

Salt Lake Valley Health Department

Health Regulation

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**FOOD SANITATION
REGULATION**

Adopted by the Salt Lake Valley Board of Health

August 6, 1981

April 6, 2006

August 6, 2009

June 2, 2011

Amended:

May 3, 2012

Under Authority of Utah Code Ann. § 26A-1-114 (2011).

1. PURPOSE AND APPLICABILITY OF REGULATION

- 1.1 The purpose of this Regulation is to safeguard public health by helping to ensure that consumers are provided with food that is safe, unadulterated, and honestly presented.
- 1.2 This Regulation 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 to safeguard public health and provide consumers food that is safe, unadulterated, and honestly presented.

2. DEFINITIONS

For purposes of this regulation, the following phrases, terms, and words shall have the meanings given in this section:

2.1 “Accredited Program”

- 2.1.1 Shall mean a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.
- 2.1.2 Accredited program refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.
- 2.1.3 Accredited program does not refer to training functions or educational programs.

2.2 “Additive”

- 2.2.1 Food additive shall have the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 C.F.R. § 170.
- 2.2.2 Color additive shall have the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 C.F.R. § 70.

2.3 “Adulterated” shall have the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 402.

2.4 “Approved” shall mean acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

2.5 “Asymptomatic” shall mean:

2.5.1 Without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice.

2.5.2 Asymptomatic includes not showing symptoms because symptoms have resolved or subsided or because symptoms never manifested.

2.6 “ a_w ” shall mean 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 .

2.7 “Balut” shall mean 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.

2.8 “Beverage” shall mean a liquid for drinking, including water.

2.9 “Bottled drinking water” shall mean water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

2.10 “Casing” shall mean a tubular container for sausage products made of either natural or artificial (synthetic) material.

2.11 “Caterer” shall mean a food establishment that prepares food for offsite service for non-paying guests.

2.12 “Certification number” shall mean 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.

2.13 “Certified food safety manager” shall mean a manager of a food establishment who:

2.13.1 Passes successfully a Department-approved examination;

2.13.2 Successfully completes, every three years, renewal requirements established by Department rule consistent with original certification requirements; and

2.13.3 Submits to the Salt Lake Valley Health Department the documentation required.

2.14 “CIP”

2.14.1 Shall mean cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing

solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

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

2.15 “C.F.R.” shall mean Code of Federal Regulations. Citations in this Regulation to the C.F.R. refer sequentially to the Title, Part, and Section numbers, such as 21 C.F.R. § 178.1010 refers to Title 21, Part 178, Section 1010.

2.16 “Code of Federal Regulations” shall mean the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which:

2.16.1 Is published annually by the U.S. Government Printing Office; and

2.16.2 Contains FDA rules in 21 C.F.R., USDA rules in 7 C.F.R. and 9 C.F.R., EPA rules in 40 C.F.R., and Wildlife and Fisheries rules in 50 C.F.R.

2.17 “Commingle” shall mean:

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

2.17.2 To combine shucked shellfish from containers with different container codes or different shucking dates.

2.18 “Comminuted”

2.18.1 Shall mean reduced in size by methods including chopping, flaking, grinding, or mincing.

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

2.19 “Commissary” shall mean a Department-approved staging area where a food cart, mobile food unit, shaved ice stand, or transportation vehicle returns regularly for maintenance activities such as equipment cleaning, stocking, storing, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food. If the food cart, mobile food unit, or shaved ice stand has adequate facilities to accommodate normal functions of the commissary some items may not be required at the commissary.

- 2.20 “Confirmed disease outbreak” shall mean 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.
- 2.21 “Consumer” shall mean 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.
- 2.22 “Corrosion-resistant material” shall mean 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.
- 2.23 “Counter-mounted equipment” shall mean equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.
- 2.24 “Critical control point” shall mean a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.
- 2.25 “Critical 1 Item”
- 2.25.1 Shall mean a provision of this Regulation whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.
- 2.25.2 Includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, hand washing; and
- 2.25.3 Is an item that is denoted in this Regulation with a superscript Roman numeral I¹
- 2.26 “Critical 2 Item”
- 2.26.1 Shall mean a provision in this Code whose application supports, facilitates or enables one or more Critical 1 items.
- 2.26.2 Includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and
- 2.26.3 Is an item that is denoted in this Regulation with a superscript Roman numeral II^{II}.

- 2.27 “Critical limit” shall mean the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.
- 2.28 “Cut leafy greens” shall mean 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.
- 2.29 “Department” shall mean the Salt Lake Valley Health Department (SLVHD).
- 2.30 “Director” shall mean the Director of the Salt Lake Valley Health Department or his or her designated representative.
- 2.31 “Disclosure” shall mean a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens in their entirety, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.
- 2.32 “Drinking water”
- 2.32.1 Shall mean water that meets 40 C.F.R. § 141 - National Primary Drinking Water Regulations.
- 2.32.2 Drinking water is traditionally known as “potable water.”
- 2.32.3 Drinking water includes the term “water” except where the term used connotes that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,” and “nondrinking” water.
- 2.33 “Dry storage area” shall mean a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.
- 2.34 “Easily cleanable”
- 2.34.1 Shall mean 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.

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

- (i) The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or
- (ii) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

2.35 “Easily movable” shall mean:

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

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

2.36 “Egg”:

2.36.1 Shall mean the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey.

2.36.2 Egg does not include a balut; the egg of a reptile species such as alligator; or an egg product.

2.37 “Egg product” shall mean:

2.37.1 All, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs.

2.37.2 Egg product does not include food which contains eggs only in a relatively small portion such as cake mixes.

2.38 “Employee” shall mean 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.

2.39 “Enterohemorrhagic Escherichia coli.” (EHEC) shall mean E. coli which cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. The

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

2.40 “EPA” shall mean the U.S. Environmental Protection Agency.

2.41 “Equipment” shall mean

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

2.41.2 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.

2.42 “Exclude” shall mean to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

2.43 “FDA” shall mean the U.S. Food and Drug Administration.

2.44 “Fish”

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

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

2.45 “Food” shall mean 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.

2.46 “Foodborne disease outbreak” shall mean the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

2.47 “Food cart” shall mean a readily moveable non-self propelled vehicle that uses approved equipment and is limited to the cooking and serving of foods that are

maintained at proper temperatures.

2.48 “Food-contact surface” shall mean:

2.48.1 A surface of equipment or a utensil with which food normally comes into contact;
or

2.48.2 A surface of equipment or a utensil from which food may drain, drip, or splash

(i) Into a food, or

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

2.49 “Food employee” shall mean the same as “food handler” under Utah Code Ann. 26-15-1(1).

2.50 “Food establishment” refers to any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off premises and regardless of whether there is a charge for the food.

2.50.1 Food establishment includes:

(i) Except as exempted in 2.50.2, bars, bed and breakfasts, breweries, cafeterias, camps, caterers, child care facilities, coffee shops, commissaries, day cares, fairs, food carts, group residences, hospitals, hotels, motels, mobile food units, nursing homes, penal institutions, private clubs, restaurants, satellite sites, schools, senior citizen centers, shelters, snack bars, taverns or similar food facilities;

(ii) A temporary food establishment;

(iii) An operation that is conducted in a mobile, stationary, or permanent facility or location;

(iv) The area of a bakery, convenience store, delicatessen, or grocery store where food is prepared and intended for individual portion service and includes areas used for storing food used in this portion of the food establishment, warewashing, utility and waste disposal facilities; and

(v) Except as exempted in 2.50.2(v), the premises of a church, temple, and synagogue where food is prepared for the public.

2.50.2 Food establishment does not include:

(i) An establishment that offers only prepackaged foods that are not

potentially hazardous;

- (ii) A produce stand that only offers whole, uncut fresh fruits and vegetables;
- (iii) A food processing plant;
- (iv) A private home where food is prepared or served for private family, religious, or charitable functions where the public is not invited.
- (v) The premises of a church, temple or synagogue where food is normally prepared or served only for private family, religious or charitable functions to which the public (other than members of the church, temple, or synagogue) is not invited;
- (vi) The portion of a bakery, convenience store, delicatessen, or grocery store not covered under 2.50.1(iv); and food or water vending machines. Any portion of 2.50.1(iv) may be amended by a Memorandum of Understanding between the Department and the Utah Department of Agriculture and Food to allow for a more cost effective use of local and state inspection resources;
- (vii) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guests bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Department.
- (viii) A private home that receives catered or home-delivered food.
- (ix) A food facility for team event members and or family and guests of the team where food is prepared by and served to those persons.
- (x) A home used to provide adult or childcare for four or fewer persons.

2.51 "Food processing plant"

2.51.1 Shall mean a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.

2.51.2 Food processing plant does not include a food establishment as defined under subsection 2.50.

2.52 "Game animal" shall mean an animal, the products of which are food that is not

classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 C.F.R. Subchapter A - Mandatory Meat Inspection, Part 301, as Poultry in 9 C.F.R. Subchapter C - Mandatory Poultry Products Inspection, Part 381, or as fish as defined under Subsection 2.44.

2.52.1 Game animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and non-aquatic reptiles such as land snakes.

2.52.2 Game animal does not include ratites such as ostrich, emu, and rhea.

2.53 “General use pesticide” shall mean a pesticide that is not classified by EPA for restricted use as specified in 40 C.F.R. § 152.175.

2.54 “Grade A standards” shall mean the requirements of the United States Public Health Service/FDA “Grade A Pasteurized Milk Ordinance” and “Grade A Condensed and Dry Milk Ordinance” with which certain fluid and dry milk and milk products comply.

2.55 “HACCP plan” shall mean a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

2.56 “Handwashing sink” shall mean:

2.56.1 A lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.

2.56.2 Handwashing sink includes an automatic handwashing facility.

2.57 “Hazard” shall mean a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

2.58 “Health practitioner” shall mean a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

2.59 “Hermetically sealed container” shall mean 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.

2.60 “Highly susceptible population” shall mean persons who are more likely than other people in the general population to experience foodborne disease because they are:

2.60.1 Immunocompromised; preschool age children, or older adults; and

- 2.60.2 Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.
- 2.61 “Imminent health hazard” shall mean 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 or illness based on:
- 2.61.1 The number of potential injuries or illnesses, and
- 2.61.2 The nature, severity, and duration of the anticipated injury or illness.
- 2.62 “Injected” shall mean 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.”
- 2.63 “Juice” shall mean
- 2.63.1 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.
- 2.63.2 “Juice” does not include, for purposes of HACCP, liquids, purees, or concentrates that are not used as beverages or ingredients of beverages.
- 2.64 “Kitchenware” shall mean food preparation and storage utensils.
- 2.65 “Law” shall mean applicable local, state, and federal statutes, regulations, rules, and ordinances.
- 2.66 “Linens” shall mean fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments including cloth gloves.
- 2.67 “Major food allergen” shall mean:
- 2.67.1 Milk, egg, fish (such as bass, flounder, cod, and including crustacean such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or
- 2.67.2 A food ingredient that contains protein derived from a food, as specified in 2.67.1 of this definition.
- 2.67.3 “Major food allergen” does not include

- (i) any highly refined oil derived from a food specified in 2.67.1 of this definition and any ingredient derived from such highly refined oil; or
 - (ii) any ingredient that is exempt under the petition or notification process specified in the food allergen labeling and Consumer Protection Act of 2004 (Public Law 108-282).
- 2.68 “Meat” shall mean the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under 4.3.8(i)(c)
- 2.69 “Mechanically Tenderized”
 - 2.69.1 Shall mean manipulating meat with deep penetration by processes which may be referred to as "blade tenderizing," "jaccarding," "pinning," "needling," or using blades, pins, needles or any mechanical device.
 - 2.69.2 Does not include processes by which solutions are injected into meat.
- 2.70 “mg/L” shall mean milligrams per liter, which is the metric equivalent of parts per million (ppm).
- 2.71 “Mobile food unit” shall mean an enclosed, readily moveable vehicle-mounted food establishment from which food is prepared and from which food is sold or given away.
- 2.72 “Molluscan shellfish” shall mean 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.
- 2.73 “Non-continuous cooking”
 - 2.73.1 Shall mean the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.
 - 2.73.2 Does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.
- 2.74 “Non-critical item” means a provision in this regulation that is not designated as a Critical 1 item or a Critical 2 item. Non-critical item includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.
- 2.75 “Packaged”
 - 2.75.1 “Packaged” shall mean bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant.

- 2.75.2 Packaged does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
- 2.76 “Permit” shall mean the document issued by the Department that authorizes a person to operate a food establishment.
- 2.77 “Permit holder” shall mean the entity that:
- 2.77.1 Is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and
- 2.77.2 Possesses a valid permit to operate a food establishment.
- 2.78 “Person” shall mean any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.
- 2.79 “Person in charge” shall mean the individual present at a food establishment who is responsible for the operation at the time of inspection.
- 2.80 “Personal Care Items”
- 2.80.1 Personal care items shall mean items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.
- 2.80.2 Personal care items include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.
- 2.81 “pH” shall mean the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.
- 2.82 “Physical facilities” shall mean 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.
- 2.83 “Plumbing fixture” shall mean a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water there from; discharges wastewater, liquid-borne waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires a water supply connection and a discharge to the drainage system of the premises.

- 2.84 “Plumbing system” shall mean 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.
- 2.85 “Poisonous or toxic materials” means substances that are not intended for ingestion and are included in 4 categories:
- 2.85.1 Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- 2.85.2 Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- 2.85.3 Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- 2.85.4 Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.
- 2.86 “Potentially hazardous food (time/temperature control for safety food)” shall mean:
- 2.86.1 A food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.
- 2.86.2 Potentially hazardous food (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 that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and
- (ii) Except as specified in 2.84.3(iv) 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-PHF*/non-TCS FOOD**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS FOOD	PA	PA
<p>* PHF means POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD *** PA means Product Assessment required</p>			

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-PHF*/non-TCS food**	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
0.88 – 0.90	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	PA***
> 0.90 – 0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	PA	PA
> 0.92	non-PHF/non-TCS food	PA	PA	PA
<p>* PHF means POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD *** PA means Product Assessment required</p>				

2.86.3 Potentially hazardous food (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 non-refrigerated 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-PHF/non-TCS food in table A or B of this definition;
- (iv) A food that is designated as product assessment required (PA) in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
 - a. Intrinsic factors including added or natural characteristics of the food such as preservatives, anti-microbials, humectants, acidulents, 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 toxin formation of pathogenic microorganisms, in accordance with 2.84.2 even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

2.87 “Poultry”

2.87.1 Poultry shall mean:

- (i) Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead, as defined in 9 C.F.R. § 381.1 Poultry Products Inspection Regulations Definitions, Poultry; and
- (ii) Any migratory waterfowl, 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.

2.87.2 Poultry does not include ratites.

- 2.88 “Premises” shall mean:
- 2.89.1 The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or
 - 2.89.2 The physical facility, its contents, and the land or property not described under 2.83.1 of this definition if its facilities and contents are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.
- 2.89 “Primal cut” shall mean a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.
- 2.90 “Public water system” shall have the meaning stated in 40 C.F.R. § 141 National Primary Drinking Water Regulations.
- 2.91 “Ratite” shall mean a flightless bird such as an emu, ostrich, or rhea.
- 2.92 “Ready-to-Eat Food”
- 2.92.1 Ready-to-eat food shall mean food that:
 - (i) Is in a form that is edible without additional preparation to achieve food safety, as specified under 4.3.46(i)- (iii) or 4.3.47 or 4.3.49; or
 - (ii) Is a raw or partially cooked animal food and the consumer is advised as specified under 4.3.46(iv)(a), (c).; or
 - (iii) Is prepared in accordance with a variance that is granted as specified under 4.3.46(iv)(d); and
 - (iv) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.
 - 2.92.2 Ready-to-eat food includes:
 - (i) Raw animal food that is cooked as specified under 4.3.46 or 4.3.47, or frozen as specified under 4.3.49;
 - (ii) Raw fruits and vegetables that are washed as specified under 4.3.27;
 - (iii) Fruits and vegetables that are cooked for hot holding, as specified under 4.3.48;

- (iv) All potentially hazardous food (time/temperature control for safety food) that is cooked to the temperature and time required for the specific food under 4.3.46- 4.3.48 and cooled as specified in 4.3.57;
- (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. § 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

2.93 “Reduced oxygen packaging”

2.93.1 Reduced oxygen packaging shall mean:

- (i) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding, 21% oxygen atmosphere, and
- (ii) A process as specified in subpart (i) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

2.93.2 “Reduced oxygen packaging” includes:

- (i) Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;
- (ii) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air, but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the

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

- (iii) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, non-respiring 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 placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

- 2.94 “Refuse” shall mean solid waste not carried by water through the sewage system.
- 2.95 “Reminder” shall mean a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.
- 2.96 “Re-service” shall mean 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.
- 2.97 “Restrict” shall mean to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens; and unwrapped single-service or single-use articles.
- 2.98 “Restricted egg” shall mean any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 C.F.R. § 590.
- 2.99 “Restricted use pesticide” shall mean a pesticide product that contains the active ingredients specified in 40 C.F.R. § 152.175 Pesticides classified for restricted use, and that are limited to use by or under the direct supervision of a certified applicator.
- 2.100 “Risk” shall mean the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food or preparation of a food.

- 2.101 “Safe material” shall mean:
- 2.101.1 An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
 - 2.101.2 An additive that is used as specified in section 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or
 - 2.101.3 Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.
- 2.102 “Sanitization” shall mean the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction of representative disease microorganisms of public health importance.
- 2.103 “Sealed” shall mean free of cracks or other openings that allow the entry or passage of moisture.
- 2.104 “Seasonal Food Cart/Seasonal Mobile Food Unit” shall mean a food cart or mobile food unit that operates in the months of March through November only.
- 2.105 “Seasonal Temporary Food Establishment” shall mean a temporary food establishment that operates for a maximum of nine (9) consecutive months in conjunction with events or celebrations at a single location for the duration of the permit.
- 2.106 “Service animal” shall mean an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.
- 2.107 “Sewage” shall mean liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.
- 2.108 “Shaved-ice stand” shall mean a seasonal facility which is limited to preparing and serving shaved ice foods with approved equipment. If a shaved ice stand is moved from event-to-event, the Department must approve storage facilities for the shaved ice stand.
- 2.109 “Shellfish control authority” shall mean 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.
- 2.110 “Shellstock” shall mean raw, in-shell molluscan shellfish.
- 2.111 “Shiga toxin-producing *Escherichia coli*” (STEC) shall mean any *E.coli* capable of producing Shiga toxins (also called verocytotoxins or “Shiga-like” toxins). This

includes, but is not limited to serotypes of (STEC) such as O157 and non-O157 E.coli. Also see *Enterohemorrhagic Escherichia Coli*.

- 2.112 “Shucked shellfish” shall mean molluscan shellfish that have one or both shells removed.
- 2.113 “Single-service articles” shall mean 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.
- 2.114 “Single-use articles”
- 2.114.1 Single-use articles shall mean utensils and bulk food containers designed and constructed to be used once and discarded.
- 2.114.2 Single-use articles includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under 4.4.1, 4.4.13, and 4.4.15 for multiuse utensils.
- 2.115 “Slacking” shall mean the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.
- 2.116 “Smooth” shall mean
- 2.115.1 A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;
- 2.115.2 A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and
- 2.115.2 A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.
- 2.117 “Table-mounted equipment” shall mean equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.
- 2.118 “Tableware” shall mean 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.
- 2.119 “Team event” shall mean an activity such as a game or sporting event in which multiple persons participate as part of a team.

- 2.120 “Temperature measuring device” shall mean a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.
- 2.121 “Temporary food establishment” shall mean
- 2.121.1 A food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.
- 2.121.2 “Temporary food establishment” does not include:
- (i) A Seasonal Food Cart/Seasonal Mobile Food Unit;
 - (ii) A food establishment that offers only commercially prepared and packaged foods that are not potentially hazardous and require no preparation or handling; or
 - (iii) Produce stand that offers only whole, uncut fresh fruit and vegetables.
 - (iv) A food cart, vehicle, trailer or mobile food unit permitted for operation by the Department.
 - (v) A food facility for team event members and or family and guests of the team where food is prepared by and served to those persons.
- 2.122 “USDA” shall mean the U.S. Department of Agriculture.
- 2.123 “Utensil” shall mean 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.
- 2.124 “Variance” shall mean a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Regulation if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.
- 2.125 “Vending machine” shall mean a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.
- 2.126 “Vending machine location” shall mean 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.

