

Chapter 3

Food

Parts

- 3-1 Characteristics
- 3-2 Sources, Specifications, and Records
- 3-3 Protection from Contamination After Receiving
- 3-4 Destruction of Organisms of Public Health Concern
- 3-5 Limitation of Growth of Organisms of Public Health Concern
- 3-6 Food Identity, Presentation, and On-Premises Labeling
- 3-7 Contaminated Food
- 3-8 Special Requirements for Highly Susceptible Populations

3-1 Characteristics

Subparts

- 3-101 Condition

3-101 Condition

3-101.11 Safe, UNADULTERATED, and Honestly Presented

All FOOD in a FOOD ESTABLISHMENT shall be wholesome, free from spoilage, adulteration, and misbranding.

3-2 Sources, Specifications, and Records

Subparts

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

3-201 Sources

3-201.11 Compliance with FOOD LAW

- (A) FOOD shall be obtained from an APPROVED SOURCE.
- (B) FOOD prepared in a private home may not be used or offered for human consumption in a FOOD ESTABLISHMENT. This section does not apply to employee “pot lucks.”
- (C) Wild mushrooms shall be either:
 - (1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the local HEALTH AUTHORITY or AGENCY OF JURISDICTION that has jurisdiction over the operation or,
 - (2) In PACKAGED form and the product of a FOOD PROCESSING ESTABLISHMENT, regulated by the local HEALTH AUTHORITY or AGENCY OF JURISDICTION that has jurisdiction over the ESTABLISHMENT.
- (D) PACKAGED FOOD shall be labeled as specified in LAW, including *21 CFR, 101 Food Labeling, 9 CFR 317, Labeling, Marking Devices, and Containers*, and *9 CFR 381, Subpart N, Labeling and Containers*, and as specified in Paragraphs 3-202.17 and 3-202.18 of this Chapter. PACKAGED FOOD sold for off PREMISE consumption in Clark County, Nevada, shall be exempt from nutritional labeling.
- (E) FISH, other than MOLLUSCAN SHELLSTOCK that are intended for consumption in their raw form, may be offered for sale or service if they are obtained from a supplier that freezes the FISH as specified in Paragraph 3-402.11 of this Chapter, or frozen on the PREMISES as specified in Paragraph 3-402.11 of this Chapter, and records are retained as specified in Paragraph 3-402.12 of this Chapter.
- (F) MEAT and POULTRY for retail sale that is not a READY-TO-EAT FOOD, and is in a PACKAGED form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in LAW, including *9 CFR 317.2 (1)* and *9 CFR 381.125 (b)*.
- (G) EGGs for retail sale, which have not been specifically treated to destroy all viable *Salmonellae*, shall be labeled to include safe handling instructions as specified in LAW, including *21 CFR 101.17 (h)*.

3-201.12 FOOD in HERMETICALLY SEALED CONTAINER

FOOD in a HERMETICALLY SEALED CONTAINER shall be obtained from a FOOD PROCESSING ESTABLISHMENT that is regulated by the HEALTH AUTHORITY or AGENCY OF JURISDICTION over the ESTABLISHMENT.

3-201.13 Fluid Milk and Milk Products

Fluid milk and milk products:

- (A) Shall be obtained from sources that comply with GRADE A STANDARDS as specified in *NAC 584*.
- (B) Shall bear a date established by the bottler as the date upon which, in order to ensure quality, the milk or product is to be removed from the shelf or otherwise withdrawn from sale to the consumer.

3-201.14 Treated, PRE-PACKAGED JUICE shall:

- (A) Be obtained from a processor with a HACCP system as specified in *21 CFR, Part 120*.
- (B) Be obtained PASTEURIZED or otherwise treated to attain a 5-log reduction of the most resistant micro-organism of public health significance as specified in *21 CFR, Part 120.24 Process Controls*.
- (C) This section does not apply to fresh squeezed JUICES from a PERMITTED facility within a given location owned by PERMITTEE.

3-201.15 FISH

- (A) FISH that are received for sale or service shall be:
 - (1) Commercially and legally caught or harvested.
 - (2) APPROVED for sale or service.
- (B) MOLLUSCAN SHELLSTOCK that are recreationally caught may not be received by a PERMITTED FOOD ESTABLISHMENT for sale or service.

3-201.16 MOLLUSCAN SHELLSTOCK

- (A) MOLLUSCAN SHELLSTOCK shall be obtained from sources according to LAW and shall meet the requirements specified in the *U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*.
- (B) MOLLUSCAN SHELLSTOCK, received in interstate commerce, shall be from sources listed in the *Interstate Certified Shellfish Shippers list* (<http://www.cfsan.fda.gov/ear/shellfi.html>).

3-201.17 GAME ANIMALS

MEAT or products from recreationally caught animals shall not be received for sale or service to a customer.

3-202 Specifications for Receiving

3-202.11 Temperature

- (A) Refrigerated PHF (TCS) shall be received at a temperature of $41^{\circ}\text{F}\pm 2^{\circ}$ or below, except that milk and live MOLLUSCAN SHELLSTOCK may be received at $45^{\circ}\text{F}\pm 2^{\circ}$.
- (B) Cooked PHF (TCS) received hot shall be maintained at a temperature of $135^{\circ}\text{F}\pm 2^{\circ}$ or above.
- (C) A FOOD that is labeled frozen and shipped frozen by a FOOD PROCESSING ESTABLISHMENT shall be received frozen.
- (D) Upon receipt, PHF (TCS) shall be free of evidence of temperature abuse including but not limited to:
 - (1) Discoloration.
 - (2) Excessive ice crystals.
 - (3) Collapsed carton.
 - (4) Odor.
 - (5) Misshapen from thawing and refreezing.
 - (6) Abnormal texture.
 - (7) Sliminess.

3-202.12 ADDITIVES

FOOD shall not contain unAPPROVED FOOD ADDITIVES or ADDITIVES that exceed amounts specified in *21 CFR 170-180* relating to FOOD ADDITIVES, generally recognized as safe, or prior sanctioned substances that exceed amounts specified in *21 CFR 181-186*, substances that exceed amounts specified in *9 CFR Subpart C, Section 424.21(b), Food Ingredients and Sources of Radiation or Pesticide Residues* that exceed amounts specified in *40 CFR 180 Tolerances for Pesticides Chemicals in Food and Exceptions*.

3-202.13 EGGS

EGGS shall be received clean and sound and may not exceed the RESTRICTED EGG tolerances for U.S. CONSUMER Grade B as specified in *United States Standards, Grades, and Weight classes for Shell Eggs, AMS 56.200 et seq.*, administered by the *Agricultural Marketing Service of USDA*. Raw fresh whole shell EGGS shall be received in refrigerated EQUIPMENT that maintains an ambient air temperature of $45^{\circ}\pm 2^{\circ}$ or less.

3-202.14 EGGS and Milk Products, PASTEURIZED

- (A) EGG PRODUCTS shall be obtained PASTEURIZED.
- (B) Fluid and dry milk and milk products shall:
 - (1) Be obtained PASTEURIZED.

- (2) Comply with GRADE A STANDARDS as specified in LAW.
- (C) Frozen milk products, including but not limited to ice cream, shall be obtained PASTEURIZED as specified in *21 CFR 135 Frozen Desserts*.
- (D) Cheese shall be obtained PASTEURIZED unless processed by alternative procedures as specified in the CFR's including but not limited to *21 CFR 133 Cheeses and Related Cheese Products* for curing certain cheese varieties.

3-205.15 Package Integrity

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

3-202.16 Ice

Ice, for use as a FOOD or a cooling medium, shall be made from DRINKING WATER. Ice produced in Clark County, and PACKAGED for off- PREMISES consumption, shall have labeling that provides for trace- back to the point of production. Existing facilities currently packaging ice for off-premise consumption shall have one year from the adoption of these regulations to develop and submit labels to the HEALTH AUTHORITY for review and approval.

3-202.17 SHUCKED SHELLSTOCK Packaging and Identification

- (A) Raw SHUCKED SHELLSTOCK shall be obtained in non-returnable packages which bear a legible label or tag that identifies:
 - (1) The name, address, and CERTIFICATION NUMBER of the shucker-packer or the re-packer of the MOLLUSCAN SHELLSTOCK.
 - (2) The "sell by" date for packages with a capacity of less than 1.89 L (½ gallon) or the date shucked for packages with a capacity of 1.89 L (½ gallon) or more.
- (B) A package of raw SHUCKED SHELLSTOCK that does not bear a label, or which bears a label that does not contain all the information specified in Paragraph A of this Section, shall be subject to a hold order as allowed by LAW, or seizure and destruction, as specified in *21 CFR Subpart D Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan Shellfish*.

