before receipt by the FOOD ESTABLISHMENT.

03318 Preventing food and ingredient contamination--Washing fruits and vegetables (FDA Food Code 3-302.15).

(1) Except as specified in subsection (2) 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 not in a READY-TO-EAT form must be thoroughly rinsed under running water to remove soil and other contaminants after any soaking and before being cut, combined with other ingredients, cooked, served, or offered for human consumption in READY-TO-EAT form.

(2) Fruits and vegetables may be washed by using chemicals as specified under 07225.

(3) Devices used for on-site generation of chemicals meeting the requirements specified in 21 C.F.R. 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 must be used in accordance with the manufacturer's instructions.

(4) For the purposes of this section, raw vegetables include fresh herbs and sprouts.

03321 Preventing food and ingredient contamination--Combining of raw eggs in advance prohibited.

Except EGGS that are used in batters or mixed immediately before cooking, mixing four or more raw EGGS, EGG whites, or EGG [yolks] is prohibited.

03324 Preventing contamination from ice used as a coolant--Ice used as exterior coolant, prohibited as ingredient (FDA Food Code 3-303.11).

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

03327 Preventing contamination from ice used as a coolant--Storage or display of food in contact with water or ice (FDA Food Code 3-303.12).

(1) 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.

(2) Except as specified in subsections (3) and (4) of this section, FOOD that is not PACKAGED may not be stored in direct contact with undrained ice.

(3) 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.

(4) 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.

03330 Preventing contamination from equipment, utensils, and linens--Food contact with equipment and utensils (FDA Food Code 3-304.11).

FOOD must only contact surfaces of:

(1) EQUIPMENT and UTENSILS that are cleaned as specified under 04600 through 04650 and SANITIZED as specified under 04700 through 04710;

(2) SINGLE-SERVICE ARTICLES and SINGLE-USE ARTICLES; or

(3) LINENS, such as cloth napkins, as specified under 03336 that are laundered as specified under Part 4, Subpart B of this chapter.

03333 Preventing contamination from equipment, utensils, and linens--In-use utensils, between-use storage (FDA Food Code 3-304.12).

During pauses in FOOD preparation or dispensing, FOOD preparation and dispensing UTENSILS must be stored:

(1) Except as specified under subsection (2) of this section, in the FOOD with their handles above the top of FOOD and the container;

(2) 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;

(3) 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 04605 and 04705;

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

(5) In a clean, protected location if the UTENSILS, such as ice scoops, are used only with a FOOD that is not a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

(6) In a container of water maintained at a temperature of 135°F (57°C) or greater or 41°F (5°C) or less and the container is cleaned at a frequency specified under 04605 (4)(g).

03336 Preventing contamination from equipment, utensils, and linens--Linens and napkins, use limitation (FDA Food Code 3-304.13).

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.

03339 Preventing contamination from equipment, utensils, and linens--Wiping cloths, use limitation (FDA Food Code 3-304.14).

(1) Cloths that are in use for wiping FOOD spills from TABLEWARE and carry out containers that occur as FOOD is being served must be:

(a) Maintained dry; and

(b) Used for no other purpose.

(2) Cloths in-use for wiping counters and other EQUIPMENT surfaces must be:

(a) Held between uses in a chemical SANITIZER solution at a concentration specified under 04565; and

(b) Laundered daily as specified under 04805(4); or

(3) Cloths in-use for wiping surfaces in contact with raw animal FOODS must be kept separate from cloths used for other purposes.

(4) Dry wiping cloths and the chemical SANITIZING solutions specified in subsection (2)(a) of this section in which wet wiping cloths are held between uses must be free of FOOD debris and visible soil.

(5) Containers of chemical SANITIZING solutions specified in subsection (2)(a) of this section in which wet wiping cloths are held between uses must be stored and used in a manner that prevents contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, SINGLE-SERVICE or SINGLE-USE ARTICLES.

(6) SINGLE-USE disposable SANITIZER wipes must be used in accordance with EPA-APPROVED manufacturer's label use instructions.

(7) Dry disposable towels used in conjunction with a spray bottle of chemical SANITIZER solution at a concentration specified under 04565 must be discarded after each use.

03342 Preventing contamination from equipment, utensils, and linens--Gloves, use limitation (FDA Food Code 3-304.15).

(1) If used, SINGLE-USE gloves must 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.

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

(3) 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.

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

03345 Preventing contamination from equipment, utensils, and linens--Using clean tableware for second portions and refills (FDA Food Code 3-304.16).

(1) 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.

(2) Except as specified in subsection (3) 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.

(3) Drinking cups and containers may be reused by self-service CONSUMERS if refilling is a contamination-free process as specified under 04230 (1), (2), and (4).

03348 Preventing contamination from equipment, utensils, and linens--Refilling returnables (FDA Food Code 3-304.17).

(1) Except as specified in subsections (2) through (6) 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.

(2) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with FOOD if the FOOD container is:

(a) Designed and constructed for reuse and in accordance with the requirements specified in Part 4, Subparts A and B of this chapter;

(b) 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;

(c) Returned to the FOOD ESTABLISHMENT by the CONSUMER after use;

(d) Subject to the following steps before being refilled with FOOD:

(i) Cleaned as specified under Part 4, Subpart F of this chapter;

(ii) Sanitized as specified under Part 4, Subpart G of this chapter; and

(iii) Visually inspected by a FOOD EMPLOYEE to verify that the container, as returned, meets the requirements specified under Part 4, Subparts A and B of this chapter.

(3) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with a BEVERAGE if:

(a) The BEVERAGE is not a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(b) 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;

(c) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(d) The CONSUMER-owned container returned to the FOOD ESTABLISHMENT for refilling is refilled for sale or service only to the same CONSUMER; and

(e) The container is refilled by:

(i) An EMPLOYEE of the FOOD ESTABLISHMENT; or

(ii) The owner of the container if the BEVERAGE system includes a contamination-free transfer process as specified under 04230 (1), (2), and (4) that cannot be bypassed by the container owner.

(4) Consumer-owned multiuse BEVERAGE containers may be refilled, including TIME/TEMPERATURE CONTROL FOR SAFETY FOOD beverages, by EMPLOYEES or the CONSUMER if refilling is a contamination-free process as specified in 04230 (1), (2), and (4).

(5) CONSUMER-owned containers that are not FOOD-specific may be filled at a water VENDING MACHINE or system.

(6) A FOOD ESTABLISHMENT under an APPROVED plan may allow CONSUMERS to:

(a) Refill a visibly clean CONSUMER-owned container with nonREADY-TO-EAT FOOD, bulk FOOD, and PACKAGED FOOD;

(b) Refill a visibly clean CONSUMER-owned container with READY-TO-EAT FOOD when dispensed from equipment, such as a gravity-flow unit, meeting standards for liquid food and ice in 04230; and

(c) Request a FOOD EMPLOYEE of the FOOD ESTABLISHMENT to refill a visually clean CONSUMER-owned container with FOOD using a contamination-free process.

03351 Preventing contamination from the premises--Food storage (FDA Food Code 3-305.11).

(1) Except as specified in subsections (2) and (3) of this section, FOOD must be protected from contamination by storing the FOOD:

(a) In a clean, dry location;

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

(c) At least six inches (15 cm) above the floor.

(2) FOOD in packages and working containers may be stored less than six inches (15 cm) above the floor on case lot handling EQUIPMENT as specified under 04268.

(3) 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.

03354 Preventing contamination from the premises--Food storage, prohibited areas (FDA Food Code 3-305.12).

FOOD may not be stored:

(1) In locker rooms;

(2) In toilet rooms;

(3) In dressing rooms;

(4) In garbage rooms;

(5) In mechanical rooms;

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

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

(8) Under open stairwells; or

(9) Under other sources of contamination.

03357 Preventing contamination from the premises--Vended time/temperature control for safety food, original container (FDA Food Code 3-305.13).

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD dispensed through a VENDING MACHINE must be in the package in which it was placed at the FOOD ESTABLISHMENT or FOOD PROCESSING PLANT at which it was prepared.

03360 Preventing contamination from the premises--Food preparation (FDA Food Code 3-305.14).

During preparation, FOOD that is not PACKAGED must be protected from environmental sources of contamination.

03363 Preventing contamination by consumers--Food display (FDA Food Code 3-306.11).

(1) 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 must be protected from contamination by the use of packaging; counter, service line, or salad bar FOOD guards; display cases; or other effective means;

(2) If PACKAGED for CONSUMER self-service, hard crusted breads such as baguettes must be completely covered and may be open at one end.

03366 Preventing contamination by consumers--Condiments, protection (FDA Food Code 3-306.12).

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

(2) Condiments at a VENDING MACHINE LOCATION must 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.

03369 Preventing contamination by consumers--Consumer self-service operations (FDA Food Code 3-306.13).

(1) Raw animal FOOD such as beef, lamb, pork, POULTRY, and FISH that is not PACKAGED may not be offered for CONSUMER self-service. This subsection does not apply to:

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

(b) Ready-to-cook individual portions for cooking and immediate consumption on the PREMISES such as CONSUMER-cooked MEATS or CONSUMER-selected ingredients for Mongolian barbecue; or

(c) Raw, frozen shrimp, lobster, finfish, calamari, or adductor muscle of scallop; or frozen, breaded seafood.

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

(3) CONSUMER self-service operations such as buffets and salad bars must be monitored by FOOD EMPLOYEES trained in safe operating procedures.

(4) Containers for display and service of READY-TO-EAT, unPACKAGED, bulk FOODS for CONSUMER self-service must have a CONSUMER access point at least 30 inches above floor level, except for APPROVED containers of liquids.

03372 Preventing contamination by consumers--Returned food and reservice of food (FDA Food Code 3-306.14).

(1) Except as specified in subsection (2) and (3) 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.

(2) Except as specified under 03800(7), a container of FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be re-served from one CONSUMER to another if:

(a) 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

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

(3) Surplus previously served FOOD, such as whole uncut produce that complies with 03318, unopened bags of sliced fruit, unopened containers of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that are immediately placed in a temperature-controlled environment, and other APPROVED FOODS may be re-served to a PERSON or DONATED FOOD DISTRIBUTING ORGANIZATION under an APPROVED plan.

03375 Preventing contamination by consumers--Miscellaneous sources of contamination (FDA Food Code 3-307.11).

FOOD must be protected from contamination that might result from a factor or source not specified under Part 3, Subparts A through F in this chapter.

Subpart D - Destruction of Organisms of Public Health Concern

03400 Cooking--Raw animal foods (FDA Food Code 3-401.11).

(1) Except as specified under subsections (2), (3), and (4) of this section, raw animal FOODS such as EGGS, FISH, MEAT, POULTRY, and FOODS containing these raw animal FOODS, must 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:

(a) 145°F (63°C) or above for fifteen seconds for:

(i) Raw EGGS that are broken and prepared in response to a CONSUMER'S order and for IMMEDIATE SERVICE; and

(ii) Except as specified under (b) and (c) of this subsection and subsections (2) and (3) of this section, FISH and MEAT, including GAME ANIMALS commercially raised for FOOD as specified under 03230 (1)(a) and GAME ANIMALS under a voluntary inspection program as specified under 03230 (1)(b);

(b) 158°F (70°C) or above for <1 second (instantaneous) or a temperature and time combination specified in Table 3-1, provided that FOOD EMPLOYEES monitor both temperature and time under an APPROVED plan, for RATITES; MECHANICALLY TENDERIZED and INJECTED MEATS; and COMMINUTED FISH, MEAT, GAME ANIMALS commercially raised for FOOD as specified under 03230 (1)(a), GAME ANIMALS under a voluntary inspection program as specified under 03230 (1)(a); and raw EGGS that are not prepared as specified under (a)(i) of this subsection; or

Table 3-1: Minimum Temperatures

Temperature	Time
145°F (63°C)	3 minutes
150°F (66°C)	1 minute
155°F (68°C)	17 seconds

(c) 165°F (74°C) or above for <1 second (instantaneous) for POULTRY; BALUTS; wild GAME ANIMALS; stuffed FISH; stuffed MEAT; stuffed pasta; stuffed POULTRY, stuffed RATITES; or stuffing containing FISH, MEAT, POULTRY, or RATITES.

(2) Whole MEAT roasts, including beef, corned beef, lamb, pork, and cured pork roasts such as ham, must be cooked:

(a) As specified in the following Table 3-2, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

Table 3-2: Temperature and Holding Time

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

[1] Holding time may include postoven heat rise.

(b) In an oven that is preheated to the temperature specified for the roast's weight in Table 3-3 and that is held at that temperature; and

Table 3-3: Oven Temperature Based on Weight

Oven Type	Less Than 10 lbs.(4.5kg)	10 lbs. (4.5 kg) or More
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity[1]	250°F (121°C) or less	250°F (121°C) or less

[1] Relative humidity greater than 90 percent for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

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

(a) The FOOD ESTABLISHMENT serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION;

(b) The steak is labeled to indicate that it meets the definition of WHOLE-MUSCLE, INTACT BEEF as specified under 03200(5); and

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

(4) 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 subsection (3) of this section, may be served or offered for sale in a READY-TO-EAT form if:

(a) As specified under 03800 (3)(a) and (b), the FOOD ESTABLISHMENT serves a population that is not a HIGHLY SUSCEPTIBLE POPULATION;

(b) The FOOD is not offered from a children's menu or children's section of any menu; and

(c) The CONSUMER is informed as specified under 03620 that to ensure its safety, the FOOD should be cooked as specified under subsection (1) or (2) of this section; or

(d) The REGULATORY AUTHORITY grants a VARIANCE from subsection (1) or (2) of this section as specified under 08110 based on a HACCP PLAN that:

(i) Is submitted by the PERMIT HOLDER and APPROVED as specified under 08115;

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

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

03405 Cooking--Microwave cooking (FDA Food Code 3-401.12).

Raw animal FOODS cooked in a microwave oven must be:

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

(2) Covered to retain surface moisture;

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

(4) Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

03410 Cooking--Plant food cooking for hot holding (FDA Food Code 3-401.13).

Plant FOODS that are cooked for hot holding must be cooked to a temperature of at least 135°F (57°C).

03415 Cooking--Noncontinuous cooking of raw animal foods (FDA Food Code 3-401.14).

Raw animal FOODS that are cooked using a NONCONTINUOUS COOKING process must be:

(1) Subject to an initial heating process that is no longer than sixty minutes in duration;

(2) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under 03515(1);

(3) After cooling, held frozen or cold, as specified for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under 03525 (1)(b);

(4) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature and time specified under 03400 (1) through (3);

(5) Cooled according to the time and temperature parameters specified for cooked TIME/TEMPERATURE CONTROL FOR SAFETY FOOD under 03515(1) if not either hot held as specified under 03525(1), served immediately, or held using time as a public health control as specified under 03530 after complete cooking;

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

(a) Have obtained prior approval from the REGULATORY AUTHORITY;

(b) Are maintained in the FOOD ESTABLISHMENT and are available to the REGULATORY AUTHORITY upon request;

(c) Describe how the requirements specified under subsections (1) through (5) of this section are to be monitored, documented and the corrective actions to be taken if the requirements are not met;

(d) 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 subsection (4) of this section prior to being offered for sale or service; and

(e) Describe how the FOODS, after initial heating but prior to cooking as specified under subsection (4) of this section, are to be separated from READY-TO-EAT FOODS as specified under 03306(1).

03420 Cooking--Unattended cooking and hot holding.

Unattended cooking and unattended hot holding are prohibited without continuous temperature monitoring under an APPROVED plan.

03425 Freezing--Parasite destruction (FDA Food Code 3-402.11).

(1) Except as specified in subsection (2) of this section, before service or sale in READY-TO-EAT form, raw, raw marinated, partially cooked, or marinated partially cooked FISH must be:

(a) Frozen and stored at a temperature of -4°F (-20°C) or below for a minimum of one hundred sixty-eight hours (seven days) in a freezer; or

(b) Frozen at -31°F (-35°C) or below until solid and stored at -31°F (-35°C) or below for a minimum of fifteen hours; or

(c) Frozen at -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of twenty-four hours.

(2) Subsection (1) of this section does not apply to:

(a) MOLLUSCAN SHELLFISH;

(b) A scallop product consisting only of the shucked adductor muscle;

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

(d) Aquacultured FISH, such as salmon, that:

(i) If raised in open water, are raised in net pens; or

(ii) Are raised in land-based operations such as ponds or tanks; and

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

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

(f) Fresh unfrozen finfish, such as halibut or salmon, which are partially cooked only upon consumer request and served in accordance with 03620(2) and (3)(d).

03430 Freezing--Records, creation and retention (FDA Food Code 3-402.12).

(1) Except as specified under 03425(2) and subsection (2) of this section, if raw, raw marinated, partially cooked, or marinated partially cooked FISH are served or sold in READY-TO-EAT form, the PERSON IN CHARGE shall record the freezing temperature and time to which the FISH are subjected and shall retain the records of the FOOD ESTABLISHMENT for ninety calendar days beyond the time of service or sale of the FISH.

(2) 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 03425 may substitute for the records specified under subsection (1) of this section.

(3) 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 under 03425 (2)(c), a written agreement or statement from the supplier or aquaculturist stipulating that the FISH were raised and fed as specified under 03425 (2)(c), must be obtained by the PERSON IN CHARGE and retained in the records of the FOOD ESTABLISHMENT for ninety calendar days beyond the time of service or sale of the FISH.

03435 Reheating--Preparation for immediate service (FDA Food Code 3-403.10).

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.

03440 Reheating--Reheating for hot holding (FDA Food Code 3-403.11).

(1) Except as specified under subsections (2), (3), and (5) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked, cooled, and reheated for hot holding must be reheated so that all parts of the FOOD reach a temperature of at least 165°F (74°C) for fifteen seconds.

(2) Except as specified under subsection (3) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD reheated in a microwave oven for hot holding must be reheated so that all parts of the FOOD reach a temperature of at least 165°F (74°C) and the FOOD is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating.

(3) 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 FOOD REGULATORY AUTHORITY that has jurisdiction over the plant, must be heated to a temperature of at least 135°F (57°C) for hot holding.

(4) Reheating for hot holding as specified under subsections (1) through (3) of this section must be done rapidly and the time the FOOD is between 41°F (5°C) and the temperature specified under subsections (1) through (3) of this section may not exceed two hours.

(5) Remaining unsliced portions of MEAT roasts that are cooked as specified under 03400(2) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 03400(2).

03445 Other methods--Treating juice (FDA Food Code 3-404.11).

JUICE PACKAGED in a FOOD ESTABLISHMENT must be:

(1) Treated under a HACCP PLAN as specified under 08215 to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

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

(a) As specified under 03610; and

(b) As specified in 21 C.F.R. 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*."**

Subpart E - Limitation of Growth of Organisms of Public Health Concern

03500 Temperature and time control--Frozen food (FDA Food Code 3-501.11).

Stored frozen FOODS must be maintained frozen.

03505 Temperature and time control—Time/temperature control for safety food, slacking (FDA Food Code 3-501.12).

Frozen TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is slacked to moderate the temperature must be held:

(1) Under refrigeration that maintains the FOOD temperature at 41°F (5°C) for less; or

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

03510 Temperature and time control--Thawing. (FDA Food Code 3-501.13).

Except as specified in subsection (4) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be thawed:

(1) Under refrigeration that maintains the FOOD temperature at 41°F (5°C) or less; or

(2) Completely submerged under running water:

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

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

(c) For a period of time that does not allow thawed portions of READY-TO-EAT FOOD to rise above 41°F (5°C); or

(d) For a period of time that does not allow thawed portions of raw animal FOOD requiring cooking as specified under 03400 (1) or (2) to be above 41°F (5°C) for more than four hours including:

(i) The time the FOOD is exposed to the running water and the time needed for preparation for cooking; or

(ii) The time it takes under refrigeration to lower the FOOD temperature to 41°F (5°C);

(3) As part of a cooking process if the FOOD that is frozen is:

(a) Cooked as specified under 03400 (1) or (2) or 03405; or

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

(4) Using any procedure if a portion of frozen, READY-TO-EAT FOOD is thawed and prepared for IMMEDIATE SERVICE in response to an individual customer's order; or

(5) REDUCED OXYGEN PACKAGED FISH that bears a label indicating that it is to be kept frozen until time of use must be removed from the reduced oxygen environment:

(a) Prior to thawing under refrigeration as specified in subsection (1) of this section; or

(b) Prior to, or immediately upon completion of, thawing using procedures specified in subsection (2) of this section.

03515 Temperature and time control--Cooling (FDA Food Code 3-501.14).

(1) Cooked TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be cooled, uncovered, protected from contamination, in EQUIPMENT that maintains an ambient air temperature of 41°F (5°C) or less and:

(a) In a shallow, uncovered, layer of two inches or less; or

(b) Up to four inches thick in one dimension and not touching other pieces of FOOD for INTACT MEAT.

(2) As an alternative to the cooling provisions of subsection (1) of this section, cooling methods identified in 03520 that meet the following time and temperature criteria are allowed:

(a) Within two hours from 135°F (57°C) to 70°F (21°C); and

(b) Within a total of six hours from 135°F (57°C) to 41°F (5°C) or less

(3) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be cooled within four hours to 41°F (5°C) or less if prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna.

(4) Except as specified in subsection (5) of this section, a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD received in compliance with LAWS allowing a temperature above 41°F (5°C) during shipment from the supplier as specified under 03235(2), must be cooled within four hours to 41°F (5°C) or less.

(5) Raw EGGS must be received as specified under 03235(3) and immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 45°F (7°C) or less.

03520 Temperature and time control--Cooling methods (FDA Food Code 3-501.15).

(1) Cooling must be accomplished in accordance with the time and temperature requirements specified under 03515 by using one or more of the following methods based on the type of FOOD being cooled:

(a) Placing the FOOD in shallow pans;

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

(c) Using rapid cooling EQUIPMENT;

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

(e) Using containers that facilitate heat transfer;

(f) Adding ice as an ingredient; or

(g) Other effective methods.

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

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

(b) Uncovered and protected from overhead contamination as specified under 03351(1), during the cooling period to facilitate heat transfer from the surface of the FOOD; or

(c) Loosely covered if using the cooling methods in 03515(2).

03525 Temperature and time control—Time/temperature control for safety food, hot and cold holding (FDA Food Code 3-501.16).

(1) Except during active preparation for up to two hours, cooking, or cooling or when time is used as the public health control as specified under 03530, and except as specified in subsections (2) and (3) of this section, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be maintained:

(a) At 135°F (57°C) or above, except that roasts cooked to a temperature and for a time specified under 03400(2) or reheated as specified under 03440 may be held at a temperature of 130°F (54°C) or above; or

(b) At 41°F (5°C) or less.

(2) EGGS that have not been treated to destroy all viable salmonellae must be stored in refrigerated EQUIPMENT that maintains an ambient air temperature of 45°F (7°C) or less.

(3) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form may be maintained outside the temperature control requirements, as specified under subsection (1) of this section, while contained within specially designed EQUIPMENT that complies with the design and construction requirements as specified under 04230(5).

03526 Temperature and time control—Ready-to-eat, time/temperature control for safety food, date marking (FDA Food Code 3-501.17).

(1) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under 03540, and except as specified in subsections (5) and (6) of this section, refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and held in a FOOD ESTABLISHMENT for more than twenty-four hours must be clearly marked to indicate the date or day by which the FOOD must be consumed on the PREMISES, sold, or discarded when held at a temperature of 41ºF (5ºC) or less for a maximum of seven days. The day of preparation must be counted as day one.

(2) Except as specified in subsections (5) through (7) of this section, refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and PACKAGED by a FOOD PROCESSING PLANT must be clearly marked, at the time the original container is opened in a FOOD ESTABLISHMENT and if the FOOD is held for more than twenty-four hours, to indicate the date or day by which the FOOD must be consumed on the PREMISES, sold, or discarded, based on the temperature and time requirements specified in subsection (1) of this section and:

(a) The day the original container is opened in the FOOD ESTABLISHMENT is counted as day one; and

(b) The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on FOOD safety.

(3) 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 combined with additional ingredients or portions of FOOD must retain the date marking of the earliest-prepared or first-prepared ingredient.

(4) A date marking system that meets the criteria stated in subsections (1) and (2) of this section may include:

(a) 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;

(b) 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 subsection (1) of this section;

(c) 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 subsection (2) of this section; or

(d) 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.

(5) Subsections (1) and (2) of this section do not apply to individual meal portions served or rePACKAGED for sale from a bulk container upon a consumer's request.

(6) Subsections (1) and (2) of this section do not apply to SHELLSTOCK.

(7) Subsection (2) of this section does not apply to the following FOODS prepared and PACKAGED by a FOOD PROCESSING PLANT inspected by a REGULATORY AUTHORITY:

(a) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 C.F.R. 110 Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food;

(b) Hard cheeses containing not more than thirty-nine percent moisture as defined in 21 C.F.R. 133 Cheeses and Related Cheese Products, such as cheddar, gruyere, parmesan and reggiano, and romano;

(c) Semi-soft cheeses containing more than thirty-nine percent moisture, but not more than fifty percent moisture, as defined in 21 C.F.R. 133 Cheeses and Related Cheese Products, such as blue, edam, gorgonzola, gouda, and monterey jack;

(d) Cultured dairy products as defined in 21 C.F.R. 131 Milk and Cream, such as yogurt, sour cream, and buttermilk;

(e) Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 C.F.R. 114 Acidified Foods;

(f) Shelf stable, dry fermented sausages, such as pepperoni and genoa; and

(g) Shelf stable salt-cured products such as prosciutto and parma ham.