- 2.127 “Warewashing” shall mean the cleaning and sanitizing of utensils and food-contact surfaces of equipment.
- 2.128 “Whole-muscle, intact beef” shall mean whole-muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

3. GENERAL PROVISIONS

3.1 Jurisdiction of the Department.

3.1.1 This regulation is promulgated by the Salt Lake Valley Board of Health as authorized by Section Utah Code Ann. § 26A-1-121(1) (2011) and Salt Lake County Code of Ordinances § 9.04 (2011).

3.1.2 The Department is empowered to enforce this regulation in all incorporated and unincorporated areas served by the Department as authorized by Utah Code Ann. § 26A-1-114(1)(a) (2011) and Salt Lake County Code of Ordinances § 9.04 (2011).

3.2 It shall be unlawful for any person not to comply with any regulation promulgated by the Department, unless granted an express variance by the Salt Lake Valley Board of Health.

3.3 Compliance with this regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.

3.4 Legal action taken by the Department under this Regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.

3.5 Nothing in this regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department, any ordinance issued by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.

3.6 Verbal or contractual obligations shall not diminish or remove the owner’s or other responsible person’s obligation to comply with this regulation.

3.7 **Severance.** If any section, subsection, sentence, clause, or phrase of this regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this regulation.

4. SUBSTANTIVE PROVISIONS

4.1 Food Establishment Permitting, Food Worker Training and Certification.

4.1.1 Permits Required.

- (i) **Food Establishment Permit Required.** No person shall operate a food establishment without prior written Department approval and a corresponding valid Food Establishment Permit.
- (ii) **Food Establishment Permit Application, Duration, and Renewal.**
 - a. To apply for a Food Establishment Permit, the applicant shall complete and submit the Department-approved application form.
 - b. **Permit Duration.** A Food Establishment Permit is valid only at the location stated in the application and shall be renewed upon change of ownership and annually after the date of issuance.
- (iii) **Exceptions.** A temporary food establishment as defined in 2.120, a food cart as defined in 2.47, a mobile food unit as defined in 2.71, a seasonal food cart/seasonal mobile food unit as defined in 2.103, and a shaved-ice stand as defined in 2.107 are exempt from the permit requirement of 4.1.1(i) if the owner or operator of the establishment applies for and obtains one of the following permits:
 - a. **One Day Temporary Food Establishment Permit.** A One Day Temporary Food Establishment Permit is required to operate a temporary food establishment in conjunction with a single event or celebration for no longer than one day.
 - b. **Three Day Temporary Food Establishment Permit.** A Three Day Temporary Food Establishment Permit is required to operate a temporary food establishment in conjunction with a single event or celebration for longer than one day. A Three Day Temporary Food Establishment Permit is valid for no longer than three days.
 - c. **Extended Fourteen Day Temporary Food Establishment Permit.** An Extended Fourteen Day Temporary Food Establishment Permit is required to operate a temporary food establishment for more than three days in conjunction with multiple events or a single event or celebration. An Extended Fourteen Day Temporary Food Establishment Permit is valid for no longer than fourteen days and shall expire one year from the date of issuance.

- d. **Seasonal Temporary Food Permit.** A Seasonal Temporary Food Permit is required to operate a temporary food establishment that operates for a maximum of nine (9) consecutive months in conjunction with events or celebrations at a single location for the duration of the permit. The Seasonal Temporary Food Permit shall expire nine (9) months from the date of application. Only one Seasonal Temporary Food Permit may be purchased in a twelve (12) month period.
 - e. **Food Cart Permit.** A Food Cart Permit is required to operate a food cart year round.
 - f. **Mobile Food Unit Permit.** A Mobile Food Unit Permit is required to operate a mobile food unit year round.
 - g. **Seasonal Permit.** A Seasonal Permit is required to operate a seasonal food cart/seasonal mobile food unit or a shaved-ice stand during the months of March through November only.
- (iv) **Temporary Food Establishment Permit Application.** To apply for a permit required in 4.1.1(iii) (a)-(c) of this regulation, an applicant shall provide the Department with:
- a. A complete menu including beverages;
 - b. The booth structure;
 - c. The equipment that will be required;
 - d. The booth's hand washing set up;
 - e. Methods to cook food to the proper temperatures and maintain food at the proper hot and cold holding temperatures;
 - f. Methods to transport and store food and equipment;
 - g. Methods that will be used to wash, rinse and sanitize equipment;
 - h. The name and phone number of the person in charge of the booth; and
 - i. Methods to dispose of wastewater.
- (v) **Food Cart, Mobile Food Unit, and Shaved-Ice Stand Permit Application, Duration and Renewal.**
- a. To apply for a Permit required under 4.1.1(iii) (d)-(f) of this regulation, the applicant shall complete and submit the Department-

approved application form.

- b. Permit Duration. Permits issued under 4.1.1(iii)(d), (e) of this regulation are valid only at the location stated in the application and shall be renewed upon change of ownership and annually after the date of issuance. Permits issued under chapter 4.1.1(iii)(g) are valid from March 1 of the calendar year in which it was issued through November 30.
 - c. To qualify for a Food Cart or Mobile Food Unit Permit, the plumbing system including the fresh water tank, waste water tank, pumps, and hoses must be designed, constructed, and operated to withstand freezing during cold weather.
- (vi) It is a violation of this regulation to operate a temporary food establishment for more than 45 days in a single calendar year without an approved commissary or a permanent food establishment.

4.1.2 **Responsibilities of the Permit Holder.** Upon acceptance of a permit issued by the Department, the permit holder shall:

- (i) Post the permit in a location in the food establishment that is conspicuous to consumers;
- (ii) Replace existing facilities and equipment with facilities and equipment that comply with this regulation if:
 - a. The Department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted,
 - b. The Department directs the replacement of the facilities and equipment because of a change of ownership, or
 - c. The facilities and equipment are replaced in the normal course of operation; and
- (iii) Immediately discontinue operations and notify the Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

- a. A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.
- b. Resumption of Operations. If operations are discontinued, the permit holder shall obtain approval from the Department before resuming operations.

4.1.3 Food Handler Training.

- (i) **Prohibited Acts.** Except as provided in subpart (ix) of this part, without Department approved food employee training, it shall be unlawful for:
 - a. An owner of a food establishment to allow a food employee to work in a food establishment in Salt Lake County; and
 - b. Any person to engage in the manufacture, preparation, or handling of food or drink, in or around a food establishment in Salt Lake County.
- (ii) **Food Handler Training Documentation Required.** The Department-approved food employee training requirement of subpart (i) shall be fulfilled by taking a food handler training class and obtaining a Food Handler Card from the Department or a Department-Authorized Trainer by successfully completing a food handler training class.
- (iii) **Content of Food Handler Training Classes.** Curriculum for food handler²s training classes shall be approved by the Department. At a minimum, training should provide education in personal hygiene, methods of disease transmission, symptoms of foodborne illness, time and temperature control for food, equipment sanitization, toxic storage and use, waste and vermin control, and other food safety issues identified by the Department or its regulations.
- (iv) **Authorized Training.** Food handler training classes shall be conducted by:
 - a. The Department;
 - b. By those individuals approved by the Department whose credentials meet the minimum standards adopted by the Department; or
 - c. By establishments approved by the Department to do in-house training at their establishment.
- (v) **Department-authorized Trainers.**
 - a. Trainers authorized by the Department to teach food handler training

classes shall provide credentials to the Department and retain proof of authorization.

- b. Authorized trainers shall provide food employee training classes at the locations, times and frequencies specified by the Department.

(vi) **In-House Food Employee Training.** The following is required for in-house food employee training programs:

- a. In-house food employee trainers must be a certified food safety manager or a Licensed Environmental Health Scientist in the State of Utah;
- b. Each establishment's in-house food employee trainer shall obtain written Department approval for the training program;
- c. Upon Department request, the operator of an establishment shall provide documentation of in-house trainer's credentials and proof of written Department approval of the establishment's training program.
- d. Each certified food safety manager shall keep a record of employee attendance in the program and renew the training at least every two years;
- e. For the purposes of meeting the requirements of subpart 4.1.3 (ii), in-house food employee training is valid at the food establishment where the training was conducted and at other substantially similar food establishments under the same ownership (i.e. a food chain);
- f. The Department shall review and re-approve in-house training programs every two years; and
- g. Department authorization to conduct in-house food handler training programs may be suspended, revoked or denied if the food establishment fails to comply with this regulation.

(vi) **Reciprocity.** A valid food handler card issued by another public health authority in Utah may be accepted by the Department, provided the training requirements upon which the permit was issued are equivalent to those of this regulation and the standards adopted by the Department. A food handler card from another jurisdiction may be declared invalid or may be suspended, revoked or denied for use in food establishments in Salt Lake County if the conditions for the permit do not meet the standards adopted by the Department or if the card holder violates any of the provisions in this regulation.

- (vii) **Food Employee Training Exemptions.** Food employee training shall not be required for:
 - a. Certified food safety managers;
 - b. Licensed Environmental Health Scientists in the State of Utah; or
 - c. Temporary events, if at least one person has food employee training or training specified in chapters (a) or (b) of this subpart, and is present at all hours of operation.
- (viii) **Child Care Food Handler Training.** Child care and pre-school employees shall be required to obtain child care food employee training approved by the Department.

4.1.4 Food Safety Manager Certification

- (i) **Food Establishment Requirements.** Each food establishment in Salt Lake County shall be managed by at least one full-time certified food safety manager at each establishment site, who needs not be present at the establishment site during all hours of operation.
 - a. Within 60 days of the termination of a certified food safety manager's employment that results in the food establishment no longer being in compliance with 4.1.4(i), the food establishment shall:
 - i. Employ a new certified food safety manager; or
 - ii. Designate another employee to become the establishment's certified food safety manager who shall commence a Department-approved food safety manager training course.
 - b. Compliance with the 60-day time period provided in chapter (a) may be extended by the Department for reasonable cause.
- (ii) **Food Safety Manager Certification – Registration.**
 - a. To register a food safety manager, a person shall:
 - i. Successfully complete a training course and an examination that are approved by the Utah Department of Health and meet the standards of Utah Code Ann. § 26-15a-101 to -107 (2011);
 - ii. Submit evidence of completion of an approved training course and receipt of a passing score on the exam to the Department; and

- iii. Complete and submit the Department-approved registration form.
 - iv. Remit to the Department the Food Safety Certification Registration Fee stated in 5.1.7 of this regulation.
- b. The registration of a food safety manager shall not be transferable from one person to another.
- (iii) **Food Safety Manager Certification and Registration – Renewal.** To continue as a food safety manager at a food establishment a person shall:
- a. Successfully complete, every three years, the original certification requirements. Passing an approved food safety manager exam shall be equivalent to the course and exam for renewal; and
 - b. Submit documentation in the format prescribed by the Department within 30 days of the completion of renewal requirements to the Department.
- (iv) **Exemptions To Food Safety Manager Certification Requirements.** The following are not subject to 4.1.4:
- a. Special events sponsored by municipal or nonprofit civic organizations including food booths at school sporting events, little league athletic events, and church functions;
 - b. Temporary event food services approved by the Department;
 - c. Vendors and other food establishments that serve only commercially prepackaged foods and beverages as defined by this Regulation;
 - d. Private homes not used as a commercial food establishment;
 - e. Health care facilities licensed under Chapter 21, Health Care Facility Licensing and Inspection Act;
 - f. Residential child care providers;
 - g. Back country food establishments; and
 - h. A lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the Department.

4.2 Management and Personnel.

4.2.1 Assignment of Responsibility.

- (i) Except as specified in (ii) of this part, 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.
- (ii) 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.

4.2.2 **Demonstration of Knowledge.** ¹¹ Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge or the certified food safety manager shall demonstrate to the Department knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this regulation. The person in charge or the certified food safety manager shall demonstrate this knowledge by compliance with this Regulation, and by responding correctly to the inspector's questions as they relate to the specific food operation. The person in charge shall demonstrate this knowledge by:

- (i) Complying with this Regulation by having no violations of critical items during the current inspection; or
- (ii) 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 may 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 potentially hazardous food (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 potentially hazardous food (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 potentially hazardous food (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. Bare hand contact with ready-to-eat foods,
 - iii. Hand washing, 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 may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Regulation;
- 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 Regulation, or an agreement between the Department and the establishment; and
- p. Explaining the responsibilities, rights, and authorities assigned by this Regulation to the:
 - i. Food employee,
 - ii. Conditional employee;
 - iii. Person in charge, and
 - iv. Department.
- q. Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

4.2.3 Reserved.

4.2.4 Person in Charge – Duties. ^{II} The person in charge shall ensure that:

- (i) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under 4.6.21;
- (ii) 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;
- (iii) 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 Regulation;
- (iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

- (v) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;
- (vi) Employees are properly cooking potentially hazardous food (time/temperature control for safety food), being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under 4.4.23 and 4.4.78 (ii);
- (vii) Employees are using proper methods as specified under 4.3.57 and 4.3.58 to rapidly cool potentially hazardous food (time/temperature control for safety foods) that are not held hot or are not for consumption within 4 hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;
- (viii) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 4.3.69 that the food is not cooked sufficiently to ensure its safety;
- (ix) 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;
- (x) 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 4.3.35;
- (xi) Except when approval is obtained from the Department as specified in 4.3.21(ii), 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;
- (xii) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties; and
- (xiii) Food employees and conditional employees are informed of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under 4.2.5(i).

4.2.5 Responsibility of the Person in Charge to Require Reporting by Food Employees. ¹

- (i) 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 symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:
 - a. Is diagnosed by a health practitioner with an illness due to:
 - i. Norovirus,
 - ii. *Salmonella Typhi*,
 - iii. *Shigella spp.*,
 - iv. ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING ESCHERIACHIA COLI, or
 - v. Hepatitis A virus;
 - b. Has a symptom caused by illness, infection, or other source that is:
 - i. Diarrhea,
 - ii. Vomiting,
 - iii. Jaundice,
 - iv. Sore throat with fever, or
 - v. A lesion containing pus such as a boil or infected wound that is open or draining and is:
 1. On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a SINGLE-USE glove is worn over the impermeable cover,
 2. On exposed portions of the arms, *unless the lesion is protected by an impermeable cover*, or

3. On other parts of the body, *unless the lesion is covered by a dry, durable, tight-fitting bandage*;
- c. Had a previous illness, diagnosed by a health practitioner, within the past 3 months due to *Salmonella Typhi*, without having received antibiotic therapy, as determined by a health practitioner;
 - d. Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
 - i. Norovirus within the past 48 hours of the last exposure,
 - ii. ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING *ESCHERIACHIA COLI*, or *Shigella* spp. within the past 3 days of the last exposure,
 - iii. *Salmonella Typhi* within the past 14 days of the last exposure, or
 - iv. Hepatitis A virus within the past 30 days of the last exposure; or
 - e. Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:
 - i. Norovirus within the past 48 hours of the last exposure,
 - ii. ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING *ESCHERIACHIA COLI*, or *Shigella* spp. within the past 3 days of the last exposure,
 - iii. *Salmonella Typhi* within the past 14 days of the last exposure, or
 - iv. Hepatitis A virus within the past 30 days of the last exposure.
- (ii) The person in charge shall notify the Department when a food employee is:
 - a. Jaundiced, or
 - b. Diagnosed with an illness due to a pathogen as specified under subchapters (i)(a)(i)-(iv) of this part.
 - (iii) The person in charge shall ensure that a conditional employee:

- a. Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under chapters (i)(a)-(c) of this part, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 4.2.7; and
 - b. Who will work as a food employee in a food establishment that serves highly susceptible population and reports a history of exposure as specified under chapters (i)(d)-(e), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified under 4.2.7(ix).
- (iv) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under chapters (i)(a)-(e) of this part is:
- a. Excluded as specified under 4.2.6(i)-(iii), (iv)(a), (v)(a), (vi)(a), or (vii)(a) and in compliance with the provisions specified under 4.2.7(i) - (vii); or
 - b. Restricted as specified under 4.2.6(iv)(b), (v)(b), (vi)(b), (vii)(b), or 4.2.6(viii), (ix) and in compliance with the provisions specified under 4.2.7(iv)-(ix).
- (v) A food employee or conditional employee shall report to the person in charge the information as specified under subpart (i) of this part.
- (vi) A food employee shall:
- a. Comply with an exclusion as specified under 4.2.6(i)-(iii) and 4.2.6(iv)(a), (v)(a), (vi)(a), or (viii)(a) and with the provisions specified under 4.2.7(i)-(vii); or
 - b. Comply with a restriction as specified under 4.2.6 (iv)(b), (v)(b), (vi)(b), (vii)(b), or 4.2.6(viii) or (ix) and comply with the provisions specified under 4.2.7(iv)-(ix).
- 4.2.6 Exclusions and Restrictions.** ¹ The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:
- (i) Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:
 - a. Symptomatic with vomiting or diarrhea; or

- b. Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, *Shigella* spp., or ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING ESCHERIACHIA COLI.
- (ii) Exclude a food employee who is:
 - a. Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;
 - b. Diagnosed with an infection from hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; or
 - c. Diagnosed with an infection from hepatitis A virus without developing symptoms.
- (iii) Exclude a food employee who is diagnosed with an infection from *Salmonella* Typhi, or reports a previous infection with *Salmonella* Typhi within the past 3 months as specified under 4.2.5(i)(c).
- (iv) If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:
 - a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (v) If a food employee is diagnosed with an infection from *Shigella* spp. and is asymptomatic:
 - a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (vi) If a food employee is diagnosed with an infection from ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING ESCHERIACHIA COLI, and is asymptomatic:

- a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (vii) If a food employee is ill with symptoms of acute onset of sore throat with fever:
- a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (viii) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under 4.2.5(i)(b)(v), restrict the food employee.
- (ix) If a food employee is exposed to a foodborne pathogen as specified under 4.2.5(i)(d)-(e), restrict the food employee who works in a food establishment serving a highly susceptible population.

4.2.7 Removal, Adjustment, or Retention of Exclusions and Restrictions. Managing Exclusions and Restrictions. ¹ The person in charge shall remove, adjust, or retain the exclusion or restriction of a food employee according to the following conditions:

- (i) Except when a food employee is diagnosed with an infection from hepatitis A virus or Salmonella Typhi:
 - a. Reinstate a food employee who was excluded as specified under 4.2.6(i)(a) if the food employee:
 - i. Is asymptomatic for at least 24 hours; or
 - ii. Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.
 - b. If a food employee was diagnosed with an infection from Norovirus and excluded as specified under 4.2.6(i)(b):
 - i. Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as

- specified under chapters (iv)(a)-(b) of this part are met; or
- ii. Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under chapters (iv)(a)-(b) of this part are met.
- c. If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under 4.2.6(i)(b):
- i. Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under chapters (v)(a)-(b) of this part are met; or
 - ii. Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under chapters (v)(a)-(b) or chapter (v)(a) and subchapter (i) of this chapter are met.
- d. If a food employee was diagnosed with an infection from ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING ESCHERICHIA COLI and excluded as specified under 4.2.6(i)(b):
- i. Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under chapters (vi)(a)-(b) of this part are met; or
 - ii. Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under chapters (vi)(a)-(b) are met.
- (ii) Reinstatement of a food employee who was excluded as specified under 4.2.6(ii) if the person in charge obtains approval from the Department and one of the following conditions is met:
- a. The food employee has been jaundiced for more than 7 calendar days;
 - b. The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; or

- c. The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection.
- (iii) Reinstatement of a food employee who was excluded as specified under 4.2.6(iii) if:
 - a. The person in charge obtains approval from the Department; and
 - b. The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *S. Typhi* infection.
- (iv) Reinstatement of a food employee who was excluded as specified under 4.2.6(i)(b), (iv)(a) or who was restricted under 4.2.6(iv)(b) if the person in charge obtains approval from the Department and one of the following conditions is met:
 - a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;
 - b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic; or
 - c. The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.
- (v) Reinstatement of a food employee who was excluded as specified under 4.2.6(i)(b) or (v)(a) or who was restricted under 4.2.6(v)(b) if the person in charge obtains approval from the Department and one of the following conditions is met:
 - a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing 2 consecutive negative stool specimen cultures that are taken:
 - i. Not earlier than 48 hours after discontinuance of antibiotics, and
 - ii. At least 24 hours apart;

- b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 7 calendar days have passed since the food employee became asymptomatic; or
 - c. The food employee was excluded or restricted and did not develop symptoms and more than 7 calendar days have passed since the food employee was diagnosed.
- (vi) Reinstatement of a food employee who was excluded or restricted as specified under 4.2.6(i)(b), (vi)(a) or who was restricted under 4.2.6(vi)(b) if the person in charge obtains approval from the Department and one of the following conditions is met:
- a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING ESCHERICHIA COLI based on test results that show 2 consecutive negative stool specimen cultures that are taken:
 - i. Not earlier than 48 hours after discontinuance of antibiotics; and
 - ii. At least 24 hours apart;
 - b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; or
 - c. The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed.
- (vii) Reinstatement of a food employee who was excluded or restricted as specified under 4.2.6(vii)(a)-(b) if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:
- a. Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than 24 hours;
 - b. Has at least one negative throat specimen culture for *Streptococcus pyogenes* infection; or
 - c. Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection.