3-202.18 SHELLSTOCK Identification

SHELLSTOCK shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and by each dealer that deperurates, ships, or re-ships the SHELLSTOCK as specified in the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish* (<http://www.cfsan.fda.gov/~ear/nsspococ.html>).

- (A) Fresh and frozen SHELLSTOCK, including but not limited to oysters, clams, or mussels, shall be packed in non-returnable packages that are labeled with the name and address of the original processor or the PERSON who re-packed them, and the interstate CERTIFICATION NUMBER.
- (B) Each container of un-SHUCKED SHELLSTOCK, including but not limited to oysters, clams, or mussels, shall be identified by a tag attached to the container stating the name and address of the original harvester, dealer, or processor, the kind and quantity of SHELLSTOCK in the container, and the interstate CERTIFICATION NUMBER issued by the State or by a foreign agency.

3-202.19 SHELLSTOCK Condition

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

3-203 Original Containers and Records

3-203.11 Maintaining SHELLSTOCK Identification

- (A) SHELLSTOCK tags shall remain attached to the container in which the SHELLSTOCK was received by the FOOD ESTABLISHMENT until the container is empty or remain with the product while in storage.
- (B) Tags or labels, from SHELLSTOCK that have been sold or served, shall be maintained for a minimum of 90 calendar days from the date that is recorded on the tag or label. A record keeping system that keeps the tags or labels in chronological order, correlated to the date when or dates during, which the SHELLSTOCK are sold or served shall be maintained.
- (C) If SHELLSTOCK is removed from its tagged or labeled container:
 - (1) The source identification shall be preserved by using a record keeping system as specified in Paragraph B of this Section.
 - (2) The SHELLSTOCK shall not be COMMINGLED with SHELLSTOCK from another container, unless and until, being ordered by the CONSUMER.

3-3 Protection From Contamination after Receiving

Subparts

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

3-301 Preventing CONTAMINATION by Employees

3-301.11 Preventing CONTAMINATION from Hands

- (A) Except when washing fruits and vegetables, FOOD HANDLERS shall eliminate bare-hand contact with READY-TO-EAT FOOD by:
- (1) Using a suitable UTENSIL including but not limited to deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT.
 - (2) Providing an alternative operational procedure APPROVED by the HEALTH AUTHORITY. A guidance document is provided in Appendix K.
- (B) FOOD HANDLERS shall minimize bare hand and arm contact with open FOOD.
- (C) FOOD HANDLERS, not serving a HIGHLY SUSCEPTIBLE POPULATION, may contact exposed READY-TO-EAT FOOD with their bare hands, if:
- (1) The PERMIT HOLDER obtains prior approval from the HEALTH AUTHORITY.
 - (2) Written procedures are maintained in the FOOD ESTABLISHMENT and made available to the HEALTH AUTHORITY upon request.
 - (3) Documentation that hands of FOOD HANDLERS are washed, before FOOD preparation and as necessary to prevent CROSS-CONTAMINATION, during all hours of operation when the specific READY-TO-EAT FOOD is prepared, as specified in Chapter 2-301.11, Chapter 2-301.12, Chapter 2-301.13, Chapter 2-301.14, and Chapter 2-310.15 of these Regulations.

3-302 Preventing FOOD and Ingredient CONTAMINATION

3-302.11 PACKAGED and UnPACKAGED FOOD, Separation, Packaging and Segregation

FOOD shall be protected from CROSS-CONTAMINATION during storage, preparation, holding, and display by separating raw animal FOOD from READY-TO-EAT FOOD including, but not limited to, sushi and MOLLUSCAN SHELLSTOCK, by methods including but not limited to:

- (A) Using separate EQUIPMENT for each type of FOOD.
- (B) Storing or holding each type of FOOD in EQUIPMENT so that CROSS-CONTAMINATION of one type with another is prevented. A guidance document is provided in Appendix B.
- (C) Preparing each type of FOOD at different times or in separate areas.
- (D) Cleaning and sanitizing EQUIPMENT and UTENSILS after preparing raw animal FOOD and before preparing READY-TO-EAT FOOD.
- (E) Cleaning and removing visible soil from HERMETICALLY SEALED CONTAINERS of FOOD before opening.
- (F) Separating damaged, spoiled, or recalled FOOD from FOOD that is to be consumed.
- (G) Separating unwashed fruits and vegetables from READY-TO-EAT FOOD.
- (H) Frozen, commercially processed and PACKAGED raw animal FOOD may be stored or displayed with or above frozen, commercially processed and PACKAGED, READY-TO-EAT FOOD.

3-302.12 FOOD Storage Containers Identified with Common Name of FOOD

Except for containers holding FOOD that can be readily and unmistakably recognized including but not limited to dry pasta, working containers holding FOOD, or FOOD ingredients that are removed from their original packages for use in the FOOD ESTABLISHMENT, including but not limited to cooking oil, flour, herbs, potato flakes, salt, spices, and sugar shall be identified, in English, with the common name of the FOOD. Other applicable languages may be used in addition to the English name.

3-302.13 PASTEURIZED EGGS, Substitute for Raw Shell EGGS for Certain Recipes

PASTEURIZED EGGS or EGG PRODUCTS shall be substituted for raw shell EGGS in the preparation of FOOD including but not limited to Caesar salad, Hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG-fortified BEVERAGES that are not cooked unless:

- (A) A management system is in place, and documented, to ensure that FOOD is discarded if not served or dispensed within three hours after preparation.
- (B) A CONSUMER advisory is included on the menu as specified in Paragraph 3-401.11 (C) of this Chapter.

3-302.14 Protection from UnAPPROVED ADDITIVES

- (A) As specified in Paragraph 3-202.12 of this Chapter, FOOD shall be protected from CONTAMINATION that may result from the addition of:
 - (1) Unsafe or unAPPROVED FOOD or color ADDITIVES.
 - (2) Unsafe or unAPPROVED levels of APPROVED FOOD and color ADDITIVES.
- (B) A FOOD HANDLER shall not apply sulfiting agents to fresh fruits and vegetables that are intended for raw consumption.

3-303 Preventing CONTAMINATION from Ice Used as a Coolant

3-303.11 Ice Used as Exterior Coolant; Prohibited as Ingredient

After use as a medium for cooling, the exterior surfaces of FOOD including but not limited to melons or FISH, and PACKAGED FOOD including but not limited to canned or bottled BEVERAGES, cooling coils, tubes of EQUIPMENT, and ice shall not be used as FOOD.

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

- (A) If FOOD is not subject to the entry of water, because of the nature of its packaging, wrapping, container, or position in the ice, PACKAGED FOOD may be stored in direct contact with ice.
- (B) UNPACKAGED FOOD may not be stored in direct contact with ice that is not self draining, except that
 - (1) Whole raw fruits or vegetables, cut raw vegetables including but not limited to celery or carrot sticks, cut potatoes, and tofu may be immersed in water or covered with ice.
 - (2) Raw chicken and raw FISH, that are received immersed in water or covered with ice in shipping containers, may remain in that condition while in storage awaiting preparation, display, service, or sale.

3-304 Preventing CONTAMINATION from EQUIPMENT, UTENSILS, and LINENS

3-304.11 FOOD Contact with EQUIPMENT and UTENSILS

FOOD shall only contact surfaces of EQUIPMENT and UTENSILS that are properly cleaned and sanitized.

3-304.12 In-Use UTENSILS, Between-Use Storage

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

- (A) In PHF (TCS) with their handles above the top of the FOOD and the container.
- (B) In FOOD that is not PHF (TCS) with their clean handles above the top of the FOOD, within containers or EQUIPMENT that can be closed, including but not limited to bins of sugar, flour, or cinnamon.
- (C) On a clean FOOD-CONTACT SURFACE, including but not limited to a portion of a FOOD preparation table or cooking EQUIPMENT, which has been properly cleaned and sanitized at an APPROVED frequency.
- (D) In water running at sufficient velocity to flush particulates to the drain, if used with moist FOOD including but not limited to ice cream or mashed potatoes.
- (E) In a clean, protected location if the UTENSILS including but not limited to ice scoops are used only with a FOOD that is not PHF (TCS).
- (F) In a container of water, if the water is maintained at a temperature of $41^{\circ}\text{F}\pm 2^{\circ}$ or below, or at $135^{\circ}\text{F}\pm 2^{\circ}$ or above, and the UTENSILS and container are cleaned at least every four hours, or more often if necessary to preclude accumulation of FOOD residue.