03527 Temperature and time control—Ready-to-eat, time/temperature control for safety food, disposition (FDA Food Code 3-501.18).

(1) A FOOD specified in 03526(1) and (2) must be discarded unless it is cooked or reheated to 165°F (74°C) prior to service, if it:

(a) Exceeds the temperature and time requirements specified in 03526, except time that the product is frozen;

(b) Is in a container or PACKAGE that does not bear a date or day and no ability to validate the opening date; or

(c) Is inappropriately marked with a date or day that exceeds a temperature and time combination as specified in 03526(1).

(2) 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 must be discarded if it exceeds a temperature and time requirement as specified in 03526(1).

(3) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not reheat improperly marked FOOD as specified under subsection (1) of this section.

03530 Temperature and time control--Time as a public health control (FDA Food Code 3-501.19).

(1) Except as specified under subsection (3) 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 for immediate consumption:

(a) Written procedures must be prepared in advance, maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that specify:

(i) Methods of compliance with subsections (2)(a) through (c) of this section; and

(ii) Methods of compliance with 03515 for FOOD that is prepared, cooked, and refrigerated before time is used as a public health control.

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

(a) The FOOD must have an internal temperature of 41°F (5°C) or less when removed from cold holding temperature control, or 135°F (57°C) or greater when removed from hot holding temperature control;

(b) The FOOD may have an initial temperature of 70°F (21°C) or less if;

(i) It is a READY-TO-EAT fruit or vegetable that upon cutting is rendered a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

(ii) It is a READY-TO-EAT hermetically sealed FOOD that upon opening is rendered a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(iii) The FOOD temperature does not exceed 70°F (21°C) within a maximum time period of four hours from the time it was rendered a TIME/ TEMPERATURE CONTROL FOR SAFETY FOOD; and

(iv) The FOOD is marked or otherwise identified to indicate the time that is four hours past the point in time when the FOOD is rendered a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(c) The FOOD must be marked or otherwise identified to indicate the time that is four hours past the point in time when the FOOD is removed from temperature control;

(d) The FOOD must be cooked and served, served at any temperature if READY-TO-EAT or discarded, within four hours from the point in time when the FOOD is removed from temperature control; and

(e) The FOOD in unmarked containers or packages, or marked to exceed a four-hour limit, must be discarded.

(3) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not use time as specified under subsections (1) and (2) of this section as the public health control for raw EGGS.

03535 Specialized processing methods--Variance requirement (FDA Food Code 3-502.11).

A FOOD ESTABLISHMENT shall obtain a VARIANCE from the REGULATORY AUTHORITY as specified under 08110 and 08115 before:

(1) Smoking FOOD as a method of FOOD preservation rather than as a method of flavor enhancement;

(2) Curing FOOD;

(3) Using FOOD ADDITIVES or adding components such as vinegar:

(a) As a method of FOOD preservation rather than as a method of flavor enhancement; or

(b) To render a FOOD so that it is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(4) 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 03540;

(5) Operating a MOLLUSCAN SHELLFISH life-support system display tank used to store or display shellfish that are offered for human consumption;

(6) Custom processing animals that are for personal use as FOOD and not for sale or service in a FOOD ESTABLISHMENT;

(7) Preparing FOOD by another method that is determined by the REGULATORY AUTHORITY to require a VARIANCE; or

(8) Sprouting seeds or beans.

03540 Specialized processing methods--Reduced oxygen packaging without a variance, criteria (FDA Food Code 3-502.12).

(1) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under 03535, 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*.

(2) Except as specified under subsection (6) of this section, a FOOD ESTABLISHMENT that packages TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall have a HACCP PLAN that contains the information specified under 08215(3) and (4) and that:

(a) Identifies the FOOD to be PACKAGED;

(b) Except as specified under subsections (3) through (5) of this section, requires that the PACKAGED FOOD must be maintained at 41°F (5°C) or less and meet at least one of the following requirements:

(i) Has an A_w of 0.91 or less;

(ii) Has a pH of 4.6 or less;

(iii) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 C.F.R. 424.21, Use of Food Ingredients and Sources of Radiation, and is received in an intact package; or

(iv) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables;

(c) Describes how the PACKAGE must be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(i) Maintain the FOOD at 41°F (5°C) or below; and

(ii) Discard the FOOD if within thirty calendar days of its packaging it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption;

(d) Limits the refrigerated shelf life to no more than thirty 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:

(e) Includes operational procedures that:

(i) Prohibit contacting READY-TO-EAT FOOD with bare hands as specified under 03300(2);

(ii) Identify a designated work area and the method by which:

(A) Physical barriers or methods of separation of raw FOODS and READY-TO-EAT FOODS minimize cross contamination; and

(B) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential hazards of the operation; and

(iii) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES; and

(f) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the:

(i) Concepts required for a safe operation;

(ii) EQUIPMENT and facilities; and

(iii) Procedures specified under (e) of this subsection and 08215(3) and (4); and

(g) Is provided to the REGULATORY AUTHORITY prior to implementation as specified under 08210(2).

(3) Except for FISH that is frozen before, during, and after packaging, a FOOD ESTABLISHMENT may not package FISH using a REDUCED OXYGEN PACKAGING method.

(4) Except as specified under subsection (3) and (6) of this section, a FOOD ESTABLISHMENT that PACKAGES FOOD using a cook-chill or sous vide process shall:

(a) Provide to the REGULATORY AUTHORITY prior to implementation a HACCP PLAN that contains the information as specified under 08215(3) and (4);

(b) Ensure the FOOD is:

(i) 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;

(ii) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under 03400(1) through (3);

(iii) Protected from contamination before and after cooking as specified under Part 3, Subpart C and D of this chapter;

(iv) 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 135°F (57°C);

(v) Cooled to 41°F (5°C) in the sealed package or bag as specified under 03515 and:

(A) Cooled to 34°F (1°C) within forty-eight hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within thirty days after the date of PACKAGING;

(B) Held at 41°F (5°C) or less for no more than seven days, at which time the FOOD must be consumed or discarded; or

(C) Held frozen with no shelf life restriction while frozen until consumed or used.

(vi) 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;

(vii) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation; and

(viii) Labeled with the product name and the date PACKAGED; and

(c) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP PLAN and:

(i) Make such records available to the REGULATORY AUTHORITY upon request; and

(ii) Hold such records for at least six months after the last date the product was sold or served.

(d) Implement written operational procedures as specified under subsection (2)(e) of this section and a training program as specified under subsection (2)(f) of this section.

(5) Except as specified under subsection (6) of this section, a FOOD ESTABLISHMENT that packages cheese using a REDUCED OXYGEN PACKAGING method must:

(a) 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 C.F.R. 133.150 Hard cheeses, 21 C.F.R. 133.169 Pasteurized process cheese or 21 C.F.R. 133.187 Semisoft cheeses;

(b) Have a HACCP PLAN that contains the information specified under 08215(3) and (4) and as specified under subsection (2)(a), (c)(i), (e), and (f) of this section;

(c) Labels the package on the principal display panel with a "use by" date that does not exceed thirty days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever comes first; and

(d) Discards the REDUCED OXYGEN PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within thirty calendar days of its packaging.

(6) A HACCP PLAN is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE raw or READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

(a) Labeled with the production time and date;

(b) Held at 41°F (5°C) or less during refrigerated storage; and

(c) Removed from its PACKAGE in the FOOD ESTABLISHMENT within forty-eight hours after PACKAGING.

Subpart F - Food Identity, Presentation, and On-Premises Labeling

03600 Accurate representation--Standards of identity (FDA Food Code 3-601.11).

PACKAGED FOOD must comply with standard of identity requirements in 21 C.F.R. 131-169 and 9 C.F.R. 319 Definitions and Standards of Identity or Composition, and the general requirements in 21 C.F.R. 130 - Food Standards: General and 9 C.F.R. 319 Subpart A - General.

03605 Accurate representation--Honestly presented (FDA Food Code 3-601.12).

(1) FOOD must be offered for human consumption in a way that does not mislead or misinform the CONSUMER.

(2) FOOD ADDITIVES or COLOR ADDITIVES, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a FOOD.

03610 Labeling--Food labels (FDA Food Code 3-602.11).

(1) FOOD PACKAGED in a FOOD ESTABLISHMENT must be labeled as specified in LAW, including chapter 69.04 and 15.130 RCW; 21 C.F.R. 101 - Food Labeling; and 9 C.F.R. 317 - Labeling, Marking Devices, and Containers.

(2) Label information must include:

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

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

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

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

(e) 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 unusual name of the respective ingredient;

(f) Except as exempted in the Federal Food, Drug, and Cosmetic Act Section 403(q)(3) through (5), nutrition labeling as specified in 21 C.F.R. 101 - Food Labeling and 9 C.F.R. 317 Subpart B Nutrition Labeling; and

(g) 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.

(3) Bulk FOOD that is available for CONSUMER self-dispensing must be prominently labeled with the following information in plain view of the CONSUMER:

(a) The manufacturer's or processor's label that was provided with the FOOD; or

(b) A card, sign, or other method of notification that includes the information specified under subsection (2)(a), (b), and (f) of this section.

(4) Bulk unPACKAGED FOODS such as bakery products and unPACKAGED FOODS that are portioned to CONSUMER specification need not be labeled if:

(a) A health, nutrient content, or other claim is not made;

(b) There are no state or local LAWS requiring labeling; and

(c) 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.

(5) Whenever unpasteurized milk and FOODS containing unpasteurized milk are offered for sale at a FOOD ESTABLISHMENT, except hard or semi-soft raw milk cheeses properly fermented and aged for a minimum of sixty days in compliance with 21 C.F.R. Part 133, the PERMIT HOLDER and PERSON IN CHARGE shall ensure that:

(a) The product is conspicuously labeled **"*raw milk*"** or **"*contains raw milk*"**; and

(b) A sign is posted in a conspicuous manner near the product stating: **"*Warning: Raw milk or foods prepared from raw milk may be contaminated with dangerous bacteria capable of causing severe illness. Contact your local health agency for advice or to report a suspected illness.*"**

(6) The PERMIT HOLDER and PERSON IN CHARGE shall ensure that required information contained on FOOD labels is in the English language, except that duplicate labeling in other languages is allowed.

03615 Labeling--Other forms of information (FDA Food Code 3-602.12).

(1) If required by LAW, CONSUMER warnings must be provided.

(2) FOOD ESTABLISHMENT or manufacturers' dating information on FOODS may not be concealed or altered.

03620 Consumer advisory--Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens (FDA Food Code 3-603.11).

(1) Except as specified under 03400 (3) and (4)(d) and 03800(3) if an animal FOOD such as beef, EGGS, FISH, lamb, pork, POULTRY, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in a READY-TO-EAT form or as an ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, as specified in subsections (2) and (3) of this section using brochures, deli case menu advisories, label statements, table tents, placards, or other effective written means.

(2) DISCLOSURE must include:

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

(b) Identification of the animal-derived FOODS by asterisking them to a footnote that states that the items are served raw or undercooked and contain (or might contain) raw or undercooked ingredients.

(3) REMINDER must include asterisking the animal-derived FOODS requiring DISCLOSURE to a footnote that states:

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

(b) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs might increase your risk of foodborne illness";

(c) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs might increase your risk of foodborne illness, especially if you have certain medical conditions"; or

(d) "Regarding the safety of consuming fresh partially cooked fish, information is available upon request."

Subpart G - Contaminated Food

03700 Disposition--Discarding or reconditioning unsafe, adulterated, or contaminated food (FDA Food Code 3-701.11).

(1) A FOOD that is unsafe, ADULTERATED, or not honestly presented as specified under 03100 must be discarded or reconditioned according to an APPROVED procedure.

(2) FOOD that is not from an APPROVED source as specified under 03200 through 03230 must be discarded.

(3) READY-TO-EAT FOOD that might have been contaminated by an EMPLOYEE who has been RESTRICTED or EXCLUDED as specified under 02220 and 02225 must be discarded.

(4) 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 must be discarded.

03705 Disposition--Examination, hold orders, condemnation, and destruction of food.

(1) The PERMIT HOLDER or PERSON IN CHARGE of a FOOD ESTABLISHMENT in which FOOD has been improperly handled, stored, or prepared shall:

(a) Voluntarily destroy the questionable FOOD; or

(b) Contact the REGULATORY AUTHORITY to determine if the FOOD is safe for human consumption.

(2) The PERMIT HOLDER or PERSON IN CHARGE of a FOOD ESTABLISHMENT shall denature or destroy any FOOD if the REGULATORY AUTHORITY determines the FOOD presents an imminent or actual health hazard.

(3) The REGULATORY AUTHORITY may examine or collect samples of FOOD as often as necessary for enforcement of these regulations.

(4) The REGULATORY AUTHORITY may, after notice to the PERMIT HOLDER or PERSON IN CHARGE, place a written hold order on any suspect FOOD until a determination on its safety can be made and shall:

(a) Tag;

(b) Label; or

(c) Otherwise identify any FOOD subject to the hold order and complete a form APPROVED by the Washington State Department of Health for all suspect FOOD.

(5) The hold order issued by the REGULATORY AUTHORITY must include:

(a) Instructions for filing a written request for a hearing with the REGULATORY AUTHORITY within ten calendar days; and

(b) Notification that if a hearing is not requested in accordance with the instructions provided in the hold order, and the REGULATORY AUTHORITY does not vacate the hold order, the FOOD must be destroyed under the supervision of a representative of the REGULATORY AUTHORITY.

(6) When FOOD is subject to a hold order by the REGULATORY AUTHORITY, the PERMIT HOLDER and PERSON IN CHARGE are prohibited from:

(a) Using the FOOD;

(b) Serving the FOOD; or

(c) Removing the FOOD from the FOOD ESTABLISHMENT.

(7) The REGULATORY AUTHORITY may allow storage of FOOD under conditions specified in the hold order, unless storage is not possible without RISK to public health, in which case immediate destruction shall be ordered and must be accomplished by the PERMIT HOLDER or PERSON IN CHARGE of the FOOD ESTABLISHMENT.

(8) Based upon evidence provided at the hearing, the REGULATORY AUTHORITY may either:

(a) Vacate the hold order; or

(b) Direct the PERMIT HOLDER or PERSON IN CHARGE of the FOOD ESTABLISHMENT by written order to:

(i) Denature or destroy such FOOD; or

(ii) Bring the FOOD into compliance with the provisions of these regulations.

Subpart H - Special Requirements for Highly Susceptible Populations

03800 Additional safeguards--Pasteurized foods, prohibited reservice, and prohibited food (FDA Food Code 3-801.11).

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

(1) The following requirements apply to JUICE:

(a) For the purposes of subsection (1) of this section, children who are age nine or less and receive FOOD in a school, day care setting, or similar facility that provides custodial care are included as HIGHLY SUSCEPTIBLE POPULATIONS;

(b) PrePACKAGED JUICE or a prePACKAGED BEVERAGE containing JUICE, that bears a warning label as specified in 21 C.F.R., Section 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 03445(2) may not be served or offered for sale; and

(c) UnPACKAGED JUICE that is prepared on the PREMISES for service or sale in a READY-TO-EAT form must be processed under a HACCP PLAN that contains the information specified under 08215 (2) through (5) and as specified in 21 C.F.R. Part 120 - Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls.

(2) Pasteurized EGGS or EGG PRODUCTS must be substituted for raw EGGS in the preparation of:

(a) FOODS such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and EGG-fortified BEVERAGES; and

(b) Except as specified in subsection (6) of this section, recipes in which more than one EGG is broken and the EGGS are combined;

(3) The following FOODS may not be served or offered for sale in a READY-TO-EAT form:

(a) Raw animal FOODS such as raw FISH, raw marinated FISH, raw MOLLUSCAN SHELLFISH, and steak tartare;

(b) A partially cooked animal FOOD such as lightly cooked FISH, rare MEAT, soft cooked EGGS that are made from raw EGGS, and meringue; and

(c) Raw seed sprouts.

(4) FOOD EMPLOYEES may not contact READY-TO-EAT FOOD as specified under 03300 (2) and (5).

(5) Time only, as the public health control as specified under 03530(4), may not be used for raw EGGS.

(6) Subsection (2)(b) of this section does not apply if:

(a) The raw EGGS are combined immediately before cooking for one CONSUMER'S serving at a single meal, cooked as specified under 03400 (1)(a), and served immediately such as an omelet, souffle, or scrambled EGGS;

(b) 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

(c) The preparation of the FOOD is conducted under a HACCP PLAN that:

(i) Identifies the FOOD to be prepared;

(ii) Prohibits contacting READY-TO-EAT FOOD with bare hands;

(iii) Includes specifications and practices that ensure:

(A) *Salmonella* Enteritidis growth is controlled before and after cooking; and

(B) *Salmonella* Enteritidis is destroyed by cooking the EGGS according to the temperature and time specified under 03400 (1)(b);

(iv) Contains the information specified under 08215(4) including procedures that:

(A) Control cross contamination of READY-TO-EAT FOOD with raw EGGS; and

(B) Delineate cleaning and SANITIZING procedures for FOOD-CONTACT SURFACES; and

(v) Describes the training program that ensures that the FOOD EMPLOYEE responsible for the preparation of the FOOD understands the procedures to be used.

(7) Except as specified in subsection (8) of this section, FOOD may be re-served as specified under 03372 (2)(a) and (b).

(8) FOOD may not be re-served under the following conditions:

(a) Any FOOD served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environmental isolation may not be re-served to others outside.

(b) Packages of FOOD from any patients, clients, or other CONSUMERS should not be re-served to PERSONS in protective environmental isolation.

(9) Reheating, as specified under 03527(1), may not be used for improperly marked FOOD.

PART 4: EQUIPMENT, UTENSILS AND LINENS

Subpart A - Materials for Construction and Repair

04100 Multiuse--Characteristics (FDA Food Code 4-101.11).

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 must be:

(1) Safe;

(2) Durable, CORROSION-RESISTANT, and nonabsorbent;

(3) Sufficient in weight and thickness to withstand repeated WAREWASHING;

(4) Finished to have a SMOOTH, EASILY CLEANABLE surface; and

(5) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

04105 Multiuse--Cast iron, use limitation (FDA Food Code 4-101.12).

(1) Except as specified in subsections (2) and (3) of this section, cast iron may not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT.

(2) Cast iron may be used as a surface for cooking.

(3) 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.

04110 Multiuse--Lead in ceramic, china, and crystal utensils, use limitation (FDA Food Code 4-101.13).

(1) Ceramic, china, crystal UTENSILS, and decorative UTENSILS such as hand painted ceramic or china that are used in contact with FOOD must be lead-free or contain levels of lead not exceeding the limits of the following UTENSIL categories:

UTENSIL Category	Description	Maximum Lead MG/L
BEVERAGE Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls ≥ 1.1 L (1.16 Quart)	1
Small Hollowware (excluding cups and mugs)	Bowls < 1.1 L (1.16 Quart)	2.0
Flat TABLEWARE	Plates, Saucers	3.0

(2) Pewter alloys containing lead in excess of 0.05% may not be used as a FOOD-CONTACT SURFACE.

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

04115 Multiuse--Copper, use limitation (FDA Food Code 4-101.14).

(1) Except as specified in subsection (2) of this section, copper and copper alloys such as brass may not be used in contact with a FOOD that has a pH below six such as vinegar, fruit JUICE, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(2) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six in the prefermentation steps of a beer brewing operation such as a brewpub or microbrewery.

04120 Multiuse--Galvanized metal, use limitation (FDA Food Code 4-101.15).

Galvanized metal may not be used for UTENSILS or FOOD-CONTACT SURFACES of EQUIPMENT that are used in contact with acidic FOOD.

04125 Multiuse--Sponges, use limitation (FDA Food Code 4-101.16).

Sponges may not be used in contact with cleaned and SANITIZED or in-use FOOD-CONTACT SURFACES.

04130 Multiuse--Wood, use limitation (FDA Food Code 4-101.17).

(1) Except as specified in subsections (2), (3), and (4) of this section, wood and wood wicker may not be used as a FOOD-CONTACT SURFACE.

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

(a) Cutting boards; cutting blocks; baker's tables; serving surfaces; and UTENSILS such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(b) Wooden paddles used in confectionary operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.

(3) 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.

(4) 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:

(a) Untreated wood containers; or

(b) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 C.F.R. 178.3800 Preservatives for Wood.

04135 Multiuse--Nonstick coatings, use limitation (FDA Food Code 4-101.18).

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

04140 Multiuse--Nonfood-contact surfaces (FDA Food Code 4-101.19).

NonFOOD-CONTACT SURFACES of EQUIPMENT that are exposed to splash, spillage, or other FOOD soiling or that require frequent cleaning must be constructed of a CORROSION-RESISTANT, nonabsorbent, and SMOOTH material.

04145 Single-service and single-use--Characteristics (FDA Food Code 4-102.11).

Materials that are used to make SINGLE-SERVICE and SINGLE-USE ARTICLES:

(1) May not:

(a) Allow the migration of deleterious substances; or

(b) Impart colors, odors, or tastes to FOOD; and

(2) Must be:

(a) Safe; and

(b) Clean.

Subpart B - Design and Construction

04200 Durability and strength--Equipment and utensils (FDA Food Code 4-201.11).

EQUIPMENT and UTENSILS must be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

04202 Durability and strength--Food temperature measuring devices (FDA Food Code 4-201.12).

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.

04204 Cleanability--Food-contact surfaces (FDA Food Code 4-202.11).

(1) Multiuse FOOD-CONTACT SURFACES must be:

(a) SMOOTH;

(b) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;

(c) Free of sharp internal angles, corners, and crevices;

(d) Finished to have SMOOTH welds and joints; and

(e) Except as specified in subsection (2) of this section, accessible for cleaning and inspection by one of the following methods:

(i) Without being disassembled;

(ii) By disassembling without the use of tools; or

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

(2) Subsection (1)(e) of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or BEVERAGE syrup lines or tubes.

04206 Cleanability--CIP equipment (FDA Food Code 4-202.12).

(1) CIP EQUIPMENT must meet the characteristics specified under 04204 and must be designed and constructed so that:

(a) Cleaning and SANITIZING solutions circulate throughout a fixed system and contact all interior FOOD-CONTACT SURFACES; and

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

(2) CIP EQUIPMENT that is not designed to be disassembled for cleaning must be designed with inspection access points to ensure that all interior FOOD-CONTACT SURFACES throughout the fixed system are being effectively cleaned.

04208 Cleanability--"V" threads, use limitation (FDA Food Code 4-202.13).

except for hot oil cooking or filtering EQUIPMENT, "V" type threads may not be used on FOOD-CONTACT SURFACES.

04210 Cleanability--Hot oil filtering equipment (FDA Food Code 4-202.14).

Hot oil filtering EQUIPMENT must meet the characteristics specified under 04204 or 04206 and must be readily accessible for filter replacement and cleaning of the filter.

04212 Cleanability--Can openers (FDA Food Code 4-202.15).

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

04214 Cleanability--Nonfood-contact surfaces (FDA Food Code 4-202.16).

Non-FOOD-CONTACT SURFACES must be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

04216 Cleanability--Kick plates, removable (FDA Food Code 4-202.17).

Kick plates must be designed so that the areas behind them are accessible for inspection and cleaning by being:

(1) Removable by one of the methods specified under 04204 (1)(e) or capable of being rotated open; and

(2) Removable or capable of being rotated open without unlocking EQUIPMENT doors.

04218 Cleanability--Ventilation hood systems, filters (FDA Food Code 4-202.18).

Filters or other grease extracting EQUIPMENT must be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

04220 Accuracy--temperature measuring devices, food (FDA Food Code 4-203.11).

(1) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit must be accurate to ± 1°C in the intended range of use.

(2) FOOD TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit must be accurate to ± 2°F in the intended range of use.

04222 Accuracy--Temperature measuring devices, ambient (FDA Food Code 4-203.12).

(1) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled in Celsius or dually scaled in Celsius and Fahrenheit must be designed to be easily readable and accurate to ± 1.5°C in the intended range of use.

(2) Ambient air and water TEMPERATURE MEASURING DEVICES that are scaled only in Fahrenheit must be accurate to ± 3°F in the intended range of use.

04224 Accuracy--Pressure measuring devices, mechanical warewashing equipment (FDA Food Code 4-203.13).

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water SANITIZING rinse must have increments of one pound per square inch (seven kilopascals) or smaller and must be accurate to ± two pounds per square inch (± 14 kilopascals) in the range indicated on the manufacturer's data plate.

04226 Functionality--Ventilation hood systems, drip prevention (FDA Food Code 4-204.11).

Exhaust ventilation hood systems in FOOD preparation and WAREWASHING areas including components such as hoods, fans, guards, and ducting must be designed to prevent grease or condensation from draining or dripping onto FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

04228 Functionality--Equipment openings, closures and deflectors (FDA Food Code 4-204.12).

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

(2) An opening located within the top of a unit of EQUIPMENT that is designed for use with a cover or lid must be flanged upward at least two-tenths of an inch (five millimeters).

(3) Except as specified under subsection (4) of this section, fixed piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending into the EQUIPMENT must be provided with a watertight joint at the point where the item enters the EQUIPMENT.

(4) If a watertight joint is not provided:

(a) The piping, TEMPERATURE MEASURING DEVICES, rotary shafts, and other parts extending through the openings must be equipped with an apron designed to deflect condensation, drips, and dust from openings into the FOOD; and

(b) The opening must be flanged as specified under subsection (2) of this section.