- (viii) Reinstatement of a food employee who was restricted as specified under 4.2.6(viii) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:
 - a. An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;
 - b. An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or
 - c. A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

- (ix) Reinstatement of a food employee who was restricted as specified under 4.2.6(viii) and was exposed to one of the following pathogens as specified under 4.2.5(i)(d)-(e):
 - a. Norovirus and one of the following conditions is met:
 - i. More than 48 hours have passed since the last day the food employee was potentially exposed; or
 - ii. More than 48 hours have passed since the food employee's household contact became asymptomatic.
 - b. *Shigella* spp. or ENTEROHEMORRHAGIC or SHIGA TOXIN-PRODUCING ESCHERICHIA COLI and one of the following conditions is met:
 - i. More than 3 calendar days have passed since the last day the food employee was potentially exposed; or
 - ii. More than 3 calendar days have passed since the food employee's household contact became asymptomatic.
 - c. *S. Typhi* and one of the following conditions is met:
 - i. More than 14 calendar days have passed since the last day the food employee was potentially exposed; or
 - ii. More than 14 calendar days have passed since the food employee's household contact became asymptomatic.
 - d. Hepatitis A virus and one of the following conditions is met:

- i. The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A;
- ii. The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;
- iii. The food employee is immune to hepatitis A virus infection because of IgG administration;
- iv. More than 30 calendar days have passed since the last day the food employee was potentially exposed;
- v. More than 30 calendar days have passed since the food employee's household contact became jaundiced; or
- vi. The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least 30 days after the potential exposure, as specified in subchapters (ix)(d), (iv)-(v) of this chapter, and the food employee receives additional training about:
 - 1. Hepatitis A symptoms and preventing the transmission of infection,
 - 2. Proper handwashing procedures, and
 - 3. Protecting ready-to-eat food from contamination introduced by bare hand contact.

4.2.8 **RESERVED.**

4.2.9 **RESERVED.**

4.2.10 **Clean Condition – Personal Cleanliness.** ¹ Food employees shall keep their hands and exposed portions of their arms clean.

4.2.11 **Cleaning Procedure.** ¹

- (i) Except as specified in subpart (iv) of this part, 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 4.5.14 and 4.6.23-4.6.28.
- (ii) 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 10 to 15 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 4.6.25.
- (iii) 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.
- (iv) If APPROVED and capable of removing the types of soils encountered in the FOOD operations involved, an automatic handwashing sink may be used by FOOD EMPLOYEES to clean their hands or surrogate prosthetic devices.

4.2.12 When to Wash – Hands and Arms. ¹ Food employees shall clean their hands and exposed portions of their arms as specified under 4.2.11 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:

- (i) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
- (ii) After using the toilet room;
- (iii) After caring for or handling service animals or aquatic animals as specified in 4.2.21(ii);
- (iv) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking, except as specified in 4.2.18(ii).

- (v) After handling soiled equipment or utensils;
- (vi) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
- (vii) When switching between working with raw food and working with ready-to-eat food; and
- (viii) Before donning gloves for working with food; and
- (ix) After engaging in other activities that contaminate the hands.

4.2.13 **Where to Wash – Hands and Arms.** ^{II} Food employees shall clean their hands in a handwashing sink or approved maintenance handwashing sink 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.

4.2.14 **Hand Antiseptics.** ^{II}

- (i) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:
 - 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 for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, and
 - b. Comply with one of the following:
 - i. Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 C.F.R. § 170.39 - Threshold of regulation for substances used in food-contact articles; or
 - ii. Comply with and be listed in:
 - 1. 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

2. 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

c. Be applied only to hands that are cleaned as specified under 4.2.11.

- (ii) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under chapter (i)(b) of this part, use shall 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.
- (iii) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 MG/L chlorine.

4.2.15 **Fingernail Maintenance.** ^{II}

- (i) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.
- (ii) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

4.2.16 **Jewelry Prohibition.** While preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands. This part does not apply to a plain ring such as a wedding band.

4.2.17 **Outer Clothing – Clean Condition.** Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

4.2.18 **Eating, Drinking, or Using Tobacco.** ^{II}

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

- (ii) 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.

4.2.19 Discharges from the Eyes, Nose, and Mouth. ^I 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.

4.2.20 Hair Restraints - Effectiveness.

- (i) Except as provided in subpart (ii) of this part, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
- (ii) This part does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, host's, 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.

4.2.21 Handling Prohibition – Animals. ^{II}

- (i) Except as specified in subpart (ii) of this part, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in 4.6.54(ii)(b)-(e).
- (ii) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under 4.2.11 and 4.2.12(iii).

4.3 Food Characteristics.

4.3.1 Safe, Unadulterated, and Honestly Presented. ^I Food shall be safe, unadulterated, and, as specified under 4.3.66, honestly presented.

4.3.2 Compliance with Food Law. ¹

- (i) Food shall be obtained from sources that comply with law.
- (ii) Food prepared in a private home may not be used or offered for human consumption in a food establishment.
- (iii) Packaged food shall be labeled as specified in law, including 21 C.F.R. § 101 Food Labeling, 9 C.F.R. § 317 Labeling, Marking Devices, and Containers, and 9 C.F.R. § 381 Subpart N Labeling and Containers, and as specified under 4.3.15 and 4.3.16.
- (iv) Fish, other than those specified in 4.3.49 (ii), that are intended for consumption in raw or undercooked form and allowed as specified in 4.3.46(iv) may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 4.3.49; or if they are frozen on the premises as specified under 4.3.49 and records are retained as specified under 4.3.50.
- (v) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 4.3.46 (iii) shall 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 Department 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 chapter (a) or identified as specified in chapter (b) of this subpart,
 - ii. Prepared so they remain intact, and
 - iii. If packaged for undercooking in a food establishment, labeled as specified in chapter (a) or identified as specified in chapter (b) of this subpart.
- (vi) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be

labeled to include safe handling instructions as specified in law, including 9 C.F.R. § 317.2(l) and 9 C.F.R. 381.125(b).

- (vii) Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 C.F.R. § 101.17(h).

4.3.3 **Food in a Hermetically Sealed Container.** ¹ Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

4.3.4 **Fluid Milk and Milk Products.** ¹ Fluid milk and milk products shall be obtained from sources that comply with GRADE A STANDARDS as specified in law.

4.3.5 **Fish.** ¹

- (i) Fish that are received for sale or service shall be:
 - a. Commercially and legally caught or harvested; or
 - b. Approved for sale or service.
- (ii) Molluscan shellfish that are recreationally caught may not be received for sale or service.

4.3.6 **Molluscan Shellfish.** ¹

- (i) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.
- (ii) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

4.3.7 **Wild Mushrooms.** ¹ Wild mushroom species shall be obtained from an approved cultivated source under inspection by a regulatory authority.

4.3.8 **Game Animals.** ¹

- (i) If game animals are received for sale or service they shall be:
 - a. Commercially raised for food and:

- i. Raised, slaughtered, and processed under a voluntary meat inspection program by the Utah Department of Agriculture and Food, Division of Animal Industry;
 - 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:
 - 1. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
 - 2. 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;
- 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; Voluntary Inspection;
 - c. Raised, slaughtered, and processed under a routine inspection program conducted by the Utah Department of Agriculture and Food, Division of Regulatory Services. Game meat under this program shall be:
 - i. Slaughtered in a facility approved by the Utah Department of Agriculture and Food and with consideration of an antemortem and postmortem examination done by a veterinarian or a trained veterinarian designee, or as approved by the Department, and
 - ii. Processed under a HACCP plan according to laws governing meat and poultry products.
- (ii) 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.

4.3.9 **Temperature – Specifications for Receiving.** ¹

- (i) Except as specified in subpart (ii) of this part, refrigerated, potentially hazardous food (time/temperature control for safety food) shall be at a temperature of 5 °C (41 °F) or below when received.

- (ii) If a temperature other than 5°C (41°F) for a potentially hazardous food (time/temperature control for safety food) is specified in law governing its distribution, such as laws governing milk, molluscan shellfish, and shell eggs, the food may be received at the specified temperature.
- (iii) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less.
- (iv) Potentially hazardous food (time/temperature control for safety food) that is cooked to a temperature and for a time specified under 4.3.46-4.3.48 and received hot shall be at a temperature of 57°C (135°F) or above.
- (v) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.
- (vi) Upon receipt, potentially hazardous food (time/temperature control for safety food) shall be free of evidence of previous temperature abuse.

4.3.10 **Additives – Specifications for Receiving.**¹ Food may not contain unapproved food additives or additives that exceed 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. § 185 Tolerances for Pesticides in Food.

4.3.11 **Shell Eggs – Specifications for Receiving.**¹ 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 U.S.D.A.

4.3.12 **Egg and Milk Products, Pasteurized - Specifications for Receiving.**¹

- (i) Egg products shall be obtained pasteurized.
- (ii) Fluid and dry milk and milk products shall:
 - a. Be obtained pasteurized; and
 - b. Comply with GRADE A STANDARDS as specified in law.
- (iii) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 C.F.R. §135 - Frozen Desserts.

- (iv) Cheese shall 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.

4.3.13 **Package Integrity – Specifications for Receiving.** ^{II} 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.

4.3.14 **Ice – Specifications for Receiving.** ^I Ice for use as a food or a cooling medium shall be made from drinking water.

4.3.15 **Shucked Shellfish – Packaging and Identification – Specifications for Receiving.** ^{II}

- (i) Raw shucked shellfish shall 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 1.87 L (one-half gallon) or the date shucked for packages with a capacity of 1.87 L (one-half gallon) or more.
- (ii) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under subpart (i) of this part shall be 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).

4.3.16 **Shellstock Identification – Specifications for Receiving.** ^{II}

- (i) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that deperates, 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 subpart (iii) of this part, 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 harvesting,

- 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 subpart (iv) of this part, 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 subchapters (i)(a), (ii)-(iv) of this part, and
 - iv. The following statement in bold, capitalized type: "This tag is required to be attached until the container is empty and thereafter kept on file for 90 days."
- (ii) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under subpart (i) of this part shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 C.F.R. § 1240.60(d).
 - (iii) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.
 - (iv) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under subchapters (i)(b)(i)-(ii) of this part, individual dealer tags or labels need not be provided.

4.3.17 **Shellstock, Condition – Specifications for Receiving.** When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and

shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

4.3.18 Juice Treated – Specifications for Receiving.^S Pre-packed juice shall:

- (i) Be obtained from a processor with a HACCP system as specified in 21 C.F.R. § 120; ^{II} and
- (ii) 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. § 120.24^I

4.3.19 Molluscan Shellfish – Original Container.

- (i) Except as specified in subparts (ii) and (iii) of this part, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.
- (ii) 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 4.3.16 and recorded as specified under 4.3.20; and
 - b. The shellstock are protected from contamination.
- (iii) 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 4.3.15 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.
- (iv) 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 4.3.15 and 4.3.67(i), (ii)(a)-(e);

- b. The labeling information as specified under 4.3.15 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;
- c. The labeling information and dates specified under chapter (iv)(b) of this subpart are maintained for 90 days; and
- d. The shellfish are protected from contamination.

4.3.20 **Shellstock – Maintaining Identification.** ^{II}

- (i) Except as specified under chapter (iii)(b) of this part, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.
- (ii) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.
- (iii) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label, as specified under (ii) of this part, 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 subpart (ii) of this part; and
 - b. If shellstock are removed from their tagged or labeled container:
 - i. Preserving source identification by using a record keeping system as specified under chapter (iii)(a) of this part, 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.

4.3.21 **Preventing Contamination from Hands.** ^I

- (i) Food employees shall wash their hands as specified under 4.2.11.
- (ii) Except when washing fruits and vegetables as specified under 4.3.27, or as specified in subpart (iii) of this part, food employees shall 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.

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

4.3.22 **Preventing Contamination when Tasting.**^I A food employee may not use a utensil more than once to taste food that is to be sold or served.

4.3.23 **Packaged and Unpackaged Food – Separation, Packaging, and Segregation.**^I

- (i) Food shall be protected from cross contamination by:
 - a. Except as specified in (a)(iii) below, 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 vegetables, and
 - ii. Cooked ready-to-eat food;
 - iii. 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.
 - 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 4.4.83(i) and sanitizing as specified under 4.4.95;
 - d. Except as specified in subpart (ii) of this part, 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 4.6.38; and
- h. Separating fruits and vegetables, before they are washed as specified under 4.3.27 from ready-to-eat food.

(ii) Chapter (i)(d) of this part 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 4.3.58(ii)(b); or
- e. Shellstock.

4.3.24 Food Storage Containers – Identified with Common Name of Food. Working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food. Containers holding food that can be readily and unmistakably recognized such as dry pasta need not be identified.

4.3.25 Pasteurized Eggs – Substitute for Raw Shell Eggs for Certain Recipes.¹ Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, Hollandaise or Bearnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages that are not:

- (i) Cooked as specified under 4.3.46(i)(a)-(b); or
- (ii) Included in 4.3.46(iv).

4.3.26 Protection from Unapproved Additives.¹

- (i) Food shall be protected from contamination that may result from the addition of, as specified in 4.3.10:
 - a. Unsafe or unapproved food or color additives; and
 - b. Unsafe or unapproved levels of approved food and color additives.

- (ii) 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 B₁; or
 - b. Serve or sell food specified under chapter (ii)(a) of this part that is treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this chapter.

4.3.27 Washing Fruits and Vegetables.

- (i) Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except as specified in subpart (ii) of this part and except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.
- (ii) Fruits and vegetables may be washed by using chemicals as specified under 4.7.9.

4.3.28 Ice Used as Exterior Coolant, Prohibited as Ingredient.¹ After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.

4.3.29 Storage or Display of Food in Contact with Water or Ice.

- (i) 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.
- (ii) Except as specified in subparts (iii) and (iv) of this part, unpackaged food may not be stored in direct contact with un-drained ice.
- (iii) 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.
- (iv) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

4.3.30 Food Contact with Equipment and Utensils.¹ Food shall only contact surfaces of:

- (i) Equipment and utensils that are cleaned as specified under 4.4.82 - 4.4.92 of this regulation and sanitized as specified under 4.4.93 - 4.4.95 of this regulation; or
- (ii) Single-service and single-use articles.

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

- (i) Except as specified under subpart (ii) of this part, in the food with their handles above the top of the food and the container;
- (ii) In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;
- (iii) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under 4.4.83 and 4.4.94;
- (iv) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;
- (v) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or
- (vi) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified under 4.4.83(iv)(g).
- (vii) Utensils used for dispensing frozen desserts shall be stored using methods specified in 4.3.31(i), (iv).

4.3.32 **Linens and Napkins – Use Limitation.** Linens or napkins may be used in contact with dry foods, such as breads and rolls, if the linens and napkins are replaced each time the container is refilled for a new consumer.

4.3.33 **Wiping Cloths – Use Limitation.**

- (i) Cloths that are in use for wiping food spills from table ware and carry-out containers that occur as food is being served shall be:
 - a. Maintained dry; and

- b. Used for no other purpose.
- (ii) Cloths in-use for wiping counters and other equipment surfaces shall be:
 - a. Held between uses in a chemical sanitizer solution at a concentration specified under 4.4.76; and
 - b. Laundered daily as specified under 4.4.97(iv).
- (iii) Cloths in-use for wiping surfaces in contact with raw animal foods shall be separate from cloths used for other purposes.
- (iv) Dry wiping cloths and the chemical sanitizing solutions specified in chapter (ii)(a) of this part in which wet wiping cloths are held between uses shall be free of food debris and visible soil.
- (v) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

4.3.34 Gloves – Use Limitation. ¹

- (i) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.
- (ii) Except as specified in subpart (iii) of this part, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under 4.3.46 - 4.3.48 such as frozen food or a primal cut of meat.
- (iii) 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.
- (iv) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under 4.3.46 - 4.3.48 such as frozen food or a primal cut of meat.

4.3.35 Using Clean Tableware for Second Portions and Refills.

- (i) 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.

- (ii) Except as specified in subpart (iii) of this part, 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.
- (iii) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under 4.4.28(i)-(ii), (iv).

4.3.36 Refilling Returnables.

- (i) A take-home food container returned to a food establishment may not be refilled at a food establishment with a potentially hazardous food (time/temperature control for safety food).
- (ii) Except as specified in subpart (iii), a take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified under 4.4.92(ii).
- (iii) Personal take-out beverage containers, such as thermally insulated bottles, non-spill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 4.4.28(i)-(ii), (iv).
- (iv) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation or display.

4.3.37 Food Storage.

- (i) Except as specified in subparts (ii) and (iii) of this part, food shall 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 15 cm (6 in) above the floor.
- (ii) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment as specified under 4.4.47.

- (iii) 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.

4.3.38 Food Storage – Prohibited Areas. Food may not be stored:

- (i) In locker rooms;
- (ii) In toilet rooms;
- (iii) In dressing rooms;
- (iv) In garbage rooms;
- (v) In mechanical rooms;
- (vi) Under sewer lines that are not shielded to intercept potential drips;
- (vii) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- (viii) Under open stairwells; or
- (ix) Under other sources of contamination.

4.3.39 Vended Potentially hazardous food (time/temperature control for safety food) – Original Container. Potentially hazardous food (time/temperature control for safety food) dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

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

4.3.41 Food Display.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 shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

4.3.42 Condiments – Protection.

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

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

4.3.43 **Consumer Self-Service Operations.**¹

- (i) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to:
 - 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 immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or raw, frozen, shell-on shrimp or lobster.
- (ii) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.
- (iii) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

4.3.44 **Returned Food and Re-service of Food.**¹

- (i) Except as specified in subpart (ii) of this part, 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.
- (ii) Except as specified under 4.3.7(vii), a container of food that is not 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 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.

4.3.45 **Miscellaneous Sources of Contamination.** Food shall be protected from contamination that may result from a factor or source not specified under 4.3.21 - 4.3.44. ^S

4.3.46 **Raw Animal Foods – Cooking.** ¹

- (i) Except as specified under subpart (ii) and in subparts (iii) and (iv) of this part, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:
 - a. 63°C (145°F) or above for 15 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 chapters (i)(b)-(c) and subpart (iii) of this part, fish and meat including game animals commercially raised for food as specified under 4.3.8(i)(a) and game animals under a voluntary inspection program as specified under 4.3.8(i)(b);
 - b. 68°C (155°F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under 4.3.8(i)(a), and game animals under a voluntary inspection program as specified under 4.3.8(i)(b); and raw eggs that are not prepared as specified under subchapter (i)(a)(i) of this subpart:

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

;or

- c. 74°C (165°F) or above for 15 seconds for poultry, wild game animals as specified under 4.3.8 (i)(c), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.

- (ii) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham, shall be cooked:
 - a. In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:

Oven Type	Oven Temperature Based on Roast Weight	
	<i>Less than 4.5 kg (10 lbs)</i>	<i>4.5 kg (10 lbs) or more</i>
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity¹	121°C (250°F) or less	121°C (250°F) or less

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

; and

- b. As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

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

¹Holding time may include post-oven heat rise.