3-304.13 Use Limitations, LINEN and Napkins

LINEN and napkins may not be used in contact with FOOD unless they are used to line or cover a container for the service of FOOD, and the LINEN and napkins are replaced each time the container is refilled for a new CONSUMER.

3-304.14 Use Limitations; Wiping Cloths

- (A) Cloths that are in use for wiping FOOD spills shall be used for no other purpose, and shall be used:
 - (1) Dry; only to be used for wiping FOOD spills from TABLEWARE and carry-out containers.
 - (2) Wet; only to be used for wiping spills from FOOD-CONTACT and NON FOOD-CONTACT SURFACES of EQUIPMENT, and stored in a chemical sanitizer at a concentration of 50-100 ppm chlorine, or at the manufacturer's recommended strengths for all approved sanitizers within the water temperature and water hardness limits as specified by the manufacturer.
- (B) Cloths used for the absorption of grease shall be used for no other purpose, and shall be changed at least every four hours or more often if necessary.

- (C) Dry or wet cloths that are used with raw animal FOOD shall be kept separate from cloths used for other purposes.
- (D) Wet cloths used with raw animal FOOD shall be kept in a separate sanitizing solution at a concentration as specified by manufacturer's instructions.
- (E) Wet wiping cloths used with a freshly made sanitizing solution, and dry wiping cloths shall be free of FOOD debris and visible soil.
- (F) In-use wiping cloths shall be maintained at the sanitizer concentrations as specified in Paragraph (A) (2) of this Section.
- (G) Wiping cloths shall be LAUNDERed, or removed from service, daily.
- (H) A WAIVER documenting an alternative operational procedure for wiping cloth usage may be submitted to the HEALTH AUTHORITY for consideration.

3-304.15 Use Limitations; Gloves

- (A) If used, single-use gloves shall be used for only one task including but not limited to working with READY-TO-EAT FOOD or with raw animal FOOD. They shall be used for no other task or purpose and shall be discarded when damaged or soiled, or when interruptions occur in the operation.
- (B) Except as specified in Paragraph (C) of this Section, slash-resistant gloves, which are used to protect the hands during operations requiring cutting, shall be used in direct contact only with FOOD that is subsequently cooked, including but not limited to FROZEN FOOD or a PRIMAL CUT of MEAT as specified in Section 3-4 of this Chapter.
- (C) Slash-resistant gloves may be used with READY-TO-EAT FOOD that will not be subsequently cooked, if the slash-resistant gloves have a SMOOTH, durable, and non-absorbent outer surface, or if the slash-resistant gloves are covered with a SMOOTH, durable, non-absorbent glove, or with a single-use glove.
- (D) Cloth gloves, which may be a source of CROSS-CONTAMINATION, shall not be used in direct contact with FOOD, unless the FOOD such as FROZEN FOOD or a PRIMAL CUT of MEAT is subsequently cooked to the required temperature. Cloth gloves are to be properly LAUNDERed or discarded at the end of each shift.

3-304.16 Using Clean TABLEWARE for Second Portions and Refills

- (A) Except for refilling a CONSUMER's drinking cup or container, without contact between the pouring UTENSIL and the lip-contact of the drinking cup or container, FOOD HANDLERS may not use TABLEWARE, including SINGLE-SERVICE ARTICLES, soiled by the CONSUMER to provide second portions or refills.
- (B) Self-service CONSUMERS shall not be allowed to use soiled TABLEWARE, including SINGLE-SERVICE ARTICLES, to obtain additional FOOD from the display and/or the serving EQUIPMENT.
- (C) Drinking cups and containers may be re-used by self-service CONSUMERS, if the refilling is a CONTAMINATION-free process, as specified in Chapter 4-409.11 of these Regulations.

3-304.17 Refilling Returnables

- (A) Except as specified in Paragraph (D) of this Section, a take-home FOOD container returned to a FOOD ESTABLISHMENT shall not be refilled with a PHF (TCS).
- (B) Except as specified in Paragraph (C) of this Section, a take-home FOOD container refilled with FOOD that is not PHF (TCS) shall be cleaned as specified in Chapter 4-409.11 of these Regulations.
- (C) PERSONAL take-out BEVERAGE containers including but not limited to thermally insulated bottles, non-spill coffee cups, and promotional BEVERAGE glasses, may be refilled by FOOD HANDLERS or the CONSUMER if refilling is a CONTAMINATION-free process as specified in Chapter 4-409.11 of these Regulations.
- (D) In order to refill returnable containers with a PHF (TCS), the following criteria must be met:
 - (1) Returnable containers to be refilled with a PHF (TCS) shall meet all requirements as specified in Chapter 4-301.11 (A) of these Regulations.
 - (2) The product contact surfaces of the returnable container shall be effectively cleaned and sanitized before each use and shall be re-sanitized whenever any non-sanitized product has contaminated it.

3-305 Preventing CONTAMINATION from the PREMISES

3-305.11 FOOD Storage

- (A) Except as specified in Paragraphs (B) and (C) of this Section, FOOD shall be protected from CONTAMINATION by storing the FOOD:
 - (1) In a clean, dry location.
 - (2) Where it is not exposed to splash, dust, or other CONTAMINATION.
 - (3) At least 15 cm (6") above the floor.
- (B) FOOD in packages and working containers may be stored less than 15 cm (6") above the floor, on case lot handling EQUIPMENT including but not limited to dollies, pallets, racks, and skids designed to be moved by hand or by conveniently available apparatuses, including but not limited to hand trucks and forklifts.

- (C) Pressurized BEVERAGE containers, cased FOOD in waterproof containers, including but not limited to commercially SEALED bottles or cans, including liquor and milk containers in plastic crates, may be stored on a floor that is clean and does not expose the containers to floor moisture.

3-305.12 FOOD Storage Prohibited Areas

FOOD shall not be stored:

- (A) In locker rooms.
- (B) In toilet rooms.
- (C) In dressing rooms.
- (D) In garbage rooms.
- (E) In mechanical rooms.
- (F) Under sewer lines that are not shielded to intercept potential drips.
- (G) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water may condense.
- (H) Under open stairwells containing steps which are not fully enclosed with backs and sides to prevent debris from falling onto the items stored below the open stairwell.
- (I) Under or next to other sources of CONTAMINATION.
- (J) In unAPPROVED exterior storage locations.

3-305.13 FOOD Preparation

During preparation unPACKAGED FOOD shall be protected from environmental sources of CONTAMINATION.

3-306 Preventing CONTAMINATION by CONSUMERS

3-306.11 FOOD Display

FOOD on display shall be protected from CONTAMINATION by the use of packaging, counter service line, or salad bar FOOD/sneeze guards, display cases, or other effective means except that such protection is not required for nuts in the shell, and whole raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption.

3-306.12 CONDIMENT Protection

CONDIMENTS shall be protected from CONTAMINATION by being kept in dispensers that are designed to provide protection including but not limited to protected FOOD displays provided with proper UTENSILS, original containers designed for dispensing, or individual packages or portions. Commercially PACKAGED CONDIMENT containers are for single-service and shall not be refilled.

3-306.13 CONSUMER Self-Service Operations

- (A) Raw unPACKAGED animal FOOD including but not limited to beef, lamb, pork, POULTRY, and FISH shall not be offered for CONSUMER self-service. This does not apply to:
 - (1) CONSUMER self-service of READY-TO-EAT FOOD at buffets or salad bars that serve FOOD including but not limited to sushi or raw SHELLSTOCK.
 - (2) Ready-to-cook FOOD in individual portions, for immediate cooking and consumption on the PREMISES, including but not limited to CONSUMER-cooked MEAT, or CONSUMER selected ingredients for Mongolian BARBECUE.
 - (3) Raw, frozen, shell-on shrimp or lobster.
- (B) CONSUMER self-service operations for READY-TO-EAT FOOD shall be provided with suitable UTENSILS or effective dispensing methods that protect the FOOD from CONTAMINATION.
- (C) CONSUMER self-service operations including but not limited to buffets and salad bars shall be monitored by FOOD HANDLERS trained in safe FOOD handling procedures.
- (D) A sign shall be conspicuously posted to notify CONSUMERS to use a clean plate each time they serve themselves. The sign must also state that no eating is allowed while self-serving FOOD and that CONSUMERS shall only use the UTENSILS provided for handling the FOOD.