04230 Functionality--Dispensing equipment, protection of equipment and food (FDA Food Code 4-204.13).

In EQUIPMENT that dispenses or vends liquid FOOD or ice that is not in a PACKAGED form:

(1) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the FOOD must 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;

(2) The delivery tube, chute and orifices must be protected from manual contact such as by being recessed;

(3) The delivery tube or chute and orifice of EQUIPMENT used to vend liquid FOOD or ice in unPACKAGED form to self-service CONSUMERS must 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:

(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; and

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

(5) 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 03525(1) must:

(a) Be specifically designed and equipped to maintain the commercial sterility of aseptically PACKAGED FOOD in a homogenous liquid form for a specified duration from the time of opening the packaging within the EQUIPMENT; and

(b) Conform to the requirements for this EQUIPMENT as specified in NSF/ANSI 18-2006 - Manual Food and Beverage Dispensing Equipment.

04232 Functionality--Vending machine, vending stage closure (FDA Food Code 4-204.14).

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 must be equipped with a self-closing door or cover if the machine 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.

04234 Functionality--Bearings and gear boxes, leakproof (FDA Food Code 4-204.15).

EQUIPMENT containing bearings and gears that require lubricants must be designed and constructed so that the lubricant cannot leak, drip, or be forced into FOOD or onto FOOD-CONTACT SURFACES.

04236 Functionality--Beverage tubing, separation (FDA Food Code 4-204.16).

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.

04238 Functionality--Ice units, separation of drains (FDA Food Code 4-204.17).

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

04240 Functionality--Condenser unit, separation (FDA Food Code 4-204.18).

If a condenser unit is an integral component of EQUIPMENT, the condenser unit must be separated from the FOOD and FOOD storage space by a dustproof barrier.

04242 Functionality--Can openers on vending machines (FDA Food Code 4-204.19).

Cutting or piercing parts of can openers on VENDING MACHINES must be protected from manual contact, dust, insects, rodents, and other contamination.

04244 Functionality--Molluscan shellfish tanks (FDA Food Code 4-204.110).

(1) Except as specified under subsection (2) of this section, MOLLUSCAN SHELLFISH life support system display tanks may not be used to store or display shellfish that are offered for human consumption and must be conspicuously marked so that it is obvious to the CONSUMER that shellfish are for display only.

(2) MOLLUSCAN SHELLFISH life-support system display tanks that are used to store or display shellfish that are offered for human consumption must be operated and maintained in accordance with a VARIANCE granted by the REGULATORY AUTHORITY as specified under 08110 and a HACCP PLAN that:

(a) Is submitted by the PERMIT HOLDER and APPROVED as specified under 08115; and

(b) Ensures that:

(i) Water used with FISH other than MOLLUSCAN SHELLFISH does not flow into the molluscan tank;

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

(iii) The identity of the source of the SHELLSTOCK is retained as specified under 03290.

04246 Functionality--Vending machines, automatic shutoff (FDA Food Code 4-204.111).

(1) A machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must have an automatic control that prevents the machine from vending FOOD:

(a) 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 Part 3 of this chapter; and

(b) If a condition specified under (a) of this subsection occurs, until the machine is serviced and restocked with FOOD that has been maintained at temperatures specified under Part 3 of this chapter.

(2) When the automatic shutoff within a machine vending TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is activated:

(a) In a refrigerated VENDING MACHINE, the ambient temperature may not exceed 41°F (5°C) for more than thirty minutes immediately after the machine is filled, serviced, or restocked; or

(b) In a hot holding VENDING MACHINE, the ambient air temperature may not be less than 135°F (57°C) for more than one hundred twenty minutes immediately after the machine is filled, serviced, or restocked.

04248 Functionality--Temperature measuring devices (FDA Food Code 4-204.112).

(1) In a mechanically refrigerated or hot FOOD storage unit, the sensor of a TEMPERATURE MEASURING DEVICE must 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.

(2) Except as specified in subsection (3) of this section, cold or hot holding EQUIPMENT used for TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be designed to include and must 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.

(3) Subsection (2) 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.

(4) TEMPERATURE MEASURING DEVICES must be designed to be easily readable.

(5) FOOD TEMPERATURE MEASURING DEVICES and water TEMPERATURE MEASURING DEVICES on WAREWASHING machines must have a numerical scale, printed record, or digital readout in increments no greater than 2°F or 1°C in the intended range of use.

04250 Functionality--Warewashing machines, data plate operating specifications (FDA Food Code 4-204.113).

A WAREWASHING machine must be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(1) Temperatures required for washing, rinsing, and SANITIZING;

(2) Pressure required for the fresh water SANITIZING rinse unless the machine is designed to use only pumped SANITIZING rinse; and

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

04252 Functionality--Warewashing machines, internal baffles (FDA Food Code 4-204.114).

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

04254 Functionality--Warewashing machines, temperature measuring devices (FDA Food Code 4-204.115).

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

(1) In each wash and rinse tank; and

(2) As the water enters the hot water SANITIZATION final rinse manifold or in the chemical SANITIZING solution tank.

04256 Functionality--Manual warewashing equipment, heaters and baskets (FDA Food Code 4-204.116).

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

(1) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 171°F (77°C); and

(2) Provided with a rack or basket to allow complete immersion of EQUIPMENT and UTENSILS into the hot water.

04258 Functionality--Warewashing machines, automatic dispensing of detergents and sanitizers (FDA Food Code 4-204.117).

A WAREWASHING machine that is installed after adoption of this chapter by the REGULATORY AUTHORITY must be equipped to:

(1) Automatically dispense detergents and SANITIZERS; and

(2) 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.

04260 Functionality--Warewashing machines, flow pressure device (FDA Food Code 4-204.118).

(1) WAREWASHING machines that provide a fresh hot water SANITIZING rinse must 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

(2) If the flow pressure measuring device is upstream of the fresh hot water SANITIZING rinse control valve, the device must be mounted in a one-fourth inch (6.4 mm) iron pipe size (IPS) valve.

(3) Subsections (1) and (2) of this section do not apply to a machine that uses only a pumped or recirculated SANITIZING rinse.

04262 Functionality--Warewashing sinks and drainboards, self-draining (FDA Food Code 4-204.119).

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

04264 Functionality--Equipment compartments, drainage (FDA Food Code 4-204.120).

EQUIPMENT compartments that are subject to accumulation of moisture due to conditions such as condensation, FOOD or BEVERAGE drip, or water from melting ice must be sloped to an outlet that allows complete draining.

04266 Functionality--Vending machines, liquid waste products (FDA Food Code 4-204.121).

(1) VENDING MACHINES designed to store BEVERAGES that are PACKAGED in containers made from paper products must be equipped with diversion devices and retention pans or drains for container leakage.

(2) VENDING MACHINES that dispense liquid FOOD in bulk must be:

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

(b) Equipped with an automatic shutoff device that places the machine out of operation before the waste receptacle overflows.

(3) Shutoff devices specified under subsection (2)(b) of this section must 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.

04268 Functionality--Case lot handling equipment, moveability (FDA Food Code 4-204.122).

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, must be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

04270 Functionality--Vending machine doors and openings (FDA Food Code 4-204.123).

(1) VENDING MACHINE doors and access opening covers to FOOD and container storage spaces must be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch (1.5 millimeters) by:

(a) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch (1.5 millimeters). Screening of twelve mesh to one inch (twelve or more mesh to 2.5 centimeters) meets this requirement;

(b) Being effectively gasketed;

(c) Having interface surfaces that are at least one-half inch (13 mm) wide; or

(d) Jambs or surfaces used to form an L-shaped entry path to the interface.

(2) VENDING MACHINE service connection openings through an exterior wall of a machine must be closed by sealants, clamps, or grommets so that the openings are no larger than one-sixteenth inch (1.5 mm).

04272 Acceptability--Food equipment, certification and classification (FDA Food Code 4-205.10).

FOOD EQUIPMENT that is certified or classified for sanitation in conformance with a recognized American National Standards Institute (ANSI) - Accredited certification program is deemed to comply with Subparts A and B of this part.

Subpart C - Numbers and Capacities

04300 Equipment--Cooling, heating, and holding capacities (FDA Food Code 4-301.11).

EQUIPMENT for cooling and heating FOOD, and holding cold and hot FOOD, must be sufficient in number and capacity to provide FOOD temperatures as specified under Part 3.

04305 Equipment--Manual warewashing, sink compartment requirements (FDA Food Code 4-301.12).

(1) Except as specified in subsection (3) of this section, a sink with at least three compartments must be provided for manually washing, rinsing, and SANITIZING EQUIPMENT and UTENSILS.

(2) Sink compartments must 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 subsection (3) of this section must be used.

(3) Alternative manual WAREWASHING EQUIPMENT may be used when there are special cleaning needs or constraints and its use is APPROVED. Alternative manual WAREWASHING EQUIPMENT includes, but is not limited to:

(a) High-pressure detergent sprayers;

(b) Low- or line-pressure spray detergent foamers;

(c) Other task-specific cleaning EQUIPMENT;

(d) Brushes or other implements;

(e) Two-compartment sinks as specified under subsections (4) and (5) of this section; or

(f) Receptacles that substitute for the compartments of a multicompartment sink.

(4) Before a two-compartment sink is used:

(a) The PERMIT HOLDER shall have its use APPROVED; and

(b) The PERMIT HOLDER shall limit the number of KITCHENWARE items cleaned and SANITIZED in the two-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:

(i) Make up the cleaning and SANITIZING solutions immediately before use and drain them immediately after use; and

(ii) Use APPROVED procedures to properly clean and SANITIZE KITCHENWARE.

(5) A two-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.

04310 Equipment--Drainboards (FDA Food Code 4-301.13).

Drainboards, UTENSIL racks, or tables large enough to accommodate all soiled and cleaned items that might accumulate during hours of operation must be provided for necessary UTENSILS holding before cleaning and after SANITIZING.

04315 Equipment--Ventilation hood systems, adequacy (FDA Food Code 4-301.14).

Ventilation hood systems and devices must be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

04320 Equipment--Clothes washers and dryers (FDA Food Code 4-301.15).

(1) Except as specified in subsection (2) of this section, if work clothes or LINENS are laundered on the PREMISES, a mechanical clothes washer and dryer must be provided and used.

(2) If on-PREMISES laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under 04905, a mechanical clothes washer and dryer need not be provided.

04325 Equipment--Designated food preparation sinks.

FOOD ESTABLISHMENTS must have designated FOOD preparation sinks that are:

(1) Sufficient in number and size to wash, soak, rinse, drain, cool, thaw, or otherwise process any FOOD that requires placement in a sink;

(2) Appropriate for the menu, method of FOOD preparation, and volume of FOOD prepared; and

(3) Not used for handwashing, UTENSIL washing, or other activities that could contaminate FOOD.

04330 Utensils, temperature measuring devices, and testing devices--Utensils, consumer self-service (FDA Food Code 4-302.11).

A FOOD dispensing UTENSIL must be available for each container displayed at a CONSUMER self-service unit such as a buffet or salad bar.

04335 Utensils, temperature measuring devices, and testing devices--Food temperature measuring devices (FDA Food Code 4-302.12).

(1) FOOD TEMPERATURE MEASURING DEVICES must be provided and readily accessible for use in ensuring attainment and maintenance of FOOD temperatures as specified under Part 3.

(2) A TEMPERATURE MEASURING DEVICE with a suitable small-diameter probe that is designed to measure the temperature of thin masses must be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH fillets.

04340 Utensils, temperature measuring devices, and testing devices--Temperature measuring devices, manual warewashing (FDA Food Code 4-302.13).

(1) In manual WAREWASHING operations, a TEMPERATURE MEASURING DEVICE must be provided and readily accessible for frequently measuring the washing and SANITIZING temperatures.

(2) In hot water mechanical WAREWASHING operations, an irreversible registering temperature indicator must be provided and readily accessible for measuring the UTENSIL surface temperature.

04345 Utensils, temperature measuring devices, and testing devices--Sanitizing solutions, testing devices (FDA Food Code 4-302.14).

A test kit or other device that accurately measures the concentration in MG/L of SANITIZING solutions must be provided.

04350 Cleaning agents and sanitizers—Cleaning agents and sanitizers availability (FDA Food Code 4-303.11).

(1) Cleaning agents that are used to clean EQUIPMENT and UTENSILS as specified under Part 4, Subpart F of this chapter, must be provided and available for use during all hours of operation.

(2) Except for those that are generated on-site at the time of use, chemical SANITIZERS that are used to sanitize EQUIPMENT and UTENSILS as specified under Part 4, Subpart G of this chapter, must be provided and available for use during all hours of FOOD preparation.

Subpart D - Location and Installation

04400 Location--Equipment, clothes washers and dryers, and storage cabinets, contamination prevention (FDA Food Code 4-401.11).

(1) Except as specified in subsection (2) 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:

(a) In locker rooms;

(b) In toilet rooms;

(c) In garbage rooms;

(d) In mechanical rooms;

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

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

(g) Under open stairwells; or

(h) Under other sources of contamination.

(2) A storage cabinet used for LINENS or SINGLE-SERVICE or SINGLE-USE ARTICLES may be stored in a locker room.

(3) If a mechanical clothes washer or dryer is provided, it must 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.

04405 Installation--Fixed equipment, spacing or sealing (FDA Food Code 4-402.11).

(1) EQUIPMENT that is fixed because it is not EASILY MOVABLE must be installed so that it is:

(a) Spaced to allow access for cleaning along the sides, behind, and above the EQUIPMENT;

(b) Spaced from adjoining EQUIPMENT, walls, and ceilings a distance of not more than one thirty-second inch (1 mm); or

(c) SEALED to adjoining EQUIPMENT or walls, if the EQUIPMENT is exposed to spilling or seepage.

(2) COUNTER-MOUNTED EQUIPMENT that is not EASILY MOVABLE must be installed to allow cleaning of the EQUIPMENT and areas underneath and around the EQUIPMENT by being:

(a) SEALED; or

(b) Elevated on legs as specified under 04410.

04410 Installation--Fixed equipment, elevation or sealing (FDA Food Code 4-402.12).

(1) Except as specified in subsections (2) and (3) of this section, floor-mounted EQUIPMENT that is not EASILY MOVABLE must be SEALED to the floor or elevated on legs that provide at least a six inch (15 cm) clearance between the floor and the EQUIPMENT.

(2) If no part of the floor under the floor-mounted EQUIPMENT is more than six inches (15 cm) from the point of cleaning access, the clearance space may be only four inches (10 cm).

(3) 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.

(4) Except as specified in subsection (5) of this section, COUNTER-MOUNTED EQUIPMENT that is not EASILY MOVABLE must be elevated on legs that provide at least a four inch (10 cm) clearance between the table and the EQUIPMENT.

(5) The clearance space between the table and COUNTER-MOUNTED EQUIPMENT may be:

(a) Three inches (7.5 cm) if the horizontal distance of the table top under the EQUIPMENT is no more than 20 inches (50 cm) from the point of access for cleaning; or

(b) Two inches (5 cm) if the horizontal distance of the table top under the EQUIPMENT is no more than three inches (7.5 cm) from the point of access for cleaning.

Subpart E - Maintenance and Operations

04500 Equipment--Good repair and proper adjustment (FDA Food Code 4-501.11).

(1) EQUIPMENT must be maintained in a state of repair and condition that meets the requirements specified under Part 4, Subpart A and Part 4, Subpart B of this chapter.

(2) EQUIPMENT components such as doors, seals, hinges, fasteners, and kick plates must be kept intact, tight, and adjusted in accordance with the manufacturer's specifications.

(3) Cutting or piercing parts of can openers must be replaced as needed to minimize the creation of metal fragments that can contaminate FOOD when the container is opened.

04505 Equipment--Cutting surfaces (FDA Food Code 4-501.12).

Surfaces such as cutting blocks and boards that are subject to scratching and scoring must be resurfaced if they can no longer be effectively cleaned and SANITIZED, or discarded if they are not capable of being resurfaced.

04510 Equipment--Microwave ovens (FDA Food Code 4-501.13).

Microwave ovens must meet the safety standards specified in 21 C.F.R. 1030.10 Microwave Ovens.

04515 Equipment--Warewashing equipment, cleaning frequency (FDA Food Code 4-501.14).

A WAREWASHING machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing EQUIPMENT, UTENSILS, or raw FOODS, or laundering wiping cloths; and drainboards or other EQUIPMENT used to substitute for drainboards as specified under 04310 must be cleaned:

(1) Before use;

(2) 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

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

04520 Equipment--Warewashing machines, manufacturer's operating instructions (FDA Food Code 4-501.15).

(1) A WAREWASHING machine and its auxiliary components must be operated in accordance with the machine's data plate and other manufacturer's instructions.

(2) A WAREWASHING machine's conveyor speed or automatic cycle times must be maintained accurately timed in accordance with manufacturer's specifications.

04525 Equipment--Warewashing sinks, use limitation (FDA Food Code 4-501.16).

(1) A WAREWASHING sink may not be used for handwashing as specified under 02315.

(2) If a WAREWASHING sink is used to wash wiping cloths, wash produce, or thaw FOOD, the sink must be cleaned as specified under 04515 before and after each time it is used to wash wiping cloths or wash produce or thaw FOOD. Sinks used to wash or thaw FOOD must be SANITIZED as specified under subpart G of this part before and after using the sink to wash produce or thaw FOOD.

04530 Equipment--Warewashing equipment, cleaning agents (FDA Food Code 4-501.17).

When used for WAREWASHING, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual WAREWASHING EQUIPMENT as specified under 04305(3), must 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.

04535 Equipment--Warewashing equipment, clean solutions (FDA Food Code 4-501.18).

The wash, rinse and SANITIZE solutions must be maintained clean.

04540 Equipment--Manual warewashing equipment, wash solution temperature (FDA Food Code 4-501.19).

The temperature of the wash solution in manual WAREWASHING EQUIPMENT must be maintained at not less than 110°F (43°C) or the temperature specified on the cleaning agent manufacturer's label instructions.

04545 Equipment--Mechanical warewashing equipment, wash solution temperature (FDA Food Code 4-501.110).

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

(a) For a stationary rack, single temperature machine, 165°F (74°C);

(b) For a stationary rack, dual temperature machine, 150°F (66°C);

(c) For a single tank, conveyor, dual temperature machine, 160°F (71°C);

(d) For a multitank, conveyor, multitemperature machine, 150°F (66°C).

(2) The temperature of the wash solution in spray-type warewashers that use chemicals to SANITIZE may not be less than 120°F (49°C).

04550 Equipment--Manual warewashing equipment, hot water sanitization temperature (FDA Food Code 4-501.111).

If immersion in hot water is used for SANITIZING in a manual operation, the temperature of the water must be maintained at 171°F (77°C) or above.

04555 Equipment--Mechanical warewashing equipment, hot water sanitization temperatures (FDA Food Code 4-501.112).

(1) Except as specified in subsection (2) 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 194°F (90°C) or less than:

(a) For a stationary rack, single temperature machine, 165°F (74°C); or

(b) For all other machines, 180°F (82°C).

(2) The maximum temperature specified under subsection (1) 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.

04560 Equipment--Mechanical warewashing equipment, sanitization pressure (FDA Food Code 4-501.113).

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, must be within the range specified on the machine manufacturer's data plate and may not be less than five pounds per square inch (35 kilopascals) or more than thirty pounds per square inch (200 kilopascals).

04565 Equipment--Manual and mechanical warewashing equipment, chemical sanitization--Temperature, pH, concentration, and hardness (FDA Food Code 4-501.114).

A chemical SANITIZER used in a SANITIZING solution for a manual or mechanical operation at contact times specified under 04710(3) must meet the requirements specified under 07220, must be used in accordance with the EPA-registered label use instructions, and must be used as follows:

(1) A chlorine solution must have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Concentration Range	Minimum Temperature	
mg/L	pH 10 or less	pH 8 or less
25-49	120°F (49°C)	120°F (49°C)
50-99	100°F (38°C)	75°F (24°C)
100	55°F (13°C)	55°F (13°C)

(2) An iodine solution must have a:

(a) Minimum temperature of 68°F (20°C);

(b) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective; and

(c) Concentration between 12.5 MG/L and 25 MG/L.

(3) A quaternary ammonium compound solution must:

(a) Have a minimum temperature of 75°F (24°C);

(b) Have a concentration as specified under 07220 and as indicated by the manufacturer's use directions included in the labeling; and

(c) 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;

(4) If another solution of a chemical specified under subsections (1) through (3) of this section is used, the PERMIT HOLDER shall demonstrate to the REGULATORY AUTHORITY that the solution achieves SANITIZATION and the use of the solution must be APPROVED;

(5) If a chemical SANITIZER other than chlorine, iodine, or a quaternary ammonium compound is used, it must be applied in accordance with the EPA-registered label use instructions; or

(6) If a chemical SANITIZER is generated by a device located onsite at the FOOD ESTABLISHMENT, it must be used as specified in subsections (1) through (4) of this section and must be produced by a device that:

(a) Complies with regulation as specified in sections 2(q)(1) and (12) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);

(b) Complies with 40 C.F.R. 152.500 Requirement for Devices and 40 C.F.R. 156.10 Labeling Requirements;

(c) Displays the EPA device manufacturing facility registration number on the device; and

(d) Is operated and maintained in accordance with manufacturer's instructions.

04570 Equipment--Manual warewashing equipment, chemical sanitization using detergent-sanitizers (FDA Food Code 4-501.115).

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 must be the same detergent-SANITIZER that is used in the washing step.

04575 Equipment--Warewashing equipment, determining chemical sanitizer concentration (FDA Food Code 4-501.116).

Concentration of the SANITIZING solution must be accurately determined by using a test kit or other device.

04580 Utensils and temperature and pressure measuring devices--Good repair and calibration (FDA Food Code 4-502.11).

(1) UTENSILS must be maintained in a state of repair or condition that complies with the requirements specified under Part 4, Subparts A and B, or must be discarded.

(2) FOOD TEMPERATURE MEASURING DEVICES must be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(3) Ambient air temperature, water pressure, and water TEMPERATURE MEASURING DEVICES must be maintained in good repair and be accurate within the intended range of use.

04585 Utensils and temperature and pressure measuring devices--Single-service and single-use articles, required use (FDA Food Code 4-502.12).

A FOOD ESTABLISHMENT without facilities specified under Part 4, Subparts F and G of this chapter for cleaning and SANITIZING KITCHENWARE and TABLEWARE must 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.

04590 Utensils and temperature and pressure measuring devices--Single-service and single-use articles, use limitation (FDA Food Code 4-502.13).

(1) SINGLE-SERVICE and SINGLE-USE ARTICLES may not be reused.

(2) The bulk milk container dispensing tube must be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

04595 Utensils and temperature and pressure measuring devices--Shells, use limitation (FDA Food Code 4-502.14).

Mollusk and crustacea shells may not be used more than once as serving containers.

Subpart F - Cleaning of Equipment and Utensils

04600 Objective--Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils (FDA Food Code 4-601.11).

(1) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS must be clean to sight and touch.

(2) The FOOD-CONTACT SURFACES of cooking EQUIPMENT and pans must be kept free of encrusted grease deposits and other soil accumulations.

(3) Non-FOOD-CONTACT SURFACES of EQUIPMENT must be kept free of an accumulation of dust, dirt, FOOD residue, and other debris.

04605 Objective--Equipment food-contact surfaces and utensils (FDA Food Code 4-602.11).

(1) Equipment food-contact surfaces and utensils must be cleaned:

(a) Except as specified in subsection (2) of this section, before each use with a different type of raw animal FOOD such as beef, FISH, lamb, pork, or POULTRY;

(b) Each time there is a change from working with raw FOODS to working with READY-TO-EAT FOODS;

(c) Between uses with raw fruits and vegetables and with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(d) Before using or storing a FOOD TEMPERATURE MEASURING DEVICE; and

(e) At any time during the operation when contamination might have occurred.

(2) Subsection (1)(a) 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 03400 than the previous type.

(3) Except as specified in subsection (4) of this section, if used with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS must be cleaned throughout the day at least every four hours.

(4) Surfaces of UTENSILS and EQUIPMENT contacting TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be cleaned less frequently than every four hours if:

(a) In storage, containers of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and their contents are maintained at temperatures specified under Part 3 and the containers are cleaned when they are empty;

(b) 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:

(i) The UTENSILS and EQUIPMENT are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
41°F or less (5.0°C or less)	24 hours
> 41°F - 45°F (> 5.0°C - 7.2°C)	20 hours
> 45°F - 50°F (> 7.2°C - 10.0°C)	16 hours
> 50°F - 55°F (> 10.0°C - 12.8°C)	10 hours

(ii) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the FOOD ESTABLISHMENT.

(c) 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 Part 3, are intermittently combined with additional supplies of the same FOOD that is at the required temperature, and the containers are cleaned every twenty-four hours;

(d) 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 Part 3;

(e) 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;

(f) The cleaning schedule is APPROVED based on consideration of:

(i) Characteristics of the EQUIPMENT and its use;

(ii) The type of FOOD involved;

(iii) The amount of FOOD residue accumulation; and

(iv) 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

(g) In-use UTENSILS are intermittently stored in a container of water in which the water is maintained at 135°F (57°C) or more or 41°F (5°C) or less and the UTENSILS and container are cleaned at least every twenty-four hours or at a frequency necessary to preclude accumulation of soil residues.

