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## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1200-23-01	Food Service Establishment
Rule Number	Rule Title
1200-23-01-.01	Definitions
1200-23-01-.02	Food Sanitation
1200-23-01-.03	Establishment Permitting and Inspection System
1200-23-01-.04	Fees
1200-23-01-.05	Loss of Permit Document
1200-23-01-.06	General Provisions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-23-01  
Food Service Establishment

Chapter 1200-23-01 Food Service Establishment is being amended by repealing the Chapter in its entirety and substituting instead the following language, so that as amended, the new Chapter shall read as follows:

Table of Contents

1200-23-01-.01	Definitions
1200-23-01-.02	Management and Personnel
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1200-23-01-.04	Equipment, Utensils, and Linens
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1200-23-01-.06	Physical Facilities
1200-23-01-.07	Poisonous or Toxic Materials
1200-23-01-.08	Compliance and Enforcement

1200-23-01-.01 Definitions.

(1) Accredited Program.

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

(2) Additive.

- (a) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR § 170.3(e)(1).
- (b) "Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR § 70.3(f).

(3) "Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 402.

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

(5) Asymptomatic

- (a) "Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice.
- (b) "Asymptomatic" includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

- (6) "Aw" means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol  $A_w$ .
- (7) "Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.
- (8) "Beverage" means a liquid for drinking, including water.
- (9) "Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.
- (10) "Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.
- (11) "Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.
- (12) "CFR" means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR § 180.194 refers to Title 40, Part 180, Section 194.
- (13) CIP
- (a) "CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.
- (b) "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.
- (14) "Commingle" means:
- (a) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or
- (b) To combine shucked shellfish from containers with different container codes or different shucking dates.
- (15) "Comminuted" means:
- (a) "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.
- (b) "Comminuted" includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.
- (16) "Commissary" means a food establishment that services a mobile food unit or a pushcart.
- (17) "Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title I of the Americans with Disabilities Act of 1990.
- (18) "Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as

the source of the illness.

- (19) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.
- (20) Core Item.
  - (a) "Core item" means a provision in this chapter that is not designated as a priority item or a priority foundation item.
  - (b) "Core item" includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (ssops), facilities or structures, equipment design, or general maintenance.
- (21) "Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.
- (22) "Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.
- (23) "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.
- (24) "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.
- (25) "Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.
- (26) "Department" means the Tennessee Department of Health or its authorized agent.
- (27) "Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.
- (28) "Disclosure" means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.
- (29) Drinking Water.
  - (a) "Drinking water" means water that meets criteria as specified in 40 CFR Part 141 National Primary Drinking Water Regulations.
  - (b) "Drinking water" is traditionally known as "potable water."
  - (c) "Drinking water" includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.
- (30) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous (time /temperature control of safety food) and dry goods such as single-service items.

- (31) Easily Cleanable.
- (a) "Easily cleanable" means a characteristic of a surface that:
1. Allows effective removal of soil by normal cleaning methods;
  2. Is dependent on the material, design, construction, and installation of the surface; and
  3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.
- (b) "Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in Subparagraph (a) of this definition to different situations in which varying degrees of cleanability are required such as:
1. 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
  2. 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.
- (32) "Easily movable" means:
- (a) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and
- (b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.
- (33) Egg.
- (a) "Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites or turkey.
- (b) "Egg" does not include:
1. A balut;
  2. The egg of reptile species such as alligator; or
  3. An egg product.
- (34) Egg Product.
- (a) "Egg Product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs.
- (b) "Egg Product" does not include food that contains eggs only in a relatively small proportion such as cake mixes.
- (35) "Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.
- (36) "Enterohemorrhagic Escherichia coli (EHEC)" means 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 see SHIGA TOXIN-PRODUCING E. COLI.

- (37) "EPA" means the U.S. Environmental Protection Agency.
- (38) Equipment.
- (a) "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, or ware washing machine.
- (b) "Equipment" does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.
- (39) "Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.
- (40) "FDA" means the U.S. Food and Drug Administration.
- (41) Fish.
- (a) "Fish" means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.
- (b) "Fish" includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.
- (42) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
- (43) "Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.
- (44) "Food-contact surface" means:
- (a) A surface of equipment or a utensil with which food normally comes into contact; or
- (b) A surface of equipment or a utensil from which food may drain, drip, or splash:
1. Into a food, or
  2. onto a surface normally in contact with food.
- (45) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.
- (46) "Food Establishment" means:
- (a) Any establishment, place or location, whether permanent, temporary, seasonal or itinerant, where food is prepared and the public is offered to be served, or is served, food, including, but not limited to, foods, vegetables, or beverages not in an original package or container, food and beverages dispensed at soda fountains and delicatessens, sliced watermelon, ice balls, or water mixtures. "Food establishment" includes any such places regardless of whether there is a charge for the food.
- (b) "Food establishment" does not include private homes where food is prepared or served and not

offered for sale, retail food store operations other than delicatessens, the location of vending machines, and supply vehicles.

- (c) "Food establishment" does not include churches, temples, synagogues or other religious institutions, civic, fraternal, or veteran's organizations where food is prepared, served, transported, or stored by volunteer personnel only on non-consecutive days; provided, however, that the storage of unopened, commercially canned food, packaged bulk food that is not potentially hazardous (time/temperature control for safety food) and dry goods shall not apply for these purposes;
  - (d) "Food establishment" does not include grocery stores that may, incidentally, make infrequent casual sales of uncooked foods for consumption on the premises, or any establishment whose primary business is other than food service, that may, incidentally, make infrequent casual sales of coffee or prepackaged foods, or both, for consumption on the premises. For the purposes of this subparagraph, infrequent casual sales means sales not in excess of one hundred fifty dollars (\$150) per day on any particular day;
  - (e) "Food establishment" does not include a location from which casual, occasional food sales are conducted solely in connection with youth-related amateur athletic or recreational activities or primary or secondary school-related clubs by volunteer personnel and that are in operation for twenty-four (24) consecutive hours or less;
  - (f) "Food establishment" does not include a catering business that employs no regular, full-time employees, the food preparation for such business is solely performed within the confines of the principal residence of the proprietor, and the catering business makes only "occasional sales" during any thirty-day period; and
  - (g) "Food establishment" does not include a house or other residential structure where seriously ill or injured children and their families are provided temporary accommodations in proximity to their treatment hospitals and where food is prepared, served, transported or stored by volunteer personnel; provided, that the house or structure is supported by a § 501(c)(3) organization, as defined in 26 U.S.C. § 501(c)(3), that has as a component of its mission the support of programs that directly improve the health and well-being of children.
- (47) Food Processing Plant.
- (a) "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments.
  - (b) "Food processing plant" does not include a food establishment.
- (48) Game Animal.
- (a) "Game animal" means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR § 301.2 Definitions, or as poultry, or fish.
  - (b) "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.
  - (c) "Game animal" does not include ratites.
- (49) "General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR § 152.175 Pesticides classified for restricted use.
- (50) "Good repair" means equipment and utensils shall be maintained in a state of repair and condition that meets the requirements specified under 1200-23-01-.04.

- (51) "Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.
- (52) "HACCP plan" means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.
- (53) Handwashing Sink.
- (a) "Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.
- (b) "Handwashing sink" includes an automatic handwashing facility.
- (54) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.
- (55) "Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, or physician assistant.
- (56) "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.
- (57) "Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:
- (a) Immunocompromised; preschool age children, or older adults; and
- (b) Obtaining food at a facility that provides services 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.
- (58) "Imminent health hazard" means any condition, deficiency, or practice that, if not corrected, is very likely to result in illness, injury, or loss of life to any person.
- (59) "Injected" means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping".
- (60) Juice.
- (a) "Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée.
- (b) "Juice" does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.
- (61) "Kitchenware" means food preparation and storage utensils.
- (62) "Law" means applicable local, state, and federal statutes, regulations, and ordinances.
- (63) "Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.
- (64) Major Food Allergen.
- (a) "Major food allergen" means:
1. Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as

crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

2. A food ingredient that contains protein derived from a food, as specified in part (a) 1. of this definition.

(b) "Major food allergen" does not include:

1. Any highly refined oil derived from a food specified in part (a)1. of this definition and any ingredient derived from such highly refined oil; or
2. 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).

(65) "Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goat, other edible animals except fish, poultry, and wild game animals as specified under 1200-23-01-.03 (a) 3 and 4.

(66) Mechanically Tenderized.

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

(b) "Mechanically tenderized" does not include processes by which solutions are injected into meat.

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

(68) "Mobile food unit" means a food establishment designed to be readily moved and vend food.

(69) "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(70) Non-Continuous Cooking.

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

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

(71) Packaged.

(a) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant.

(b) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(72) "Permit" means the document issued by the department that authorizes a person to operate a food establishment.

(73) "Permit holder" means the entity that:

(a) Is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and

(b) Possesses a valid permit to operate a food establishment.

- (74) "Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.
- (75) "Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.
- (76) Personal Care Items.
- (a) "Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.
- (b) "Personal care items" include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.
- (77) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.
- (78) "Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.
- (79) "Plumbing fixture" means a receptacle or device that:
- (a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or
- (b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.
- (80) "Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.
- (81) "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in 4 categories:
- (a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- (c) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- (d) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.
- (82) "Poultry" means:
- (a) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR § 381.1 Poultry Products Inspection Regulations Definitions, Poultry, and
- (b) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR § 362.1 Voluntary Poultry Inspection Regulations, Definitions.
- (83) "Premises" means:

- (a) The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or
  - (b) The physical facility, its contents, and the land or property not described in Subparagraph (a) 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.
- (84) "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.
- (85) Priority Item.
- (a) "Priority item" means a provision in this Chapter whose application contributes directly to the elimination, prevention or reduction to an acceptable level, of hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.
  - (b) "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and
  - (c) "Priority item" is an item that is denoted in this chapter with (P).
- (86) Priority Foundation Item.
- (a) "Priority foundation item" means a provision in this chapter whose application supports, facilitates or enables one or more priority items.
  - (b) "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and
  - (c) "Priority foundation item" is an item that is denoted in this chapter with (Pf).
- (87) "Public water system" has the meaning stated in 40 CFR Part 141 National Primary Drinking Water Regulations.
- (88) "Ratite" means a flightless bird such as an emu, ostrich, or rhea.
- (89) "Ready-to-Eat Food" means food that:
- (a) Is in a form that is edible without additional preparation to achieve food safety, as specified under one of the following 1200-23-01-.03 (4)(a)1(i) or (ii), 1200-23-01-.03 (4)(a)2, or 1200-23-01-.03(4)(b)1 or as specified in 1200-23-01-.03 (4)(a)1(iii); or
  - (b) Is a raw or partially cooked animal food and the consumer is advised as specified in 1200-23-01-.03 (4)( a)1(iv) (I)and (III); or
  - (c) Is prepared in accordance with a variance that is granted as specified in 1200-23-01-.03 (4)( a) 1(iv)(IV); and
  - (d) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.
  - (e) "Ready-to-eat food" includes:
    - 1. Raw animal food that is cooked as specified under or 1200-23-01-.03 (4)(a)1, or frozen as specified under 1200-23-01-.03(4)(b);

2. Raw fruits and vegetables that are washed as specified under or 1200-23-01-.03(3)(b)5;
3. Fruits and vegetables that are cooked for hot holding, as specified under or 1200-23-01-.03(4)(a)3;
4. All potentially hazardous food time/temperature control for safety food that is cooked to the temperature and time required for the specific food under or 1200-23-01-.03(4) and cooled as specified under or 1200-23-01-.03(5)(a)4;
5. 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;
6. Substances derived from plants such as spices, seasonings, and sugar;
7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
8. 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
9. Food manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(90) Reduced Oxygen Packaging.

(a) "Reduced oxygen packaging" means:

1. The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and
2. A process as specified in part (a)1. of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(b) "Reduced oxygen packaging" includes:

1. Vacuum packing, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;
2. 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;
3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;
4. Cook chill packaging, in which cooked food is hot filled into impermeable bags that 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

5. 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.

- (91) "Refuse" means solid waste not carried by water through the sewage system.
- (92) "Reminder" means a written statement concerning the health risk of consuming animal food raw, undercooked, or without otherwise being processed to eliminate pathogens.
- (93) "Re-service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.
- (94) "Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.
- (95) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR § 590.5.
- (96) "Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR § 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.
- (97) "Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.
- (98) "Safe material" means:
- (a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
  - (b) An additive that is used as specified in § 409 of the Federal Food, Drug, and Cosmetic Act; or
  - (c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.
- (99) "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.
- (100) "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.
- (101) "Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.
- (102) "Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.
- (103) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.
- (104) "Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.
- (105) "Shellstock" means raw, in-shell molluscan shellfish.

- (106) "Shiga toxin-producing Escherichia coli (STEC)" means any E. coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). Examples of serotypes of STEC include both O157 and non-O157 E. coli. Also see Enterohemorrhagic Escherichia Coli.
- (107) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.
- (108) "Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.
- (109) Single-Use Articles.
- (a) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded.
- (b) "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under 1200-23-01-.04-(1)(a), (2)(a), and (b) for multiuse utensils.
- (110) "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.
- (111) "Smooth" means:
- (a) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;
- (b) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and
- (c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.
- (112) "Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.
- (113) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.
- (114) "Temporary food establishment" means a food establishment that operates at a fixed location in conjunction with an organized temporary event for more than one (1) day and not more than fourteen (14) consecutive days.
- (115) Time/Temperature Control for Safety Food.
- (a) "Time/temperature control for safety food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.
- (b) "Time/temperature control for safety food" includes:
1. An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

2. Except as specified in Subpart 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
$\leq 0.92$	non-TCS FOOD*	non-TCS FOOD	non-TCS FOOD
> 0.92 - .95	non-TCS FOOD	non-TCS FOOD	PA**
> 0.95	non-TCS FOOD	PA	PA

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

Table B. Interaction of pH and $A_w$ for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged				
$A_w$ values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 – 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
> 0.90 – 0.92	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA

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

3. "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-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:
  - (I) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,
  - (II) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or
  - (III) A combination of intrinsic and extrinsic factors; or
- (v) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparts 3.(i) – 3.(iv) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

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

(117) "Utensil" means a food contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single use, gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

(118) "Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

(119) "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

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

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

#### Rule 1200-23-01-.02 Management and Personnel

(1) Supervision.

(a) Responsibility.

1. Assignment.

(i) 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. (Pf)

- (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 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.
- (b) Knowledge.
- 1. Demonstration.
    - (i) Based on the risks inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the department knowledge of foodborne disease prevention, application of the Hazard Analysis and Critical Control Point principles, and the requirements of these rules. The Person in Charge shall demonstrate this knowledge by:
      - (I) Complying with these rules by having no violations of Priority Items during the current inspection; (Pf)
      - (II) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an Accredited Program; (Pf) or
      - (III) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
        - I. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee; (Pf)
        - II. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease; (Pf)
        - III. Describing the symptoms associated with the diseases that are transmissible through food; (Pf)
        - IV. Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness; (Pf)
        - V. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish; (Pf)
        - VI. Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish; (Pf)
        - VII. 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; (Pf)
        - VIII. Describing the relationship between the prevention of foodborne illness and the management and control of the following:
          - A. Cross contamination, (Pf)
          - B. Hand contact with ready-to-eat foods, (Pf)

- C. Handwashing; (Pf) and
  - D. Maintaining the food establishment in a clean condition and in good repair; (Pf)
- IX. Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction. (Pf)
  - X. Explaining the relationship between food safety and providing equipment that is:
    - A. Sufficient in number and capacity; (Pf) and
    - B. Properly designed, constructed, located, installed, operated, maintained, and cleaned; (Pf)
  - XI. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment; (Pf)
  - XII. Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections; (Pf)
  - XIII. Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law; (Pf)
  - XIV. 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 these regulations; (Pf)
  - XV. Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this chapter, or an agreement between the department and the food establishment; (Pf)
  - XVI. Explaining the responsibilities, rights, and authorities assigned by these regulations to the:
    - A. Food employee, (Pf)
    - B. Conditional employee, (Pf)
    - C. Person in charge, (Pf)
    - D. Department; (Pf) and
  - XVII. Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees. (Pf)

## 2. Food Protection Manager Certification

- (i) A Person in Charge who demonstrates knowledge by being a food protection manager certified by a food protection manager certification program evaluated and listed by a Conference for Food Protection-recognized accrediting agency as

conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with 1200-23-01-.02(1)(b)1.(III).

(c) Duties.

1. Person in Charge. 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 1200-23-01-.06(2)(b)10; (Pf)
- (ii) Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that the person in charge may authorize brief visits and tours if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination; (Pf)
- (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 these regulations; (Pf)
- (iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing; (Pf)
- (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; (Pf)
- (vi) Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated and accurately presented;
- (vii) Employees are properly cooking time/temperature control for safety food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under 1200-23-01-.04 (2)(c) or 1200-23-01-.04 (5) (b); (Pf)
- (viii) Employees are using proper methods to rapidly cool potentially hazardous foods (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; (Pf)
- (ix) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 1200-23-01-.03(6)(c) that the food is not cooked sufficiently to ensure its safety; (Pf)
- (x) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing; (Pf)
- (xi) 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 1200-23-01-.03 (3)(d)6; (Pf)

- (xii) Except when approval is obtained from the department as specified in 1200-23-01-.03 (3)(a)1(v), employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment; (Pf)
- (xiii) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties; (Pf)
- (xiv) 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 part (2)(a)1; (Pf) and
- (xv) Written procedures and plans, where established by this rule and as developed by the food establishment are maintained and implemented as required.

(2) Employee Health

(a) Responsibility of Permit Holder, Person in Charge, and Conditional Employees.

1. 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 illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(i) Has any of the following symptoms:

- (I) Vomiting, (P)
- (II) Diarrhea, (P)
- (III) Jaundice, (P)
- (IV) Sore throat with fever, (P) or
- (V) A lesion containing pus such as a boil or infected wound that is open or draining and is:
  - I. On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover, (P)
  - II. On exposed portions of the arms, unless the lesion is protected by an impermeable cover, (P) or
  - III. On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage; (P)

(ii) Has an illness diagnosed by a health practitioner due to:

- (I) Norovirus, (P)
- (II) Hepatitis A virus, (P)
- (III) Shigella spp., (P)

- (IV) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, (P) or
  - (V) Salmonella Typhi or non-Typhi; (P)
  - (iii) 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; (P)
  - (iv) 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: (P)
    - (I) Norovirus within the past 48 hours of the last exposure, (P)
    - (II) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, or Shigella spp. within the past 3 days of the last exposure, (P)
    - (III) Salmonella Typhi within the past 14 days of the last exposure, (P) or
    - (IV) Hepatitis A virus within the past 30 days of the last exposure; (P) or
  - (v) 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, (P)
    - (II) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, (P) or Shigella spp. within the past 3 days of the last exposure,
    - (III) Salmonella Typhi within the past 14 days of the last exposure, (P) or
    - (IV) Hepatitis A virus within the past 30 days of the last exposure. (P)
2. The person in charge shall notify the department when a food employee is:
- (i) Jaundiced, (Pf) or
  - (ii) Diagnosed with an illness due to a pathogen as specified under items 1(ii)(I) - (V) of this subparagraph. (Pf)
3. The person in charge shall ensure that a conditional employee:
- (i) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under subparts 1.(i) - 1.(iii) of this subparagraph, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 1200-23-01-.02(2)(c); (P) and
  - (ii) Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under subparts 1.(iv) – 1.(v) of this subparagraph, is prohibited from becoming a food employee until the conditional employee meets the criteria as specified under 1200-23-01-.02(2)(c). (P)
4. 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

subparts 1.(i) – 1.(v) of this subparagraph is:

- (i) Excluded as specified under 1200-23-01-.02(2)(b)1.-3., and subparts 4.(i), 5.(i), 6.(i), or 7(i) and in compliance with the provisions specified under 1200-23-01-.02(2)(c)1.-7; (P) or
  - (ii) Restricted as specified under 1200-23-01-.02(2)(b), and subparts 4.(ii), 5.(ii), 6.(ii), 7(ii), or 1200-23-01-.02(2)(b) 8. or 9. and in compliance with the provisions specified under 1200-23-01-.02(2)(c)4.- 9. (P)
5. A food employee or conditional employee shall report to the person in charge the information as specified under part 1. of this subparagraph. (Pf)
6. A food employee shall:
- (i) Comply with an exclusion as specified under 1200-23-01-.02(2)(b)1.– 3., subparts 4.(i), 5.(i), 6.(i), or 7(i) and with the provisions specified under 1200-23-01-.02(2)(c)4. – 9.; (P) or
  - (ii) Comply with a restriction as specified under 1200-23-01-.02(2)(b) 4.(ii), 5.(ii), 6.(ii), 7(ii), or 1200-23-01-.02(2)(b) 8. or 9. and comply with the provisions specified under 1200-23-01-.02(2)(c)4.- 9. (P)
- (b) Exclusions and Restrictions. The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:
- 1. Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:
    - (i) Symptomatic with vomiting or diarrhea; (P) or
    - (ii) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., or Enterohemorrhagic or Shiga toxin-producing E. coli. (P)
  - 2. Exclude a food employee who is:
    - (i) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection; (P)
    - (ii) Diagnosed with an infection from hepatitis A virus within 14 calendar days from onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; (P) or
    - (iii) Diagnosed with an infection from hepatitis A virus without developing symptoms. (P)
  - 3. 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 subpart 1200-23-01-.02(2)(a)1.(iii).( P )
  - 4. If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)

5. If a food employee is diagnosed with an infection from *Shigella* spp. and is asymptomatic:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)
  6. If a food employee is diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing *E. coli*, and is asymptomatic:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)
  7. If a food employee is ill with symptoms of acute onset of sore throat with fever:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)
  9. 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 1200-23-01-.02(2)(a)1.(i)(V), restrict the food employee. (P)
  10. If a food employee is exposed to a foodborne pathogen as specified under 1200-23-01-.02(2)(a)1.(iv) and (v), restrict the food employee who works in a food establishment serving a highly susceptible population. (P)
- (c) Removal, Adjustment, or Retention of Exclusions and Restrictions. The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:
1. Except when a food employee is diagnosed with an infection from hepatitis A virus or *Salmonella Typhi*:
    - (i) Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b)1.(i) if the food employee:
      - (I) Is asymptomatic for at least 24 hours; (P) or
      - (II) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition. (P)
    - (ii) If a food employee was diagnosed with an infection from Norovirus and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
      - (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 subparts 4.(i) or (ii) of this subparagraph are met; (P) 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 subparts 4.(i) or (ii) of this subparagraph are met. (P)

- (iii) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
    - (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 subparts 5. (i) and (ii) of this subparagraph are met; (P) 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 subparts 5. (i) and (ii), or 5. (i) and (iii) of this subparagraph are met. (P)
  - (iv) If a food employee was diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
    - (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 subparts 6.(i) or (ii) of this subparagraph are met; (P) 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 subparts 6.(i) or (ii) are met. (P)
  - (v) If a food employee was diagnosed with an infection from nontyphoidal *Salmonella* and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
    - (I) Restrict the food employee, who is asymptomatic, for at least 30 days until conditions for reinstatement as specified under subparts 6.(i) or (ii) of this subparagraph are met; (P) or
    - (II) Retain the exclusion for the food employee who is symptomatic, until conditions for reinstatement as specified under subparts 6.(i) or (ii) of this subparagraph are met; (P)
2. Reinstatement of a food employee who was excluded as specified under 1200-23-01-.02(2)(b)2. if the person in charge obtains approval from the department and one of the following conditions is met;
- (i) The food employee has been jaundiced for more than 7 calendar days; (P)
  - (ii) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; (P) or
  - (iii) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection. (P)
3. Reinstatement of a food employee who was excluded as specified under 1200-23-01-.02(2)(b)3. if:
- (i) The person in charge obtains approval from the department; (P) and

- (ii) 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. (P)
4. Reinstatement of a food employee who was excluded as specified under 1200-23-01-.02(2)(b)1.(ii) or 4.(i) who was restricted under 1200-23-01-.02(2)(b)4.(ii) if the person in charge obtains approval from the department and one of the following conditions is met:
- (i) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection; (P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic; (P) or
  - (iii) The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed. (P)
5. Reinstatement of a food employee who was excluded as specified under 1200-23-01-.02(2)(b)1.(ii) or 5.(i) or who was restricted under 1200-23-01-.02(2)(b)5.(ii) if the person in charge obtains approval from the department and one of the following conditions is met:
- (i) 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, (P) and
    - (II) At least 24 hours apart; (P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 7 calendar days have passed since the food employee became asymptomatic; (P) or
  - (iii) The food employee was excluded or restricted and did not develop symptoms and more than 7 calendar days have passed since the food employee was diagnosed. (P)
6. Reinstatement of a food employee who was excluded or restricted as specified under 1200-23-01-.02(2)(b)1.(ii) or 6.(i) or who was restricted under 1200-23-01-.02(2)(b)6.(ii) if the person in charge obtains approval from the department and one of the following conditions is met:
- (i) 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; (P) and
    - (II) At least 24 hours apart; (P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; (P) or

- (iii) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed. (P)
7. Reinstatement of a food employee who was excluded as specified under 1200-23-01-.02(2)(b) or who was restricted as specified under 1200-23-01-.02(2)(b) if the person in charge receives approval from the department and one of the following conditions is met
- (i) 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 nontyphoidal Salmonella infection based on test results showing two consecutive negative stool specimen cultures that are taken:
    - (I) Not earlier than 48 hours after the discontinuance of antibiotics (P); and
    - (II) At least 24 hours apart;(P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; (P) or
  - (iii) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed. (P)
8. Reinstatement of a food employee who was excluded or restricted as specified under 1200-23-01-.02(2)(b)7.(i) or (ii) 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:
- (i) Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 hours; (P)
  - (ii) Has at least one negative throat specimen culture for Streptococcus pyogenes infection; (P) or
  - (iii) Is otherwise determined by a health practitioner to be free of a Streptococcus pyogenes infection. (P)
9. Reinstatement of a food employee who was restricted as specified under 1200-23-01-.02(2)(b)8. if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:
- (i) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist; (P)
  - (ii) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; (P) or
  - (iii) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body. (P)
10. Reinstatement of a food employee who was restricted as specified under 1200-23-01-.02(2)(b)9. and was exposed to one of the following pathogens as specified under 1200-23-01-.02(2)(a)1.(iv) or (v):
- (i) 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; (P) or

- (II) More than 48 hours have passed since the food employee's household contact became asymptomatic. (P)
- (ii) Shigella spp. or Enterohemorrhagic or Shiga toxin-producing Escherichia coli and one of the following conditions are met:
  - (I) More than 3 calendar days have passed since the last day the food employee was potentially exposed; (P) or
  - (II) More than 3 calendar days have passed since the food employee's household contact became asymptomatic. (P)
- (iii) S. Typhi and one of the following conditions are met:
  - (I) More than 14 calendar days have passed since the last day the food employee was potentially exposed; (P) or
  - (II) More than 14 calendar days have passed since the food employee's household contact became asymptomatic. (P)
- (iv) 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; (P)
  - (II) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A; (P)
  - (III) The food employee is immune to hepatitis A virus infection because of IgG administration; (P)
  - (IV) More than 30 calendar days have passed since the last day the food employee was potentially exposed; (P)
  - (V) More than 30 calendar days have passed since the food employee's household contact became jaundiced; (P) 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 items 9.(iv)(IV) and (V) of this subpart, and the food employee receives additional training about:
    - I. Hepatitis A symptoms and preventing the transmission of infection, (P)
    - II. Proper handwashing procedures, (P) and
    - III. Protecting ready-to-eat food from contamination introduced by bare hand contact. (P)

(3) Personal Cleanliness

- (a) Clean Condition. Food employees shall keep their hands and exposed portions of their arms clean. (P)
- (b) Cleaning Procedure.
  - 1. Except as specified in 4. of this subparagraph, 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 1200-23-01-.05 (2)(b)2 and/or 1200-23-01-.06 (3)(a). (P)

2. Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:
    - (i) Rinse under clean, running warm water; (P)
    - (ii) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer; (P)
    - (iii) 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, (P) 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; (P)
    - (iv) Thoroughly rinse under clean, running warm water; (P) and
    - (v) Immediately follow the cleaning procedure with thorough drying using a method as specified under 1200-23-01-.06 (3)(a)3. (P)
  3. To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.
  4. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.
- (c) When to Wash. Food employees shall clean their hands and exposed portions of their arms as specified under 1200-23-01-.02(3)(b) immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles (P) and:
1. After touching bare human body parts other than clean hands and clean, exposed portions of arms; (P)
  2. After using the toilet room; (P)
  3. After caring for or handling service animals or aquatic animals as specified in 1200-23-01-.02(4)(d)2.; (P)
  4. Except as specified in 1200-23-01-.02(4)(a)2., after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking; (P)
  5. After handling soiled equipment or utensils; (P)
  6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks; (P)
  7. When switching between working with raw food and working with ready-to-eat food; (P)
  8. Before donning gloves for working with food; (P) and

9. After engaging in other activities that contaminate the hands. (P)
- (d) Where to Wash. Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste. (Pf)
- (e) Hand Antiseptics.
  1. A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:
    - (i) 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; (Pf) or
      - (II) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, (Pf) and
    - (ii) 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 CFR § 170.39 - Threshold of regulation for substances used in food-contact articles;(Pf) or
      - (II) Comply with and be listed in:
        - I. 21 CFR Part 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use, (Pf) or
        - II. 21 CFR Part 182 - Substances Generally Recognized as Safe, 21 CFR Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, (Pf) and
        - III. Be applied only to hands that are cleaned as specified under 1200-23-01-.02(3)(b). (Pf)
  2. If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under (e)1.(ii) of this paragraph, use shall be:
    - (i) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; (Pf) or
    - (ii) Limited to situations that involve no direct contact with food by the bare hands.
  3. A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine. (Pf)
- (f) Maintenance.
  1. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. (Pf)

2. Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food. (Pf)
- (g) Prohibition. Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.
  - (h) 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) Hygienic Practices
- (a) Eating, Drinking, or Using Tobacco.
    1. Except as specified in part 2 of this subparagraph, 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.
    2. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:
      - (i) The employee's hands;
      - (ii) The container; and
      - (iii) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
  - (b) Discharges from the Eyes, Nose, and Mouth. Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.
  - (c) Effectiveness.
    1. Except as provided in part 2. of this subparagraph, 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.
    2. This subparagraph does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
  - (d) Handling Prohibition.
    1. Except as specified in part 2. of this subparagraph, 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 subparts 1200-23-01-.06 (5) (o) 2(i) – (v). (Pf)
    2. Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacean in display tanks if they wash their hands as specified under 1200-23-01-.02(3)(b) and 1200-23-01-.02(3)(c)3.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

Rule 1200-23-01-.03 Food.

(1) Condition - Safe, Unadulterated, and Honestly Presented. Food shall be safe, unadulterated, and, as specified under 1200-23-01-.03(6)(a)2, honestly presented. (P)

(2) Sources, Specifications and Original Containers and Records

(a) Sources

1. Compliance with Food Law

- (i) Food shall be obtained from sources that comply with law. (P)
- (ii) Food from an Unlicensed Home Facility. Food from an unlicensed home facility shall not be served in a food establishment.
- (iii) Packaged food shall be labeled as specified in law, including 21 CFR Part 101 Food Labeling, 9 CFR Part 317 Labeling, Marking Devices, and Containers, and 9 CFR Part 381 subpart N Labeling and Containers, and as specified under 1200-23-01-.03(2)(b)7 and 8. (Pf)
- (iv) Fish, other than those specified in subpart 1200-23-01-.03(4)(a)1(iv), that are intended for consumption in raw or undercooked form and allowed as specified in 1200-23-01-.03(4)(a)1.(ii)-(iv), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 1200-23-01-.03(4)(b); or if they are frozen on the premises as specified under 1200-23-01-.03(4)(b) and records are retained as specified under 1200-23-01-.03(4)(b)2.
- (v) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 1200-23-01-.03(4)(a)1(iii) shall be:
  - (I) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef; (Pf) or
  - (II) 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; (Pf) and
  - (III) 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 item (v)(I) or identified as specified in item (v)(II).(Pf)
    - II. Prepared so they remain intact; (Pf) and
    - III. If packaged for undercooking in a food establishment, labeled as specified in item (v)(I) or identified as specified in item (v)(II) of this part. (Pf).
- (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 CFR § 317.2(l) and 9 CFR § 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 CFR § 101.17(h).

2. Food in a Hermetically Sealed Container. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant. (P)
3. Fluid Milk and Milk Products. Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law. (P)
4. Fish
  - (i) Fish that are received for sale or service shall be: (P)
    - (I) Commercially and legally caught or harvested; (P) or
    - (II) Approved for sale or service. (P)
  - (ii) Molluscan shellfish that are recreationally caught may not be received for sale or service. (P)
5. Molluscan Shellfish.
  - (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. (P)
  - (ii) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List. (P)
6. Wild Mushrooms.
  - (i) Except as specified in subpart (ii) of this part, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert. (P)
  - (ii) This section does not apply to:
    - (I) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
    - (II) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.
7. Game Animals.
  - (i) If game animals are received for sale or service they shall be:
    - (I) Commercially raised for food (P) and:
      - I. Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, (P) or
      - II. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, (P) and

- III. Raised, slaughtered, and processed according to:
  - A. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, (P) and
  - B. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; (P)
- (II) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR Part 352 Exotic animals; voluntary inspection of rabbits that are "inspected and certified" in accordance with 9 CFR Part 354 Voluntary inspection of rabbits and edible products thereof; (P)
- (III) As allowed by law, for wild game animals that are live-caught:
  - I. Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, (P) and
  - II. Slaughtered and processed according to:
    - A. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, (P) and
    - B. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; (P) or
- (IV) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:
  - I. Receive a postmortem examination by an approved veterinarian or veterinarian's designee, (P) or
  - II. Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, (P) and
  - III. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. (P)
- (ii) A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR Part 17 Endangered and threatened wildlife and plants.
- (b) Specifications for Receiving
  - 1. Temperature.

- (i) Except as specified in subpart 1.(ii) of this subparagraph, refrigerated, time/temperature control for safety food shall be at a temperature of 5°C (41°F) or below when received. (P)
  - (ii) If a temperature other than 5°C (41°F) for a time/temperature control for safety food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.
  - (iii) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less. (P)
  - (iv) Time/temperature control for safety food that is cooked to a temperature and for a time specified under 1200-23-01-.03(6)(a)1.- 3. and received hot shall be at a temperature of 57°C (135°F) or above. (P)
  - (v) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen. (Pf)
  - (vi) Upon receipt, time/temperature control for safety food shall be free of evidence of previous temperature abuse.( Pf)
2. Additives. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR Parts 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR Parts 181-186, substances that exceed amounts specified in 9 CFR Subpart C § 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR Part 180 Tolerances and exemptions for pesticide chemical residues in food. (P)
3. Eggs. Eggs shall be received clean and sound and may not exceed the restricted Egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA. (P)
4. Eggs and Milk Products, Pasteurized.
- (i) Egg Products shall be obtained pasteurized. (P)
  - (ii) Fluid and dry milk and milk products shall:
    - (I) Be obtained pasteurized;( P) and
    - (II) Comply with Grade A standards as specified in law. (P)
  - (iii) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR Part 135 - Frozen desserts. (P)
  - (iv) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR Part 133 - Cheeses and related cheese products, for curing certain cheese varieties. (P)
5. Package Integrity. Food packages shall be in good condition and protect the integrity of the contents so that the Food is not exposed to adulteration or potential contaminants. (Pf)
6. Ice. Ice for use as a food or a cooling medium shall be made from drinking water. (P)
7. Shucked Shellfish, Packaging and Identification.
- (i) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a

legible label that identifies the: (Pf)

- (I) Name, address, and certification number of the shucker, packer or re-packer of the molluscan shellfish; (Pf) and
  - (II) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. (Pf)
- (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 7(i) of this subparagraph shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D § 1240.60(d) - Specific Administrative Decisions Regarding Interstate Shipments, Molluscan shellfish.

8. Shellstock Identification.

- (i) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list: (Pf)
  - (I) Except as specified under subitem III of this item, on the harvester's tag or label, the following information in the following order: (Pf)
    - I. The harvester's identification number that is assigned by the shellfish control authority, (Pf)
    - II. The date of harvesting, (Pf)
    - 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, (Pf)
    - IV. The type and quantity of shellfish, (Pf) 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"; (Pf) and
  - (II) Except as specified in subpart (iv) of this part, on each dealer's tag or label, the following information in the following order: (Pf)
    - I. The dealer's name and address, and the certification numbers assigned by the shellfish control authority, (Pf)
    - II. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested, (Pf)
    - III. The same information as specified for a harvester's tag under subitems (i)(I)II.-IV of this subpart, (Pf) and
    - IV. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days." (Pf)
- (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 CFR Subpart D § 1240.60(d) Specific Administrative Decisions Regarding Interstate Shipments.

- (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 items (i)(I) and (II) of this part, individual dealer tags or labels need not be provided.
9. Shellstock, Condition: When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.
10. Juice - Commercially Processed: Pre-packaged juice shall:
- (i). Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120 Hazard Analysis and Critical Control (HACCP) Systems; (Pf) 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 CFR § 120.24 Process Controls. (P)

(c) Original Containers and Records

1. Molluscan Shellfish, Original Container.
- (i) Except as specified in (ii) - (iv) 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:
    - (I) The source of the shellstock on display is identified as specified under 1200-23-01-.03(2)(b)8. and recorded as specified under 1200-23-01-.03(2)(c)1(v)(II) ; and
    - (II) 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:
    - (I) The labeling information for the shellfish on display as specified under 1200-23-01-.03(2)(b)8. is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
    - (II) 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:
    - (I) The labeling information for the shellfish is on each consumer self-service container as specified under 1200-23-01-.03(2)(b)7. and 1200-

23-01-.03(6)(b)1 and 2(i) – (v) ;

- I. The labeling information as specified under 1200-23-01-.03(2)(b)7 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;
- II. The labeling information and dates specified under (v)(II) of this part are maintained for 90 days; and
- III. The shellfish are protected from contamination.

(v) Shellstock, Maintaining Identification.

- (I) Except as specified under subitem (III) II of this subpart, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty. (Pf)
- (II) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label. (Pf)
- (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 subpart, by: (Pf)
  - I. 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 item (II) of this subpart; (Pf) and
  - II. If shellstock are removed from its tagged or labeled container:
    - A. Preserving source identification by using a record keeping system as specified under subpart 1.(ii) of this part, (Pf) and
    - B. Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer. (Pf)

(3) Protection from Contamination after Receiving.

(a) Preventing Contamination by Employees

1. Preventing Contamination from Hands.

- (i) Food employees shall wash their hands as specified under 1200-23-01-.02(3)(b).
- (ii) Except when washing fruits and vegetables as specified under 1200-23-01-.03(3)(b)5 or as specified in (v) of this part, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment. (P)
- (iii) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form. (Pf)

- (iv) Subpart (ii) of this subparagraph does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 74°C (165°F).
- (v) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:
  - (I) The permit holder obtains prior approval from the department;
  - (II) Written procedures are maintained in the food establishment and made available to the department upon request that include:
    - I. For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands,
    - II. Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under 1200-23-01-.05(2)(c)1, 1200-23-01-.05(2)(d)1, 1200-23-01-.05(2)(e)1, 1200-23-01-.06(3)(a)1, 1200-23-01-.06(3)(a)3, and 1200-23-01-.06(3)(a)5, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;
  - (III) A written employee health policy that details how the food establishment complies with 1200-23-01-.02(2)(a), (b), and (c) including:
    - I. Documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under 1200-23-01-.02(2)(a)1.
    - II. Documentation that food employees and conditional employees acknowledge their responsibilities as specified under 1200-23-01-.02(2)(a)4 and 5; and
    - III. Documentation that the person in charge acknowledges the responsibilities as specified under 1200-23-01-.02(2)(a)2, 3, and 4, and 1200-23-01-.02(2)(b) and 1200-23-01-.02(2)(c);
  - (IV) Documentation that food employees acknowledge that they have received training in:
    - I.. The risks of contacting the specific ready-to-eat foods with bare hands,
    - II. Proper handwashing as specified under 1200-23-01-.02(3)(b),
    - III. When to wash their hands as specified under 1200-23-01-.02(3)(c),
    - IV. Where to wash their hands as specified under 1200-23-01-.02(3)(d),
    - V. Proper fingernail maintenance as specified under 1200-23-01-.02(3)(f),

- VI. Prohibition of jewelry as specified under 1200-23-01-.02(3)(g), and
  - VII. Good hygienic practices as specified under 1200-23-01-.02(4)(a) and 1200-23-01-.02(4)(b);
- (V) Documentation that hands are washed before food preparation and as necessary to prevent cross contamination by food employees as specified under 1200-23-01-.02(3)(a), 1200-23-01-.02(3)(b), 1200-23-01-.02(3)(c), and 1200-23-01-.02(3)(d) during all hours of operation when the specific ready-to-eat foods are prepared;
- (VI) Documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:
- I. Double handwashing,
  - II. Nail brushes,
  - III. A hand antiseptic after handwashing as specified under 1200-23-01-.02(3)(e),
  - IV. Incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill, or
  - V. Other control measures approved by the department; and
  - VI. Documentation that corrective action is taken when items (I) – (VI) of this subpart are not followed.
2. Preventing Contamination When Tasting. A food employee may not use a utensil more than once to taste food that is to be sold or served. (P)

(b) Preventing Food and Ingredient Contamination.