3-306.14 Returned FOOD and RE-SERVICE of FOOD

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, except a container of FOOD that is non-POTENTIALLY HAZARDOUS may be transferred from one CONSUMER to another if:

- (A) The FOOD is dispensed so that it is protected from CONTAMINATION, and the container including but not limited to a narrow-neck bottle containing ketchup, steak sauce, or wine is closed between uses.
- (B) The FOOD including but not limited to crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

3-307 Preventing CONTAMINATION from Other Sources

3-307.11 Miscellaneous Sources of CONTAMINATION

FOOD shall not be prepared or stored in unAPPROVED areas of the FOOD ESTABLISHMENT. FOOD shall be protected from CONTAMINATION that may result from a factor or source not specified in Sections 3-301 through 3-306 of this Chapter including but not limited to infant or child care in or through FOOD preparation areas, storage of employee clothing and personal effects, and FOOD preparation in dining rooms.

3-4 Destruction of Organisms of Public Health Concern

Subparts

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

3-401 Cooking

3-401.11 Raw Animal FOOD – This Section mirrors the Food Code

(A) Unless requested by a customer, and unless a CONSUMER advisory is properly posted, raw animal FOOD including but not limited to EGGS, FISH, MEAT, POULTRY, and FOOD containing these raw animal FOOD shall be cooked to heat all parts of the FOOD to a temperature and for the time as listed below:

- (1) Raw animal FOOD, including but not limited to POULTRY and BALUTS shall be cooked to at least 165°F±2° for at least 15 seconds, except:
 - (a) COMMINUTED and ground MEAT including but not limited to hamburger, shall be cooked to at least 155°F±2° for at least 15 seconds.
 - (b) COMMINUTED FISH products, COMMINUTED commercially raised GAME ANIMALS and RATITES shall be cooked to at least 155°F±2° for at least 15 seconds.
 - (c) INJECTED and MECHANICALLY TENDERIZED MEAT, shall be cooked to at least 155°F±2° for at least 15 seconds.
 - (d) Raw EGGS, not cooked for immediate use, shall be cooked to at least 155°F±2° for at least 15 seconds.
 - (e) Raw EGGS, cooked for immediate service, shall be cooked to at least 145°F±2° for at least 15 seconds.
 - (f) FISH, seafood, and MEAT including commercially raised GAME ANIMALS, shall be cooked to at least 145°F±2° for at least 15 seconds.

(2) Stuffed FOOD shall be cooked to at least 165°F±2° for at least 15 seconds.

(B) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts, including but not limited to ham, shall be cooked in a pre-heated oven and to an internal temperature of 145°F±2°, or held at 130°F±2° for at least 112 minutes, or to a temperature as provided in the guidance document provided in Appendix C.

(C) Raw animal FOOD not listed above shall be cooked to the required temperature as specified by the current FOOD code.

(D) If raw or undercooked FOOD of animal origin is offered in a READY-TO-EAT form as a deli menu, or other item, or as a raw ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS by brochures, labels, table tents, placards, deli case or menu advisories, or other effective written means of the significantly increased RISK associated with consumption by certain vulnerable CONSUMERS. Such FOOD shall be marked by an asterisk or described on the menu. This Section does not apply to APPROVED smoked or cured animal FOOD. The following language will satisfy the CONSUMER advisory requirement:

“Thoroughly cooking FOOD of animal origin, including but not limited to beef, EGGS, FISH, lamb, milk, POULTRY, or SHELLSTOCK reduces the RISK of FOOD BORNE ILLNESS. Young children, the elderly, and individuals with certain health conditions may be at a higher RISK if these FOODs are consumed raw or undercooked.”

3-401.12 Microwave Cooking

Raw animal FOOD cooked in a microwave oven shall be:

- (A) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution.
- (B) Covered to retain surface moisture.
- (C) Heated to a temperature of at least 165°F±2° in all parts of the FOOD.
- (D) Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

3-401.13 Plant FOOD Cooking for Hot Holding

Fruits and vegetables cooked for hot holding shall be cooked to a temperature of 135°F±2°.

3-402 Freezing

3-402.11 Parasite Destruction

- (A) Except as specified in Paragraph B of this Section, before service or sale in READY-TO-EAT form, raw, raw-marinated, partially cooked, or marinated partially cooked FISH shall be:
- (1) Frozen solid and stored at a temperature of -4°F±2° or below for a minimum of 168 hours (seven days) in a freezer.
 - (2) Frozen solid at -31°F±2° or below until solid and stored at -31°F±2° or below for a minimum of 15 hours.
 - (3) Frozen solid at -31°F±2° or below until solid and stored at -4°F±2° or below for a minimum of 24 hours.
- (B) Paragraph (A) of this Section does not apply to:
- (1) MOLLUSCAN SHELLSTOCK.
 - (2) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus altanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern).
 - (3) Aquaculture-raised FISH including but not limited to salmon if:
 - (a) Raised in open water or in net-pens.
 - (b) Raised in land-based operations including but not limited to ponds or tanks.
 - (c) Fed formulated feed, including but not limited to pellets, which contain no live parasites infective to the aquacultured FISH.

3-402.12 Records; Creation and Retention

- (A) Except as specified in Paragraph 3-402.11 (B) of this Chapter, raw, raw-marinated, partially cooked, or marinated partially cooked FISH, that are served or sold in READY-TO-EAT form, the PERSON IN CHARGE shall record the freezing temperature and time to which the FISH were subjected, and shall retain the records at the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH.
- (B) If the FISH are frozen solid by a supplier, a written agreement or statement from the supplier stipulating that the FISH supplied were frozen solid to a temperature, and for a time as specified in Chapter 3-402.11 of this Chapter, may substitute for the records as specified in Paragraph (A) of this Section.
- (C) If raw, raw-marinated, partially cooked, or marinated partially cooked FISH are served or sold in READY-TO-EAT form, and the FISH were raised and fed as specified in Paragraph 3-402.11 (B) (3) of this Chapter, a written agreement or statement from the supplier or aquaculturist stipulating that the FISH were raised and fed as specified in Paragraph 3-402.11 (B) (3) of this Chapter, shall be obtained by the PERSON IN CHARGE and retained at the FOOD ESTABLISHMENT for 90 calendar days beyond the time of service or sale of the FISH.

3-402.13 Preparation for Immediate Service

Cooked and refrigerated FOOD which is prepared for immediate service in response to an individual CONSUMER order, including but not limited to a roast beef sandwich *au jus*, may be served at any temperature.

3-403 Reheating

3-403.11 Reheating for Hot Holding

- (A) Except as specified in Paragraphs (B), (C), and (E) of this Section, PHF (TCS) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the FOOD reach a temperature of at least 165°F±2° for 15 seconds.
- (B) Except as specified in Paragraph (C) of this Section, PHF (TCS) that is reheated in a microwave oven for hot holding, shall be heated so that all parts of the FOOD reach a temperature of at least 165°F±2°. The FOOD shall be rotated or stirred, covered, and allowed to stand covered for two minutes after reheating.
- (C) READY-TO-EAT FOOD taken from a commercially processed, HERMETICALLY SEALED CONTAINER, or from an intact package from a FOOD PROCESSING ESTABLISHMENT that is inspected by the HEALTH AUTHORITY having jurisdiction over the ESTABLISHMENT, shall be heated to a temperature of at least 135°F±2° for hot holding.
- (D) Reheating for hot holding, as specified in Paragraphs (A), (B), and (C) of this Section, shall be done rapidly with the time the FOOD is between the temperature specified in Paragraphs (A), (B), and (C) of this Section not to exceed two hours.
- (E) Remaining unsliced portions of MEAT roasts, that are cooked as specified in Paragraph 3-401.11 (B) of this Chapter, may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified in Paragraph 3-401.11 (B) of this Chapter.