(5) Except when dry cleaning methods are used as specified under 04620, surfaces of UTENSILS and EQUIPMENT contacting FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be cleaned:

(a) At any time when contamination might have occurred;

(b) At least every twenty-four hours for iced tea dispensers and CONSUMER self-service UTENSILS such as tongs, scoops, or ladles;

(c) Before restocking CONSUMER self-service EQUIPMENT and UTENSILS such as condiment dispensers and display containers; and

(d) 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:

(i) At a frequency specified by the manufacturer; or

(ii) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

04610 Objective--Cooking and baking equipment (FDA Food Code 4-602.12).

(1) The FOOD-CONTACT SURFACES of cooking and baking EQUIPMENT must be cleaned at least every twenty-four hours. This section does not apply to hot oil cooking and filtering EQUIPMENT if it is cleaned as specified under 04605 (4)(f).

(2) The cavities and door seals of microwave ovens must be cleaned at least every twenty-four hours by using the manufacturer's recommended cleaning procedure.

04615 Objective--Nonfood-contact surfaces (FDA Food Code 4-602.13).

Non-FOOD-CONTACT SURFACES of EQUIPMENT must be cleaned at a frequency necessary to preclude accumulation of soil residues.

04620 Methods--Dry cleaning (FDA Food Code 4-603.11).

(1) If used, dry cleaning methods such as brushing, scraping, and vacuuming may only contact surfaces that are soiled with dry FOOD residues that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(2) Cleaning EQUIPMENT used in dry cleaning FOOD-CONTACT SURFACES may not be used for any other purpose.

04625 Methods--Precleaning (FDA Food Code 4-603.12).

(1) FOOD debris on EQUIPMENT and UTENSILS must be scraped over a waste disposal unit or garbage receptacle or must be removed in a WAREWASHING machine with a prewash cycle.

(2) If necessary for effective cleaning, UTENSILS and EQUIPMENT must be preflushed, presoaked, or scrubbed with abrasives.

04630 Methods--Loading of soiled items, warewashing machines (FDA Food Code 4-603.13).

Soiled items to be cleaned in a WAREWASHING machine must be loaded into racks, trays, or baskets or onto conveyors in a position that:

(1) Exposes the items to the unobstructed spray from all cycles; and

(2) Allows the item to drain.

04635 Methods--Wet cleaning (FDA Food Code 4-603.14).

(1) EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS must 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.

(2) The washing procedures selected must be based on the type and purpose of the EQUIPMENT or UTENSIL, and on the type of soil to be removed.

04640 Methods--Washing, procedures for alternative manual warewashing equipment (FDA Food Code 4-603.15).

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 must be done by using alternative manual WAREWASHING EQUIPMENT as specified under 04305(3) in accordance with the following procedures:

(1) EQUIPMENT must be disassembled as necessary to allow access of the detergent solution to all parts;

(2) EQUIPMENT components and UTENSILS must be scraped or rough cleaned to remove FOOD particle accumulation; and

(3) EQUIPMENT and UTENSILS must be washed as specified under 04635(1).

04645 Methods--Rinsing procedures (FDA Food Code 4-603.16).

Washed UTENSILS and EQUIPMENT must 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:

(1) Use of a distinct, separate water rinse after washing and before SANITIZING if using:

(a) A three-compartment sink;

(b) Alternative manual WAREWASHING EQUIPMENT equivalent to a three-compartment sink as specified under 04305(3); or

(c) A three-step washing, rinsing, and SANITIZING procedure in a WAREWASHING system for CIP EQUIPMENT;

(2) Use of a detergent-SANITIZER as specified under 04570 if using:

(a) Alternative WAREWASHING EQUIPMENT as specified under 04305(3) that is APPROVED for use with a detergent-SANITIZER; or

(b) A WAREWASHING system for CIP EQUIPMENT;

(3) Use of a nondistinct water rinse that is integrated in the hot water SANITIZATION immersion step of a two-compartment sink operation;

(4) If using a WAREWASHING machine that does not recycle the SANITIZING solution as specified under subsection (5) of this section, or alternative manual WAREWASHING EQUIPMENT such as sprayers, use of a nondistinct water rinse that is:

(a) Integrated in the application of the SANITIZING solution; and

(b) Wasted immediately after each application; or

(5) 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.

Subpart G - Sanitization of Equipment and Utensils

04700 Objective--Food-contact surfaces and utensils (FDA Food Code 4-701.10).

EQUIPMENT food-contact surfaces and utensils must be sanitized.

04705 Frequency--Before use after cleaning (FDA Food Code 4-702.11).

Utensils and food-contact surfaces of EQUIPMENT must be sanitized before use after cleaning.

04710 Methods--Hot water and chemical (FDA Food Code 4-703.11).

After being cleaned, EQUIPMENT food-contact surfaces and utensils must be sanitized in:

(1) Hot water manual operations by immersion for at least thirty seconds and as specified under 04550;

(2) Hot water mechanical operations by being cycled through EQUIPMENT that is set up as specified under 04520, 04555, and 04560 and achieving a UTENSIL surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator; or

(3) 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 04565. Contact times must be consistent with those on EPA-registered label use instructions by providing:

(a) Except as specified under (b) of this subsection, a contact time of at least ten seconds for a chlorine solution specified under 04565(1);

(b) A contact time of at least seven seconds for a chlorine solution of 50 MG/L that has a pH of ten or less and a temperature of at least 100°F (38°C) or a pH of eight or less and a temperature of at least 75°F (24°C);

(c) A contact time of at least thirty seconds for other chemical SANITIZING solutions; or

(d) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields SANITIZATION as defined in 01115.

Subpart H - Laundering

04800 Objective--Clean linens (FDA Food Code 4-801.11).

Clean LINENS must be free from FOOD residues and other soiling matter.

04805 Frequency--Specifications (FDA Food Code 4-802.11).

(1) LINENS that do not come in direct contact with FOOD must be laundered between operations if they become wet, sticky, or visibly soiled.

(2) Cloth gloves used as specified under 03342(4) must be laundered before being used with a different type of raw animal FOOD such as beef, FISH, lamb, pork, or POULTRY.

(3) LINENS and napkins that are used as specified under 03336 and cloth napkins must be laundered between each use.

(4) Wet wiping cloths must be laundered daily.

(5) Dry wiping cloths must be laundered as necessary to prevent contamination of FOOD and clean serving UTENSILS.

04810 Methods--Storage of soiled linens (FDA Food Code 4-803.11).

Soiled LINENS must 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.

04815 Methods--Mechanical washing (FDA Food Code 4-803.12).

(1) Except as specified in subsection (2) of this section, LINENS must be mechanically washed.

(2) In FOOD ESTABLISHMENTS in which only wiping cloths are laundered as specified under 04320(2), 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 04515.

04820 Methods--Use of laundry facilities (FDA Food Code 4-803.13).

(1) Except as specified in subsection (2) of this section, laundry facilities on the PREMISES of a FOOD ESTABLISHMENT must be used only for the washing and drying of items used in the operation of the establishment.

(2) 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.

Subpart I - Protection of Clean Items

04900 Drying--Equipment and utensils, air-drying required (FDA Food Code 4-901.11).

After cleaning and SANITIZING, EQUIPMENT and UTENSILS:

(1) Must be air-dried or used after adequate draining as specified in the first paragraph of 40 C.F.R. 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (FOOD-CONTACT SURFACE SANITIZING solutions), before contact with FOOD; and

(2) May not be cloth-dried except that UTENSILS that have been air-dried may be polished with cloths that are maintained clean and dry.

04905 Drying--Wiping cloths, air drying locations (FDA Food Code 4-901.12).

Wiping cloths laundered in a FOOD ESTABLISHMENT that does not have a mechanical clothes dryer as specified under 04320(2) must 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 04565.

04910 Lubricating and reassembling--Food-contact surfaces (FDA Food Code 4-902.11).

Lubricants as specified under 07240 must be applied to FOOD-CONTACT SURFACES that require lubrication in a manner that does not contaminate FOOD-CONTACT SURFACES.

04915 Lubricating and reassembling--Equipment (FDA Food Code 4-902.12).

EQUIPMENT must be reassembled so that FOOD-CONTACT SURFACES are not contaminated.

04920 Storing--Equipment, utensils, linens, and single-service and single-use articles (FDA Food Code 4-903.11).

(1) Except as specified in subsection (4) of this section, cleaned EQUIPMENT, UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES must be stored:

(a) In a clean, dry location;

(b) Where they are not exposed to splash, dust, or other contamination; and

(c) At least six inches (15 cm) above the floor.

(2) Clean EQUIPMENT and UTENSILS must be stored as specified under subsection (1) of this section and must be stored:

(a) In a self-draining position that allows air drying; and

(b) Covered or inverted.

(3) SINGLE-SERVICE and SINGLE-USE ARTICLES must be stored as specified under subsection (1) of this section and must be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(4) Items that are kept in closed packages may be stored less than six inches (15 cm) above the floor on dollies, pallets, racks, and skids that are designed as specified under 04268.

04925 Storing--Prohibitions (FDA Food Code 4-903.12).

(1) Except as specified in subsection (2) of this section, cleaned and SANITIZED EQUIPMENT, UTENSILS, laundered LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES may not be stored:

(a) In locker rooms;

(b) In toilet rooms;

(c) In garbage rooms;

(d) In mechanical rooms;

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

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

(g) Under open stairwells; or

(h) Under other sources of contamination.

(2) 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.

04930 Preventing contamination--Kitchenware and tableware (FDA Food Code 4-904.11).

(1) SINGLE-SERVICE and SINGLE-USE ARTICLES and cleaned and SANITIZED UTENSILS must be handled, displayed, and dispensed so that contamination of FOOD-and lip-contact surfaces is prevented.

(2) Knives, forks and spoons that are not prewrapped must be presented so that only the handles are touched by EMPLOYEES and by CONSUMERS if CONSUMER self-service is provided.

(3) Except as specified under subsection (2) of this section, SINGLE-SERVICE ARTICLES that are intended for FOOD- or lip-contact must be furnished for CONSUMER self-service with the original individual wrapper intact or from an APPROVED dispenser.

04935 Preventing contamination--Soiled and clean tableware (FDA Food Code 4-904.12).

Soiled TABLEWARE must be removed from CONSUMER eating and drinking areas and handled so that clean TABLEWARE is not contaminated.

04940 Preventing contamination--Preset tableware (FDA Food Code 4-904.13).

(1) Except as specified in subsection (2) of this section, TABLEWARE that is preset must be protected from contamination by being wrapped, covered, or inverted;

(2) Preset TABLEWARE may be exposed if:

(a) Unused settings are removed when a CONSUMER is seated; or

(b) Settings not removed when a CONSUMER is seated are cleaned and SANITIZED before further use.

04945 Preventing contamination--Rinsing equipment and utensils after cleaning and sanitizing (FDA Food Code 4-904.14).

After being cleaned and SANITIZED, EQUIPMENT and UTENSILS may not be rinsed before air drying or use unless:

(1) The rinse is applied directly from a potable water supply by a WAREWASHING machine that is maintained and operated as specified under 04226 through 04270 and 04500 through 04575; and

(2) 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.

PART 5: WATER, PLUMBING AND WASTE

Subpart A - Water

05100 Source--Approved system (FDA Food Code 5-101.11).

DRINKING WATER must be obtained from an APPROVED source that is a PUBLIC WATER SYSTEM.

05105 Source--System flushing and disinfection (FDA Food Code 5-101.12).

A DRINKING WATER system must be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that might introduce contaminants into the system.

05110 Quality--Bottled drinking water (FDA Food Code 5-101.13).

BOTTLED DRINKING WATER used or sold for FOOD service must be obtained from APPROVED sources in accordance with 21 C.F.R. 129 - Processing and Bottling of Bottled Drinking Water and chapters 246-290 and 246-291 WAC.

05115 Quality--Standards (FDA Food Code 5-102.11).

Water used in FOOD ESTABLISHMENTS must meet DRINKING WATER quality standards in accordance with chapters 246-290 and 246-291 WAC, except as specified under 05120.

05120 Quality--Nondrinking water (FDA Food Code 5-102.12).

(1) A nonDRINKING WATER supply must be used only if its use is APPROVED.

(2) NonDRINKING WATER must be used only for nonculinary purposes such as air conditioning, nonFOOD EQUIPMENT cooling, fire protection and irrigation of nonFOOD landscape foliage.

05125 Quality--Sampling (FDA Food Code 5-102.13).

Except when used as specified under 05120, water from a nonPUBLIC WATER SYSTEM must be sampled and tested at least annually and as required by state water quality regulations.

05130 Quantity and availability--Sample report (FDA Food Code 5-102.14).

The most recent sample report for the nonPUBLIC WATER SYSTEM must be retained on file in the FOOD ESTABLISHMENT or the report must be maintained as specified by state water quality regulations.

05135 Quantity and availability--Capacity (FDA Food Code 5-103.11).

(1) The water source and system must be of sufficient capacity to meet the peak water demands of the FOOD ESTABLISHMENT.

(2) Hot water generation and distribution systems must be sufficient to meet the peak hot water demands throughout the FOOD ESTABLISHMENT.

05140 Distribution, delivery and retention--Pressure (FDA Food Code 5-103.12).

Water under pressure must be provided to all fixtures, EQUIPMENT, and nonFOOD EQUIPMENT that are required to use water except that water supplied as specified under 05150 (1) and (2) to a TEMPORARY FOOD ESTABLISHMENT or in response to a temporary interruption of a water supply need not be under pressure.

05145 Distribution, delivery and retention--System (FDA Food Code 5-104.11).

Water must be received from the source through the use of:

(1) An APPROVED public water main; or

(2) One or more of the following that must be constructed, maintained, and operated according to LAW:

(a) Nonpublic water main, water pumps, pipes, hoses, connections and other appurtenances;

(b) Water transport vehicles; and

(c) Water containers.

05150 Distribution, delivery and retention--Alternate water supply (FDA Food Code 5-104.12).

Water meeting the requirements specified under Part 5, Subpart A must 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:

(1) A supply of containers of commercially BOTTLED DRINKING WATER;

(2) One or more closed portable water containers;

(3) An enclosed vehicular water tank;

(4) An on-PREMISES water storage tank; or

(5) Piping, tubing, or hoses connected to an adjacent APPROVED source.

Subpart B - Plumbing System

05200 Materials--Approved (FDA Food Code 5-201.11).

(1) A PLUMBING SYSTEM and hoses conveying water must be constructed and repaired with APPROVED materials according to LAW.

(2) A water filter must be made of SAFE MATERIALS.

05205 Design, construction and installation--Approved system and cleanable fixtures (FDA Food Code 5-202.11).

(1) A PLUMBING SYSTEM must be designed, constructed, and installed according to LAW.

(2) A PLUMBING FIXTURE such as a handwash sink, toilet or urinal must be EASILY CLEANABLE.

05210 Design, construction and installation--Handwashing facility, installation (FDA Food Code 5-202.12).

(1) A HANDWASHING SINK must be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet.

(2) A steam mixing valve may not be used at a handwash sink.

(3) A self-closing, slow closing or metering faucet must provide a flow of water for at least fifteen seconds without the need to reactivate the faucet.

(4) An automatic handwashing facility must be installed in accordance with manufacturer's instructions.

(5) HANDWASHING SINKS in FOOD ESTABLISHMENTS must be adequately sized to allow a FOOD EMPLOYEE to wash both hands simultaneously.

(6) FOOD EMPLOYEES offering FOOD samples, such as FOOD demonstrators , may have HANDWASHING SINKS that meet the TEMPORARY FOOD ESTABLISHMENT requirements in 09225 if not handling raw MEAT, FISH or POULTRY.

05215 Design, construction and installation--Backflow prevention, air gap (FDA Food Code 5-202.13).

An air gap between the DRINKING WATER supply inlet and the flood level rim of the PLUMBING FIXTURES or EQUIPMENT, meet the definition of an APPROVED air gap in WAC 246-290-010.

05220 Design, construction and installation--Backflow prevention device, design standard (FDA Food Code 5-202.14).

A backflow or backsiphonage prevention device installed on a water supply system must meet standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device in accordance with WAC 246-290-490 and 51-56-0600.

05225 Design, construction and installation--Conditioning device, design (FDA Food Code 5-202.15).

A water filter, screen and other water conditioning device installed on water lines must be designed to facilitate disassembly for periodic service and cleaning. A water filter element must be of the replaceable type.

05230 Numbers and capacities--Handwashing sinks (FDA Food Code 5-203.11).

(1) Except as specified in subsection (2) of this section, at least one HANDWASHING SINK, a number of HANDWASHING SINKS necessary for their convenient use by EMPLOYEES in areas specified under 05255, and not fewer than the number of HANDWASHING SINKS required by LAW must be provided.

(2) If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, automatic handwashing facilities may be substituted for HANDWASHING SINKS in a FOOD ESTABLISHMENT that has at least one HANDWASHING SINK.

05235 Numbers and capacities--Toilets and urinals (FDA Food Code 5-203.12).

(1) At least one toilet and not fewer than the toilets required by LAW must be provided. If authorized by LAW and urinals are substituted for toilets, the substitution must be done as specified by LAW.

(2) Except as specified under 09150, the FOOD ESTABLISHMENT PERMIT HOLDER shall ensure that toilet rooms are conveniently located within 200 feet of the FOOD ESTABLISHMENT and accessible to EMPLOYEES during all hours of operation.

(3) The FOOD ESTABLISHMENT PERMIT HOLDER shall ensure that toilet rooms are conveniently located and accessible to patrons during all hours of operation if:

(a) The establishment has customer seating for on-PREMISES consumption; and

(b) The establishment was constructed or extensively remodeled after May 1, 1992.

(4) Toilet rooms in FOOD ESTABLISHMENTS may be used jointly by patrons and EMPLOYEES, provided patrons accessing the toilet rooms are excluded from FOOD preparation areas and FOOD storage areas with FOOD that is not PACKAGED.

05240 Numbers and capacities--Service sink (FDA Food Code 5-203.13).

(1) At least one service sink or one curbed cleaning facility equipped with a floor drain must 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.

(2) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

05245 Numbers and capacities--Backflow prevention device, when required (FDA Food Code 5-203.14).

A PLUMBING SYSTEM must be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the FOOD ESTABLISHMENT, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by LAW, by:

(1) Providing an air gap as specified under 05215; or

(2) Installing an APPROVED backflow prevention device as specified under 05220.

05250 Numbers and capacities--Backflow prevention, carbonator.

Backflow prevention systems for carbonators must be installed as specified under WAC 51-56-0600, Chapter 6 – water supply and distribution.

05255 Location and placement--Handwashing sinks (FDA Food Code 5-204.11).

A HANDWASHING SINK must be located:

(1) To allow convenient use by EMPLOYEES;

(2) Within twenty-five feet, or as APPROVED, of FOOD preparation, FOOD dispensing, and WAREWASHING areas; and

(3) In, or immediately adjacent to, toilet rooms.

05260 Location and placement--Backflow prevention device (FDA Food Code 5-204.12).

A backflow prevention device must be located so that it can be serviced and maintained.

05265 Location and placement--Conditioning device (FDA Food Code 5-204.13).

A water filter, screen, and other water conditioning device installed on water lines must be located to facilitate disassembly for periodic servicing and cleaning.

05270 Operation and maintenance--Using a handwashing sink (FDA Food Code 5-205.11).

(1) A HANDWASHING SINK must be maintained so that it is accessible at all times for EMPLOYEE use.

(2) A HANDWASHING SINK may not be used for purposes other than handwashing.

(3) An automatic handwashing facility must be used in accordance with manufacturer's instructions.

05275 Operation and maintenance--Prohibiting a cross connection (FDA Food Code 5-205.12).

(1) 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.

(2) The piping of a nonDRINKING WATER system must be durably identified so that it is readily distinguishable from piping that carries DRINKING WATER.

05280 Operation and maintenance--Scheduling inspection, testing, and service for water system device (FDA Food Code 5-205.13).

A device such as a water treatment device or backflow preventer must be scheduled for inspection, testing, and service, in accordance with manufacturer's instructions and WAC 51-56-0600 and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection, testing, and service must be maintained by the PERSON IN CHARGE.

05285 Operation and maintenance--Water reservoir of fogging devices, cleaning (FDA Food Code 5-205.14).

(1) A reservoir that is used to supply water to a device such as a produce fogger must be:

(a) Maintained in accordance with manufacturer's specifications; and

(b) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under subsection (2) of this section, whichever is more stringent.

(2) Cleaning procedures must include at least the following steps and must be conducted at least once a week:

(a) Draining and complete disassembly of the water and aerosol contact parts;

(b) Brush cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

(c) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and

(d) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution.

05290 Operation and maintenance--System maintained in good repair (FDA Food Code 5-205.15).

A PLUMBING SYSTEM must be:

(1) Repaired according to LAW; and

(2) Maintained in good repair.

Subpart C - Mobile Water Tank and Mobile Food Establishment Water Tank

05300 Materials--Approved (FDA Food Code 5-301.11).

Materials that are used in the construction of a mobile water tank, MOBILE FOOD UNIT water tank, and appurtenances must be:

(1) Safe;

(2) Durable, CORROSION-RESISTANT and nonabsorbent; and

(3) Finished to have a SMOOTH, EASILY CLEANABLE surface.

05305 Design and construction--Enclosed system, sloped to drain (FDA Food Code 5-302.11).

A mobile water tank must be:

(1) Enclosed from the filling inlet to the discharge outlet; and

(2) Sloped to an outlet that allows complete drainage of the tank.

05310 Design and construction--Inspection and cleaning port, protected and secured (FDA Food Code 5-302.12).

If a water tank is designed with an access port for inspection and cleaning, the opening must be in the top of the tank and:

(1) Flanged upward at least one-half inch (13 mm); and

(2) Equipped with a port cover assembly that is:

(a) Provided with a gasket and a device for securing the cover in place; and

(b) Flanged to overlap the opening and sloped to drain.

05315 Design and construction--"V" type threads, use limitation (FDA Food Code 5-302.13).

A fitting with "V" type threads on a water tank or inlet or outlet must be allowed only when a hose is permanently attached.

05320 Design and construction--Tank vent, protected (FDA Food Code 5-302.14).

If provided, a water tank vent must terminate in a downward direction and must be covered with:

(1) 16 mesh to one inch (16 mesh to 25.4 mm) screen or equivalent when the vent is in a protected area; or

(2) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

05325 Design and construction--Inlet and outlet, sloped to drain (FDA Food Code 5-302.15).

(1) A water tank and its inlet and outlet must be sloped to drain.

(2) A water tank inlet must be positioned so that it is protected from contaminants such as waste discharge, road dust, oil or grease.

05330 Design and construction--Hose, construction and identification (FDA Food Code 5-302.16).

A hose used for conveying DRINKING WATER from a water tank must be:

(1) Safe;

(2) Durable, CORROSION-RESISTANT, and nonabsorbent;

(3) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

(4) Finished with a SMOOTH interior surface; and

(5) Clearly and durably identified as to its use if not permanently attached.

05335 Numbers and capacities--Filter, compressed air (FDA Food Code 5-303.11).

A filter that does not pass oil or oil vapors must 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.

05340 Numbers and capacities--Protective cover or device (FDA Food Code 5-303.12).

A cap and keeper chain, closed cabinet, closed storage tube, or other APPROVED protective cover or device must be provided for a water inlet, outlet and hose.

05345 Numbers and capacities--Mobile food unit tank inlet (FDA Food Code 5-303.13).

A mobile FOOD UNIT water tank inlet must be:

(1) Three-fourths inch (19.1 mm) in inner diameter or less; and

(2) Provided with a hose connection of a size or type that prevents its use for any other service.

05350 Operation and maintenance--System flushing and sanitation (FDA Food Code 5-304.11).

A water tank, pump, and hoses must be flushed and SANITIZED before being placed in service after construction, repair, modification, and periods of nonuse.

05355 Operation and maintenance--Using a pump and hoses, backflow prevention (FDA Food Code 5-304.12).

A PERSON shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

05360 Operation and maintenance--Protecting inlet, outlet, and hose fitting (FDA Food Code 5-304.13).

If not in use, a water tank and hose inlet and outlet fitting must be protected using a cover or device as specified under 05340.

05365 Operation and maintenance--Tank, pump, and hoses, dedication (FDA Food Code 5-304.14).

(1) Except as specified in subsection (2) of this section, a water tank, pump, and hoses used for conveying DRINKING WATER must be used for no other purpose.

(2) 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.

05400 Mobile holding tank--Capacity and drainage (FDA Food Code 5-401.11).

A SEWAGE holding tank in a MOBILE FOOD UNIT must be:

(1) Sized fifteen percent larger in capacity than the water supply tank; and

(2) Sloped to a drain that is one inch (25 mm) in inner diameter or greater, equipped with a shutoff valve.

05405 Retention, drainage, and delivery design, construction, and installation--Establishment drainage system (200 FDA Food Code 5-402.10).

FOOD ESTABLISHMENT drainage systems, including grease traps, that convey SEWAGE must be designed and installed as specified under 05205(1).

05410 Retention, drainage, and delivery design, construction, and installation--Backflow prevention (FDA Food Code 5-402.11).

(1) Except as specified in subsections (2), (3), and (4) 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.

(2) Subsection (1) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(3) If allowed by LAW, a WAREWASHING machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (1.5 mm) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(4) If allowed by LAW, a WAREWASHING sink may have a direct connection.