1. Packaged and Unpackaged Food – Separation, Packaging and Segregation

(i) Food shall be protected from cross contamination by:

- (I) Except as specified in subitem III below, separating raw animal foods during storage, preparation, holding, and display from:
  - I. Raw ready-to-eat including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables, (P) and
  - II. Cooked ready-to-eat food; (P)
  - 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.
- (II) 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, (P) or
  - II. Arranging each type of food in equipment so that cross

contamination of one type with another is prevented, (P) and

- III. Preparing each type of food at different times or in separate areas;
- (III) Cleaning equipment and utensils as specified under 1200-23-01-.04(6)(b)1(i) and sanitizing as specified under 1200-23-01-.04(7)(c);
- (IV) Except as specified under 1200-23-01-.03(5)(a)5(ii)(II) and in part 2. of this subparagraph, storing the food in packages, covered containers, or wrappings;
- (V) Cleaning hermetically sealed containers of food of visible soil before opening;
- (VI) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
- (VII) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under 1200-23-01-.06(4)(d); and
- (VIII) Separating fruits and vegetables, before they are washed, as specified under 1200-23-01-.03(5) from ready-to-eat foods.
- (ii) Item (i)(IV) does not apply to:
  - (I) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;
  - (II) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
  - (III) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
  - (IV) Food being cooled as specified under 1200-23-01-.03(5)(a)5(ii)(II); or
  - (V) Shellstock.
- 2. Food Storage Containers, Identified with Common Name of Food. Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.
- 3. Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes: Pasteurized eggs or egg product shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:
  - (i) Cooked as specified under 1200-23-01-.03(4)(a)1(i)(I) or (II); (P) or
  - (ii) Included in 1200-23-01-.03(4)(a)1(iv). (P)
- 4. Protection from Unapproved Additives.
  - (i) Food shall be protected from contamination that may result from the addition of, as specified in 1200-23-01-.03(2)(b)2:
    - (I) Unsafe or unapproved food or color additives; (P) and

- (II) Unsafe or unapproved levels of approved and color additives. (P)
- (ii) A food employee may not:
  - (I) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; (P) or
  - (II) Except for grapes, serve or sell food specified under (i) of this part that is treated with sulfiting agents before receipt by the food establishment. (P)

5. Washing Fruits and Vegetables.

- (i) Except as specified in subpart (ii) of this part and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.
- (ii) Fruits and vegetables may be washed by using chemicals as specified under 1200-23-01-.07(2)(d)2.

(c) Preventing Contamination from Ice Used as Coolant

1. Ice Used as Exterior Coolant, Prohibited as Ingredient. After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food. (P)
2. 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 undrained 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 poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(d) Preventing Contamination from Equipment, Utensils and Linens

1. Food Contact with Equipment and Utensils – Food shall only contact:
  - (i) Equipment and utensils that are cleaned as specified under 1200-23-01-.04(6) of this Chapter and sanitized as specified under 1200-23-01-.04(7) of this Chapter; (P) or
  - (ii) Single-service and single-use articles. (P)
  - (iii) Linens, such as cloth napkins, as specified under 1200-23-01-.03(3)(d)3. that are laundered as specified under 1200-23-01-.04(8)(b) of this Chapter.
2. 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 time/temperature control for safety food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;
- (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 1200-23-01-.04(6)(b) and 1200-23-01-.04(7)(b);
- (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 time/temperature control for safety food; 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 1200-23-01-.04(6)(b)1(iv)(VII).

3. Linens and Cloth Napkins, Use Limitation. Linens and cloth napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

4. Wiping Cloths, Use Limitation.

- (i) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:
  - (I) Maintained dry; and
  - (II) Used for no other purpose.
- (ii) Cloths in-use for wiping counters and other equipment surfaces shall be:
  - (I) Held between uses in a chemical sanitizer solution at a concentration specified under 1200-23-01-.04(5)(a)14; and
  - (II) Laundered daily as specified under 1200-23-01-.04(8)(b)4.
- (iii) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.
- (iv) Dry wiping cloths and the chemical sanitizing solutions specified in item (ii)(I) of this part in which wet wiping cloths are held between uses shall be free of food debris and visible soil.
- (v) Containers of chemical sanitizing solutions specified in item (ii)(I) of this part in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.
- (vi) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

5. Gloves - Use Limitation.

- (i) If used, single-use gloves shall be used for only one task such as working with ready-to-eat or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. (P)
- (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 1200-23-01-.03(4)(a)-(b) 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 1200-23-01-.03(4)(a)-(b) such as frozen food or a primal cut of meat.

6. 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 (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 1200-23-01-.04(2)(d)3(i), (ii) and (iv).

7. Refilling Returnables.

- (i) A take-home food container returned to a food establishment may not be refilled at a food establishment with a time/temperature control for safety food.
- (ii) Except as specified in subpart (iii) of this subpart, a take-home food container refilled with food that is not time/temperature control for safety food shall be cleaned as specified under 1200-23-01-.04(6)(c)7(ii).
- (iii) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 1200-23-01-.04(2)(d)3(i), (ii) and (iv).

(e) Preventing Contamination from the Premises

1. Food Storage.

- (i) Except as specified in subparts (ii) and (iii) of this part, food shall be protected from contamination by storing the food:
  - (I) In a clean, dry location;
  - (II) Where it is not exposed to splash, dust, or other contamination; and

- (III) At least 15 cm (6 inches) 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 1200-23-01-.04(9)(c)1(iv).
- (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.

2. 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.

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

(f) Preventing Contamination by Consumers

- 1. Food Display. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means. (P)
- 2. Condiments, Protection. 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.
- 3. Consumer Self-Service Operations.
  - (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:
    - (I) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;
    - (II) 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
    - (III) 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. (Pf)
- (iii) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures. (Pf)

4. Returned Food and Re-Service of Food.

- (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. (P)
- (ii) Except as specified under 1200-23-01-.03(8)(g), a container of food that is not time/temperature control for safety food may be re-served from one consumer to another if:
  - (I) 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
  - (II) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

5. Preventing Contamination from Other Sources - Miscellaneous Sources of Contamination: Food shall be protected from contamination that may result from a factor or source not specified under 1200-23-01-.03(3)(a)-(f).

(4) Destruction of Organisms of Public Health Concern

(a) Cooking

1. Raw Animal Foods.

- (i) Except as specified under subparts (ii),(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:
  - (I) 63°C (145°F) or above for 15 seconds for: (P)
    - I. Raw eggs that are broken and prepared in response to a consumer's order and for immediate service, (P) and
    - II. Except as specified under items (i)(II) and (i)(III) and subparts (ii), and (iii) of this part, fish and meat including game animals commercially raised for food as specified under 1200-23-01-.03(2)(a)7(i) and game animals under a voluntary inspection program as specified under 1200-23-01-.03(2)(a)7(ii); (P)
  - (II) 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 1200-23-01-.03(2)(a)7(i), and game animals under a voluntary inspection program as specified under 1200-23-01-.03(2)(a)7(i)(II) and raw eggs that are not prepared as specified under 1(i)(I) of this subparagraph: (P) or

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

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity <sup>1</sup>	121°C (250°F) or less	121°C (250°F) or less

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

- (III) 74°C (165°F) or above for 15 seconds for poultry, baluts, wild game animals as specified under 1200-23-01-.03(2) (a) 7 (iii) and (iv), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites. (P)
- (ii) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:
  - (I) 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: (P); and
  - (II) As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature: (P)

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

<sup>1</sup>Holding time may include postoven 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:
  - (I) The food establishment serves a population that is not a highly susceptible population,
  - (II) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under 1200-23-01-.03(2)(a)1(v), and
  - (III) 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 (iii) of this part, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:
  - (I) As specified under 1200-23-01-.03(8)(c)1 and 2, the food establishment serves a population that is not a highly susceptible population;
  - (II) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted; (Pf) and
  - (III) The consumer is informed as specified under 1200-23-01-.03(6)(c) that to ensure its safety, the food should be cooked as specified under subparts (i) or (ii) of this part; or
  - (IV) The department grants a variance from (i) or (ii) of this part as specified in 1200-23-01-.08(1)(d)1 based on a HACCP plan that:
    - I. Is submitted by the permit holder and approved as specified under 1200-23-01-.08(1)(d)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.

2. Microwave Cooking. 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.
3. Plant Food Cooking for Hot Holding. Fruits and vegetables cooked for hot holding shall be cooked to a temperature of 57°C (135°F). (Pf)
4. Non-Continuous Cooking of Raw Animal Foods. Raw animal foods 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; (P)
  - (ii) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 1200-23-01-.03(5)(a)4; (P)
  - (iii) After cooling, held frozen or cold, as specified for time/temperature control for safety food under 1200-23-01-.03(5)(a)6(i); (P)
  - (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; (P)
  - (v) Cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 1200-23-01-.03(5)(a)4 if not either hot held as specified under 1200-23-01-.03(5)(a)6, served immediately, or held using time as a public health control as specified under 1200-23-01-.03(5)(a)9 after complete cooking; (P) and
  - (vi) Prepared and stored according to written procedures that:
    - (I) Have obtained prior approval from the department; (Pf)
    - (II) Are maintained in the food establishment and are available to the department upon request; (Pf)
    - (III) 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; (Pf)
    - (IV) 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 subpart (iv) of this part prior to being offered for sale or service; (Pf) and
    - (V) Describe how the foods, after initial heating but prior to cooking as specified under subpart (iv) of this part, are to be separated from ready-to-eat foods as specified under 1200-23-01-.03(5)(c). (Pf)

(b) Freezing

1. Parasite Destruction.

- (i) Except as specified in (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:
  - (I) Frozen and stored at a temperature of 20°C (4°F) or below for a minimum of 168 hours (7 days) in a freezer; (P)
  - (II) Frozen at 35°C (31°F) or below until solid and stored at 35°C (31°F) or below for a minimum of 15 hours; (P) or
  - (III) Frozen at 35°C (31°F) or below until solid and stored at 20°C (4°F) or below for a minimum of 24 hours. (P)
- (ii) Subpart (i) of this part does not apply to:
  - (I) Molluscan shellfish;
  - (II) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), Scallops consisting only of the shucked abductor muscle, or *Thunnus thynnus* (Bluefin tuna, Northern); or
  - (III) 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.
  - (IV) Fish eggs that have been removed from the skein and rinsed.

2. Records, Creation and Retention.

- (i) Except as specified in 1200-23-01-.03(4)(b)1(ii) and (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 of the food establishment for 90 calendar days beyond the time of service or sale of the fish. (Pf)
- (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 1200-23-01-.03(4)(b)1 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 1200-23-01-.03(4)(b)1(ii)(III), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 1200-23-01-.03(4)(b)1(ii)(III) shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. (Pf)

3. 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.

(c) Reheating for Hot Holding.

1. Except as specified under parts 2, 3 and 5 of this subparagraph, time/temperature control for safety food) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) for 15 seconds. (P)
2. Except as specified under part 3 of this subparagraph, time/temperature control for safety food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating. (P)
3. Ready-to-eat taken from a commercially processed, heremetically-sealed container, or from an intact package from a food processing plant that is inspected by the food department that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) for hot holding. (P)
4. Reheating for hot holding as specified under parts 1. through 3. of this subparagraph shall be completed within 2 hours and the time the food is between 5°C (41°F) or 7°C (45°F) and the temperatures specified under 1 through 3 of this subparagraph may not exceed 2 hours. (P)
5. Remaining unsliced portions of meat roasts that are cooked as specified under 1200-23-01-.03(4)(a)1(ii) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 1200-23-01-.03(4)(a)1(ii).

(d) Treating Juice. Juice packaged in a food establishment shall be:

1. Treated under a HACCP PLAN as specified in 1200-23-01-.08(2)(d) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; (P) or
2. Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance: (Pf)
  - (i) As specified under 1200-23-01-.03(6)(b), (Pf) and
  - (ii) As specified in 21 CFR § 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." (Pf)

(5) Limitation of Growth of Organisms of Public Health Concern.

(a) Temperature and Time Control.

1. Frozen Food. Stored frozen foods shall be maintained frozen.
2. Time/Temperature Control for Safety Food, Slacking. Frozen 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.
  - (ii) At any temperature if the food remains frozen.
3. Thawing. Except as specified in subpart (iv) of this part, time/temperature control for safety food shall be thawed:
  - (i) Under refrigeration that maintains the food temperature at 5°C (41°F) or less°.

- (ii) Completely submerged under running water:
  - (I) At a water temperature of 21°C (70°F) or below,
  - (II) With sufficient water velocity to agitate and float off loose particles in an overflow,
  - (III) Such that for ready-to-eat food, the temperature of thawed portions do not rise above 5°C (41°F), and
  - (IV) Such that for raw animal food requiring cooking as specified under 1200-23-01-.03(4)(a)1(i) or (ii), thawed portions are not 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:
  - (I) Cooked as specified under 1200-23-01-.03(4)(a)1(i) or (ii) or under 1200-23-01-.03(4)(a)2(i), or
  - (II) 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-eat-food is thawed and prepared for immediate service in response to an individual consumer's order.

4. Cooling.

- (i) Cooked time/temperature control for safety food shall be cooled:
  - 1. Within 2 hours from 57°C (135°F) to 21°C (70°F); (P) and
  - 2. Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less. (P)
- (ii) 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. (P)
- (iii) Except as specified under subpart (iv) of this part, a time/temperature control for safety food received in compliance with laws allowing a temperature above 5°C (41°F) during shipment from the supplier as specified under 1200-23-01-.03(2)(b)1(ii), shall be cooled within 4 hours to 5°C (41°F) or less. (P)
- (iv) Raw eggs shall be received as specified under under 1200-23-01-.03(2)(b)3 and immediately placed in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less. (P)

5. Cooling Methods.

- (i) Cooling shall be accomplished in accordance with the time and temperature criteria specified under 1200-23-01-.03(5)(a)4 by using one or more of the following methods based on the type of food being cooled:
  - (I) Placing the food in shallow pans; (Pf)

- (II) Separating the food into smaller or thinner portions; (Pf)
  - (III) Using rapid cooling equipment; (Pf)
  - (IV) Stirring the food in a container placed in an ice water bath; (Pf)
  - (V) Using containers that facilitate heat transfer; (Pf)
  - (VI) Adding ice as an ingredient; (Pf) or
  - (VII) Other effective methods. (Pf)
- (ii) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
    - (I) Arranged in the equipment to provide maximum heat transfer through the container walls; and
    - (II) Loosely covered, or uncovered if protected from overhead contamination as specified under 1200-23-01.03(3)(e)1(i)(I), during the cooling period to facilitate heat transfer from the surface of the food.

6. Time/Temperature Control for Safety Food, Hot and Cold Holding.

- (i) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 1200-23-01-.03(5)(a)9, and except as specified under (ii) and in (iii) of this part, time/temperature control for safety food shall be maintained at 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified under 1200-23-01-.03(4)(a)1(ii) or reheated as specified in 1200-23-01-.03(4)(c)5 may be held at a temperature of 54°C (130°F) or above. (P)
- (ii) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less. (P)
- (iii) Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (i) of this part, while contained within specially designed equipment that complies with the design and construction requirements as specified under 1200-23-01-.04(2)(d)3(v).

7. Ready-to-Eat, Time/Temperature Control for Safety Food Date Marking

- (i) Except when packaging food using a reduced oxygen packing method as specified under 1200-23-01-.03(5)(c), and except as specified in subpart (v) of this part, refrigerated, ready-to-eat, time/temperature control for safety food prepared and held in a food establishment for more than 24 hours shall be 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 combination of 5°C (41°F) or less for a maximum of 7 days. The day of preparation shall be counted as day 1. (Pf)
- (ii) Except as specified in (v) - (vi) of this part, refrigerated, ready-to-eat, time/temperature control for safety food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in (i) of this part and: (Pf)

- (I) The day the original container is opened in the food establishment shall be counted as day 1; (Pf) and
  - (II) The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety. (Pf)
- (iii) A refrigerated, ready-to-eat, time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient. (Pf)
- (iv) A date marking system that meets the criteria stated in subparts (i) and (ii) of this part may include:
- (I) Using a method approved by the department for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;
  - (II) 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;
  - (III) 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
  - (IV) 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 department:
- (I) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR Part 110 Current good manufacturing practice in manufacturing, packing, or holding human food;
  - (II) Hard cheeses containing not more than 39% moisture as defined in 21 CFR Part 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;
  - (III) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR Part 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;
  - (IV) Cultured dairy products as defined in 21 CFR Part 131 Milk and cream, such as yogurt, sour cream, and buttermilk;
  - (V) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products as defined in 21 CFR Part 114 Acidified

foods;

- (VI) Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR Part 317 Labeling, marking devices, and containers, and which retain the original casing on the product; and
- (VII) Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR Part 317 Labeling, marking devices, and containers.

8. Ready-to-Eat, time/temperature control for safety food, Disposition.

- (i) A food specified in 1200-23-01-.03(5)(a)7(i) or (ii) shall be discarded if it:
  - (I) Exceeds the temperature and time combination specified in 1200-23-01-.03(5)(a)7(i), except time that the product is frozen; (P)
  - (II) Is in a container or package that does not bear a date or day; (P) or
  - (III) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in 1200-23-01-.03(5)(a)7(i). (P)
- (ii) Refrigerated, ready-to-eat, potentially hazardous foods 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 1200-23-01-.03(5)(a)7(i).

9. Time as a Public Health Control.

- (i) Except as specified under subpart (iv) of this part, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking, or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service:
  - (I) Written procedures shall be prepared in advance, maintained in the food establishment and made available to the department upon request that specify: (Pf)
    - I. Methods of compliance with items (ii)(I)-(IV) or (iii)(I)-(V) of this part; (Pf) and
    - II. Methods of compliance with 1200-23-01-.03(5)(a)4 for food that is prepared, cooked, and refrigerated before time is used as a public health control. (Pf)
- (ii) If time without temperature control is used as the public health control up to a maximum of 4 hours:
  - (I) The food shall have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control; (P)
  - (II) The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control; (Pf)
  - (III) The food shall be cooked and served, served at any temperature if

ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control; (P) and

- (IV) The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded. (P)
  - (iii) If time without temperature control is used as the public health control up to a maximum of 6 hours:
    - (I) The food shall have an initial temperature of 5°C (41°F) or less when removed from temperature control and the food temperature may not exceed 21°C (70°F) within a maximum time period of 6 hours; (P)
    - (II) The food shall be monitored to ensure the warmest portion of the food does not exceed 21°C (70°F) during the 6 hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 21°C (70°F) during the 6-hour holding period; (Pf)
    - (III) The food shall be marked or otherwise identified to indicate: (Pf)
      - I. The time when the food is removed from 5°C (41°F) or less cold holding temperature control, (Pf) and
      - II. The time that is 6 hours past the point in time when the food is removed from cold holding temperature control; (Pf)
    - (IV) The food shall be:
      - I. Discarded if the temperature of the food exceeds 21°C (70°F), (P) 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; (P) and
    - (V) The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded. (P)
  - (iv) A food establishment that serves a highly susceptible population may not use time as specified under subparts (i), (ii) or (iii) of this part as the public health control for raw eggs.
- (b) Specialized Processing Methods: Variance Requirement. A food establishment shall obtain a variance from the department as specified in 1200-23-01-.08(1)(d)1 and under 1200-23-01-.08(1)(d)2 before: (Pf)
- 1. Smoking food as a method of food preservation rather than as a method of flavor enhancement; (Pf)
  - 2. Curing food; (Pf)
  - 3. Using food additives or adding components such as vinegar: (Pf)
    - (i) As a method of food preservation rather than as a method of flavor enhancement, (Pf) or
    - (ii) To render a food so that it is not time/temperature control of safety food; (Pf)
  - 4. Packaging food using a reduced oxygen packing method except where the growth of and

toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under 1200-23-01-.03(5)(c); (Pf)

5. Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption; (Pf)
  6. Custom processing animals that are for personal use as food and not for sale or service in a food establishment; (Pf)
  7. Preparing food by another method that is determined by the department to require a variance; (Pf)or
  8. Sprouting seeds or beans. (Pf)
- (c) *Clostridium botulinum* and *Listeria monocytogenes* Controls. - Reduced Oxygen Packaging Without a Variance, Criteria.
1. Except for a food establishment that obtains a variance as specified under 1200-23-01-.03(5)(b)4, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*. (P)
  2. A food establishment that packages time/temperature control for safety food using a reduced oxygen method shall have a HACCP plan that contains the information specified under 1200-23-01-.08(2)(d)4 and that: (Pf)
    - (i) Identifies the food to be packaged; (Pf)
    - (ii) Except as specified under parts 3. – 5. of this subparagraph, requires that the packaged food shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria: (Pf)
      - (I) Has an Aw of 0.91 or less, (Pf)
      - (II) Has a Ph of 4.6 or less, (Pf)
      - (III) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR § 424.21, Use of food ingredients and sources of radiation, and is received in an intact package, (Pf)or
      - (IV) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables; (Pf)
    - (iii) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: (Pf)
      - (I) Maintain the food at 5°C (41°F) or below, (Pf) 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; (Pf)
    - (iv) Limits the refrigerated shelf life to no more than 14 calendar days from packing to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; (P)
    - (v) Includes operational procedures that:

- (I) Prohibit contacting ready-to-eat food with bare hands as specified under 1200-23-01-.03(3)(a)1(ii), (Pf)
- (II) Identify a designated work area and the method by which: (Pf)
  - I. Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, (Pf) and
  - II. Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, (Pf) and
  - III. Delineate cleaning and sanitation procedures for food-contact surfaces; (Pf) and
- (vi) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the: (Pf)
  - (I) Concepts required for a safe operation, (Pf)
  - (II) Equipment and facilities, (Pf) and
  - (III) Procedures specified under subpart 2(v) of this part and 1200-23-01-.08(2)(d)4. (Pf)
- 3. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method. (P)
- 4. Except as specified under part 3 of this subparagraph, a food establishment that packages food using a cook-chill or sous vide process shall:
  - (i) Implement a HACCP plan that contains the information as specified under 1200-23-01-.08(2)(d)4; (Pf)
  - (ii) Ensure the food is:
    - (I) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer, (Pf)
    - (II) Cooked to heat all parts of the food to a temperature and for a time as specified under 1200-23-01-.03(4)(a)1, (Pf)
    - (III) Protected from contamination before and after cooking as specified under 1200-23-01-.03(3)-(5), (P)
    - (IV) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 57°C (135°F), (P)
    - (V) Cooled to 5°C (41°F) in the sealed package or bag as specified under 1200-23-01-.03(5)(a)4 and subsequently; (P)
    - (VI) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of packaging; (P)
    - (VII) 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; (P)

- (VIII) 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; (P) or
  - (IX) Held frozen with no shelf life restriction while frozen until consumed or used. (P)
  - (X) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, (Pf)
  - (XI) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, (Pf) and
- (iii) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:
    - (I) Make such records available to the department upon request (Pf); and
    - (II) Hold such records for at least 6 months; (Pf) and
  - (iv) Implement written operational procedures as specified under subpart 2(v) of this subparagraph and a training program as specified under subpart 2(vi) of this subparagraph.
5. A food establishment that packages cheese using a reduced oxygen packaging method shall:
- (i) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR § 133.150 Hard cheeses, 21 CFR § 133.169 Pasteurized process cheese or 21 CFR § 133.187 Semisoft cheeses; (P)
  - (ii) Have a HACCP plan that contains the information specified under 1200-23-01-.08(2)(d)4 and as specified under subparts 2(i), 2(v) and 2(vi) and item (2)(iii)(I) of this subparagraph; (Pf)
  - (iii) Labels the package on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; (Pf) and
  - (iv) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging. (Pf)

(6) Food Identity, Presentation, and On-Premises Labeling

(a) Accurate Representation.

- 1. Standards of Identity. Packaged food shall comply with standard of identity requirements in 21 CFR Parts 131-169 and 9 CFR Part 319 Definitions and standards of identity or composition, and the general requirements in 21 CFR Part 130 – Food Standards: General and 9 CFR Part 319 Subpart A – General Provisions.
- 2. Honestly Presented.

- (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.

(b) Labeling.

1. Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR Part 101 - Food labeling, and 9 CFR Part 317 Labeling, marking devices, and containers.
2. Label information shall include:
  - (i) The common name of the food, or absent a common name, an adequately descriptive identity statement;
  - (ii) 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;
  - (iii) An accurate declaration of the quantity of contents;
  - (iv) The name and place of business of the manufacturer, packer, or distributor; and
  - (v) 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 (Effective January 1, 2006). (Pf)
  - (vi) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) - (5), nutrition labeling as specified in 21 CFR Part 101 - Food Labeling and 9 CFR Part 317 Subpart B Nutrition Labeling.
  - (vii) 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.
3. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:
  - (i) The manufacturer's or processor's label that was provided with the food; or
  - (ii) A card, sign, or other method of notification that includes the information specified under subparts 2(i), (ii), and (v) of this part.
4. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:
  - (i) A health, nutrient content, or other claim is not made;
  - (ii) There are no state or local laws requiring labeling; and
  - (iii) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.
5. 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.
- (c) Consumer Advisory - Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.
1. Except as specified in 1200-23-01-.03(4)(a)1(iii) and 1200-23-01-.03(4)(a)1(iv)(IV) and under 1200-23-01-.03(8)(c), 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 parts 2 and 3 of this subparagraph using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means. (Pf)
  2. Disclosure shall include:
    - (i) 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)"; (Pf) or
    - (ii) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients. (Pf)
  3. Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:
    - (i) Regarding the safety of these items, written information is available upon request; (Pf)
    - (ii) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; (Pf) or
    - (i) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions. (Pf)
- (7) Contaminated Food - Disposition. Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.
- (a) A food that is unsafe, adulterated, or not honestly presented as specified under 1200-23-01-.03(1) shall be discarded or reconditioned according to an approved procedure. (P)
  - (b) Food that is not from an approved source as specified under 1200-23-01-.03(2)(a) – (c) shall be discarded. (P)
  - (c) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 1200-23-01-.02(2)(b) shall be discarded. (P)
  - (d) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded. (P)
- (8) Special Requirements for Highly Susceptible Populations - Pasteurized Foods, Prohibited Re-Service, and Prohibited Food. In a food establishment that serves a highly susceptible population:
- (a) The following criteria apply to juice:

1. For the purposes of this paragraph only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
  2. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR § 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified under 1200-23-01-.03(4)(d)2 may not be served or offered for sale; (P) and
  3. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified under 1200-23-01-.08(2)(d) and as specified in 21 CFR Part 120 – Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, § 120.24 Process controls. (P)
- (b) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of: (P)
1. Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, (P) and
  2. Except as specified in (f) of this paragraph, recipes in which more than one egg is broken and the eggs are combined; (P)
- (c) The following foods may not be served or offered for sale in a ready-to-eat form: (P)
1. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare, (P)
  2. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; (P) and
  3. Raw seed sprouts. (P)
- (d) Food employees may not contact ready-to-eat food as specified under 1200-23-01-.03(3)(a)1.(ii) and (iv). (P)
- (e) Time only, as the public health control as specified under 1200-23-01-.03(5)(a)9(iv), may not be used for raw eggs.
- (f) Subparagraph (b)2 of this paragraph does not apply if:
1. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 1200-23-01-.03(4)(a)1(i)(I), and served immediately, such as an omelet, soufflé, or scrambled eggs; (P)
  2. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or
  3. The preparation of the food is conducted under a HACCP plan that:
    - (i) Identifies the food to be prepared,
    - (ii) Prohibits contacting ready-to-eat food with bare hands,
    - (iii) Includes specifications and practices that ensure:
      - (I) Salmonella Enteritidis growth is controlled before and after cooking, and

- (II) Salmonella Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 1200-23-01-.03(4)(a)1(i)(II),
- (iv) Contains the information specified under 1200-23-01-.08(2)(d)4 including procedures that:
  - (I) Control cross contamination of ready-to-eat food with raw eggs, and
  - (II) Delineate cleaning and sanitization procedures for food-contact surfaces, and
- (v) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.
- (g) Except as specified in subparagraph (h) of this paragraph, food may be re-served as specified under 1200-23-01-.03(3)(f)4(ii)(I) and (II).
- (h) Food may not be re-served under the following conditions:
  1. Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.
  2. Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

#### 1200-23-01-.04 Equipment, Utensils, and Linens

##### (1) Materials for Construction and Repair

###### (a) Multiuse

###### 1. Characteristics

- (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: (P)
  - (I) Safe; (P)
  - (II) Durable, corrosion-resistant, and nonabsorbent;
  - (III) Sufficient in weight and thickness to withstand repeated warewashing;
  - (IV) Finished to have a smooth, easily cleanable surface; and
  - (V) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.
- (ii) Cast Iron, Use Limitation.
  - (I) Except as specified in items (II) and (III) of this subpart, 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.

(iii) Lead, Use Limitation.

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

Utensil Category	Ceramic Article Description	Maximum Lead Mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls $\geq$ 1.1 Liter (1.16 Quart)	1
Small Hollowware (excluding cups & mugs)	Bowls < 1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

(II) Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface. (P)

(III) Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

(iv) Copper, Use Limitation.

(I) Except as specified in item (II) of this subpart, 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 prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

(v) Galvanized Metal, Use Limitation. Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

(vi) Sponges, Use Limitation. Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(vii) Wood, Use Limitation.

(I) Except as specified in items (II), (III) and (IV) of this subpart, 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:

I. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

II. 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:

I. Untreated wood containers; or

II. Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR § 178.3800 Preservatives for wood.

(viii) 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.

(ix) 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.

(b) Single Service and Single-Use.

1. Characteristics. Materials that are used to make single-service and single-use articles:

(i) May not:

(I) Allow the migration of deleterious substances, (P) or

(II) Impart colors, odors, or tastes to food; and

(ii) Shall be:

(I) Safe, (P) and

(II) Clean.

(2) Design and Construction

(a) Durability and Strength

1. Equipment and Utensils. Equipment and Utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

2. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used. (P)

(b) Cleanability

1. Food-Contact Surfaces.

(i) Multiuse food-contact surfaces shall be:

(I) Smooth; (Pf)

- (II) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections; (Pf)
  - (III) Free of sharp internal angles, corners, and crevices; (Pf)
  - (IV) Finished to have smooth welds and joints; (Pf) and
  - (V) Except as specified in subpart (ii). of this part, accessible for cleaning and inspection by one of the following methods:
    - I. Without being disassembled, (Pf)
    - II. By disassembling without the use of tools, (Pf) 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. (Pf)
  - (ii) Item (i)(V) of this part does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.
2. CIP Equipment.
- (i) CIP equipment shall meet the characteristics specified under 1200-23-01-.04(2)(a) and shall be designed and constructed so that:
    - (I) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, (Pf) and
    - (II) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; 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.
3. "V" Threads, Use Limitation - Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.
4. Hot Oil Filtering Equipment - Hot oil filtering equipment shall meet the characteristics specified under 1200-23-01-.04(2)(a) and shall be readily accessible for filter replacement and cleaning of the filter.
5. Can Openers. - Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.
6. 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.
7. 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 Subparagraph 1200-23-01-.04 (2)(b)1.(i)(V) or capable of being rotated open; and
  - (ii) Removable or capable of being rotated open without unlocking equipment doors.

8. 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.

(c) Accuracy

1. Temperature Measuring Devices, Food.
  - (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. (Pf)
  - (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. (Pf)
2. Temperature Measuring Devices, Ambient Air and Water.
  - (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. (Pf)
  - (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. (Pf)
3. 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  $\pm 14$  kilopascals ( $\pm 2$  pounds per square inch) in the range indicated on the manufacturer's data plate.

(d) Functionality

1. 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.
2. 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 (two-tenths of an 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:
    - (I) 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
    - (II) The opening shall be flanged as specified under (ii) of this part.

3. Dispensing Equipment, Protection of Food. - 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:
    - (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; 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 time/temperature control for safety food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under 1200-23-01-.03(5)(a)6 shall:
    - (I) 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; (P) and
    - (II) conform to the requirements for this equipment as specified in NSF/ANSI 18-2006- Manual Food and Beverage Dispensing Equipment. (P)
4. 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.
5. Beverage Tubing, Separation. - Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.
6. Ice Units, Separation of Drains. - Liquid waste drain lines may not pass through an ice machine or ice storage bin.
7. 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.
8. Molluscan Shellfish Tanks.
  - (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. (P)

- (ii) Molluscan shellfish life-support system display tanks that are used to store 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 1200-23-01-.08(1)(d)1 and a HACCP plan that: (Pf)
  - (I) Is submitted by the permit holder and approved as specified under 1200-23-01-.08(2); (Pf) and
  - (II) Ensures that:
    - I. Water used with fish other than molluscan shellfish does not flow into the molluscan tank, (Pf)
    - II. The safety and quality of the shellfish as they were received are not compromised by the use of the tank, (Pf) and
    - III. The identity of the source of the shellstock is retained as specified under 1200-23-01-.03(2)(c)1. (Pf)

9. 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 (iii) of this part, cold or hot holding equipment used for time/temperature control for safety food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.
- (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 calorod 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. (Pf)

10. Warewashing Machines, 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 operation 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.

11. 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.
12. Warewashing Machines, Temperature Measuring Devices. - 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; (Pf) and
  - (ii) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank. (Pf)
13. Manual Warewashing Equipment, Heaters and Baskets. - If hot water is used for sanitation 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); (Pf) and
  - (ii) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water. (Pf)
14. Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers. - A warewashing machine that is installed after adoption of these regulations, shall be equipped to:
  - (i) Automatically dispense detergents and sanitizers; (Pf) 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. (Pf)
15. Warewashing Machine 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.
16. Warewashing Sinks and Drainboards, Self-Draining. - Warewashing sinks and drainboards of warewashing sinks and machines shall be self-draining.
17. 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.
18. Case Lot Handling Apparatuses, Movability. - Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

(e) Acceptability

1. Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with 1200-23-01-.04.

(3) Numbers and Capacities

(a) Equipment

1. Cooling, Heating, and Holding Capacities. - Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under 1200-23-01-.03. (Pf)
2. Manual Warewashing, Sink Compartment Requirements.
  - (i) A sink with at least 3 compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. (Pf)
  - (ii) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. (Pf)
3. 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. Ventilation Hood Systems, Adequacy. - Ventilation hood systems and devices shall prevent grease or condensation from collecting on equipment, walls, and ceilings.
5. Clothes Washers and Dryers.
  - (i) Except as specified in (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 1200-23-01-.04(9)(a), a mechanical clothes washer and dryer need not be provided.

(b) Utensils, Temperature Measuring Devices, and Testing Devices.

1. Utensils, Consumer Self-Service. - A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar. (Pf)
2. Food Temperature Measuring Devices.
  - (i) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under 1200-23-01-.03. (Pf)
  - (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. (Pf)
3. Temperature Measuring Devices, Manual Warewashing. - In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.
4. Sanitizing Solutions, Testing Devices. - A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided. (Pf)

(4) Location and Installation

(a) Location

1. 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:

(I) In locker rooms;

(II) In toilet rooms;

(III) In garbage rooms;

(IV) In mechanical rooms;

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

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

(VII) Under open stairwells; or

(VIII) 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.

(b) Installation

1. Fixed Equipment, Spacing or Sealing.

(i) Equipment that is fixed because it is not easily movable shall be installed so that it is:

(I) Spaced to allow access for cleaning along the sides, behind, and above the equipment;

(II) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or

(III) 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:

(I) Sealed; or

(II) Elevated on legs as specified under 1200-23-01-.04(4)(b)2(iv).

2. 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 section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.
- (iv) Except as specified in (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:
  - (I) 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
  - (II) 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.

(5) Maintenance and Operation

(a) Equipment

1. Good Repair and Proper Adjustment.

- (i) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under 1200-23-01-.04(1) and 1200-23-01-.04(2)
- (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.

2. 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.

3. Microwave Ovens.- Microwave ovens shall meet the safety standards specified in 21CFR § 1030.10 Microwave ovens.

4. 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 1200-23-01-.04(3)(a)3. 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.
5. Warewashing Machines, Manufacturers' 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.
6. Warewashing Sinks, Use Limitation.
- (i) A warewashing sink may not be used for handwashing as specified under 1200-23-01-.02(3)(d).
  - (ii) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 1200-23-01-.04(5)(a)4 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 1200-23-01-.04(7) before and after using the sink to wash produce or thaw food.
7. Warewashing Equipment, Cleaning Agents. - When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 1200-23-01-.04(3)(a)2 shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions. (Pf)
8. Warewashing Equipment, Clean Solutions. - The wash, rinse, and sanitize solutions shall be maintained clean.
9. Manual Warewashing Equipment, Wash Solution Temperature. - The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions. (Pf)
10. Mechanical Warewashing Equipment, Wash Solution Temperature.
- (i) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:
    - (I) For a stationary rack, single temperature machine, 74°C (165°F); (Pf)
    - (II) For a stationary rack, dual temperature machine, 66°C (150°F); (Pf)
    - (III) For a single tank, conveyor, dual temperature machine, 71°C (160°F); (Pf)  
or
    - (IV) For a multitank, conveyor, multitemperature machine, 66°C (150°F). (Pf)
  - (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). (Pf)

11. Manual Warewashing Equipment, Hot Water Sanitization Temperatures. - If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above. (P)
12. Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.
- (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: (Pf)
    - (I) For a stationary rack, single temperature machine, 74°C (165°F); (Pf) or
    - (II) For all other machines, 82°C (180°F). (Pf)
  - (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.
13. 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).
14. Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness. - A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified under 1200-23-01-.04(7)(c) shall meet the criteria specified under 1200-23-01-.07(2)(d)1 Sanitizers, Criteria, shall be used in accordance with the EPA-registered label use instructions, and shall be used as follows (P):
- (i) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart;( P)

Concentration Range mg/L	Minimum Temperature	
	pH 10 or less °C (°F)	pH 8 or less °C (°F)
25 -49	49 (120)	49 (120)
50 -99	38 (100)	24 (75)
100	13 (55)	13 (55)

- (ii) An iodine solution shall have a:
  - (I) Minimum temperature of 20°C (68°F), (P)
  - (II) A pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, (P) and
  - (III) Concentration between 12.5 mg/L and 25 mg/L; (P)
- (iii) A quaternary ammonium compound solution shall:
  - (I) Have a minimum temperature of 24°C (75°F), (P)
  - (II) Have a concentration as specified under 1200-23-01-.07(2)(d)1 and as indicated by the manufacturer's use directions included in the labeling, (P) and

- (III) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions; (P)
    - (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; (P) 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. (P)
  - 15. Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers. - If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.
  - 16. Warewashing Equipment, Determining Chemical Sanitizer Concentration. - Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device. (Pf)
- (b) Utensils and Temperature and Pressure Measuring Devices
  - 1. Good Repair and Calibration.
    - (i) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under 1200-23-01-.04(1) and 1200-23-01-.04(2) or shall be discarded.
    - (ii) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. (Pf)
    - (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.
  - 2. Single-Service and Single-Use Articles, Required Use. - A food establishment without facilities specified under 1200-23-01-.04(6) and 1200-23-01-.04(7) for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers. (P)
  - 3. 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. Shells, Use Limitation. - Mollusk and crustacean shells may not be used more than once as serving containers.
- (6) Cleaning of Equipment and Utensils
  - (a) Objective
    - 1. Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.

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

(b) Frequency

1. Equipment Food-Contact Surfaces and Utensils.

- (i) Equipment food-contact surfaces and utensils shall be cleaned:
  - (I) Except as specified in (ii) of this part, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry; (P)
  - (II) Each time there is a change from working with raw foods to working with ready-to-eat foods; (P)
  - (III) Between uses with raw fruits and vegetables and with time/temperature control for safety food; (P)
  - (IV) Before using or storing a food temperature measuring device; (P) and
  - (V) At any time during the operation when contamination may have occurred. (P)
- (ii) Item (i)(I) 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 1200-23-01-.03(4)(a)1 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 time/temperature control for safety food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every 4 hours. (P)
- (iv) Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every 4 hours if:
  - (I) In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under 1200-23-01-.03 and the containers are cleaned when they are empty;
  - (II) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:
    - I. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

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

>7.2°C - 10.0°C  
(>45°F - 50°F)

16 hours

>10.0°C - 12.8°C  
(>50°F - 55°F)

10 hours

- II. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.
- (III) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under 1200-23-01-.03, 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;
- (IV) 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 1200-23-01-.03;
- (V) 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;
- (VI) 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
- (VII) 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 1200-23-01-.04(6)(c)1, surfaces of utensils and equipment contacting food that is not time/temperature control for safety food shall be cleaned:
  - (I) At any time when contamination may have occurred;
  - (II) At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
  - (III) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
  - (IV) 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.

2. Cooking and Baking Equipment.

- (i) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in 1200-23-01-.04(6)(b)1(iv)(VI).
- (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.

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

(c) Methods

1. 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 time/temperature control for safety food.
- (ii) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose

2. Precleaning.

- (i) Food debris on equipment and utensils shall be scrapped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.
- (ii) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

3. 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. 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.

5. 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 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 scrapped or rough cleaned to remove food particle accumulation; and
  - (iii) Equipment and utensils shall be washed as specified under 1200-23-01-.04(6)(c)4(i).
  
6. Rinsing Procedures. - Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through use of a distinct, separate water rinse after washing and before sanitizing.
  