3-404 Other Methods

3-404.11 Treating JUICE

JUICE processed and PACKAGED in a FOOD ESTABLISHMENT shall be:

- (A) Treated under a HACCP PLAN as specified in Chapter 4-101.14 and Chapter 4-101.15 of these Regulations or as APPROVED by the HEALTH AUTHORITY or AGENCY OF JURISDICTION.
- (B) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance shall be labeled as:
 - (1) Specified in Paragraph 3-602.11 of this Chapter.
 - (2) Specified in *21 CFR 101.17 (g) of Food Labeling, Warning, Notice, and Safe Handling Statements*. JUICES that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens shall be labeled as follows: "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."

3-5 Limitation of Growth of Organisms of Public Health Concern

Subparts

3-501 Temperature and Time Control

3-502 Specialized Processing Methods

3-501 Temperature and Time Control

3-501.11 FROZEN FOOD

Stored FROZEN FOOD shall be maintained frozen solid.

3-501.12 POTENTIALLY HAZARDOUS FOOD (TCS), SLACKING

Frozen PHF (TCS) that is slacked to moderate shall be held:

- (A) Under refrigeration that maintains the FOOD temperature at $41^{\circ}\text{F}\pm 2^{\circ}$, or below.
- (B) At any temperature if the FOOD remains frozen.

3-501.13 Thawing

FROZEN PHF (TCS) shall be thawed by one of the following methods:

- (A) Under refrigeration or conditions that maintain the FOOD temperature at $41^{\circ}\text{F}\pm 2^{\circ}$ or below.
- (B) Completely submerged under running water having sufficient velocity to agitate and float off loose particles in an overflow without allowing thawed portions of FOOD to rise above $41^{\circ}\text{F}\pm 2^{\circ}$ for more than four hours.
- (C) In a microwave oven, if the FOOD will be immediately transferred to a convention cooking process, as part of a continuous operation or where the entire uninterrupted cooking process takes place in the microwave oven.
- (D) Under conditions that do not allow any portion of the FOOD to be above $41^{\circ}\text{F}\pm 2^{\circ}$ for more than four hours, with temperature logs verifying compliance.
- (E) As part of the conventional cooking process.

3-501.14 Cooling

- (A) Any hot FOOD may be cooled at ambient air temperature until it drops to $135^{\circ}\text{F}\pm 2^{\circ}$.
- (B) Cooked PHF (TCS) shall be cooled:
 - (1) Within two hours from $135^{\circ}\text{F}\pm 2^{\circ}$ to $70^{\circ}\text{F}\pm 2^{\circ}$ and,
 - (2) Within four hours from $70^{\circ}\text{F}\pm 2^{\circ}$ to $41^{\circ}\text{F}\pm 2^{\circ}$.
- (C) If prepared from ingredients at ambient temperature PHF (TCS) shall be cooled within four hours to $41^{\circ}\text{F}\pm 2^{\circ}$, or below. READY-TO-EAT PHF (TCS) shall be prepared from chilled ingredients.
- (D) Raw fresh whole shell EGGS shall be received and stored in refrigerated EQUIPMENT that maintains an ambient air temperature of $45^{\circ}\pm 2^{\circ}$ or less.
- (E) Cut leafy greens shall be received and stored in refrigerated EQUIPMENT that maintains an ambient air temperature of $41^{\circ}\pm 2^{\circ}$ or less.

3-501.15 Cooling Methods

- (A) Cooling shall be accomplished in accordance with the time and temperature criteria specified in Section 3-501.14 of this Chapter, by using one or more of the following methods depending on the type of FOOD being cooled:
 - (1) Placing the FOOD in shallow pans or trays.
 - (2) Separating the FOOD into smaller or thinner portions.
 - (3) Using rapid cooling EQUIPMENT such as blast chillers.
 - (4) Stirring the FOOD in a container placed in an ice-water bath.
 - (5) Using containers that facilitate heat transfer.
 - (6) Adding ice as an ingredient.

- (7) Other effective methods as APPROVED by the HEALTH AUTHORITY.
- (B) If placed in cooling or cold holding EQUIPMENT, FOOD containers in which FOOD is being cooled shall be:
 - (1) Arranged in the EQUIPMENT to provide maximum heat transfer through the container walls.
 - (2) Loosely covered or uncovered if protected from overhead CONTAMINATION, as specified in Paragraph 3-305.11 (A) (2) of this Chapter, during the cooling period to facilitate heat transfer from the surface of the FOOD.

3-501.16 POTENTIALLY HAZARDOUS FOOD (TCS), Hot and Cold Holding

Except during preparation, cooking, or cooling, or when time is used as the means of public health control, PHF (TCS) shall be maintained at 135°F±2° or above, or at 41°F±2° or below, except:

- (A) Roast beef that is properly cooked or reheated shall be maintained at 130°F±2° or above for 112 minutes.
- (B) FOOD that is cooked or served within 72 hours after the time when its temperature is between 41°F±2° to 45°F±2°. FOOD shall be labeled with the appropriate date and time.
- (C) Cut melons shall be maintained at 41°F±2° or below.
- (D) Reduced oxygen PACKAGED raw FOOD shall be maintained at 41°F±2°, or below. Fresh FISH is prohibited from REDUCED OXYGEN PACKAGING.

3-501.17 READY-TO-EAT POTENTIALLY HAZARDOUS FOOD (TCS)

(A) Except when packaging FOOD using a REDUCED OXYGEN PACKAGING method, as specified in Paragraph 3-502.12 of this Chapter, and except as specified in Paragraphs (D) and (E) of this Section, refrigerated READY-TO-EAT, PHF (TCS) prepared and held in a FOOD ESTABLISHMENT for more than 24 hours, shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded within a maximum of seven days from preparation, if held at 41°F±2° or below. The day of preparation shall be counted as day one.

(B) Except as specified in Paragraphs (D), (E), and (F) of this Section, refrigerated READY-TO-EAT, PHF (TCS) prepared and PACKAGED by a FOOD PROCESSING ESTABLISHMENT shall be clearly marked to show the date and time when the original container was opened in a FOOD ESTABLISHMENT, and if the FOOD is held for more than 24 hours, to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold or discarded, based on the temperature and time combinations, as specified in Paragraph (A) of this Section. The day or date the original container was opened in the FOOD ESTABLISHMENT shall be counted as day one, with a discard date of day seven, except that the day or date marked by the FOOD ESTABLISHMENT shall not exceed a manufacturer's "use-by" date, if the manufacturer determined the "use-by" date based on FOOD safety.

(C) A refrigerated, READY-TO-EAT PHF (TCS) ingredient or a portion of a refrigerated, READY-TO-EAT PHF (TCS) that is subsequently combined with additional ingredients or portions of FOOD shall retain the date marking of the earliest prepared or first prepared ingredient.

(D) A date marking system that meets the requirements stated in Paragraphs (A) and (B) of this Section may include:

- (1) Using a method APPROVED by the HEALTH AUTHORITY or AGENCY OF JURISDICTION. for refrigerated, READY-TO-EAT PHF (TCS) that is frequently re-wrapped including but not limited to luncheon MEAT, or a roast, or for which date marking is impractical including but not limited to soft-serve mix, or milk in a dispensing machine.
- (2) Marking the container with 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 shall be consumed on the PREMISES, sold, or discarded as specified in Paragraph (A) of this Section.
- (3) Marking the date or day when 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 shall be consumed on the PREMISES, sold, or discarded as specified in Paragraph (B) of this Section.
- (4) Using calendar dates, days of the week, color-coded markings, or other effective marking methods provided that the marking system is disclosed to the HEALTH AUTHORITY upon request.

(E) Paragraphs (A) and (B) of this Section do not apply to individual meal portions served or re-PACKAGED for sale from a bulk container upon request by the CONSUMER.