05415 Retention, drainage, and delivery location and placement--Grease trap (FDA Food Code 5-402.12).

If used, a grease trap must be located to be easily accessible for cleaning.

05420 Retention, drainage, and delivery operation and maintenance--Conveying sewage (FDA Food Code 5-402.13).

SEWAGE must be conveyed to the point of disposal through an APPROVED sanitary SEWAGE system, on-site SEWAGE system, or other system, including use of SEWAGE transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, installed, maintained, and operated according to LAW.

05425 Retention, drainage, and delivery operation and maintenance--Removing mobile food unit wastes (FDA Food Code 5-402.14).

SEWAGE and other liquid wastes must be removed from a MOBILE FOOD UNIT at an APPROVED waste SERVICING AREA or by a SEWAGE transport vehicle in such a way that a public health HAZARD or nuisance is not created.

05430 Retention, drainage, and delivery operation and maintenance--Flushing a waste retention tank (FDA Food Code 5-402.15).

A tank for liquid waste retention must be thoroughly flushed and drained in a sanitary manner during the servicing operation.

05435 Disposal facility design and construction--Approved sewage disposal system (FDA Food Code 5-403.11).

SEWAGE must be disposed through an APPROVED facility or system that is:

(1) A public SEWAGE treatment plant; or

(2) A SEWAGE disposal system that is sized, constructed, maintained and operated according to LAW.

05440 Disposal facility design and construction--Other liquid wastes and rainwater (FDA Food Code 5-403.12).

Condensate drainage and other liquids and rainwater that are not SEWAGE must be drained from point of discharge to disposal according to LAW.

Subpart E - Refuse, Recyclables, and Returnables

05500 Facilities on the premises, materials, design, construction and installation--Indoor storage area (FDA Food Code 5-501.10).

If located within the FOOD ESTABLISHMENT, a storage area for REFUSE, recyclables and returnables must meet the requirements specified under 06100, 06200, 06235, 06260, and 06265.

05505 Facilities on the premises, materials, design, construction and installation--Outdoor storage surface (FDA Food Code 5-501.11).

An outdoor storage surface for REFUSE, recyclables, and returnables must be constructed of nonabsorbent material such as concrete or asphalt and must be SMOOTH, durable and sloped to drain.

05510 Facilities on the premises, materials, design, construction and installation--Outdoor enclosure (FDA Food Code 5-501.12).

If used, an outdoor enclosure for REFUSE, recyclables, and returnables must be constructed of durable and cleanable materials.

05515 Facilities on the premises, materials, design, construction and installation--Receptacles (FDA Food Code 5-501.13).

(1) Except as specified in subsection (2) of this section, receptacles and waste handling units for REFUSE, recyclables, and returnables and for use with materials containing FOOD residue must be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

(2) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the FOOD ESTABLISHMENT, or within closed outside receptacles.

05520 Facilities on the premises, materials, design, construction and installation--Receptacles in vending machines (FDA Food Code 5-501.14).

A REFUSE receptacle may not be located within a VENDING MACHINE, except that a receptacle for BEVERAGE bottle crown closures may be located within a VENDING MACHINE.

05525 Facilities on the premises, materials, design, construction and installation--Outside receptacles (FDA Food Code 5-501.15).

(1) Receptacles and waste handling units for REFUSE, recyclables, and returnables used with materials containing FOOD residue and used outside the FOOD ESTABLISHMENT must be designed and constructed to have tight fitting lids, doors, or covers.

(2) Receptacles and waste handling units for REFUSE and recyclables such as an on-site compactor must be installed so that accumulation of debris and insect and other 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.

05530 Facilities on the premises, numbers and capacities--Storage areas, rooms, and receptacles, capacity and availability (FDA Food Code 5-501.16).

(1) An inside storage room and area and outside storage area and enclosure, and receptacles must be of sufficient capacity to hold REFUSE, recyclables, and returnables that accumulate.

(2) A receptacle must 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.

(3) If disposable towels are used at HANDWASHING SINKS, a waste receptacle must be located at each HANDWASHING SINK or group of adjacent HANDWASHING SINKS.

05535 Facilities on the premises, numbers and capacities--Toilet room receptacle, covered (FDA Food Code 5-501.17).

A toilet room used by females must be provided with a covered receptacle for sanitary napkins.

05540 Facilities on the premises, numbers and capacities--Cleaning implements and supplies (FDA Food Code 5-501.18).

(1) Except as specified in subsection (2) of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent must be provided as necessary for effective cleaning of receptacles and waste handling units for REFUSE, recyclables, and returnables.

(2) If APPROVED, off-PREMISES-based cleaning services may be used if on-PREMISES cleaning implements and supplies are not provided.

05545 Facilities on the premises, location and placement--Storage areas, redeeming machines, receptacles and waste handling units, location (FDA Food Code 5-501.19).

(1) An area designated for REFUSE, recyclables, returnables, and, except as specified in subsection (2) of this section, a redeeming machine for recyclables or returnables must 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.

(2) 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.

(3) 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.

05550 Facilities on the premises, operation and maintenance--Storing refuse, recyclables, and returnables (FDA Food Code 5-501.110).

REFUSE, recyclables and returnables must be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

05555 Facilities on the premises, operation and maintenance--Areas, enclosures, and receptacles, good repair (FDA Food Code 5-501.111).

Storage areas, enclosures, and receptacles for REFUSE, recyclables, and returnables must be maintained in good repair.

05560 Facilities on the premises, operation and maintenance--Outside storage prohibitions (FDA Food Code 5-501.112).

(1) Except as specified in subsection (2) of this section, REFUSE receptacles not meeting the requirements specified under 05515(1) 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.

(2) 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.

05565 Facilities on the premises, operation and maintenance--Covering receptacles (FDA Food Code 5-501.113).

Receptacles and waste handling units for REFUSE, recyclables, and returnables must be kept covered:

(1) Inside the FOOD ESTABLISHMENT if the receptacles and units:

(a) Contain FOOD residue and are not in continuous use; or

(b) After they are filled; and

(2) With tight fitting lids or doors if kept outside the FOOD ESTABLISHMENT.

05570 Facilities on the premises, operation and maintenance--Using drain plugs (FDA Food Code 5-501.114).

Drains in receptacles and waste handling units for REFUSE, recyclables, and returnables must have drain plugs in place.

05575 Facilities on the premises, operation and maintenance--Maintaining refuse areas and enclosures (FDA Food Code 5-501.115).

A storage area and enclosure for REFUSE, recyclables, and returnables must be maintained free of unnecessary items, as specified under 06565, and clean.

05580 Facilities on the premises, operation and maintenance--Cleaning receptacles (FDA Food Code 5-501.116).

(1) Receptacles and waste handling units for REFUSE, recyclables, and returnables must be thoroughly cleaned in a way that does not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, or SINGLE-SERVICE and SINGLE-USE ARTICLES, and waste water must be disposed of as specified under 05420.

(2) Soiled receptacles and waste handling units for REFUSE, recyclables, and returnables must be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

05585 Removal--Frequency (FDA Food Code 5-502.11).

REFUSE, recyclables, and returnables must be removed from the PREMISES at a frequency that minimizes the development of objectionable odors and other conditions that attract or harbor insects and rodents.

05590 Removal--Receptacles or vehicles (FDA Food Code 5-502.12).

REFUSE, recyclables, and returnables must be removed from the PREMISES by way of:

(1) Portable receptacles that are constructed and maintained according to LAW; or

(2) A transport vehicle that is constructed, maintained, and operated according to LAW.

05595 Facilities for disposal and recycling--Community or individual facility (FDA Food Code 5-503.11).

Solid waste not disposed of through the SEWAGE system such as through grinders and pulpers must be recycled or disposed of in an APPROVED public or private community recycling or REFUSE facility; or solid waste must be disposed of in an individual REFUSE facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to LAW.

PART 6: PHYSICAL FACILITIES

Subpart A - Materials for Construction and Repair

06100 Indoor areas--Surface characteristics (FDA Food Code 6-101.11).

(1) Except as specified in subsection (2) of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use must be:

(a) SMOOTH, durable, and EASILY CLEANABLE for areas where FOOD ESTABLISHMENT operations are conducted;

(b) Closely woven and EASILY CLEANABLE carpet for carpeted areas; and

(c) Nonabsorbent for areas subject to moisture such as FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet rooms, MOBILE FOOD UNIT SERVICING AREAS, and areas subject to flushing or spray cleaning methods.

(2) In a TEMPORARY FOOD ESTABLISHMENT:

(a) 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 methods to effectively control dust and mud.

(b) Walls and ceilings must be constructed from a material that protects the interior from the weather and windblown dust and debris.

06105 Outdoor areas--Surface characteristics (FDA Food Code 6-102.11).

(1) The outdoor walking and driving areas must be surfaced with concrete, asphalt or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(2) Exterior surfaces of buildings and MOBILE FOOD UNITS must be of weather-resistant materials and must comply with LAW.

(3) Outdoor storage areas for REFUSE, recyclables, or returnables must be of materials specified under 05505 and 05510.

Subpart B - Design, Construction and Installation

06200 Cleanability--Floors, walls and ceilings (FDA Food Code 6-201.11).

Except as specified under 06215 and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings and ceilings must be designed, constructed, and installed so they are SMOOTH and EASILY CLEANABLE.

06205 Cleanability--Floors, walls, and ceilings, utility lines (FDA Food Code 6-201.12).

(1) Utility service lines and pipes may not be unnecessarily exposed.

(2) Exposed utility service lines and pipes must be installed so they do not obstruct or prevent cleaning of the floors, walls or ceilings.

(3) Exposed horizontal utility service lines and pipes may not be installed on the floor.

06210 Cleanability--Floor and wall junctures, covered and enclosed or sealed (FDA Food Code 6-201.13).

(1) In FOOD ESTABLISHMENTS in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures must be coved and closed to no larger than one thirty-second inch (1 mm).

(2) The floors in FOOD ESTABLISHMENTS in which water flush cleaning methods are used must be provided with drains and be graded to drain, and the floor and wall junctures must be coved and SEALED.

06215 Cleanability--Floor carpeting, restriction and installation (FDA Food Code 6-201.14).

(1) A floor covering such as carpeting or similar material may not be installed as a floor covering in FOOD preparation areas, walk-in refrigerators, WAREWASHING areas, toilet room areas where HANDWASHING SINKS, toilets and urinals are located, REFUSE storage rooms, or other areas where the floor is subject to moisture, flushing or spray cleaning methods.

(2) If carpeting is installed as a floor covering in areas other than those specified under subsection (1) of this section, it must be:

(a) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(b) 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.

06220 Cleanability--Floor covering, mats and duckboards (FDA Food Code 6-201.15).

Mats and duckboards must be designed to be removable and EASILY CLEANABLE.

06225 Cleanability--Wall and ceiling coverings and coatings (FDA Food Code 6-201.16).

(1) Wall and ceiling covering materials must be attached so that they are EASILY CLEANABLE.

(2) Except in areas used only for DRY STORAGE, concrete, porous blocks, or bricks used for indoor wall construction must be finished and SEALED to provide a SMOOTH, nonabsorbent, EASILY CLEANABLE surface.

06230 Cleanability--Walls and ceilings, attachments (FDA Food Code 6-201.17).

(1) Except as specified in subsection (2) 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 must be EASILY CLEANABLE.

(2) 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.

06235 Cleanability--Walls and ceilings, studs, joists, and rafters (FDA Food Code 6-201.18).

Except for TEMPORARY FOOD ESTABLISHMENTS, studs, joists, and rafters may not be exposed in areas subject to moisture.

06240 Functionality--Light bulbs, protective shielding (FDA Food Code 6-202.11).

(1) Except as specified in subsection (2) of this section, light bulbs must 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.

(2) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing FOOD in unopened packages if:

(a) The integrity of the packages cannot be affected by broken glass falling into them; and

(b) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(3) An infrared or other heat lamp must be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

06245 Functionality--Heating, ventilating, air conditioning system vents (FDA Food Code 6-202.12).

Heating, ventilating, and air conditioning systems must 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.

06250 Functionality--Insect control devices, design and installation (FDA Food Code 6-202.13).

(1) Insect control devices that are used to electrocute or stun flying insects must be designed to retain the insect within the device.

(2) Insect control devices must be installed so that:

(a) The devices are not located over a FOOD preparation area; and

(b) 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 or SINGLE-USE ARTICLES.

06255 Functionality--Toilet rooms, enclosed (FDA Food Code 6-202.14).

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 must be completely enclosed and provided with a tight-fitting and self-closing door.

06260 Functionality--Outer openings, protected (FDA Food Code 6-202.15).

(1) Except as specified in subsections (2) through (5) of this section, outer openings of a FOOD ESTABLISHMENT must be protected against the entry of insects and rodents by:

(a) Filling or closing holes and other gaps along floors, walls, and ceilings;

(b) Closed, tight-fitting windows; and

(c) Solid, self-closing, tight-fitting doors.

(2) Subsection (1) 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.

(3) Exterior doors used as exits need not be self-closing if they are:

(a) Solid and tight-fitting;

(b) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the FOOD ESTABLISHMENT; and

(c) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(4) Except as specified in subsections (2) and (5) 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 subsection (1) of this section, the openings must be protected against entry of insects and rodents by:

(a) 16 mesh to one inch (16 mesh to 25.4 mm) screens;

(b) Properly designed and installed air curtains to control flying insects; or

(c) Other effective means.

(5) Subsection (4) of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

06265 Functionality--Exterior walls and roofs, protective barrier (FDA Food Code 6-202.16).

Perimeter walls and roofs of a FOOD ESTABLISHMENT must effectively protect the establishment from the weather and entry of insects, rodents, and other animals.

06270 Functionality--Outdoor food vending areas, overhead protection (FDA Food Code 6-202.17).

Except for machines that vend canned BEVERAGES, if located outside, a machine used to vend FOOD must be provided with overhead protection.

06275 Functionality--Outdoor servicing areas, overhead protection (FDA Food Code 6-202.18).

Except for areas used only for the loading of water or the discharge of SEWAGE and other liquid waste, through the use of a closed system of hoses, SERVICING AREAS must be provided with overhead protection.

06280 Functionality--Outdoor walking and driving surfaces, graded to drain (FDA Food Code 6-202.19).

Exterior walking and driving services must be graded to drain.

06285 Functionality--Outdoor refuse areas (FDA Food Code 6-202.110).

Outdoor REFUSE areas must be constructed in accordance with LAW.

06290 Functionality--Private homes and living or sleeping quarters, use prohibition (FDA Food Code 6-202.111).

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.

06295 Functionality--Living or sleeping quarters, separation (FDA Food Code 6-202.112).

Living or sleeping quarters located on the PREMISES of a FOOD ESTABLISHMENT such as those provided for lodging registration clerks or resident managers must be separated from rooms and areas used for FOOD ESTABLISHMENT operations by complete partitioning and solid self-closing doors.

Subpart C - Numbers and Capacities

06300 Handwashing sinks--Minimum number (FDA Food Code 6-301.10).

Handwashing sinks must be provided as specified under 05230.

06305 Handwashing sinks--Handwashing cleanser, availability (FDA Food Code 6-301.11).

Each HANDWASHING SINK or group of two adjacent HANDWASHING SINKS must be provided with a supply of hand cleaning liquid, powder, or bar soap.

06310 Handwashing sinks--Hand-drying provision (FDA Food Code 6-301.12).

Each HANDWASHING SINK or group of adjacent HANDWASHING SINKS must be provided with:

(1) Individual, disposable towels;

(2) A continuous towel system that supplies the user with a clean towel;

(3) A heated-air hand-drying device; or

(4) A hand-drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

06315 Handwashing sinks--Handwashing aids and devices, use restriction (FDA Food Code 6-301.13).

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 06305, 06310, and 05530(3).

06320 Handwashing sinks--Handwashing signage (FDA Food Code 6-301.14).

A sign or poster that notifies FOOD EMPLOYEES to wash their hands must be provided at all HANDWASHING SINKS used by FOOD EMPLOYEES and must be clearly visible to FOOD EMPLOYEES.

06325 Handwashing sinks--Disposable towels, waste receptacle (FDA Food Code 6-301.20).

A HANDWASHING SINK or group of adjacent HANDWASHING SINKS that is provided with disposable towels must be provided with a waste receptacle as specified under 05530(3).

06330 Toilets and urinals--Minimum number (FDA Food Code 6-302.10).

Toilets and urinals must be provided as specified under 05235.

06335 Toilets and urinals--Toilet tissue, availability (FDA Food Code 6-302.11).

A supply of toilet tissue must be available at each toilet.

06340 Lighting--Intensity (FDA Food Code 6-303.11).

The light intensity must be:

(1) At least 10 foot candles (108 lux) at a distance of 30 inches (75 cm) above the floor, in walk-in refrigeration units and dry FOOD storage areas and in other areas and rooms during periods of cleaning;

(2) At least 20 foot candles (215 lux):

(a) 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;

(b) Inside EQUIPMENT such as reach-in and under-counter refrigerators;

(c) At a distance of 30 inches (75 cm) above the floor in areas used for handwashing, WAREWASHING, and EQUIPMENT and UTENSIL storage, and in toilet rooms; and

(3) At least 50 foot candles (540 lux) 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.

06345 Ventilation--Mechanical (FDA Food Code 6-304.11).

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity must be provided.

06350 Dressing areas and lockers--Designation (FDA Food Code 6-305.11).

(1) Dressing rooms or dressing areas must be designated if EMPLOYEES routinely change their clothes in the establishment.

(2) Lockers or other suitable facilities must be provided for the orderly storage of EMPLOYEES' clothing and other possessions.

06355 Service sinks--Availability (FDA Food Code 6-306.10).

A service sink or curbed cleaning facility must be provided as specified under 05240.

Subpart D - Location and Placement

06400 Handwashing sinks--Conveniently located (FDA Food Code 6-401.10).

HANDWASHING SINKS must be conveniently located as specified under 05255.

06405 Toilet rooms--Convenience and accessibility (FDA Food Code 6-402.11).

Toilet rooms must be conveniently located and accessible to EMPLOYEES during all hours of operation.

06410 Employee accommodations--Designated areas (FDA Food Code 6-403.11).

(1) Areas designated for EMPLOYEES to eat, drink, and use tobacco must be located so that FOOD, EQUIPMENT, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES are protected from contamination.

(2) Lockers or other suitable facilities must be located in a designated room or area where contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES cannot occur.

06415 Distressed merchandise--Segregation and location (FDA Food Code 6-404.11).

Products that are held by the PERMIT HOLDER for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, must be segregated and held in designated areas that are separated from FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES.

06420 Refuse, recyclables, and returnables--Receptacles, waste handling units, and designated storage areas (FDA Food Code 6-405.10).

Units, receptacles, and areas designated for storage of REFUSE and recyclable and returnable containers must be located as specified under 05545.

Subpart E - Maintenance and Operation: Premises, Structures, Attachments, and Fixtures

06500 Methods--Repairing (FDA Food Code 6-501.11).

PHYSICAL FACILITIES must be maintained in good repair.

06505 Methods--Cleaning, frequency and restrictions (FDA Food Code 6-501.12).

(1) PHYSICAL FACILITIES must be cleaned as often as necessary to keep them clean.

(2) Except for cleaning that is necessary due to a spill or other accident, cleaning must be done during periods when the least amount of FOOD is exposed such as after closing.

06510 Methods--Cleaning floors, dustless methods (FDA Food Code 6-501.13).

(1) Except as specified in subsection (2) of this section, only dustless methods of cleaning must be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(2) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(a) Without the use of dust-arresting compounds; and

(b) 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.

06515 Methods--Cleaning ventilation systems, nuisance and discharge prohibition (FDA Food Code 6-501.14).

(1) Intake and exhaust air ducts must be cleaned and filters changed so that they are not a source of contamination by dust, dirt, and other materials.

(2) If vented to the outside, ventilation systems may not create a public health HAZARD or nuisance or unlawful discharge.

06520 Methods--Cleaning maintenance tools, preventing contamination (FDA Food Code 6-501.15).

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.

06525 Methods--Drying mops (FDA Food Code 6-501.16).

After use, mops must be placed in a position that allows them to air dry without soiling walls, EQUIPMENT, or supplies.

06530 Methods--Absorbent materials on floors, use limitations (FDA Food Code 6-501.17).

Except as specified under 06510(2), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

06535 Methods--Cleaning of plumbing fixtures (FDA Food Code 6-501.18).

PLUMBING FIXTURES such as HANDWASHING SINKS, toilets, and urinals must be cleaned as often as necessary to keep them clean.

06540 Methods--Closing toilet room doors (FDA Food Code 6-501.19).

Except during cleaning and maintenance operations, toilet room doors as specified under 06255 must be kept closed.

06545 Methods--Using dressing rooms and lockers (FDA Food Code 6-501.110).

(1) Dressing rooms must be used by EMPLOYEES if the EMPLOYEES regularly change their clothes in the establishment.

(2) Lockers or other suitable facilities must be used for the orderly storage of EMPLOYEE clothing and other possessions.

06550 Methods--Controlling pests (FDA Food Code 6-501.111).

The PREMISES must be maintained free of infestations of insects, rodents, and other pests such that there is not a breeding population of pests in the facility. The presence of insects, rodents, and other pests must be controlled to minimize their presence on the PREMISES by:

(1) Routinely inspecting incoming shipments of FOOD and supplies;

(2) Routinely inspecting the PREMISES for evidence of pests;

(3) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 07210, 07250, and 07255; and

(4) Eliminating harborage conditions.

06555 Methods--Removing dead or trapped birds, insects, rodents, and other pests (FDA Food Code 6-501.112).

Dead or trapped birds, insects, rodents, and other pests must be removed from control devices and the PREMISES at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

06560 Methods--Storing maintenance tools (FDA Food Code 6-501.113).

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items must be:

(1) Stored so they do not contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES; and

(2) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

06565 Methods--Maintaining premises, unnecessary items and litter (FDA Food Code 6-501.114).

The PREMISES must be free of:

(1) Items that are unnecessary to the operation or maintenance of the establishment such as EQUIPMENT that is nonfunctional or no longer used; and

(2) Litter.

06570 Methods--Prohibiting animals (FDA Food Code 6-501.115).

(1) Except as specified in subsections (2) through (5) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT.

(2) Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result:

(a) Edible FISH or decorative FISH in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(b) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(c) SERVICE ANIMALS that are controlled by an employee or individual with a disability in areas not used for FOOD preparation and usually open for customers, such as dining and sales areas, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;

(d) Pets in the common 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:

(i) Effective partitioning and self-closing doors separate the common dining areas from FOOD storage or FOOD preparation areas;

(ii) Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(iii) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(e) In areas that are not used for FOOD preparation, storage, sales, display or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(3) 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.

(4) Effective March 1, 2022, dogs, under the control of the dog owner, may be allowed in an outdoor area on the PREMISES if all of the following conditions are satisfied:

(a) The PERMIT HOLDER has an APPROVED plan to allow dogs in its out-door PREMISES.

(b) Dogs are on a leash and under the control of the dog owner or confined in a pet carrier.

(c) Dogs do not go through the FOOD ESTABLISHMENT to reach the out-door area.

(d) Dogs are not allowed on tables, chairs, benches, seats, or other fixtures in the FOOD ESTABLISHMENT.

(e) The outdoor area is not used for food or drink preparation or the storage of UTENSILS.

(f) If the FOOD ESTABLISHMENT provides FOOD and water containers for dogs, EMPLOYEES shall not wash containers in the FOOD ESTABLISHMENT.

(g) FOOD EMPLOYEES do not have direct contact with dogs.

(h) The outdoor area is maintained clean of animal waste.

(i) The PERMIT HOLDER ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation.

(5) Dogs, under the control of the dog owner, may be allowed in an indoor area on the premises if all of the following conditions are satisfied:

(a) The PERMIT HOLDER has notified the REGULATORY AUTHORITY in advance.

(b) The FOOD ESTABLISHMENT only pours BEVERAGES produced by a FOOD PROCESSING PLANT and is limited to only nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, READY-TO-EAT FOOD produced in a licensed FOOD ESTABLISHMENT or FOOD PROCESSING PLANT (such as premixed soda pop, powdered creamer, pretzels, cookies, doughnuts, cake, or MEAT jerky) that are served from the original pack-age without direct hand contact directly onto or into a container.

(c) Dogs are not allowed on tables, chairs, benches, seats, or other fixtures in the FOOD ESTABLISHMENT.

(d) If the FOOD ESTABLISHMENT provides FOOD and water containers for dogs, EMPLOYEES shall not wash containers in the FOOD ESTABLISHMENT.

(e) FOOD EMPLOYEES do not have direct contact with dogs.

(f) The PREMISES is maintained clean of animal waste.

(g) The PERMIT HOLDER ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation.

(h) The PERMIT HOLDER provides signage to notify customers that the facility allows dogs in its indoor PREMISES.

PART 7: POISONOUS OR TOXIC MATERIALS

Subpart A - Labeling and Identification

07100 Original containers--Identifying information, prominence (FDA Food Code 7-101.11).

Containers of POISONOUS OR TOXIC MATERIALS and PERSONAL CARE ITEMS must bear a legible manufacturer's label.

07105 Working containers--Common name (FDA Food Code 7-102.11).

Working containers used for storing POISONOUS OR TOXIC MATERIALS such as cleaners and SANITIZERS taken from bulk supplies must be clearly and individually identified with the common name of the material.