7. Returnables, Cleaning for Refilling.
  - (i) Except as specified in subparts (ii) and (iii), returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant. (P)
  - (ii) A food-specific container for beverages may be refilled at a food establishment if:
    - (I) Only a beverage that is not a time/temperature control for safety food is used as specified under 1200-23-01-.03(3)(d)7.
    - (II) 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;
    - (III) 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;
    - (IV) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
    - (V) The container is refilled by:
      - I. An employee of the food establishment, or
      - II. The owner of the container if the beverage system includes a contamination-free transfer process that cannot be by-passed by the container owner.
  - (iii) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.
  
- (7) Sanitization of Equipment and Utensils
  - (a) Objective. – Food-Contact Surfaces and Utensils. – Equipment, food-contact surfaces and utensils shall be sanitized.
  - (b) Frequency - -Before Use After Cleaning. - Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning. (P)

- (c) Methods - Hot Water and Chemical. - After being cleaned, equipment, food-contact surfaces and utensils shall be sanitized in:
1. Hot water manual operations by immersion for at least 30 seconds and as specified under 1200-23-01-.04(5)(a)11.;(P)
  2. Hot water mechanical operations by being cycled through equipment that is set up as specified under 1200-23-01-.04(5)(a)5, 1200-23-01-.04(5)(a)12, and 1200-23-01-.04(5)(a)13. and achieving a utensil surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator;( P) or
  3. Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 1200-23-01-.04(5)(a)14. Contact times shall be consistent with those on EPA-registered label use instructions by providing:
    - (i) Except as specified under part (c)2. of this subparagraph, a contact time of at least 10 seconds for a chlorine solution specified under 1200-23-01-.04(5)(a)14(i), (P)
    - (ii) A contact time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of 8 or less and a temperature of at least 24°C (75°F), (P)
    - (iii) A contact time of at least 30 seconds for other chemical sanitizing solutions, (P) or
    - (iv) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 1200-23-01-.01. (P)

(8) Laundering.

- (a) Objective. --Clean Linens. - Clean linens shall be free from food residues and other soiling matter.
- (b) Frequency - Specifications.
1. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.
  2. Cloth gloves used as specified in 1200-23-01-.03(3)(d)5 shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork or poultry.
  3. Linens and cloth napkins that are used as specified under 1200-23-01-.03(3)(d)3 and cloth napkins shall be laundered between each use.
  4. Wet wiping cloths shall be laundered daily.
  5. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.
- (c) Methods.
1. 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.
  2. Mechanical Washing.
    - (i) Except as specified in (ii) of this part, linens shall be mechanically washed.

- (ii) In food establishments in which only wiping cloths are laundered as specified in 1200-23-01-.04(3)(a)5(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 1200-23-01-.04(5)(a)14.

3. 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.

(9) Protection of Clean Items

(a) Drying.

- 1. 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 the first paragraph of 40 CFR § 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions), before contact with food; and
  - (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.
- 2. Wiping Cloths, Air-Drying Locations. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in 1200-23-01-.04(3)(a)5(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 section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 1200-23-01-.04(5)(a)14.

(b) Lubricating and Reassembling. –

- 1. Food-Contact Surfaces. Lubricants as specified under 1200-23-01-.07(2)(e) shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.
- 2. Equipment. Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(c) Storing

- 1. Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.
  - (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:
    - (I) In a clean, dry location;
    - (II) Where they are not exposed to splash, dust, or other contamination; and
    - (III) At least 15 cm (6 inches) above the floor.

- (ii) Clean equipment and utensils shall be stored as specified under (i) of this part and shall be stored:
  - (I) In a self-draining position that allows air drying; and
  - (II) Covered or inverted.
- (iii) Single-service and single-use articles shall be stored as specified under (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 1200-23-01-.04(2)(d)18.

2. Prohibitions.

- (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:
  - (I) In locker rooms;
  - (II) In toilet rooms;
  - (III) In garbage rooms;
  - (IV) In mechanical rooms;
  - (V) Under sewer lines that are not shielded to intercept potential drips;
  - (VI) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  - (VII) Under open stairwells; or
  - (VIII) 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.

(d) Preventing Contamination

1. 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.

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

3. 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:
    - (I) Unused settings are removed when a consumer is seated; or
    - (II) Settings not removed when a consumer is seated are cleaned and sanitized before further use.
4. 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 1200-23-01-.04(2)(d) and 1200-23-01-.04(5); 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.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

Rule 1200-23-01-.05 Water, Plumbing, and Waste.

(1) Water

(a) Source

1. Approved System. - Drinking water shall be obtained from an approved source that is:
  - (i) A public water system; (P) or
  - (ii) A nonpublic water system that is constructed, maintained, and operated according to law. (P)
2. System Flushing and Disinfection. 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. (P)
3. Bottled Drinking Water. Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR Part 129 - Processing and Bottling of Bottled drinking water. (P)

(b) Quality

1. Standards. Except as specified under 1200-23-01-.05(1)(b)2:
  - (i) Water from a public water system shall meet 40 CFR Part 141 - National Primary Drinking Water Regulations and state drinking water quality standards; and (P)
  - (ii) Water from a nonpublic water system shall meet state drinking water quality standards. (P)
2. Nondrinking Water.

- (i) A nondrinking water supply shall be used only if its use is approved (P).
  - (ii) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection. (P)
3. Sampling. Except when used as specified under 1200-23-01-.05(1)(b)2, water from a nonpublic water system shall be sampled and tested at least annually and as required by state water quality regulations. (Pf)
  4. Sample Report. The most recent sample report for the nonpublic water system shall be retained on file in the food establishment or the report shall be maintained as specified by state water quality regulations.
- (c) Quantity and Availability
1. Capacity.
    - (i) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment. (Pf)
    - (ii) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. (Pf)
  2. Pressure. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under 1200-23-01-.05(1)(d)2(i) and (ii) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure. (Pf)
- (d) Distribution, Delivery, and Retention
1. System. Water shall be received from the source through the use of:
    - (i) An approved public water main (Pf); or
    - (ii) One or more of the following that shall be constructed, maintained, and operated according to law: (Pf)
      - (I) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances, (Pf)
      - (II) Water transport vehicles, (Pf) or
      - (III) Water containers. (Pf)
  2. Alternative Water Supply. Water meeting the requirements specified under 1200-23-01-.05(1)(a), 1200-23-01-.05(1)(b), and 1200-23-01-.05(1)(c) shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:
    - (i) A supply of containers of commercially bottled drinking water; (Pf)
    - (ii) One or more closed portable water containers; (Pf)
    - (iii) An enclosed vehicular water tank; (Pf)
    - (iv) An on-premises water storage tank; or (Pf)
    - (v) Piping, tubing, or hoses connected to an adjacent approved source. (Pf)

(2) Plumbing System

- (a) Materials - Approved.
1. A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law. (P)
  2. A water filter shall be made of safe materials. (P)
- (b) Design, Construction, and Installation.
1. Approved System and Cleanable Fixtures.
    - (i) A plumbing system shall be designed, constructed, and installed according to law. (P)
    - (ii) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.
  2. Handwashing Sink, Installation.
    - (i) A handwashing sink shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet. (Pf)
    - (ii) A steam-mixing valve may not be used at a handwashing sink.
    - (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.
    - (iv) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.
  3. Backflow Prevention, Air Gap. An air gap between the water supply inlet and the flood level rim of the plumbing fixture equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch). (P)
  4. Backflow Prevention Device, Design Standard. A backflow or backsiphonage 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. (P)
  5. 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.
- (c) Numbers and Capacities
1. Handwashing Sinks.
    - (i) Except as specified in subpart (ii) of this part, at least 1 handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified under 1200-23-01-.05(2)(d)1, and not fewer than the number of handwashing sinks required by law shall be provided. (Pf)
    - (ii) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least 1 handwashing sink.
  2. Toilets and Urinals. At least 1 toilet and not fewer than the toilets required by law shall be provided. If the food service establishment has more than 16 seats, two restrooms must be available. If authorized by law and urinals are substituted for toilets, the substitution

shall be done as specified in law.

3. Service Sink.
  - (i) At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.
  - (ii) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.
4. Backflow Prevention Device, When Required. A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:
  - (i) Providing an air gap as specified under 1200-23-01-.05(2)(b)3; (P) or
  - (ii) Installing an approved backflow prevention device as specified under 1200-23-01-.05(2)(b)4. (P)
5. Backflow Prevention Device, Carbonator.
  - (i) If not provided with an air gap as specified under 1200-23-01-.05(2)(b)3, a 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.
  - (ii) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under subpart (i) of this part.

(d) Location and Placement:

1. Handwashing sinks shall be located:
  - (i) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; (Pf) and
  - (ii) In, or immediately adjacent to, toilet rooms. (Pf)
2. Backflow Prevention Device, Location. A backflow prevention device shall be located so that it may be serviced and maintained.
3. 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.

(e) Operation and Maintenance

1. Using a Handwashing Sink.
  - (i) A handwashing sink shall be maintained so that it is accessible at all times for employee use. (Pf)
  - (ii) A handwashing sink may not be used for purposes other than handwashing. (Pf)
  - (iii) An automatic handwashing facility shall be used in accordance with manufacturer's instructions. (Pf)

2. Prohibiting a Cross Connection.
  - (i) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality. (P)
  - (ii) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water. (Pf)
3. Scheduling Inspection and Service for a Water System Device. A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge. (Pf)
4. Water Reservoir of Fogging Devices, Cleaning.
  - (i) A reservoir that is used to supply water to a device such as a produce fogger shall be:
    - (I) Maintained in accordance with manufacturer's specifications; (P) and
    - (II) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under subpart (ii) of this part, whichever is more stringent. (P)
  - (ii) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
    - (I) Draining and complete disassembly of the water and aerosol contact parts; (P)
    - (II) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution; (P)
    - (III) Flushing the complete system with water to remove the detergent solution and particulate accumulation; (P) and
    - (IV) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution. (P)
5. System Maintained in Good Repair. A plumbing system shall be:
  - (i) Repaired according to law; (P) and
  - (ii) Maintained in good repair. (P)

(3) Mobile Water Tanks and Mobile Food Establishment Water Tanks.

- (a) Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:
  1. Safe; (P)
  2. Durable, corrosion-resistant, and nonabsorbent; and
  3. Finished to have a smooth, easily cleanable surface.
- (b) Design and Construction.

1. 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.
2. 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:
    - (I) Provided with a gasket and a device for securing the cover in place, and
    - (II) Flanged to overlap the opening and sloped to drain.
3. "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. 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 inch) 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.
5. 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.
6. Hose, Construction and Identification. A hose used for conveying drinking water from a water tank shall be:
  - (i) Safe; (P)
  - (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.

(c) Number and Capacities

1. Filter, Compressed Air. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system. (P)
2. 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.

3. Mobile Food Establishment Tank Inlet. A mobile food establishment's water tank inlet shall be:
  - (i) 19.1 mm (three-fourths inch) 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.
- (d) Operation and Maintenance.
  1. System Flushing and Sanitization. A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse. (P)
  2. 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.
  3. 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 1200-23-01-.05(3)(c)2.
  4. 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) Sewage, Other Liquid Waste, and Rainwater.
  - (a) Mobile Holding Tank. Capacity and Drainage. A sewage holding tank in a mobile food establishment shall be:
    1. Sized 15 percent larger in capacity than the water supply tank; and
    2. Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.
  - (b) Retention Drainage and Delivery.
    1. Establishment Drainage System. Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 1200-23-01-.05(2)(b).
    2. Backflow Prevention.
      - (i) Except as specified in subparts (ii), (iii), and (iv) of this part, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.
      - (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.

(iv) If allowed by law, a warewashing or culinary sink may have a direct connection.

3. Grease Trap. If used, a grease trap shall be located to be easily accessible for cleaning.
4. Conveying Sewage. 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. (P)
5. Removing Mobile Food Establishment Wastes. Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created. (Pf)
6. 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.

(c) Approved Sewage Disposal System.

1. Sewage shall be disposed through an approved facility that is:
  - (i) A public sewage treatment plant; (P) or
  - (ii) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law. (P)
2. Other Liquid Wastes and Rainwater. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

(5) Refuse, Recyclables, and Returnables.

(a) Facilities on the Premises.

1. Indoor Storage Area. If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 1200-23-01-.06(1)(a)1, 1200-23-01-.06(2)(a)1, 1200-23-01-.06(2)(a)8, 1200-23-01-.06(2)(b)5, and 1200-23-01-.06(2)(b)6.
2. Outdoor Storage Surface. An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.
3. Outdoor Enclosure. If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.
4. Receptacles.
  - (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, leakproof, 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.
5. Outside Receptacles.
  - (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.
6. 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 lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.
7. Toilet Room Receptacle, Covered. A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.
8. 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.
9. Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location.
- (i) An area designated for refuse, recyclables, returnables, and, except as specified in (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.
10. 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.
11. Areas, Enclosures, and Receptacles, Good Repair. Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.
12. Outside Storage Prohibitions.

- (i) Except as specified in subpart (ii) of this part, refuse receptacles not meeting the requirements specified under 1200-23-01-.05(5)(a)4(i) such as receptacles that are not rodent-resistant, that consist of 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.
13. 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:
    - (I) Contain food residue and are not in continuous use; or
    - (II) After they are filled; and
  - (ii) With tight-fitting lids or doors if kept outside the food establishment.
14. Using Drain Plugs. Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.
15. 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 1200-23-01-.06(5)(n), and clean.
16. 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 1200-23-01-.05(4)(b)4.
  - (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.
- (b) Removal.
- 1. 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.
  - 2. 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.
- (c) Facilities for Disposal and Recycling. 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.

1200-23-01-.06 Physical Facilities.

(1) Materials for Construction and Repair.

(a) Indoor Areas. Surface Characteristics

1. Except as specified in part 2. of this subparagraph, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:
  - (i) Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;
  - (ii) Closely woven and easily cleanable carpet for carpeted areas; and
  - (iii) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.
2. In a temporary food establishment:
  - (i) 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
  - (ii) Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

(b) Outdoor Areas. Surface Characteristics.

1. 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.
2. Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.
3. Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 1200-23-01-.05(5)(a)2 and 1200-23-01-.05(5)(a)3.

(2) Design, Construction, and Installation.

(a) Cleanability.

1. Floors, Walls, and Ceilings. Except as specified under part 4. of this subparagraph and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.
2. 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.

3. 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 (one thirty-second 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. 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, toilet room areas where handwashing lavatories, 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:
    - (I) Securely attached to the floor with a durable mastic, by using a stretch method and tack method, or by another method; and
    - (II) 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.
5. Floor Covering, Mats and Duckboards. Mats and duckboards shall be designed to be removable and easily cleanable.
6. Wall and Ceiling Coverings and Coatings.
  - (i) Wall and ceiling covering materials shall be attached so that they are easily cleanable.
  - (ii) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.
7. 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.
8. Walls and Ceilings, Studs, Joists, and Rafters. Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

(b) Functionality.

1. 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:
    - (I) The integrity of the packages cannot be affected by broken glass falling onto them; and
    - (II) 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.
2. 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.
3. 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:
    - (I) The devices are not located over a food preparation area; and
    - (II) 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. Toilet Rooms, Enclosed. Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.
5. Outer Openings, Protected.
- (i) Except as specified in subparts (ii), (iii), (iv) and (v) of this part, outer openings of a food establishment shall be protected against the entry of insects and rodents by:
    - (I) Filling or closing holes and other gaps along floors, walls, and ceilings;
    - (II) Closed, tight-fitting windows; and
    - (III) 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:

- (I) Solid and tight-fitting;
  - (II) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
  - (III) Limited-use 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 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:
- (I) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;
  - (II) Properly designed and installed air curtains to control flying insects; or
  - (III) 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.

- 6. 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.
- 7. Outdoor Walking and Driving Surfaces, Graded to Drain. Exterior walking and driving surfaces shall be graded to drain.
- 8. Outdoor Refuse Areas, Curbed and Graded to Drain. Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.
- 9. Private Homes and Living or Sleeping Quarters, Use Prohibition. A private home, except as provided by T.C.A. § 53-8-117, 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.
- 10. 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 establishments operations by complete partitioning and solid self-closing doors.

(3) Number and Capacities.

(a) Handwashing Sinks

- 1. Handwashing sinks shall be provided as specified under 1200-23-01-.05(2)(c)1.
- 2. Handwashing Cleanser, Availability. Each handwashing sink or group of 2 adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.
- 3. Hand Drying Provision. Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

- (i) Individual, disposable towels;
  - (ii) A continuous towel system that supplies the user with a clean towel; or
  - (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.
4. 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 1200-23-01-.06(3)(a)2 and 1200-23-01-.06(3)(a)3 and 1200-23-01-.05(5)(a)6.
  5. Handwashing Signage. A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.
  6. Disposable Towels, Waste Receptacle. A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified under 1200-23-01-.05(5)(a)6.
- (b) Toilets and Urinals.
1. Toilets and urinals shall be provided as specified under 1200-23-01-.05(2)(c)2.
  2. A supply of toilet tissue shall be available at each toilet. (Pf)
- (c) Lighting. The light intensity shall be:
1. At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
  2. At least 215 lux (20 foot candles):
    - (i) 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,
    - (ii) Inside equipment such as reach-in and under-counter refrigerators; and
    - (iii) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
  3. 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.
- (d) Ventilation. 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.
- (e) Dressing Areas and Lockers.
1. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

2. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.
  - (f) A service sink or curbed cleaning facility shall be provided as specified under 1200-23-01-.05(2)(c)3(i).
- (4) Location and Placement.
- (a) Handwashing sinks shall be conveniently located as specified under 1200-23-01-.05(2)(d)1.
  - (b) Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.
  - (c) Employee Accommodations.
    1. 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.
    2. 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.
  - (d) Distressed Merchandise. 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. (Pf)
  - (e) Refuse, Recyclables, and Returnables. Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under 1200-23-01-.05(5)(a)9.
- (5) Maintenance and Operation.
- (a) Physical facilities shall be maintained in good repair.
  - (b) Cleaning, Frequency and Restrictions.
    1. Physical facilities shall be cleaned as often as necessary to keep them clean.
    2. Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.
  - (c) Cleaning Floors, Dustless Methods.
    1. Except as specified in part 2. of this subparagraph, 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.
    2. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:
      - (i) Without the use of dust-arresting compounds; and
      - (ii) 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.
  - (d) Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

1. Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.
  2. If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.
- (e) Cleaning Maintenance Tools, Preventing Contamination. Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.
- (f) Drying Mops. After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.
- (g) Absorbent Materials on Floors, Use Limitation. Except as specified in 1200-23-01-.06(5)(c)2, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.
- (h) Cleaning of Plumbing Fixtures. Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.
- (i) Closing Toilet Room Doors. Except during cleaning and maintenance operations, toilet room doors as specified under 1200-23-01-.06(2)(b)4 shall be kept closed.
- (j) Using Dressing Rooms and Lockers.
1. Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.
  2. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.
- (k) Controlling Pests. The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:
1. Routinely inspecting incoming shipments of food and supplies;
  2. Routinely inspecting the premises for evidence of pests;
  3. Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 1200-23-01-.07(2)(b)2 and 1200-23-01-.07(2)(f); and
  4. Eliminating harborage conditions.
- (l) 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.
- (m) Storing Maintenance Tools. Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:
1. Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use; and
  2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.
- (n) Maintaining Premises, Unnecessary Items and Litter. The premises shall be free of:

1. Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
  2. Litter.
- (o) Prohibiting Animals.
1. Except as specified in parts 2. and 3. of this subparagraph, live animals may not be allowed on the premises of a food establishment.
  2. Live animals are allowed in the following situations if the owner or operator does not permit animals to physically contact food, serving dishes, utensils, tableware, linens, unwrapped single-service and single-use articles or other food service items that may result in contamination of food or food-contact surfaces and does not permit animals to physically contact employees engaged in the preparation or handling of food:
    - (i) Fish or crustacea in aquariums or display tanks;
    - (ii) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas; and sentry dogs in outside fenced areas;
    - (iii) Service animals accompanying persons with disabilities in areas that are not used for food preparation;
    - (iv) Dogs (*Canis lupus familiaris*) and cats (*Felis catus*) in outdoor dining areas; provided that dogs and cats are physically restrained, and do not pass through any indoor areas of the food establishment. Except for service animals described in subpart (iii) of this part, nothing in this Chapter prohibits a food establishment from prohibiting dogs and cats in outdoor dining areas; and
    - (v) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.
  3. Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles cannot result.

(p) Dogs in outdoor Dining Areas

Notwithstanding subparagraph (o) of this paragraph, where a county or municipality has passed an ordinance or resolution under T.C.A. § 6-54-135 authorizing individual restaurants to permit dogs in outdoor dining areas and to charge permit holders a reasonable permit fee, dogs other than service dogs may be permitted in outside areas of a food establishment, provided, however:

1. Except as provided in subparagraph (o), no dog shall be present in the interior of any restaurant or in any area where food is prepared;
2. The food establishment shall have the right to refuse to serve the owner of a dog if the owner fails to exercise reasonable control over the dog or the pet dog is otherwise behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the food establishment;
3. The person in charge shall not permit dogs to physically contact food, serving dishes, utensils, tableware, linens, unwrapped single-service and single-use articles or other food service items that may result in contamination of food or food-contact surfaces and shall not permit animals to physically contact employees engaged in the preparation or handling of food;
4. The person in charge shall instruct employees and patrons that dogs shall not be allowed to come into contact with serving dishes, utensils, tableware, linens, paper products or any

other items involved in food service operations;

5. Patrons shall keep their dogs on a leash at all times and keep their dogs under reasonable control;
6. Dogs shall not be allowed on tables, chairs or other furnishings;
7. The person in charge shall ensure that any accidents involving dog waste are cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.
8. The permit holder shall post a sign or signs reminding employees and patrons of the applicable rules on the premises in a manner and in such place(s) as determined by the local permitting authority; and
9. Pet dogs shall not be permitted to travel through indoor or nondesignated portions of the food establishment, and ingress and egress to the designated outdoor portions of the food establishment shall not require entrance into nor passage through any indoor area of the food establishment.

Authority: T.C.A. §§ 6-54-135, 53-8-117, and 68-14-701 through 68-14-726.

1200-23-01-.07 Poisonous or Toxic Materials.

(1) Labeling and Identification.

- (a) Original Containers. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label. Only those pesticides that have been registered with the EPA and with the Department shall be used. If the manufacturer's label is missing from a pesticide container, the container shall be identified with the manufacturer's product brand name, percentage of each active ingredient, and EPA registration number. (Pf)
- (b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. (Pf)

(2) Operational Supplies and Applications.

- (a) Storage. Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:
  1. Separating the poisonous or toxic materials by spacing or partitioning; (P) and
  2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This part does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles. (P)
- (b) Presence and Use.
  1. Restriction.
    - (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.

2. Conditions of Use. Poisonous or toxic materials shall be:
  - (i) Used according to:
    - (I) Law and this Chapter,
    - (II) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment, (P)
    - (III) The conditions of certification, if certification is required, for use of the pest control materials, (P) and
    - (IV) Additional conditions that may be established by the department; and
  - (ii) Applied so that:
    - (I) A hazard to employees or other persons is not constituted, (P) and
    - (II) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by: (P)
      - I. Removing the items, (P)
      - II. Covering the items with impermeable covers, (P) or
      - III. Taking other appropriate preventive actions, (P) and
      - IV. Cleaning and sanitizing equipment and utensils after the application. (P)
  - (iii) A general use or restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC § 136(e), Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act and Tennessee Rule Chapter 0080-06-16 Regulations Governing Use of Restricted Use Pesticides. (Pf)
- (c) Container Prohibitions. Poisonous or Toxic Material Containers. A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food. Sanitizing solutions shall not be stored in or dispensed from containers previously containing other poisonous or toxic materials. (P)
- (d) Chemicals
  1. Sanitizers, Criteria. Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR § 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions). (P)
  2. Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.
    - (i) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR § 173.315 Chemicals used in washing or to assist in the peeling of fruits and vegetables. (P)
    - (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 CFR § 173.368 Ozone.

3. Boiler Water Additives, Criteria. Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR § 173.310 Boiler water additives. (P)
4. Drying Agents, Criteria. Drying agents used in conjunction with sanitization shall:
  - (i) Contain only components that are listed as one of the following:
    - (I) Generally recognized as safe for use in food as specified in 21 CFR Part 182 - Substances Generally Recognized as Safe, or 21 CFR Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, (P)
    - (II) Generally recognized as safe for the intended use as specified in 21 CFR Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe, (P)
    - (III) Approved for use as a drying agent under a prior sanction specified in 21 CFR Part 181 - Prior-Sanctioned Food Ingredients, (P)
    - (IV) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175 through 178, (P) or
    - (V) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR § 170.39 Threshold of regulation for substances used in food-contact articles; (P) and
  - (ii) When sanitization is with chemicals, the approval required under (i)(III) or (i)(V) of this part or the regulation as an indirect food additive required under (i)(IV) of this part, shall be specifically for use with chemical sanitizing solutions. (P)
- (e) Lubricants shall meet the requirements specified in 21 CFR § 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces. (P)
- (f) Pesticides.
  1. Restricted use pesticides specified under 1200-23-01-.07(2)(b)2(iii) shall meet the requirements specified in 40 CFR Part 152 Subpart I - Classification of Pesticides. (P)
  2. Rodent Bait Stations. Rodent bait shall be placed outside and contained in a covered, tamper-resistant bait station. (P)
  3. Tracking Powders, Pest Control and Monitoring.
    - (i) Except as specified in (ii) of this part, a tracking powder pesticide may not be used in a food establishment. (P)
    - (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.
- (g) Medicines.
  1. Restriction and Storage.
    - (i) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment. (Pf)

- (ii) Medicines that are in a food establishment for the employees' use shall be labeled as specified under 1200-23-01-.07(1) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. (P)
    - 2. Refrigerated Medicines, Storage. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:
      - (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; (P) and
      - (ii) Located so they are inaccessible to children. (P)
  - (h) First Aid Supplies that are in a food establishment for the employees' use shall be:
    - 1. Labeled as specified under 1200-23-01-.07(1); (Pf) and
    - 2. Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles. (P)
  - (i) Other Personal Care Items. Except as specified under 1200-23-01-.07(2)(g)2, employees shall store their personal care items in facilities as specified under 1200-23-01-.06(3)(e)2.
- (3) Stock and Retail Sale.
- Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:
- (a) Separating the poisonous or toxic materials by spacing or partitioning; (P) and
  - (b) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. (P)

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

1200-23-01-.08 Compliance and Enforcement

- (1) Applicability
  - (a) Public Health Protection – The department shall apply this code to promote its purpose of safeguarding public health and ensuring that food is safe, unadulterated and honestly presented when it is offered to the consumer.
  - (b) In enforcing the provisions of this Chapter, the department shall assess existing facilities or equipment that were in use before the effective date of this Chapter based on the following considerations:
    - 1. Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
    - 2. Whether food-contact surfaces comply with 1200-23-01-.04(1)(a);
    - 3. Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 1200-23-01-.04(3)(a)1; and
    - 4. The existence of a documented agreement with the permit holder that the facilities or equipment will be replaced as specified under 1200-23-01-.08(3)(i)6.
  - (c) Preventing Health Hazards, Provision for Conditions Not Addressed.

1. If necessary to protect against public health hazards or nuisances, the department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.
2. 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.

(d) Variances

1. **Modifications and Waivers.** The department may grant a variance by modifying or waiving the requirements of this Chapter if in the opinion of the department a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall retain the information specified under part 2. of this subparagraph in its records for the food establishment. Variance requests shall be submitted to a committee including a food scientist and representatives from industry and state and local public health agencies appointed by the department.
2. **Documentation of Proposed Variance and Justification.** Before a variance from a requirement of this Chapter 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:
  - (i) A statement of the proposed variance of the Chapter requirement citing relevant Chapter section numbers;
  - (ii) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Chapter sections will be alternatively addressed by the proposal; and
  - (iii) A HACCP plan if required as specified under 1200-23-01-.08(2)(c) that includes the information specified under 1200-23-01-.08(2)(d) as it is relevant to the variance requested.
3. **Conformance with Approved Procedures.** If the department grants a variance as specified in 1200-23-01-.08(1)(d), or a HACCP plan is otherwise required as specified under 1200-23-01-.08(2)(c), the permit holder shall:
  - (i) Comply with the HACCP plans and procedures that are submitted as specified under 1200-23-01-.08(2)(d) and approved as a basis for the modification or waiver; (P) and
  - (ii) Maintain and provide to the department, upon request, records specified under 1200-23-01-.08(2)(d)4 that demonstrate that the following are routinely employed;
    - (I) Procedures for monitoring the critical control points,
    - (II) Monitoring of the critical control points,
    - (III) Verification of the effectiveness of the operation or process, and
    - (IV) Necessary corrective actions if there is failure at a critical control point.

(2) Plan Submission and Approval

- (a) **When Plans Are Required.** Plans drawn to scale for food establishments shall be submitted for review and approval to the department. A permit applicant or permit holder shall submit to the department properly prepared plans and specifications for review and approval before:

1. The construction of a food establishment;
  2. The conversion of an existing structure for use as a food establishment; or
  3. The remodeling of a food establishment or a change of type of food establishment or food operation as specified under 1200-23-01-.08(3)(e)3 if the department determines that plans and specifications are necessary to ensure compliance with this Chapter.
- (b) Contents of the Plans and Specifications. The plans and specifications for a food establishment, including a food establishment specified under 1200-23-01-.08(2)(c), 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 Chapter provisions:
1. Intended menu and plans to be reviewed;
  2. Anticipated volume of food to be stored, prepared, and sold or served;
  3. Proposed layout, mechanical schematics, construction materials, and finish schedules;
  4. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
  5. Evidence that standard procedures that ensure compliance with the requirements of this Chapter are developed or are being developed; and
  6. Other information that may be required by the department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.
- (c) When a HACCP Plan is Required.
1. 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 1200-23-01-.08(2)(d) and the relevant provisions of this Chapter if:
    - (i) Submission of a HACCP PLAN is required according to law;
    - (ii) A variance is required as specified under 1200-23-01-.03(4)(a)1(iv), 1200-23-01-.03(5)(b), or 1200-23-01-.04(2)(d)8(ii);
    - (iii) The department determines that a food preparation or processing method requires a variance based on a plan submittal specified under 1200-23-01-.08(2)(b), an inspectional finding, or a variance request.
  2. A permit applicant or permit holder shall have a properly prepared HACCP plan as specified under 1200-23-01-.03(5)(c).
- (d) Contents of a HACCP Plan. For a food establishment that is required under 1200-23-01-.08(2)(c) to have a HACCP plan, the plan and specifications shall indicate:
1. A categorization of the types of time/temperature control for safety foods 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;
  2. A flow diagram by specific or category type identifying critical control points and providing information on the following:
    - (i) Ingredients, materials, and equipment used in the preparation of that food, and

- (ii) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
  - 3. Food employee and supervisory training plan that addresses the food safety issues of concern;
  - 4. A statement of standard operating procedures for the plan under consideration including clearly identifying:
    - (i) Each critical control point,
    - (ii) The critical limits for each critical control points,
    - (iii) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,
    - (iv) 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,
    - (v) Action to be taken by the person in charge if the critical limits for each critical control point are not met,
    - (vi) Records to be maintained by the person in charge to demonstrate that the HACCP Plan is properly operated and managed; and
    - (vii) Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal.
  - (e) Trade Secrets. The department shall treat as confidential in accordance with law information that meets the criteria specified in law for a trade secret which is contained on inspection report forms and in the plans and specifications submitted under subparagraphs (a) and (b) of this rule.
  - (f) 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 part (2)(b)5. of this paragraph, and is in compliance with law and this Chapter.
- (3) Permit to Operate
- (a) Prerequisite for Operation. A person may not operate a food establishment without a valid permit to operate issued by the department.
  - (b) Submission 15 Calendar Days Before Proposed Opening. An applicant shall submit an application for a permit at least 15 calendar days before the date planned for opening a food establishment or the expiration date of the current permit for an existing facility.
  - (c) Form of Submission. A person desiring to operate a food establishment shall submit to the department a written application for a permit on a form provided by the department.
  - (d) To qualify for a permit, an applicant shall:
    - 1. Be an owner of the food establishment or an officer of the legal ownership;
    - 2. Comply with the requirements of this Chapter;
    - 3. As specified under 1200-23-01-.08(4)(b), agree to allow access to the food establishment and to provide required information; and

4. Pay the applicable permit fees at the time the application is submitted.
- (e) Contents of the Application. The application shall include:
1. The name, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;
  2. Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity;
  3. A statement specifying whether the food establishment:
    - (i) Is mobile or stationary and temporary or permanent, and
    - (ii) Is an operation that includes one or more of the following:
      - (I) Prepares, offers for sale, or serves time/temperature control for safety food:
        - I. Only to order upon a consumer's request,
        - II. In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency, or
        - III. Using time as the public health control as specified under 1200-23-01-.03(5)(a)9,
      - (II) Prepares time/temperature control for safety food in advance using a food preparation method that involves two or more steps which may include combining time/temperature control for safety food ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
      - (III) Prepares food as specified under item 3(ii)(II) of this subparagraph for delivery to and consumption at a location off the premises of the food establishment where it is prepared;
      - (IV) Prepares food as specified under item 3(ii)(II) of this subparagraph for service to a highly susceptible population;
      - (V) Prepares only food that is not time/temperature control for safety food, or
      - (VI) Does not prepare, but offers for sale only prepackaged food that is not time/temperature control for safety food;
  4. The name, title, address, and telephone number of the person directly responsible for the food establishment;
  5. The name, title, address and telephone number of the person who functions as the immediate supervisor of the person specified under 4 of this subparagraph such as the zone, district or regional supervisor;
  6. The names, titles, and addresses of the persons comprising the legal ownership as specified under 2 of this subparagraph including the owners and officers;
  7. A statement signed by the applicant that attests to the accuracy of the information provided in the application; and
  8. Other information required by the department.

- (f) New, Converted, or Remodeled Establishments. For food establishments that are required to submit plans as specified under 1200-23-01-.08(2)(a), the department shall issue a permit to the applicant after:
1. A properly completed application is submitted;
  2. The required fee is submitted;
  3. The required plans, specifications, and information are reviewed and approved; and
  4. A preoperational inspection as specified in 1200-23-01-.08(2)(f) shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter.
- (g) Existing Establishments and Change of Ownership. As applicable, the department may issue a permit to a new owner of an existing food establishment after an application is submitted, reviewed, and approved, and an inspection shows that the establishment is in compliance with this Chapter.
- (h) Denial of Application for Permit, Notice. If an application for a permit to operate is denied, the department shall provide the applicant with a notice that includes:
1. The specific reasons and Chapter citations for the permit denial;
  2. The actions, if any, that the applicant must take to qualify for a permit; and
  3. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.
- (i) Responsibilities of the Permit Holder. Upon acceptance of the permit issued by the department, the permit holder in order to retain the permit shall:
1. Comply with the provisions of this Chapter including the conditions of a granted variance as specified under 1200-23-01-.08(1)(d)3, and approved plans as specified under 1200-23-01-.08(2)(b);
  2. If a food establishment is required under 1200-23-01-.08(2)(c) to operate under a HACCP Plan, comply with the plan as specified under 1200-23-01-.08(1)(d)3;
  3. Immediately contact the department to report an illness of a food employee or conditional employee as specified under 1200-23-01-.02(2)(a)2;
  4. Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified under 1200-23-01-.08(4)(d);
  5. Allow representatives of the department access to the food establishment as specified under 1200-23-01-.08(4)(b);
  6. Replace existing facilities and equipment specified in 1200-23-01-.08(1)(b) with facilities and equipment that comply with this Chapter if:
    - (i) 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; or
    - (ii) The department directs the replacement of the facilities and equipment because of a change of ownership.
  7. Comply with directives of the department including time frames for corrective actions

specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the permit holder's food establishment or in response to community emergencies;

8. Accept notices issued and served by the department according to law;
  9. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives;
  10. Post the permit in a conspicuous manner as designated by the inspector at the time of inspection, and ensure that no person except an authorized representative of the department shall modify, remove, cover or otherwise make the permit less conspicuous; and
  11. In the event of a lost, misplaced or destroyed permit, immediately apply for a duplicate and forward the fee with the application for a duplicate permit.
- (j) A permit may not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application as specified under 1200-23-01-.08(3)(e)3 .
- (4) Inspection and Correction of Violations . . . . .
- (a) Frequency.
1. Establishing Inspection Interval. Except as specified in parts 2 and 4 of this subparagraph, the department may inspect a food establishment at least once every 6 months.
  2. The department may increase 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 1200-23-01-.08(2)(d) and 1200-23-01-.08(1)(d) 3(i) and (ii);
    - (ii) The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction; or
    - (iii) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not time/temperature control for safety food such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.
  3. The department may periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or services unpackaged time/temperature control for safety food and that 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
  4. Performance- and Risk-Based. – Within the parameters specified in (4)(a) –(c) of this paragraph, the department shall prioritize and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:
    - (i) Past performance, for nonconformance with this chapter or HACCP plan requirements that are priority items or priority foundation items;

- (ii) Past performance, for numerous or repeat violations of this chapter or HACCP plan requirements that are core items;
- (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.

(b) Access

1. Allowed at Reasonable Times after Due Notice. After the department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the department to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.
2. Refusal, Notification of Right to Access, and Final Request for Access. If a person denies access to the department, the department shall inform the person that:
  - (i) The permit holder shall allow access to the department as specified under 1200-23-01-.08(4)(b)1.
  - (ii) Access is a condition of the acceptance and retention of a food establishment permit to operate as specified under 1200-23-01-.08(3)(i)5,
  - (iii) If access is denied, an administrative warrant may be obtained according to law. and
  - (iv) A final request for access will be made.
3. Refusal, Reporting. If after the department presents credentials and provides notice as specified under 1200-23-01-.08(4)(b)1, explains the authority upon which access is requested, and makes a final request for access as specified in 1200-23-01-.08(4)(b)2, the person in charge continues to refuse access, the department shall provide details of the denial of access on an inspection report form.
4. Administrative Warrant to Gain Access: If denied access to a food establishment for an authorized purpose, and after complying with 1200-23-01-.08(4)(b)1 - 1200-23-01-.08(4)(b)3, the department may issue an administrative warrant to gain access.

(c) Report of Findings.

1. Documenting Information and Observations. The department shall document on an inspection report form:
  - (i) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 1200-23-01-.08(3)(e)3, inspection date, and other information such as type of water supply and sewage disposal, status of the permit, and personnel certificates that may be required; and

- (ii) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the permit holder including:
  - (I) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Chapter as specified under 1200-23-01-.02(1)(b),
  - (II) Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under 1200-23-01-.02(2)(a).
  - (III) Nonconformance with priority items or priority foundation items of this Chapter,
  - (IV) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 1200-23-01-.08(1)(d)3,
  - (V) Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under 1200-23-01-.08(2)(d)4(vi), and
  - (VI) Nonconformance with critical limits of a HACCP plan.
- 2. Specifying Time Frame for Corrections. The department shall specify on the inspection report form the time frame for correction of the violations as specified under 1200-23-01-.08(4)(e) and 1200-23-01-.08(4)(f)1.
- 3. Issuance of Report, Acknowledgment of Receipt and Posting. At the conclusion of the inspection:
  - (i) The department shall provide a copy of the completed inspection report and any notice to correct violations to the permit holder or to the person in charge, and request a signed acknowledgment of receipt; and
  - (ii) The permit holder shall post the most recent completed report in a conspicuous location on the premises.
- 4. Refusal to Sign Acknowledgment. The department shall:
  - (i) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in 1200-23-01-.08(4)(c)3 that:
    - (I) An acknowledgment of receipt is not an agreement with findings,
    - (II) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified; and
    - (III) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the department's historical record for the food establishment; and
  - (ii) Make a final request that the person in charge or permit holder sign an acknowledgment of receipt of inspectional findings.
- 5. Public Information. Except as specified in 1200-23-01-.08(2)(e) the department shall treat the inspection report as a public document and shall make it available for disclosure

to a person who requests it as provided by law.

(d) Imminent Health Hazard

1. Ceasing Operations and Reporting.

- (i) Except as specified in (ii) of this part, a permit holder shall 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 insanitary occurrence or condition, or other circumstance that may endanger public health.
- (ii) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.
- (iii) Upon declaration of an imminent health hazard by the Commissioner, the permit holder shall immediately cease operations until authorized to reopen.

2. Resumption of Operations. If operations are discontinued as specified under 1200-23-01-.08(4)(e)1 or otherwise according to law, the permit holder shall obtain approval from the department before resuming operations.

(e) Violation of Priority Item or Priority Foundation Item. –

1. Timely Correction.

- (i) Except as specified in subpart (ii) of this part, a permit holder shall at the time of inspection correct a violation of a priority item or priority foundation item of this Chapter 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 to correct violations of a priority item or priority foundation item or HACCP plan deviations.

2. Verification and Documentation of Correction.

- (i) After observing at the time of inspection a correction of a violation of a priority item or priority foundation item or a HACCP plan deviation, the department shall enter the violation and information about the corrective action on the inspection report.
- (ii) As specified under 1200-23-01-.08(4)(e)1(ii), after receiving notification that the permit holder has corrected a violation of a priority item or priority foundation item or HACCP plan deviation, or at the end of the specified period of time, the department may verify correction of the violation.

(f) Core Violation

- 1. Except as specified in part 2. of this subparagraph, the permit holder shall correct core items by a date and time agreed to or specified by the department but no later than 90 calendar days after the inspection.
- 2. The department may approve a compliance schedule that extends beyond the time limits specified under part 1. of this subparagraph if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

- (g) Temporary Food Establishments – Time Frame for Correction. In the case of a temporary food establishment pursuant to 1200-23-01-.01(114), all violations shall be corrected within twenty four (24) hours. If violations are not corrected within twenty four (24) hours, the establishment shall immediately cease food service operation until authorized to resume by the department.