(F) Paragraph (B) of this Section does not apply to the following FOOD prepared and PACKAGED by a FOOD PROCESSING ESTABLISHMENT and inspected by the HEALTH AUTHORITY or other REGULATORY AUTHORITY:

- (1) Deli salads including but not limited to ham salad, seafood salad, chicken salad, EGG salad, pasta salad, potato salad, and macaroni salad manufactured in accordance with *21 CFR 110, Current Good Manufacturing Practice in Packing or Holding Human Food*.
- (2) Hard cheeses containing not more than 39% moisture, as defined in *21 CFR 133, Cheeses and Related Cheese Products Such as Cheddar, Gruyere, Parmesan, Reggiano, and Romano*.
- (3) Semi-soft cheese containing more than 39% moisture, but no more than 50% moisture, as defined in *21 CFR 133, Cheeses and Related Cheese Products, Such as Blue, Edam, Gorgonzola, Gouda, and Monterey Jack*.
- (4) Cultured dairy products as defined in *21 CFR 131, Milk and Cream, Such as Yogurt, Sour Cream and Buttermilk*.
- (5) Preserved FISH products including but not limited to pickled herring, dried or salted cod, and other acidified FISH products as defined in *21 CFR 114, Acidified Food*.
- (6) Shelf stable dry fermented sausages including but not limited to pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in *9 CFR 317, Labeling, Marking Devices, and Containers*, and which retain the original CASING on the product.
- (7) Shelf stable salt-cured products including but not limited to prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in *9 CFR 317, Labeling, Marking Devices, and Container*.

3-501.18 READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD (TCS), Disposition

FOOD as specified in Paragraph 3-501.17 (A) of this Chapter shall be discarded if it:

- (A) Exceeds either the temperature and time combinations as specified in Section 3-501.17 (A) of this Chapter, excluding any time that the product remains frozen.
- (B) Is in a container or package that does not bear a date or day.
- (C) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Paragraph 3-501.17 (A) of this Chapter.

3-501.19 Time as a Public Health Control

- (A) If time only is used as the means of public health control for a working supply of PHF (TCS) before cooking, or for READY-TO-EAT PHF (TCS) that is displayed or held for service for immediate consumption:
 - (1) Written procedures, using time as a means of public health control, shall be maintained in the FOOD ESTABLISHMENT and made available to the HEALTH AUTHORITY upon request. These procedures shall include:
 - (a) Methods of compliance with Paragraphs (B) (1), (B) (2), and (B) (3) or Paragraphs (C) (1), (C) (2), (C) (3), (C) (4), and (C) (5) of this Section
 - (b) Methods of compliance with Paragraph 3-501.14 of this Chapter for FOOD that is prepared, cooked, and refrigerated before time is used as a means of public health control.
- (B) If time only, rather than time in conjunction with temperature control up to a maximum of four hours, is used as the means of public health control:
 - (1) The FOOD shall have an initial temperature of 41°F±2° or below when removed from cold holding temperature control or 135°F±2° or above when removed from hot holding temperature control.
 - (2) The FOOD shall be marked, or otherwise identified, to indicate the time that is four hours past the time when the FOOD is removed from temperature control.
 - (3) The FOOD shall be cooked and served, or served if READY-TO-EAT, or discarded within four hours from the time when the FOOD was removed from temperature control.
 - (4) The FOOD shall be discarded if it is in unmarked containers or packages, or marked to exceed a four-hour limit.
- (C) If time only, rather than time in conjunction with temperature control up to a maximum of six hours, is used as the means of public health control:
 - (1) The FOOD shall have an initial temperature of 41°F±2° or below when removed from temperature control and the FOOD temperature may not exceed 70°F±2° within a six-hour maximum time period.
 - (2) The FOOD shall be monitored to ensure that the warmest portion of the FOOD does not exceed 70°F±2° during the six-hour period, unless an ambient air temperature is maintained that ensures that the FOOD shall not exceed 70°F±2° during the six-hour hold period.
 - (3) The FOOD shall be marked or otherwise identified to indicate:
 - (a) The time when the FOOD is removed from 41°F±2° or below cold holding temperature control.

- (b) The time that is six hours past the time when the FOOD was removed from cold holding temperature control.
- (4) The FOOD shall be:
 - (a) Discarded if the temperature of the FOOD at any time during the six-hour period exceeds 70°F±2°.
 - (b) Cooked and served, served if READY-TO-EAT, or discarded within a maximum of six hours from the time when the FOOD is removed from 41°F±2° or below cold holding temperature control.
- (5) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION shall not use time as a means of public health control for raw EGGS.

3-502 Specialized Processing Methods

3-502.11 WAIVER Requirements

A FOOD ESTABLISHMENT shall obtain a WAIVER from the HEALTH AUTHORITY as specified in Chapter 4-101.13 of these Regulations prior to:

- (A) Smoking FOOD as a method of FOOD preservation rather than as a method of flavor enhancement.
- (B) Curing FOOD.
- (C) Using FOOD ADDITIVES or adding components:
 - (1) As a method of FOOD preservation rather than as a method of flavor enhancement.
 - (2) To render a FOOD so that it is not PHF (TCS).
 - (3) Except the addition of vinegar to Sushi Rice as specified in the guidance document provided in Appendix D.
- (D) Packaging FOOD using a REDUCED OXYGEN PACKAGING method, except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified in Section 3-502.12 of this Chapter.
- (E) Operating a MOLLUSCAN SHELLSTOCK life-support system display tank used to store or display SHELLSTOCK that are offered for human consumption.
- (F) Custom processing animals that are for PERSONAL use as FOOD and not for sale or service in a FOOD ESTABLISHMENT.
- (G) Preparing FOOD by another method that is determined by the HEALTH AUTHORITY to require a WAIVER.
- (H) Sprouting of seeds or beans.
- (I) Existing facilities currently utilizing any method as specified in A-I of this Section shall submit the required WAIVER, HACCP PLAN, all supporting information and pay applicable fees to the HEALTH AUTHORITY within two years of approval of these Regulations.

3-502.12 REDUCED OXYGEN PACKAGING Without a WAIVER Criteria

Except for a FOOD ESTABLISHMENT, that obtains a WAIVER as specified in Section 3-502.11 of this Chapter, a FOOD ESTABLISHMENT that packages PHF (TCS) using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*, by;

- (A) A FOOD ESTABLISHMENT that packages PHF (TCS) using a REDUCED OXYGEN PACKAGING method shall have a HACCP PLAN that contains the information specified in Chapter 4-101.14 and Chapter 4-101.15 of these Regulations and that:
 - (1) Identifies the FOOD to be PACKAGED.
 - (2) The PACKAGED FOOD shall be maintained at 41°F±2° or below and shall meet at least one of the following criteria:
 - (a) Has an A_w of 0.91 or less.
 - (b) Has a pH of 4.6 or below.
 - (c) Is a MEAT or POULTRY product, cured at a FOOD PROCESSING ESTABLISHMENT regulated by the USDA using substances specified in 9 CFR 424.21, *Use of Food Ingredients and Sources of Radiation*, and is received in an intact package.
 - (d) Is a FOOD with a high level of competing organisms including but not limited to raw MEAT or raw POULTRY or raw vegetables.
 - (3) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type, on a contrasting background, with instructions to:
 - (a) Maintain the FOOD at 41°F±2° or below.
 - (b) Discard the FOOD if within 14 calendar days of its packaging if it is not served for on-premise consumption, or consumed if served or sold for off-PREMISES consumption.

- (4) Limits the refrigerated shelf life to no more than 14 calendar days, from packaging to consumption, except the time the product is maintained frozen or the original manufacturer's "sell-by" or "use by" date, whichever occurs first.
 - (5) Includes operational procedures that:
 - (a) Prohibit bare hand contact with FOOD.
 - (b) Identify a designated work area and the method by which:
 - (i) Physical barriers or methods of separation of raw FOOD and READY-TO-EAT FOOD minimize CROSS-CONTAMINATION.
 - (ii) Access to the processing EQUIPMENT is limited to responsible trained PERSONnel familiar with the potential HAZARDS of the operation.
 - (c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES.
 - (6) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the:
 - (a) Concepts required for safe operations.
 - (b) EQUIPMENT and facilities.
 - (c) Procedures as specified in Paragraph (A) (5) of this Section and Chapter 4-101.15 (D) of these Regulations.
- (B) Existing facilities currently utilizing any method as specified in Paragraph A of this Section shall submit the required HACCP PLAN, all supporting information, and pay applicable fees to the REGULATORY AUTHORITY within two years of approval of these regulations.