Subpart B - Operational Supplies and Applications

07200 Storage--Separation (FDA Food Code 7-201.11).

POISONOUS OR TOXIC MATERIALS must be stored so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE and SINGLE-USE ARTICLES by:

(1) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning; and

(2) 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 subsection 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.

07205 Presence and use--Restriction (FDA Food Code 7-202.11).

(1) 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, may be allowed in a FOOD ESTABLISHMENT.

(2) Subsection (1) of this section does not apply to PACKAGED POISONOUS OR TOXIC MATERIALS that are for retail sale.

07210 Presence and use--Conditions of use (FDA Food Code 7-202.12).

POISONOUS OR TOXIC MATERIALS must be:

(1) Used according to:

(a) LAW and this chapter;

(b) 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;

(c) The conditions of certification, if certification is required, for use of the pest control materials; and

(d) Additional conditions that may be established by the REGULATORY AUTHORITY; and

(2) Applied so that:

(a) A HAZARD to EMPLOYEES or other PERSONS is not constituted; and

(b) 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:

(i) Removing the items;

(ii) Covering the items with impermeable covers; or

(iii) Taking other appropriate preventative actions; and

(iv) Cleaning and SANITIZING EQUIPMENT and UTENSILS after the application.

(3) A RESTRICTED USE PESTICIDE must be applied only by an applicator certified as defined in 7 U.S.C. 136 Definitions, (e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a PERSON under the direct supervision of a certified applicator.

07215 Container prohibitions--Poisonous or toxic material containers (FDA Food Code 7-203.11).

A container previously used to store POISONOUS OR TOXIC MATERIALS may not be used to store, transport, or dispense FOOD.

07220 Chemicals--Sanitizers, criteria (FDA Food Code 7-204.11).

Chemical SANITIZERS, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to FOOD-CONTACT SURFACES must:

(1) Meet the requirements specified in 40 C.F.R. 180.940 Tolerance exemptions for active and inert ingredients for Use in Antimicrobial Formulations (food contact surface sanitizing food contact surface sanitizing solutions); or

(2) Meet the requirements as specified in 40 C.F.R. 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance Non-food Determinations.

07225 Chemicals--Chemicals for washing, treatment, storage, and processing fruits and vegetables, criteria (FDA Food Code 7-204.12).

Chemicals, including those generated onsite, used to wash or peel raw, whole fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables must:

(1) Be an APPROVED FOOD ADDITIVE listed for this intended use in 21 C.F.R. 173 - Secondary Direct Food Additives Permitted in Food for Human Consumption; or

(2) Be generally recognized as safe (GRAS) for this intended use; 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); and

(4) Meet the requirements in 40 C.F.R. 156 Labeling Requirements for Pesticide and Devices.

07230 Chemicals--Boiler water additives, criteria (FDA Food Code 7-204.13).

Chemicals used as boiler water ADDITIVES must meet the requirements specified in 21 C.F.R. 173.310 Boiler Water ADDITIVES.

07235 Chemicals--Drying agents, criteria (FDA Food Code 7-204.14).

Drying agents used in conjunction with SANITIZATION must:

(1) Contain only components that are listed as one of the following:

(a) Generally recognized as safe for use in FOOD as specified in 21 C.F.R. 182 - Substances Generally Recognized as Safe (GRAS), or 21 C.F.R. 184 - Direct Food Substances Affirmed as Generally Recognized as Safe;

(b) Generally recognized as safe (GRAS) for the intended use as specified in 21 C.F.R. 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe;

(c) Generally recognized as safe (GRAS) 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 C.F.R. 170.30 - Eligibility for Classification as Generally Recognized as Safe (GRAS);

(d) Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h);

(e) APPROVED for use as a drying agent under a prior sanction specified in 21 C.F.R. 181 - Prior Sanctioned Food Ingredients;

(f) Specifically regulated as an indirect FOOD ADDITIVE for use as a drying agent as specified in 21 C.F.R. Parts 175-178; or

(g) APPROVED for use as a drying agent under the threshold of regulation process established by 21 C.F.R. 170.39 Threshold of Regulation For Substances Used In Food-Contact Articles; and

(2) When SANITIZATION is with chemicals, the approval required under subsection (1)(e) or (g) of this section or the regulation as an indirect FOOD ADDITIVE required under subsection (1)(f) of this section, must be specifically for use with chemical SANITIZING solutions.

07240 Lubricants--Incidental food contact, criteria (FDA Food Code 7-205.11).

Lubricants must meet the requirements specified in 21 C.F.R. 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.

07245 Pesticides--Restricted use pesticides, criteria (FDA Food Code 7-206.11).

RESTRICTED USE PESTICIDES specified under 07210(3) must meet the requirements specified in 40 C.F.R. 152 Subpart I - Classification of Pesticides.

07250 Pesticides--Rodent bait stations (FDA Food Code 7-206.12).

Rodent bait must be contained in a covered, tamper-resistant bait station.

07255 Pesticides--Tracking powders, pest control and monitoring (FDA Food Code 7-206.13).

(1) Except as specified in subsection (2) of this section, a tracking powder pesticide may not be used in a FOOD ESTABLISHMENT.

(2) 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.

07260 Medicines--Restriction and storage (FDA Food Code 7-207.11).

(1) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of EMPLOYEES may be allowed in a FOOD ESTABLISHMENT.

(2) Medicines that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use must be labeled as specified under 07100 and located to prevent the contamination of FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE AND SINGLE-USE ARTICLES.

07265 Medicines--Refrigerated medicines, storage (FDA Food Code 7-207.12).

Medicines belonging to EMPLOYEES or to children in a day care center that require refrigeration and are stored in a FOOD refrigerator must be:

(1) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and

(2) Located so they are inaccessible to children.

07270 First-aid supplies--Storage (FDA Food Code 7-208.11).

First-aid supplies that are in a FOOD ESTABLISHMENT for the EMPLOYEES' use must be:

(1) Labeled as specified under 07100; and

(2) 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.

07275 Other personal care items--Storage (FDA Food Code 7-209.11).

Except as specified under 07265 and 07270, EMPLOYEES shall store their PERSONAL CARE ITEMS in facilities as specified under 06350(2).

07300 Storage and display--Separation (FDA Food Code 7-301.11).

POISONOUS OR TOXIC MATERIALS must be stored and displayed for retail sale so they cannot contaminate FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE AND SINGLE-USE ARTICLES by:

(1) Separating the POISONOUS OR TOXIC MATERIALS by spacing or partitioning; and

(2) Locating the POISONOUS OR TOXIC MATERIALS in an area that is not above FOOD, EQUIPMENT, UTENSILS, LINENS, and SINGLE-SERVICE or SINGLE-USE ARTICLES.

PART 8: COMPLIANCE AND ENFORCEMENT

Subpart A - Applicability

08100 Use for intended purpose--Public health protection (FDA Food Code 8-101.10).

(1) The REGULATORY AUTHORITY shall apply this chapter to promote its underlying purpose, as specified under 01105, of safeguarding public health and ensuring that FOOD is safe, not ADULTERATED, and honestly presented when offered to the CONSUMER.

(2) In enforcing the provision of this chapter, the REGULATORY AUTHORITY shall assess existing facilities or EQUIPMENT that were in use before the effective date of this chapter based on the following considerations:

(a) Whether the facilities or EQUIPMENT are in good repair and capable of being maintained in a sanitary condition;

(b) Whether FOOD-CONTACT SURFACES comply with Part 4, Subpart A;

(c) Whether the capacities of cooling, heating, and holding EQUIPMENT are sufficient to comply with 04300; and

(d) The existence of a documented agreement with the PERMIT HOLDER that the facilities or EQUIPMENT will be replaced as specified under 08350(7).

08105 Additional requirements--Preventing health hazards, provision for conditions not addressed (FDA Food Code 8-102.10).

(1) If necessary to protect against public health hazards or nuisances, the REGULATORY AUTHORITY may impose specific requirements in addition to the requirements contained in this chapter that are authorized by LAW.

(2) The REGULATORY AUTHORITY shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation must be provided to the PERMIT applicant or PERMIT HOLDER and a copy must be maintained in the REGULATORY AUTHORITY'S file for the FOOD ESTABLISHMENT.

08110 Variances--Modifications and waivers (FDA Food Code 8-103.10).

The REGULATORY AUTHORITY may grant a VARIANCE by modifying or waiving the requirements of this chapter if in the opinion of the REGULATORY AUTHORITY a health HAZARD or nuisance will not result from the VARIANCE. If a VARIANCE is granted, the REGULATORY AUTHORITY shall retain the information specified under 08115 in its records for the FOOD ESTABLISHMENT.

08115 Variances--Documentation of proposed VARIANCE and justification (FDA Food Code 8-103.11).

Before a VARIANCE from a requirement of this chapter is APPROVED, the information that must be provided by the PERSON requesting the VARIANCE and retained in the REGULATORY AUTHORITY'S file on the FOOD ESTABLISHMENT includes:

(1) A statement of the proposed VARIANCE of this chapter requirement citing the relevant section;

(2) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant section will be alternatively addressed by the proposal; and

(3) A HACCP PLAN if required as specified under 08210(1) that includes the information specified under 08215 as it is relevant to the VARIANCE requested.

08120 Variances--Conformance with approved procedures (FDA Food Code 8-103.12).

If the REGULATORY AUTHORITY grants a VARIANCE as specified under 08110, or a HACCP PLAN is otherwise required as specified under 08210, the PERMIT HOLDER shall:

(1) Maintain the APPROVED VARIANCE at the FOOD ESTABLISHMENT; and

(2) Comply with the HACCP PLANS and procedures that are submitted as specified under 08215 and APPROVED as a basis for the modification or waiver; and

(3) Maintain and provide to the REGULATORY AUTHORITY, upon request, records specified under 08215 (4) and (5) that demonstrate that the following are routinely employed:

(a) Procedures for monitoring CRITICAL CONTROL POINTS;

(b) Monitoring of the CRITICAL CONTROL POINTS;

(c) Verification of the effectiveness of the operation or process; and

(d) Necessary corrective actions if there is a failure at a CRITICAL CONTROL POINT.

Subpart B - Plan Submission and Approval

08200 Facility and operating plans--When plans are required (FDA Food Code 8-201.11).

A PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY properly prepared plans and specifications for review and approval before:

(1) The construction of a FOOD ESTABLISHMENT;

(2) The conversion of an existing structure for use as a FOOD ESTABLISHMENT; or

(3) The remodeling of a FOOD ESTABLISHMENT, a change of type of FOOD ESTABLISHMENT, or significant changes to the methods of FOOD preparation or style of service as specified under 08325(3) if the REGULATORY AUTHORITY determines that plans and specifications are necessary to ensure compliance with this chapter.

08205 Facility and operating plans--Contents of the plans and specifications (FDA Food Code 8-201.12).

The plans and specifications for a FOOD ESTABLISHMENT, including a FOOD ESTABLISHMENT specified under 08210, must include, as required by the REGULATORY AUTHORITY based on the type of operation, type of FOOD preparation, and FOODS prepared, the following information to demonstrate conformance with chapter provisions:

(1) Intended menu;

(2) Anticipated volume of FOOD to be stored, prepared, and sold or served;

(3) Proposed layout, mechanical schematics, construction materials, and finish schedules;

(4) Proposed EQUIPMENT types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;

(5) Evidence that standard procedures that ensure compliance with the requirements of this chapter are developed or are being developed; and

(6) Other information that may be required by the REGULATORY AUTHORITY for the proper review of the proposed construction, conversion or modification, and procedures for operating a FOOD ESTABLISHMENT.

08210 Facility and operating plans--When a HACCP plan is required (FDA Food Code 8-201.13).

(1) Before engaging in an activity that requires a HACCP PLAN, a PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY for approval a properly prepared HACCP PLAN as specified under 08215 and the relevant provisions of this chapter if:

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

(b) A VARIANCE is required as specified under 03400 (4)(d), 03535, and 04244(2);

(c) The REGULATORY AUTHORITY determines that a FOOD preparation or processing method requires a VARIANCE based on a plan submittal specified under 08205, an inspectional finding, or a VARIANCE request.

(2) A PERMIT applicant or PERMIT HOLDER shall have a properly prepared HACCP PLAN as specified under 03540.

08215 Facility and operating plans--Contents of a HACCP plan (FDA Food Code 8-201.14).

For a FOOD ESTABLISHMENT required under 08210 to have a HACCP PLAN, the PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY a properly prepared HACCP PLAN that includes:

(1) General information such as the name of the PERMIT applicant or PERMIT HOLDER, the FOOD ESTABLISHMENT address, and contact information;

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

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

(a) Each step in the process;

(b) The hazards and controls for each step in the flow diagram or chart;

(c) The steps that are CRITICAL CONTROL POINTS;

(d) The ingredients, materials, and EQUIPMENT used in the preparation of that FOOD; and

(e) Formulations or recipes that delineate methods and procedural control measures that address the FOOD safety concerns involved.

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

(a) Each CRITICAL CONTROL POINT;

(b) The CRITICAL LIMITS for each CRITICAL CONTROL POINT;

(c) The method and frequency for monitoring and controlling each CRITICAL CONTROL POINT by the designated FOOD EMPLOYEE or the PERSON IN CHARGE;

(d) 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;

(e) Action to be taken by the designated FOOD EMPLOYEE or PERSON IN CHARGE if the CRITICAL LIMITS for each CRITICAL CONTROL POINT are not met; and

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

(5) Supporting documents such as:

(a) FOOD EMPLOYEE and supervisory training plan that addresses the food safety issues of concern;

(b) Copies of blank records forms that are necessary to implement the HACCP PLAN; and

(c) Additional scientific data or other information, as required by the REGULATORY AUTHORITY, supporting the determination that FOOD safety is not compromised by the proposal.

(6) Any other information required by the REGULATORY AUTHORITY.

08220 Trade secrets (FDA Food Code 8-202.10).

The REGULATORY AUTHORITY shall treat as confidential in accordance with LAW, information that meets the requirements specified in LAW for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under 08205 and 08215.

08225 Construction inspection and approval--Preoperational inspections (FDA Food Code 8-203.10).

The REGULATORY AUTHORITY shall conduct one or more preoperational inspections to verify that the FOOD ESTABLISHMENT is constructed and equipped in accordance with the APPROVED plans and APPROVED modifications of those plans, has established standard operating procedures as specified under 08205(5), and is in compliance with the LAW and this chapter.

Subpart C - Permit to Operate

08300 Requirement--Prerequisite for operation (FDA Food Code 8-301.11).

A PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY.

08305 Exempt from permit with approval (FDA Food Code 8-301.12).

(1) The REGULATORY AUTHORITY may exempt a PERSON from the provisions of 08600(1) and 08300 of this chapter in order to operate without a FOOD ESTABLISHMENT PERMIT, if the PERSON meets the other provisions of this chapter, including not using any FOOD prepared in a residential kitchen or other facility that is not APPROVED, and the types of FOOD served are limited to those specified in subsection (4) of this section.

(2) The PERSON requesting a PERMIT exemption under subsection (1) of this section shall submit a written application for an exemption on a form provided by the REGULATORY AUTHORITY at least 14 calendar days before providing FOOD service, or as otherwise required by the REGULATORY AUTHORITY.

(3) The PERSON requesting a PERMIT exemption under subsection (1) of this section shall submit properly prepared plans and specifications of the FOOD service facilities and EQUIPMENT if the REGULATORY AUTHORITY requires it, based on a review of the application for an exemption submitted under subsection (2) of this section.

(4) The PERSON requesting a PERMIT exemption under subsection (1) of this section shall limit FOOD handling to one or more of the following FOODS:

(a) Individual samples of nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD sliced fruits and vegetables;

(b) Popcorn and flavored popcorn prepared from commercially PACKAGED ingredients that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(c) Dried herbs and spices processed in an APPROVED facility;

(d) Crushed ice drinks containing only ingredients that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOODS and dispensed from a self-contained machine that makes its own ice. Drinks with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, snow cones, and shaved ice are not included;

(e) Corn on the cob;

(f) Whole roasted peppers;

(g) Roasted nuts, roasted peanuts, and roasted candy-coated nuts;

(h) Chocolate-dipped ice cream bars prepared from pre-PACKAGED ice cream bars produced in a FOOD PROCESSING PLANT;

(i) Chocolate-dipped bananas prepared from bananas peeled and frozen in an APPROVED facility; and

(j) Cotton candy.

08310 Application procedure--Submission thirty calendar days before proposed opening (FDA Food Code 8-302.11).

An applicant shall submit an application for a PERMIT at least thirty calendar days before the date planned for opening a FOOD ESTABLISHMENT or the expiration of the current PERMIT for an existing facility.

08315 Application procedure--Form of submission (FDA Food Code 8-302.12).

A PERSON desiring to operate a FOOD ESTABLISHMENT shall submit to the REGULATORY AUTHORITY a written application for a PERMIT on a form provided by the REGULATORY AUTHORITY.

08320 Application procedure--Qualifications and responsibilities of applicants (FDA Food Code 8-302.13).

To qualify for a PERMIT, an applicant shall:

(1) Be an owner of the FOOD ESTABLISHMENT or an officer of the legal ownership;

(2) Comply with the requirements of this chapter;

(3) As specified under 08415, agree to allow access to the FOOD ESTABLISHMENT and to provide required information; and

(4) Pay the applicable PERMIT fees at the time the application is submitted.

08325 Application procedure--Contents of the application (FDA Food Code 8-302.14).

The application must include:

(1) The name, birth date or Unified Business Identifier, mailing address, telephone number, and signature of the PERSON applying for the PERMIT and the name, mailing address, and location of the FOOD ESTABLISHMENT;

(2) Information specifying whether the FOOD ESTABLISHMENT is owned by an association, corporation, individual, partnership, or other legal entity;

(3) A statement specifying whether the FOOD ESTABLISHMENT:

(a) Is mobile or stationary and temporary or permanent; and

(b) Is an operation that includes one or more of the following:

(i) Prepares, offers for sale, or serves TIME/TEMPERATURE CONTROL FOR SAFETY FOOD:

(A) Only to order upon a CONSUMER'S request;

(B) In advance quantities based on projected CONSUMER demand and discards FOOD that is not sold or served at an APPROVED frequency; or

(C) Using time as a public health control under 03530;

(ii) Prepares TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in advance using a FOOD preparation method that involves two or more steps which may include combining TIME/TEMPERATURE CONTROL FOR SAFETY FOOD ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;

(iii) Prepares FOOD as specified under (b)(ii) of this subsection for delivery to and consumption at a location off the PREMISES of the FOOD ESTABLISHMENT where it is prepared;

(iv) Prepares FOOD as specified under (b)(ii) of this subsection for service to a HIGHLY SUSCEPTIBLE POPULATION;

(v) Prepares only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; or

(vi) Does not prepare, but offers for sale only pre-PACKAGED FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD.

(4) The name, title, address, and telephone number of the PERSON directly responsible for the FOOD ESTABLISHMENT;

(5) The name, title, address, and telephone number of the PERSON who functions as the immediate supervisor of the PERSON specified under subsection (4) of this section such as the zone, district, or regional supervisor;

(6) The names, titles, and addresses of:

(a) The PERSONS comprising the legal ownership as specified under subsection (2) of this section including the owners and officers; and

(b) The local resident agent if one is required based on the type of legal ownership.

(7) A statement signed by the applicant that:

(a) Attests to the accuracy of the information provided in the application; and

(b) Affirms that the applicant will:

(i) Comply with this chapter; and

(ii) Allow the REGULATORY AUTHORITY access to the establishment as specified under 08415 and to the records specified under 03290, 05280 and 08215 (4)(f); and

(8) Other information required by the REGULATORY AUTHORITY.

08330 Issuance--New, converted, or remodeled establishments (FDA Food Code 8-303.10).

For FOOD ESTABLISHMENTS that are required to submit plans as specified under 08200 the REGULATORY AUTHORITY shall issue a PERMIT to the applicant after:

(1) A properly completed application is submitted;

(2) The required fee is submitted;

(3) The required plans, specifications, and information are reviewed and APPROVED; and

(4) A preoperational inspection as specified under 08225 shows that the establishment is built or remodeled in accordance with the APPROVED plans and specifications and that the establishment is in compliance with this chapter.

08335 Issuance--Existing establishments, permit renewal, and change of ownership (FDA Food Code 8-303.20).

The REGULATORY AUTHORITY may renew a PERMIT for an existing FOOD ESTABLISHMENT or may issue a PERMIT to a new owner of an existing establishment after a properly completed application is submitted, reviewed and APPROVED, the fees are paid, and an inspection shows that the establishment is in compliance with this chapter.

08340 Issuance--Denial of application for permit, notice (FDA Food Code 8-303.30).

If an application for a PERMIT to operate is denied, the REGULATORY AUTHORITY shall provide the applicant with a notice that includes:

(1) The specific reasons and chapter citations for the PERMIT denial;

(2) The actions, if any, that the applicant must take to qualify for a PERMIT; and

(3) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in LAW.

08345 Conditions of retention--Responsibilities of the regulatory authority (FDA Food Code 8-304.10).

(1) At the time a PERMIT is first issued, the REGULATORY AUTHORITY shall provide to the PERMIT HOLDER a copy of this chapter so that the PERMIT HOLDER is notified of the compliance requirements and the conditions of retention, as specified under 08350, that are applicable to the PERMIT.

(2) Failure to provide the information specified in subsection (1) of this section does not prevent the REGULATORY AUTHORITY from taking authorized action or seeking remedies if the PERMIT HOLDER fails to comply with this chapter or an order, warning, or directive of the REGULATORY AUTHORITY.

08350 Conditions of retention--Responsibilities of the permit holder (FDA Food Code 8-304.11).

Upon acceptance of the PERMIT issued by the REGULATORY AUTHORITY, the PERMIT HOLDER in order to retain the PERMIT shall:

(1) Post the PERMIT in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS;

(2) Comply with the provisions of this chapter including the conditions of a granted VARIANCE as specified under 08120, and APPROVED plans as specified under 08205;

(3) If a FOOD ESTABLISHMENT is required under 08210 to operate under a HACCP PLAN, comply with the plan as specified under 08120;

(4) Immediately contact the REGULATORY AUTHORITY to report an illness of a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE as specified under 02215;

(5) Immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD might exist as specified under 08455;

(6) Allow representatives of the REGULATORY AUTHORITY access to the FOOD ESTABLISHMENT as specified under 08415;

(7) Replace existing facilities and EQUIPMENT specified under 08100 with facilities and EQUIPMENT that comply with this chapter if:

(a) The REGULATORY AUTHORITY directs the replacement because the facilities and EQUIPMENT constitute a public health HAZARD or nuisance or no longer comply with the requirements upon which the facilities and EQUIPMENT were accepted; or

(b) The facilities and EQUIPMENT are replaced in the normal course of operation.

(8) Comply with directives of the REGULATORY AUTHORITY including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the REGULATORY AUTHORITY in regard to the PERMIT HOLDER'S FOOD ESTABLISHMENT or in response to community emergencies;

(9) Accept notices issued and served by the REGULATORY AUTHORITY according to LAW;

(10) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in LAW for failure to comply with this chapter or a directive of the REGULATORY AUTHORITY, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and

(11) Notify customers that the most recent establishment inspection report or summary provided by the REGULATORY AUTHORITY is available for review by posting a sign or placard, or a modified operating permit provided by a REGULATORY AUTHORITY, in a location in the FOOD ESTABLISHMENT that is conspicuous to customers or by another method acceptable to the REGULATORY AUTHORITY.

08355 Conditions of retention--Permits not transferable (FDA Food Code 8-304.20).

A PERMIT may not be transferred from one PERSON to another PERSON, from one FOOD ESTABLISHMENT to another, or from one type of operation to another if the FOOD operation changes from the type of operation specified in the application as specified under 08325(3) and the change in operation is not APPROVED.

Subpart D - Inspection and Correction of Violations

08400 Frequency--Establishing inspection interval (FDA Food Code 8-401.10).

(1) Except as specified in subsections (2) and (3) of this section, the REGULATORY AUTHORITY shall inspect a FOOD ESTABLISHMENT at least once every six months.

(2) The REGULATORY AUTHORITY may increase the interval between inspections beyond six months if:

(a) The FOOD ESTABLISHMENT is fully operating under an APPROVED and validated HACCP PLAN as specified under 08215 and 08120 (1) and (2);

(b) The FOOD ESTABLISHMENT is assigned a less frequent inspection frequency based on a written RISK-based inspection schedule developed by the REGULATORY AUTHORITY, or set by state or federal LAW, and uniformly applied throughout the jurisdiction; or

(c) The establishment's operation involves only coffee service and other FOOD that is not PACKAGED or pre-PACKAGED FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD such as carbonated BEVERAGES and snack FOOD such as chips, nuts, popcorn and pretzels.

(3) The REGULATORY AUTHORITY shall inspect a TEMPORARY FOOD ESTABLISHMENT during its PERMIT period, unless the REGULATORY AUTHORITY develops a written RISK-based plan for exempting certain categories of TEMPORARY FOOD ESTABLISHMENTS from inspection that is uniformly applied throughout the jurisdiction.