- (iii) 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 4.3.2(v), and

- c. The steak is cooked on both the top and bottom to a surface temperature of 63°C (145°F) or above and a cooked color change is achieved on all external surfaces.
- (iv) 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 subpart (iii) of this part, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:
- a. As specified under 4.3.71(iii)(a)-(b), the food establishment serves a population that is not a highly susceptible population, and
 - b. The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; and
 - c. The consumer is informed as specified under 4.3.69 that to ensure its safety, the food should be cooked as specified under subparts (i) or (ii) of this part; or
 - d. The Department grants a variance from subparts (i) or (ii) of this part as specified in part 7.4.2 based on a HACCP plan that:
 - i. Is submitted by the permit holder and approved as specified under 7.4.2,
 - ii. Documents scientific data or other information showing that a lesser time and temperature regimen results in a 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.

4.3.47 Microwave Cooking.¹ Raw animal foods cooked in a microwave oven shall be:

- (i) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- (ii) Covered to retain surface moisture;
- (iii) Heated to a temperature of at least 74°C (165°F) in all parts of the food; and
- (iv) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

4.3.48 **Plant Food Cooking for Hot Holding.** ^{II} Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F).

4.3.49 **Parasite Destruction.** ^I

- (i) Except as specified in subpart (ii) of this part, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:
 - a. Frozen and stored at a temperature of -20°C (-4°F) or below for 168 hours (7 days) in a freezer;
 - b. Frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for 15 hours; or
 - c. Frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of 24 hours.
- (ii) Subpart (i) of this part does not apply to:
 - a. Molluscan shellfish;
 - b. 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
 - c. 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.
 - d. Fish eggs that have been removed from the skein and rinsed.

4.3.50 **Records, Creation, and Retention.** ^{II}

- (i) Except as specified in 4.3.49(ii) and subpart (ii) of this part, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.

- (ii) 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 4.3.49 may substitute for the records specified under subpart (i) of this part.
- (iii) If raw, raw-marinated, partially cooked, or marinated partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 4.3.49(ii)(c), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 4.3.49(ii)(c) shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.

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

4.3.52 Reheating for Hot Holding.¹

- (i) Except as specified under subparts (ii) and (iii) and in subpart (v) of this part, potentially hazardous food (time/temperature control for safety food) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) for 15 seconds.
- (ii) Except as specified under subpart (iii) of this part, potentially hazardous food (time/temperature control for safety food) reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.
- (iii) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) for hot holding.
- (iv) Reheating for hot holding as specified under subparts (i), (ii) and (iii) of this part shall be done rapidly and the time the food is between the temperature specified under 4.3.59 (ii) and the temperature specified under subparts (i), (ii) and (iii) of this part may not exceed 2 hours.
- (v) Remaining unsliced portions of meat roasts that are cooked as specified under subparts 4.3.46(ii) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 4.3.46(ii).

4.3.53 **Treating Juice.**^S Juice packaged in a food establishment shall be:

- (i) Treated under a HACCP plan as specified in 4.8.4(ii)-(v) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance;^I or
- (ii) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:^{II}
 - a. As specified under 4.3.67, and
 - b. As specified in 21 C.F.R. § 101.17(g) with phrase, “WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems.”

4.3.54 **Frozen Food.** Stored frozen foods shall be maintained frozen.

4.3.55 **Potentially hazardous food (time/temperature control for safety food) – Slacking.** Frozen potentially hazardous food (time/temperature control for safety food) that is slacked to moderate the temperature shall be held:

- (i) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
- (ii) At any temperature if the food remains frozen.

4.3.56 **Thawing.** Except as specified in subpart (iv) of this part, potentially hazardous food (time/temperature control for safety food) shall be thawed:

- (i) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
- (ii) Completely submerged under running water:
 - a. At a water temperature of 21°C (70°F) 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 5°C (41°F); or
 - d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under 4.3.46(i)-(ii) to be above 5°C (41°F); for more than 4 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 5°C (41°F);
- (iii) As part of a cooking process if the food that is frozen is:
 - a. Cooked as specified under 4.3.46(i)-(ii) or 4.3.47, or
 - b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or
- (iv) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

4.3.57 Cooling.¹

- (i) Cooked potentially hazardous food (time/temperature control for safety food) shall be cooled:
 - a. Within 2 hours, from 57°C (135°) to 21°C (70°F); and
 - b. Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less.
- (ii) Potentially hazardous food (time/temperature control for safety food) shall be cooled within 4 hours to 5°C (41°F) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.
- (iii) Except as specified in subpart (iv) of this part, a potentially hazardous food (time/temperature control for safety food) received in compliance with laws allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in 4.3.9(ii), shall be cooled within 4 hours to 5°C (41°F) or less.
- (iv) Raw shell eggs shall be received as specified under 4.3.9 (iii) and immediately placed in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less.
- (v) Whenever the temperature of a cooling potentially hazardous food (time/temperature control for safety food) is found to be out of the temperature ranges specified in 4.3.57(i)-(iv), it shall be the responsibility of the person in charge to demonstrate to the Department that the facility

has cooling procedures which are effective in meeting those requirements and that the procedures are followed.

4.3.58 **Cooling Methods.** ^{II}

- (i) Cooling shall be accomplished in accordance with the time and temperature criteria specified under 4.3.57 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.
- (ii) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
 - a. Arranged in the equipment to provide maximum heat transfer through the container walls; and
 - b. Loosely covered, or uncovered if protected from overhead contamination as specified under 4.3.37(i)(b), during the cooling period to facilitate heat transfer from the surface of the food.

4.3.59 **Potentially hazardous food (time/temperature control for safety food) - Hot and Cold Holding.** ^I

- (i) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 4.3.62, and except as specified in subpart (ii) of this part, potentially hazardous food (time/temperature control for safety food) shall be maintained:
 - a. At 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified in 4.3.46(ii) or reheated as specified in 4.3.52(v) may be held at a temperature of 54°C (130°F) or
 - b. At a temperature 5°C (41°F) or less.

- (ii) Shell eggs that have not been treated to destroy all viable *Salmonellae* shall be stored in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less.
- (iii) Potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under subpart (i) of this part, while contained within specially designed equipment that complies with the design and construction requirements as specified in 4.4.28(v).

4.3.60 Ready-to-Eat, Potentially hazardous food (time/temperature control for safety food) – Date Marking. ^{II}

- (i) Except when packaging food using a reduced oxygen packaging method as specified in 4.3.64 and except as specified in subparts (iv) and (v) of this part, refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and held in a food establishment for more than 24 hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as Day 1.
 - a. 5°C (41°F) or less for a maximum of 7 days.
- (ii) Except as specified in subparts (iv) – (vi) of this part, refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in subpart (i) of this part and:
 - a. The day the original container is opened in the food establishment shall be counted as Day 1; 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.
- (iii) A refrigerated, ready-to-eat potentially hazardous food (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, may be marked as specified in subparts (i) or (ii) of this part, or by an alternative method acceptable to the Department.

- (iv) A date marking system that meets the criteria stated in subparts (i) and (ii) of this part may include:
 - a. Using a method approved by the Department for refrigerated, ready-to-eat potentially hazardous food (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 subpart (i) of this part;
 - 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 subpart (ii) of this part; 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 Department upon request.
- (v) Subparts (i) and (ii) of this part do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.
- (vi) Subpart (ii) of this part 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 39% 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 39% moisture, but not more than 50% moisture, as defined in 21 C.F.R. § 133 Cheese 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 salami that are not labeled “Keep Refrigerated” as specified in 9 C.F.R. § 317 Labeling, marking devices, and containers, and which retain the original casing on the product; and
- g. Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled “Keep Refrigerated” as specified in 9 C.F.R. § 317 Labeling, marking devices, and containers.

4.3.61 Ready-to-Eat, Potentially hazardous food (time/temperature control for safety food) – Discard.¹

- (i) A food specified in 4.3.60(i)-(ii) shall be discarded if it:
 - a. Exceeds either of the temperature and time combinations specified in 4.3.60(i), except time that the product is frozen;
 - b. Is in a container or package that does not bear a date or day; or
 - c. Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in 4.3.60(i).
- (ii) Refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in 4.3.60(i).

4.3.62 Time as a Public Health Control.¹

- (i) Except as specified under subpart (iv) of this part, if time only is used as the public health control for a working supply of potentially hazardous food (time/temperature control for safety food) before cooking, or for ready-to-eat potentially hazardous food (time/temperature control for safety food) that is displayed or held for service for immediate consumption:
 - a. Written procedures shall be prepared in advance, maintained in the food establishment and made available to the Department upon request

that specify:

- i. Methods of compliance with chapters (ii)(a)-(c) or (iii)(a)-(e) of this part; and
 - ii. Methods of compliance with 4.3.57 for food that is prepared, cooked, and refrigerated before time is used as a public health control.
- (ii) If time only, rather than time in conjunction with temperature control, up to a maximum of 4 hours, is used as the public health control:
- a. The food shall have an initial temperature of 5°C (41°F) or less if removed from cold holding temperature control, or 57°C (135°F) or greater if removed from hot holding temperature control;
 - b. The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control;
 - c. The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control; and
 - d. The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded.
- (iii) If time only, rather than time in conjunction with temperature control, up to a maximum of 6 hours, is used as the public health control:
- a. The food shall have an initial temperature of 5°C (41°F) or less when removed from temperature control and the food temperature may not exceed 21°C (70°F) within a maximum time period of 6 hours;
 - b. The food shall be monitored to ensure the warmest portion of the food does not exceed 21°C (70°F) during the 6-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 21°C (70°F) during the 6-hour period.
 - c. The food shall be marked or otherwise identified to indicate:
 - i. The time when the food is removed from 5°C (41°F) or less cold holding temperature control, and

- ii. The time that is 6 hours past the point in time when the food is removed from cold holding temperature control;
- d. The food shall be:
 - i. Discarded if the temperature of the food exceeds 21 °C (70 °F), or
 - ii. Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of 6 hours from the point in time when the food is removed from 5 °C (41 °F) or less cold holding temperature control; and
- e. The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded.
- (iv) A food establishment that serves a highly susceptible population may not use time as specified under subparts (i)-(iii) of this part as the public health control for raw eggs.

4.3.63 **Variance Requirement.** ^{II} A food establishment shall obtain a variance from the Department as specified in 7.4.2:

- (i) Smoking food as a method of food preservation rather than as a method of flavor enhancement;
- (ii) Curing food;
- (iii) 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 potentially hazardous;
- (iv) Packaging food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under 4.3.64;
- (v) Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;
- (vi) Custom processing animals that are for personal use as food and not for sale or service in a food establishment;

- (vii) Preparing food by another method that is determined by the Department to require a variance; or
- (viii) Sprouting seeds or beans.

4.3.64 Reduced Oxygen Packaging Without a Variance – Criteria. ^S

- (i) Except for a food establishment that obtains a variance as specified under 4.3.63, a food establishment that packages potentially hazardous food (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*. ^I
- (ii) A food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified under 4.8.4(iv) and that:
 - a. Identifies the food to be packaged; ^{II}
 - b. Except as specified under subparts (iii) and (v) and as specified in subpart (iv) of this part, requires that the packaged food shall be maintained at 5° C (41° F) or less and meet at least one of the following criteria:
 - i. Has an A_w of 0.91 or less, ^{II}
 - ii. Has a pH of 4.6 or less, ^{II}
 - iii. Is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A. 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, ^{II} or
 - iv. Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables; ^{II}
 - c. Describes how the package shall be prominently and conspicuously labeled on the principle display panel in bold type on a contrasting background, with instructions to ^{II}:
 - i. Maintain the food at 5° C (41° F) or below, ^{II} and
 - ii. Discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption; ^{II}

- d. 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;^I
- e. Includes operational procedures that :
 - i. Prohibit contacting ready-to-eat food with bare hands as specified under 4.3.21(ii),^{II}
 - ii. Identify a designated work area and the method by which^{II}:
 - 1. Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination,^{II} and
 - 2. access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation,^{II} and
 - iii. Delineate cleaning and sanitization procedures for food contact surfaces;^{II} and
- f. Describes the training program and ensures the individual responsible for the reduced oxygen packaging operation understands the:^{II}
 - i. Concepts required for a safe operation,^{II}
 - ii. Equipment and facilities,^{II} and
 - iii. Procedures specified under chapter (ii)(e) of this subpart and 4.8.4(iv).^{II}
- (iii) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.^I
- (iv) Except as specified under subpart (iii) of this part, a food establishment that packages food using a cook-chill or sous vide process shall:
 - a. Implement a HACCP plan that contains the information as specified under 4.8.4(iv)^{II};
 - 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 bagged product to another business entity or the consumer, ^{II}
- ii. Cooked to heat all parts of the food to a temperature and for a time as specified under part 4.3.46, ^I
- iii. Protected from contamination before and after cooking as specified under parts 4.3.21 - 4.3.45, ^I
- iv. Placed in a package or bag with an oxygen barrier and sealed before cooking, or placed in a package or bag and sealed immediately after cooking and before reaching a temperature below 57°C (135°F), ^I
- v. Cooled to 5°C (41°F) in the package or bag as specified under part 4.3.57 and subsequently:
 - 1. Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of packaging; ^I
 - 2. Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F), removed from refrigeration equipment that maintains a 1°C (34°F) food temperature and then held at 5°C (41°F) or less for no more than 72 hours, at which time the food must be consumed or discarded; ^I
 - 3. Cooled to 3°C (38°F) or less within 24 hours of reaching 5°C (41°F) and held there for no more than 72 hours from packaging, at which time the food must be consumed or discarded; ^I
 - 4. Held frozen with no shelf life restriction while frozen until consumed or used. ^I
- 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, ^{II}
- 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, ^{II} and
- viii. Labeled with the product name and the date packaged, ^{II} 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, are maintained and are:
 - i. Made available to the Department upon request, ^{II} and
 - ii. Held for 6 months; ^{II} and
 - d. Implement written operational procedures as specified under chapter (ii)(e) of this part and a training program as specified under chapter (ii)(f) of this part. ^{II}
- (v) A food establishment that packages cheese using a reduced oxygen packaging method shall:
- a. Limits 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; ^I
 - b. Have a HACCP plan that contains the information specified under 4.8.4(iv) and as specified under chapters (ii)(a), (ii)(c)(i), (ii)(e) and (ii)(f); ^{II}
 - c. Label the package on the principal display panel with a “use by” date that does not exceed 30 days or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; ^{II} and
 - d. Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging. ^{II}

4.3.65 **Standards of Identity (Food) – Accurate Representation.** Packaged food shall 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.

4.3.66 **Honestly Presented (Food).**

- (i) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (ii) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

4.3.67 Food Labels.

- (i) Food packaged in a food establishment, shall be labeled as specified in law, including 21 C.F.R. § 101 - Food Labeling, and 9 C.F.R. § 317 Labeling, Marking Devices, and Containers.
- (ii) Label information shall 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; and
 - 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 usual name of the respective ingredient;
 - f. Except as exempted in the Federal Food, Drug, and Cosmetic Act 403(Q)(3)-(5), nutrition labeling as specified in 21 C.F.R. § 101 - Food Labeling and 9 C.F.R. § 317 Subpart B Nutrition Labeling.
 - g. For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.
- (iii) Bulk food that is available for consumer self-dispensing shall 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 chapters (ii)(a)-(b), (e) of this part.

- (iv) 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.

4.3.68 Other Forms of Information.

- (i) If required by law, consumer warnings shall be provided.
- (ii) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

4.3.69 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens – Consumer Advisory. ¹

- (i) Except as specified in 4.3.46(iii) and 4.3.46(iv)(d) and under 4.3.71(iii), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in subparts (ii) and (iii) of this part, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.
- (ii) Disclosure shall include:
 - a. A description of the animal-derived foods, such as “oysters on the half shell (raw oysters),” “raw-egg Caesar salad,” and “hamburgers (can be cooked to order);” or
 - b. Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.
- (iii) Reminder shall 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 may increase your risk of foodborne illness;
- c. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions; or
- d. Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of foodborne illness. Consult your physician or public health official for health information.

4.3.70 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.¹

- (i) A food that is unsafe, adulterated, or not honestly presented as specified under 4.3.1 shall be reconditioned according to an approved procedure or discarded.
- (ii) Food that is not from an approved source as specified under 4.3.2 - 4.3.8 shall be discarded.
- (iii) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 4.2.6 shall be discarded.
- (iv) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

4.3.71 Pasteurized Foods and Prohibited Food – Highly Susceptible Populations.¹

In a food establishment that serves a highly susceptible population:

- (i) The following criteria apply to juice:
 - a. For the purposes of this part only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
 - b. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label 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 or a packaged juice or beverage containing juice, that bears a warning label as specified under 4.3.53(ii) 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 shall be processed under a HACCP plan that contains the information specified under 4.8.4(ii)-(v) and as specified in 21 C.F.R § 120 - Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls.
- (ii) Pasteurized eggs or egg products shall 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 subpart (vi) of this part, recipes in which more than one egg is broken and the eggs are combined;
 - (iii) 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.
 - (iv) Food employees may not contact ready-to-eat food as specified under 4.3.21.
 - (v) Time only, as the public health control as specified under 4.3.62(iv), may not be used for raw eggs.
 - (vi) Chapter (ii)(b) of this part 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 4.3.46(i)(a), and served immediately, such as an omelet, soufflé, 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:
 - 1. *Salmonella Enteritidis* growth is controlled before and after cooking, and
 - 2. *Salmonella Enteritidis* is destroyed by cooking the eggs according to the temperature and time specified in 4.3.46(i)(b),
 - iv. Contains the information specified under 4.8.4(iv) including procedures that:
 - 1. Control cross contamination of ready-to-eat food with raw eggs, and
 - 2. Delineate cleaning and sanitization 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.

(vii) Except as specified in subpart (viii) of this part, food may be re-served as specified under 4.3.44(ii)(a)-(b).

(viii) 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 in protective environment 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 environment isolation.

4.3.72 **Non-Continuous Cooking of Raw Animal Foods.** ^S Raw animal foods that are cooked using a non-continuous cooking process shall be:

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

- (ii) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked Potentially Hazardous food (Time /Temperature Control for Safety Food) under 4.3.57(i); ^I
- (iii) After cooling, held frozen or cold, as specified for Potentially Hazardous food (Time/Temperature Control for Safety Food) under 4.3.59(i)(b); ^I
- (iv) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature of at least 74°C (165°F) for 15 seconds; ^I
- (v) Cooled according to the time and temperature parameters specified for cooked Potentially Hazardous food (Time /Temperature Control for Safety Food) under 4.3.57(i) if not either hot held as specified under 4.3.59(i), served immediately, or held using time as a public health control as specified under 4.3.62 after complete cooking; ^I and
- (vi) Prepared and stored according to written procedures that:
 - a. Have obtained prior approval from the regulatory authority; ^{II}
 - b. Are maintained in the food establishment and are available to the regulatory authority upon request; ^{II}
 - c. Describe how the requirements specified under (i)-(v) of this part are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met; ^{II}
 - 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 (iv) of this part prior to being offered for sale or service; ^{II} and
 - e. Describe how the foods, after initial heating but prior to cooking as specified under (iv) of this part, are to be separated from ready-to-eat foods as specified under 4.3.23(i). ^{II}

4.4 Equipment, Utensils and Linens.

4.4.1 **Characteristics – Multi-use.** ^I Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- (i) Safe,
- (ii) Durable, corrosion-resistant, and nonabsorbent; ^N
- (iii) Sufficient in weight and thickness to withstand repeated warewashing; ^N

- (iv) Finished to have a smooth, easily cleanable surface; ^N and
- (v) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition. ^N

4.4.2 Cast Iron – Use Limitation.

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

4.4.3 Lead in Ceramic, China, and Crystal Utensils – Use Limitation. ^I

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

Utensil Category	Description	Maximum Lead(mg/L)
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls 1.1 L(1.16 qt)	1
Small Hollowware	Bowls < 1.1 L(1.16 qt)	2.0
Flat Utensils	Plates, Saucers	3.0

- (ii) Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.
- (iii) Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

4.4.4 Copper – Use Limitation. ^I

- (i) Except as specified in subpart (ii) of this part, copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.
- (ii) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the pre-fermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

- 4.4.5 **Galvanized Metal – Use Limitation.**¹ Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.
- 4.4.6 **Sponges – Use Limitation.** Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.
- 4.4.7 **Lead in Pewter Alloys – Use Limitation.** Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.
- 4.4.8 **Lead in Solder and Flux – Use Limitation.** Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.
- 4.4.9 **Wood – Use Limitation.**
- (i) Except as specified in subparts (ii), (iii), and (iv) of this part, wood and wood wicker may not be used as a food-contact surface.
 - (ii) Hard maple or an equivalently hard, close-grained wood may be used for:
 - a. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and
 - b. Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110°C (230°F) or above.
 - (iii) 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.
 - (iv) 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.
- 4.4.10 **Nonstick Coatings – Use Limitation.** Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

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

4.4.12 **Characteristics – Single-Service and Single-Use Articles.**^I Materials that are used to make single-service and single-use articles:

(i) May not:

a. Allow the migration of deleterious substances, or

b. Impart colors, odors, or taste to food;^N and

(ii) Shall be:

a. Safe, and

b. Clean.^N

4.4.13 **Equipment and Utensils – Design and Construction.** Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

4.4.14 **Food Temperature Measuring Devices.**^I 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.