3-502.13 REDUCED OXYGEN PACKAGING Requiring a WAIVER

A FOOD ESTABLISHMENT shall obtain a WAIVER as specified in Section 3-502.11 of this Chapter, if the FOOD ESTABLISHMENT packages PHF (TCS) using a REDUCED OXYGEN PACKAGING method listed below:

- (A) FOOD ESTABLISHMENTS that package FOOD using a cook-chill or *sous vide* process shall obtain a WAIVER provided:
 - (1) The FOOD ESTABLISHMENT implements a HACCP PLAN that contains the information as specified in Chapter 4-101.14 of these Regulations.
 - (2) The FOOD is:
 - (a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES, within the same business entity with no distribution or sale of the bagged product to another business entity or to the CONSUMER.
 - (b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified in Paragraph 3-401.11 of this Chapter.
 - (c) Protected from CONTAMINATION after cooking as specified Section 3-3 of this Chapter.
 - (d) Placed in a package or bag with an oxygen barrier before cooking, or placed in a package or bag immediately after cooking, and before temperature drops below 135°F±2°. A guidance document is provided in Appendix L.
 - (e) Cooled to 41°F±2° in the package or bag as specified in Paragraph 3-501.14 of this Chapter, and subsequently:
 - (i) Cooled to 34°F±2° or below within 48 hours of reaching 41°F±2°, and held at 34°F±2° and consumed or discarded within 30 days after the date of preparation and packaging;
 - (ii) If removed from a storage unit that maintains a 34°F±2° FOOD temperature, held at 41°F±2° or below for no more than 72 hours before consumption;
 - (iii) Cooled to 38°F±2° or less within 24 hours of reaching 41°F±2° and held there for no more than 72 hours from packaging, at which time the FOOD must be consumed or discarded; or
 - (iv) Held frozen with no shelf life RESTRICTION while frozen until consumed or used.
 - (f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature, and is visually examined for proper operation twice daily.
 - (g) Ensure that required times and temperatures are met and monitored during transportation if the product is transported off-site to a satellite location of the same business entity, and equipped with verifiable electronic monitoring devices.
 - (h) Labeled with the product name and the date PACKAGED.
 - (3) The records to confirm that cooling and cold holding refrigeration time/temperature parameters are as required by the HACCP PLAN, and that these records are maintained and made available to the HEALTH AUTHORITY upon request and held for six months.

- (4) Written operational procedures as specified in Paragraph (B) (5) of this Section, and a training program as specified in Paragraph (B) (6) of this Section.
- (B) A FOOD ESTABLISHMENT that packages cheese using a REDUCED OXYGEN PACKAGING method shall obtain a WAIVER if it:
 - (1) Limits the cheeses PACKAGED to those that are commercially manufactured in a FOOD PROCESSING ESTABLISHMENT with no ingredients added in the FOOD ESTABLISHMENT and that meet *21 CFR 133.15 Standards of Identity Hard Cheeses*, *CFR 133.169 Standards of Identity Pasteurized Process Cheese*, or *CFR 133.187 Standards of Identity Semi-Soft Cheeses*.
 - (2) Has a HACCP PLAN that contains the information specified in Chapter 4-101.15 (D) of these Regulations.
 - (3) Identifies the FOOD to be PACKAGED.
 - (4) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type, on a contrasting background, with instructions to:
 - (a) Maintain the FOOD at 41°F±2° or below
 - (5) Includes operational procedures that:
 - (a) Prohibit bare hand contact with FOOD.
 - (b) Identify a designated work area and the method by which:
 - (i) Physical barriers or methods of separation of raw FOOD and READY-TO-EAT FOOD minimize CROSS-CONTAMINATION.
 - (ii) Access to the processing EQUIPMENT is limited to responsible trained PERSONnel familiar with the potential HAZARDS of the operation.
 - (c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES.
 - (6) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the:
 - (a) Concepts required for safe operations.
 - (b) EQUIPMENT and facilities.
 - (c) Procedures as specified in Paragraph (A) (5) of this Section and Chapter 4-101.15 (D) of these Regulations.
 - (7) Labels the package on the principal display panel with a “sell by” or “use by” date, whichever occurs first.
 - (8) Discards the reduced oxygen PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within 30 calendar days of its packaging.
- (C) A FOOD ESTABLISHMENT that packages FISH using a REDUCED OXYGEN PACKAGING method shall:
 - (1) Implement a HACCP PLAN that contains the information as specified in Chapter 4-101.14 of these Regulations.
 - (2) Provide written validation of the HACCP PLAN and process from a Processing Authority which utilizes the *National Advisory Committee on Microbiological Criteria for Foods (NACMCF)* protocols for inoculation studies for *Clostridium botulinum* and *Listeria monocytogenes*.
 - (3) Ensure that FISH be maintained FROZEN until thawed and prepared for consumption. Before thawing, the package must be opened and shall be held at 41°F±2° or below for no more than 72 hours before consumption or product shall be discarded.
 - (4) Except that FISH that is frozen before, during and after REDUCED OXYGEN PACKAGING shall require submission of a HACCP PLAN for review and approval by the HEALTH AUTHORITY, but shall not require a WAIVER.
 - (5) Except for fresh FISH that is REDUCED OXYGEN PACKAGED solely for the cooking process, for individual orders for immediate service to a customer, shall be exempt from HACCP requirements. A written validation of the operational procedures must be obtained from a Processing Authority and be made available upon request of the HEALTH AUTHORITY.
- (D) Existing facilities currently utilizing any method as specified in Paragraph (A-C) of this Section shall submit the required WAIVER, all supporting information, and pay applicable fees to the REGULATORY AUTHORITY within six months of approval of these regulations.

3-6 Food Identity, Presentation, and On-Premises Labeling

Subparts

3-601 Accurate Representation

3-602 Labeling

3-603 Consumer Advisory

3-601 Accurate Representation

3-601.11 Standards of Identity

PACKAGED FOOD shall comply with standard of identity requirements in applicable Nevada LAW and Federal Regulations, and *NAC 583, NAC, 584, 21 CFR 131-169, and 9 CFR 319, Definitions and Standards of Identity or Composition*, and the general requirements of *21 CFR 130, Food Standards General, and 9 CFR Subpart A-General*.

3-601.12 Honestly Presented

- (A) FOOD shall be offered for human consumption in a way that does not mislead or misinform the CONSUMER.
- (B) FOOD or color ADDITIVES, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of FOOD.

3-602 Labeling

3-602.11 FOOD Labeling

- (A) FOOD PACKAGED in a FOOD ESTABLISHMENT, for off-PREMISE consumption within Clark County, shall be labeled in English, and as specified in LAW, including *21 CFR 101 Food Labeling, and 9 CFR 317 Labeling, Marking Devices and Containers*. A guidance document is provided in Appendix E.
- (B) Packages of FOOD, prepared within Clark County including processed FOOD, dietary supplements, and packages of FOOD re-PACKAGED from bulk that are for sale in a FOOD ESTABLISHMENT, for off-PREMISE consumption, shall have a label reviewed and APPROVED by the HEALTH AUTHORITY or AGENCY OF JURISDICTION.. Any fees required shall be paid in full before any label may be used or the PACKAGED FOOD may be sold.
- (C) Label information shall include, in English:
 - (1) The common name of the FOOD or absent a common name, an adequately descriptive identity statement.
 - (2) A list of ingredients, if made from two or more ingredients, in descending order by weight, including a listing of artificial color, flavor, and/or chemical preservative if present.
 - (3) An accurate declaration of the quantity of the contents.
 - (4) The name and place of business specifying where the product was manufactured, PACKAGED, or distributed.
 - (5) The name of the FOOD source for each FOOD ALLERGEN contained in the FOOD unless the FOOD source is already part of the common or usual name of the respective ingredient.
 - (6) Except as exempted in the *Federal Food, Drug and Cosmetic Act 403 (Q) (3)-(5), Nutrition Labeling* as specified in *21 CFR 101 Food Labeling* and *9 CFR 317 Subpart B Nutrition Labeling*, PACKAGED FOOD sold for off PREMISE consumption in Clark County, Nevada, shall be exempt from nutritional labeling.
 - (7) READY-TO-EAT, PHF (TCS) prepared and PACKAGED for off-PREMISE consumption shall be labeled with a “use by” date as required in Paragraph 3-501.17 or Paragraph 3.502.12 of this Chapter.
 - (8) If canthaxanthin is used as a color ADDITIVE, with any salmonid FISH, its presence shall be declared in the list of ingredients on both bulk and retail container labels, and by written advisories on a counter card or on the menu.
- (D) Bulk FOOD that is available for CONSUMER self-dispensing shall be prominently labeled, in English, with the following information in plain view of the CONSUMER:
 - (1) The manufacturer’s or processor’s label that was provided with the FOOD, or
 - (2) A poster, card, sign, or other method of notification that includes the information specified in Paragraph (C) (1), (2), and (5) of this Section.
- (E) Bulk unPACKAGED FOOD including but not limited to bakery products and unPACKAGED FOOD that are portioned to CONSUMER specification, need not be labeled if:
 - (1) No health nutrition content or other claim is made.
 - (2) There is no state or local LAWS requiring labeling.
 - (3) The bulk FOOD is manufactured or prepared on the PREMISES of the FOOD ESTABLISHMENT, or at another FOOD ESTABLISHMENT or a FOOD PROCESSING ESTABLISHMENT that is owned by the same PERSON, which is regulated by the HEALTH AUTHORITY or AGENCY OF JURISDICTION.