08405 Frequency--Performance- and risk-based (FDA Food Code 8-401.20).

Within the parameters specified under 08400, the REGULATORY AUTHORITY shall prioritize, and conduct more frequent inspections based upon its assessment of a FOOD ESTABLISHMENT'S history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:

(1) Past performance, for nonconformance with this chapter or HACCP PLAN requirements;

(2) Past performance, for numerous repeat violations of this chapter or HACCP PLAN requirements;

(3) Past performance, for complaints investigated and found to be valid;

(4) The hazards associated with the particular FOODS that are prepared, stored or served;

(5) The type of operation including the methods and extent of FOOD storage, preparation, and service;

(6) The number of people served;

(7) Whether the population served is a HIGHLY SUSCEPTIBLE POPULATION; and

(8) Whether the establishment is properly implementing an APPROVED self-inspection program.

08410 Frequency--Competency of inspectors (FDA Food Code 8-402.10).

(1) An authorized representative of the REGULATORY AUTHORITY who inspects a FOOD ESTABLISHMENT or conducts plan review for compliance with this chapter shall have the knowledge, skills, and ability to adequately perform the required duties.

(2) The REGULATORY AUTHORITY shall ensure that authorized representatives who inspect a FOOD ESTABLISHMENT or conduct plan review for compliance with this chapter have access to training and continuing education as needed to properly identify violations and apply the chapter.

08415 Access--Allowed at reasonable times after due notice (FDA Food Code 8-402.11).

After the REGULATORY AUTHORITY presents official credentials and provides notice of the purpose of, and intent to conduct, an inspection, the PERSON IN CHARGE shall allow the REGULATORY AUTHORITY to determine if the FOOD ESTABLISHMENT is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the REGULATORY AUTHORITY is entitled according to LAW, during the FOOD ESTABLISHMENT'S hours of operation and other reasonable times.

08420 Access--Refusal, notification of right to access, and final request for access (FDA Food Code 8-402.20).

If a PERSON denies access to the REGULATORY AUTHORITY, the REGULATORY AUTHORITY shall:

(1) Inform the PERSON that:

(a) The PERMIT HOLDER is required to allow access to the REGULATORY AUTHORITY as specified under 08415 of this chapter; and

(b) Access is a condition of the acceptance and retention of a FOOD ESTABLISHMENT PERMIT to operate as specified under 08350(6).

(2) Make a final request for access.

08425 Access--Refusal, reporting (FDA Food Code 8-402.30).

If after the REGULATORY AUTHORITY presents credentials and provides notice as specified under 08415, explains the authority upon which access is requested, and makes a final request for access as specified under 08420, the PERSON IN CHARGE continues to refuse access, the REGULATORY AUTHORITY shall provide details of the denial of access on an inspection report form.

08430 Report of findings--Documenting information and observations (FDA Food Code 8-403.10).

The REGULATORY AUTHORITY shall document on an inspection report form APPROVED by the Washington State Department of Health:

(1) Administrative information about the FOOD ESTABLISHMENT'S legal identity, street and mailing addresses, type of establishment and operation as specified under 08325(3), inspection date, and other information such as type of water supply and SEWAGE disposal, status of the PERMIT, and personnel certificates that may be required; and

(2) Specific factual observations of violative conditions or other deviations from this chapter that require correction by the PERMIT HOLDER including:

(a) Failure of the PERSON IN CHARGE to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this chapter specified under 02105;

(b) Failure of FOOD EMPLOYEES, CONDITIONAL EMPLOYEES, and the PERSON IN CHARGE to demonstrate knowledge of their responsibility to report a disease or medical condition;

(c) Nonconformance with this chapter;

(d) Failure of the appropriate FOOD EMPLOYEES to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the REGULATORY AUTHORITY as specified under 08120;

(e) Failure of the PERSON IN CHARGE to provide records required by the REGULATORY AUTHORITY for determining conformance with a HACCP PLAN as specified under 08215 (4)(f); and

(f) Nonconformance with CRITICAL LIMITS of a HACCP PLAN.

08435 Report of findings--Specifying time frame for corrections (FDA Food Code 8-403.20).

The REGULATORY AUTHORITY shall specify on the inspection report form the time frame for correction of any violations.

08440 Report of findings--Issuing report and obtaining acknowledgment of receipt (FDA Food Code 8-403.30).

At the conclusion of the inspection and according to LAW, the REGULATORY AUTHORITY shall provide a copy of the completed inspection report and the notice to correct violations to the PERMIT HOLDER or to the PERSON IN CHARGE, and request a signed acknowledgment of receipt.

08445 Report of findings--Refusal to sign acknowledgment (FDA Food Code 8-403.40).

The REGULATORY AUTHORITY shall:

(1) Inform the PERSON who declines to sign an acknowledgment of receipt of inspectional findings as specified under 08440 that:

(a) An acknowledgment of receipt is not an agreement with the findings;

(b) Refusal to sign an acknowledgment of receipt does not affect the PERMIT HOLDER'S obligation to correct the violations noted in the inspection report within the time frames specified; and

(c) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the REGULATORY AUTHORITY'S historical record for the FOOD ESTABLISHMENT; and

(2) Make a final request that the PERSON IN CHARGE sign an acknowledgment receipt of inspectional findings.

08450 Report of findings--Public information (FDA Food Code 8-403.50).

Except as specified under 08220, the REGULATORY AUTHORITY shall treat the inspection report as a public document and shall make it available for DISCLOSURE to a PERSON who requests it as provided in LAW.

08455 Imminent health hazard--Ceasing operations and reporting (FDA Food Code 8-404.11).

(1) Except as specified in subsections (2) and (3) of this section, a PERMIT HOLDER shall immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD might exist.

(2) A PERMIT HOLDER need not discontinue operations in an area of an establishment that is unaffected by the IMMINENT HEALTH HAZARD.

(3) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the REGULATORY AUTHORITY may agree to continuing operations in the event of an extended interruption of electrical or water service if:

(a) A written emergency operating plan has been APPROVED;

(b) Immediate corrective action is taken to eliminate, prevent, or control any FOOD safety risk and IMMINENT HEALTH HAZARD associated with the electrical or water service interruption; and

(c) The REGULATORY AUTHORITY is informed upon implementation of the written emergency operating plan.

08460 Imminent health hazard--Resumption of operations (FDA Food Code 8-404.12).

If operations are discontinued as specified under 08455 or otherwise according to LAW, the PERMIT HOLDER shall obtain approval from the REGULATORY AUTHORITY before resuming operations.

Subpart E - Prevention of Foodborne Disease Transmission by Employees

08500 Investigation and control--Obtaining information--Personal history of illness, medical examination, and specimen analysis (FDA Food Code 8-501.10).

The REGULATORY AUTHORITY shall act when it has reasonable cause to believe that a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE has possibly transmitted disease; might be infected with a disease in a communicable form that is transmissible through FOOD; might be a carrier of infectious agents that cause a disease that is transmissible through FOOD; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(1) Securing a confidential medical history of the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE suspected of transmitting disease or making other investigations as deemed appropriate; and

(2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected FOOD EMPLOYEE or CONDITIONAL EMPLOYEE.

08505 Investigation and control--Restriction or exclusion of food employee, or summary suspension of permit (FDA Food Code 8-501.20).

Based on the findings of an investigation related to a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE who is suspected of being infected or diseased, the REGULATORY AUTHORITY may issue an order to the suspected FOOD EMPLOYEE, CONDITIONAL EMPLOYEE, or PERMIT HOLDER instituting one or more of the following control measures:

(1) RESTRICTING the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE;

(2) EXCLUDING the FOOD EMPLOYEE or CONDITIONAL EMPLOYEE; or

(3) Closing the FOOD ESTABLISHMENT by summarily suspending a PERMIT to operate in accordance with LAW.

08510 Investigation and control--Restriction or exclusion order: Warning or hearing not required, information required in order (FDA Food Code 8-501.30).

Based on the findings of the investigation as specified under 08500 and to control disease transmission, the REGULATORY AUTHORITY may issue an order of RESTRICTION or EXCLUSION to a suspected FOOD EMPLOYEE or the PERMIT HOLDER without prior warning, notice of a hearing, or a hearing if the order:

(1) States the reasons for the RESTRICTION or EXCLUSION that is ordered;

(2) States the evidence that the FOOD EMPLOYEE or PERMIT HOLDER shall provide in order to demonstrate that the reasons for the RESTRICTION or EXCLUSIONS are eliminated;

(3) States that the suspected FOOD EMPLOYEE or PERMIT HOLDER may request an appeal hearing by submitting a timely request as provided in LAW; and

(4) Provides the name and address of the REGULATORY AUTHORITY representative to whom a request for an appeal hearing can be made.

08515 Investigation and control--Removal of exclusion or restriction (FDA Food Code 8-501.40).

The REGULATORY AUTHORITY or PERSON IN CHARGE shall release a FOOD EMPLOYEE or CONDITIONAL EMPLOYEE from RESTRICTION or EXCLUSION according to LAW and the conditions specified under 02245, 02250, and 02255.

08520 Investigation and control--Procedure when disease transmission is suspected.

(1) When a possible foodborne illness incident is reported to any FOOD EMPLOYEE, the PERSON IN charge of the FOOD ESTABLISHMENT shall:

(a) Immediately report the incident to the REGULATORY AUTHORITY; and

(b) Remove from sale and refrigerate any suspect FOODS until released by the REGULATORY AUTHORITY.

(2) When the REGULATORY AUTHORITY suspects that a FOOD ESTABLISHMENT, or its EMPLOYEES, might be the source of a foodborne illness, the REGULATORY AUTHORITY shall take appropriate action to control the transmission of disease. This action may include any or all of the following:

(a) Secure records that might enable identification of PERSONS potentially exposed to the disease, or require additional assistance in locating such PERSONS;

(b) Secure the illness history of each suspected EMPLOYEE;

(c) EXCLUDE any suspected EMPLOYEE from working in the FOOD ESTABLISHMENT until, in the opinion of the REGULATORY AUTHORITY, there is no further RISK of disease transmission;

(d) Suspend the PERMIT of the FOOD ESTABLISHMENT until, in the opinion of the REGULATORY AUTHORITY, there is no further RISK of disease transmission;

(e) RESTRICT the work activities of any suspected EMPLOYEE;

(f) Require medical and laboratory examinations of any FOOD EMPLOYEE and of his/her body discharges;

(g) Obtain any suspect FOOD for laboratory examination;

(h) Require the destruction of, or placement of a hold order on, all suspected FOOD; and

(i) Limit, substitute, or restrict menu items or FOOD handling practices that might be associated with causing illness.

(3) The provisions of chapter 246-100 WAC, Communicable and Certain Other Diseases, apply.

Subpart F - Enforcement

08600 Permits required, suspension, revocation, enforcement.

(1) Any PERSON operating a FOOD ESTABLISHMENT without a valid PERMIT issued by the REGULATORY AUTHORITY may be guilty of a misdemeanor under RCW 70.05.120 and local regulations.

(2) The REGULATORY AUTHORITY may suspend any PERMIT to operate a FOOD ESTABLISHMENT if:

(a) Continued operation of the FOOD ESTABLISHMENT constitutes an imminent or actual health hazard;

(b) Operations, facilities, or EQUIPMENT in the FOOD ESTABLISHMENT fail to comply with these regulations;

(c) The PERMIT HOLDER does not comply with these regulations; or

(d) Interference with the REGULATORY AUTHORITY in the performance of its duties has occurred.

(3) When the REGULATORY AUTHORITY has suspended a FOOD ESTABLISHMENT PERMIT, the PERMIT holder or PERSON IN CHARGE:

(a) Shall be notified in writing by the REGULATORY AUTHORITY that the FOOD ESTABLISHMENT PERMIT is immediately suspended upon service of the notice;

(b) Shall immediately cease all FOOD service operations until a hearing with the REGULATORY AUTHORITY finds the operation to be in compliance with the requirements and regulations;

(c) May request a hearing by filing a written request for a hearing with the REGULATORY AUTHORITY within ten days of receipt of the notice of suspension; and

(d) Shall be notified, if a written request for a hearing is not filed within ten days, that the suspension is sustained.

(4) Any PERSON whose FOOD ESTABLISHMENT PERMIT has been suspended may at any time make written application for a reinspection for the purpose of reinstatement of the PERMIT. The application must include a signed statement explaining how the conditions causing the suspension of the PERMIT have been corrected.

(5) Within two working days following receipt of a written request for reinspection, the REGULATORY AUTHORITY shall make a reinspection, and reinstate the PERMIT if the PERSON is in compliance with these regulations.

(6) The REGULATORY AUTHORITY may adopt and use a PERMIT suspension process different than specified under subsection (2), (3), (4), or (5) of this section.

(7) The REGULATORY AUTHORITY may revoke a FOOD ESTABLISHMENT PERMIT after providing the PERMIT HOLDER an opportunity for hearing if:

(a) Serious and repeated violation(s) of any requirements of these regulations have occurred; or

(b) Repeated interference with, or assault upon a representative of the REGULATORY AUTHORITY in the performance of his/her duty, has occurred.

(8) Before revocation, the REGULATORY AUTHORITY shall notify, in writing, the PERMIT HOLDER of the specific reason(s) why the PERMIT is to be revoked. The notice must state:

(a) That the PERMIT will be revoked at the end of the ten days following the notice unless a written request for a hearing is filed with the REGULATORY AUTHORITY by the PERMIT HOLDER within such ten-day period; and

(b) If a request for a hearing is not filed by the PERMIT HOLDER within the ten-day period, the revocation of the PERMIT becomes final.

(9) Any PERSON whose FOOD ESTABLISHMENT PERMIT has been revoked by the REGULATORY AUTHORITY, after a period of six months, may:

(a) Make written application for a new PERMIT; and

(b) Request a hearing with the REGULATORY AUTHORITY to determine whether a new PERMIT will be issued.

(10) The REGULATORY AUTHORITY may use a PERMIT revocation process different than specified under subsections (7), (8), and (9) of this section.

(11) The REGULATORY AUTHORITY may initiate any one, or a combination of, compliance methods that include, but are not limited to:

(a) Holding an administrative conference with the FOOD ESTABLISHMENT PERMIT HOLDER or PERSON IN CHARGE;

(b) Placing the FOOD ESTABLISHMENT on probation;

(c) Setting conditions for continued operation of the FOOD ESTABLISHMENT, by the PERMIT HOLDER, during the probation period;

(d) Requiring additional education or training of EMPLOYEES, management, and owners of the FOOD ESTABLISHMENT; and

(e) Completing a HAZARD evaluation and requiring monitoring procedures be implemented for CRITICAL CONTROL POINTS identified.

08605 Service of notice.

(1) A notice provided for in these regulations is properly served when it is:

(a) Delivered to the PERMIT HOLDER;

(b) Delivered to the PERSON IN CHARGE of the FOOD ESTABLISHMENT; or

(c) Sent by registered or certified mail, return receipt requested, to the last known address of the PERMIT HOLDER.

(2) A copy of the notice must be filed in the records of the REGULATORY AUTHORITY.

08610 Hearings.

(1) The hearings provided for in Part 8 must be:

(a) Conducted by the REGULATORY AUTHORITY or its designee, and

(b) Conducted at a time and place designated by the REGULATORY AUTHORITY.

(2) The REGULATORY AUTHORITY or designee shall:

(a) Make a final finding based upon the complete hearing record;

(b) Sustain, modify, or rescind any notice or order considered in the hearing; and

(c) Furnish a written report of the hearing decision to the PERMIT HOLDER.

(3) The REGULATORY AUTHORITY may adopt and use an alternate hearing process.

PART 9: ALTERNATIVE FOOD FACILITIES

Subpart A - Mobile Food Units

09100 Requirements and restrictions--Requirements.

(1) The PERMIT HOLDER and PERSON IN CHARGE of a MOBILE FOOD UNIT shall comply with the requirements of this chapter, except as otherwise provided in this section.

(2) The PERMIT HOLDER shall obtain approval from other applicable regulating agencies prior to operating a MOBILE FOOD UNIT, including the Washington State Department of Labor and Industries.

(3) The PERSON IN CHARGE of a MOBILE FOOD UNIT shall operate the MOBILE FOOD UNIT from an APPROVED COMMISSARY or SERVICING AREA unless they meet the exemption criteria in RCW 43.20.148 and shall return to such location for supplies, thorough cleaning, and other servicing activities, as APPROVED in a plan of operation.

(4) When not in operation, a MOBILE FOOD UNIT must be stored at an APPROVED SERVICING AREA or other APPROVED location.

(5) If a REGULATORY AUTHORITY suspends a MOBILE FOOD UNIT'S MOBILE PRIMARY PERMIT or MOBILE SECONDARY PERMIT, the PERMIT HOLDER shall immediately notify each REGULATORY AUTHORITY that issued the MOBILE FOOD UNIT a permit about the suspension.

09105 Requirements and restrictions--Restrictions.

The REGULATORY AUTHORITY may impose additional requirements to protect against health hazards related to the operation of a MOBILE FOOD UNIT and may:

(1) Limit the FOOD preparation steps;

(2) Prohibit some menu items; and

(3) Restrict the mode of operation when facilities or EQUIPMENT are inadequate to protect public health.

09110 Plan approval--Plan review.

The owner of a MOBILE FOOD UNIT shall submit a properly prepared plan of operation with specifications of the MOBILE FOOD UNIT, COMMISSARY, and SERVICING AREA to the REGULATORY AUTHORITY for approval before:

(1) Beginning a construction or remodeling project;

(2) Changing the menu, processes, or preparation procedures of the MOBILE FOOD UNIT;

(3) Changing the vehicle; or

(4) Changing the COMMISSARY.

09115 Plan approval--Plan contents.

(1) To apply for a PRIMARY MOBILE PERMIT, the owner of a MOBILE FOOD UNIT shall include in the plan required by 09110:

(a) Menu and food preparation steps;

(b) Floor plan;

(c) EQUIPMENT specifications and location;

(d) Finish schedule;

(e) Source of water and specifications of the on-board plumbing;

(f) Site used for SEWAGE disposal;

(g) Availability of restrooms for EMPLOYEES;

(h) Operating procedures; and

(i) Cleaning schedule.

(2) To apply for a MOBILE SECONDARY PERMIT, the owner of a MOBILE FOOD UNIT shall provide the following information to the REGULATORY AUTHORITY issuing the secondary permit:

(a) A copy of the current MOBILE PRIMARY PERMIT from the original REGULATORY AUTHORITY;

(b) A copy of the complete APPROVED plan review from the original REGULATORY AUTHORITY;

(c) The most recent inspection report of the MOBILE FOOD UNIT from the original REGULATORY AUTHORITY that demonstrates compliance with food safety standards; and

(d) Any COMMISSARY agreements that the applicant is required to maintain under the permit from the original REGULATORY AUTHORITY.

(3) Except as provided in (a) and (b) of this subsection, the REGULATORY AUTHORITY may not require an applicant to submit additional documents or inspections to obtain a MOBILE SECONDARY PERMIT to operate the MOBILE FOOD UNIT.

(a) The REGULATORY AUTHORITY may require an applicant to submit any restroom agreements the REGULATORY AUTHORITY determines are necessary to comply with this chapter;

(b) The REGULATORY AUTHORITY may require an applicant to submit additional COMMISSARY agreements as required by this chapter unless:

(i) A MOBILE FOOD UNIT is exempt from the use of a COMMISSARY under RCW 43.20.148; or

(ii) A MOBILE FOOD UNIT returns to its APPROVED COMMISSARY after each day of service as described in the APPROVED plan.

(4) A REGULATORY AUTHORITY granting a MOBILE SECONDARY PERMIT may charge the applicant an annual PERMIT fee, but may not charge a plan review or inspection fee.

09120 Additional requirements--Standard operating procedures.

The PERSON IN CHARGE of a MOBILE FOOD UNIT shall ensure:

(1) Only EMPLOYEES and other PERSONS authorized by the REGULATORY AUTHORITY are present in the MOBILE FOOD UNIT;

(2) All EMPLOYEES are in compliance with the provisions of chapter 69.06 RCW and chapter 246-217 WAC for obtaining and renewing valid FOOD WORKER CARDS, unless all FOODS are pre-PACKAGED and are nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD;

(3) All FOODS, including ice, are from an APPROVED source or COMMISSARY;

(4) TIME/TEMPERATURE CONTROL FOR SAFETY FOODS prepared on the MOBILE FOOD UNIT are served the same day they are prepared;

(5) Pre-PACKAGED FOODS are properly labeled;

(6) Only SINGLE-SERVICE ARTICLES are provided for use by the customer; and

(7) Condiments not in individual packages are provided in dispenser bottles or in other containers protected from contamination.

09125 Time/temperature control for safety food--Temperature control.

The PERSON IN CHARGE of a MOBILE FOOD UNIT shall ensure that TIME/TEMPERATURE CONTROL FOR SAFETY FOODS are:

(1) Not cooled on the MOBILE FOOD UNIT unless APPROVED;

(2) Properly temperature-controlled during transport to the place of service;

(3) Temperature-monitored by use of a stem-type thermometer or thermocouple capable of measuring all proper FOOD temperatures; and

(4) Held in preheated mechanical hot holding EQUIPMENT or prechilled mechanical cold holding EQUIPMENT, or otherwise temperature controlled by an APPROVED method.

09126 Commissary usage.

(1) The PERSON IN CHARGE of a MOBILE FOOD UNIT shall use a COMMISSARY APPROVED by the REGULATORY AUTHORITY issuing the primary permit unless exempted under RCW 43.20.148.

(2) The PERMIT HOLDER shall obtain a written, signed COMMISSARY agreement from the COMMISSARY operator that must be renewed annually. Any changes to the agreement shall be submitted to the REGULATORY AUTHORITY issuing the MOBILE PRIMARY PERMIT before implementing the changes.

(3) The PERSON IN CHARGE shall return the MOBILE FOOD UNIT to the COMMISSARY at a regular frequency, as determined and APPROVED by the REGULATORY AUTHORITY issuing the primary permit.

(4) The PERSON IN CHARGE shall document presence at the COMMISSARY on a log, maintain records for one year, and shall make the records available for inspection by the REGULATORY AUTHORITY upon request.

(5) Depending on the menu and plan of operation, the MOBILE FOOD UNIT operator must have access at the COMMISSARY to:

(a) A three-compartment sink and other APPROVED WAREWASHING equipment;

(b) Adequate hot and cold holding equipment as necessary for proper food storage;

(c) A service sink with hot and cold water under pressure;

(d) At least one HANDWASHING SINK with pressurized hot and cold water that is conveniently located and used exclusively for handwashing;

(e) A conveniently located toilet room;

(f) APPROVED methods and equipment to clean and sanitize FOOD and nonfood contact surfaces within the MOBILE FOOD UNIT; and

(g) Adequate space for the sanitary storage of FOOD, EQUIPMENT, UTENSILS, LINENS, and single-service, or single-use articles.

09127 Commissary exemption.

(1) The PERSON IN CHARGE of a MOBILE FOOD UNIT shall use a COMMISSARY APPROVED by the REGULATORY AUTHORITY issuing the primary permit unless exempted under RCW 43.20.148.

(2) The REGULATORY AUTHORITY must approve a request for a MOBILE FOOD UNIT to be exempt from this chapter or REGULATORY AUTHORITY requirements to operate from an APPROVED COMMISSARY or SERVICING AREA if:

(a) The MOBILE FOOD UNIT contains all EQUIPMENT and UTENSILS needed for complete onboard preparation of an APPROVED menu;

(b) The MOBILE FOOD UNIT is protected from environmental contamination when not in use;

(c) The MOBILE FOOD UNIT can maintain required food storage temperatures during storage, preparation, service, and transit;

(d) The MOBILE FOOD UNIT has a dedicated HANDWASHING SINK TO allow frequent handwashing at all times;

(e) The MOBILE FOOD UNIT has adequate water capacity and WAREWASHING facilities to clean all multiuse utensils used on the MOBILE FOOD UNIT at a frequency specified in this chapter;

(f) The MOBILE FOOD UNIT IS able to store tools onboard needed for cleaning and sanitizing;

(g) All FOOD, water, and ice used on the MOBILE FOOD UNIT are prepared onboard or otherwise obtained from APPROVED sources;

(h) Wastewater and garbage will be sanitarily removed from the MOBILE FOOD UNIT following an APPROVED written plan or by a licensed service provider; and

(i) The LOCAL HEALTH OFFICER approves the menu and plan of operations for the MOBILE FOOD UNIT.

09135 Water and wastewater--Water system.

The PERSON IN CHARGE shall ensure that the water system on the MOBILE FOOD UNIT:

(1) Is supplied from an APPROVED source of water;

(2) Is designed and constructed in an APPROVED manner;

(3) Is filled from the APPROVED water source through a FOOD-grade hose;

(4) Is refilled as frequently as necessary to furnish enough hot and cold water for handwashing, FOOD preparation, UTENSIL cleaning, SANITIZING, and facility cleaning, on the MOBILE FOOD UNIT;

(5) Has a water supply tank with a minimum capacity of five gallons for handwashing;

(6) Stores liquid waste in a wastewater retention tank with at least fifteen percent more capacity than the water supply tank; and

(7) Retains wastewater on the MOBILE FOOD UNIT until disposed of by an APPROVED method.

09140 Handwashing--Handwashing facilities.

The PERSON IN CHARGE of a MOBILE FOOD UNIT shall ensure that a separate HANDWASHING SINK for EMPLOYEES is accessible at all times of operation; allows convenient use by EMPLOYEES; is located within 25 feet of FOOD preparation, FOOD dispensing, and WAREWASHING areas; is installed as specified under 05210; and includes soap and paper towels.

09145 Handwashing--Handwashing waiver.

When only pre-PACKAGED FOOD items are served, the REGULATORY AUTHORITY may waive or modify requirements for handwashing on the MOBILE FOOD UNIT.