4.4.15 **Food-Contact Surfaces.**^{II}

(i) Multiuse food-contact surfaces shall 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 subpart (ii) of this part, 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-end wrenches, and Allen wrenches.
- (ii) Chapter (i)(e) of this part does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

4.4.16 CIP Equipment. ^H

- (i) CIP equipment shall meet the characteristics specified under 4.4.15 and shall 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; ^N and
- (ii) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned. ^N

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

4.4.18 Hot Oil Filtering Equipment. Hot oil filtering equipment shall meet the characteristics specified under 4.4.15- 4.4.16 and shall be readily accessible for filter replacement and cleaning of the filter.

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

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

4.4.21 Kick Plates – Removable. Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

- (i) Removable by one of the methods specified under 4.4.15(i)(e) or capable of being rotated open; and

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

4.4.22 **Ventilation Hood Systems – Filters.** Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

4.4.23 **Temperature Measuring Devices – Food.** ^{II}

- (i) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to $\pm 1^{\circ}\text{C}$ in the intended range of use.
- (ii) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use.

4.4.24 **Temperature Measuring Devices – Ambient Air and Water.** ^{II}

- (i) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use.
- (ii) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to $\pm 3^{\circ}\text{F}$ in the intended range of use.

4.4.25 **Pressure Measuring Devices – Mechanical Warewashing Equipment.**

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pound per square inch) or smaller and shall be accurate to ± 14 kilopascals (± 2 pounds per square inch) in the range indicated on the manufacturer's data plate.

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

4.4.27 **Equipment Openings – Closures and Deflectors.**

- (i) A cover or lid for equipment shall overlap the opening and be sloped to drain.
- (ii) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (2/10 inch)

- (iii) Except as specified under subpart (iv) of this part, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.
- (iv) If a watertight joint is not provided:
 - a. The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and
 - b. The opening shall be flanged as specified under subpart (ii) of this part.

4.4.28 Dispensing Equipment – Protection of Equipment and Food. ^S In equipment that dispenses or vends liquid food or ice in unpackaged form:

- (i) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;
- (ii) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
- (iii) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
 - 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
- (iv) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.
- (v) Dispensing equipment in which potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form is

maintained outside of the temperature control requirements as specified under 4.3.59(i) shall:

- 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;¹ and
- b. conform to the requirements for this equipment as specified in NSF/ANSI 18-2006- Manual Food and Beverage Dispensing equipment.¹

4.4.29 **Vending Machine – Vending Stage Closure.** The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not potentially hazardous such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

- (i) 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
- (ii) Available for self-service during hours when it is not under the full-time supervision of a food employee.

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

4.4.31 **Beverage Tubing – Separation.** Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This part does not apply to cold plates that are constructed integrally with an ice storage bin.

4.4.32 **Ice Units – Separation of Drains.** Liquid waste drain lines may not pass through an ice machine or ice storage bin.

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

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

4.4.35 **Molluscan Shellfish Tanks.**^S

- (i) Except as specified under subpart (ii) of this part, molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously

marked so that it is obvious to the consumer that the shellfish are for display only.¹

- (ii) Molluscan shellfish life-support system display tanks that are used to store and or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the Department as specified in 7.4.2 and a HACCP plan that:^{II}
 - a. Is submitted by the permit holder and approved as specified under 7.4.2;^{II} and
 - b. Ensures that:
 - i. Water used with fish other than molluscan shellfish does not flow into the molluscan tank,^{II}
 - ii. The safety and quality of the shellfish as they were received are not compromised by the use of the tank,^{II} and
 - iii. The identity of the source of the shellstock is retained as specified under 4.3.20.^{II}

4.4.36 **Vending Machines – Automatic Shutoff.**¹

- (i) A machine vending potentially hazardous food (time/temperature control for safety food) shall 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 4.3; and
 - b. If a condition specified under chapter (i)(a) of this subpart occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under 4.3.
- (ii) When the automatic shutoff within a machine vending potentially hazardous food (time/temperature control for safety food) is activated:
 - a. In a refrigerated vending machine, the ambient air temperature may not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or
 - b. In a hot holding vending machine, the ambient temperature may not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

4.4.37 **Temperature Measuring Devices.**

- (i) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.
- (ii) Except as specified in subpart (iii) of this part, cold or hot holding equipment used for potentially hazardous food (time/temperature control for safety food) shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.
- (iii) Subpart (ii) of this part 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.
- (iv) Temperature measuring devices shall be designed to be easily readable.
- (v) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1 °C or 2 °F in the intended range of use. ^{II}

4.4.38 **Warewashing Machine – Data Plate Operating Specifications.** A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

- (i) Temperatures required for washing, rinsing, and sanitizing;
- (ii) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
- (iii) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

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

4.4.40 Warewashing Machines – Temperature Measuring Devices. ^{II} A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

- (i) In each wash and rinse tank; and
- (ii) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

4.4.41 Manual Warewashing Equipment – Heaters and Baskets. ^{II} If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

- (i) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); and
- (ii) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

4.4.42 Warewashing Machines – Automatic Dispensing of Detergents and Sanitizers. ^{II} A warewashing machine that is installed after adoption of this regulation by the Department, shall be designed and equipped to:

- (i) Automatically dispense detergents and sanitizers; and
- (ii) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

4.4.43 Warewashing Machines – Flow Pressure Device.

- (i) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and
- (ii) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.
- (iii) Subparts (i) and (ii) of this part do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

4.4.44 Warewashing Sinks and Drainboards – Self-Draining. Sinks and drainboards of warewashing sinks and machines shall be self-draining.

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

4.4.46 **Vending Machines – Liquid Waste Products.**

- (i) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.
- (ii) Vending machines that dispense liquid food in bulk shall 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 will place the machine out of operation before the waste receptacle overflows.
- (iii) Shutoff devices specified under chapter (ii)(b) of this part shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

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

4.4.48 **Vending Machine Doors and Openings.**

- (i) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch by:
 - a. Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or one-sixteenth inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;
 - b. Being effectively gasketed;

- c. Having interface surfaces that are at least 13 millimeters or one-half inch wide; or
 - d. Jambs or surfaces used to form an L-shaped entry path to the interface.
 - (ii) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.
- 4.4.49 **Restraint of Pressurized Containers.** Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over.
- 4.4.50 **Food Equipment – Certification and Classification.** Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with 4.4.1- 4.4.50.
- 4.4.51 **Cooling, Heating, and Holding Capacities.** ^{II} Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Subsection 4.3.
- 4.4.52 **Manual Warewashing – Sink Compartment Requirements.** ^{II}
- (i) A sink with at least 3 compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.
 - (ii) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in subpart (iii) of this part shall be used.
 - (iii) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:
 - 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. Receptacles that substitute for the compartments of a multicompartment sink.

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

4.4.54 **Ventilation Hood Systems – Adequacy.**

- (i) Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.
- (ii) A Type I or Type II hood shall be installed at or above all commercial heat-producing appliances according to the provisions of Utah Admin. Code R156-56-701(d) *International Mechanical Code*, and amendments adopted under Utah Admin. Code R156-56-708.

4.4.55 **Clothes Washers and Dryers.**

- (i) Except as specified in subpart (ii) of this part, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.
- (ii) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under 4.4.102, a mechanical clothes washer and dryer need not be provided.

4.4.56 **Utensils – Consumer Self-Service.**^{II} A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

4.4.57 **Food Temperature Measuring Devices.**^{II}

- (i) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under 4.3.
- (ii) A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

4.4.58 **Temperature Measuring Devices – Manual and Mechanical Warewashing.**

- (i) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

- (ii) In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for frequently measuring the sanitizing temperature.

4.4.59 **Sanitizing Solutions – Testing Devices.** ^{II} A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

4.4.60 **Equipment, Clothes Washers and Dryers, and Storage Cabinets – Contamination Prevention.**

- (i) Except as specified in subpart (ii) of this part, 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 leaking automatic fire sprinkler heads or under lines on which water has condensed;
 - g. Under open stairwells; or
 - h. Under other sources of contamination.
- (ii) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.
- (iii) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

4.4.61 **Fixed Equipment – Spacing or Sealing.**

- (i) Equipment that is fixed because it is not easily movable shall 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 1 millimeter or one thirty-second inch; or
 - c. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.
- (ii) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:
- a. Sealed; or
 - b. Elevated on legs as specified under 4.4.62(iv).

4.4.62 Fixed Equipment – Elevation or Sealing.

- (i) Except as specified in subparts (ii) and (iii) of this part, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the equipment.
- (ii) If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).
- (iii) This subsection 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.
- (iv) Except as specified in subpart (v) of this part, counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the equipment.
- (v) The clearance space between the table and counter-mounted equipment may be:
 - a. 7.5 centimeters (3 inches) if the horizontal distance of the table top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or

- b. 5 centimeters (2 inches) if the horizontal distance of the table top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

4.4.63 Good Repair and Proper Adjustment.

- (i) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under 4.4.1 - 4.4.50.
- (ii) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.
- (iii) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

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

4.4.65 Microwave Ovens. Microwave ovens shall meet the safety standards specified in 21 C.F.R. § 1030.10 - Microwave ovens.

4.4.66 Warewashing Equipment – Cleaning Frequency. A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under 4.4.53 shall be cleaned:

- (i) Before use;
- (ii) 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
- (iii) If used, at least every 24 hours.

4.4.67 Warewashing Machines – Manufacturer's Operating Instructions.

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

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

4.4.68 Warewashing Sinks – Use Limitation.

- (i) A warewashing sink may not be used for handwashing.
- (ii) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 4.4.66 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under 4.4.93 - 4.4.95 before and after using the sink to wash produce or thaw food.

4.4.69 Warewashing Equipment – Cleaning Agents. ^{II} When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 4.4.52(iii), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

4.4.70 Warewashing Equipment – Clean Solutions. The wash, rinse, and sanitize solutions shall be maintained clean.

4.4.71 Manual Warewashing Equipment – Wash Solution Temperature. ^{II} The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.

4.4.72 Mechanical Warewashing Equipment – Wash Solution Temperature. ^{II}

- (i) 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, 74°C (165°F);
 - b. For a stationary rack, dual temperature machine, 66°C (150°F);
 - c. For a single tank, conveyor, dual temperature machine, 71°C (160°F);
or
 - d. For a multitank, conveyor, multitemperature machine, 66°C (150°F).
- (ii) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 49°C (120°F).

4.4.73 Manual Warewashing Equipment – Hot Water Sanitization Temperatures. ^{II}

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above.

4.4.74 Mechanical Warewashing Equipment – Hot Water Sanitization Temperatures. ^{II}

- (i) Except as specified in subpart (ii) of this part, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 90°C (194°F), or less than:
 - a. For a stationary rack, single temperature machine, 74°C (165°F); or
 - b. For all other machines, 82°C (180°F).
- (ii) The maximum temperature specified under subpart (i) of this part, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

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

4.4.76 Manual and Mechanical Warewashing Equipment – Chemical Sanitization Temperature, pH, Concentration, and Hardness. ^I A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at [contact times specified under 4.4.95(iii)] shall meet the criteria specified under 4.7.8, Sanitizers Criteria, shall be used in accordance with the EPA-registered label use instructions, and shall be used as follows:

- (i) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart; ^I

Minimum Concentration	Minimum Temperature	
	pH 10 or less °C (°F)	pH 8 or less °C (°F)
mg/L 25 – 49	49 (120)	49 (120)
50 – 99	38 (100)	24 (75)

100	13 (55)	13 (55)
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- (ii) An iodine solution shall have a:
 - a. Minimum temperature of 20°C (68°F),
 - 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;
- (iii) A quaternary ammonium compound solution shall:
 - a. Have a minimum temperature of 24°C (75°F),
 - b. Have a concentration as specified under 4.7.8 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;
- (iv) If another solution of a chemical specified under subparts (i)-(iii) of this part is used, the permit holder shall demonstrate to the Department that the solution achieves sanitization and the use of the solution shall be approved; or
- (v) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions.

4.4.77 Warewashing Equipment – Determining Chemical Sanitizer Concentration and Hot Water Sanitizing Temperature. ^{II}

- (i) Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.
- (ii) Temperature of the water in hot water mechanical warewashing operations shall be accurately determined by using an irreversible registering temperature indicator.

4.4.78 Good Repair and Calibration – Utensils and Temperature and Pressure Measuring Devices.

- (i) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under 4.4.1 - 4.4.50 or shall be discarded.

- (ii) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. ^{II}
- (iii) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

4.4.79 Single-Service and Single-Use Articles – Required Use. ^I A food establishment without facilities for cleaning and sanitizing kitchenware and tableware as specified under 4.4.82 - 4.4.95 shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers.

4.4.80 Single-Service and Single-Use Articles – Use Limitation.

- (i) Single-service and single-use articles may not be reused.
- (ii) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

4.4.81 Shells – Use Limitation. Mollusk and crustacea shells may not be used more than once as serving containers.

4.4.82 Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils – Cleaning. ^I

- (i) Equipment food-contact surfaces and utensils shall be clean to sight and touch.
- (ii) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations. ^N
- (iii) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris. ^N

4.4.83 Equipment Food-Contact Surfaces and Utensils – Cleaning. ^I

- (i) Equipment food-contact surfaces and utensils shall be cleaned:
 - a. Except as specified in subpart (ii) of this part, 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 potentially hazardous food (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 may have occurred.
- (ii) Chapter (i)(a) of this part does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified under 4.3.46 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.
 - (iii) Except as specified in subpart (iv) of this part, if used with potentially hazardous food (time/temperature control for safety food), equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every 4 hours.
 - (iv) Surfaces of utensils and equipment contacting potentially hazardous food (time/temperature control for safety food) may be cleaned less frequently than every 4 hours if:
 - a. In storage, containers of potentially hazardous food (time/temperature control for safety food) and their contents are maintained at temperatures specified under subsection 4.3 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 temperature:

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0-7.2°C (>41-45°F)	20 hours
>7.2-10°C (>45-50°F)	16 hours

>10-12.8°C (>50-55°F)	10 hours
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and;

- 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 potentially hazardous food (time/temperature control for safety food) that is maintained at the temperatures specified under 4.3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;
- 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 4.3;
- 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 57°C (135°F) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.
- (v) Except when dry cleaning methods are used as specified under 4.4.86, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:^N
 - a. At any time when contamination may have occurred;

- b. At least every 24 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.

4.4.84 Cooking and Baking Equipment.

- (i) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This part does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in 4.4.83(iv)(f).
- (ii) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

4.4.85 Nonfood-Contact Surfaces – Cleaning. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

4.4.86 Dry Cleaning.

- (i) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.
- (ii) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

4.4.87 Pre-cleaning.

- (i) Food debris on equipment and utensils shall be scraped over a waste disposal unit, or garbage receptacle or shall be removed in a warewashing machine with a pre-wash cycle.

- (ii) If necessary for effective cleaning, utensils and equipment shall be pre-flushed, presoaked, or scrubbed with abrasives.

4.4.88 **Loading of Soiled Items – Warewashing Machines.** Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

- (i) Exposes the items to the unobstructed spray from all cycles; and
- (ii) Allows the items to drain.

4.4.89 **Wet Cleaning.**

- (i) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.
- (ii) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

4.4.90 **Washing – Procedures for Alternative Manual Warewashing Equipment.** If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in 4.4.52(iii) in accordance with the following procedures:

- (i) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
- (ii) Equipment components and utensils shall be scraped or rough cleaned to remove food particle accumulation; and
- (iii) Equipment and utensils shall be washed as specified under 4.4.89(i).

4.4.91 **Rinsing Procedures.** Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

- (i) Use of a distinct, separate water rinse after washing and before sanitizing if using:
 - a. A 3-compartment sink,

- b. Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified in subpart 4.4.52(iii), or
 - c. A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
- (ii) Use of a detergent-sanitizer if using a warewashing system for CIP equipment;
 - (iii) If using a warewashing machine that does not recycle the sanitizing solution as specified under subpart (iv) of this part, or alternative manual warewashing equipment such as sprayers, use of a non-distinct water rinse that is:
 - a. Integrated in the application of the sanitizing solution, and
 - b. Wasted immediately after each application; or
 - (iv) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a non-distinct water rinse that is integrated in the application of the sanitizing solution.

4.4.92 Returnables – Cleaning for Refilling.¹

- (i) Except as specified in subparts (ii) and (iii) of this part, returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.
- (ii) A food-specific container for beverages may be refilled at a food establishment if:
 - a. Only a beverage that is not a potentially hazardous food (time/temperature control for safety food) is used as specified under 4.3.36(i);^N
 - 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;^N
 - 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;^N
 - d. The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer;^N and

- e. The container is refilled by:
 - i. An employee of the food establishment,^N or
 - ii. The owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the container owner.^N
- (iii) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.^N

4.4.93 **Food-Contact Surfaces and Utensils - Sanitization.** Equipment food-contact surfaces and utensils shall be sanitized.

4.4.94 **Before Use After Cleaning.**¹ Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

4.4.95 **Hot Water and Chemical.**¹ After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

- (i) Hot water manual operations by immersion for at least 30 seconds and as specified under part 4.4.73;
- (ii) Hot water mechanical operations by being cycled through equipment that is set up as specified under 4.4.67, 4.4.74 and 4.4.75 and achieving a utensil surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; or
- (iii) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 4.4.76. Contact times shall be consistent with those on EPA-registered label use instructions by providing:
 - a. Except as specified under chapter (iii)(b) of this subpart, a contact time of at least 10 seconds for a chlorine solution specified under 4.4.76(i),
 - b. A contact time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of 8 or less and a temperature of at least 24°C (75°F),
 - c. A contact time of at least 30 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 subsection 2.101.

4.4.96 **Clean Linens – Laundering.** Clean linens shall be free from food residues and other soiling matter.

4.4.97 **Specifications – Laundering.**

- (i) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.
- (ii) Cloth gloves used as specified in 4.3.34(iv) shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.
- (iii) Linens and napkins that are used as specified under 4.3.32 and cloth napkins shall be laundered between each use.
- (iv) Wet wiping cloths shall be laundered daily.
- (v) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

4.4.98 **Storage of Soiled Linens.** Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

4.4.99 **Mechanical Washing – Laundering.**

- (i) Except as specified in subpart (ii) of this part, linens shall be mechanically washed.
- (ii) In food establishments in which only wiping cloths are laundered as specified in 4.4.55(ii), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under 4.4.66.

4.4.100 **Use of Laundry Facilities.**

- (i) Except as specified in subpart (ii) of this part, laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

- (ii) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

4.4.101 **Equipment and Utensils – Air-Drying Required.** After cleaning and sanitizing, equipment and utensils:

- (i) Shall be air-dried or used after adequate draining as specified in paragraph of 40 C.F.R. § 180.940, tolerance exemptions for active and inert ingredients for use in anti-microbial formulations (food-contact surface sanitizing solutions), before contact with food; and
- (ii) May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

4.4.102 **Wiping Cloths – Air-Drying Locations.** Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified 4.4.55(ii) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This part does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 4.4.76.

4.4.103 **Food-Contact Surfaces – Lubricants.** Lubricants as specified under 4.7.12 food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

4.4.104 **Equipment – Reassembly.** Equipment shall be reassembled so that food-contact surfaces are not contaminated.