3-602-12 Other Forms of Information

- (A) If required by LAW, CONSUMER warnings shall be provided.

- (B) Dating information concerning FOOD provided by a FOOD ESTABLISHMENT or manufacturer shall not be concealed or altered.

3-603 CONSUMER Advisory

A guidance document is provided in Appendix F.

3-603.11 Consumption of Animal FOOD that is Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens

- (A) Except as specified in Paragraph 3-801.11 (D) of this Chapter, if an animal FOOD including but not limited to beef, EGGS, FISH, lamb, milk, pork, POULTRY, or SHELLSTOCK is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT form or as an ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of FOOD BORNE ILLNESS from consuming such FOOD. This information shall be provided to CONSUMERS by way of a DISCLOSURE and REMINDER as specified in Paragraphs (B) and (C) of this Section, by using brochures, deli case advisories or menu advisories, label statements, table tents, placards, or other effective written means.
- (B) DISCLOSURE shall include:
- (1) A description of the animal derived FOOD including but not limited to oysters on the half shell (raw oysters), raw EGG Caesar salad, and hamburgers which may be cooked to order.
 - (2) Identification of the animal derived FOOD, marked by an asterisk, directing CONSUMERS to a footnote which states the items that are served raw or undercooked, or that may contain raw or undercooked ingredients.
- (C) REMINDER shall include asterisking the animal derived FOOD, requiring DISCLOSURE to a footnote that states:
- (1) Written information regarding the safety of these items is available upon request.
 - (2) Consuming raw or undercooked MEAT, POULTRY, seafood, SHELLSTOCK, or EGGS may increase your RISK of FOOD BORNE ILLNESS.
 - (3) Consuming raw or undercooked MEAT, POULTRY, seafood, SHELLSTOCK, or EGGS may increase your RISK of FOOD BORNE ILLNESS, especially in case of certain medical conditions.

3-7 Contaminated Food

Subpart

3-701 Disposition

3-701 Disposition

3-701.11 Discarding Unsafe, ADULTERATED or Contaminated FOOD

The PERSON IN CHARGE shall ensure that:

- (A) FOOD that is unwholesome, spoiled, ADULTERATED, or contaminated shall be discarded.
- (B) FOOD that is not from an APPROVED SOURCE shall be discarded or placed on hold for final disposition by the HEALTH AUTHORITY.
- (C) READY-TO-EAT FOOD that may have been contaminated by a FOOD HANDLER, who has been RESTRICTED or EXCLUDED, shall be discarded. Ready to eat FOOD prepared with bare hands following an APPROVED operational procedure as per Chapter 3-301.11 (A) (2) shall not be discarded.
- (D) FOOD that is contaminated by FOOD HANDLERS, CONSUMERS, or other PERSONS through contact with their bare hands, or bodily discharges, including but not limited to nasal or oral discharges, or by other means shall be discarded.
- (E) FOOD that has been returned by a CONSUMER shall be discarded unless it is in unopened, tamper-evident commercial wrapping or packaging.
- (F) FOOD that is MISBRANDED shall be discarded or removed from sale until properly labeled.

3-8 Special Requirements for Highly Susceptible Populations

Subpart

3-801 Additional Safeguards

3-801 Additional Safeguards

3-801.11 PASTEURIZED FOOD, Prohibited RE-SERVICE, and Prohibited FOOD

In a FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION:

- (A) The following criteria shall apply to JUICE:
- (1) For the purposes of this Paragraph only, children who are age 9 or under, and who receive FOOD in a school, day care setting, or similar facility that provides custodial care are defined as HIGHLY SUSCEPTIBLE POPULATIONS.
 - (2) PRE-PACKAGED JUICE, or PRE-PACKAGED BEVERAGE containing JUICE, that bears a warning label as specified in *21 CFR 101.17 (G) Food Labeling, Warning, Notice, and Safe Handling Statements*, JUICE that has 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 in Paragraph 3-404.11 (B) of this Chapter shall not be served or offered for sale.
 - (3) UNPACKAGED JUICE that is prepared on the PREMISES, for service or sale in a READY-TO-EAT form, shall be processed under a HACCP PLAN that contains the information specified in Chapter 4-101.15 (B) and (D) of these Regulations, and as specified in *21 CFR Part 120 Hazard Analysis and Critical Control Point Plan (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process Controls*.
- (B) PASTEURIZED EGGS or EGG PRODUCTS shall be substituted for raw EGGS in the preparation of:
- (1) FOOD including but not limited to Caesar salad, Hollandaise or Béarnaise sauce, mayonnaise, meringue, EGGnog, ice cream, and EGG-fortified BEVERAGES.
 - (2) Recipes in which more than one EGG is broken and the EGGS are combined except as specified in Paragraph F of this Section.
- (C) The following FOOD shall not be served or offered for sale in a READY-TO-EAT form:
- (1) Raw animal FOOD including but not limited to raw FISH, raw marinated FISH, raw MOLLUSCAN SHELLSTOCK, and steak tartar.
 - (2) A partially cooked animal FOOD including but not limited to lightly cooked FISH, rare MEAT, soft-cooked EGGS that are made from raw EGGS, and meringue.
 - (3) Raw seed sprouts.
- (D) As specified in Paragraph 3-301.11 (A) of this Chapter, FOOD HANDLERS shall not make bare hand contact with READY-TO-EAT FOOD.
- (E) Time only, as the means of public health control, as specified in Paragraph 3-501.19 (C) (5) of this Chapter shall not be used for raw EGGS.
- (F) Paragraph (B) (2) of this Section does not apply if:
- (1) The raw EGGS are combined immediately before cooking for one CONSUMER serving at a single meal, cooked as specified in Paragraph 3-401.11 (A) (1) (f) of this Chapter and served immediately including but not limited to an omelet, soufflé, or scrambled EGGS.
 - (2) The raw EGGS are combined as an ingredient immediately before baking, and the EGGS are thoroughly cooked to a READY-TO-EAT form including but not limited to a cake, muffin, or bread.
 - (3) The preparation of the FOOD is conducted under a HACCP PLAN that:
 - (a) Identified the FOOD to be prepared.
 - (b) Prohibits contact of READY-TO-EAT FOOD with bare hands.
 - (c) Includes specifications and practices that ensure:
 - (i) *Salmonella enteritidis* growth is controlled before and after cooking.
 - (ii) *Salmonella enteritidis* is destroyed by cooking the EGGS according to the temperature and time as specified in Paragraph 3-401.11 (A) (1) (e) of this Chapter.
 - (d) Contains the information as specified in Chapter 4-101.14 of these Regulations, including procedures that:
 - (i) Control CROSS-CONTAMINATION of READY-TO-EAT FOOD with raw EGGS.
 - (ii) Ensure proper cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES.
 - (e) Describes how the FOOD HANDLER, responsible for the preparation of the FOOD is trained to ensure full understanding of the procedures to be used.
- (G) Except as specified in Paragraph (H) of this Section, FOOD may be re-served as specified in Paragraph 3-306.14 of this Chapter.
- (H) FOOD may not be re-served under the following conditions:
- (1) Any FOOD served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation shall not be re-served to others.

- (2) Packages of FOOD from any patients, clients, or other CONSUMERS shall not be re-served to PERSONS in a protective environment isolation.