(5) Prevention of Foodborne Disease Transmission by Employees

- (a) Obtaining Information: Personal History of Illness, Medical Examination and Specimen Analysis. The Department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that may be transmitted through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound or an acute respiratory infection by:

1. Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and
2. Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

- (b) Restriction or Exclusion of Food Employee or Summary Suspension of Permit. Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the Department may issue an order to the suspected food employee, conditional employee or permit holder instituting one or more of the following control measures:

1. Restricting the food employee or conditional employee;
2. Excluding the food employee or conditional employee;
3. Closing the food establishment by summarily suspending a permit to operate in accordance with the law.

- (c) Restriction or Exclusion Order: Warning or Hearing Not Required; Information Required in Order. Based on the findings of an investigation and to control disease transmission, the department may issue a summary order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, a notice of hearing or a hearing if the order:

1. States the reasons for the restriction or exclusion;
2. States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
3. States that the suspected food employee or permit holder may request an appeal hearing by submitting a timely request within seven business days of the issuance of the order; and
4. Provides the name and address of the department representative to whom a request for appeal hearing may be made.

- (d) Removal of Exclusions and Restrictions. The department shall release a food employee or conditional employee from restriction or exclusion upon a showing that the employee meets the conditions for reinstatement under Rule 1200-23-01-.02(2)(c).

(6) Reviews Following Inspection

- (a) The inspection report shall state that failure to comply with any time limits specified by the department for correction may result in cessation of operation.

- (b) The citation of a violation of a priority item may be reviewed, upon receipt of a written request submitted to the department within ten (10) calendar days following the date of the inspection report. If the tenth (10th) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the priority item(s) being reviewed. The final determination on the review shall be made by the Commissioner of Health or the Commissioner's designee in writing and within a reasonable time after receipt of the request for a review.
  - (c) The citation of a violation of a priority foundation item may also be reviewed upon the receipt of a written request submitted to the department within ten (10) calendar days following the date of the inspection report. If the tenth (10th) falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the priority foundation item(s) being reviewed. The decision of the department shall be final and made in writing within a reasonable time after receipt of the request for a review.
  - (d) In the event of an order of cessation of operation based upon the reviewed critical item(s), a request for a hearing may be made in writing to the Commissioner of Health received within ten (10) calendar days of the decision of the department. Except as otherwise provided by law, no action shall be taken regarding a closure on the critical item(s) under review or subject to a hearing pending the outcome of the hearing which shall be held pursuant to the Uniform Administrative Procedures Act.
- (7) Permit Revocation
- (a) After providing an opportunity for a hearing, the Commissioner of Health or his duly authorized representative may revoke a permit for serious or repeated violations of requirements of this part or for interference with the department or its duly authorized representative in the performance of his duty.
  - (b) Prior to revocation, the department shall notify, in writing, the permittee of the specific reason(s) for which the permit is to be revoked, and that the permit shall be revoked at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the department within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.
- (8) Whenever a facility is required under this section to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

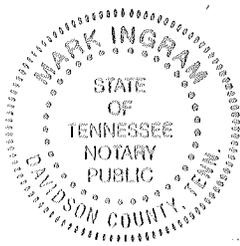
Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Bureau of Communicable and Environmental Diseases and Emergency Preparedness, Division of General Environmental Health (board/commission/ other authority) on 10/28/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/05/14

Rulemaking Hearing(s) Conducted on: (add more dates). 10/28/14



Date: 2/10/2015

Signature: Mary Kennedy

Name of Officer: Mary Kennedy

Title of Officer: Deputy General Counsel  
Department of Health

Subscribed and sworn to before me on: 2/10/2015

Notary Public Signature: Mark Ingram

My commission expires on: My Commission Expires:  
July 6, 2015

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter

4/15/2015  
Date

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Filed with the Department of State on: 4/17/15

Effective on: 7/16/15

Tre Hargett  
Tre Hargett  
Secretary of State

## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no oral comments received. Subsequent to the hearing the following written comment was received from Mr. Steve Crosier of the Metro Nashville Department of Health:

**Subject:** Proposed new food rules for TDH and TDA

Good afternoon,

Chapter 3 of the proposed Food Service rules of both the Departments of Health and Agriculture are not consistent with the Food Code in their numbering. It's the same information but different numbering.

Chapter 3 of the food code is divided into 8 Parts which should be consistent with the State of Tennessee numbering system:

FDA Food Code 2009:	TN Ag Food Rules	TN Health Food Rules	
Chapter 3 Food	0080-04-09-.03	1200-23-01-.03	
Parts	Equivalent Sections	Equivalent Sections	Draft Rules
3-1 Characteristics	0080-04-09-.03(1)	1200-23-.01-.03(1)	Condition
3-2 Sources, Specifications, and Original Records	0080-04-09-.03(2)	1200-23-.01-.03(2)	Sources, Specifications, and Original Containers and
3-3 Protection from Contamination	0080-04-09-.03(3)	1200-23-.01-.03(3)	Specifications for Receiving
3-4 Destruction of Organisms of	0080-04-09-.03(4)	1200-23-.01-.03(4)	Protection from Contamination After Receiving
3-5 Limitation of Growth of Organisms of by	0080-04-09-.03(5)	1200-23-.01-.03(5)	Preventing Contamination
3-6 Food Identity, Presentation, and Health	0080-04-09-.03(6)	1200-23-.01-.03(6)	Destruction of Organisms of Public
3-7 Contaminated Food	0080-04-09-.03(7)	1200-23-.01-.03(7)	Limitation of Growth of Organisms of Public Health Concern
3-8 Special Requirements for HSP	0080-04-09-.03(8)	1200-23-.01-.03(8)	Food Identity, Presentation, and On-Premises Labeling
	0080-04-09-.03(9)	1200-23-.01-.03(9)	Contaminated Food
	0080-04-09-.03(10)	1200-23-.01-.03(10)	Special Requirements for Highly Susceptible Populations

I'm requesting that the Tennessee Health and Agriculture Food Service Rules to be re-numbered in order to be consistent with the numbering of Food Code, including Part, Section, Subsection, and etc.. Also, all embedded references contained within the rules should be verified for accuracy based on any revisions made to the rules.

Additionally, please consider adding the 2013 update regarding the exemption of date marking requirement of shellstock found in 3.501.17(F).

Please let me know if anyone has any questions.

Steve Crosier  
Director of Food Protection Services  
Metro Nashville Public Health Department  
615-340-5620

**Response:** The Department has accepted these comments and incorporated them into the final rule. Because the Department had not implemented the 2009 shellstock marking requirement, allowing the 2013 exemption for that requirement is consistent with the Department's authority.

### Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

**(1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These rule do not overlap, duplicate, or conflict with other federal, state, or local governmental rules.

**(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rules exhibit clarity, conciseness, and lack of ambiguity.

**(3) The establishment of flexible compliance and/or reporting requirements for small businesses.**

These rules do not provide for additional compliance or reporting requirements for small businesses.

**(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

These rules do not establish schedules or deadlines for compliance or reporting requirements for small businesses.

**(5) The consolidation or simplification of compliance or reporting requirements for small businesses.**

These rules do not contain compliance or reporting requirements for small businesses.

**(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

These rules establish performance standards, design or operational standards for small businesses.

**(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

The rules do not stifle entrepreneurial activity, curb innovation, or increase costs.

## STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

**Name of Board, Committee or Council:** Tennessee Department of Health, Bureau of Communicable and Environmental Diseases and Emergency Preparedness, Division of General Environmental Health

**Rulemaking hearing date:** October 28, 2014

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

These rules will affect those businesses and governmental programs offering food services. These business and governmental entities will be bear the cost of, and/or benefit from the proposed rule amendments.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

These rules amendments do not contain any new reporting, recordkeeping, or other administrative costs required for compliance with the proposed rule amendments.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

Small business and consumers will benefit from the proposed rule amendments. Businesses will benefit from the addition of several new definitions and policies, as these amendments will make the rules clearer and give more guidance for compliance and will be more closely aligned with other states which have adopted the FDA food code. Also, the consumers will benefit from better regulations to ensure public health.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule amendments.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal:     USDA 2009 Food Code.

State:       At least fifteen other states have adopted the 2009 Food Code including Washington, Oregon, Wyoming, Colorado, North Dakota, Nebraska, Oklahoma, Arkansas, Mississippi, Florida, North Carolina, New Hampshire, Vermont, Ohio and Michigan.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

These rule amendments are being promulgated pursuant to 2013 Public Chapter 182 and as such do not contain any exemptions for small businesses.

## Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The proposed rule amendments should not have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules arise out of the 2013 adoption of the Tennessee Food Safety Act, Tenn. Code Ann. § 68-14-701 – 726 and also Tenn. Code Ann. § 6-54-135 which gives local governments the authority to permit food establishments to allow pet dogs on patios. The Food Safety Act specifically authorized adoption, by rule, of the 2009 FDA food code with specific exceptions. These rules complete that process. The legislation was developed in concert with the Department of Agriculture and the stakeholder community. These rules complete that process and bring those efforts to fruition. These rule amendments are necessary and should be approved so that they may be in effect on the July 1, 2015 effective date of the law.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

These rule amendments are necessary to comply with 2013 Public Chapter 182.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules will affect those businesses and governmental programs offering food services. These business and governmental entities will bear the cost of, and/or benefit from the proposed rule amendments.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should not result in any increase or decrease in state or local government revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mary Kennedy, Deputy General Counsel, Department of Health

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mary Kennedy, Deputy General Counsel, Department of Health

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

710 James Robertson Parkway, 5th Floor – Andrew Johnson Building, Nashville, Tennessee 37243, (615) 532-7161, Mary.Kennedy@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**RULES  
OF  
TENNESSEE DEPARTMENT OF HEALTH  
BUREAU OF HEALTH SERVICES ADMINISTRATION  
DIVISION OF GENERAL ENVIRONMENTAL HEALTH**

**CHAPTER 1200-23-1  
FOOD SERVICE ESTABLISHMENT**

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**1200-23-1-01. DEFINITIONS**

- (1) "Approved" means being accepted by the Commissioner.
- (2) "Auxiliary food service operation" shall mean a designated area located within or adjacent to a food service establishment sharing common ownership and/or management and whose primary purpose is serving beverages. For determining the amount of the permit fee for the food service establishment associated with the auxiliary food service operation, all seating in the auxiliary food service operation shall be included in the seating count of the primary food service establishment.
- (3) "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.
- (4) "Commissioner" means the Commissioner of the Department of Health or the Commissioner's duly appointed representative, and in the event of a vacancy in the office of Commissioner, the Acting Commissioner.
- (5) "Contamination" means the act or process of rendering or potentially rendering unfit for use.
- (6) "Contractor" means a person that enters into an agreement with another person to perform specific duties and acts as a representative of the permittee or permit applicant.
- (7) "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence by food contact, and the normal use of cleaning compounds and bactericidal solutions, as well as other conditions of use in the environment.
- (8) "Cross contamination" means the act or process of rendering unfit or potentially rendering unfit the use of food as the result of the introduction of pathogens, adulteration, or improper handling.
- (9) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- (10) "Employee" means the permit holder, individuals having supervisory or management duties, or any other person working in a food service establishment.
- (11) "Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items, other than utensils, used in the operation of a food service establishment.

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(Rule 1200-23-1-.01, continued)

(12) ~~"Exemption from payment of permit fee" means that~~

(a) ~~churches, schools, civic, fraternal or veterans' organizations serving food are exempt from payment of the food service establishment permit fees; provided, however, that the food is served no more than fifty-two (52) separate days in one (1) fiscal year. Any organization or group exempt from fees under this rule must still apply for and be granted a food service establishment permit prior to operation. Such exemption is expressly limited to the payment of fees and does not exempt these organizations from any other provisions of these Rules. These organizations are exempt from the payment of food service establishment permit fees; provided, however, that such organizations(s) are not in conjunction with, or as a part of, or in the vicinity of a single event or celebration of two or more consecutive days duration. Being in conjunction with, or as a part of, or in the vicinity of a single event or celebration shall be determined by the Commissioner, unless otherwise provided for by law.~~

(b) ~~In addition to the exception established in subparagraph (a) above, churches involved in the sale of food at a four day, multi-regional event sponsored by a local chamber of commerce, whose primary purpose is to generate economic interest in such regions, shall be further exempt from the payment of food service establishment permit fees for such event.~~

(13) ~~"Extensive remodeling" means alteration to change seating capacity from 16 seats or less to more than 16 seats; or the alteration of walls in food preparation or utensil washing areas; or the increase or decrease of floor space.~~

(14) ~~"Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended in whole or in part for human consumption.~~

(15) ~~"Food contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, as well as those surfaces from which food may drain, drip, or splash back on surfaces normally in contact with food.~~

(16) ~~"Food processing establishment" means a commercial establishment (other than food service establishments, retail food stores, and commissary operations) in which food is manufactured or packaged for human consumption and which operates in accordance with all applicable laws.~~

(17) ~~"Food service establishment" means any establishment, place or location, whether permanent, temporary, seasonal or itinerant, where food is prepared and the public is offered to be served or is served the following, including, but not limited to: foods, vegetables, and/or beverages, not in an original package or container; food and beverages dispensed at soda fountains and delicatessens; and sliced watermelon, ice balls, and/or water mixtures. The term includes any such places regardless of whether there is a charge for the food. The term does not include:~~

(a) ~~private homes where food is prepared or served and not offered for sale;~~

(b) ~~a retail food store operation other than a delicatessen;~~

(c) ~~the location of vending machines; or~~

(d) ~~supply vehicles.~~

~~The term also does not include any such establishment, place, or location, whether permanent, temporary, seasonal or itinerant, which is located west of the Ben Brown Bridge and east of the Lascassus School in Lascassus, Tennessee. "Food service establishment" shall not include grocery stores which may, incidentally, make infrequent casual sales of uncooked foods for consumption on the premises, or any establishment whose primary business is other than food~~

(Rule 1200-23-1-.01, continued)

services, which may, incidentally, make infrequent casual sales of coffee and/or prepackaged foods, for consumption on the premises. For the purposes of the preceding sentence, "infrequent casual sales" means sales not in excess of fifty dollars (\$50.00) per day on any particular day. "Food service establishment" does not include a location from which casual, occasional food sales are conducted solely in connection with youth-related amateur athletic or recreational activities or school-related clubs by volunteer personnel which are in operation for twenty-four (24) consecutive hours or less. "Food service establishment" does not include a catering business that employs no regular, full-time employees, the food preparation for such business being solely performed within the confines of the principal residence of the proprietor, and such catering business makes only occasional sales during any thirty (30) day period. "Food service establishment" shall not include educational and training exercises conducted during before and after school care programs, child care programs, or instructional programs such as home economics. Food prepared during these educational and training exercises shall not be offered for sale or consumption to the public, including other students and/or faculty outside of the classroom environment. However, the actual preparation and service of food in school and child care facilities must comply with these rules.

- (18) "Group day care home food service" means a food service establishment that operates within a licensed child day care facility which receives a minimum of eight (8) and a maximum of twelve (12) children and up to three (3) additional school-age children for less than twenty-four (24) hours per day for care outside their own homes. Food preparation and/or service, other than for the specific purposes of operating a group day care home, shall not be defined as group day care home food service.
- (19) "Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content.
- (20) "Imminent health hazard" means any condition, deficiency, or practice which, if not corrected, is very likely to result in illness, injury, or loss of life to any person.
- (21) "Kitchenware" means all multi-use utensils, other than tableware.
- (22) "Law" means any provision of the Tennessee Code Annotated and any applicable rules of any State agency.
- (23) "Mobile food unit" means a food service establishment designed to be readily movable.
- (24) "Owner/Operator" means the applicant, permittee, or other persons to be in charge of facilities.
- (25) "Packaged" means bottled, canned, or securely wrapped.
- (26) "Person" means any individual, partnership, firm, corporation, agency, municipality, or state or political subdivisions, or the federal government and its agencies and departments.
- (27) "Person in charge" means the individual present in a food service establishment who is the apparent supervisor at the time of inspection or, if no individual is the apparent supervisor, then any employee present.
- (28) "Potable water" means water that is safe for drinking.
- (29) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less.

## (Rule 1200-23-1-.01, continued)

- (30) ~~"Reconstituted" means dehydrated food products recombined with water or other liquids.~~
- (31) ~~"Safe materials" means articles manufactured and used in accordance with law.~~
- (32) ~~"Sanitary" means clean and free of agents of infection.~~
- (33) ~~"Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.~~
- (34) ~~"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.~~
- (35) ~~"Sewage" means human excreta, all water-carried waste, and household wastes from residences, buildings, or commercial and industrial establishments.~~
- (36) ~~"Shall" denotes a mandatory requirement.~~
- (37) ~~"Single-service articles" means cups, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended to be used for one-time, one-person use and then to be discarded.~~
- (38) ~~"Solid waste" means refuse, garbage, trash, rubbish, and any other item or items which could cause an unsanitary condition or undesirable health and safety conditions.~~
- (39) ~~"Tableware" means multi-use eating and drinking utensils.~~
- (40) ~~"Temporary food establishment" means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days.~~
- (41) ~~"Utensils" means any implement used in the storage, preparation, transportation, or service of food.~~

*Authority: T.C.A. 1-5-202, 68-14-301 et seq., 68-14-302 and 68-14-303; Administrative History—Original rule filed March 26, 1987; effective May 9, 1987. Amendment filed February 14, 1989; effective March 21, 1989. Amendment filed January 2, 1991; effective May 1, 1991. Repeal and new rule filed August 24, 2000; effective November 7, 2000. Amendment filed October 22, 2004; effective January 5, 2005.*

~~1200-23-1-.02, FOOD SANITATION~~~~(1) Food Supplies~~

- (a) ~~General.—Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers, not prepared in a food processing establishment, is prohibited.~~
- (b) ~~Specific Requirements.~~
- ~~1. Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade-A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.~~
  - ~~2. Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock and shucked shellfish packer, or repacker, and the interstate certification number. Shell stock and shucked shellfish shall be kept in the container in which they were received until~~

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(Rule 1200-23-1-.02, continued)

~~they are used, and the Interstate Certification number shall not be removed. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number of the State or foreign shellfish control agency. Shell stock identification tags shall be retained by the Food Service Establishment at least ninety (90) days after receipt of the shellfish.~~

~~3. Food service establishments shall only use:~~

- ~~(i) clean whole eggs (with shell intact and without cracks or checks);~~
- ~~(ii) pasteurized liquid, frozen, or dry eggs;~~
- ~~(iii) pasteurized dry egg products; and~~
- ~~(iv) hard-boiled, peeled eggs, prepared in an approved food processing establishment.~~

~~4. All meat and meat products, as well as poultry and poultry products, shall have been inspected and passed for wholesomeness under an official governmental regulatory program.~~

## (2) Food Protection

~~(a) General. At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation.~~

~~(b) Except as otherwise provided in these rules, potentially hazardous food shall be maintained~~

~~1. at 41°F or below or 140°F or above at all times, except during necessary periods of preparation; or~~

~~2. at 45°F or below in existing refrigeration equipment that is incapable of maintaining the food at 41°F or less, if:~~

- ~~(i) the equipment is in place and in use in the food service establishment; and~~
- ~~(ii) within five (5) years from the effective date of these rules, the equipment is upgraded or replaced to maintain food at a temperature of 41°F or less.~~

~~3. In any event, five years from the effective date of these rules, all potentially hazardous food shall be maintained at 41°F or below, or 140°F or above at all times, except during necessary periods of preparation.~~

~~(c) Emergency Occurrences. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the Department. Upon receiving notice of this occurrence, the Commissioner may take whatever action deemed necessary to protect the public health.~~

## (3) Food Storage

~~(a) General.~~

## (Rule 1200-23-1-.02, continued)

1. ~~Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container, except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks, if no food product is stored beneath the meat.~~
2. ~~Containers of food shall be stored a minimum of six (6) inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:~~
  - (i) ~~metal pressurized beverage containers and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture and~~
  - (ii) ~~Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.~~
3. ~~Food and containers of food shall not be stored under exposed or unprotected sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.~~
4. ~~Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.~~
5. ~~Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.~~
6. ~~Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar, or flour, which is not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.~~

~~(b) Refrigerated Storage.~~

1. ~~Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically sealed indicating thermometer or recording thermometer, accurate to  $\pm 2^{\circ}\text{F}$ , located to measure the air temperature in the warmest part of the facility and located to be easily readable.~~
2. ~~Potentially hazardous food requiring refrigeration shall be rapidly cooled to an internal temperature of  $41^{\circ}\text{F}$  or below. Potentially hazardous foods of large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container, so that the cooling period shall not exceed four (4) hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of  $41^{\circ}\text{F}$  or below, unless maintained in accordance with Rule 1200-23-1-.02(3)(c)(2).~~
3. ~~Frozen food shall be kept frozen and/or shall be stored at a temperature of  $0^{\circ}\text{F}$  or below.~~
4. ~~Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, except that such ice may be used for cooling tubes~~

(Rule 1200-23-1-.02, continued)

conveying beverages or beverage ingredients to a dispenser head, provided the tubes are constructed and fabricated in accordance with Rule 1200-23-1-.02(3)(b)1.(iii).

(e) Hot Storage

- 1. Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer or recording thermometer, accurate to  $\pm 3^{\circ}\text{F}$ , located to measure the air temperature in the coolest part of the facility and located to be easily readable. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, eat-in units, or insulated food transport carriers, a product thermometer must be available and used at each such piece of equipment to check internal food temperature.
- 2. The internal temperature of potentially hazardous foods requiring hot storage shall be  $140^{\circ}\text{F}$  or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of  $140^{\circ}\text{F}$  or above, unless maintained in accordance with Rule 1200-23-1-.02(3)(b)2.

(4) Food Preparation

(a) General

- 1. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross contamination.
- 2. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.
- 3. Except as specified under part 4 of this subparagraph, 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:
  - (i)  $63^{\circ}\text{C}$  ( $145^{\circ}\text{F}$ ) or above for 15 seconds for:
    - (I) raw shell eggs that are broken and prepared in response to a consumer's order for immediate service; and
    - (II) except as specified under subparts (ii) and (iii) of this part, fish and meat including game animals commercially raised for food.
  - (ii)  $68^{\circ}\text{C}$  ( $155^{\circ}\text{F}$ ) for 15 seconds or the temperature specified in Chart I that corresponds to the holding time for pork, rattles, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food; and raw eggs that are not prepared as specified under Subparagraph (1) a.i. of this section:

Chart I

Minimum	
Temperature	

(Rule 1200-23-1-.02, continued)

°C (°F)	Time
63 (145)	3 minutes
66 (150)	1 minute

(iii) ~~74°C (165°F) or above for 15 seconds for poultry, wild game animals, and stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.~~

or

(iv) ~~Whole beef roasts and corned beef roasts shall be cooked in an oven that is preheated to the temperature specified for the roast's weight in Chart II and that is held at that temperature and as specified in the Chart III, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature.~~

Chart II

Oven Type	Oven Temperature	
	Roast Weight	
	Less than or equal to 4.5 kg (10 lbs)	Greater than 4.5 kg (10 lbs)
Still Dry	177°C (350°F)	121°C (250°F)
Convection	163°C (325°F)	163°C (325°F)
High Humidity <sup>3</sup>	less than 121°C (250°F)	less than 121°C (250°F)

<sup>3</sup> Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.

Chart III

Temperature °C (°F)	Time <sup>1</sup>	Temperature °C (°F)	Time <sup>1</sup>	Temperature °C (°F)	Time <sup>1</sup>
54 (130)	121	58 (136)	32	61 (142)	2
56 (133)	77	59 (136)	19	62 (144)	5
57 (134)	47	60 (140)	12	63 (145)	3

<sup>1</sup> Holding time (minutes) may include postoven heat rise.

4. ~~1200-23-1-.02(4)(a)3. does not apply if:~~

~~The food is a raw animal food such as raw egg, raw fish, raw marinated fish, raw molluscan shellfish, steak tartare; or a partially cooked food such as lightly cooked fish, rare meat, and softcooked eggs that is served or offered for sale in a ready-to-eat form, and is ordered in a raw or undercooked condition by the immediate consumer.~~

5. ~~Raw animal foods cooked in a microwave oven shall be:~~

## (Rule 1200-23-1-.02, continued)

- (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.~~
6. ~~Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 60°C (140°F).~~
7. ~~Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products or for cooking and baking purposes.~~
8. ~~Liquid, frozen, dry eggs, and egg products shall be used only for cooking and baking purposes.~~
9. ~~Potentially hazardous foods which have been cooked and then refrigerated shall be reheated rapidly to 165°F or higher throughout for 15 seconds within two hours of removal from refrigerated storage before being served or before being placed in a hot food storage facility.~~
10. ~~Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers, not exceeding one gallon in capacity and cooled to 41°F or below within 4 hours of preparation.~~
11. ~~Metal, stem-type, numerically scaled indicating thermometers, accurate to ±2°F, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.~~
12. ~~Potentially hazardous foods shall be thawed~~
- (i) ~~in refrigerated units at a temperature not to exceed 41°F or as otherwise provided in 1200-23-1-.02(2); or~~
  - (ii) ~~under potable running water of a temperature of 70°F or below, with sufficient water velocity to agitate and float off loose particles into the overflow; or~~
  - (iii) ~~in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or~~
  - (iv) ~~as a part of the cooking process.~~
- (5) ~~Food Display and Service~~
- (a) ~~Potentially hazardous food shall be kept at an internal temperature of equal to or less than 41°F or equal to or greater than 140°F during display and service, except that, unsliced rare roast beef shall be held for service at a temperature of 41°F or below or at an internal temperature of 130°F or above, or as otherwise provided in 1200-23-1-.02(2).~~
  - (b) ~~Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, filled package, not exceeding 1 pint in capacity, or drawn from a container stored in a~~

## (Rule 1200-23-1-.02, continued)

~~mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk products is not available and portions of less than 1/2 pint are required for mixed drinks, cereal, dessert service, or drinking purposes, milk and milk products may be poured from a container of not more than 1-gallon capacity.~~

- ~~(c) Cream or "half and half" shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.~~
- ~~(d) Bulk milk dispenser hoses shall be cut at an angle to facilitate self draining and shall not exceed one and one-half (1 1/2) inches in length.~~
- ~~(e) Nondairy creaming or whitening agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.~~
- ~~(f) Condiments, seasonings, and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with 1200-23-1-.02(s)(k).~~
- ~~(g) Condiments provided for table and counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or a pour-type dispenser. Sugar for consumer use shall be provided in individual packages or in pour-type dispensers.~~
- ~~(h) Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic self-service, ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensils handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination; ice storage bins shall be drained through an air gap.~~
- ~~(i) To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils and malt collars shall be~~
- ~~1. stored in the food containers with the food they are being used to serve with the dispensing utensil handle extended out of the food; or~~
  - ~~2. stored clean and dry; or~~
  - ~~3. stored in running water.~~
- ~~(j) Once served to a consumer, portions of leftover food shall not be served again, except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition may be re-served.~~
- ~~(k) Food on display shall be protected from consumer contamination by the use of packaging or by the use of an easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.~~
- ~~(l) Re-use of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement and may be used for refills.~~

~~(6) Food Transportation~~

## (Rule 1200-23-1-02, continued)

~~During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered, if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of Rules 1200-23-1-02(2) and 1200-23-1-02(3) relating to food protection and food storage.~~

~~(7) Personnel~~

- ~~(a) No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is a likelihood of such person's contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.~~
- ~~(b) When the Commissioner has reasonable cause to suspect possible disease transmission by an employee of the facility, the Commissioner may secure a morbidity history of the employee or make other investigations as may be indicated. The Commissioner may require any of the following:~~
- ~~1. the immediate exclusion of the employee from employment in the food service establishment;~~
  - ~~2. the immediate closing of the facility until, in the opinion of the Commissioner, no further danger of disease outbreak exists;~~
  - ~~3. the restriction of the employee to some area of the facility where there would be little likelihood of transmitting disease; or~~
  - ~~4. adequate medical laboratory examinations of the employee and of other employees.~~
- ~~(c) Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, using the toilet, and again upon returning to work after using the toilet. The use of common towels is prohibited. Employees shall keep their fingernails clean and trimmed.~~
- ~~(d) The outer clothing of all employees shall be clean.~~
- ~~(e) Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.~~
- ~~(f) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated, if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection. An employee may drink from a closed beverage container, if the container is handled to prevent the contamination of the employee's hands, the container, any exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.~~
- ~~(g) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An employee tobacco use area shall not be designed for that purpose, if the use of tobacco there may result in contamination of food, equipment, utensils, or other items needing protection.~~

## (Rule 1200-23-1-.02, continued)

(h) ~~Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices, during all working periods in food service establishments.~~

(8) ~~Equipment and Utensil~~(a) ~~Materials~~

1. ~~Multi-use equipment and utensils shall be constructed and repaired with safe materials; they shall be corrosion-resistant and nonabsorbent; and they shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, and safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.~~
2. ~~If solder is used, it shall be composed of safe materials and be corrosion resistant.~~
3. ~~Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in Rule 1200-23-1-.02(8)(a) may be used for cutting blocks, cutting boards, salad bowls, and bakers' tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice-cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited.~~
4. ~~Safe plastic or safe rubber-like materials that are resistant, under normal conditions of use, to scratching, scoring, decomposition, crazing, chipping and distortion; that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods; and which meet the general requirements set forth in Rule 1200-23-1-.02(8)(a) are permitted for repeated use.~~
5. ~~Mollusk and crustaceans shells may be used only as single-service articles.~~
6. ~~Re-use of single-service articles is prohibited.~~

(b) ~~Design and Fabrication~~

1. ~~General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.~~
  - (i) ~~Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooling equipment and hot oil filtering systems, such exposed threads shall be minimized, but in no event more than 1/2 inch.~~
  - (ii) ~~Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.~~
  - (iii) ~~Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice; provided that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture~~

(Rule 1200-23-1-.02, continued)

(condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(iv) ~~Sinks and drain boards shall be self-draining.~~

2. ~~Accessibility. Unless designed for in-place cleaning, food contact surfaces shall be accessible for cleaning and inspection~~

(i) ~~without being disassembled; or~~

(ii) ~~by disassembling without the use of tools; or~~

(iii) ~~by easily disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench. Any such tools necessary for disassembling shall be kept available near the equipment.~~

3. ~~In-place cleaning. Equipment intended for in-place cleaning shall be so designed and fabricated that~~

(i) ~~cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and~~

(ii) ~~cleaning and sanitizing solutions will contact all interior food contact surfaces; and~~

(iii) ~~the system is self-draining or capable of being completely evacuated.~~

4. ~~Pressure-spray cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure-spray methods shall have sealed electrical wiring, switches, and connections.~~

5. ~~Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal, stem-type construction, numerically scaled, and accurate to  $\pm 2^{\circ}\text{F}$ .~~

6. ~~Non-food contact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of material and in such repair as to be easily maintained in a clean and sanitary condition.~~

7. ~~Ventilation hoods. Ventilation hoods and devices shall be designed, fabricated, and installed to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food contact surfaces. Filters or other grease-extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place.~~

8. ~~Existing equipment. Equipment that was installed in a food service establishment prior to May 9, 1987, (original date of first promulgation) of these rules and that does not fully meet all of the design and fabrication requirements of these rules, shall be deemed acceptable in that establishment, if the equipment is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are nontoxic. Replacement equipment and equipment acquired after the effective date of these rules shall meet the requirements of these rules.~~

(Rule 1200-23-1-.02, continued)

9. ~~Equipment installation and location. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads.~~
10. ~~Table-mounted equipment:~~
- (i) ~~Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch clearance between the table or counter and the equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.~~
  - (ii) ~~Equipment is portable if:~~
    - (I) ~~it is small and light enough to be moved easily by one person; and~~
    - (II) ~~it has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.~~
11. ~~Floor-mounted equipment:~~
- (i) ~~Floor-mounted equipment, unless readily movable, shall be:~~
    - (I) ~~sealed to the floor; or~~
    - (II) ~~installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or~~
    - (III) ~~elevated on legs to provide at least six (6) inches clearance between the floor and equipment, except that vertically-mounted floor mixers may be elevated to provide at least four (4) inches clearance between the floors and equipment, if no part of the floor under the mixer is more than six (6) inches from cleaning access.~~
  - (ii) ~~Equipment is readily movable if:~~
    - (I) ~~it is mounted on wheels or casters; and~~
    - (II) ~~it has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.~~
    - (III) ~~Unless sufficient space is provided for easy cleaning between, behind, and above each unit or fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.~~
12. ~~Aisles and working spaces. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surface by clothing or personal contact. All easily-movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.~~

## (Rule 1200-23-1-.02, continued)

~~(9) Sanitization, Cleaning, and Storage of Equipment and Utensils~~~~(a) Cleaning Frequency.~~

- ~~1. Tableware shall be washed, rinsed, and sanitized after each use.~~
- ~~2. To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following each interruption of operations during which time contamination may have occurred.~~
- ~~3. Where equipment and utensils other than those referred to in part 4 below are used for the preparation of potentially hazardous foods on a continuous or production line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule approved by the Department based on food temperature, type of food, and amount of food particle accumulation.~~
- ~~4. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.~~
- ~~5. Non-food contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.~~

~~(b) Wiping Cloths.~~

- ~~1. Cloths used for wiping food spills on tableware, such as plates or bowls being served to the customer, shall be clean, dry, and used for no other purpose.~~
- ~~2. Cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in Rule 1200-23-1-.02(9)(e)5 and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.~~
- ~~3. Cloths or sponges used for cleaning non-food contact surfaces of equipment such as counters, dining table tops, and shelves shall be clean and rinsed as specified in part 2 above and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.~~

~~(c) Manual Cleaning and Sanitizing.~~

- ~~1. For manual washing, rinsing, and sanitizing of utensils and equipment, a sink with not fewer than three (3) compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.~~
- ~~2. Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as to not interfere with the proper use of the dishwashing facilities.~~

(Rule 1200-23-1-.02, continued)

3. ~~Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.~~
4. ~~Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing shall be conducted in the following sequence:
 
  - (i) ~~Sinks shall be cleaned prior to use.~~
  - (ii) ~~Equipment and utensils shall be thoroughly washed in the first compartment with hot detergent solution that is kept clean.~~
  - (iii) ~~Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.~~
  - (iv) ~~Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in Rule 1200-23-1-.02(9)(e)5.(i) through (vi).~~~~
5. ~~The food contact surfaces of all equipment and utensils shall be sanitized by:
 
  - (i) ~~immersion for at least one-half (1/2) minute in clean, hot water at a temperature of at least 170°F; or~~
  - (ii) ~~immersion for at least one minute in a clean solution containing at least fifty parts per million (50 ppm) of available chlorine as a hypochlorite and at a temperature of at least 75°F; or~~
  - (iii) ~~immersion for at least one minute in a clean solution containing at least twelve and a half parts per million (12.5 ppm) of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F; or~~
  - (iv) ~~immersion in a clean solution containing any other chemical sanitizing agent allowed under Appendix B that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F for one minute; or~~
  - (v) ~~treatment with steam free from materials or additives other than those specified in Appendix B in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or~~
  - (vi) ~~rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under subpart (iv) above in the case of equipment too large to sanitize by immersion.~~~~
6. ~~When hot water is used for sanitizing, the following facilities shall be provided and used:
 
  - (i) ~~an integral heating device or fixture installed in, on, or under the sanitization compartment of the sink capable of maintaining the water at a temperature of at least 170°F; and~~
  - (ii) ~~a numerically scaled indicating thermometer, accurate to ±3°F, convenient to the sink for frequent checks of water temperature; and~~
  - (iii) ~~dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.~~~~

(Rule 1200-23-1-.02, continued)

7. ~~When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under Appendix B and a test kit or other device that accurately measures the part per million concentration of the solution shall be provided and used.~~

(d) ~~Mechanical Cleaning and Sanitizing.~~

1. ~~Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils in a manner at least as effective as those listed in Rule 1200-23-1-.02(9)(e). These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.~~
2. ~~The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4-inch IPS (iron pipe size) valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.~~
3. ~~Machine or water line mounted numerically scaled indicating thermometers, accurate to  $\pm 3^{\circ}\text{F}$ , shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.~~
4. ~~Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.~~
5. ~~Drain boards shall be provided and be of adequate size for proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.~~
6. ~~Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.~~
7. ~~Machines (single-tank, stationary rack door-type machines and spray-type glass washers) using chemicals for sanitization may be used, provided that~~
  - (i) ~~the temperature of the wash water shall not be less than 120°F,~~
  - (ii) ~~the wash water shall be kept clean,~~
  - (iii) ~~chemicals added for sanitization purposes shall be automatically dispensed,~~

(Rule 1200-23-1-.02, continued)

- (iv) ~~utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturer's specifications for time and concentration;~~
- (v) ~~the chemical sanitizing rinse water temperature shall be not less than 75°F nor less than the temperature specified by the machine's manufacturer;~~
- (vi) ~~chemical sanitizers used shall meet the requirements set forth in Appendix B, and~~
- (vii) ~~a test kit or other devices that accurately measures the parts per million concentration of the solution shall be available and used.~~

8. ~~Machines using hot water for sanitizing may be used, provided that wash water and pumped-rinse water shall be kept clean and water shall be maintained at not less than the temperature stated for the following categories:~~

(i) ~~single-tank, stationary rack, dual temperature machine:~~

~~wash temperature ..... 150°F  
final rinse temperature ..... 180°F~~

(ii) ~~single-tank, stationary rack, single temperature machine:~~

~~wash temperature ..... 165°F  
final rinse temperature ..... 165°F~~

(iii) ~~single-tank, conveyor machine:~~

~~wash temperature ..... 160°F  
final rinse temperature ..... 180°F~~

(iv) ~~multitank, conveyor machine:~~

~~wash temperature ..... 150°F  
pumped-rinse temperature ..... 160°F  
final rinse temperature ..... 180°F~~

(v) ~~single-tank, pot, pan, and utensil washer (either stationary or moving rack)~~

~~wash temperature ..... 140°F  
final rinse temperature ..... 180°F~~

9. ~~All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operation condition.~~

- (e) ~~Drying. After sanitization, all equipment and utensils shall be air dried.~~
- (f) ~~Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates, and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.~~
- (g) ~~Storage.~~

## (Rule 1200-23-1-.02, continued)

1. ~~Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law.~~
2. ~~Utensils shall be air dried before being stored or shall be stored in a self draining position on suitably located hooks or racks.~~
3. ~~Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.~~
4. ~~If presetting is practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after every meal period and after any place at a table is occupied.~~

(h) ~~Single-Service Articles:~~

1. ~~Single service articles shall be stored at least 6 inches above floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or non-potable water lines, except for automatic fire protection sprinkler heads that may be required by law.~~
2. ~~Single service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.~~
3. ~~Single service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single service knives, forks, and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.~~

- (i) ~~Prohibited Storage Area.~~ ~~The storage of food equipment, utensils, or single service articles in toilet rooms or vestibules is prohibited.~~

(40) ~~Sanitary Facilities and Controls~~

- (a) ~~Water Supply.~~ ~~Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to law. Any food service establishment provided with water from any source other than an approved public water supply shall have a bacteriological test at least annually or as often as is deemed necessary by the Commissioner. The bacteriological test shall be conducted by an accredited laboratory, and the laboratory report shall be posted in a conspicuous manner in the food service establishment. If the laboratory report should show that water is unsafe, the operator shall immediately make correction or provide safe water from other approved sources.~~
- (b) ~~Transportation.~~ ~~All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of the systems shall be constructed and operated according to law.~~

(Rule 1200-23-1-.02, continued)

- (c) ~~Bottled Water.~~ Bottled or packaged potable water shall be obtained from a source that complies with all law and shall be handled and stored in a way that protects it from contamination. Bottled or packaged potable water shall be dispensed from the original container.
- (d) ~~Water Under Pressure.~~ Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.
- (e) ~~Steam.~~ Steam used in contact with food or food contact surfaces shall be free from any materials or additives other than those specified in Appendix A.
- (f) ~~Public Sewage.~~ All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law. Non-water-carried sewage disposal facilities are prohibited, except as authorized for Mobile Food Units, Rule 1200-23-1-.02(12).
- (g) ~~Plumbing.~~ Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any other water supply.
- (h) ~~Nonpotable Water System.~~ A nonpotable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.
- (i) ~~Backflow.~~ The potable water system shall be installed to preclude possibility of backflow. Devices shall be installed to protect against the backflow and back-siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixtures flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.
- (j) ~~Grease Traps.~~ If used, grease traps shall be located to be easily accessible for cleaning.
- (k) ~~Garbage Grinders.~~ If used, garbage grinders shall be installed and maintained according to law.
- (l) ~~Drains.~~ Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located within five (5) feet of a trapped floor drain, the dishwasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap, if permitted by law.
- (m) ~~Toilet Facilities.~~
1. ~~Toilet installation.~~ Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located, and shall be accessible to employees at all times. In establishments constructed or extensively altered after July 1, 1986, toilet facilities for each sex shall be provided for the use of patrons. This does not preclude the use of these toilet facilities by employees also; provided, however, that establishments with a seating capacity of sixteen (16) seats or less shall be exempted from providing toilet facilities for the use of patrons.
  2. ~~Toilet design.~~ Toilets and urinals shall be designed to be easily cleanable.