4.4.105 **Equipment, Utensils, Linens, and Single-Service and Single-Use Articles – Storage.**

- (i) Except as specified in subpart (iv) of this part, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:
 - a. In a clean, dry location;
 - b. Where they are not exposed to splash, dust, or other contamination; and
 - c. At least 15 centimeters (6 inches) above the floor.
- (ii) Clean equipment and utensils shall be stored as specified under subpart (i) of this part and shall be stored:

- a. In a self-draining position that allows air drying; and
- b. Covered or inverted.
- (iii) Single-service and single-use articles shall be stored as specified under subpart (i) of this part and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.
- (iv) Items that are kept in closed packages may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under 4.4.47.

4.4.106 Prohibitions – Storage of Clean Items.

- (i) Except as specified in subpart (ii) of this part, 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.
- (ii) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

4.4.107 Kitchenware and Tableware.

- (i) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.

- (ii) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.
- (iii) Except as specified under subpart (ii) of this part, single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

4.4.108 **Soiled and Clean Tableware.** Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

4.4.109 **Preset Tableware.**

- (i) Except as specified in subpart (ii) of this part, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted.
- (ii) 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.

4.4.110 **Rinsing Equipment and Utensils after Cleaning and Sanitizing.** After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

- (i) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under 4.4.38 - 4.4.43 and 4.4.76 - 4.4.77; and
- (ii) 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.

4.5 Water, Plumbing and Waste.

4.5.1 **Approved System – Water.**¹ Drinking water shall be obtained from an approved water system as defined under Utah Admin. Code R309-101 - R309-113 that is either:

- (i) **"Community water system"** means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

- (ii) **"Non-transient, non-community water system"**(NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, religious congregations) by means of a separate system.
 - (iii) **"Transient non-community water system"** (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.
 - (iv) **"Non-community water system"** (NCWS) means a public drinking water system that is not a community water system. There are two types of NCWS's: transient and non-transient.
- 4.5.2 **System Flushing and Disinfection – Water.** ^I A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system. The process shall be in accordance with the American Water Works Association (AWWA) C651 for disinfecting and testing.
- 4.5.3 **Bottled Drinking Water.** ^I Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 C.F.R. § 129 – Processing and Bottling of Bottled Drinking Water.
- 4.5.4 **Standards – Water Quality.** ^I Except as specified under 4.5.5:
- (i) Water from a public water system shall meet 40 C.F.R. § 141 - National Primary Drinking Water Regulations; and,
 - (ii) R309-101 through R309-113 Rules for Public Drinking Water Systems.
- 4.5.5 **Non-drinking Water.** ^I
- (i) A non-drinking water supply shall be used only if its use is approved.
 - (ii) Non-drinking water shall be used only for non-culinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.
- 4.5.6 **Sampling – Water Quality.** ^{II} Water from a non-community water system, or a non-transient, non-community water system shall be sampled as required by R309-103 Drinking Water: Water Quality Maximum Contamination Levels

(MCLs) and R309-104 Drinking Water: Monitoring, Reporting, and Public Notification and local drinking water quality regulations.

4.5.7 **Sample Report – Water Quality.** The most recent sample report of the non-community water system or non-transient, non-community water system shall be retained on file in the food establishment and the report shall be maintained as required by R309-104-8.

4.5.8 **Capacity – Water Quantity.** ^{II}

- (i) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment.
- (ii) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment, and
- (iii) Hot and cold water shall be provided through tempered mixing faucets at all handwashing lavatories, food preparation sinks, warewashing sinks, service sinks, or curbed cleaning facilities.

4.5.9 **Pressure – Water Quantity.** ^{II} Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under 4.5.11(i)- (ii) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

4.5.10 **System – Distribution, Delivery and Retention.** ^{II} Water shall be received from the source through the use of:

- (i) An approved public water main; or
- (ii) One or more of the following that shall 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.

4.5.11 **Alternative Water Supply.** ^{II} Water meeting the requirements specified under 4.5.1 - 4.5.9 shall be made available for a food cart, mobile food unit or, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

- (i) A supply of containers of commercially bottled drinking water;
- (ii) One or more closed portable water containers;
- (iii) An enclosed vehicular water tank;
- (iv) An on-premises water storage tank; or
- (v) Piping, tubing, or hoses connected to an adjacent approved source.

4.5.12 Approved – Plumbing Materials. ^I

- (i) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law.
- (ii) A water filter shall be made of safe materials.

4.5.13 Approved System and Cleanable Fixtures. ^I

- (i) A plumbing system shall be designed, constructed, and installed as required by Utah Admin.Code R156-56 *International Plumbing Code* and R156-56 amendments to the *International Plumbing Code*.
- (ii) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable. ^N

4.5.14 Handwashing Sink – Installation. ^{II}

- (i) A handwashing sink shall be equipped to provide water at a temperature of at least 38°C (100°F) within 30 seconds of opening the mixing valve.
- (ii) A steam mixing valve may not be used at a handwashing sink. ^N
- (iii) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet. ^N
- (iv) An automatic handwashing sink shall be installed in accordance with manufacturer's instructions. ^N

4.5.15 Backflow Prevention – Air Gap. ^I An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 in). Where the distance to the adjacent wall is closer than three pipe diameters, the air gap shall not be less than 1½ inch.

4.5.16 **Backflow Prevention Device – Design Standard.** A backflow or back-siphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device. ¹

4.5.17 **Conditioning Device – Design.** A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

4.5.18 **Handwashing Sinks – Numbers and Capacities.** ¹

- (i) Except as specified in subparts (ii) and (iii) of this part, at least one handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified under 4.5.23, and not fewer than the number of handwashing sinks required by law shall be provided.
- (ii) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing sinks may be substituted for handwashing sinks in a food establishment that has at least one handwashing sink.
- (iii) An adequate number of handwashing sinks shall be provided for each temporary food establishment to include: a minimum of one handwashing sink equipped with one enclosed container with a spigot, soap, water, paper towels, and a collection container for waste water.

4.5.19 **Toilets and Urinals.** ¹ At least one toilet and not fewer than the toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law.

4.5.20 **Service Sink.**

- (i) At least one service sink with hot and cold running water, or one curbed cleaning facility equipped with hot and cold running water and a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.
- (ii) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

4.5.21 **Backflow Prevention Device, When Required.** ¹ A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose

bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

- (i) Providing an air gap as specified under 4.5.15; or
- (ii) Installing an approved backflow prevention device as specified under 4.5.16.
- (iii) Water heater drains and clothes washers are exempt from the requirements of this part.

4.5.22 Backflow Prevention Device, Carbonator. If not provided with an air gap as specified under 4.5.15, an American Society of Safety Engineers (ASSE) 1022 dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4 mm (100 mesh to 1 inch) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.

4.5.23 Handwashing Sinks - Location. ^I A handwashing sink shall be located:

- (i) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; and
- (ii) In, or immediately adjacent to, toilet rooms.

4.5.24 Backflow Prevention Device – Location. A backflow prevention device shall be located so that it may be serviced and maintained.

4.5.25 Conditioning Device – Location. A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

4.5.26 Using a Handwashing Sink. ^{II}

- (i) A handwashing sink shall be maintained so that it is accessible at all times for employee use.
- (ii) A handwashing sink may not be used for purposes other than handwashing.
- (iii) An automatic handwashing sink shall be used in accordance with manufacturers' instructions.

4.5.27 Prohibiting a Cross Connection. ^I

- (i) Except as specified in 9 C.F.R. § 308.3(d) for firefighting, a person may not create a cross connection by connecting a pipe or conduit between the

drinking water system and a nondrinking water system or a water system of unknown quality.

- (ii) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water. ^{II}

4.5.28 **Scheduling Inspection and Service for a Water System Device.** ^{II}

- (i) A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturers' instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

4.5.29 **Water Reservoir of Fogging Devices – Cleaning.** ^I

- (i) A reservoir that is used to supply water to a device such as a produce fogger shall be:
 - a. Maintained in accordance with manufacturers' specifications; and
 - b. Cleaned in accordance with manufacturers' specifications or according to the procedures specified under subpart (ii) of this part, whichever is more stringent.
- (ii) Cleaning procedures shall include at least the following steps and shall 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.

4.5.30 **System Maintained in Good Repair.** ^I A plumbing system shall be:

- (i) Repaired according to law; and
- (ii) Maintained in good repair. ^S

4.5.31 Approved Material – Food Cart, Mobile Food Unit and Shaved Ice Stand. Materials that are used in the construction of a food cart water tank, mobile food unit water tank, shaved ice stand water tank and appurtenances shall be:

- (i) Safe; ¹
- (ii) Durable, corrosion-resistant, and nonabsorbent; and
- (iii) Finished to have a smooth, easily cleanable surface.

4.5.32 Enclosed System – Sloped to Drain. A mobile water tank shall be:

- (i) Enclosed from the filling inlet to the discharge outlet; and
- (ii) Sloped to an outlet that allows complete drainage of the tank.

4.5.33 Inspection and Cleaning Port – Protected and Secured. If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

- (i) Flanged upward at least 13 mm (one-half inch); and
- (ii) 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.

4.5.34 "V" Type Threads – Use Limitation. A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

4.5.35 Tank Vent – Protected. If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

- (i) 16 mesh to 25.4 mm (16 mesh to 1 in) screen or equivalent when the vent is in a protected area; or
- (ii) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

4.5.36 Inlet and Outlet – Sloped to Drain.

- (i) A water tank and its inlet and outlet shall be sloped to drain.

- (ii) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

4.5.37 **Hose – Construction and Identification.** A hose used for conveying drinking water from a water tank shall be:

- (i) Safe; ¹
- (ii) Durable, corrosion-resistant, and nonabsorbent;
- (iii) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- (iv) Finished with a smooth interior surface; and
- (v) Clearly and durably identified as to its use if not permanently attached.

4.5.38 **Filter – Compressed Air.** ¹ A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

4.5.39 **Protective Cover or Device.** A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

4.5.40 **Food Cart, Mobile Food Unit and Shaved Ice Stand Tank Inlet.** A mobile food establishment's water tank inlet shall be:

- (i) 19.1 mm (³/₄ in) in inner diameter or less; and
- (ii) Provided with a hose connection of a size or type that will prevent its use for any other service.

4.5.41 **System Flushing and Disinfection – Water Tank.** ¹ A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse and at a minimum of every 30 days.

4.5.42 **Using a Pump and Hoses – Backflow Prevention.** A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

4.5.43 **Protecting Inlet, Outlet and Hose Fitting.** If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under 4.5.39.

4.5.44 Tank, Pump, and Hoses – Dedication.

- (i) Except as specified in subpart (ii) of this Part, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.
- (ii) 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.

4.5.45 Sewage Holding Tank, Mobile – Capacity and Drainage. A sewage holding tank in a food cart, mobile food unit and shaved ice stand shall be:

- (i) Sized 15 percent larger in capacity than the water supply tank; and
- (ii) Sloped to a drain that is 25 mm (1 in) in inner diameter or greater, equipped with a shut-off valve.
- (iii) Single or multiple tanks with a minimum of five gallons per tank in shaved-ice stands.

4.5.46 Establishment Drainage System. Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 4.5.13(i).

4.5.47 Backflow Prevention.¹

- (i) Except as specified in subparts (ii) and (iii) of this part, a direct connection may not exist under any condition between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.
- (ii) Subpart (i) of this part does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.
- (iii) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

4.5.48 Grease Trap. If used, a grease trap shall be located to be easily accessible for cleaning.

4.5.49 Conveying Sewage.¹ Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage

transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

4.5.50 **Removing Food Cart, Mobile Food Unit and Shaved Ice Stand Wastes.** ^{II} Sewage and other liquid wastes shall be removed from a food cart, mobile food unit and shaved ice stand at a Department-approved location .

4.5.51 **Flushing a Waste Retention Tank.** A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

4.5.52 **Approved Sewage Disposal System.** ^I Sewage shall be disposed through an approved facility that is:

- (i) A public sewage treatment plant; or
- (ii) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

4.5.53 **Other Liquid Wastes and Rainwater.** Condensate drainage and other non-sewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

4.5.54 **Indoor Storage Area – Refuse, Recyclables and Returnables.** If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 4.6.1, 4.6.3 - 4.6.10, 4.6.15, 4.6.16.

4.5.55 **Outdoor Storage Surface – Refuse, Recyclables and Returnables.** An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

4.5.56 **Outdoor Enclosure – Refuse, Recyclables and Returnables.** If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

4.5.57 **Receptacles – Refuse, Recyclables and Returnables.**

- (i) Except as specified in subpart (ii) of this part, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leak-proof, and nonabsorbent.
- (ii) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

4.5.58 **Receptacles in Vending Machines.** A refuse receptacle may not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

4.5.59 **Outside Receptacles – Refuse, Recyclables and Returnables.**

- (i) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.
- (ii) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

4.5.60 **Storage Areas, Rooms, and Receptacles – Capacity and Availability.**

- (i) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.
- (ii) A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.
- (iii) If disposable towels are used at handwashing sinks, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

4.5.61 **Toilet Room Receptacle – Covered.** A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

4.5.62 **Cleaning Implements and Supplies.**

- (i) Except as specified in subpart (ii) of this part, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.
- (ii) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

4.5.63 Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units – Location.

- (i) An area designated for refuse, recyclables, returnables, and, except as specified in subpart (ii) of this part, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.
- (ii) 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.
- (iii) 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.

4.5.64 Storing Refuse, Recyclables, and Returnables. Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

4.5.65 Areas, Enclosures, and Receptacles – Good Repair. Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

4.5.66 Outside Storage Prohibitions.

- (i) Except as specified in subpart (ii) of this part, refuse receptacles not meeting the requirements specified under 4.5.57(i) 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.
- (ii) 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.

4.5.67 Covering Receptacles. Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

- (i) 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

(ii) With tight-fitting lids or doors if kept outside the food establishment.

4.5.68 **Using Drain Plugs.** Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

4.5.69 **Maintaining Refuse Areas and Enclosures.** A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under 4.6.53, and clean.

4.5.70 **Cleaning Receptacles.**

(i) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under 4.5.49.

(ii) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

4.5.71 **Refuse Removal – Frequency.** Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

4.5.72 **Receptacles or Vehicles.** Refuse, recyclables, and returnables shall be removed from the premises by way of:

(i) Portable receptacles that are constructed and maintained according to law; or

(ii) A transport vehicle that is constructed, maintained, and operated according to law.

4.5.73 **Community or Individual Facility.** Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

4.6 **Physical Facilities.**

4.6.1 **Surface Characteristics – Indoor Areas.**

- (i) Except as specified in subpart (ii) of this part, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall 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, and areas subject to flushing or spray cleaning methods.
- (ii) 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 materials that are effectively treated to control dust and mud; and
 - b. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

4.6.2 **Surface Characteristics – Outdoor Areas.**

- (i) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.
- (ii) Exterior surfaces of buildings, food carts, mobile food units, and shaved ice stands shall be of weather-resistant materials and shall comply with law.
- (iii) Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 4.5.55 - 4.5.56.

4.6.3 **Floors, Walls, and Ceilings – Cleanability.** Except as specified under 4.6.6, the floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that anti-slip floor coverings or applications may be used for safety reasons.

4.6.4 **Floors, Walls, and Ceilings – Utility Lines.**

- (i) Utility service lines and pipes may not be unnecessarily exposed.
- (ii) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

- (iii) Exposed horizontal utility service lines and pipes may not be installed on the floor.

4.6.5 Floor and Wall Junctures – Coved and Enclosed or Sealed.

- (i) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1 mm ($\frac{1}{32}$ inch).
- (ii) The floors in food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.

4.6.6 Floor Carpeting – Restrictions and Installation.

- (i) 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, food storage, and 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.
- (ii) If carpeting is installed as a floor covering in areas other than those specified under subpart (i) of this part, it shall 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.

4.6.7 Floor Covering – Mats and Duckboards. Mats and duckboards shall be designed to be removable and easily cleanable.

4.6.8 Wall and Ceiling – Coverings and Coatings.

- (i) Wall and ceiling covering materials shall be attached so that they are easily cleanable.
- (ii) Concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

- (iii) Subparts (i) and (ii) of this part does not apply to dry storage.

4.6.9 **Walls and Ceilings – Attachments.**

- (i) Except as specified in subpart (ii) of this part, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.
- (ii) 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.

4.6.10 **Walls and Ceilings – Studs, Joists, and Rafters.** Studs, joists, and rafters may not be exposed in areas subject to moisture. This requirement does not apply to food carts or to temporary food establishments.

4.6.11 **Light Bulbs – Protective Shielding.**

- (i) Except as specified in subpart (ii) of this part, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.
- (ii) 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 onto them; and
 - b. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.
- (iii) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

4.6.12 **Heating, Ventilating, Air Conditioning System – Vents.** Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

4.6.13 **Insect Control Devices – Design and Installation.**

- (i) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

- (ii) Insect control devices shall 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 and single-use articles.

4.6.14 **Toilet Rooms – Enclosed.** A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall.

4.6.15 **Outer Openings – Protected.**

- (i) Except as specified in subparts (ii), (iii), and (v) and under subpart (iv) of this part, outer openings of a food establishment shall 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.
- (ii) Subpart (i) of this part 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.
- (iii) 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. Restricted so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.
- (iv) Except as specified in subparts (ii) and (v) of this part, 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, mobile food unit, or food cart is not provided with windows and doors as specified under subpart (i) of this part, the openings shall be protected against the entry of insects and rodents by:

- a. 16 mesh to 25.4mm (16 mesh to 1 in) screens;
- b. Properly designed and installed air curtains to control flying insects; or
- c. Other effective means.

(v) Subpart (iv) of this part does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

4.6.16 **Exterior Walls and Roofs – Protective Barrier.** Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

4.6.17 **Outdoor Food Vending Areas – Overhead Protection.** If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not meet this requirement.

4.6.18 **Outdoor Commissary Areas – Overhead Protection.** Commissary areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

4.6.19 **Outdoor Walking and Driving Surfaces – Graded to Drain.** Exterior walking and driving surfaces shall be graded to drain.

4.6.20 **Outdoor Refuse Areas – Curbed and Graded to Drain.** Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste which results from the refuse and from cleaning the area and waste receptacles.

4.6.21 **Private Homes and Living or Sleeping Quarters – Use Prohibition.**¹ 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.

4.6.22 **Living or Sleeping Quarters – Separation.** Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

- 4.6.23 **Minimum Number – Handwashing Sinks.** Handwashing sinks shall be provided as specified under 4.5.18.
- 4.6.24 **Handwashing Cleanser and Hand Sanitizers – Availability.** ^{II}
- (i) Each handwashing sink shall be provided with a supply of hand cleaning liquid, powder, or bar soap; and
 - (ii) When a hand sanitizer is used, each handwashing sink shall be provided with a hand sanitizer or a chemical hand sanitizing solution used as a hand dip.
 - (iii) When a hand sanitizer is used, the dispenser for the hand sanitizer or the chemical hand sanitizing solution used as a hand dip shall be located at the handwashing sink and may not be located anywhere else.
- 4.6.25 **Hand Drying Provision.** ^{II} Each handwashing sink shall be provided with:
- (i) Individual, disposable towels;
 - (ii) A continuous towel system that supplies the user with a clean towel;
 - (iii) A heated-air hand drying device; or
 - (iv) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. ^{II}
- 4.6.26 **Handwashing Aids and Devices – Use Restrictions.** A sink used for food preparation or utensil washing, or a service sink, or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing sink as specified under 4.6.24 - 4.6.25 and 4.5.60 (iii).
- 4.6.27 **Handwashing Signage.** A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.
- 4.6.28 **Disposable Towels – Waste Receptacle.** A handwashing sink or group of adjacent lavatories that is provided with disposable towels shall be provided with a waste receptacle as specified under 4.5.60(iii).
- 4.6.29 **Minimum Number – Toilets and Urinals.** Toilets and urinals shall be provided as specified under 4.5.19.

4.6.30 **Toilet Tissue – Availability.** ^{II} A supply of toilet tissue shall be available at each toilet.

4.6.31 **Lighting – Intensity.** The light intensity shall be:

- (i) At least 108 lux (10 foot candles) at a distance of 75 cm (30 in) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
- (ii) At least 215 lux (20 foot candles):
 - 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; and
 - c. At a distance of 75 cm (30 in) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
- (iii) At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

4.6.32 **Ventilation – Mechanical.** If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

4.6.33 **Dressing Areas and Lockers – Designation.**

- (i) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.
- (ii) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

4.6.34 **Service Sinks – Availability.** A service sink or curbed cleaning facility shall be provided as specified under 4.5.20(i).