09150 Employee restrooms--Toilet facilities.

The PERMIT HOLDER shall ensure APPROVED toilet facilities are available for EMPLOYEES:

(1) Readily accessible within 500 feet of the MOBILE FOOD UNIT during times of operation, if at any one location for more than one hour; and

(2) Provided with handwashing facilities that meet the requirements specified under 05210.

09155 Sink compartment requirements--Warewashing facilities.

The PERMIT HOLDER shall ensure:

(1) A three-compartment sink is available on the MOBILE FOOD UNIT with potable hot and cold running water to wash, rinse, and SANITIZE UTENSILS when UTENSILS are reused on the MOBILE FOOD UNIT.

(2) The REGULATORY AUTHORITY may waive or modify this requirement in subsection (1) of this section when a MOBILE FOOD UNIT demonstrates the operation:

(a) Includes limited FOOD preparation; and

(b) Has additional clean UTENSILS available and UTENSIL washing takes place at an APPROVED COMMISSARY or SERVICING AREA.

09160 Required postings--Business name and operating locations.

The PERMIT HOLDER shall:

(1) Provide the REGULATORY AUTHORITY a designated business name and permanently display the business name on the exterior of the MOBILE FOOD UNIT in printed letters at least four inches in height in a manner easily visible during operation; and

(2) Inform the REGULATORY AUTHORITY of the days, hours and locations intended to vend in a manner acceptable to the REGULATORY AUTHORITY, such as by telephone, electronic mail, written correspondence or social media link.

09165 Required postings--Permit.

The PERMIT HOLDER shall ensure the original or a copy of the currently valid FOOD ESTABLISHMENT PERMIT is posted on the MOBILE FOOD UNIT in a manner easily visible to customers during operation.

09170 Food and equipment protection--Overhead protection.

The PERMIT HOLDER and PERSON IN CHARGE shall ensure overhead protection is provided at the site of operation of the MOBILE FOOD UNIT for all FOOD handling activities.

09175 Food and equipment protection--Food and food service supplies.

The PERMIT HOLDER and PERSON IN CHARGE shall ensure that all FOOD, EQUIPMENT, UTENSILS, and other FOOD service supplies are contained on the MOBILE FOOD UNIT, at the APPROVED COMMISSARY, at the APPROVED SERVICING AREA, or as otherwise APPROVED in the plan of operation.

Subpart B - Temporary Food Establishments

09200 Requirements and restrictions.

(1) The PERMIT HOLDER and PERSON IN CHARGE of a TEMPORARY FOOD ESTABLISHMENT shall comply with the requirements of this chapter, except as otherwise provided in this subpart.

(2) The REGULATORY AUTHORITY may impose additional requirements to protect against health hazards related to the operation of the TEMPORARY FOOD ESTABLISHMENT and may:

(a) Limit the FOOD preparation steps;

(b) Prohibit some menu items; and

(c) Restrict the mode of operation when facilities or EQUIPMENT are inadequate to protect public health.

(3) The owner of a TEMPORARY FOOD ESTABLISHMENT shall:

(a) Apply to the REGULATORY AUTHORITY for a PERMIT to operate the TEMPORARY FOOD ESTABLISHMENT at least fourteen calendar days before intending to provide FOOD service, or as otherwise required by the REGULATORY AUTHORITY;

(b) Allow only EMPLOYEES and other PERSONS authorized by the REGULATORY AUTHORITY to be present in the TEMPORARY FOOD ESTABLISHMENT; and

(c) Require the PERSON IN CHARGE of the TEMPORARY FOOD ESTABLISHMENT to obtain a valid FOOD WORKER CARD before beginning work.

09205 Food and equipment protection--Standard operating procedures.

The PERSON IN CHARGE of a TEMPORARY FOOD ESTABLISHMENT shall ensure:

(1) Adequate facilities are provided at the TEMPORARY FOOD ESTABLISHMENTS for all necessary FOOD preparation steps;

(2) All FOODS, including ice, are from an APPROVED source;

(3) All off-site FOOD preparation is done in an APPROVED FOOD ESTABLISHMENT;

(4) All storage of FOOD and EQUIPMENT is done at APPROVED locations;

(5) FOOD is transported and stored in properly designed FOOD-grade containers;

(6) FOOD is protected from potential contamination during transport;

(7) Only SINGLE-SERVICE ARTICLES are provided for use by CONSUMERS, unless otherwise APPROVED by the REGULATORY AUTHORITY; and

(8) Condiments not in individual packages are provided in dispenser bottles or in other containers protected from contamination.

09210 Time/temperature control for safety food--Temperature control.

The PERSON IN CHARGE of a TEMPORARY FOOD ESTABLISHMENT shall ensure that TIME/TEMPERATURE CONTROL FOR SAFETY FOODS are:

(1) Not cooled in a TEMPORARY FOOD ESTABLISHMENT;

(2) Properly temperature-controlled during transport to the temporary event location;

(3) Temperature-monitored by use of a stem-type thermometer or thermocouple capable of measuring all proper food temperatures;

(4) Reheated, for hot holding, from 41°F (5°C) to 165°F (74°C) or above within one hour when cooked and cooled in an APPROVED FOOD ESTABLISHMENT;

(5) Reheated, for hot holding, from 41°F (5°C) to 135°F (60°C) or above within one hour when produced in a food processing plant;

(6) Reheated no more than one time; and

(7) Held in preheated mechanical hot holding EQUIPMENT or prechilled mechanical cold holding EQUIPMENT, or otherwise temperature controlled by an APPROVED method.

09215 Thawing thickness--Thawing time/temperature control for safety foods.

The PERSON IN CHARGE of a TEMPORARY FOOD ESTABLISHMENT shall ensure TIME/TEMPERATURE CONTROL FOR SAFETY FOODS that are thawed as part of a continuous cooking process are not greater than four inches thick.

09220 Public access--Separation barrier.

The PERSON IN CHARGE of a TEMPORARY FOOD ESTABLISHMENT shall ensure a separation barrier or other effective method is used to protect FOOD preparation area and cooking areas from public access.

09225 Handwashing and wastewater--Facilities.

The PERMIT HOLDER of a TEMPORARY FOOD ESTABLISHMENT shall ensure APPROVED handwashing facilities allow convenient use by EMPLOYEES; are located within 25 feet of FOOD preparation, FOOD dispensing, and WAREWASHING areas; and include:

(1) Potable, warm, running water;

(2) Soap and paper towels;

(3) A five-gallon or larger insulated container kept supplied with warm water for handwashing delivered through a continuous-flow spigot, if permanent plumbing is not available; and

(4) A wastewater retention tank sufficient in size to hold all wastewater generated by the TEMPORARY FOOD ESTABLISHMENT until emptied in an APPROVED manner, if a public SEWAGE system hookup is not available.

09230 Employee restrooms--Toilet facilities.

The PERMIT HOLDER of a TEMPORARY FOOD ESTABLISHMENT shall ensure APPROVED toilet facilities are available for EMPLOYEES and are:

(1) Readily accessible during all times of operation; and

(2) Provided with handwashing facilities with potable, warm, running water.

09235 Sink compartment requirements--Warewashing facilities.

The PERMIT HOLDER of a TEMPORARY FOOD ESTABLISHMENT shall ensure access within 200 feet to a three-compartment sink with APPROVED drain boards and an adequate supply of hot and cold running water to wash, rinse, and SANITIZE UTENSILS when:

(1) EQUIPMENT or UTENSILS are reused on-site; or

(2) The TEMPORARY FOOD ESTABLISHMENT operates for two or more consecutive days; except

(3) The REGULATORY AUTHORITY may approve an alternative UTENSIL cleaning method when three-compartment sinks with drain boards are not available and a health HAZARD cannot result.

09240 Sink compartment requirements--Food preparation sink.

The PERMIT HOLDER and PERSON IN CHARGE shall ensure a separate FOOD preparation sink is available at the TEMPORARY FOOD ESTABLISHMENT that is supplied with potable running water, drained to an APPROVED wastewater system through an indirect connection, if produce needs to be washed on-site. Alternative produce washing facilities may be used if APPROVED.

Subpart C - Bed and Breakfast Operations

09300 Residential kitchen--Requirements and restrictions.

(1) The PERMIT HOLDER and PERSON IN CHARGE of a BED AND BREAKFAST OPERATION shall comply with the requirements of this chapter, except as otherwise provided in this subpart.

(2) The REGULATORY AUTHORITY may impose additional requirements to protect against health hazards related to the FOOD service portion of a BED AND BREAKFAST OPERATION.

(3) FOOD may be handled in the residential kitchen of a BED AND BREAKFAST OPERATION without meeting the provisions of 246-215-02315, 246-215-04212, 246-215-04214, 246-215-04216, 246-215-04224, 246-215-04228, 246-215-04236, 246-215-04250, 246-215-04254, 246-215-04260, 246-215-04264, 246-215-04315, 246-215-04340, 246-215-04345, 246-215-04405, 246-215-04410, 246-215-04500(1), 246-215-04510, 246-215-04525, 246-215-04545, 246-215-04555, 246-215-04560, 246-215-04575, 246-215-04610, 246-215-04710, 246-215-04940, and 246-215-05240; Part 4, Subpart H; Part 5, Subpart E; Part 6 and Part 7, if:

(a) The number of guest bedrooms does not exceed eight;

(b) FOOD service is limited to overnight guests;

(c) Breakfast is the only meal prepared; however, baked goods that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be prepared and served at any time of day;

(d) TIME/TEMPERATURE CONTROL FOR SAFETY FOODS are prepared for IMMEDIATE SERVICE only; and

(e) TIME/TEMPERATURE CONTROL FOR SAFETY FOODS are not cooled for later reheating.

(4) If FOOD service is provided in a BED AND BREAKFAST OPERATION other than under the conditions of subsection (3) of this section, all FOODS must be prepared in an APPROVED nonresidential kitchen meeting the requirements of this chapter.

09305 Food protection--Standard operating procedures.

The PERSON IN CHARGE of a BED AND BREAKFAST OPERATION shall ensure:

(1) FOOD supplies for personal use are separated from FOOD supplies intended for guest use;

(2) FOOD-CONTACT SURFACES are thoroughly cleaned before each use;

(3) A HANDWASHING SINK is available for use by EMPLOYEES during all times FOOD is prepared for BED AND BREAKFAST OPERATION guests and is located within 25 feet of FOOD preparation, FOOD dispensing, and WAREWASHING areas;

(4) Each HANDWASHING SINK is provided with a supply of hand soap and SINGLE-USE towels or other APPROVED hand-drying device;

(5) REFUSE, recyclables, and returnables are stored in a manner that does not create a public health HAZARD or nuisance;

(6) The PREMISES are maintained to control insects, rodents, and other pests;

(7) Children under age ten and animals are kept out of FOOD preparation areas during all times FOOD is prepared for BED AND BREAKFAST guests; and

(8) Toxic chemicals are stored in accurately labeled containers away from all FOODS and FOOD service supplies.

09310 Sinks--Sink compartment requirements.

The kitchen of a BED AND BREAKFAST OPERATION must have at least the following facilities for cleaning and SANITIZING FOOD contact UTENSILS and EQUIPMENT and to allow handwashing in a separate sink basin from one used for FOOD preparation:

(1) A three-compartment sink; or

(2) Two-sink basins plus a home-style dishwasher with a SANITIZING cycle providing 155°F (68°C) or hotter water.

Subpart D - Donated Food Distributing Organizations

09400 Requirements and exemptions.

(1) The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION shall comply with the requirements of this chapter, except as otherwise provided in this section.

(2) A DONATED FOOD DISTRIBUTING ORGANIZATION is exempt from the provisions of 08600 and Part 8, Subpart C of this chapter, regarding operating with a valid FOOD ESTABLISHMENT PERMIT.

(3) The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION shall notify the REGULATORY AUTHORITY in writing or by another APPROVED manner:

(a) Initially regarding the nature of its FOOD service activities, including information specified in 08325; and

(i) A valid 501(c) IRS determination letter; or

(ii) A letter of sponsorship from a 501(c) organization with a copy of its current 501(c) IRS determination letter.

(b) Annually of the nature of its FOOD service activities, including types of FOOD served and distributed; and

(c) Whenever the IRS determination letter is revoked or there is a significant change in its FOOD service activities.

(4) A DONATED FOOD DISTRIBUTING ORGANIZATION is exempt from meeting the provisions of 246-215-02315, 246-215-03610, 246-215-04212, 246-215-04214, 246-215-04216, 246-215-04224, 246-215-04228, 246-215-04236, 246-215-04250, 246-215-04254, 246-215-04260, 246-215-04264, 246-215-04315, 246-215-04340, 246-215-04345, 246-215-04405, 246-215-04410, 246-215-04500(1), 246-215-04510, 246-215-04525, 246-215-04545, 246-215-04555, 246-215-04560, 246-215-04575, 246-215-04610, 246-215-04710, 246-215-04940, and 246-215-05240, Part 4, Subpart H; Part 5, Subpart E; and Part 6, of this chapter, except as otherwise provided in this subpart.

(5) The REGULATORY AUTHORITY may impose additional requirements to protect against health hazards related to the operation of a DONATED FOOD DISTRIBUTING ORGANIZATION and may:

(a) Limit the FOOD preparation steps;

(b) Prohibit some menu items; and

(c) Restrict the mode of operations when the facilities or EQUIPMENT are inadequate to protect public health.

09405 Standard operating procedures--Food protection.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION shall ensure:

(1) REFUSE, recyclables, and returnables are stored in a manner that does not create a public health HAZARD or nuisance;

(2) The PREMISES are maintained to control insects, rodents, and other pests;

(3) Children under age ten and animals are kept out of FOOD preparation areas during the preparation of FOODS;

(4) Toxic chemicals are stored in accurately labeled containers away from all FOODS and FOOD service supplies; and

(5) EQUIPMENT and FOOD CONTACT SURFACES are maintained in good repair and condition.

09406 Standard operating procedures--Food handling.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION shall ensure:

(1) Compliance with the food safety requirements outlined in Part 3 of this chapter;

(2) FOOD CONTACT SURFACES are thoroughly cleaned and SANITIZED before each use;

(3) Cooled TIME/TEMPERATURE CONTROL FOR SAFETY FOOD received from a DONOR KITCHEN is reheated to at least 165°F (74°C) within two hours;

(4) Cooled TIME/TEMPERATURE CONTROL FOR SAFETY FOOD rescued from a FOOD ESTABLISHMENT is reheated to at least 165°F (74°C) within two hours; and

(5) MEAT received from licensed hunters is cooked to at least 165°F (74°C).

09407 Standard operating procedures—Transportation.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION shall ensure:

(1) Vehicles owned and operated by the DONATED FOOD DISTRIBUTING ORGANIZATION for transporting FOOD are cleaned at a frequency necessary to prevent accumulation of soil residues. The interior of the vehicle where food containers are stored must be clean and free of insects, dirt, animals, leakage, and other potential contaminants;

(2) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is maintained hot or cold during transport using EQUIPMENT that is not packed beyond capacity to maintain cold FOODS at 41°F (5°C) or below and hot FOODS at 135°F (57°C) or above; and

(3) FOOD is handled and transported in separate containers as needed to prevent potential cross contamination.

09410 Sinks--Sink compartment requirements.

The DONATED FOOD DISTRIBUTING ORGANIZATION shall have at least the following facilities:

(1) A HANDWASHING SINK accessible and convenient for use by EMPLOYEES during all times of FOOD preparation and service of unwrapped FOODS.

(2) Each sink used for handwashing is provided with a supply of hand soap and SINGLE-USE towels or other APPROVED hand-drying device.

(3) A HANDWASHING SINK must be provided in the restroom and food preparation areas. A HANDWASHING SINK in a toilet room is not a replacement for HANDWASHING SINKS in food preparation areas.

(4) If unpackaged food is handled on-site, the DONATED FOOD DISTRIBUTING ORGANIZATION shall have at least the following facilities available for cleaning of FOOD-contact UTENSILS and EQUIPMENT:

(a) A three-compartment sink;

(b) A two-compartment sink as specified in 04305 (4) and (5);

(c) A two-compartment sink plus a home-style dishwasher with a SANITIZING cycle providing 155°F (68°C) or hotter water; or

(d) As otherwise APPROVED.

(5) If produce is washed on-site, the DONATED FOOD DISTRIBUTING ORGANIZATION must either have:

(a) A separate FOOD preparation sink as specified in 04325; or

(b) An APPROVED alternative produce washing procedure (e.g., the use of a colander) that ensures produce is not directly placed in WAREWASHING or HANDWASHING SINKS.

09415 Food sources--Donated foods.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION may receive FOODS for charitable purposes that include:

(1) APPROVED SOURCES as listed in Part 3, Subpart B of this chapter;

(2) FOOD from a FOOD ESTABLISHMENT or FOOD PROCESSING PLANT;

(3) Previously served FOODS from a FOOD ESTABLISHMENT operating under a plan APPROVED by the REGULATORY AUTHORITY;

(4) FOOD from a DONOR KITCHEN that is:

(a) Properly stored and handled to prevent contamination;

(b) Prepared on-site at the DONOR KITCHEN and not in a residential kitchen in a private home; and

(c) Maintained at proper temperatures during storage, preparation and transport.

(5) FOOD from a residential kitchen in a private home that is properly stored and handled to prevent contamination:

(a) NonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, NONREADY-TO-EAT FOOD;

(b) NonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD and READY-TO-EAT FOODS in an intact commercial package; or

(c) Commercially PACKAGED frozen FOOD.

(6) NonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD baked goods from a residential kitchen in a private home that is properly prepared to prevent contamination.

(7) Muscle MEAT of a wild GAME ANIMAL:

(a) Received from a LAW enforcement officer certified by a jurisdiction in the state of Washington or from a hunter licensed by the Washington State Department of Fish and Wildlife;

(b) Field dressed to remove the viscera with or without skin present;

(c) Accompanied by a written statement identifying:

(i) The name and address of the person who harvested the game;

(ii) The license, permit or tag number and kind of animal provided;

(iii) The date killed, the county and area where the animal was taken; and

(iv) The hunter's signature as required by WAC 220-200-120.

(d) Stored and handled to prevent temperature abuse and contamination during transport to the processing facility;

(e) Processed by an APPROVED MEAT cutter; and

(f) Labeled "***Uninspected wild game meat, thoroughly cook to 165°F (74°C) internal temperature***";

(8) Muscle MEAT of a domesticated livestock animal;

(a) Slaughtered in a USDA-inspected slaughter facility;

(b) Stored and handled to prevent temperature abuse and contamination during transport between slaughter and processing facilities;

(c) Processed by a FOOD ESTABLISHMENT permitted by the REGULATORY AUTHORITY; and

(d) Labeled "***This product was prepared from inspected and passed meat. Some food products may contain bacteria that could cause illness if the product is mishandled or cooked improperly***";

(9) Fresh FISH:

(a) Received from a recreational or commercial fisher licensed by the Washington State Department of Fish and Wildlife;

(b) Received whole or minimally processed to remove the head, viscera or head and viscera; and

(c) Stored and handled to prevent temperature abuse and contamination during transport.

(10) NonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, nonREADY-TO-EAT FOODS handled, stored, or prepared in a residential kitchen in a private home.

(11) Baked goods that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD handled, stored, or prepared in a residential kitchen in a private home;

(12) NonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD, READY-TO-EAT FOODS in an intact commercial package stored in a residential kitchen in a private home; and

(13) Commercially PACKAGED frozen FOOD.

09420 Receiving food--Food condition.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION shall ensure that FOODS are inspected upon receipt and information is obtained from DONORS in order to determine that:

(1) FOODS are safe and not ADULTERATED;

(2) FOODS rescued from a FOOD ESTABLISHMENT that have not been previously served to a PERSON, unless as specified in 09415;

(3) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD meets the temperature specifications in 03235;

(4) FOODS have been protected from contamination during handling and storage by intact original commercial packaging or sanitary FOOD-grade containers;

(5) FOODS have been handled and transported in separate containers as needed to prevent potential cross contamination between READY-TO-EAT FOODS and FOODS that are not READY-TO-EAT FOODS; and

(6) FOODS were transported in the interior of a vehicle that is clean and free of insects, dirt, animals, leakage, and other potential contaminants.

09425 Prohibited food--Restrictions.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION may not accept, serve or distribute:

(1) Home-canned FOODS;

(2) FOOD from a residential kitchen in a private home, other than those specified in 09415;

(3) FOOD from a donor kitchen prepared using specialized processing methods as described in 03535;

(4) Canned FOODS in containers that are rusty or severely damaged;

(5) Distressed FOODS (such as from a fire, flood, or prolonged storage) unless the FOODS have been evaluated and APPROVED for charitable distribution;

(6) Infant formula that is past the original expiration date set by the processor; or

(7) Raw, unpasteurized milk.

09430 Food labels--Alternative labeling.

FOOD that is rePACKAGED at the DONATED FOOD DISTRIBUTING ORGANIZATION may be distributed without complete label information on each individual container, provided that:

(1) Each container is labeled with the common name of the FOOD;

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

(3) The complete label information, according to the provisions of chapter 69.04 RCW, including complete ingredient and allergen disclosure information, is on the master carton or is posted in plain view on a card, sign, or other method of notice at the point of distribution to the CONSUMER.

09435 Record keeping--Receiving record.

The PERSON IN CHARGE of a DONATED FOOD DISTRIBUTING ORGANIZATION receiving TIME/TEMPERATURE CONTROL FOR SAFETY FOODs or nonTIME/TEMPERATURE CONTROL FOR SAFETY FOODS, READY-TO-EAT FOODS not prePACKAGED in a FOOD PROCESSING PLANT shall keep records for ninety days documenting the source, quantity, type, and receiving date of the FOODS.

Subpart E - Preschools

09500 Requirements and exemptions.

(1) The PERMIT HOLDER and PERSON IN CHARGE of a PRESCHOOL shall comply with the requirements of this chapter, except as otherwise provided in this section. If the PERMIT HOLDER does not meet the requirements under subsection (2) of this section, the PERMIT HOLDER shall comply with all requirements of this chapter.

(2) A PRESCHOOL is exempt from meeting the provisions of 246-215-02315, 246-215-03610, 246-215-04212, 246-215-04214, 246-215-04216, 246-215-04224, 246-215-04228, 246-215-04250, 246-215-04254, 246-215-04260, 246-215-04264, 246-215-04410, 246-215-04500(1), 246-215-04525, 246-215-04545, 246-215-04555, 246-215-04560, 246-215-04610(2), 246-215-04710, 246-215-05240, 246-215-06100, 246-215-06200, 246-215-06290, and 246-215-06355 if:

(a) FOOD service is limited to enrolled children, staff, and volunteers at the PRESCHOOL;

(b) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is prepared for IMMEDIATE SERVICE; and

(c) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is cooked, reheated, or hot held and not cooled for future service. TIME/TEMPERATURE CONTROL FOR SAFETY FOOD must be either served hot or discarded each day.

(3) The REGULATORY AUTHORITY may impose additional requirements to protect against health hazards related to the operation of the PRESCHOOL and may:

(a) Limit the FOOD preparation steps;

(b) Prohibit some menu items; and

(c) Restrict the mode of operations when the facilities or EQUIPMENT are inadequate to protect public health.

09505 Standard operating procedures.

The PERSON IN CHARGE of the PRESCHOOL shall ensure:

(1) EQUIPMENT for cold holding, heating and hot holding FOODS are sufficient in number and capacity to provide FOOD temperatures specified in Part 3 of this chapter. Residential models of such EQUIPMENT may be used if they are EASILY CLEANABLE and in good repair;

(2) FOOD-CONTACT SURFACES are thoroughly cleaned and SANITIZED before each use;

(3) A HANDWASHING SINK is accessible for use by EMPLOYEES during all times of FOOD preparation and service of unwrapped FOODS and is located within 25 feet of FOOD preparation, FOOD dispensing, and WAREWASHING areas;

(4) Each HANDWASHING SINK is provided with a supply of hand soap and SINGLE-USE towels or other APPROVED hand-drying device;

(5) REFUSE and recyclables are stored in a manner that does not create a public health HAZARD or nuisance;

(6) The PREMISES must be maintained free of infestations of insects, rodents, and other pests such that there is not a breeding population of pests in the facility; and

(7) Toxic chemicals are stored in accurately labeled containers away from all FOODS and FOOD service supplies.

09510 Sink compartment requirements.

(1) At a minimum, a PRESCHOOL must have manual WAREWASHING sinks as specified under 04305.

(2) One of the WAREWASHING sinks may also be used as a HANDWASHING SINK, provided food preparation and WAREWASHING occur at separate times.

09515 Food preparation sink.

If produce is washed on-site, the PRESCHOOL must either have:

(1) A separate FOOD preparation sink as specified under 04325; or

(2) A pre-APPROVED alternate produce washing procedure (e.g., the use of a colander) that ensures produce is not directly placed in WAREWASHING or HANDWASHING SINKS.

PART 10: SEVERABILITY

10000 Severability.

If any provision of this chapter or its application to any PERSON or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other PERSONS or circumstances is not affected.

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LIST OF ACRONYMS

BHC	Bare hand contact
CIP	Clean in place
DFDO	Donated food distributing organization
HSP	Highly susceptible population
PHF	Potentially hazardous food – see TCS
PIC	Person in charge
ROP	Reduced oxygen packaging
RTE	Ready-to-eat
TCS	Time/Temperature Control for Safety Food