## (Rule 1200-23-1-.02, continued)

~~3. Toilet rooms. Toilet rooms opening directly into food preparation, utensil washing, dining or storage areas shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance, except as provided by law.~~

~~4. Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle for waste materials.~~

## (n) Lavatory Facilities.

## 1. Lavatory installation.

~~(i) Lavatories shall be installed and located to permit convenient use by all employees in food preparation areas and utensil washing areas.~~

~~(ii) Lavatories shall be accessible to employees at all times.~~

~~(iii) Lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.~~

~~2. Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited.~~

~~3. Lavatory supplies. A supply of hand-cleaning soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited.~~

~~4. Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.~~

## (o) Solid Waste.

## 1. Containers.

~~(i) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.~~

~~(ii) Containers used in food preparation and utensil washing areas shall be kept covered when not in use and after they are filled.~~

~~(iii) Containers stored outside the establishment, dumpsters, compactors, and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning. Liquid waste resulting from the cleaning of containers shall be disposed of as sewage.~~

~~(iv) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.~~

(Rule 1200-23-1-.02, continued)

(v) ~~Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.~~

### 2. ~~Storage~~

(i) ~~Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags, wet strength paper bags, and baled units containing garbage or refuse are prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.~~

(ii) ~~Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials; they shall be kept clean; they shall be insect-proof and rodent-proof; and they shall be large enough to store the garbage and refuse containers that accumulate.~~

(iii) ~~Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.~~

### 3. ~~Disposal~~

(i) ~~Garbage and refuse shall be disposed of at such frequency to prevent the development of odor and the attraction of insects and rodents.~~

(ii) ~~Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with the law. Areas around incineration facilities shall be clean and orderly.~~

### (p) ~~Insect, Rodent, And Animal Control~~

1. ~~Effective measures intended to control the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as will prevent the harborage or feeding of insects or rodents.~~

2. ~~Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylight, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch.~~

3. ~~Animals. Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from adjacent areas under the control of the permit holder. This rule shall be waived by the Commissioner, as identified in T.C.A. 68-14-303(3), upon proof of the installation of an adequately engineered forced air exhaust system. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in~~

(Rule 1200-23-1-.02, continued)

aquariums. Patrol dogs accompanying blind or deaf persons shall be permitted in dining areas.

(11) ~~Construction and Maintenance of Physical Facilities.~~

(a) ~~Floors.~~

1. ~~Floor construction.~~ Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, as well as the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or light wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.
2. ~~Carpeting.~~ If used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing and utensil-washing areas, in food storage areas, and in toilet rooms where urinals or toilet fixtures are located.
3. ~~Prohibited floor covering.~~ The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.
4. ~~Floor drains.~~ Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile, or similar materials and shall be graded to drain.
5. ~~Mats and duckboards.~~ Mats and duckboards shall be of nonabsorbent, grease-resistant materials and of such size, design, and construction as will facilitate their being easily cleaned. Duckboards shall not be used as storage racks.
6. ~~Floor junctures.~~ In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile, or similar flooring materials, as well as where water flush cleaning methods are used, the junctures between walls and floors, shall be covered and sealed. In all other cases, the juncture between walls and floors shall not present an open seam of more than 1/32 inch.
7. ~~Utility line installation.~~ Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

(b) ~~Walls and Ceilings.~~

1. ~~Maintenance.~~ Walls and ceilings, including doors, windows, skylight, and similar closures, shall be maintained in good repair.
2. ~~Construction.~~ The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules, shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

(Rule 1200-23-1-.02, continued)

3. ~~Exposed construction. Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.~~
4. ~~Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.~~
5. ~~Attachments. Light fixtures, vent covers, wall mounted fans, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.~~
6. ~~Covering material installation. Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.~~

(e) ~~Cleaning Physical Facilities.~~

1. ~~General. Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.~~
2. ~~Utility facility. New establishments or those that extensively remodel after May 9, 1987 (original date of first rule promulgation), shall have at least one utility sink or curbed cleaning facility with a floor drain. Such sinks and facilities shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil washing or equipment washing, or food preparation sinks for this purpose shall be prohibited.~~

(d) ~~Lighting.~~1. ~~General.~~

- (i) ~~Permanently fixed artificial light sources shall be installed to provide at least twenty (20) foot candles of light~~
  - (I) ~~on all food preparation surfaces and at equipment or utensil washing work levels and~~
  - (II) ~~at a surface where a food service employee is working with food or working with utensils or equipment such as knives, shears, grinders, or saws where employee safety is a factor.~~
- (ii) ~~Permanently fixed light sources shall be installed to provide at a distance of thirty (30) inches from the floor~~
  - (I) ~~at least twenty (20) foot candles of light in utensil and equipment storage areas and in lavatory and toilet areas and~~
  - (II) ~~at least ten (10) foot candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.~~

2. ~~Protective shielding.~~

(Rule 1200-23-1-.02, continued)

(i) ~~Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, as well as in facilities where utensils and equipment are cleaned and stored.~~

(ii) ~~Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.~~

(e) ~~Ventilation~~

1. ~~General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful, or unlawful discharge.~~

2. ~~Special ventilation.~~

(i) ~~Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.~~

(ii) ~~In all establishments constructed or extensively remodeled after July 1, 1976, all rooms from which obnoxious odors, vapors, or fumes originate shall be effectively vented to the outside at all times.~~

(f) ~~Dressing Rooms and Locker Areas~~

1. ~~Dressing rooms and areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.~~

2. ~~Locker areas. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in the food storage rooms or areas containing only completely packaged food or packaged single-service articles.~~

(g) ~~Poisonous or Toxic Materials~~

1. ~~Materials permitted. There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.~~

2. ~~Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled for easy identification and contents.~~

3. ~~Storage of materials.~~

(i) ~~Poisonous or toxic materials consist of the following categories:~~

(1) ~~insecticides and rodenticides~~

(Rule 1200-23-1-.02, continued)

- (II) ~~caustics, acids, polishes, and other chemicals, detergents, sanitizers, and related cleaning or drying agents.~~
- (ii) ~~Each of the two categories set forth in paragraph (1200-23-1-.02 (1)-(g) 3(i) shall be stored and physically located separate from each other.~~
- (iii) ~~All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose.~~
- (iv) ~~To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.~~
4. ~~Use of materials.~~
- (i) ~~Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.~~
- (ii) ~~Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.~~
5. ~~Personal Care Items. Personal care items are 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. Personal care items include items such as medicines, first aid supplies, and other items such as cosmetics, and toiletries such as toothpaste and mouthwash. Personal care items shall be labeled and stored in a way that prevents them from contaminating food and food-contact surfaces.~~
- (h) ~~Premises~~
1. ~~General.~~
- (i) ~~Food service establishments and all parts of property used in connection with their operations shall be kept free of litter.~~
- (ii) ~~The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.~~
- (iii) ~~Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.~~
- (iv) ~~The traffic of unnecessary persons through the food preparation and utensil-washing areas is prohibited.~~
2. ~~Living areas. No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.~~
3. ~~Laundry facilities.~~

(Rule 1200-23-1-.02, continued)

(i) ~~Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms, and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.~~

(ii) ~~Rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.~~

4. ~~Linens and clothes storage.~~

(i) ~~Clean clothes and linens shall be stored in a clean place and protected from contamination until used.~~

(ii) ~~Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.~~

5. ~~Cleaning tool storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar tools shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner for the cleaning of that storage location.~~

(12) ~~Mobile Food Units~~

(a) ~~General. Mobile food units shall comply with the requirements of these Rules, except as otherwise provided in paragraph (12).~~

1. ~~Restricted operation. Mobile food units serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of these Rules, as well as beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of these Rules pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitation of equipment and utensils if the required equipment for cleaning and sanitation exists at the commissary. However, potentially hazardous food such as frankfurters, may be prepared from these units without the necessity of a water system, provided approved hand wipes are convenient, accessible, and utilized.~~

2. ~~Single service articles. Mobile food units shall provide only single-service articles for use by the consumer.~~

3. ~~Water system. A mobile food unit not exempt from the requirement for a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of these regulations. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this regulation.~~

4. ~~Waste retention. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the~~

## (Rule 1200-23-1-.02, continued)

~~retention tank when the mobile food unit is in motion. All connections on the mobile food unit for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.~~

~~(b) Commissary~~~~1. General.~~

~~(i) Mobile food units shall operate from a commissary or other fixed food service establishment and shall use this facility for all supplies. All mobile food units shall be cleaned and serviced as often as necessary from this facility.~~

~~(ii) The commissary or other fixed food service establishment used as a base of operation for mobile food units shall be constructed and operated in compliance with the requirements of these regulations.~~

~~2. Servicing areas and operations.~~~~(i) Servicing area.~~

~~(I) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area is not required if the mobile food unit is exempt from the water system and waste retention requirements of this paragraph.~~

~~(II) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt, and shall be maintained in good repair, kept clean, and be graded to drain.~~

~~(III) The construction of the walls and ceilings of the servicing area is exempted from the provisions of Rule 1200-23-1-.02(11)(b).~~

~~(ii) Servicing operations.~~

~~(I) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.~~

~~(II) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sewage disposal system in accordance with Rule 1200-23-1-.02(10)(f).~~

~~(13) Temporary Food Service~~

~~(a) General. A temporary food service establishment shall comply with the requirements of these Rules, except as otherwise provided in this paragraph (13).~~

(Rule 1200-23-1-.02, continued)

- (b) ~~Ice. Ice that is consumed or that contacts food shall be obtained only in chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.~~
- (c) ~~Equipment.~~
1. ~~Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.~~
  2. ~~Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.~~
- (d) ~~Single-Service Articles. All temporary food service establishments without effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by consumer.~~
- (e) ~~Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.~~
- (f) ~~Wet Storage. Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.~~
- (g) ~~Waste. All sewage, including liquid waste, shall be disposed of according to law.~~
- (h) ~~Handwashing. A convenient handwashing facility shall be available for employee handwashing. The minimum requirements shall be warm running water, soap, and individual paper towels.~~
- (i) ~~Floors. Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms or duckboards, or covered with wood chips, shavings, or other suitable materials effectively treated to control dust.~~
- (j) ~~Walls and Ceilings of Food Preparation Areas.~~
1. ~~Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Doors to food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors, or windows shall be at least 16 mesh to the inch.~~
  2. ~~Counter service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter service openings shall be kept closed, except when in actual use.~~
- (14) ~~Open Air Cafes~~
- (a) ~~Open air cafes shall meet all of the requirements of these Rules except as provided in this paragraph (14).~~

## (Rule 1200-23-1-.02, continued)

1. ~~An outside dining area may be provided for an open air cafe where food may be served to patrons.~~
2. ~~An open air cafe shall have a permanent type kitchen or food preparation area that meets all of the requirements of these Rules.~~
3. ~~The provisions of Rules 1200-23-1-.02(11)(a) and (b) pertaining to floors, walls, and ceilings do not apply to an outside dining area; however, the following special provisions are required.~~
  - (i) ~~Floors shall be constructed of a hard surface, shall be easily cleanable, kept clean and in good repair, and, if drains are provided, the floor shall be graded to drain.~~
  - (ii) ~~Walls or ceilings, if any, shall be constructed of an easily cleanable material and shall be kept clean and in good repair.~~
4. ~~Rule 1200-23-1-.02(10)(p) pertaining to insect and rodent control does not apply to the outside dining area of an open air cafe, but it does apply to the remainder of the establishment.~~
5. ~~Drinks may be mixed and served in the outside dining area where permitted by law, provided all other requirements of these Rules are met.~~

~~(15) Group Day Care Home Food Service~~

- (a) ~~General. Group day care home food service shall comply with the requirements of these Rules, except as otherwise provided in this paragraph (15).~~
- (b) ~~Separation from living and sleeping quarters is achieved when that portion of the home designated as the food service establishment on the original plan is separated from the remainder of the home by complete partitioning and solid doors.~~
- (c) ~~Manually operated sliding glass doors are acceptable, but must be screened when left open.~~
- (d) ~~Washing, rinsing, and sanitizing of utensils and equipment may be accomplished with use of a home style dishwasher and a separate compartment for sanitization or a two compartment sink with a separate container for sanitization.~~

~~(16) Review of Plans~~

- (a) ~~Submission of Plans. Whenever a non-temporary food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, at least one set of properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Commissioner for review and approval at least 15 days before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed menu, layout, arrangement, mechanical plans, and construction materials of work areas, as well as the type and model of proposed fixed equipment and facilities. The Commissioner shall approve the plans and specifications if they meet the requirements of these Rules. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Commissioner.~~
- (b) ~~Pre-Operational Inspection. After plans and specifications have been approved by the Commissioner, the food service establishment shall not start operations until the Commissioner~~

(Rule 1200-23-1-.02, continued)

~~has made a pre-operational inspection and has determined compliance with the approved plans and specifications and with the requirements of these Rules.~~

(Rule 1200-23-1-.02, continued)

Appendix A

Boiler Water Additives

Boiler water additives may be safely used in the preparation of steam that will contact food, under the following conditions:

- (1) The amount of additive shall not be in excess of that required for its functional purpose, and the amount of steam in contact with food does not exceed that required to produce the intended effect in or on the food.
- (2) The compounds shall be prepared from substances identified in this part and part (3) of this appendix, and are subject to the limitations, if any, prescribed.

Substance	Limitations
Acrylamide-sodium acrylate resin	Contains not more than 0.05% by weight of acrylamide monomer.
Ammonium alginate	
Cobalt sulfate (as catalyst)	
Lignosulfonic acid	
Monobutyl ethers of polyethylene polypropylene glycol produced by random condensation of 1:1 mixture by weight of ethylene oxide and propylene oxide with butanol.	Minimum mol. wt. 1,500.
Polyethyleneglycol	This additive is an addition polymer of ethylene oxide and water with a mean molecular weight of 200 to 9,500, containing no more than 0.2% total by weight of ethylene and diethylene glycols.
Polyoxypropylene glycol-Ditto.	
Potassium carbonate	
Potassium tripolyphosphate	
Sodium acetate	
Sodium alginate	
Sodium aluminatate	
Sodium carbonate	
Sodium carboxymethylcellulose	Contains not less than 95% sodium carboxymethylcellulose on a dry weight basis, with maximum substitution of 0.9 carboxymethyl groups per anhydroglucose unit, and with a minimum viscosity of 15 centipoises for 2% by weight aqueous solution at 25°C; such determinations to be made by methods described in "Food Chemicals Codex" (2d Ed.) monograph for sodium carboxymethylcellulose.
Sodium glucoheptonate	Less than 1 ppm cyanide in the sodium glucoheptonate

(Rule 1200-23-1-.02, continued)

- Sodium hexametaphosphate
- Sodium humate
- Sodium hydroxide
- Sodium lignosulfonate
- Sodium metasilicate
- Sodium metabisulfite
- Sodium nitrate
- Sodium phosphate (mono-, di-, tri-)
- Sodium polyacrylate
- Sodium polymethacrylate
- Sodium silicate
- Sodium sulfate
- Sodium sulfite (neutral or alkaline)
- Sodium tripolyphosphate
- Tannin (including quebracho extract)
- Tetrasodium EDTA
- Tetrasodium pyrophosphate

(3) Substances used alone or in combination with substances in part (2) shall be used as follows:

Substances	Limitations
Cyclohexylamine	Not to exceed 10 ppm steam, and excluding use of such steam in contact with milk and milk products.
Diethylaminoethanol	Not to exceed 15 ppm steam, and excluding use of such steam in contact with milk and milk products.
Hydrazine	Zero in steam
Morpholine	Not to exceed 10 ppm steam, and excluding use of such steam in contact with milk and milk products.
Octadecylamine	Not to exceed 3 ppm steam, and excluding use of such steam in contact with milk and milk products.
Trisodium nitrilotriacetate	Not to exceed 5 ppm million in boiler feedwater; not to be used where steam will be in contact with milk and milk products.

(4) To assure safe use of the additive, in addition to the other information required by the Federal Food, Drug, and Cosmetic Act, the label or labeling shall bear

- (a) the common chemical name or names of the additive or additives and
- (b) adequate directions for use to assure compliance with all the provisions of this section.

(Rule 1200-23-1-.02, continued)

## Appendix B

## Sanitizing Solutions

Sanitizing solutions may be safely used on food-processing equipment and utensils and on the other food-contact articles only as specified in this appendix.

- (1) The use of the sanitizing solutions must be followed by adequate draining before contact with food.
- (2) The solutions shall consist of one of the following to which may be added components generally recognized as safe and components which are permitted by prior sanction or approval:
  - (a) an aqueous solution containing potassium, sodium, or calcium hypochlorite at concentrations of no more than 200 ppm of available halogen, determined as available chlorine.
  - (b) an aqueous solution containing dichloroisocyanuric acid, trichloroisocyanuric acid, or the sodium or potassium salts of these acids at concentrations of no more than 100 ppm.
  - (c) an aqueous solution containing potassium iodide, sodium p-toluenesulfonchloramide, and sodium lauryl sulfate.
  - (d) an aqueous solution containing iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol having a cloudpoint of 90°C-140°C in 0.05 percent aqueous solution and an average molecular weight of 3,300, and ethylene glycol monobutyl ether. Additionally, the aqueous solution may contain diethylene glycol monoethyl ether as an optional ingredient.
  - (e) an aqueous solution containing elemental iodine, hydriodic acid, alpha-(p-nonylphenyl)-omega-hydroxy poly(oxyethylene) (having a maximum average molecular weight of 748) and/or polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 1,900). Additionally, the aqueous solution may contain isopropyl alcohol as an optional ingredient.
  - (f) an aqueous solution containing elemental iodine, sodium iodide, sodium dioctylsulfosuccinate, and polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 1,960).
  - (g) an aqueous solution containing dodecylbenzenesulfonic acid, polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 2,800). In addition to use on food-processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk.
  - (h) an aqueous solution containing elemental iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol having a minimum average molecular weight of 3,400 and alpha-lauryl-omega-hydroxypoly(oxyethylene) with an average 8 to 9 moles of ethylene oxide and an average molecular weight of 400. In addition to use on food-processing equipment and utensils, this solution may be used on beverage containers, including milk containers or equipment. Rinse water treated with this solution can be recirculated as a preliminary rinse and is not to be used as a final rinse.
  - (i) an aqueous solution containing n-alkyl (C12-C18) benzyl dimethylammonium chloride compounds having average molecular weight of 351-380 and consisting principally of alkyl groups with 12-16 carbon atoms with or without not over 1 percent each of groups with 8 and 10 carbon atoms. Additionally, the aqueous solution may contain isopropyl alcohol as an optional ingredient.

(Rule 1200-23-1-.02, continued)

- (j) ~~an aqueous solution containing trichloroamine and either sodium lauryl sulfate dodecylbenzenesulfonic acid. In addition to use on food processing equipment and utensils and other food contact articles, this solution may be used on beverage containers except milk containers or equipment.~~
- (k) ~~an aqueous solution containing equal amounts of n-alkyl (C12-C18) benzyl dimethyl ammonium chloride and n-alkyl (C12-C18) dimethyl ethylbenzyl ammonium chloride (having an average molecular weight of 384). In addition to use on food processing equipment and utensils, this solution may be used on food contact surfaces in public eating places.~~
- (l) ~~an aqueous solution containing the sodium salt of sulfonated oleic acid, polyoxyethylene-polyoxypropylene block polymers (having an average molecular weight of 2,000 and 27 to 31 moles of polyoxypropylene). In addition to use of food processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk. All equipment, utensils, glass bottles, and other glass containers treated with this sanitizing solution shall have a drainage period of 15 minutes prior to use in contact with food.~~
- (m) ~~an aqueous solution containing elemental iodine and alkyl (C12-C15) monoether of mixed (ethylene-propylene) polyalkylene glycol, having a cloudpoint of 70°C-77°C in one percent (1%) aqueous solution and an average molecular weight of 807.~~
- (n) ~~an aqueous solution containing iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol, having a cloudpoint of 90°C-100°C in 0.5 percent aqueous solution and an average molecular weight of 3,300, and polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 2,000).~~
- (o) ~~an aqueous solution containing lithium hypochlorite.~~
- (p) ~~an aqueous solution containing equal amounts of n-alkyl (C12-C18) benzyl dimethyl ammonium chloride and n-alkyl (C12-C14) dimethyl ethylbenzyl ammonium chloride (having average molecular weight of 377 to 384); with the optional adjunct substances tetrasodium ethylenediaminetetraacetate and/or alpha (p-nonylphenol) omega-hydroxypoly (oxyethylene) having an average poly (oxyethylene) content of 11 moles. In addition to use on food processing equipment and utensils, this solution may be used on food contact surfaces in public eating places.~~
- (q) ~~an aqueous solution containing di-n-alkyl (C6-C10) dimethyl ammonium chlorides and isopropyl alcohol, having average molecular weight of 332-361. In addition to use on food processing equipment and utensils, this solution may be used on food contact surfaces in public eating places.~~
- (r) ~~an aqueous solution containing n-alkyl (C12-C18) benzyl dimethyl ammonium chloride, sodium metaborate, alpha-terpineol and alpha (p-(1,1,3,3-tetramethyl butyl)phenyl) omega-hydroxy poly (oxyethylene) produced with 1 mole of the phenol and 4 to 14 moles ethylene oxide.~~
- (s) ~~an aqueous solution containing sodium dichloro-isocyanurate and tetrasodium ethylenediaminetetraacetate. In addition to use on food processing equipment and utensils, this solution may be used on food contact surfaces in public eating places.~~
- (3) The solutions identified in part (2) above will not exceed the following concentrations.
- (a) Solutions identified in subpart (2)(a) will provide not more than 200 parts per million of available halogen determined as available chlorine.

(Rule 1200-23-1-02, continued)

- (b) ~~Solutions identified in subpart (2)(b) will provide not more than 100 parts per million of available halogen determined as available chlorine.~~
- (c) ~~Solutions identified in subpart (2)(c) will provide not more than 25 parts per million of titratable iodine. The solutions will contain the components, potassium iodide, sodium p-toluene-sulfonochloramide, and sodium lauryl sulfate at a level not in excess of the minimum required to produce their intended functional effect.~~
- (d) ~~Solutions identified in subparts (2)(d), (e), (f), (h), (m), and (n) of this section will contain iodine to provide not more than twenty-five parts per million (25 ppm) of titratable iodine. The adjuvants used with the iodine will not be in excess of the minimum amounts required to accomplish the intended technical effect.~~
- (e) ~~Solutions identified in subpart (2)(g) will provide not more than 400 parts per million of dodecylbenzenesulfonic acid and not more than 80 parts per million of polyoxy-ethylene-polyoxy-propylene block polymers (having a minimum average molecular weight of 2,800).~~
- (f) ~~Solutions identified in subpart (2)(i) shall provide, when ready to use, no more than 200 parts per million of the active quaternary compound.~~
- (g) ~~Solutions identified in subpart (2)(j) shall provide not more than sufficient trichloroamine to produce 200 parts per million of available chlorine and either sodium lauryl sulfate at a level not in excess of the minimum required to produce its intended functional effect or not more than 400 parts per million of dodecyl-benzenesulfonic acid.~~
- (h) ~~Solutions identified in subpart (2)(k) shall provide, when ready to use, no more than 200 parts per million of active quaternary compound.~~
- (i) ~~The solution identified in subpart (2)(l) shall provide not more than 200 parts per million of sulfenated oleic acid, sodium salt.~~
- (j) ~~Solutions identified in subpart (2)(o) will provide not more than 200 parts per million of available chlorine and not more than 30 ppm lithium. Shall provide not more than 200 parts per million of active quaternary compound.~~
- (k) ~~Solutions identified in subpart (2)(q) shall provide, when ready to use, a level of 150 parts per million of the active quaternary compound.~~
- (l) ~~Solution identified in subpart (2)(r) shall provide not more than 200 parts per million of active quaternary compound and not more than 66 parts per million of alpha-(p-(1,1,3,3-tetramethylbutyl)phenyl)-omega-hydroxypoly(oxyethylene).~~
- (m) ~~Solutions identified in subpart (2)(s) shall provide, when ready to use, a level of 100 parts per million of available chlorine.~~
- (4) ~~Sanitizing agents for use in accordance with this section will bear labeling meeting the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.~~

*Authority: T.C.A. 4-5-202 and 68-14-301 et seq. Administrative History: Original rule filed March 26, 1987; effective May 9, 1987. Repeal and new rule filed August 24, 2000; effective November 7, 2000. Amendment filed October 22, 2004; effective January 5, 2005.*

~~1200-23-1-.03 ESTABLISHMENT PERMITTING AND INSPECTION SYSTEM~~

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~~(1) Application Procedures~~

- ~~(a) Any person planning to operate a food service establishment must obtain a written application for a permit on a form provided by the Commissioner through the local county health department prior to operating a food service establishment. A new or initial application is required for food service facilities that have not previously been permitted, in instances when ownership changes, or in cases of permit revocation.~~
- ~~(b) No permit shall be transferred from one (1) location or person to another. For the purposes of determining whether there has been a change of ownership of a food service establishment, requiring a new application for a permit, in instances of corporate ownership, the following will constitute a change of ownership:~~
- ~~1. A change of ownership of the food service establishment by a corporation (e.g., Corporation A sells its food service establishment to Corporation B, or~~
  - ~~2. A change of ownership of a corporation which owns a food service establishment.~~
  - ~~3. However, if there is no change in the federal tax identification number applicable to the corporation which owns the food service establishment, there is no change of ownership for permit purposes.~~
- ~~(c) The Commissioner shall issue a food service establishment permit~~
- ~~1. after an inspection of the proposed facility reveals that the facility is in compliance with requirements of these rules and~~
  - ~~2. upon receiving a completed application with applicable fees.~~

~~(2) Inspection System~~

- ~~(a) Inspection results for food service establishments shall be recorded on standard departmental forms which summarize the requirements of the law and rules and regulations.~~
- ~~(b) The scoring system shall include a weighted point value for each requirement in which critical items are assigned values of either four (4) or five (5) points, with less critical items having assigned values of either one (1) or two (2) points.~~
- ~~(c) The rating score of the facilities shall be the total of the weighted point values for all violations subtracted from one hundred (100).~~

~~(3) Violation Correction~~

- ~~(a) In accordance with T.C.A. 68-14-318, critical violations shall be corrected within ten (10) calendar days from the date of the inspection report. All other violations shall be corrected as soon as possible, but in any event by the time of the next routine inspection.~~
- ~~(b) Upon declaration of an imminent health hazard by the Commissioner, the facility shall immediately cease operations until authorized to reopen.~~
- ~~(c) In accordance with T.C.A. 68-14-318, in the case of temporary food service establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected~~

within twenty-four (24) hours, the establishment shall immediately cease food service operation until authorized to resume by the local health officer or his duly authorized representative.

~~(d) Reviews Following Inspection~~

- ~~1. The inspection report shall state that failure to comply with any time limits specified by the Commissioner for correction may result in cessation of operation.~~
- ~~2. The citation of a violation of a non-critical item may be reviewed, upon receipt of a written request submitted to the Director of General Environmental Health within ten (10) calendar days following the date of the inspection report. If the tenth (10<sup>th</sup>) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10<sup>th</sup>) day. The request for review shall identify the non-critical item(s) being reviewed. The final determination on the review shall be made by the Director or the Director's Designee in writing and within a reasonable time after receipt of the request for a review.~~
- ~~3. The citation of a violation of a critical item may also be reviewed upon the receipt of a written request submitted to the Director of General Environmental Health within ten (10) calendar days following the date of the inspection report. If the tenth (10<sup>th</sup>) falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10<sup>th</sup>) day. The request for review shall identify the critical item(s) being reviewed. The decision of the Director shall be final and made in writing within a reasonable time after receipt of the request for a review.~~
- ~~4. In the event of an order of cessation of operation based upon the reviewed critical item(s), a request for a hearing may be made in writing to the Commissioner received within ten (10) calendar days of the decision of the Director. Except as otherwise provided by law, no action shall be taken regarding a closure on the critical item(s) under review or subject to a hearing pending the outcome of the hearing which shall be held pursuant to the Uniform Administrative Procedures Act.~~

~~(4) Permit Revocation~~

- ~~(a) After providing an opportunity for a hearing, the Commissioner or his duly authorized representative may revoke a permit for serious or repeated violations of requirements of this part or for interference with the Commissioner or his duly authorized representative in the performance of his duty.~~
  - ~~(b) Prior to revocation, the Commissioner or his duly authorized representative shall notify, in writing, the permittee of the specific reason(s) for which the permit is to be revoked, and that the permit shall be revoked at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the Commissioner within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.~~
- ~~(5) Whenever a facility is required under this section to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.~~

*Authority: T.C.A. 4-5-202 and 68-14-301 et seq. Administrative History: Original rule filed March 26, 1987; effective May 9, 1987. Amendment filed January 4, 1995; effective March 20, 1995. Withdrawal of 1200-23-.03(3)(d) filed November 3, 2000. Repeal and new rule filed August 24, 2000; effective November 7, 2000. Amendment filed October 22, 2004; effective January 5, 2005.*

~~1200-23-1-.04. FEES~~

- (1) ~~Fees shall be as provided by statute.~~
- (2) ~~A late penalty in the amount as provided by statute shall be assessed on all late renewal permit applications.~~
- (3) ~~A late penalty in the amount as provided by statute shall be assessed on all initial or new permit applications which are received by the Department more than thirty (30) days from the date of the initial opening or operation.~~

*Authority:* ~~T.C.A. 4-5-202, 68-14-301 et seq., 68-14-303, and 68-14-313. Administrative History: Original rule filed March 26, 1987; effective May 9, 1987. Amendment filed February 14, 1989; effective March 31, 1989. Repeal filed March 13, 2000; effective May 27, 2000. New rule filed August 24, 2000; effective November 7, 2000. Amendment filed October 22, 2004; effective January 5, 2005.~~

~~1200-23-1-.05. LOSS OF PERMIT DOCUMENT~~

- (1) ~~Any establishment or operator that loses, misplaces, or destroys the permit shall, as soon as the fact becomes apparent, immediately apply for a duplicate. The fee for the duplicate permit shall be three dollars (\$3.00). This fee shall accompany the application for such duplicate.~~

*Authority:* ~~T.C.A. 4-5-202 and 68-14-301 et seq. Administrative History: Original rule filed March 26, 1987; effective May 9, 1987. Amendment filed February 14, 1989; effective March 21, 1989. Amendment filed April 23, 1990; effective July 29, 1990. Repeal filed March 13, 2000; effective May 27, 2000. New rule filed August 24, 2000; effective November 7, 2000.~~

~~1200-23-1-.06. GENERAL PROVISIONS~~

- (1) ~~Applicability. Chapter 1200-23-1 applies to food service establishments. All food service establishments shall comply with all applicable provisions of Chapter 1200-23-1 at all times.~~
- (2) ~~Permit Revocation. When a permit to operate a food service establishment is revoked by the Commissioner, a new permit shall be issued, upon meeting all requirements for a new permit and the submission of a new application with applicable fees.~~
- (3) ~~Posting of permit. Section 68-14-305 requires posting of permits "in a conspicuous manner." This shall mean at a place so designated by the inspector at the time of inspection. No person except an authorized representative of the Commissioner shall modify, remove, cover up, or otherwise make the permit less conspicuous in any way.~~
- (4) ~~Severability. If any provision or application of any provision of these rules is held invalid, that invalidity shall not affect other provisions or applications of these rules.~~

*Authority:* ~~T.C.A. 4-5-202 and 68-14-301 et seq. Administrative History: Original rule filed March 26, 1987; effective date May 9, 1987. Repeal filed March 13, 2000; effective May 27, 2000. New rule filed August 24, 2000; effective November 7, 2000.~~

1200-23-01-.01 Definitions.(1) Accredited Program.

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

(Rule 1200-23-1-.04, continued)

- (b) "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.
- (c) "Accredited program" does not refer to training functions or educational programs.
- (2) Additive.
- (a) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR § 170.3(e)(1).
- (b) "Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR § 70.3(f).
- (3) "Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 402.
- (4) "Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- (5) Asymptomatic
- (a) "Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice.
- (b) "Asymptomatic" includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.
- (6) "Aw" means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol Aw.
- (7) "Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.
- (8) "Beverage" means a liquid for drinking, including water.
- (9) "Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.
- (10) "Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.
- (11) "Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.
- (12) "CFR" means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR § 180.194 refers to Title 40, Part 180, Section 194.

(Rule 1200-23-1-.04, continued)

## (13) CIP

- (a) "CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.
- (b) "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

## (14) "Comingle" means:

- (a) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or
- (b) To combine shucked shellfish from containers with different container codes or different shucking dates.

## (15) "Comminuted" means:

- (a) "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.
- (b) "Comminuted" includes fish or meat products that are reduced in size and restructured or reformulated such as gefille 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.

## (16) "Commissary" means a food establishment that services a mobile food unit or a pushcart.

(17) "Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title I of the Americans with Disabilities Act of 1990.(18) "Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.(19) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

## (20) Core Item.

- (a) "Core item" means a provision in this chapter that is not designated as a priority item or a priority foundation item.
- (b) "Core item" includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (ssops), facilities or structures, equipment design, or general maintenance.

(21) "Corrosion-resistant material" means a material that maintains acceptable surface cleanability

(Rule 1200-23-1-.04, continued)

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.

- (22) "Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.
- (23) "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.
- (24) "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.
- (25) "Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.
- (26) "Department" means the Tennessee Department of Health or its authorized agent.
- (27) "Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.
- (28) "Disclosure" means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.
- (29) Drinking Water.
- (a) "Drinking water" means water that meets criteria as specified in 40 CFR Part 141 National Primary Drinking Water Regulations.
- (b) "Drinking water" is traditionally known as "potable water."
- (c) "Drinking water" includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.
- (30) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous (time /temperature control of safety food) and dry goods such as single-service items.
- (31) Easily Cleanable.
- (a) "Easily cleanable" means a characteristic of a surface that:
1. Allows effective removal of soil by normal cleaning methods;
  2. Is dependent on the material, design, construction, and installation of the surface;  
and

(Rule 1200-23-1-.04, continued)

3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

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

1. 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

2. 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.

(32) "Easily movable" means:

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

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

(33) Egg.

(a) "Egg" means the shell egg of avian species such as chicken, duck, goose, quinea, quail, ratites or turkey.

(b) "Egg" does not include:

1. A balut;

2. The egg of reptile species such as alligator; or

3. An egg product.

(34) Egg Product.

(a) "Egg Product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs.

(b) "Egg Product" does not include food that contains eggs only in a relatively small proportion such as cake mixes.

(35) "Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

(36) "Enterohemorrhagic Escherichia coli (EHEC)" means 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

(Rule 1200-23-1-.04, continued)

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 see SHIGA TOXIN-PRODUCING E. COLI.

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

(38) Equipment.

(a) "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, or ware washing machine.

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

(39) "Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

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

(41) Fish.

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

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

(42) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

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

(44) "Food-contact surface" means:

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

(b) A surface of equipment or a utensil from which food may drain, drip, or splash:

1. Into a food, or

2. onto a surface normally in contact with food.

(45) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(Rule 1200-23-1-.04, continued)

(46) "Food Establishment" means:

- (a) Any establishment, place or location, whether permanent, temporary, seasonal or itinerant, where food is prepared and the public is offered to be served, or is served, food, including, but not limited to, foods, vegetables, or beverages not in an original package or container, food and beverages dispensed at soda fountains and delicatessens, sliced watermelon, ice balls, or water mixtures. "Food establishment" includes any such places regardless of whether there is a charge for the food.
- (b) "Food establishment" does not include private homes where food is prepared or served and not offered for sale, retail food store operations other than delicatessens, the location of vending machines, and supply vehicles.
- (c) "Food establishment" does not include churches, temples, synagogues or other religious institutions, civic, fraternal, or veteran's organizations where food is prepared, served, transported, or stored by volunteer personnel only on non-consecutive days; provided, however, that the storage of unopened, commercially canned food, packaged bulk food that is not potentially hazardous (time/temperature control for safety food) and dry goods shall not apply for these purposes.
- (d) "Food establishment" does not include grocery stores that may, incidentally, make infrequent casual sales of uncooked foods for consumption on the premises, or any establishment whose primary business is other than food service, that may, incidentally, make infrequent casual sales of coffee or prepackaged foods, or both, for consumption on the premises. For the purposes of this subparagraph, infrequent casual sales means sales not in excess of one hundred fifty dollars (\$150) per day on any particular day.
- (e) "Food establishment" does not include a location from which casual, occasional food sales are conducted solely in connection with youth-related amateur athletic or recreational activities or primary or secondary school-related clubs by volunteer personnel and that are in operation for twenty-four (24) consecutive hours or less.
- (f) "Food establishment" does not include a catering business that employs no regular, full-time employees, the food preparation for such business is solely performed within the confines of the principal residence of the proprietor, and the catering business makes only "occasional sales" during any thirty-day period; and
- (g) "Food establishment" does not include a house or other residential structure where seriously ill or injured children and their families are provided temporary accommodations in proximity to their treatment hospitals and where food is prepared, served, transported or stored by volunteer personnel; provided, that the house or structure is supported by a § 501(c)(3) organization, as defined in 26 U.S.C. § 501(c)(3), that has as a component of its mission the support of programs that directly improve the health and well-being of children.

(47) Food Processing Plant.

- (a) "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments.
- (b) "Food processing plant" does not include a food establishment.

(48) Game Animal.

(Rule 1200-23-1-.04, continued)

- (a) "Game animal" means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR § 301.2 Definitions, or as poultry, or fish.
- (b) "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.
- (c) "Game animal" does not include ratites.
- (49) "General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR § 152.175 Pesticides classified for restricted use.
- (50) "Good repair" means equipment and utensils shall be maintained in a state of repair and condition that meets the requirements specified under 1200-23-01-.04.
- (51) "Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.
- (52) "HACCP plan" means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.
- (53) Handwashing Sink.
- (a) "Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.
- (b) "Handwashing sink" includes an automatic handwashing facility.
- (54) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.
- (55) "Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, or physician assistant.
- (56) "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.
- (57) "Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:
- (a) Immunocompromised; preschool age children, or older adults; and
- (b) Obtaining food at a facility that provides services 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.
- (58) "Imminent health hazard" means any condition, deficiency, or practice that, if not corrected, is very likely to result in illness, injury, or loss of life to any person.

(Rule 1200-23-1-.04, continued)

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

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(60) Juice.

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

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

(61) "Kitchenware" means food preparation and storage utensils.

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

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

(64) Major Food Allergen.

(a) "Major food allergen" means:

1. Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or
2. A food ingredient that contains protein derived from a food, as specified in part (a) 1. of this definition.

(b) "Major food allergen" does not include:

1. Any highly refined oil derived from a food specified in part (a)1. of this definition and any ingredient derived from such highly refined oil; or
2. 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).

(65) "Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goat, other edible animals except fish, poultry, and wild game animals as specified under 1200-23-01-.03 (a) 3 and 4.

(66) Mechanically Tenderized.

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

(b) "Mechanically tenderized" does not include processes by which solutions are injected into meat.

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

(Rule 1200-23-1-.04, continued)

- (68) "Mobile food unit" means a food establishment designed to be readily moved and vend food.
- (69) "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.
- (70) Non-Continuous Cooking.
- (a) "Non-continuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.
- (b) "Non-continuous cooking" does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.
- (71) Packaged.
- (a) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant.
- (b) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
- (72) "Permit" means the document issued by the department that authorizes a person to operate a food establishment.
- (73) "Permit holder" means the entity that:
- (a) Is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and
- (b) Possesses a valid permit to operate a food establishment.
- (74) "Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.
- (75) "Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.
- (76) Personal Care Items.
- (a) "Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.
- (b) "Personal care items" include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.
- (77) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

(Rule 1200-23-1-.04, continued)

- (78) "Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.
- (79) "Plumbing fixture" means a receptacle or device that:
- (a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or
  - (b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.
- (80) "Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.
- (81) "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in 4 categories:
- (a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
  - (b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
  - (c) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
  - (d) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.
- (82) "Poultry" means:
- (a) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR § 381.1 Poultry Products Inspection Regulations Definitions, Poultry, and
  - (b) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR § 362.1 Voluntary Poultry Inspection Regulations, Definitions.
- (83) "Premises" means:
- (a) The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or
  - (b) The physical facility, its contents, and the land or property not described in Subparagraph (a) 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.