4.6.35 **Handwashing Sinks – Conveniently Located.** Handwashing sinks shall be conveniently located as specified under 4.5.23.

4.6.36 **Toilet Rooms – Convenience and Accessibility.** Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.

4.6.37 Employee Accommodations – Designated Areas.

- (i) Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.
- (ii) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

4.6.38 Distressed Merchandise – Segregation and Location. ^{II} Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

4.6.39 Refuse, Recyclables, and Returnables – Receptacles, Waste Handling Units, and Designated Storage Areas. Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under 4.5.63.

4.6.40 Repairing – Physical Facilities. The physical facilities shall be maintained in good repair.

4.6.41 Cleaning – Frequency and Restrictions.

- (i) The physical facilities shall be cleaned as often as necessary to keep them clean.
- (ii) Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

4.6.42 Cleaning Floors – Dustless Methods.

- (i) Except as specified in subpart (ii) of this part, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.
- (ii) 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.

4.6.43 Cleaning Ventilation Systems – Nuisance and Discharge Prohibition.

- (i) Supply and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.
- (ii) If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

4.6.44 Cleaning Maintenance Tools – Preventing Contamination. ^{II} 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.

4.6.45 Drying Mops. After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

4.6.46 Absorbent Materials on Floors – Use Limitation. Except as specified in 4.6.42(ii), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

4.6.47 Cleaning of Plumbing Fixtures. Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

4.6.48 Closing Toilet Room Doors. Toilet room doors as specified under 4.6.14 shall be kept closed except during cleaning and maintenance operations.

4.6.49 Using Dressing Rooms and Lockers.

- (i) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.
- (ii) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

4.6.50 Controlling Pests. ^{II} The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

- (i) Routinely inspecting incoming shipments of food and supplies; ^N
- (ii) Routinely inspecting the premises for evidence of pests ^N

- (iii) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 4.7.5, 4.7.14 - 4.7.15; and
- (iv) Eliminating harborage conditions. ^N

4.6.51 **Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.** Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

4.6.52 **Storing Maintenance Tools.** Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

- (i) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
- (ii) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

4.6.53 **Maintaining Premises – Unnecessary Items and Litter.** The premises shall be free of:

- (i) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
- (ii) Litter.

4.6.54 **Prohibiting Animals.**

- (i) Except as specified in subparts (ii), (iii) and (iv) of this part, live animals may not be allowed on the premises of a food establishment. ^{II}
- (ii) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:
 - 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. In areas that are not used for food preparation and that are usually

open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

- d. Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
 - 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.
- (iii) 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.
- (iv) A food establishment operating only in Salt Lake County may request a review and approval for dogs (other than service animals or patrol dogs) in the outdoor patio areas in accordance with the procedures for a variance modifying or waiving the requirements of this Regulation #5 as more fully described in part 7.4.2 herein and in Utah Admin. Code, R392-100-2 (adopting the U.S. Public Health Service Food and Drug Administration Food Code, including §8.103.10 with certain additions and amendments). Each request for the review and approval of dogs in outdoor patio areas shall be individually reviewed and evaluated by the Department on a case by case basis. The Board may delegate the authority to review and approve requests from food establishments for a variance for dogs on an outdoor patio in compliance with the requirements of this part to the Director or his/her designee.
- a. HACCP. In addition to the procedural requirements for a variance described in part 7.4.2 justifying and documenting the request, the applicant must submit a HACCP plan as described in part 4.8.4. In

addition to the requirements specified in part 4.8.8, the HACCP must also ensure that:

- i. A separate entrance must be provided from the outside of the food establishment to the outdoor patio so a dog will have direct access to the patio without entering the interior dining, service or sales areas of the food establishment. A dog may not be allowed within seven (7) feet of any entrance to an interior area of the food establishment, except as necessary to enter or exit the patio.
- ii. Signs must be posted at the entrance of the food establishment and patio, notifying patrons that dogs may be on the premises. The signs must state: “NOTICE to patrons, dogs may be on the premises but are restricted to the outdoor patio. Owners are responsible for keeping their animal under control at all times.” In addition, the notice should also appear on the menus.
- iii. Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment.
- iv. No food preparation, including mixing drinks or service ice, may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.
- v. The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog related wastes or debris. The outdoor patio must be hosed down or mopped with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner or late-hours) or, if a food establishment has continuous food or beverage service without designated shifts, then every six hours that the establishment is open for business, except that cleaning is not required if no dog has been present on the outdoor patio since the last cleaning. Waste water generated by cleaning a patio area must be properly disposed of in compliance with Health Regulation #13. Waste produced from a dog’s bodily functions must be cleaned up with animal friendly chemicals within five minutes after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.

- vi. While on duty, wait staff or other food handlers may not have contact with any dog.
 - vii. A dog must be kept on a leash and remain in the control of the patron while on the outdoor patio. The dog must be wearing a collar or harness with a current license and rabies tag attached to it.
 - viii. A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.
 - ix. A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.
 - x. A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio area, but may be given water in a disposable container.
 - xi. An owner, officer, manager, or other person in charge of a food establishment commits an offense if s/he, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with any term or condition of a variance granted under this part.
- b. **Compliance With Other Restrictions.** In addition to the procedural requirements for a variance described in part 7.4.2 justifying and documenting the request, the applicant must demonstrate how it will comply with any other local ordinances or restrictions prohibiting dogs in or about any establishment or place of business where food is sold, displayed or served, including food establishments.
- c. **Fees.** Due to the additional Department resource commitments associated with the review of an HACCP plan for animals and necessary follow-up inspections, the Department may establish and collect an additional fee as provided for in part V herein.
- d. **Annual Review and Approval.** Each variance for dogs in outdoor patio areas shall be reviewed on an annual basis and shall be limited to the seasonal operation (May thru October) of the food establishment's outdoor areas. The variance shall expire at the end of the season and the food establishment must reapply for a variance annually.

4.7 Poisonous or Toxic Materials

- 4.7.1 **Original Containers – Identifying Information – Prominence.** ^{II} Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer’s label.
- 4.7.2 **Working Containers – Common Name.** ^{II} Working Containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.
- 4.7.3 **Storage – Separation – Poisonous or Toxic Materials.** ^I Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:
- (i) Separating the poisonous or toxic materials by spacing or partitioning; and
 - (ii) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.
- 4.7.4 **Restriction – Poisonous or Toxic Materials.** ^{II}
- (i) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.
 - (ii) Subpart (i) of this part does not apply to packaged poisonous or toxic materials that are for retail sale.
- 4.7.5 **Conditions of Use – Poisonous or Toxic Materials.** ^I Poisonous or toxic materials shall be:
- (i) Used according to:
 - a. Law and this Regulation,
 - 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 Department; and
 - (ii) 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 preventive actions, and
 - iv. Cleaning and sanitizing equipment and utensils after the application.
 - (iii) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 U.S.C. 136(e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator.
- 4.7.6 **Poisonous or Toxic Material Containers.**¹ A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.
- 4.7.7 **Food Containers Prohibited from Storing Toxic Materials.**¹ A food container may not be used to store, transport, or dispense poisonous or toxic materials.
- 4.7.8 **Sanitizers – Criteria.**¹ Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 C.F.R. § 180.940 tolerance exemptions for active and inert ingredients for use in anti-microbial formulations (food-contact surface sanitizing solutions).
- 4.7.9 **Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables – Criteria.**¹
- (i) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 C.F.R. § 173.315 - Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.
 - (ii) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishment shall meet the requirements specified in 21 C.F.R. § 173.368 - Ozone.

- 4.7.10 **Boiler Water Additives – Criteria.**¹ Chemicals used as boiler water additives shall meet the requirements specified in 21 C.F.R. § 173.310 Boiler Water Additives.
- 4.7.11 **Drying Agents – Criteria.**¹ Drying agents used in conjunction with sanitization shall:
- (i) 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, or 21 C.F.R. § 184 - Direct Food Substances Affirmed as Generally Recognized as Safe,
 - b. Generally recognized as safe for the intended use as specified in 21 C.F.R. § 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,
 - c. Approved for use as a drying agent under a prior sanction specified in 21 C.F.R. § 181 - Prior-Sanctioned Food Ingredients,
 - d. Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 C.F.R. §§ 175-178, or
 - e. 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
 - (ii) When sanitization is with chemicals, the approval required under chapters (i)(c) or (i)(e) of this part of the regulation as an indirect food additive required under chapter (i)(d) of this part, shall be specifically for use with chemical sanitizing solutions.
- 4.7.12 **Lubricants – Incidental Food Contact – Criteria.**¹ Lubricants shall 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 shall be located so that lubricants do not leak, drip, or be forced into food or onto food-contact surfaces.
- 4.7.13 **Restricted Use Pesticides – Criteria.**¹ Restricted use pesticides specified under subpart 4.7.5 (iii) shall meet the requirements specified in 40 C.F.R. 152 Subpart I - Classification of Pesticides.
- 4.7.14 **Rodent Bait Stations.**¹ Rodent bait shall be contained in a covered, tamper-resistant bait station.

4.7.15 Tracking Powders – Pest Control and Monitoring.^I

- (i) A tracking powder pesticide may not be used in a food establishment.
- (ii) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.^N

4.7.16 Restriction and Storage.^I

- (i) Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This part does not apply to medicines that are stored or displayed for retail sale.
- (ii) Medicines that are in a food establishment for the employees' use shall be labeled as specified under 4.7.1 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

4.7.17 Refrigerated Medicines – Storage.^I Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

- (i) 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
- (ii) Located so they are inaccessible to children.

4.7.18 First Aid Supplies – Storage. First aid supplies that are in a food establishment for the employees' use shall be:

4.2.2.1 Labeled as specified under 4.7.1;^{II} and

- (ii) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.^I

4.7.19 Other Personal Care Items – Storage. Except as specified under 4.7.17 and 4.7.18, employees shall store their personal care items in facilities as specified under 4.6.33 (ii).

4.7.20 Stock and Retail Sale – Separation.^I Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (i) Separating the poisonous or toxic materials by spacing or partitioning;^S and
- (ii) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

4.8 Plan Submission and Approval.

4.8.1 **When Plans Are Required.** A permit applicant or permit holder shall submit to the Department properly prepared plans and specifications for review and approval before:

- (i) The construction of a food establishment;
- (ii) The conversion of an existing structure for use as a food establishment; or
- (iii) The remodeling of a food establishment, or a change in type of food establishment, or food operation, if the Department determines that plans and specifications are necessary to ensure compliance with this Regulation.

4.8.2 **Contents of the Plans and Specifications.** The plans and specifications for a food establishment, including a food establishment specified under 4.8.3, shall include, as required by the Department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with Regulation provisions:

- (i) Intended menu;
- (ii) Anticipated volume of food to be stored, prepared, and sold or served;
- (iii) Proposed layout, mechanical schematics, construction materials, and finish schedules;
- (iv) Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
- (v) Evidence that standard procedures that ensure compliance with the requirements of this Regulation are developed or are being developed; and
- (vi) Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

4.8.3 **When a HACCP Plan is Required.**

- (i) Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the Department for approval a properly prepared HACCP plan as specified under 4.8.4 and the relevant provisions of this Regulation if:
 - a. Submission of a HACCP plan is required according to law;
 - b. A variance is required as specified under 4.3.63, 4.4.35(ii), or 4.3.46 (iv)(d); or
 - c. The Department determines that a food preparation or processing method requires a variance based on a plan submittal specified under 4.8.2, an inspectional finding, or a variance request.
- (ii) A permit applicant or permit holder shall have a properly prepared HACCP plan as specified under 4.3.64.

4.8.4 Contents of a HACCP Plan. For a food establishment that is required under 4.8.3 to have a HACCP plan, the plan and specifications shall indicate:

- (i) A categorization of the types of potentially hazardous food (time/temperature control for safety food)s that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the Department;
- (ii) A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - a. Ingredients, materials, and equipment used in the preparation of that food, and
 - b. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- (iii) Food employee and supervisory training plan that addresses the food safety issues of concern;
- (iv) A statement of standard operating procedures for the plan under consideration including clearly identifying:
 - 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 food employee designated by 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 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
- (v) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

4.8.5 **Confidentiality – Trade Secrets.** The Department shall treat as confidential, in accordance with law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under 4.8.2 and 4.8.4.

4.8.6 **Preventing Health Hazards – Provision for Conditions Not Addressed.**

- (i) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Regulation that are authorized by law.
- (ii) The Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the Department's file for the food establishment.

4.9 **Additional Provisions Pertaining to Food Carts, Mobile Food Units, and Shaved Ice Stands.**

4.9.1 **Vending Route and Daily Operation Schedule.** Each operator of a food cart, mobile food unit, or shaved ice stand that is not at a fixed location for the season shall submit to the Department a vending route or daily operation schedule prior to operating. Each operator shall also keep a vending route or daily operation schedule on the cart, vehicle, or stand and make it available for on-site inspection by the Department. The route sheet or operation schedule shall include site locations and addresses, approximate time-in and time-out of each stop, including times to be spent at the commissary, and any other relevant information. All changes must be submitted to the Department prior to the change.

- 4.9.2 **Sewage Disposal Plan.** Each operator of a food cart, mobile food unit, or shaved ice stand shall submit a written sewage disposal plan to the Department that indicates where and how liquid wastes are to be disposed of. The plan shall be followed at all times and shall be available at the food cart, mobile food unit, or shaved ice stand for inspection by the Department. Changes to the plan shall be submitted to the Department prior to the changes being implemented.
- 4.9.3 **Commissary Agreement.** Each operator of a food cart, mobile food unit, or shaved ice stand shall submit to the Department a signed commissary agreement from the commissary operator outlining services that shall be performed at the commissary. This agreement shall be available for inspection by the Department. Changes to this agreement shall be submitted to the Department prior to the changes being implemented.
- 4.9.4 **Toilet Agreement.** Each operator of a food cart, mobile food unit, or shaved ice stand shall submit to the Department a signed agreement to use an approved permanent toilet facility that is readily accessible during all hours of operation. Toilets shall be located within 500 feet of the operation site. The agreement shall be available at the food cart, mobile food unit, or shaved ice stand for inspection by the Department. Changes to the plan shall be submitted to the Department prior to the changes being implemented.
- 4.9.5 **Business Name.** The business name shall be plainly indicated and easily readable on the exterior customer service side of a food cart, on both sides of a mobile food unit, and on the exterior of a shaved ice stand. Lettering shall be a minimum of 4 inches in height.
- 4.9.6 **Water Supply Tank-Size.** ⁱⁱ
- (i) Except as specified in (ii) of this part, a potable water supply tank shall be a minimum of 10 gallons and shall be large enough to supply an adequate amount of water when a food cart, mobile food unit, or shaved ice stand is in operation.
 - (ii) A potable water supply tank shall be a minimum of 30 gallons and shall be large enough to supply an adequate amount of water when a food cart or mobile food unit is in operation and is equipped with a 3-compartment sink.
 - (iii) A potable water supply tank shall be a minimum of 60 gallons and shall be large enough to supply an adequate amount of water when a food cart or mobile unit is in operation and is not required to return to a commissary on a daily basis.
 - (iv) A shaved-ice stand may use multiple tanks and the tanks size shall be a minimum of five gallons per tank.

- (v) A shaved-ice stand that is equipped with a three compartment sink shall meet the capacities as specified in 4.5.8.
- 4.9.7 **Accommodate Storage.** A food cart, mobile food unit, or shaved ice stand shall be designed to accommodate the storage of ice chests, food equipment, and food at least six inches above the ground.
- 4.9.8 **Food Cart and Shaved Ice Stand - Operating Location.** A food cart or shaved ice stand shall operate on a surface with concrete, or asphalt, that has been effectively treated to minimize dust and facilitate maintenance.
- 4.9.9 **Self Contained and Readily Moveable.**
 - 4.9.9.1.1 A food cart or mobile food unit shall be self-contained and readily moveable at all times.
 - 4.9.9.1.2 A food cart, mobile food unit, or shaved ice shall not set up equipment beyond items contained on the food cart, mobile food unit, or shaved ice stand, or any other expansion or extension of the food cart, mobile food unit, or shaved ice stand. Exceptions are permanently attached canopies, coolers for cold holding foods, and freezers and flavor syrup stands at a shaved ice stand.
- 4.9.10 **Single-Use Articles-For Consumers.** A food cart, mobile food unit, or shaved ice stand shall only provide single-use articles for use by the consumer.
- 4.9.11 **Transportation Protection.** In transit, a food cart, mobile food unit, or shaved ice stand shall protect all food and food-contact surfaces from contamination.
- 4.9.12 **Food Prepared at an Approved Commissary.**¹ All food service operations must be conducted from an approved commissary or on the food cart, in the mobile food unit, or shaved ice stand.
- 4.9.13 **Storage When not in Operation.**
 - (i) Except as specified in subpart (ii) of this part, a food cart or mobile food unit, or shaved ice stand shall be stored at the commissary or other location approved by the Department.
 - (ii) A food cart or mobile food unit may not require storage at a commissary during non-operational hours if:
 1. It has water and equipment capacity to operate for longer than a single day;
 2. Outer openings are protected as specified in 4.6.15(i)(a)-(c); and
 3. It is secured to prevent public entry.

- (iii) Storage of food, equipment, and single-service articles is prohibited in private vehicles when a food cart, mobile food unit, or shaved ice stand is not in operation.
- (iv) The premises of a private residence are not an approved storage facility for food carts or mobile food units.

4.9.14 **Commissary Use.** A food cart, mobile food unit, or shaved ice stand shall return to the commissary on a daily basis for the purposes of cleaning, storing, stocking and water tanks maintenance. The Department may approve less frequent returns to a commissary depending on the capacities of the food facility, menus and volumes of food being served.

4.9.15 **Food, utensils, equipment and single-use item storage.** Supplies of food, utensil, equipment and single-use items that are not contained in the food cart, mobile food unit, or shaved ice stand during transportation and operation must be stored and protected in food grade containers.

4.10 **Additional Requirements for Temporary and/or Seasonal Temporary Food Events.**

4.10.1 **Multiple Booths-One Operator.** Multiple booths or locations with one operator shall have a separate permit for each booth.

4.10.2 **Temporary Event-Food Handler Training.** Each temporary food establishment shall have present at least one individual with a valid food handler card or equivalent training during all hours of operation.

4.10.3 **Demonstration of Knowledge-Temporary Event.** ^{II} The person in charge of the temporary food establishment shall demonstrate knowledge as defined in 4.2.2 and shall demonstrate knowledge about the hazards associated with operating a temporary food establishment.

4.10.4 **Chaffing Fuel/Canister Fuel-Type Heating Equipment.** Chaffing Fuel/Canister Fuel-type heating equipment shall only be used for outdoor food service with commercially manufactured wind guards.

4.10.5 **Open Flame Cooking Equipment.** Open flame cooking equipment and equipment that produces grease laden vapor shall be used in compliance with the local fire authority's regulation.

4.10.6 **Seasonal Temporary Food Event.** Each individual involved in the operation of a seasonal temporary food event shall have a valid food handler card or a food safety manager certification during all hours of operation.

Footnote: Requirements contained in this regulation that may not be critical I, critical II, or noncritical, depending on the circumstances, are followed by the bold superscripted letter ^S.

5. LICENSES, CERTIFICATES, PERMITS AND REGULATORY FEES.

5.1 The Department may establish and collect appropriate fees for licenses, certificates, and permits as set out in this regulation. The Department may collect appropriate fees as set out in this regulation for the performance of services, including plan reviews. If information on a license, certificate, or permit application changes, the applicant shall notify the Department in writing within 20 calendar days.

5.1.1 **Food Establishment Permit Fee.** Any applicant who applies for a Food Establishment Permit as required by 4.1.1(i) of this regulation shall remit to the Department a Food Establishment Permit fee in the amount which corresponds to the establishment’s risk level as calculated in the Department’s Operational Assessment Worksheet. The Food Establishment Permit fees are:

Risk Level 1:	\$150
Risk Level 2:	\$265
Risk Level 3:	\$380
Risk Level 4:	\$495

5.1.2 **Temporary Food Establishment Permit Fee.** Any applicant who applies for a Temporary Food Establishment Permit as required by 4.1.1 (iii)(a)-(c) of this regulation shall remit to the Department a Temporary Food Establishment Permit fee according to the schedule below. Risk shall be determined by the types of foods to be served.