(Rule 1200-23-1-.04, continued)

- (84) "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.
- (85) Priority Item.
- (a) "Priority item" means a provision in this Chapter whose application contributes directly to the elimination, prevention or reduction to an acceptable level, of hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.
- (b) "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and
- (c) "Priority item" is an item that is denoted in this chapter with (P).
- (86) Priority Foundation Item.
- (a) "Priority foundation item" means a provision in this chapter whose application supports, facilitates or enables one or more priority items.
- (b) "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and
- (c) "Priority foundation item" is an item that is denoted in this chapter with (Pf).
- (87) "Public water system" has the meaning stated in 40 CFR Part 141 National Primary Drinking Water Regulations.
- (88) "Ratite" means a flightless bird such as an emu, ostrich, or rhea.
- (89) "Ready-to-Eat Food" means food that:
- (a) Is in a form that is edible without additional preparation to achieve food safety, as specified under one of the following 1200-23-01-.03 (4)(a)1(i) or (ii), 1200-23-01-.03 (4)(a)2, or 1200-23-01-.03(4)(b)1 or as specified in 1200-23-01-.03 (4)(a)1(iii); or
- (b) Is a raw or partially cooked animal food and the consumer is advised as specified in 1200-23-01-.03 (4)( a)1(iv) (I)and (III); or
- (c) Is prepared in accordance with a variance that is granted as specified in 1200-23-01-.03 (4)( a) 1(iv)(IV); and
- (d) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.
- (e) "Ready-to-eat food" includes:
1. Raw animal food that is cooked as specified under or 1200-23-01-.03 (4)(a)1, or frozen as specified under 1200-23-01-.03(4)(b);

(Rule 1200-23-1-.04, continued)

2. Raw fruits and vegetables that are washed as specified under or 1200-23-01-.03(3)(b)5;
3. Fruits and vegetables that are cooked for hot holding, as specified under or 1200-23-01-.03(4)(a)3;
4. All potentially hazardous food time/temperature control for safety food that is cooked to the temperature and time required for the specific food under or 1200-23-01-.03(4) and cooled as specified under or 1200-23-01-.03(5)(a)4;
5. 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;
6. Substances derived from plants such as spices, seasonings, and sugar;
7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
8. 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
9. Food manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

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(90) Reduced Oxygen Packaging.(a) "Reduced oxygen packaging" means:

1. The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and
2. A process as specified in part (a)1. of this definition that involves a food for which the hazards Clostridium botulinum or Listeria monocytogenes require control in the final packaged form.

(b) "Reduced oxygen packaging" includes:

1. Vacuum packing, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;
2. 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;
3. Controlled atmosphere packaging, in which the atmosphere of a package of food

(Rule 1200-23-1-.04, continued)

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

4. Cook chill packaging, in which cooked food is hot filled into impermeable bags that 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

5. 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.

- (91) "Refuse" means solid waste not carried by water through the sewage system.
- (92) "Reminder" means a written statement concerning the health risk of consuming animal food raw, undercooked, or without otherwise being processed to eliminate pathogens.
- (93) "Re-service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.
- (94) "Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.
- (95) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR § 590.5.
- (96) "Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR § 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.
- (97) "Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.
- (98) "Safe material" means:
- (a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
  - (b) An additive that is used as specified in § 409 of the Federal Food, Drug, and Cosmetic Act; or
  - (c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.
- (99) "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.
- (100) "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

(Rule 1200-23-1-.04, continued)

- (101) "Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.
- (102) "Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.
- (103) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.
- (104) "Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.
- (105) "Shellstock" means raw, in-shell molluscan shellfish.
- (106) "Shiga toxin-producing Escherichia coli (STEC)" means any E. coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). Examples of serotypes of STEC include both O157 and non-O157 E. coli. Also see Enterohemorrhagic Escherichia Coli.
- (107) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.
- (108) "Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.
- (109) Single-Use Articles.
- (a) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded.
- (b) "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under 1200-23-01-.04-(1)(a), (2)(a), and (b) for multiuse utensils.
- (110) "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.
- (111) "Smooth" means:
- (a) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;
- (b) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and
- (c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(Rule 1200-23-1-.04, continued)

- (112) "Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.
- (113) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.
- (114) "Temporary food establishment" means a food establishment that operates at a fixed location in conjunction with an organized temporary event for more than one (1) day and not more than fourteen (14) consecutive days.
- (115) Time/Temperature Control for Safety Food.
  - (a) "Time/temperature control for safety food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.
  - (b) "Time/temperature control for safety food" includes:
    - 1. An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and
    - 2. Except as specified in Subpart 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:

<u>Table A. Interaction of PH and <math>A_w</math> for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged</u>			
<u><math>A_w</math> values</u>	<u>PH values</u>		
	<u>4.6 or less</u>	<u>&gt; 4.6 - 5.6</u>	<u>&gt; 5.6</u>
<u>&lt;0.92</u>	<u>non-TCS FOOD*</u>	<u>non-TCS FOOD</u>	<u>non-TCS FOOD</u>
<u>&gt; 0.92 - .95</u>	<u>non-TCS FOOD</u>	<u>non-TCS FOOD</u>	<u>PA**</u>
<u>&gt; 0.95</u>	<u>non-TCS FOOD</u>	<u>PA</u>	<u>PA</u>
<u>* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD</u>			
<u>** PA means Product Assessment required</u>			

(Rule 1200-23-1-.04, continued)

Table B. Interaction of PH and $A_w$ for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged				
$A_w$ values	PH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 – 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
> 0.90 – 0.92	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA

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

3. “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-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:
  - (I) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,
  - (II) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere

(Rule 1200-23-1-.04, continued)

such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or

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

(v) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparts 3.(i) – 3.(iv) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

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

(117) "Utensil" means a food contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single use, gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

(118) "Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

(119) "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

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

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

Rule 1200-23-01-.02 Management and Personnel

(1) Supervision.

(a) Responsibility.

1. Assignment.

(i) 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. (Pf)

(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 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.

(b) Knowledge.

(Rule 1200-23-1-.04, continued)

1. Demonstration.

- (i) Based on the risks inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the department knowledge of foodborne disease prevention, application of the Hazard Analysis and Critical Control Point principles, and the requirements of these rules. The Person in Charge shall demonstrate this knowledge by:
- (I) Complying with these rules by having no violations of Priority Items during the current inspection; (Pf)
  - (II) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an Accredited Program; (Pf) or
  - (III) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
    - I. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee; (Pf)
    - II. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease; (Pf)
    - III. Describing the symptoms associated with the diseases that are transmissible through food; (Pf)
    - IV. Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness; (Pf)
    - V. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish; (Pf)
    - VI. Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish; (Pf)
    - VII. 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; (Pf)
    - VIII. Describing the relationship between the prevention of foodborne illness and the management and control of the following:
      - A. Cross contamination; (Pf)

(Rule 1200-23-1-.04, continued)

- B. Hand contact with ready-to-eat foods. (Pf)
- C. Handwashing. (Pf) and
- D. Maintaining the food establishment in a clean condition and in good repair. (Pf)
- IX. Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction. (Pf)
- X. Explaining the relationship between food safety and providing equipment that is:
  - A. Sufficient in number and capacity. (Pf) and
  - B. Properly designed, constructed, located, installed, operated, maintained, and cleaned. (Pf)
- XI. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment. (Pf)
- XII. Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections. (Pf)
- XIII. Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law. (Pf)
- XIV. 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 these regulations. (Pf)
- XV. Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this chapter, or an agreement between the department and the food establishment. (Pf)
- XVI. Explaining the responsibilities, rights, and authorities assigned by these regulations to the:
  - A. Food employee. (Pf)
  - B. Conditional employee. (Pf)
  - C. Person in charge. (Pf)

(Rule 1200-23-1-.04, continued)

D. Department: (Pf) and

XVII. Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees. (Pf)

2. Food Protection Manager Certification

(i) A Person in Charge who demonstrates knowledge by being a food protection manager certified by a food protection manager certification program evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with 1200-23-01-.02(1)(b)1.(III).

(c) Duties.

1. Person in Charge. 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 1200-23-01-.06(2)(b)10; (Pf)
- (ii) Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that the person in charge may authorize brief visits and tours if steps are taken to ensure that exposed food, clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination; (Pf)
- (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 these regulations; (Pf)
- (iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing; (Pf)
- (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; (Pf)
- (vi) Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated and accurately presented;
- (vii) Employees are properly cooking time/temperature control for safety food, being particularly careful in cooking those foods known to cause severe

(Rule 1200-23-1-.04, continued)

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 1200-23-01-.04 (2)(c) or 1200-23-01-.04 (5) (b); (Pf)

- (viii) Employees are using proper methods to rapidly cool potentially hazardous foods (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; (Pf)
- (ix) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 1200-23-01-.03(6)(c) that the food is not cooked sufficiently to ensure its safety; (Pf)
- (x) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing; (Pf)
- (xi) 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 1200-23-01-.03 (3)(d)6; (Pf)
- (xii) Except when approval is obtained from the department as specified in 1200-23-01-.03 (3)(a)1(v), employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment; (Pf)
- (xiii) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties; (Pf)
- (xiv) 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 part (2)(a)1; (Pf) and
- (xv) Written procedures and plans, where established by this rule and as developed by the food establishment are maintained and implemented as required.

(2) Employee Health

(a) Responsibility of Permit Holder, Person in Charge, and Conditional Employees.

1. 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

(Rule 1200-23-1-.04, continued)

providing necessary additional information, such as the date of onset of symptoms and illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

- (i) Has any of the following symptoms:
  - (I) Vomiting, (P)
  - (II) Diarrhea, (P)
  - (III) Jaundice, (P)
  - (IV) Sore throat with fever, (P) or
  - (V) A lesion containing pus such as a boil or infected wound that is open or draining and is:
    - I. On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover, (P)
    - II. On exposed portions of the arms, unless the lesion is protected by an impermeable cover, (P) or
    - III. On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage; (P)
- (ii) Has an illness diagnosed by a health practitioner due to:
  - (I) Norovirus, (P)
  - (II) Hepatitis A virus, (P)
  - (III) Shigella spp., (P)
  - (IV) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, (P)  
or
  - (V) Salmonella Typhi or non-Typhi; (P)
- (iii) 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; (P)
- (iv) 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: (P)
  - (I) Norovirus within the past 48 hours of the last exposure, (P)
  - (II) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, or Shigella spp. within the past 3 days of the last exposure, (P)

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- (III) Salmonella Typhi within the past 14 days of the last exposure, (P) or
  - (IV) Hepatitis A virus within the past 30 days of the last exposure; (P) or
  - (v) 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, (P)
    - (II) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, (P) or Shigella spp. within the past 3 days of the last exposure,
    - (III) Salmonella Typhi within the past 14 days of the last exposure, (P) or
    - (IV) Hepatitis A virus within the past 30 days of the last exposure. (P)
2. The person in charge shall notify the department when a food employee is:
- (i) Jaundiced, (Pf) or
  - (ii) Diagnosed with an illness due to a pathogen as specified under items 1(ii)(I) - (V) of this subparagraph. (Pf)
3. The person in charge shall ensure that a conditional employee:
- (i) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under subparts 1.(i) - 1.(iii) of this subparagraph, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 1200-23-01-.02(2)(c); (P) and
  - (ii) Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under subparts 1.(iv) - 1.(v) of this subparagraph, is prohibited from becoming a food employee until the conditional employee meets the criteria as specified under 1200-23-01-.02(2)(c). (P)
4. 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 subparts 1.(i) - 1.(v) of this subparagraph is:
- (i) Excluded as specified under 1200-23-01-.02(2)(b)1.-3., and subparts 4.(i), 5.(i), 6.(i), or 7(i) and in compliance with the provisions specified under 1200-23-01-.02(2)(c)1.-7; (P) or
  - (ii) Restricted as specified under 1200-23-01-.02(2)(b), and subparts 4.(ii),

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5.(ii), 6.(ii), 7(ii), or 1200-23-01-.02(2)(b) 8. or 9. and in compliance with the provisions specified under 1200-23-01-.02(2)(c)4.- 9. (P)

5. A food employee or conditional employee shall report to the person in charge the information as specified under part 1. of this subparagraph. (Pf)

6. A food employee shall:

(i) Comply with an exclusion as specified under 1200-23-01-.02(2)(b)1.- 3., subparts 4.(i), 5.(i), 6.(i), or 7(i) and with the provisions specified under 1200-23-01-.02(2)(c)4. - 9.; (P) or

(ii) Comply with a restriction as specified under 1200-23-01-.02(2)(b) 4.(ii), 5.(ii), 6.(ii), 7(ii), or 1200-23-01-.02(2)(b) 8. or 9. and comply with the provisions specified under 1200-23-01-.02(2)(c)4.- 9. (P)

(b) Exclusions and Restrictions. The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following: \_\_\_\_\_

1. Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

(i) Symptomatic with vomiting or diarrhea; (P) or

(ii) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., or Enterohemorrhagic or Shiga toxin-producing E. coli. (P)

2. Exclude a food employee who is:

(i) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection; (P)

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

(iii) Diagnosed with an infection from hepatitis A virus without developing symptoms. (P)

3. 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 subpart 1200-23-01-.02(2)(a)1.(iii). ( P )

4. If a food employee is diagnosed with an infection from Norovirus and is asymptomatic: \_\_\_\_\_

(i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or

(ii) Restrict the food employee who works in a food establishment not

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servicing a highly susceptible population. (P)

5. If a food employee is diagnosed with an infection from Shigella spp. and is asymptomatic:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)
  6. If a food employee is diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing E. coli, and is asymptomatic:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)
  7. If a food employee is ill with symptoms of acute onset of sore throat with fever:
    - (i) Exclude the food employee who works in a food establishment serving a highly susceptible population; (P) or
    - (ii) Restrict the food employee who works in a food establishment not serving a highly susceptible population. (P)
  9. 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 1200-23-01-.02(2)(a)1.(i)(V), restrict the food employee. (P)
  10. If a food employee is exposed to a foodborne pathogen as specified under 1200-23-01-.02(2)(a)1.(iv) and (v), restrict the food employee who works in a food establishment serving a highly susceptible population. (P)
- (c) Removal, Adjustment, or Retention of Exclusions and Restrictions. The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:
1. Except when a food employee is diagnosed with an infection from hepatitis A virus or Salmonella Typhi:
    - (i) Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b)1.(i) if the food employee:
      - (I) Is asymptomatic for at least 24 hours; (P) or
      - (II) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition. (P)
    - (ii) If a food employee was diagnosed with an infection from Norovirus and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):

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- (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 subparts 4.(i) or (ii) of this subparagraph are met; (P) 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 subparts 4.(i) or (ii) of this subparagraph are met. (P)
- (iii) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
- (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 subparts 5. (i) and (ii) of this subparagraph are met; (P) 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 subparts 5. (i) and (ii), or 5. (i) and (iii) of this subparagraph are met. (P)
- (iv) If a food employee was diagnosed with an infection from *Enterohemorrhagic* or *Shiga toxin-producing Escherichia coli* and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
- (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 subparts 6.(i) or (ii) of this subparagraph are met; (P) 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 subparts 6.(i) or (ii) are met. (P)
- (v) If a food employee was diagnosed with an infection from nontyphoidal *Salmonella* and excluded as specified under 1200-23-01-.02(2)(b)1.(ii):
- (I) Restrict the food employee, who is asymptomatic, for at least 30 days until conditions for reinstatement as specified under subparts 6.(i) or (ii) of this subparagraph are met; (P) or
  - (II) Retain the exclusion for the food employee who is symptomatic, until conditions for reinstatement as specified under subparts 6.(i) or (ii) of this subparagraph are met; (P)

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2. Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b)2. if the person in charge obtains approval from the department and one of the following conditions is met:
  - (i) The food employee has been jaundiced for more than 7 calendar days; (P)
  - (ii) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; (P) or
  - (iii) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection. (P)
3. Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b)3. if:
  - (i) The person in charge obtains approval from the department; (P) and
  - (ii) 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. (P)
4. Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b)1.(ii) or 4.(i) who was restricted under 1200-23-01-.02(2)(b)4.(ii) if the person in charge obtains approval from the department and one of the following conditions is met:
  - (i) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection; (P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic; (P) or
  - (iii) The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed. (P)
5. Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b)1.(ii) or 5.(i) or who was restricted under 1200-23-01-.02(2)(b)5.(ii) if the person in charge obtains approval from the department and one of the following conditions is met:
  - (i) 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, (P)  
and

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- (II) At least 24 hours apart; (P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; (P) or
  - (iii) The food employee was excluded or restricted and did not develop symptoms and more than 7 calendar days have passed since the food employee was diagnosed. (P)
6. Reinstate a food employee who was excluded or restricted as specified under 1200-23-01-.02(2)(b)1.(ii) or 6.(i) or who was restricted under 1200-23-01-.02(2)(b)6.(ii) if the person in charge obtains approval from the department and one of the following conditions is met:
- (i) 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; (P)  
and
    - (II) At least 24 hours apart; (P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; (P) or
  - (iii) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed. (P)
7. Reinstate a food employee who was excluded as specified under 1200-23-01-.02(2)(b) or who was restricted as specified under 1200-23-01-.02(2)(b) if the person in charge receives approval from the department and one of the following conditions is met
- (i) 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 nontyphoidal Salmonella infection based on test results showing two consecutive negative stool specimen cultures that are taken:
    - (I) Not earlier than 48 hours after the discontinuance of antibiotics (P); and
    - (II) At least 24 hours apart;(P)
  - (ii) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; (P) or

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- (iii) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed. (P)
8. Reinstate a food employee who was excluded or restricted as specified under 1200-23-01-.02(2)(b)7.(i) or (ii) 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:
- (i) Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 hours; (P)
- (ii) Has at least one negative throat specimen culture for Streptococcus pyogenes infection; (P) or
- (iii) Is otherwise determined by a health practitioner to be free of a Streptococcus pyogenes infection. (P)
9. Reinstate a food employee who was restricted as specified under 1200-23-01-.02(2)(b)8. if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:
- (i) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist; (P)
- (ii) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; (P) or
- (iii) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body. (P)
10. Reinstate a food employee who was restricted as specified under 1200-23-01-.02(2)(b)9. and was exposed to one of the following pathogens as specified under 1200-23-01-.02(2)(a)1.(iv) or (v):
- (i) 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; (P) or
- (II) More than 48 hours have passed since the food employee's household contact became asymptomatic. (P)
- (ii) Shigella spp. or Enterohemorrhagic or Shiga toxin-producing Escherichia coli and one of the following conditions are met:
- (I) More than 3 calendar days have passed since the last day the food employee was potentially exposed; (P) or
- (II) More than 3 calendar days have passed since the food employee's household contact became asymptomatic. (P)
- (iii) S. Typhi and one of the following conditions are met:

(Rule 1200-23-1-.04, continued)

(I) More than 14 calendar days have passed since the last day the food employee was potentially exposed; (P) or

(II) More than 14 calendar days have passed since the food employee's household contact became asymptomatic. (P)

(iv) 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; (P)

(II) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A; (P)

(III) The food employee is immune to hepatitis A virus infection because of IgG administration; (P)

(IV) More than 30 calendar days have passed since the last day the food employee was potentially exposed; (P)

(V) More than 30 calendar days have passed since the food employee's household contact became jaundiced; (P) 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 items 9.(iv)(IV) and (V) of this subpart, and the food employee receives additional training about:

I. Hepatitis A symptoms and preventing the transmission of infection. (P)

II. Proper handwashing procedures. (P) and

III. Protecting ready-to-eat food from contamination introduced by bare hand contact. (P)

(3) Personal Cleanliness

(a) Clean Condition. Food employees shall keep their hands and exposed portions of their arms clean. (P)

(b) Cleaning Procedure.

1. Except as specified in 4. of this subparagraph, 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 1200-23-01-.05 (2)(b)2 and/or 1200-23-01-.06 (3)(a). (P)

2. Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

(Rule 1200-23-1-.04, continued)

- (i) Rinse under clean, running warm water; (P)
  - (ii) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer; (P)
  - (iii) 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; (P) 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; (P)
  - (iv) Thoroughly rinse under clean, running warm water; (P) and
  - (v) Immediately follow the cleaning procedure with thorough drying using a method as specified under 1200-23-01-.06 (3)(a)3. (P)
3. To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.
4. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.
- (c) When to Wash. Food employees shall clean their hands and exposed portions of their arms as specified under 1200-23-01-.02(3)(b) immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles (P) and:
- 1. After touching bare human body parts other than clean hands and clean, exposed portions of arms; (P)
  - 2. After using the toilet room; (P)
  - 3. After caring for or handling service animals or aquatic animals as specified in 1200-23-01-.02(4)(d)2.; (P)
  - 4. Except as specified in 1200-23-01-.02(4)(a)2., after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking; (P)
  - 5. After handling soiled equipment or utensils; (P)
  - 6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks; (P)
  - 7. When switching between working with raw food and working with ready-to-eat food; (P)
  - 8. Before donning gloves for working with food; (P) and

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

(d) Where to Wash. Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste. (Pf)

(e) Hand Antiseptics.

1. A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(i) 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; (Pf) or

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

(ii) 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 CFR § 170.39 - Threshold of regulation for substances used in food-contact articles; (Pf) or

(II) Comply with and be listed in:

I. 21 CFR Part 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use; (Pf) or

II. 21 CFR Part 182 - Substances Generally Recognized as Safe, 21 CFR Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; (Pf) and

III. Be applied only to hands that are cleaned as specified under 1200-23-01-.02(3)(b). (Pf)

2. If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under (e)1.(ii) of this paragraph, use shall be:

(i) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; (Pf) or

(ii) Limited to situations that involve no direct contact with food by the bare

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hands.

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

(f) Maintenance.

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

- (g) Prohibition. Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

- (h) 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) Hygienic Practices

(a) Eating, Drinking, or Using Tobacco.

1. Except as specified in part 2 of this subparagraph, 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.
2. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

(i) The employee's hands;

(ii) The container; and

(iii) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

- (b) Discharges from the Eyes, Nose, and Mouth. Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(c) Effectiveness.

1. Except as provided in part 2 of this subparagraph, 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.
2. This subparagraph does not apply to food employees such as counter staff who

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only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(d) Handling Prohibition.

1. Except as specified in part 2. of this subparagraph, 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 subparts 1200-23-01-.06 (5) (o) 2(i) – (v). (Pf)
2. Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacean in display tanks if they wash their hands as specified under 1200-23-01-.02(3)(b) and 1200-23-01-.02(3)(c)3.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

Rule 1200-23-01-.03 Food.

(1) Condition - Safe, Unadulterated, and Honestly Presented. Food shall be safe, unadulterated, and, as specified under 1200-23-01-.03(6)(a)2, honestly presented. (P)

(2) Sources, Specifications and Original Containers and Records(a) Sources1. Compliance with Food Law

- (i) Food shall be obtained from sources that comply with law. (P)
- (ii) Food from an Unlicensed Home Facility. Food from an unlicensed home facility shall not be served in a food establishment.
- (iii) Packaged food shall be labeled as specified in law, including 21 CFR Part 101 Food Labeling, 9 CFR Part 317 Labeling, Marking Devices, and Containers, and 9 CFR Part 381 subpart N Labeling and Containers, and as specified under 1200-23-01-.03(2)(b)7 and 8. (Pf)
- (iv) Fish, other than those specified in subpart 1200-23-01-.03(4)(a)1(iv), that are intended for consumption in raw or undercooked form and allowed as specified in 1200-23-01-.03(4)(a)1(ii)-(iv), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 1200-23-01-.03(4)(b); or if they are frozen on the premises as specified under 1200-23-01-.03(4)(b) and records are retained as specified under 1200-23-01-.03(4)(b)2.
- (v) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 1200-23-01-.03(4)(a)1(iii) shall be:
  - (I) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef; .(Pf)

(Rule 1200-23-1-.04, continued)

or

- (II) 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. (Pf) and
- (III) 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 item (v)(I) or identified as specified in item (v)(II). (Pf)
  - II. Prepared so they remain intact. (Pf) and
  - III. If packaged for undercooking in a food establishment, labeled as specified in item (v)(I) or identified as specified in item (v)(II) of this part. (Pf).
- (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 CFR § 317.2(l) and 9 CFR § 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 CFR § 101.17(h).
- 2. Food in a Hermetically Sealed Container. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant. (P)
- 3. Fluid Milk and Milk Products. Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law. (P)
- 4. Fish
  - (i) Fish that are received for sale or service shall be: (P)
    - (I) Commercially and legally caught or harvested. (P) or
    - (II) Approved for sale or service. (P)
  - (ii) Molluscan shellfish that are recreationally caught may not be received for sale or service. (P)
- 5. Molluscan Shellfish.
  - (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. (P)

(Rule 1200-23-1-.04, continued)

- (ii) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List. (P)

6. Wild Mushrooms.

- (i) Except as specified in subpart (ii) of this part, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert. (P)
- (ii) This section does not apply to:
  - (I) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
  - (II) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

7. Game Animals.

- (i) If game animals are received for sale or service they shall be:
  - (I) Commercially raised for food (P) and:
    - I. Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, (P) or
    - II. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, (P) and
    - III. Raised, slaughtered, and processed according to:
      - A. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, (P) and
      - B. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; (P)
  - (II) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR Part 352 Exotic animals;

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voluntary inspection of rabbits that are "inspected and certified" in accordance with 9 CFR Part 354 Voluntary inspection of rabbits and edible products thereof; (P)

- (III) As allowed by law, for wild game animals that are live-caught:
- I. Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, (P) and
  - II. Slaughtered and processed according to:
    - A. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, (P) and
    - B. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; (P) or
- (IV) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:
- I. Receive a postmortem examination by an approved veterinarian or veterinarian's designee, (P) or
  - II. Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, (P) and
  - III. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. (P)
- (ii) A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR Part 17 Endangered and threatened wildlife and plants.

(b) Specifications for Receiving1. Temperature.

- (i) Except as specified in subpart 1.(ii) of this subparagraph, refrigerated time/temperature control for safety food shall be at a temperature of 5°C (41°F) or below when received. (P)
- (ii) If a temperature other than 5°C (41°F) for a time/temperature control for

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- safety food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.
- (iii) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less. (P)
  - (iv) Time/temperature control for safety food that is cooked to a temperature and for a time specified under 1200-23-01-.03(6)(a)1.- 3. and received hot shall be at a temperature of 57°C (135°F) or above. (P)
  - (v) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen. (Pf)
  - (vi) Upon receipt, time/temperature control for safety food shall be free of evidence of previous temperature abuse. (Pf)
2. Additives. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR Parts 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR Parts 181-186, substances that exceed amounts specified in 9 CFR Subpart C, § 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR Part 180 Tolerances and exemptions for pesticide chemical residues in food. (P)
3. Eggs. Eggs shall be received clean and sound and may not exceed the restricted Egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA. (P)
4. Eggs and Milk Products, Pasteurized.
- (i) Egg Products shall be obtained pasteurized. (P)
  - (ii) Fluid and dry milk and milk products shall:
    - (I) Be obtained pasteurized; (P) and
    - (II) Comply with Grade A standards as specified in law. (P)
  - (iii) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR Part 135 - Frozen desserts. (P)
  - (iv) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR Part 133 - Cheeses and related cheese products, for curing certain cheese varieties. (P)
5. Package Integrity. Food packages shall be in good condition and protect the integrity of the contents so that the Food is not exposed to adulteration or potential contaminants. (Pf)
6. Ice. Ice for use as a food or a cooling medium shall be made from drinking

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water. (P)

7. Shucked Shellfish, Packaging and Identification.

- (i) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the: (Pf)
- (l) Name, address, and certification number of the shucker, packer or re-packer of the molluscan shellfish; (Pf) and
- (ll) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. (Pf)
- (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 7(i) of this subparagraph shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D § 1240.60(d) - Specific Administrative Decisions Regarding Interstate Shipments, Molluscan shellfish.

8. Shellstock Identification.

- (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: (Pf)
- (l) Except as specified under subitem III of this item, on the harvester's tag or label, the following information in the following order: (Pf)
- I. The harvester's identification number that is assigned by the shellfish control authority. (Pf)
- II. The date of harvesting. (Pf)
- 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. (Pf)
- IV. The type and quantity of shellfish. (Pf) 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"; (Pf) and
- (ll) Except as specified in subpart (iv) of this part, on each dealer's

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tag or label, the following information in the following order: (Pf)

- I. The dealer's name and address, and the certification numbers assigned by the shellfish control authority. (Pf)
- II. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested. (Pf)
- III. The same information as specified for a harvester's tag under subitems (i)(I)II.-IV of this subpart, (Pf) and
- IV. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days." (Pf)

(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 CFR Subpart D § 1240.60(d) Specific Administrative Decisions Regarding Interstate Shipments.

(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 items (i)(I) and (II) of this part, individual dealer tags or labels need not be provided.

9. Shellstock, Condition: When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

10. Juice - Commercially Processed: Pre-packaged juice shall:

(i) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120 Hazard Analysis and Critical Control (HACCP) Systems; (Pf) 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 CFR § 120.24 Process Controls. (P)

(c) Original Containers and Records

1. Molluscan Shellfish, Original Container.

(i) Except as specified in (ii) - (iv) 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

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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:

- (I) The source of the shellstock on display is identified as specified under 1200-23-01-.03(2)(b)8. and recorded as specified under 1200-23-01-.03(2)(c)1(v)(II) ; and
- (II) 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:
  - (I) The labeling information for the shellfish on display as specified under 1200-23-01-.03(2)(b)8. is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
  - (II) 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:
  - (I) The labeling information for the shellfish is on each consumer self-service container as specified under 1200-23-01-.03(2)(b)7. and 1200-23-01-.03(6)(b)1 and 2(i) – (v) ;
    - I. The labeling information as specified under 1200-23-01-.03(2)(b)7 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;
    - II. The labeling information and dates specified under (v)(II) of this part are maintained for 90 days; and
    - III. The shellfish are protected from contamination.
- (v) Shellstock, Maintaining Identification.
  - (I) Except as specified under subitem (III) II of this subpart, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty. (Pf)
  - (II) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label. (Pf)
  - (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 subpart, by: (Pf)
    - I. Using an approved record keeping system that keeps

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the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under item (II) of this subpart; (Pf) and

II. If shellstock are removed from its tagged or labeled container:

A. Preserving source identification by using a record keeping system as specified under subpart 1.(ii) of this part. (Pf) and

B. Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer. (Pf)

(3) Protection from Contamination after Receiving.

(a) Preventing Contamination by Employees

1. Preventing Contamination from Hands.

(i) Food employees shall wash their hands as specified under 1200-23-01-.02(3)(b).

(ii) Except when washing fruits and vegetables as specified under 1200-23-01-.03(3)(b)5 or as specified in (v) of this part, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment. (P)

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

(iv) Subpart (ii) of this subparagraph does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 74°C (165°F).

(v) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:

(I) The permit holder obtains prior approval from the department;

(II) Written procedures are maintained in the food establishment and made available to the department upon request that include:

I. For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare

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hands.

- II. Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under 1200-23-01-.05(2)(c)1, 1200-23-01-.05(2)(d)1, 1200-23-01-.05(2)(e)1, 1200-23-01-.06(3)(a)1, 1200-23-01-.06(3)(a)3, and 1200-23-01-.06(3)(a)5, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;
- (III) A written employee health policy that details how the food establishment complies with 1200-23-01-.02(2)(a), (b), and (c) including:
- I. Documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under 1200-23-01-.02(2)(a)1.
  - II. Documentation that food employees and conditional employees acknowledge their responsibilities as specified under 1200-23-01-.02(2)(a)4 and 5; and
  - III. Documentation that the person in charge acknowledges the responsibilities as specified under 1200-23-01-.02(2)(a)2, 3, and 4, and 1200-23-01-.02(2)(b) and 1200-23-01-.02(2)(c);
- (IV) Documentation that food employees acknowledge that they have received training in:
- I. The risks of contacting the specific ready-to-eat foods with bare hands.
  - II. Proper handwashing as specified under 1200-23-01-.02(3)(b).
  - III. When to wash their hands as specified under 1200-23-01-.02(3)(c).
  - IV. Where to wash their hands as specified under 1200-23-01-.02(3)(d).
  - V. Proper fingernail maintenance as specified under 1200-23-01-.02(3)(f).
  - VI. Prohibition of jewelry as specified under 1200-23-01-.02(3)(g), and
  - VII. Good hygienic practices as specified under 1200-23-01-.02(4)(a) and 1200-23-01-.02(4)(b);

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- (V) Documentation that hands are washed before food preparation and as necessary to prevent cross contamination by food employees as specified under 1200-23-01-.02(3)(a), 1200-23-01-.02(3)(b), 1200-23-01-.02(3)(c), and 1200-23-01-.02(3)(d) during all hours of operation when the specific ready-to-eat foods are prepared;
  - (VI) Documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:
    - I. Double handwashing;
    - II. Nail brushes;
    - III. A hand antiseptic after handwashing as specified under 1200-23-01-.02(3)(e);
    - IV. Incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill, or
    - V. Other control measures approved by the department; and
    - VI. Documentation that corrective action is taken when items (I) – (VI) of this subpart are not followed.
2. Preventing Contamination When Tasting. A food employee may not use a utensil more than once to taste food that is to be sold or served. (P)
- (b) Preventing Food and Ingredient Contamination.
- 1. Packaged and Unpackaged Food – Separation, Packaging and Segregation
    - (i) Food shall be protected from cross contamination by:
      - (I) Except as specified in subitem III below, separating raw animal foods during storage, preparation, holding, and display from:
        - I. Raw ready-to-eat including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables. (P) and
        - II. Cooked ready-to-eat food; (P)
        - 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.
      - (II) Except when combined as ingredients, separating types of raw

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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, (P) or
  - II. Arranging each type of food in equipment so that cross contamination of one type with another is prevented, (P) and
  - III. Preparing each type of food at different times or in separate areas;
  - (III) Cleaning equipment and utensils as specified under 1200-23-01-.04(6)(b)1(i) and sanitizing as specified under 1200-23-01-.04(7)(c);
  - (IV) Except as specified under 1200-23-01-.03(5)(a)5(ii)(II) and in part 2. of this subparagraph, storing the food in packages, covered containers, or wrappings;
  - (V) Cleaning hermetically sealed containers of food of visible soil before opening;
  - (VI) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
  - (VII) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under 1200-23-01-.06(4)(d); and
  - (VIII) Separating fruits and vegetables, before they are washed, as specified under 1200-23-01-.03(5) from ready-to-eat foods.
- (ii) Item (i)(IV) does not apply to:
- (I) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;
  - (II) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
  - (III) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
  - (IV) Food being cooled as specified under 1200-23-01-.03(5)(a)5(ii)(II); or
  - (V) Shellstock.

2. Food Storage Containers, Identified with Common Name of Food. Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed

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from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

3. Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes: Pasteurized eggs or egg product shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

(i) Cooked as specified under 1200-23-01-.03(4)(a)1(i)(I) or (II); (P) or

(ii) Included in 1200-23-01-.03(4)(a)1(iv). (P)

4. Protection from Unapproved Additives.

(i) Food shall be protected from contamination that may result from the addition of, as specified in 1200-23-01-.03(2)(b)2:

(I) Unsafe or unapproved food or color additives; (P) and

(II) Unsafe or unapproved levels of approved and color additives. (P)

(ii) A food employee may not:

(I) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; (P) or

(II) Except for grapes, serve or sell food specified under (i) of this part that is treated with sulfiting agents before receipt by the food establishment. (P)

5. Washing Fruits and Vegetables.

(i) Except as specified in subpart (ii) of this part and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

(ii) Fruits and vegetables may be washed by using chemicals as specified under 1200-23-01-.07(2)(d)2.

(c) Preventing Contamination from Ice Used as Coolant

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

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

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- (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 undrained 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 poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(d) Preventing Contamination from Equipment, Utensils and Linens

1. Food Contact with Equipment and Utensils – Food shall only contact:

- (i) Equipment and utensils that are cleaned as specified under 1200-23-01-.04(6) of this Chapter and sanitized as specified under 1200-23-01-.04(7) of this Chapter; (P) or
- (ii) Single-service and single-use articles. (P)
- (iii) Linens, such as cloth napkins, as specified under 1200-23-01-.03(3)(d)3, that are laundered as specified under 1200-23-01-.04(8)(b) of this Chapter.

2. 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 time/temperature control for safety food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;
- (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 1200-23-01-.04(6)(b) and 1200-23-01-.04(7)(b);
- (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 time/temperature control for safety food; 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 1200-23-01-.04(6)(b)1(iv)(VII).

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3. Linens and Cloth Napkins, Use Limitation. Linens and cloth napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.
4. Wiping Cloths, Use Limitation.
- (i) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:
    - (I) Maintained dry; and
    - (II) Used for no other purpose.
  - (ii) Cloths in-use for wiping counters and other equipment surfaces shall be:
    - (I) Held between uses in a chemical sanitizer solution at a concentration specified under 1200-23-01-.04(5)(a)14; and
    - (II) Laundered daily as specified under 1200-23-01-.04(8)(b)4.
  - (iii) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.
  - (iv) Dry wiping cloths and the chemical sanitizing solutions specified in item (ii)(I) of this part in which wet wiping cloths are held between uses shall be free of food debris and visible soil.
  - (v) Containers of chemical sanitizing solutions specified in item (ii)(I) of this part in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.
  - (vi) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.
5. Gloves - Use Limitation.
- (i) If used, single-use gloves shall be used for only one task such as working with ready-to-eat or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. (P)
  - (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 1200-23-01-.03(4)(a)-(b) 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

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glove.

- (iv) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under 1200-23-01-.03(4)(a)-(b) such as frozen food or a primal cut of meat.

6. 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 (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 1200-23-01-.04(2)(d)3(i),(ii) and (iv).

7. Refilling Returnables.

- (i) A take-home food container returned to a food establishment may not be refilled at a food establishment with a time/temperature control for safety food.
- (ii) Except as specified in subpart (iii) of this subpart, a take-home food container refilled with food that is not time/temperature control for safety food shall be cleaned as specified under 1200-23-01-.04(6)(c)7(ii).
- (iii) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 1200-23-01-.04(2)(d)3(i), (ii) and (iv).

(e) Preventing Contamination from the Premises

1. Food Storage.

- (i) Except as specified in subparts (ii) and (iii) of this part, food shall be protected from contamination by storing the food:
- (I) In a clean, dry location;
- (II) Where it is not exposed to splash, dust, or other contamination;  
and
- (III) At least 15 cm (6 inches) 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

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under 1200-23-01-.04(9)(c)1(iv).

(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.

2. 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.

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

(f) Preventing Contamination by Consumers

1. Food Display. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means. (P)

2. Condiments, Protection. 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.

3. Consumer Self-Service Operations.

(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:

(I) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;

(II) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats

(Rule 1200-23-1-.04, continued)

or consumer-selected ingredients for Mongolian barbecue; or(III) 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. (Pf)(iii) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures. (Pf)

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4. Returned Food and Re-Service of Food.(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. (P)(ii) Except as specified under 1200-23-01-.03(8)(g), a container of food that is not time/temperature control for safety food may be re-served from one consumer to another if:(I) 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(II) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.5. Preventing Contamination from Other Sources - Miscellaneous Sources of Contamination: Food shall be protected from contamination that may result from a factor or source not specified under 1200-23-01-.03(3)(a)-(f).(4) Destruction of Organisms of Public Health Concern(a) Cooking1. Raw Animal Foods.(i) Except as specified under subparts (ii),(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:(I) 63°C (145°F) or above for 15 seconds for: (P)I. Raw eggs that are broken and prepared in response to a consumer's order and for immediate service. (P) andII. Except as specified under items (i)(II) and (i)(III) and subparts (ii), and (iii) of this part, fish and meat including game animals commercially raised for food as specified under 1200-23-01-.03(2)(a)7(i) and game animals under

(Rule 1200-23-1-.04, continued)

a voluntary inspection program as specified under 1200-23-01-.03(2)(a)7(ii); (P)

- (ii) 68°C (155°F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ralites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under 1200-23-01-.03(2)(a)7(i), and game animals under a voluntary inspection program as specified under 1200-23-01-.03(2)(a)7(i)(II) and raw eggs that are not prepared as specified under 1(i)(I) of this subparagraph: (P) or

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

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity <sup>1</sup>	121°C (250°F) or less	121°C (250°F) or less

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

- (iii) 74°C (165°F) or above for 15 seconds for poultry, baluts, wild game animals as specified under 1200-23-01-.03(2) (a) 7 (iii) and (iv), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ralites, or stuffing containing fish, meat, poultry, or ralites. (P)

- (ii) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

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- (I) 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: (P); and
- (II) As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature: (P)

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

<sup>1</sup>Holding time may include postoven 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:
  - (I) The food establishment serves a population that is not a highly susceptible population.
  - (II) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under 1200-23-01-.03(2)(a)1(v), and
  - (III) 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 (iii) of this part, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:
  - (I) As specified under 1200-23-01-.03(8)(c)1 and 2, the food establishment serves a population that is not a highly susceptible population;
  - (II) The food, if served or offered for service by consumer selection

(Rule 1200-23-1-.04, continued)

- from a children's menu, does not contain comminuted; (Pf) and
- (III) The consumer is informed as specified under 1200-23-01-.03(6)(c) that to ensure its safety, the food should be cooked as specified under subparts (i) or (ii) of this part; or
- (IV) The department grants a variance from (i) or (ii) of this part as specified in 1200-23-01-.08(1)(d)1 based on a HACCP plan that:
- I. Is submitted by the permit holder and approved as specified under 1200-23-01-.08(1)(d)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.
2. Microwave Cooking. 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.
3. Plant Food Cooking for Hot Holding. Fruits and vegetables cooked for hot holding shall be cooked to a temperature of 57°C (135°F). (Pf)
4. Non-Continuous Cooking of Raw Animal Foods. Raw animal foods 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; (P)
  - (ii) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 1200-23-01-.03(5)(a)4; (P)
  - (iii) After cooling, held frozen or cold, as specified for time/temperature control for safety food under 1200-23-01-.03(5)(a)6(i); (P)
  - (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; (P)
  - (v) Cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 1200-23-01-

(Rule 1200-23-1-.04, continued)

.03(5)(a)4 if not either hot held as specified under 1200-23-01-.03(5)(a)6, served immediately, or held using time as a public health control as specified under 1200-23-01-.03(5)(a)9 after complete cooking; (P) and Prepared and stored according to written procedures that:

- (I) Have obtained prior approval from the department; (Pf)
- (II) Are maintained in the food establishment and are available to the department upon request; (Pf)
- (III) 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; (Pf)
- (IV) 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 subpart (iv) of this part prior to being offered for sale or service; (Pf) and
- (V) Describe how the foods, after initial heating but prior to cooking as specified under subpart (iv) of this part, are to be separated from ready-to-eat foods as specified under 1200-23-01-.03(5)(c); (Pf)

(b) Freezing1. Parasite Destruction.