Low Risk One Day Temporary Food Establishment	\$45
Low Risk Three Day Temporary Food Establishment	\$50
Low Risk Extended Fourteen Day Temporary Food Establishment	\$295
High Risk One Day Temporary Food Establishment	\$65
High Risk Three Day Temporary Food Establishment	\$95
High Risk Extended 14-day Temporary Food Establishment	\$395
Low Risk Seasonal Temporary Food Establishment	\$380
High Risk Seasonal Temporary Food Establishment	\$495

5.1.3 **Food Cart, Mobile Food Unit, and Shaved-Ice Stand Permit Fee.** Any applicant who applies for a Food Cart or Mobile Food Unit Permit as required by 4.1.1(iii)(d)-(f) of this regulation shall remit to the Department a permit fee according to the schedule below:

Risk Level 1 Food Carts and Mobile Food Cart Units (not applicable to seasonal operations)	\$220
Risk Level 2 Food Carts and Mobile Food Units (not applicable to seasonal operations)	\$255

Risk Level 3 Food Carts and Mobile Food Units (not applicable to seasonal operations)	\$305
Risk Level 1 Seasonal Food Cart/Seasonal Mobile Food Unit and Shaved-Ice Stands	\$150
Risk Level 2 Seasonal Food Cart/Seasonal Mobile Food Unit	\$185
Risk Level 3 Seasonal Food Cart/Seasonal Mobile Food Unit	\$235

5.1.4 **Food Establishment Plan Review Fee.** The fee for a Food Establishment Plan review required under 4.8.1 of this regulation shall be remitted to the Department at the time that plans are submitted for review and shall be determined according to the schedule below:

Risk Level 1 Food Establishments:	\$350
Risk Level 2 Food Establishment:	\$550
Risk Level 3 Food Establishments:	\$800
Risk Level 4 Food Establishments:	\$1200
Food Cart or Mobile Food Unit, Seasonal Food Cart/Seasonal Mobile Food Unit, and Shaved-ice Stand	\$250

5.1.5 **Food Establishment Follow-Up Inspection Fee.** The Department will charge a follow-up fee to the owner, permit holder or other person in charge of a food establishment when conditions found during an inspection require a follow-up inspection to ensure compliance. The fee for a food establishment follow-up inspection is \$100.

5.1.6 **Food Handler Card Fee.** Any applicant who applies for a Food Handler Card as required by 4.1.3(ii)(a) of this regulation and who receives his or her training from the Department or a Department-authorized Trainer shall remit to the Trainer a Food Handler Card fee of \$15 upon application.

5.1.7 **Food Safety Manager Certification Fee.** The fee to register for Food Safety Manager Certification required in 4.1.4(ii)(a) of this regulation shall be \$15.

5.1.8 **Document Replacement Fee.** The fee to replace a current food handler card or current food safety manager certificate shall be \$10.

5.1.9 **HACCP Plan Review Fee.** The fee for HACCP Plan review as required under part 4.8.3 and chapter 4.6.54(iv)(a) shall be remitted to the Department at the time of application for the review, and when an annual review is required due to modification or changes made to a previously approved HACCP plan. The HACCP Plan review shall be \$350.

5.1.10 **HACCP Plan Annual Renewal Fee.** The fee for an annual review of a HACCP Plan with no modifications or changes as required under chapter 4.6.54(iv)(d) shall be \$100.

5.2 Unless otherwise provided for in this regulation or approved by the Director in the Department’s Fee Standard, all fees collected by the Department are non-refundable. All licenses and permits issued by the Department are non-transferable.

5.3 Late Fees.

5.3.1 The Department may impose upon any party subject to this regulation penalties and charges for failure to timely pay service and license or permit fees as set out in this regulation. Attorney’s fees and collection fees may also be applied.

5.3.2 Fees unpaid to the Health Department after one month of the due date will be assessed a penalty of 10% of the outstanding balance. Failure to pay the fees and additional charges after two months of the due date will be assessed an additional penalty of 15% of the outstanding balance including previous penalties. Failure to pay the fees and additional charges after 100 days of the due date will result in suspension of the permit and the right to operate. A \$40.00 charge will be assessed for each returned check.

5.3.3 **Temporary Food Establishment Late Application Fee.** Applicants for a Temporary Food Establishment Permit as required by 4.1.1(iii)(a)-(c) of this regulation who apply for a Temporary Food Establishment Permit 12 or fewer calendar days before the event date shall remit, in addition to the Temporary Food Establishment Fee, a late application fee according to the schedule below. In the event that multiple permits are obtained for a single event, only one late fee will be applied per Temporary Food Establishment per event.

<u>Establishment Type</u>	<u>Permit Fee</u>	<u>Late Application Fee</u>	<u>Total Cost</u>
Low Risk One Day Temporary Food Establishment	\$45	\$35	\$80
Low Risk Three Day Temporary Food Establishment	\$50	\$35	\$85
Low Risk Extended Fourteen Day Temporary Food Establishment	\$295	\$35	\$330
High Risk One Day Temporary Food Establishment	\$65	\$35	\$100
High Risk Three Day Temporary Food Establishment	\$95	\$35	\$130
High Risk Extended 14-day Temporary Food Establishment	\$395	\$35	\$430
Low Risk Seasonal Temporary Food Establishment	\$380	\$35	\$415
High Risk Seasonal Temporary Food Establishment	\$495	\$35	\$530

5.3.4. **Late Notification Fee.** Any Extended Fourteen Day Temporary Food Establishment permit holder who fails to give at least 12 days notice to the Department of their intent to operate at an event shall remit to the Department a late notification fee of \$35 in addition to the permit fee.

5.4 **Denial, Suspension, or Revocation of License or Permit.** Any license, certification, or permit applied for or issued pursuant to this regulation may be denied, suspended, or revoked by the Director for any of the following reasons:

- 5.4.1 Failure of the application, plans, or specifications to show that the food establishment will be operated or maintained in accordance with the requirements and standards of this regulation;
- 5.4.2 Submission of incorrect or false information in the application, plans, or specifications;
- 5.4.3 Failure to operate or maintain the food establishment in accordance with the application, report, plans, and specifications approved by the Director;
- 5.4.4 Failure of the owner or operator of a food establishment to permit or allow the Department to conduct inspections as necessary to determine compliance with this regulation;
- 5.4.5 Operation of the food establishment in a way that causes or creates a nuisance or hazard to the public health, safety, or welfare;
- 5.4.6 Violation of this regulation, or any other restrictions or requirements adopted by the Board of Health;
- 5.4.7 Violation of any condition upon which the permit was issued; or
- 5.4.8 Failure to pay a license, certificate or permit fee or any late fees within 100 days of the license, certificate or permit fee's due date.

5.5 Progressive Permit Suspension and Revocation.

- 5.5.1 Receipt of the first permit suspension shall result in suspension of food service operations until the Department has verified that identified violations of this regulation have been corrected.
- 5.5.2 Receipt of a second permit suspension shall result in suspension of food service operations for a period of a minimum of seven days.
- 5.5.3 Receipt of a third permit suspension may result in the food establishment permit being revoked. The owner of the said establishment may be restricted from

operating a food establishment for a minimum of 180 days, at which time the owner may be required to make application and submit a plan review etc., as if the establishment was a new establishment. Additional requirements may be required by the Department for approval of the establishment to operate.

6. INSPECTIONS AND INVESTIGATIONS

6.1 To ensure compliance, the Department has the authority to perform inspections, investigations, reviews, and other actions as necessary including but not limited to the authority to examine, sample, and test food in order to determine its compliance with this Regulation.

6.2 **Preoperational Inspections.** The Department may 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 4.8.2(v), and is in compliance with the law and this regulation.

6.3 Operational Inspection Intervals.

6.3.1 Except as specified in 6.3.2, the Department may inspect a food establishment at least once every 6 months and seasonal operations shall be inspected twice a season.

6.3.2 The Department may lengthen the interval between inspections beyond six months if:

- (i) The food establishment is fully operating under an approved and validated HACCP plan as specified under 4.8.4 and 7.4.2;
- (ii) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.

6.3.3 **Performance and Risk-Based Inspection Interval.** The Department may shorten the interval between inspections if the Department determines it necessary according to the food establishment's history of compliance with this regulation and the establishment's potential as a vector of foodborne illness by evaluating:

- (i) Past performance, for nonconformance with Regulation or HACCP plan requirements that are critical;
- (ii) Past performance, for numerous or repeat violations of Regulation or HACCP plan requirements that are noncritical;

- (iii) Past performance, for complaints investigated and found to be valid;
- (iv) The hazards associated with the particular foods that are prepared, stored, or served;
- (v) The type of operation including the methods and extent of food storage, preparation, and service;
- (vi) The number of people served; and
- (vii) Whether the population served is a highly susceptible population.

6.3.4 **Temporary Food Establishments.** The Department shall periodically inspect throughout its permit period a temporary food establishment that prepares, sells or serves unpackaged foods or potentially hazardous packaged food and that:

- (i) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- (ii) Has inexperienced food employees.

6.4 Authority for Department to Enter Premises.

6.4.1 **Regulated Commercial Premises.** Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the Department, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the Division of Occupational and Professional Licensing.

6.4.2 **Unregulated Commercial Premises.** The Department may enter upon the premises of unregulated commercial properties upon the consent of the owner or otherwise responsible party or upon a warrant issued by a court.

6.4.3 **Consent by License or Permit.** The Department may require licensees or permittees to consent to access for inspections as part of their license or permit. Failure to allow access for inspections as set out in the license or permit may result in the suspension or revocation of the license or permit.

6.5 The owner or other responsible person may request information gathered by the Department during an investigation, inspection or review as authorized by the Government Records Access and Management Act, §§ 63G-2-101 to -901 (2011).

7. ENFORCEMENT MECHANISMS. If the Department has investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this regulation or the Department has other reasonable grounds to believe that there has been a violation of any part of this regulation or that the property owner or otherwise responsible party is not in compliance with this regulation, the Department may take civil enforcement action as authorized by statute, rule, ordinance, and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

7.1 Criminal Enforcement Actions. The Department may recommend criminal prosecution for environmental violations either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity. Factors that the Department may consider in recommending criminal enforcement include the following factors and any other relevant factors.

- 7.1.1 The nature and seriousness of the offense including the immediacy of the threat of danger to the life or safety of another or the harm or threatened harm to human health or environment;
- 7.1.2 The degree to which the violation was designed to provide economic gain or cost avoidance or it involved a pattern of conduct or a common attitude of illegal conduct;
- 7.1.3 The degree to which the offender is a known violator and has avoided prior actions by the department;
- 7.1.4 The degree to which prosecution might deter future violations;
- 7.1.5 The person's actual culpability in connection with the offense including the presence in connection with the offense including the presence of criminal intent;
- 7.1.6 The person's willingness to cooperate in the investigation including whether the violator has attempted to conceal evidence or prosecution of others;
- 7.1.7 The appropriateness of referring the case to other agencies having prosecutorial interest; and
- 7.1.8 Possibilities of civil remedies which would be more appropriate than initiating the criminal justice process.

7.2 Civil Enforcement Actions. The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

7.3 Administrative Actions.

7.3.1 Inspection Report Notice of Violation. At the conclusion of a food establishment inspection, the Department shall provide a copy of a completed inspection report to the permit holder or other person in charge, and request a signed acknowledgement of receipt. At the Department's discretion and if so noted on the Inspection Report, the Department may deem the Inspection Report to be an official Notice of Violation & Order of Compliance ("Inspection Report NOV" or "NOV").

- (i) **Service of Inspection Report NOV.** The Department may provide notice of violation of this regulation by personally serving it on to the owner permit holder, food establishment owner, or other person in charge or by sending the Inspection Report NOV via first class mail to the last known address of the permit holder, food establishment owner, or other person in charge. If notice is returned undeliverable, the permit holder, food establishment owner, or other person in charge may be given notice by other methods reasonably calculated to give actual notice to the owner or other person in charge.
- (ii) **Contents of NOV.** The NOV shall:
 - a. Describe the property and the persons believed to be in violation;
 - b. Describe the violation;
 - c. Describe remedial action that will comply with the provisions of this regulation;
 - d. Set a reasonable time for the performance of any required remedial action(s);
 - e. Describe the procedure to contest the NOV and the time limits for such a contest; and
 - f. Notify permit holder, food establishment owner, or other person in charge that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.

7.3.2 Timely Correction.

- (i) Except as specified in subpart (ii) of this part, a permit holder, food establishment owner, or other person in charge shall at the time of inspection correct a critical violation of this Regulation and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.
- (ii) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the permit holder, food establishment owner, or other person in charge to correct critical regulation violations or HACCP plan deviations.
- (iii) Except as specified in subpart (iv) of this part, the permit holder shall correct noncritical violations by a reasonable date and time agreed to or specified by the Department but no later than 30 calendar days after the inspection.
- (iv) The Department may approve an alternative compliance schedule if a written schedule of compliance is submitted by the permit holder and no immediate health hazard exists or will result from allowing an extended schedule for compliance.

7.3.3 Challenging an NOV. As detailed in the Department's Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal in writing within ten (10) days of the date of the NOV.

7.3.4 Departmental Conference, Settlement Agreements, and Stipulations and Orders.

- (i) After issuance of the NOV, the alleged violator has the option to request and attend a Departmental Conference to discuss the NOV and settlement with the Department. No hearing officer will be present. The process of requesting a Departmental Conference is more fully described in the Department's Adjudicative Hearing Procedures.
- (ii) If the parties agree to a settlement, the Department will prepare, in conjunction with the District Attorney's Office, a binding Settlement Agreement or Stipulation & Consent Order which may require the payment of penalties and the costs of investigation. Parties may also agree to a settlement at any time subsequent to the Departmental Conference. After signing a Settlement Agreement or Stipulation & Consent Decree, the parties waive all rights to further department and court hearings or appeals. Settlement Agreements or Stipulation & Consent orders may be enforced in state courts.

- (iii) **Hearings & Appeals.** Parties Aggrieved by an NOV may also request a Departmental Hearing or a Departmental Appeal. A hearing officer is present at these proceedings and makes a written determination. The methods of challenging an NOV are more fully described in the Department's Adjudicative Hearing Procedures. Departmental Hearing Orders and Departmental Appeal Orders may be appealed to the entities and within the time limits set out in the Department's Adjudicatory Hearing Procedures.
- (iv) **Failing to respond to an NOV.** If a party fails to respond to an NOV within the required time, the NOV becomes a final order unappealable to any administrative entity or court. The Department may then enforce the order in state court.

7.4 Additional Administrative Enforcement Authority.

7.4.1 The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.

7.4.2 Variances.

- (i) Variances –Modifications and Waivers
 - a. The Salt Lake Valley Board of Health may grant a variance by modifying or waiving the requirements of this Regulation if, in the opinion of the Board, a health hazard or nuisance will not result from the variance. If a variance is granted, the Department shall retain the information in its records for the food establishment.
 - b. A variance or waiver issued by the Department and the documentation required must be copied to the Utah Department of Health within five working days of issuance.
 - c. A variance or waiver intended for a food establishment which is of a chain with stores in more than one local health jurisdiction in the State, must be approved by the Utah Department of Health prior to issuance.
- (ii) **Documentation of Proposed Variance and Justification.** Before a variance from a requirement of this regulation is approved, the information that shall be provided by the person requesting the variance and retained in the Department's file on the food establishment includes:
 - a. A statement of the proposed variance of the regulation requirement citing relevant regulation provision numbers;

- b. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant regulation provisions will be alternatively addressed by the proposal;
 - c. A HACCP plan if required as specified under 4.8.3(i) that includes the information specified under 4.8.4 as it is relevant to the variance requested.
- (iii) **Conformance with Approved Procedures.** If the Board grants a variance as specified in 7.4.2, or a HACCP plan is otherwise required as specified under 4.8.3, the permit holder shall:
- a. Comply with the HACCP plans and procedures that are submitted as specified under 4.8.4 and approved as a basis for the modification or waiver; and
 - b. Maintain and provide to the Department, upon request, records specified under 4.8.4(iv)-(v) that demonstrate that the following are routinely employed:
 - i. Procedures for monitoring critical control points,
 - ii. Monitoring of the critical control points,
 - iii. Verification of the effectiveness of an operation or process, and
 - iv. Necessary corrective actions if there is failure at a critical control point.

7.4.3 Exercise of Physical Control.

- (i) The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. The order shall be effective immediately. Any person to whom the order is directed shall comply immediately but may petition the Director for a hearing in accordance with the Salt Lake Valley Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director shall continue the order in effect or modify or revoke it.
- (ii) **Impoundment of Adulterated Food Products Authorized.** The Department may issue a hold order to a permit holder or person in charge to impound any adulterated food product without prior written warning or

hearing. Food placed under a hold order may not be used, sold, or served, from the establishment by any person.

- (iii) **Hold Order – Official Tagging of Food.** The Department shall securely place an official tag or label on the food or containers or otherwise conspicuously identify food subject to the hold order.
- (iv) **Food Subject to Hold Order.** The Department may allow the permit holder the opportunity to store the food in an area of the food establishment if the food is protected from subsequent deterioration and the storage does not restrict operation of the establishment. If the Department has reasonable suspicion to believe that the hold order will be violated, or finds that the order is violated, the Department may order the removal of the food that is subject to the order to a place of safekeeping.
- (v) **Releasing Food from Hold Order.** Upon determination that the food is fit for consumption, the Department shall issue a notice of release from a hold order and may authorize the permit holder to physically remove the hold tags, labels, or other identification from the food if the hold order is vacated.

7.4.4 Emergency Enforcement

- (i) If the Director finds that an emergency exists that requires immediate action to protect the public health, he or she may without notice or hearing issue an order declaring the existence of an emergency and requiring that action be taken as he deems necessary to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply and abate the nuisance immediately; but may petition the Director for a hearing in accordance with the Salt Lake Valley Health Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this regulation, the Director shall continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.
- (ii) **Summary Permit Suspension.** The Department may summarily suspend, without prior warning, notice of a hearing or a hearing, a permit to operate a food establishment if it determines through inspection, or examination of employees, food, records, or other means as specified in this Regulation, that an imminent health hazard exists.
- (iii) **Contents of Summary Suspension Notice.** A summary suspension notice shall state:

- a. That the food establishment permit is immediately suspended and that all food operations shall immediately cease;
- b. The reasons for summary suspension with reference to the provisions of this Regulation that are in violation;
- c. The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
- d. Within 5 days of the date of suspension, a permit holder may challenge the permit suspension by submitting a written request for a conference or hearing as set out in the Department's Adjudicative Procedures.

(iv) **Term of Suspension, Reinstatement of Permit.**

- a. A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the Department through reinspection and other means as appropriate.
- b. The permit shall be reinstated immediately if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the permit holder or person in charge.

8. CRIMINAL, CIVIL AND ADMINISTRATIVE PENALTIES

8.1 Criminal Penalties.

- 8.1.1 Any person who is found guilty by a court of violating any of the provisions of this regulation, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Utah Code Ann. § 26A-1-123 (2011).
- 8.1.2 Each day such violation is committed or permitted to continue shall constitute a separate violation.
- 8.1.3 Each similar subsequent violation occurring within two years of the initial violation may constitute a Class A misdemeanor.

8.2 Civil and Administrative Penalties.

8.2.1 Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:

- (i) The violator's history of compliance or non-compliance;
- (ii) The violator's economic benefit of non-compliance;
- (iii) The documented costs associated with environmental or health damage;
- (iv) The violator's degree of willfulness or negligence; and
- (v) The violator's good faith efforts to comply and cooperate.

8.2.2 The Director may multiply the penalty by the number of days the violation occurred

8.3 Recovery of Investigation and Abatement Costs

8.3.1 The Department may recover its inspection, investigative and abatement expenses and costs from owners or other responsible person.

8.3.2 The Department may record a judgment lien on a violator's property to recover its expenses and costs.

9. EFFECTIVE DATE

9.1. This regulation shall become effective upon its adoption by the Salt Lake Valley Board of Health.

APPROVED AND ADOPTED this _____ day of _____, 2012.

SALT LAKE VALLEY BOARD OF HEALTH

By _____
PAULA JULANDER, Chair

ATTEST:

Gary L. Edwards, M.S.
Executive Director
Salt Lake Valley Health Department