- (i) Except as specified in (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:
  - (I) Frozen and stored at a temperature of 20°C (4°F) or below for a minimum of 168 hours (7 days) in a freezer; (P)
  - (II) Frozen at 35°C (31°F) or below until solid and stored at 35°C (31°F) or below for a minimum of 15 hours; (P) or
  - (III) Frozen at 35°C (31°F) or below until solid and stored at 20°C (4°F) or below for a minimum of 24 hours. (P)
- (ii) Subpart (i) of this part does not apply to:
  - (I) Molluscan shellfish;
  - (II) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), Scallops consisting only of the shucked abductor muscle, or *Thunnus thynnus* (Bluefin tuna, Northern); or
  - (III) Aquacultured fish, such as salmon, that:

(Rule 1200-23-1-.04, continued)

- 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.
  - (IV) Fish eggs that have been removed from the skein and rinsed.
2. Records, Creation and Retention.

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- (i) Except as specified in 1200-23-01-.03(4)(b)1(ii) and (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 of the food establishment for 90 calendar days beyond the time of service or sale of the fish. (Pf)
- (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 1200-23-01-.03(4)(b)1 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 1200-23-01-.03(4)(b)1(ii)(III), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 1200-23-01-.03(4)(b)1(ii)(III) shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. (Pf)

3. 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.

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(c) Reheating for Hot Holding.

- 1. Except as specified under parts 2, 3 and 5 of this subparagraph, time/temperature control for safety food) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) for 15 seconds. (P)
- 2. Except as specified under part 3 of this subparagraph, time/temperature control for safety food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating. (P)
- 3. Ready-to-eat taken from a commercially processed, hermetically-sealed container, or from an intact package from a food processing plant that is inspected by the food department that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) for hot holding. (P)

(Rule 1200-23-1-.04, continued)

4. Reheating for hot holding as specified under parts 1. through 3. of this subparagraph shall be completed within 2 hours and the time the food is between 5°C (41°F) or 7°C (45°F) and the temperatures specified under 1 through 3 of this subparagraph may not exceed 2 hours. (P)
5. Remaining unsliced portions of meat roasts that are cooked as specified under 1200-23-01-.03(4)(a)1(ii) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 1200-23-01-.03(4)(a)1(ii).

(d) Treating Juice. Juice packaged in a food establishment shall be:

1. Treated under a HACCP PLAN as specified in 1200-23-01-.08(2)(d) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; (P) or
2. Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance: (Pf)
  - (i) As specified under 1200-23-01-.03(6)(b), (Pf) and
  - (ii) As specified in 21 CFR § 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." (Pf)

(5) Limitation of Growth of Organisms of Public Health Concern.

(a) Temperature and Time Control.

1. Frozen Food. Stored frozen foods shall be maintained frozen.
2. Time/Temperature Control for Safety Food, Slacking. Frozen 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.
  - (ii) At any temperature if the food remains frozen.
3. Thawing. Except as specified in subpart (iv) of this part, time/temperature control for safety food shall be thawed:
  - (i) Under refrigeration that maintains the food temperature at 5°C (41°F) or less<sup>o</sup>.
  - (ii) Completely submerged under running water:
    - (l) At a water temperature of 21°C (70°F) or below.

(Rule 1200-23-1-.04, continued)

- (II) With sufficient water velocity to agitate and float off loose particles in an overflow.
- (III) Such that for ready-to-eat food, the temperature of thawed portions do not rise above 5°C (41°F), and
- (IV) Such that for raw animal food requiring cooking as specified under 1200-23-01-.03(4)(a)1(i) or (ii), thawed portions are not 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:

- (I) Cooked as specified under 1200-23-01-.03(4)(a)1(i) or (ii) or under 1200-23-01-.03(4)(a)2(i), or
- (II) 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. Cooling.

- (i) Cooked time/temperature control for safety food shall be cooled:
  - 1. Within 2 hours from 57°C (135°F) to 21°C (70°F); (P) and
  - 2. Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less. (P)
- (ii) 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. (P)
- (iii) Except as specified under subpart (iv) of this part, a time/temperature control for safety food received in compliance with laws allowing a temperature above 5°C (41°F) during shipment from the supplier as specified under 1200-23-01-.03(2)(b)1(ii), shall be cooled within 4 hours to 5°C (41°F) or less. (P)
- (iv) Raw eggs shall be received as specified under 1200-23-01-.03(2)(b)3 and immediately placed in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less. (P)

#### 5. Cooling Methods.

(Rule 1200-23-1-.04, continued)

- (i) Cooling shall be accomplished in accordance with the time and temperature criteria specified under 1200-23-01-.03(5)(a)4 by using one or more of the following methods based on the type of food being cooled:
  - (I) Placing the food in shallow pans; (Pf)
  - (II) Separating the food into smaller or thinner portions; (Pf)
  - (III) Using rapid cooling equipment; (Pf)
  - (IV) Stirring the food in a container placed in an ice water bath; (Pf)
  - (V) Using containers that facilitate heat transfer; (Pf)
  - (VI) Adding ice as an ingredient; (Pf) or
  - (VII) Other effective methods. (Pf)
- (ii) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
  - (I) Arranged in the equipment to provide maximum heat transfer through the container walls; and
  - (II) Loosely covered, or uncovered if protected from overhead contamination as specified under 1200-23-01.03(3)(e)1(i)(I), during the cooling period to facilitate heat transfer from the surface of the food.

6. Time/Temperature Control for Safety Food, Hot and Cold Holding.

- (i) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 1200-23-01-.03(5)(a)9, and except as specified under (ii) and in (iii) of this part, time/temperature control for safety food shall be maintained at 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified under 1200-23-01-.03(4)(a)1(ii) or reheated as specified in 1200-23-01-.03(4)(c)5 may be held at a temperature of 54°C (130°F) or above. (P)
- (ii) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less. (P)
- (iii) Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (i) of this part, while contained within specially designed equipment that complies with the design and construction requirements as specified under 1200-23-01-.04(2)(d)3(v).

7. Ready-to-Eat, Time/Temperature Control for Safety Food Date Marking

- (i) Except when packaging food using a reduced oxygen packing method as specified under 1200-23-01-.03(5)(c), and except as specified in subpart (v) of this part, refrigerated, ready-to-eat, time/temperature control for

(Rule 1200-23-1-.04, continued)

safety food prepared and held in a food establishment for more than 24 hours shall be 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 combination of 5°C (41°F) or less for a maximum of 7 days. The day of preparation shall be counted as day 1. (Pf)

- (ii) Except as specified in (v) - (vi) of this part, refrigerated, ready-to-eat, time/temperature control for safety food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in (i) of this part and: (Pf)
  - (I) The day the original container is opened in the food establishment shall be counted as day 1; (Pf) and
  - (II) The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety. (Pf)
- (iii) A refrigerated, ready-to-eat, time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient. (Pf)
- (iv) A date marking system that meets the criteria stated in subparts (i) and (ii) of this part may include:
  - (I) Using a method approved by the department for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;
  - (II) 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;
  - (III) 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
  - (IV) 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.

(Rule 1200-23-1-.04, continued)

(vi) Subpart (ii) of this part does not apply to the following foods prepared and packaged by a food processing plant inspected by a department:

- (I) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR Part 110 Current good manufacturing practice in manufacturing, packing, or holding human food;
- (II) Hard cheeses containing not more than 39% moisture as defined in 21 CFR Part 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;
- (III) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR Part 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;
- (IV) Cultured dairy products as defined in 21 CFR Part 131 Milk and cream, such as yogurt, sour cream, and buttermilk;
- (V) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products as defined in 21 CFR Part 114 Acidified foods;
- (VI) Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR Part 317 Labeling, marking devices, and containers, and which retain the original casing on the product; and
- (VII) Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR Part 317 Labeling, marking devices, and containers.

8. Ready-to-Eat, time/temperature control for safety food, Disposition.

- (i) A food specified in 1200-23-01-.03(5)(a)7(i) or (ii) shall be discarded if it:
  - (I) Exceeds the temperature and time combination specified in 1200-23-01-.03(5)(a)7(i), except time that the product is frozen; (P)
  - (II) Is in a container or package that does not bear a date or day; (P) or
  - (III) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in 1200-23-01-.03(5)(a)7(i). (P)
- (ii) Refrigerated, ready-to-eat, potentially hazardous foods time/temperature control for safety food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be

(Rule 1200-23-1-.04, continued)

discarded if it exceeds a temperature and time combination as specified in 1200-23-01-.03(5)(a)7(i).

9. Time as a Public Health Control.

- (i) Except as specified under subpart (iv) of this part, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking, or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service:
- (I) Written procedures shall be prepared in advance, maintained in the food establishment and made available to the department upon request that specify: (Pf)
- I. Methods of compliance with items (ii)(I)-(IV) or (iii)(I)-(V) of this part; (Pf) and
- II. Methods of compliance with 1200-23-01-.03(5)(a)4 for food that is prepared, cooked, and refrigerated before time is used as a public health control. (Pf)
- (ii) If time without temperature control is used as the public health control up to a maximum of 4 hours:
- (I) The food shall have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control; (P)
- (II) The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control; (Pf)
- (III) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control; (P) and
- (IV) The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded. (P)
- (iii) If time without temperature control is used as the public health control up to a maximum of 6 hours:
- (I) The food shall have an initial temperature of 5°C (41°F) or less when removed from temperature control and the food temperature may not exceed 21°C (70°F) within a maximum time period of 6 hours; (P)
- (II) The food shall be monitored to ensure the warmest portion of the food does not exceed 21°C (70°F) during the 6 hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 21°C (70°F) during the 6-hour holding period; (Pf)

(Rule 1200-23-1-.04, continued)

- (III) The food shall be marked or otherwise identified to indicate: (Pf)
    - I. The time when the food is removed from 5°C (41°F) or less cold holding temperature control. (Pf) and
    - II. The time that is 6 hours past the point in time when the food is removed from cold holding temperature control; (Pf)
  - (IV) The food shall be:
    - I. Discarded if the temperature of the food exceeds 21°C (70°F). (P) 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; (P) and
  - (V) The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded. (P)
- (iv) A food establishment that serves a highly susceptible population may not use time as specified under subparts (i), (ii) or (iii) of this part as the public health control for raw eggs.
- (b) Specialized Processing Methods: Variance Requirement. A food establishment shall obtain a variance from the department as specified in 1200-23-01-.08(1)(d)1 and under 1200-23-01-.08(1)(d)2 before: (Pf)
- 1. Smoking food as a method of food preservation rather than as a method of flavor enhancement; (Pf)
  - 2. Curing food; (Pf)
  - 3. Using food additives or adding components such as vinegar; (Pf)
    - (i) As a method of food preservation rather than as a method of flavor enhancement. (Pf) or
    - (ii) To render a food so that it is not time/temperature control of safety food; (Pf)
  - 4. Packaging food using a reduced oxygen packing method except where the growth of and toxin formation by Clostridium botulinum and the growth of Listeria monocytogenes are controlled as specified under 1200-23-01-.03(5)(c); (Pf)
  - 5. Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption; (Pf)
  - 6. Custom processing animals that are for personal use as food and not for sale or service in a food establishment; (Pf)

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7. Preparing food by another method that is determined by the department to require a variance; (Pf)or
8. Sprouting seeds or beans. (Pf)
- (c) Clostridium botulinum and Listeria monocytogenes Controls. - Reduced Oxygen Packaging Without a Variance. Criteria.
1. Except for a food establishment that obtains a variance as specified under 1200-23-01-.03(5)(b)4, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes. (P)
2. A food establishment that packages time/temperature control for safety food using a reduced oxygen method shall have a HACCP plan that contains the information specified under 1200-23-01-.08(2)(d)4 and that: (Pf)
- (i) Identifies the food to be packaged; (Pf)
- (ii) Except as specified under parts 3. – 5. of this subparagraph, requires that the packaged food shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria: (Pf)
- (I) Has an Aw of 0.91 or less. (Pf)
- (II) Has a Ph of 4.6 or less. (Pf)
- (III) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR § 424.21, Use of food ingredients and sources of radiation, and is received in an intact package. (Pf)or
- (IV) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables; (Pf)
- (iii) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: (Pf)
- (I) Maintain the food at 5°C (41°F) or below. (Pf) 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; (Pf)
- (iv) Limits the refrigerated shelf life to no more than 14 calendar days from packing to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; (P)
- (v) Includes operational procedures that:
- (I) Prohibit contacting ready-to-eat food with bare hands as

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- specified under 1200-23-01-.03(3)(a)1(ii), (Pf)
- (II) Identify a designated work area and the method by which: (Pf)
- I. Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, (Pf) and
  - II. Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, (Pf) and
  - III. Delineate cleaning and sanitation procedures for food-contact surfaces; (Pf) and
- (vi) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the: (Pf)
- (I) Concepts required for a safe operation, (Pf)
  - (II) Equipment and facilities, (Pf) and
  - (III) Procedures specified under subpart 2(v) of this part and 1200-23-01-.08(2)(d)4. (Pf)
3. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method. (P)
4. Except as specified under part 3 of this subparagraph, a food establishment that packages food using a cook-chill or sous vide process shall:
- (i) Implement a HACCP plan that contains the information as specified under 1200-23-01-.08(2)(d)4; (Pf)
  - (ii) Ensure the food is:
    - (I) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer, (Pf)
    - (II) Cooked to heat all parts of the food to a temperature and for a time as specified under 1200-23-01-.03(4)(a)1. (Pf)
    - (III) Protected from contamination before and after cooking as specified under 1200-23-01-.03(3)-(5), (P)
    - (IV) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 57°C (135°F). (P)

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- ~~(V) Cooled to 5°C (41°F) in the sealed package or bag as specified under 1200-23-01-.03(5)(a)4 and subsequently; (P)~~
  - ~~(VI) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of packaging; (P)~~
  - ~~(VII) 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; (P)~~
  - ~~(VIII) 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; (P) or~~
  - ~~(IX) Held frozen with no shelf life restriction while frozen until consumed or used. (P)~~
  - ~~(X) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily. (Pf)~~
  - ~~(XI) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation. (Pf) and~~
  - ~~(iii) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:
    - ~~(i) Make such records available to the department upon request (Pf); and~~
    - ~~(ii) Hold such records for at least 6 months; (Pf) and~~~~
  - ~~(iv) Implement written operational procedures as specified under subpart 2(v) of this subparagraph and a training program as specified under subpart 2(vi) of this subparagraph.~~
- ~~5. A food establishment that packages cheese using a reduced oxygen packaging method shall:~~
- ~~(i) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR § 133.150 Hard cheeses, 21 CFR § 133.169 Pasteurized process cheese or 21 CFR § 133.187 Semisoft cheeses; (P)~~
  - ~~(ii) Have a HACCP plan that contains the information specified under 1200-23-01-.08(2)(d)4 and as specified under subparts 2(i), 2(v) and 2(vi) and item (2)(iii)(l) of this subparagraph; (Pf)~~

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- (iii) Labels the package on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; (Pf) and
- (iv) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging. (Pf)

(6) Food Identity, Presentation, and On-Premises Labeling

(a) Accurate Representation.

1. Standards of Identity. Packaged food shall comply with standard of identity requirements in 21 CFR Parts 131-169 and 9 CFR Part 319 Definitions and standards of identity or composition, and the general requirements in 21 CFR Part 130 – Food Standards: General and 9 CFR Part 319 Subpart A – General Provisions.
2. Honestly Presented.
  - (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.

(b) Labeling.

1. Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR Part 101 - Food labeling, and 9 CFR Part 317 Labeling, marking devices, and containers.
2. Label information shall include:
  - (i) The common name of the food, or absent a common name, an adequately descriptive identity statement;
  - (ii) 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;
  - (iii) An accurate declaration of the quantity of contents;
  - (iv) The name and place of business of the manufacturer, packer, or distributor; and
  - (v) 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 (Effective January 1, 2006). (Pf)
  - (vi) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) - (5), nutrition labeling as specified in 21 CFR Part 101 - Food Labeling and 9 CFR Part 317 Subpart B Nutrition Labeling.

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- (vii) 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.
3. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:
- (i) The manufacturer's or processor's label that was provided with the food; or
  - (ii) A card, sign, or other method of notification that includes the information specified under subparts 2(i), (ii), and (v) of this part.
4. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:
- (i) A health, nutrient content, or other claim is not made;
  - (ii) There are no state or local laws requiring labeling; and
  - (iii) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.
5. 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.
- (c) Consumer Advisory - Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.
1. Except as specified in 1200-23-01-.03(4)(a)1(iii) and 1200-23-01-.03(4)(a)1(iv)(IV) and under 1200-23-01-.03(8)(c), 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 parts 2 and 3 of this subparagraph using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means. (Pf)
2. Disclosure shall include:
- (i) 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)"; (Pf) or
  - (ii) Identification of the animal-derived foods by asterisking them to a

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footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients. (Pf)

3. Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(i) Regarding the safety of these items, written information is available upon request; (Pf)

(ii) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; (Pf) or

(iii) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions. (Pf)

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(7) Contaminated Food - Disposition. Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

(a) A food that is unsafe, adulterated, or not honestly presented as specified under 1200-23-01-.03(1) shall be discarded or reconditioned according to an approved procedure. (P)

(b) Food that is not from an approved source as specified under 1200-23-01-.03(2)(a) - (c) shall be discarded. (P)

(c) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 1200-23-01-.02(2)(b) shall be discarded. (P)

(d) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded. (P)

(8) Special Requirements for Highly Susceptible Populations - Pasteurized Foods, Prohibited Re-Service, and Prohibited Food. In a food establishment that serves a highly susceptible population:

(a) The following criteria apply to juice:

1. For the purposes of this paragraph only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

2. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR § 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified under 1200-23-01-.03(4)(d)2 may not be served or offered for sale; (P) and

3. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified under 1200-23-01-.08(2)(d) and as specified in 21 CFR Part 120 - Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, § 120.24 Process controls. (P)

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- (b) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of: (P)
1. Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages. (P) and
  2. Except as specified in (f) of this paragraph, recipes in which more than one egg is broken and the eggs are combined; (P)
- (c) The following foods may not be served or offered for sale in a ready-to-eat form: (P)
1. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare. (P)
  2. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; (P) and
  3. Raw seed sprouts. (P)
- (d) Food employees may not contact ready-to-eat food as specified under 1200-23-01-.03(3)(a)1.(ii) and (iv). (P)
- (e) Time only, as the public health control as specified under 1200-23-01-.03(5)(a)9(iv), may not be used for raw eggs.
- (f) Subparagraph (b)2 of this paragraph does not apply if:
1. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 1200-23-01-.03(4)(a)1(i)(I), and served immediately, such as an omelet, soufflé, or scrambled eggs; (P)
  2. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or
  3. The preparation of the food is conducted under a HACCP plan that:
    - (i) Identifies the food to be prepared.
    - (ii) Prohibits contacting ready-to-eat food with bare hands.
    - (iii) Includes specifications and practices that ensure:
      - (I) Salmonella Enteritidis growth is controlled before and after cooking, and
      - (II) Salmonella Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 1200-23-01-.03(4)(a)1(i)(II).
    - (iv) Contains the information specified under 1200-23-01-.08(2)(d)4 including procedures that:

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- (l) Control cross contamination of ready-to-eat food with raw eggs, and
- (ll) 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.
- (g) Except as specified in subparagraph (h) of this paragraph, food may be re-served as specified under 1200-23-01-.03(3)(f)4(ii)(l) and (ll).
- (h) Food may not be re-served under the following conditions:
  - 1. Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.
  - 2. Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

1200-23-01-.04 Equipment, Utensils, and Linens

(1) Materials for Construction and Repair(a) Multiuse1. Characteristics

- (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: (P)
  - (l) Safe; (P)
  - (ll) Durable, corrosion-resistant, and nonabsorbent;
  - (lll) Sufficient in weight and thickness to withstand repeated warewashing;
  - (lV) Finished to have a smooth, easily cleanable surface; and
  - (V) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.
- (ii) Cast Iron, Use Limitation.
  - (l) Except as specified in items (ll) and (lll) of this subpart, cast iron may not be used for utensils or food-contact surfaces of equipment.

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- (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.

(iii) Lead, Use Limitation.

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

Utensil Category	Ceramic Article Description	Maximum Lead Mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls > 1.1 Liter (1.16 Quart)	1
Small Hollowware (excluding cups & mugs)	Bowls < 1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

- (II) Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface. (P)
  - (III) Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.
- (iv) Copper, Use Limitation.
- (I) Except as specified in item (II) of this subpart, 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 prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.
- (v) Galvanized Metal, Use Limitation. Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.
- (vi) Sponges, Use Limitation. Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.
- (vii) Wood, Use Limitation.

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- (I) Except as specified in items (II), (III) and (IV) of this subpart, 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:
    - I. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and
    - II. 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:
    - I. Untreated wood containers; or
    - II. Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR § 178.3800 Preservatives for wood.
  - (viii) 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.
  - (ix) 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.
- (b) Single Service and Single-Use.
- 1. Characteristics. Materials that are used to make single-service and single-use articles:
    - (i) May not:
      - (I) Allow the migration of deleterious substances, (P) or
      - (II) Impart colors, odors, or tastes to food; and
    - (ii) Shall be:
      - (I) Safe, (P) and

(Rule 1200-23-1-.04, continued)

(II) Clean.(2) Design and Construction(a) Durability and Strength

1. Equipment and Utensils. Equipment and Utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.
2. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used. (P)

(b) Cleanability1. Food-Contact Surfaces.(i) Multiuse food-contact surfaces shall be:

- (I) Smooth; (Pf)
- (II) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections; (Pf)
- (III) Free of sharp internal angles, corners, and crevices; (Pf)
- (IV) Finished to have smooth welds and joints; (Pf) and
- (V) Except as specified in subpart (ii) of this part, accessible for cleaning and inspection by one of the following methods:
  - I. Without being disassembled; (Pf)
  - II. By disassembling without the use of tools; (Pf) 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. (Pf)

(ii) Item (i)(V) of this part does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.2. CIP Equipment

- (i) CIP equipment shall meet the characteristics specified under 1200-23-01-.04(2)(a) and shall be designed and constructed so that:
  - (I) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; (Pf) and

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- (II) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; 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.
  - 3. "V" Threads, Use Limitation - Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.
  - 4. Hot Oil Filtering Equipment - Hot oil filtering equipment shall meet the characteristics specified under 1200-23-01-.04(2)(a) and shall be readily accessible for filter replacement and cleaning of the filter.
  - 5. Can Openers. - Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.
  - 6. 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.
  - 7. 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 Subparagraph 1200-23-01-.04 (2)(b)1.(i)(V) or capable of being rotated open, and
    - (ii) Removable or capable of being rotated open without unlocking equipment doors.
  - 8. 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.
- (c) Accuracy
- 1. Temperature Measuring Devices, Food.
    - (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. (Pf)
    - (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. (Pf)
  - 2. Temperature Measuring Devices, Ambient Air and Water.
    - (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. (Pf)

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- (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. (Pf)
- 3. 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  $\pm 14$  kilopascals ( $\pm 2$  pounds per square inch) in the range indicated on the manufacturer's data plate.
- (d) Functionality
  - 1. 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.
  - 2. 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 (two-tenths of an 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:
      - (I) 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
      - (II) The opening shall be flanged as specified under (ii) of this part.
  - 3. Dispensing Equipment, Protection of Food. - 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

(Rule 1200-23-1-.04, continued)

- 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:
- (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; 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 time/temperature control for safety food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under 1200-23-01-.03(5)(a)6 shall:
- (I) 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; (P) and
  - (II) conform to the requirements for this equipment as specified in NSF/ANSI 18-2006- Manual Food and Beverage Dispensing Equipment. (P)
4. 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.
5. Beverage Tubing, Separation. - Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.
6. Ice Units, Separation of Drains. - Liquid waste drain lines may not pass through an ice machine or ice storage bin.
7. 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.
8. Molluscan Shellfish Tanks.
- (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. (P)

(Rule 1200-23-1-.04, continued)

- (ii) Molluscan shellfish life-support system display tanks that are used to store 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 1200-23-01-.08(1)(d)1 and a HACCP plan that: (Pf)
  - (I) Is submitted by the permit holder and approved as specified under 1200-23-01-.08(2); (Pf) and
  - (II) Ensures that:
    - I. Water used with fish other than molluscan shellfish does not flow into the molluscan tank; (Pf)
    - II. The safety and quality of the shellfish as they were received are not compromised by the use of the tank; (Pf) and
    - III. The identity of the source of the shellstock is retained as specified under 1200-23-01-.03(2)(c)1. (Pf)

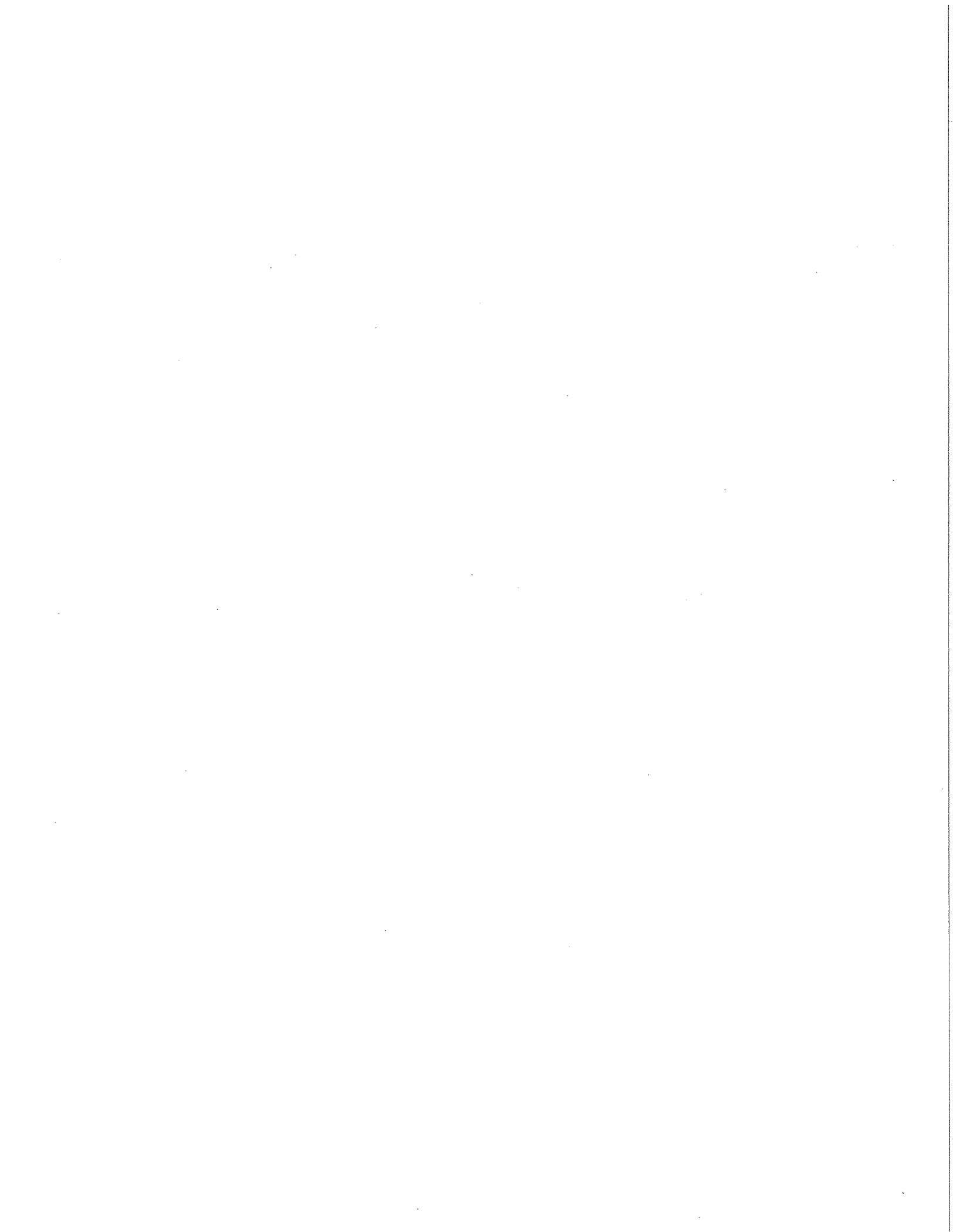
9. Temperature Measuring Devices.

- (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 (iii) of this part, cold or hot holding equipment used for time/temperature control for safety food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.
- (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. (Pf)

10. Warewashing Machines, 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 operation specifications including the:

(Rule 1200-23-1-.04, continued)

- (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.
11. 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.
12. Warewashing Machines, Temperature Measuring Devices. - 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; (Pf) and
  - (ii) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank. (Pf)
13. Manual Warewashing Equipment, Heaters and Baskets. - If hot water is used for sanitation 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); (Pf) and
  - (ii) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water. (Pf)
14. Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers. - A warewashing machine that is installed after adoption of these regulations, shall be equipped to:
- (i) Automatically dispense detergents and sanitizers; (Pf) 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. (Pf)
15. Warewashing Machine 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.



(Rule 1200-23-1-.04, continued)

(iii) Subparts (i) and (ii) of this part do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

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

17. 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.

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

(e) Acceptability

1. Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with 1200-23-01-.04.

(3) Numbers and Capacities

(a) Equipment

1. Cooling, Heating, and Holding Capacities. - Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under 1200-23-01-.03. (Pf)

2. Manual Warewashing, Sink Compartment Requirements.

(i) A sink with at least 3 compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. (Pf)

(ii) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. (Pf)

3. 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. Ventilation Hood Systems, Adequacy. - Ventilation hood systems and devices shall prevent grease or condensation from collecting on equipment, walls, and ceilings.

5. Clothes Washers and Dryers.

(i) Except as specified in (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.

(Rule 1200-23-1-.04, continued)

- (ii) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under 1200-23-01-.04(9)(a), a mechanical clothes washer and dryer need not be provided.

(b) Utensils, Temperature Measuring Devices, and Testing Devices.

1. Utensils, Consumer Self-Service. - A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar. (Pf)
2. Food Temperature Measuring Devices.
  - (i) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under 1200-23-01-.03. (Pf)
  - (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. (Pf)
3. Temperature Measuring Devices, Manual Warewashing. - In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.
4. Sanitizing Solutions, Testing Devices. - A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided. (Pf)

(4) Location and Installation

(a) Location

1. 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:
    - (I) In locker rooms;
    - (II) In toilet rooms;
    - (III) In garbage rooms;
    - (IV) In mechanical rooms;
    - (V) Under sewer lines that are not shielded to intercept potential drips;

(Rule 1200-23-1-.04, continued)

- (VI) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  - (VII) Under open stairwells; or
  - (VIII) 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.

(b) Installation1. Fixed Equipment, Spacing or Sealing.

- (i) Equipment that is fixed because it is not easily movable shall be installed so that it is:
  - (I) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
  - (II) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or
  - (III) 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:
  - (I) Sealed; or
  - (II) Elevated on legs as specified under 1200-23-01-.04(4)(b)2(iv).

2. 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 section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(Rule 1200-23-1-.04, continued)

- (iv) Except as specified in (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:
  - (I) 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
  - (II) 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.

(5) Maintenance and Operation(a) Equipment

1. Good Repair and Proper Adjustment.
  - (i) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under 1200-23-01-.04(1) and 1200-23-01-.04(2)
  - (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.
2. 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.
3. Microwave Ovens.- Microwave ovens shall meet the safety standards specified in 21CFR § 1030.10 Microwave ovens.
4. 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 1200-23-01-.04(3)(a)3. 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.

(Rule 1200-23-1-.04, continued)

- 5. Warewashing Machines, Manufacturers' 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.
- 6. Warewashing Sinks, Use Limitation.
  - (i) A warewashing sink may not be used for handwashing as specified under 1200-23-01-.02(3)(d).
  - (ii) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 1200-23-01-.04(5)(a)4 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 1200-23-01-.04(7) before and after using the sink to wash produce or thaw food.
- 7. Warewashing Equipment, Cleaning Agents. - When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 1200-23-01-.04(3)(a)2 shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions. (Pf)
- 8. Warewashing Equipment, Clean Solutions. - The wash, rinse, and sanitize solutions shall be maintained clean.
- 9. Manual Warewashing Equipment, Wash Solution Temperature. - The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions. (Pf)
- 10. Mechanical Warewashing Equipment, Wash Solution Temperature.
  - (i) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:
    - (I) For a stationary rack, single temperature machine, 74°C (165°F); (Pf) Formatted: Indent: Left: 1.97", Hanging: 0.53"
    - (II) For a stationary rack, dual temperature machine, 66°C (150°F); (Pf) Formatted: Indent: Left: 1.97", Hanging: 0.53"
    - (III) For a single tank, conveyor, dual temperature machine, 71°C (160°F); (Pf) or
    - (IV) For a multitank, conveyor, multitemperature machine, 66°C (150°F). (Pf) Formatted: Indent: Left: 1.97", Hanging: 0.53"

(Rule 1200-23-1-.04, continued)

(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). (Pf)

11. Manual Warewashing Equipment, Hot Water Sanitization Temperatures. - If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above. (P)

12. Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(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: (Pf)

(I) For a stationary rack, single temperature machine, 74°C (165°F); (Pf) or

(II) For all other machines, 82°C (180°F). (Pf)

(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.

13. 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).

14. Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness. - A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified under 1200-23-01-.04(7)(c) shall meet the criteria specified under 1200-23-01-.07(2)(d)1 Sanitizers, Criteria, shall be used in accordance with the EPA-registered label use instructions, and shall be used as follows (P):

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

Concentration Range mg/L	Minimum Temperature	
	pH 10 or less °C (°F)	pH 8 or less °C (°F)
25 -49	49 (120)	49 (120)
50 -99	38 (100)	24 (75)
100	13 (55)	13 (55)

(ii) An iodine solution shall have a:

(I) Minimum temperature of 20°C (68°F). (P)

(II) A pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective. (P) and

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(Rule 1200-23-1-.04, continued)

- (III) Concentration between 12.5 mg/L and 25 mg/L; (P)
- (iii) A quaternary ammonium compound solution shall:
  - (I) Have a minimum temperature of 24°C (75°F); (P)
  - (II) Have a concentration as specified under 1200-23-01-.07(2)(d)1 and as indicated by the manufacturer's use directions included in the labeling; (P) and
  - (III) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions; (P)
  - (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; (P) 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; (P)
- 15. Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers. - If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.
- 16. Warewashing Equipment, Determining Chemical Sanitizer Concentration. - Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device. (Pf)

(b) Utensils and Temperature and Pressure Measuring Devices

- 1. Good Repair and Calibration.
  - (i) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under 1200-23-01-.04(1) and 1200-23-01-.04(2) or shall be discarded.
  - (ii) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. (Pf)
  - (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.
- 2. Single-Service and Single-Use Articles, Required Use. - A food establishment without facilities specified under 1200-23-01-.04(6) and 1200-23-01-.04(7) for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers. (P)

(Rule 1200-23-1-.04, continued)

3. 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. Shells, Use Limitation. - Mollusk and crustacean shells may not be used more than once as serving containers.(6) Cleaning of Equipment and Utensils(a) Objective1. Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.

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

(b) Frequency1. Equipment Food-Contact Surfaces and Utensils.

- (i) Equipment food-contact surfaces and utensils shall be cleaned:
  - (I) Except as specified in (ii) of this part, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry; (P)
  - (II) Each time there is a change from working with raw foods to working with ready-to-eat foods; (P)
  - (III) Between uses with raw fruits and vegetables and with time/temperature control for safety food; (P)
  - (IV) Before using or storing a food temperature measuring device; (P) and
  - (V) At any time during the operation when contamination may have occurred. (P)
- (ii) Item (i)(I) 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 1200-23-01-.03(4)(a)1 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

(Rule 1200-23-1-.04, continued)

(iii) Except as specified in subpart (iv) of this part, if used with time/temperature control for safety food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every 4 hours. (P)

(iv) Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every 4 hours if:

(I) In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under 1200-23-01-.03 and the containers are cleaned when they are empty;

(II) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

I. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

<u>Temperature</u>	<u>Cleaning Frequency</u>
<u>5.0°C (41°F) or less</u>	<u>24 hours</u>
<u>&gt;5.0°C - 7.2°C (&gt;41°F - 45°F)</u>	<u>20 hours</u>
<u>&gt;7.2°C - 10.0°C (&gt;45°F - 50°F)</u>	<u>16 hours</u>
<u>&gt;10.0°C - 12.8°C (&gt;50°F - 55°F)</u>	<u>10 hours</u>

II. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.

(III) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under 1200-23-01-.03, 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;

(IV) 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 1200-23-01-.03;

(Rule 1200-23-1-.04, continued)

(V) 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;

(VI) 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

(VII) 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 1200-23-01-.04(6)(c)1, surfaces of utensils and equipment contacting food that is not time/temperature control for safety food shall be cleaned:

(I) At any time when contamination may have occurred;

(II) At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(III) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(IV) 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.

## 2. Cooking and Baking Equipment.

(i) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in 1200-23-01-.04(6)(b)1(iv)(VI).

(Rule 1200-23-1-.04, continued)

(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.

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

(c) Methods

1. 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 time/temperature control for safety food.

(ii) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose

2. Precleaning.

(i) Food debris on equipment and utensils shall be scrapped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

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

3. 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. 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.

5. 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 in accordance with the following procedures:

(Rule 1200-23-1-.04, continued)

- (i) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
- (ii) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and
- (iii) Equipment and utensils shall be washed as specified under 1200-23-01-.04(6)(c)4(i).

6. Rinsing Procedures. - Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through use of a distinct, separate water rinse after washing and before sanitizing.

7. Returnables, Cleaning for Refilling.

- (i) Except as specified in subparts (ii) and (iii), returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant. (P)
- (ii) A food-specific container for beverages may be refilled at a food establishment if:

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- (I) Only a beverage that is not a time/temperature control for safety food is used as specified under 1200-23-01-.03(3)(d)7.
- (II) 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;
- (III) 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;
- (IV) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
- (V) The container is refilled by:
  - I. An employee of the food establishment, or
  - II. The owner of the container if the beverage system includes a contamination-free transfer process that cannot be by-passed by the container owner.
- (iii) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

(7) Sanitization of Equipment and Utensils

- (a) Objective. - Food-Contact Surfaces and Utensils. - Equipment, food-contact surfaces and utensils shall be sanitized.

(Rule 1200-23-1-.04, continued)

- (b) Frequency - Before Use After Cleaning. - Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning. (P)
- (c) Methods - Hot Water and Chemical. - After being cleaned, equipment, food-contact surfaces and utensils shall be sanitized in:
1. Hot water manual operations by immersion for at least 30 seconds and as specified under 1200-23-01-.04(5)(a)11.; (P)
  2. Hot water mechanical operations by being cycled through equipment that is set up as specified under 1200-23-01-.04(5)(a)5, 1200-23-01-.04(5)(a)12, and 1200-23-01-.04(5)(a)13, and achieving a utensil surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; (P) or
  3. Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 1200-23-01-.04(5)(a)14. Contact times shall be consistent with those on EPA-registered label use instructions by providing:
    - (i) Except as specified under part (c)2. of this subparagraph, a contact time of at least 10 seconds for a chlorine solution specified under 1200-23-01-.04(5)(a)14(i). (P)
    - (ii) A contact time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of 8 or less and a temperature of at least 24°C (75°F). (P)
    - (iii) A contact time of at least 30 seconds for other chemical sanitizing solutions. (P) or
    - (iv) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 1200-23-01-.01. (P)

(8) Laundering.

- (a) Objective. --Clean Linens. - Clean linens shall be free from food residues and other soiling matter.
- (b) Frequency - Specifications.
1. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.
  2. Cloth gloves used as specified in 1200-23-01-.03(3)(d)5 shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork or poultry.
  3. Linens and cloth napkins that are used as specified under 1200-23-01-.03(3)(d)3 and cloth napkins shall be laundered between each use.
  4. Wet wiping cloths shall be laundered daily.

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(Rule 1200-23-1-.04, continued)

5. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(c) Methods.

1. 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.

2. Mechanical Washing.

- (i) Except as specified in (ii) of this part, linens shall be mechanically washed.

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- (ii) In food establishments in which only wiping cloths are laundered as specified in 1200-23-01-.04(3)(a)5(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 1200-23-01-.04(5)(a)14.

3. 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.

(9) Protection of Clean Items

(a) Drying.

1. 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 the first paragraph of 40 CFR § 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions), before contact with food; and

- (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.

2. Wiping Cloths, Air-Drying Locations. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in 1200-23-01-.04(3)(a)5(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 section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 1200-23-01-.04(5)(a)14.

(Rule 1200-23-1-.04, continued)

(b) Lubricating and Reassembling. —

1. Food-Contact Surfaces. Lubricants as specified under 1200-23-01-.07(2)(e) shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.
2. Equipment. Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(c) Storing

1. Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.
  - (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:
    - (I) In a clean, dry location;
    - (II) Where they are not exposed to splash, dust, or other contamination; and
    - (III) At least 15 cm (6 inches) above the floor.
  - (ii) Clean equipment and utensils shall be stored as specified under (i) of this part and shall be stored:
    - (I) In a self-draining position that allows air drying; and
    - (II) Covered or inverted.
  - (iii) Single-service and single-use articles shall be stored as specified under (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 1200-23-01-.04(2)(d)18.
2. Prohibitions.
  - (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:
    - (I) In locker rooms;
    - (II) In toilet rooms;
    - (III) In garbage rooms;
    - (IV) In mechanical rooms;

(Rule 1200-23-1-.04, continued)

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

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

(VII) Under open stairwells; or

(VIII) 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.

(d) Preventing Contamination

1. 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.

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

3. 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:

(I) Unused settings are removed when a consumer is seated; or

(II) Settings not removed when a consumer is seated are cleaned and sanitized before further use.

4. 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

(Rule 1200-23-1-.04, continued)

under 1200-23-01-.04(2)(d) and 1200-23-01-.04(5); 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.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

Rule 1200-23-01-.05 Water, Plumbing, and Waste.

(1) Water

(a) Source

1. Approved System. - Drinking water shall be obtained from an approved source that is:
  - (i) A public water system; (P) or
  - (ii) A nonpublic water system that is constructed, maintained, and operated according to law. (P)
2. System Flushing and Disinfection. 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. (P)
3. Bottled Drinking Water. Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR Part 129 - Processing and Bottling of Bottled drinking water. (P)

(b) Quality

1. Standards. Except as specified under 1200-23-01-.05(1)(b)2:
  - (i) Water from a public water system shall meet 40 CFR Part 141 - National Primary Drinking Water Regulations and state drinking water quality standards; and (P)
  - (ii) Water from a nonpublic water system shall meet state drinking water quality standards. (P)
2. Nondrinking Water.
  - (i) A nondrinking water supply shall be used only if its use is approved (P).
  - (ii) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection. (P)
3. Sampling. Except when used as specified under 1200-23-01-.05(1)(b)2, water from a nonpublic water system shall be sampled and tested at least annually and as required by state water quality regulations. (Pf)

(Rule 1200-23-1-.04, continued)

4. Sample Report. The most recent sample report for the nonpublic water system shall be retained on file in the food establishment or the report shall be maintained as specified by state water quality regulations.

(c) Quantity and Availability

1. Capacity.

(i) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment. (Pf)

(ii) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. (Pf)

2. Pressure. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under 1200-23-01-.05(1)(d)2(i) and (ii) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure. (Pf)

(d) Distribution, Delivery, and Retention

1. System. Water shall be received from the source through the use of:

(i) An approved public water main (Pf); or

(ii) One or more of the following that shall be constructed, maintained, and operated according to law: (Pf)

(I) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances. (Pf)

(II) Water transport vehicles. (Pf) or

(III) Water containers. (Pf)

2. Alternative Water Supply. Water meeting the requirements specified under 1200-23-01-.05(1)(a), 1200-23-01-.05(1)(b), and 1200-23-01-.05(1)(c) shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

(i) A supply of containers of commercially bottled drinking water; (Pf)

(ii) One or more closed portable water containers; (Pf)

(iii) An enclosed vehicular water tank; (Pf)

(iv) An on-premises water storage tank; or (Pf)

(v) Piping, tubing, or hoses connected to an adjacent approved source. (Pf)

(2) Plumbing System

(Rule 1200-23-1-.04, continued)

(a) Materials - Approved.

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

(b) Design, Construction, and Installation.1. Approved System and Cleanable Fixtures.

- (i) A plumbing system shall be designed, constructed, and installed according to law. (P)
- (ii) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.

2. Handwashing Sink, Installation.

- (i) A handwashing sink shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet. (Pf)
  - (ii) A steam-mixing valve may not be used at a handwashing sink.
  - (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.
  - (iv) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.
3. Backflow Prevention, Air Gap. An air gap between the water supply inlet and the flood level rim of the plumbing fixture equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch). (P)
  4. Backflow Prevention Device, Design Standard. A backflow or backsiphonage 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. (P)
  5. 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.

(c) Numbers and Capacities1. Handwashing Sinks.

- (i) Except as specified in subpart (ii) of this part, at least 1 handwashing sink, a number of handwashing sinks necessary for their convenient use

(Rule 1200-23-1-.04, continued)

by employees in areas specified under 1200-23-01-.05(2)(d)1, and not fewer than the number of handwashing sinks required by law shall be provided. (Pf)

- (ii) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least 1 handwashing sink.

2. Toilets and Urinals. At least 1 toilet and not fewer than the toilets required by law shall be provided. If the food service establishment has more than 16 seats, two restrooms must be available. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law.

3. Service Sink.

- (i) At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

- (ii) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

4. Backflow Prevention Device, When Required. A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

- (i) Providing an air gap as specified under 1200-23-01-.05(2)(b)3; (P) or

- (ii) Installing an approved backflow prevention device as specified under 1200-23-01-.05(2)(b)4. (P)

5. Backflow Prevention Device, Carbonator.

- (i) If not provided with an air gap as specified under 1200-23-01-.05(2)(b)3, a 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.

- (ii) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under subpart (i) of this part.

- (d) Location and Placement:

1. Handwashing sinks shall be located:

- (i) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; (Pf) and

(Rule 1200-23-1-.04, continued)

- (ii) In, or immediately adjacent to, toilet rooms. (Pf)
  - 2. Backflow Prevention Device, Location. A backflow prevention device shall be located so that it may be serviced and maintained.
  - 3. 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.
- (e) Operation and Maintenance
- 1. Using a Handwashing Sink.
    - (i) A handwashing sink shall be maintained so that it is accessible at all times for employee use. (Pf)
    - (ii) A handwashing sink may not be used for purposes other than handwashing. (Pf)
    - (iii) An automatic handwashing facility shall be used in accordance with manufacturer's instructions. (Pf)
  - 2. Prohibiting a Cross Connection.
    - (i) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality. (P)
    - (ii) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water. (Pf)
  - 3. Scheduling Inspection and Service for a Water System Device. A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge. (Pf)
  - 4. Water Reservoir of Fogging Devices, Cleaning.
    - (i) A reservoir that is used to supply water to a device such as a produce fogger shall be:
      - (I) Maintained in accordance with manufacturer's specifications; (P)  
and
      - (II) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under subpart (ii) of this part, whichever is more stringent. (P)
    - (ii) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(Rule 1200-23-1-.04, continued)

- (I) Draining and complete disassembly of the water and aerosol contact parts; (P)
- (II) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution; (P)
- (III) Flushing the complete system with water to remove the detergent solution and particulate accumulation; (P) and
- (IV) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution. (P)

5. System Maintained in Good Repair. A plumbing system shall be:

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

(3) Mobile Water Tanks and Mobile Food Establishment Water Tanks.

(a) Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:

- 1. Safe; (P)
- 2. Durable, corrosion-resistant, and nonabsorbent; and
- 3. Finished to have a smooth, easily cleanable surface.

(b) Design and Construction.

1. 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.

2. 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:
  - (I) Provided with a gasket and a device for securing the cover in place, and
  - (II) Flanged to overlap the opening and sloped to drain.

3. "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.

(Rule 1200-23-1-.04, continued)

4. 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 inch) 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.
5. 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.
6. Hose, Construction and Identification. A hose used for conveying drinking water from a water tank shall be:
  - (i) Safe; (P)
  - (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.

(c) Number and Capacities

1. Filter, Compressed Air. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system. (P)
2. 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.
3. Mobile Food Establishment Tank Inlet. A mobile food establishment's water tank inlet shall be:
  - (i) 19.1 mm (three-fourths inch) 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.

(d) Operation and Maintenance.

1. System Flushing and Sanitization. A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse. (P)

(Rule 1200-23-1-.04, continued)

2. 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.
3. 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 1200-23-01-.05(3)(c)2.
4. 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) Sewage, Other Liquid Waste, and Rainwater.

- (a)
- Mobile Holding Tank, Capacity and Drainage.
- A sewage holding tank in a mobile food establishment shall be:

1. Sized 15 percent larger in capacity than the water supply tank; and
2. Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

(b) Retention Drainage and Delivery.

1. Establishment Drainage System. Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 1200-23-01-.05(2)(b).
2. Backflow Prevention.
  - (i) Except as specified in subparts (ii), (iii), and (iv) of this part, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.
  - (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.
  - (iv) If allowed by law, a warewashing or culinary sink may have a direct connection.
3. Grease Trap. If used, a grease trap shall be located to be easily accessible for

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(Rule 1200-23-1-.04, continued)

cleaning.

4. Conveying Sewage. 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. (P)
5. Removing Mobile Food Establishment Wastes. Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created. (Pf)
6. 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.

(c) Approved Sewage Disposal System.

1. Sewage shall be disposed through an approved facility that is:
  - (i) A public sewage treatment plant; (P) or
  - (ii) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law. (P)
2. Other Liquid Wastes and Rainwater. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

(5) Refuse, Recyclables, and Returnables.

(a) Facilities on the Premises.

1. Indoor Storage Area. If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 1200-23-01-.06(1)(a)1, 1200-23-01-.06(2)(a)1, 1200-23-01-.06(2)(a)8, 1200-23-01-.06(2)(b)5, and 1200-23-01-.06(2)(b)6.
2. Outdoor Storage Surface. An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.
3. Outdoor Enclosure. If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.
4. Receptacles.
  - (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, leakproof, 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

(Rule 1200-23-1-.04, continued)

outside receptacles.

5. Outside Receptacles.

- (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.

6. 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 lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

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

8. 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.

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

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- (i) An area designated for refuse, recyclables, returnables, and, except as specified in (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,

(Rule 1200-23-1-.04, continued)

- 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.
10. 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.
11. Areas, Enclosures, and Receptacles, Good Repair. Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.
12. Outside Storage Prohibitions.
- (i) Except as specified in subpart (ii) of this part, refuse receptacles not meeting the requirements specified under 1200-23-01-.05(5)(a)4(i) such as receptacles that are not rodent-resistant, that consist of 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.
13. 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:
- (I) Contain food residue and are not in continuous use; or
- (II) After they are filled; and
- (ii) With tight-fitting lids or doors if kept outside the food establishment.
14. Using Drain Plugs. Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.
15. 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 1200-23-01-.06(5)(n), and clean.
16. 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

(Rule 1200-23-1-.04, continued)

under 1200-23-01-.05(4)(b)4.

- (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.

(b) Removal.

1. 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.
2. 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.

- (c) Facilities for Disposal and Recycling. 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.

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

1200-23-01-.06 Physical Facilities.(1) Materials for Construction and Repair.(a) Indoor Areas. Surface Characteristics

1. Except as specified in part 2. of this subparagraph, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:
  - (i) Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;
  - (ii) Closely woven and easily cleanable carpet for carpeted areas; and
  - (iii) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.
2. In a temporary food establishment:
  - (i) 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

(Rule 1200-23-1-.04, continued)

mud; and

- (ii) Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

(b) Outdoor Areas. Surface Characteristics.

1. 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.
2. Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.
3. Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 1200-23-01-.05(5)(a)2 and 1200-23-01-.05(5)(a)3.

(2) Design, Construction, and Installation.

(a) Cleanability.

1. Floors, Walls, and Ceilings. Except as specified under part 4. of this subparagraph and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.
2. 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.
3. 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 (one thirty-second 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. 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, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other

(Rule 1200-23-1-.04, continued)

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:

(I) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(II) 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.

5. Floor Covering, Mats and Duckboards. Mats and duckboards shall be designed to be removable and easily cleanable.

6. Wall and Ceiling Coverings and Coatings.

(i) Wall and ceiling covering materials shall be attached so that they are easily cleanable.

(ii) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

7. 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.

8. Walls and Ceilings, Studs, Joists, and Rafters. Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

(b) Functionality.

1. 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:

(I) The integrity of the packages cannot be affected by broken glass

(Rule 1200-23-1-.04, continued)

- falling onto them; and
- (II) 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.
2. 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.
3. 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:
- (I) The devices are not located over a food preparation area; and
- (II) 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. Toilet Rooms, Enclosed. Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.
5. Outer Openings, Protected.
- (i) Except as specified in subparts (ii), (iii), (iv) and (v) of this part, outer openings of a food establishment shall be protected against the entry of insects and rodents by:
- (I) Filling or closing holes and other gaps along floors, walls, and ceilings;
- (II) Closed, tight-fitting windows; and
- (III) 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:

(Rule 1200-23-1-.04, continued)

- (I) Solid and tight-fitting;
  - (II) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
  - (III) Limited-use 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 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:
    - (I) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;
    - (II) Properly designed and installed air curtains to control flying insects; or
    - (III) 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.
6. 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.
7. Outdoor Walking and Driving Surfaces, Graded to Drain. Exterior walking and driving surfaces shall be graded to drain.
8. Outdoor Refuse Areas, Curbed and Graded to Drain. Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.
9. Private Homes and Living or Sleeping Quarters, Use Prohibition. A private home, except as provided by T.C.A. § 53-8-117, 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.
10. 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 establishments operations by complete partitioning and solid self-closing doors.

(3) Number and Capacities.

(Rule 1200-23-1-.04, continued)

(a) Handwashing Sinks

1. Handwashing sinks shall be provided as specified under 1200-23-01-.05(2)(c)1.
2. Handwashing Cleanser, Availability. Each handwashing sink or group of 2 adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.
3. Hand Drying Provision. Each handwashing sink or group of adjacent handwashing sinks shall be provided with:
  - (i) Individual, disposable towels;
  - (ii) A continuous towel system that supplies the user with a clean towel; or
  - (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.
4. 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 1200-23-01-.06(3)(a)2 and 1200-23-01-.06(3)(a)3 and 1200-23-01-.05(5)(a)6.
5. Handwashing Signage. A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.
6. Disposable Towels, Waste Receptacle. A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified under 1200-23-01-.05(5)(a)6.

(b) Toilets and Urinals.

1. Toilets and urinals shall be provided as specified under 1200-23-01-.05(2)(c)2.
2. A supply of toilet tissue shall be available at each toilet. (Pf)

(c) Lighting. The light intensity shall be:

1. At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
2. At least 215 lux (20 foot candles):
  - (i) 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.
  - (ii) Inside equipment such as reach-in and under-counter refrigerators; and



(Rule 1200-23-1-.04, continued)

(b) Cleaning, Frequency and Restrictions.

1. Physical facilities shall be cleaned as often as necessary to keep them clean.
2. Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.

(c) Cleaning Floors, Dustless Methods.

1. Except as specified in part 2. of this subparagraph, 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.
2. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:
  - (i) Without the use of dust-arresting compounds; and
  - (ii) 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.

(d) Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

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

(e) Cleaning Maintenance Tools, Preventing Contamination. Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

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

(g) Absorbent Materials on Floors, Use Limitation. Except as specified in 1200-23-01-.06(5)(c)2, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

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

(i) Closing Toilet Room Doors. Except during cleaning and maintenance operations, toilet room doors as specified under 1200-23-01-.06(2)(b)4 shall be kept closed.

(j) Using Dressing Rooms and Lockers.

1. Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

(Rule 1200-23-1-.04, continued)

2. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.
- (k) Controlling Pests. The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:
1. Routinely inspecting incoming shipments of food and supplies;
  2. Routinely inspecting the premises for evidence of pests;
  3. Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 1200-23-01-.07(2)(b)2 and 1200-23-01-.07(2)(f); and
  4. Eliminating harborage conditions.
- (l) 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.
- (m) Storing Maintenance Tools. Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:
1. Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use; and
  2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.
- (n) Maintaining Premises, Unnecessary Items and Litter. The premises shall be free of:
1. Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
  2. Litter.
- (o) Prohibiting Animals.
1. Except as specified in parts 2. and 3. of this subparagraph, live animals may not be allowed on the premises of a food establishment.
  2. Live animals are allowed in the following situations if the owner or operator does not permit animals to physically contact food, serving dishes, utensils, tableware, linens, unwrapped single-service and single-use articles or other food service items that may result in contamination of food or food-contact surfaces and does not permit animals to physically contact employees engaged in the preparation or handling of food:
    - (i) Fish or crustacea in aquariums or display tanks;
    - (ii) Patrol dogs accompanying police or security officers in offices and

(Rule 1200-23-1-.04, continued)

dining, sales, and storage areas; and sentry dogs in outside fenced areas;

(iii) Service animals accompanying persons with disabilities in areas that are not used for food preparation;

(iv) Dogs (Canis lupus familiaris) and cats (Felis catus) in outdoor dining areas; provided that dogs and cats are physically restrained, and do not pass through any indoor areas of the food establishment. Except for service animals described in subpart (iii) of this part, nothing in this Chapter prohibits a food establishment from prohibiting dogs and cats in outdoor dining areas; and

(v) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

3. Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles cannot result.

(p) Dogs in outdoor Dining Areas

Notwithstanding subparagraph (o) of this paragraph, where a county or municipality has passed an ordinance or resolution under T.C.A. § 6-54-135 authorizing individual restaurants to permit dogs in outdoor dining areas and to charge permit holders a reasonable permit fee, dogs other than service dogs may be permitted in outside areas of a food establishment, provided, however:

1. Except as provided in subparagraph (o), no dog shall be present in the interior of any restaurant or in any area where food is prepared;

2. The food establishment shall have the right to refuse to serve the owner of a dog if the owner fails to exercise reasonable control over the dog or the pet dog is otherwise behaving in a manner that compromises or threatens to compromise the health or safety of any person present in the food establishment;

3. The person in charge shall not permit dogs to physically contact food, serving dishes, utensils, tableware, linens, unwrapped single-service and single-use articles or other food service items that may result in contamination of food or food-contact surfaces and shall not permit animals to physically contact employees engaged in the preparation or handling of food;

4. The person in charge shall instruct employees and patrons that dogs shall not be allowed to come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved in food service operations;

5. Patrons shall keep their dogs on a leash at all times and keep their dogs under reasonable control;

6. Dogs shall not be allowed on tables, chairs or other furnishings;

7. The person in charge shall ensure that any accidents involving dog waste are

(Rule 1200-23-1-.04, continued)

cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

8. The permit holder shall post a sign or signs reminding employees and patrons of the applicable rules on the premises in a manner and in such place(s) as determined by the local permitting authority; and
9. Pet dogs shall not be permitted to travel through indoor or nondesignated portions of the food establishment, and ingress and egress to the designated outdoor portions of the food establishment shall not require entrance into nor passage through any indoor area of the food establishment.

Authority: T.C.A. §§ 6-54-135, 53-8-117, and 68-14-701 through 68-14-726.

1200-23-01-.07 Poisonous or Toxic Materials.

(1) Labeling and Identification.

- (a) Original Containers. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label. Only those pesticides that have been registered with the EPA and with the Department shall be used. If the manufacturer's label is missing from a pesticide container, the container shall be identified with the manufacturer's product brand name, percentage of each active ingredient, and EPA registration number. (Pf)
- (b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. (Pf)

(2) Operational Supplies and Applications.

- (a) Storage. Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:
  1. Separating the poisonous or toxic materials by spacing or partitioning; (P) and
  2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This part does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles. (P)
- (b) Presence and Use.
  1. Restriction.
    - (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

(Rule 1200-23-1-.04, continued)

materials that are for retail sale.

2. Conditions of Use. Poisonous or toxic materials shall be:

(i) Used according to:

(I) Law and this Chapter.

(II) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment. (P)

(III) The conditions of certification, if certification is required, for use of the pest control materials. (P) and

(IV) Additional conditions that may be established by the department; and

(ii) Applied so that:

(I) A hazard to employees or other persons is not constituted. (P) and

(II) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by: (P)

I. Removing the items. (P)

II. Covering the items with impermeable covers. (P) or

III. Taking other appropriate preventive actions. (P) and

IV. Cleaning and sanitizing equipment and utensils after the application. (P)

(iii) A general use or restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC § 136(e), Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act and Tennessee Rule Chapter 0080-06-16 Regulations Governing Use of Restricted Use Pesticides. (Pf)

(c) Container Prohibitions. Poisonous or Toxic Material Containers. A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food. Sanitizing solutions shall not be stored in or dispensed from containers previously containing other poisonous or toxic materials. (P)

(d) Chemicals

1. Sanitizers. Criteria. Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR § 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions). (P)

(Rule 1200-23-1-.04, continued)

2. Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.
  - (i) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR § 173.315 Chemicals used in washing or to assist in the peeling of fruits and vegetables. (P)
  - (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 CFR § 173.368 Ozone.
3. Boiler Water Additives, Criteria. Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR § 173.310 Boiler water additives. (P)
4. Drying Agents, Criteria. Drying agents used in conjunction with sanitization shall:
  - (i) Contain only components that are listed as one of the following:
    - (I) Generally recognized as safe for use in food as specified in 21 CFR Part 182 - Substances Generally Recognized as Safe, or 21 CFR Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe. (P)
    - (II) Generally recognized as safe for the intended use as specified in 21 CFR Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe. (P)
    - (III) Approved for use as a drying agent under a prior sanction specified in 21 CFR Part 181 - Prior-Sanctioned Food Ingredients. (P)
    - (IV) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175 through 178. (P) or
    - (V) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR § 170.39 Threshold of regulation for substances used in food-contact articles. (P) and
  - (ii) When sanitization is with chemicals, the approval required under (i)(III) or (i)(V) of this part or the regulation as an indirect food additive required under (i)(IV) of this part, shall be specifically for use with chemical sanitizing solutions. (P)
- (e) Lubricants shall meet the requirements specified in 21 CFR § 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces. (P)
- (f) Pesticides.
  1. Restricted use pesticides specified under 1200-23-01-.07(2)(b)2(iii) shall meet the requirements specified in 40 CFR Part 152 Subpart I - Classification of

(Rule 1200-23-1-.04, continued)

Pesticides. (P)

2. Rodent Bait Stations. Rodent bait shall be placed outside and contained in a covered, tamper-resistant bait station. (P)

3. Tracking Powders, Pest Control and Monitoring.

(i) Except as specified in (ii) of this part, a tracking powder pesticide may not be used in a food establishment. (P)

(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.

(g) Medicines.

1. Restriction and Storage.

(i) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment. (Pf)

(ii) Medicines that are in a food establishment for the employees' use shall be labeled as specified under 1200-23-01-.07(1) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. (P)

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

(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; (P) and

(ii) Located so they are inaccessible to children. (P)

(h) First Aid Supplies that are in a food establishment for the employees' use shall be:

1. Labeled as specified under 1200-23-01-.07(1); (Pf) and

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

(i) Other Personal Care Items. Except as specified under 1200-23-01-.07(2)(g)2, employees shall store their personal care items in facilities as specified under 1200-23-01-.06(3)(e)2.

(3) Stock and Retail Sale.

Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(a) Separating the poisonous or toxic materials by spacing or partitioning; (P) and

(Rule 1200-23-1-.04, continued)

- (b) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. (P)

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

1200-23-01-.08 Compliance and Enforcement

(1) Applicability

- (a) Public Health Protection – The department shall apply this code to promote its purpose of safeguarding public health and ensuring that food is safe, unadulterated and honestly presented when it is offered to the consumer.

- (b) In enforcing the provisions of this Chapter, the department shall assess existing facilities or equipment that were in use before the effective date of this Chapter based on the following considerations:

1. Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
2. Whether food-contact surfaces comply with 1200-23-01-.04(1)(a);
3. Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 1200-23-01-.04(3)(a)1; and
4. The existence of a documented agreement with the permit holder that the facilities or equipment will be replaced as specified under 1200-23-01-.08(3)(i)6.

- (c) Preventing Health Hazards, Provision for Conditions Not Addressed.

1. If necessary to protect against public health hazards or nuisances, the department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.
2. 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.

- (d) Variances

1. Modifications and Waivers. The department may grant a variance by modifying or waiving the requirements of this Chapter if in the opinion of the department a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall retain the information specified under part 2. of this subparagraph in its records for the food establishment. Variance requests shall be submitted to a committee including a food scientist and representatives from industry and state and local public health agencies appointed by the department.
2. Documentation of Proposed Variance and Justification. Before a variance from a requirement of this Chapter 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:

(Rule 1200-23-1-.04, continued)

- (i) A statement of the proposed variance of the Chapter requirement citing relevant Chapter section numbers;
- (ii) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Chapter sections will be alternatively addressed by the proposal; and
- (iii) A HACCP plan if required as specified under 1200-23-01-.08(2)(c) that includes the information specified under 1200-23-01-.08(2)(d) as it is relevant to the variance requested.

3. Conformance with Approved Procedures. If the department grants a variance as specified in 1200-23-01-.08(1)(d), or a HACCP plan is otherwise required as specified under 1200-23-01-.08(2)(c), the permit holder shall:

- (i) Comply with the HACCP plans and procedures that are submitted as specified under 1200-23-01-.08(2)(d) and approved as a basis for the modification or waiver; (P) and
- (ii) Maintain and provide to the department, upon request, records specified under 1200-23-01-.08(2)(d)4 that demonstrate that the following are routinely employed:
  - (I) Procedures for monitoring the critical control points,
  - (II) Monitoring of the critical control points,
  - (III) Verification of the effectiveness of the operation or process, and
  - (IV) Necessary corrective actions if there is failure at a critical control point.

(2) Plan Submission and Approval

(a) When Plans Are Required. Plans drawn to scale for food establishments shall be submitted for review and approval to the department. A permit applicant or permit holder shall submit to the department properly prepared plans and specifications for review and approval before:

- 1. The construction of a food establishment;
- 2. The conversion of an existing structure for use as a food establishment; or
- 3. The remodeling of a food establishment or a change of type of food establishment or food operation as specified under 1200-23-01-.08(3)(e)3 if the department determines that plans and specifications are necessary to ensure compliance with this Chapter.

(b) Contents of the Plans and Specifications. The plans and specifications for a food establishment, including a food establishment specified under 1200-23-01-.08(2)(c), 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 Chapter provisions:

(Rule 1200-23-1-.04, continued)

1. Intended menu and plans to be reviewed;
2. Anticipated volume of food to be stored, prepared, and sold or served;
3. Proposed layout, mechanical schematics, construction materials, and finish schedules;
4. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
5. Evidence that standard procedures that ensure compliance with the requirements of this Chapter are developed or are being developed; and
6. Other information that may be required by the department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

(c) When a HACCP Plan is Required.

1. 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 1200-23-01-.08(2)(d) and the relevant provisions of this Chapter if:
  - (i) Submission of a HACCP PLAN is required according to law;
  - (ii) A variance is required as specified under 1200-23-01-.03(4)(a)1(iv), 1200-23-01-.03(5)(b), or 1200-23-01-.04(2)(d)8(ii);
  - (iii) The department determines that a food preparation or processing method requires a variance based on a plan submittal specified under 1200-23-01-.08(2)(b), an inspectional finding, or a variance request.
2. A permit applicant or permit holder shall have a properly prepared HACCP plan as specified under 1200-23-01-.03(5)(c).

(d) Contents of a HACCP Plan. For a food establishment that is required under 1200-23-01-.08(2)(c) to have a HACCP plan, the plan and specifications shall indicate:

1. A categorization of the types of time/temperature control for safety foods 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;
2. A flow diagram by specific or category type identifying critical control points and providing information on the following:
  - (i) Ingredients, materials, and equipment used in the preparation of that food, and
  - (ii) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
3. Food employee and supervisory training plan that addresses the food safety

(Rule 1200-23-1-.04, continued)

issues of concern:4. A statement of standard operating procedures for the plan under consideration including clearly identifying.

- (i) Each critical control point.
- (ii) The critical limits for each critical control points.
- (iii) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge.
- (iv) 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.
- (v) Action to be taken by the person in charge if the critical limits for each critical control point are not met.
- (vi) Records to be maintained by the person in charge to demonstrate that the HACCP Plan is properly operated and managed; and
- (vii) Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal.

(e) Trade Secrets. The department shall treat as confidential in accordance with law information that meets the criteria specified in law for a trade secret which is contained on inspection report forms and in the plans and specifications submitted under subparagraphs (a) and (b) of this rule.

(f) 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 part (2)(b)5. of this paragraph, and is in compliance with law and this Chapter.

(3) Permit to Operate

(a) Prerequisite for Operation. A person may not operate a food establishment without a valid permit to operate issued by the department.

(b) Submission 15 Calendar Days Before Proposed Opening. An applicant shall submit an application for a permit at least 15 calendar days before the date planned for opening a food establishment or the expiration date of the current permit for an existing facility.

(c) Form of Submission. A person desiring to operate a food establishment shall submit to the department a written application for a permit on a form provided by the department.

(d) To qualify for a permit, an applicant shall:

- 1. Be an owner of the food establishment or an officer of the legal ownership;
- 2. Comply with the requirements of this Chapter;

(Rule 1200-23-1-.04, continued)

3. As specified under 1200-23-01-.08(4)(b), agree to allow access to the food establishment and to provide required information; and

4. Pay the applicable permit fees at the time the application is submitted.

(e) Contents of the Application. The application shall include:

1. The name, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;

2. Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity;

3. A statement specifying whether the food establishment:

(i) Is mobile or stationary and temporary or permanent, and

(ii) Is an operation that includes one or more of the following:

(I) Prepares, offers for sale, or serves time/temperature control for safety food:

I. Only to order upon a consumer's request.

II. In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency, or

III. Using time as the public health control as specified under 1200-23-01-.03(5)(a)9.

(II) Prepares time/temperature control for safety food in advance using a food preparation method that involves two or more steps which may include combining time/temperature control for safety food ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing.

(III) Prepares food as specified under item 3(ii)(II) of this subparagraph for delivery to and consumption at a location off the premises of the food establishment where it is prepared;

(IV) Prepares food as specified under item 3(ii)(II) of this subparagraph for service to a highly susceptible population;

(V) Prepares only food that is not time/temperature control for safety food, or

(VI) Does not prepare, but offers for sale only prepackaged food that is not time/temperature control for safety food;

4. The name, title, address, and telephone number of the person directly responsible for the food establishment;

(Rule 1200-23-1-.04, continued)

5. The name, title, address and telephone number of the person who functions as the immediate supervisor of the person specified under 4 of this subparagraph such as the zone, district or regional supervisor;
  6. The names, titles, and addresses of the persons comprising the legal ownership as specified under 2 of this subparagraph including the owners and officers;
  7. A statement signed by the applicant that attests to the accuracy of the information provided in the application; and
  8. Other information required by the department.
- (f) New, Converted, or Remodeled Establishments. For food establishments that are required to submit plans as specified under 1200-23-01-.08(2)(a), the department shall issue a permit to the applicant after:
1. A properly completed application is submitted;
  2. The required fee is submitted;
  3. The required plans, specifications, and information are reviewed and approved; and
  4. A preoperational inspection as specified in 1200-23-01-.08(2)(f) shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter.
- (g) Existing Establishments and Change of Ownership. As applicable, the department may issue a permit to a new owner of an existing food establishment after an application is submitted, reviewed, and approved, and an inspection shows that the establishment is in compliance with this Chapter.
- (h) Denial of Application for Permit, Notice. If an application for a permit to operate is denied, the department shall provide the applicant with a notice that includes:
1. The specific reasons and Chapter citations for the permit denial;
  2. The actions, if any, that the applicant must take to qualify for a permit; and
  3. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.
- (i) Responsibilities of the Permit Holder. Upon acceptance of the permit issued by the department, the permit holder in order to retain the permit shall:
1. Comply with the provisions of this Chapter including the conditions of a granted variance as specified under 1200-23-01-.08(1)(d)3, and approved plans as specified under 1200-23-01-.08(2)(b);
  2. If a food establishment is required under 1200-23-01-.08(2)(c) to operate under a HACCP Plan, comply with the plan as specified under 1200-23-01-.08(1)(d)3;

(Rule 1200-23-1-.04, continued)

3. Immediately contact the department to report an illness of a food employee or conditional employee as specified under 1200-23-01-.02(2)(a)2;
  4. Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified under 1200-23-01-.08(4)(d);
  5. Allow representatives of the department access to the food establishment as specified under 1200-23-01-.08(4)(b);
  6. Replace existing facilities and equipment specified in 1200-23-01-.08(1)(b) with facilities and equipment that comply with this Chapter if:
    - (i) 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; or
    - (ii) The department directs the replacement of the facilities and equipment because of a change of ownership.
  7. Comply with directives of the department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the permit holder's food establishment or in response to community emergencies;
  8. Accept notices issued and served by the department according to law;
  9. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives;
  10. Post the permit in a conspicuous manner as designated by the inspector at the time of inspection, and ensure that no person except an authorized representative of the department shall modify, remove, cover or otherwise make the permit less conspicuous; and
  11. In the event of a lost, misplaced or destroyed permit, immediately apply for a duplicate and forward the fee with the application for a duplicate permit.
- (i) A permit may not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application as specified under 1200-23-01-.08(3)(e)3 .

(4) Inspection and Correction of Violations

(a) Frequency.

1. Establishing Inspection Interval. Except as specified in parts 2 and 4 of this subparagraph, the department may inspect a food establishment at least once every 6 months.
2. The department may increase the interval between inspections beyond six

(Rule 1200-23-1-.04, continued)

months if:

- (i) The food establishment is fully operating under an approved and validated HACCP plan as specified under 1200-23-01-.08(2)(d) and 1200-23-01-.08(1)(d) 3(i) and (ii);
  - (ii) The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction; or
  - (iii) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not time/temperature control for safety food such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.
3. The department may periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or services unpackaged time/temperature control for safety food and that 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
4. Performance- and Risk-Based. -- Within the parameters specified in (4)(a) –(c) of this paragraph, the department shall prioritize and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:
- (i) Past performance, for nonconformance with this chapter or HACCP plan requirements that are priority items or priority foundation items;
  - (ii) Past performance, for numerous or repeat violations of this chapter or HACCP plan requirements that are core items;
  - (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.

(b) Access

1. Allowed at Reasonable Times after Due Notice. After the department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the department to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and

(Rule 1200-23-1-.04, continued)

records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

2. Refusal, Notification of Right to Access, and Final Request for Access. If a person denies access to the department, the department shall inform the person that:
  - (i) The permit holder shall allow access to the department as specified under 1200-23-01-.08(4)(b)1.
  - (ii) Access is a condition of the acceptance and retention of a food establishment permit to operate as specified under 1200-23-01-.08(3)(i)5.
  - (iii) If access is denied, an administrative warrant may be obtained according to law, and
  - (iv) A final request for access will be made.
3. Refusal, Reporting. If after the department presents credentials and provides notice as specified under 1200-23-01-.08(4)(b)1, explains the authority upon which access is requested, and makes a final request for access as specified in 1200-23-01-.08(4)(b)2, the person in charge continues to refuse access, the department shall provide details of the denial of access on an inspection report form.
4. Administrative Warrant to Gain Access: If denied access to a food establishment for an authorized purpose, and after complying with 1200-23-01-.08(4)(b)1 - 1200-23-01-.08(4)(b)3, the department may issue an administrative warrant to gain access.

(c) Report of Findings.

1. Documenting Information and Observations. The department shall document on an inspection report form:
  - (i) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 1200-23-01-.08(3)(e)3, inspection date, and other information such as type of water supply and sewage disposal, status of the permit, and personnel certificates that may be required; and
  - (ii) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the permit holder including:
    - (I) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Chapter as specified under 1200-23-01-.02(1)(b),
    - (II) Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under 1200-23-01-.02(2)(a).

(Rule 1200-23-1-.04, continued)

- (III) Nonconformance with priority items or priority foundation items of this Chapter.
  - (IV) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 1200-23-01-.08(1)(d)3.
  - (V) Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under 1200-23-01-.08(2)(d)4(vi), and
  - (VI) Nonconformance with critical limits of a HACCP plan.
2. Specifying Time Frame for Corrections. The department shall specify on the inspection report form the time frame for correction of the violations as specified under 1200-23-01-.08(4)(e) and 1200-23-01-.08(4)(f)1.
3. Issuance of Report, Acknowledgment of Receipt and Posting. At the conclusion of the inspection:
- (i) The department shall provide a copy of the completed inspection report and any notice to correct violations to the permit holder or to the person in charge, and request a signed acknowledgment of receipt; and
  - (ii) The permit holder shall post the most recent completed report in a conspicuous location on the premises.
4. Refusal to Sign Acknowledgment. The department shall:
- (i) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in 1200-23-01-.08(4)(c)3 that:
    - (I) An acknowledgment of receipt is not an agreement with findings.
    - (II) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified; and
    - (III) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the department's historical record for the food establishment; and
  - (ii) Make a final request that the person in charge or permit holder sign an acknowledgment of receipt of inspectional findings.
5. Public Information. Except as specified in 1200-23-01-.08(2)(e) the department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided by law.

(d) Imminent Health Hazard

(Rule 1200-23-1-.04, continued)

1. Ceasing Operations and Reporting.

- (i) Except as specified in (ii) of this part, a permit holder shall 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 insanitary occurrence or condition, or other circumstance that may endanger public health.
- (ii) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.
- (iii) Upon declaration of an imminent health hazard by the Commissioner, the permit holder shall immediately cease operations until authorized to reopen.

2. Resumption of Operations. If operations are discontinued as specified under 1200-23-01-.08(4)(e)1 or otherwise according to law, the permit holder shall obtain approval from the department before resuming operations.(e) Violation of Priority Item or Priority Foundation Item. —1. Timely Correction.

- (i) Except as specified in subpart (ii) of this part, a permit holder shall at the time of inspection correct a violation of a priority item or priority foundation item of this Chapter 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 to correct violations of a priority item or priority foundation item or HACCP plan deviations.

2. Verification and Documentation of Correction.

- (i) After observing at the time of inspection a correction of a violation of a priority item or priority foundation item or a HACCP plan deviation, the department shall enter the violation and information about the corrective action on the inspection report.
- (ii) As specified under 1200-23-01-.08(4)(e)1(ii), after receiving notification that the permit holder has corrected a violation of a priority item or priority foundation item or HACCP plan deviation, or at the end of the specified period of time, the department may verify correction of the violation.

(f) Core Violation

- 1. Except as specified in part 2. of this subparagraph, the permit holder shall correct core items by a date and time agreed to or specified by the department but no later than 90 calendar days after the inspection.

(Rule 1200-23-1-.04, continued)

2. The department may approve a compliance schedule that extends beyond the time limits specified under part 1. of this subparagraph if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

(g) Temporary Food Establishments – Time Frame for Correction. In the case of a temporary food establishment pursuant to 1200-23-01-.01(114), all violations shall be corrected within twenty four (24) hours. If violations are not corrected within twenty four (24) hours, the establishment shall immediately cease food service operation until authorized to resume by the department.

(5) Prevention of Foodborne Disease Transmission by Employees

(a) Obtaining Information: Personal History of Illness, Medical Examination and Specimen Analysis. The Department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that may be transmitted through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound or an acute respiratory infection by:

1. Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and

2. Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

(b) Restriction or Exclusion of Food Employee or Summary Suspension of Permit. Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the Department may issue an order to the suspected food employee, conditional employee or permit holder instituting one or more of the following control measures:

1. Restricting the food employee or conditional employee;

2. Excluding the food employee or conditional employee;

3. Closing the food establishment by summarily suspending a permit to operate in accordance with the law.

(c) Restriction or Exclusion Order: Warning or Hearing Not Required; Information Required in Order. Based on the findings of an investigation and to control disease transmission, the department may issue a summary order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, a notice of hearing or a hearing if the order:

1. States the reasons for the restriction or exclusion;

2. States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;

3. States that the suspected food employee or permit holder may request an appeal

(Rule 1200-23-1-.04, continued)

hearing by submitting a timely request within seven business days of the issuance of the order; and

4. Provides the name and address of the department representative to whom a request for appeal hearing may be made.

(d) Removal of Exclusions and Restrictions. The department shall release a food employee or conditional employee from restriction or exclusion upon a showing that the employee meets the conditions for reinstatement under Rule 1200-23-01-.02(2)(c).

(6) Reviews Following Inspection

(a) The inspection report shall state that failure to comply with any time limits specified by the department for correction may result in cessation of operation.

(b) The citation of a violation of a priority item may be reviewed, upon receipt of a written request submitted to the department within ten (10) calendar days following the date of the inspection report. If the tenth (10th) day falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the priority item(s) being reviewed. The final determination on the review shall be made by the Commissioner of Health or the Commissioner's designee in writing and within a reasonable time after receipt of the request for a review.

(c) The citation of a violation of a priority foundation item may also be reviewed upon the receipt of a written request submitted to the department within ten (10) calendar days following the date of the inspection report. If the tenth (10th) falls on a weekend or state holiday, the first work day following shall be treated as the tenth (10th) day. The request for review shall identify the priority foundation item(s) being reviewed. The decision of the department shall be final and made in writing within a reasonable time after receipt of the request for a review.

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(d) In the event of an order of cessation of operation based upon the reviewed critical item(s), a request for a hearing may be made in writing to the Commissioner of Health received within ten (10) calendar days of the decision of the department. Except as otherwise provided by law, no action shall be taken regarding a closure on the critical item(s) under review or subject to a hearing pending the outcome of the hearing which shall be held pursuant to the Uniform Administrative Procedures Act.

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(7) Permit Revocation

(a) After providing an opportunity for a hearing, the Commissioner of Health or his duly authorized representative may revoke a permit for serious or repeated violations of requirements of this part or for interference with the department or its duly authorized representative in the performance of his duty.

(b) Prior to revocation, the department shall notify, in writing, the permittee of the specific reason(s) for which the permit is to be revoked, and that the permit shall be revoked at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the department within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

(8) Whenever a facility is required under this section to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

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(Rule 1200-23-1-.04, continued)

Authority: T.C.A. §§ 68-14-701 through 68-14-726.

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