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Agency of Human Services  
**DEPARTMENT OF HEALTH**  
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Food & Lodging Program  
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**HEALTH REGULATIONS**  
for  
**FOOD SERVICE ESTABLISHMENTS**



Effective December 1, 2003

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## **5-201 SCOPE, JURISDICTION, EXPIRATION, TRANSFER AND DISPLAY OF FOOD ESTABLISHMENT LICENSES**

### **A. Scope:**

1. All places that prepare and serve food to the public, other than on an occasional basis, and advertise such food service within the meaning of 18 V.S.A. Section 4358 shall, prior to serving food, hold a current annual food license issued by the Department of Health.
2. Each individual food service establishment shall require a separate food license, regardless of ownership.
3. Food Service Establishments are public buildings and therefore must also comply with Department of Environmental Conservation, Environmental Protection Rules, Chapter 1, Wastewater System and Potable Water Supply. Plans and specifications must be submitted to the Agency of Natural Resources, Department of Environmental Conservation for review and approval.
4. Food Service Establishments which meet the definition of a "public water system" shall also comply with Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply.

### **B. Jurisdiction:**

1. 18 V.S.A. Chapter 85 serves as the legislative basis for licensing food service establishments.
2. Foods provided by food service establishments outside the jurisdiction of the State of Vermont may be sold within the state if such out-of-state food service establishment conforms to the provisions of this regulation or to substantially equivalent standards acceptable to the State of Vermont Department of Health. To determine the extent of compliance with such provision, the Department of Health may accept reports from responsible authorities in other jurisdictions where such food service establishments are situated.

### **C. Expiration:**

A regular food license expires annually, unless sooner revoked by the Board of Health as defined in the enforcement section of these regulations.

1. In his/her discretion, and where there are extenuating circumstances, the Commissioner of Health may issue a temporary license for a period not to exceed 60 days. The license shall state the conditions under which it is issued. The licensee is presumed to have full knowledge of such conditions, and shall be required to comply with them for the temporary license to be valid.
2. There shall be no extension of the 60-day time period for any reason.

### **D. Transfer:**

A license shall not be transferred from one person or corporation to another. If a licensed establishment is sold, the corporation changes, the establishment relocates or enlarges its operation, then the old license must be returned to the Department of Health. The proprietor or management must apply for and receive a new license before operating the business.

### **E. Display of License:**

The food license shall be posted so as to be easily viewed by the patrons.

### **F. Sanitary Inspections:**

1. New Facilities: A license shall not be issued for a newly constructed facility or to a facility which has been converted from another use until after completion of a sanitary inspection showing a minimum score of 70 and no violations of any critical or construction items. Any establishment whose license has been expired for one year or more will be considered a new establishment.

2. Changes of Ownership: A license shall not be issued to a change of owner facility until after completion of a sanitary inspection showing a minimum score of 70 and no violation of any critical items. Existing two (2) bay sinks must be replaced with a three (3) - compartment sink within sixty days of license assignment or the temporary license will be subject to revocation.
3. Ongoing: For an ongoing facility, the license shall remain in effect if the sanitary inspection shows a minimum of 70 and no violations of any critical items.
4. Critical Items: Refers to Item numbers 1, 3, 4, 7, 11, 12, 22, 27,28, 30, 31, 35 and 41 on the inspection report.
5. Construction Items: Refers to Item numbers 14, 15, 16, 34, 36, 37, 38, 39 and 43 on the inspection report.

## **5-202 CLASSIFICATION OF FOOD ESTABLISHMENT LICENSES**

### **1. Food, Restaurant:**

Any food service establishment that prepares and serves food for consumption on premises. Any person desirous of obtaining a food service establishment license must meet all of the requirements of the Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-220. Any establishment doing off-premise catering must also have a commercial catering license or a fair stand license.

### **2. Home Caterer:**

An establishment where food is prepared and wrapped in a home kitchen using only standard home kitchen equipment and sold on a take-out basis only or sold to commercial establishments for resale. Home caterers shall be inspected and approved under these regulations to the maximum extent feasible considering the fact that the establishment is located in the same facility the licensee uses as a primary residence. No animals or pets are allowed in the kitchen area while food is being prepared. Meat and poultry products, other than the sale of meals or as entrees directly to individual consumers, cannot be prepared in a home kitchen operation.

### **3. Limited Operation:**

An establishment that prepares and serves steamed or rotogrill frankfurters and/or cold sandwiches for off-premise consumption, and whose major business is not the preparation and service of food. The use of a grill shall not be permitted in this category. These facilities must comply with Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-219 with the following exceptions:

- a. Section 5-207, Item 16, Manual Dishwashing Facilities: Only a one-compartment sink is required; and
- b. Section 5-212, Item 31, A. Toilet Rooms: Patron toilet and handwashing facilities will not be required. However, they must furnish a restroom(s) for their employees.

### **4. Commercial Caterer:** (includes permanent food stands and motorized and push cart type mobile units)

A catering operation based in a store, food stand, mobile unit, pushcart or other commercial establishment, or a home kitchen equipped with commercial equipment. This classification also applies to any food service establishment that prepares and sells food for takeout. All food sold shall be wrapped, covered or in some type of container that is made of clean, non-absorbent food grade material. Temporary outdoor seating for no more than 16 people may be allowed in this classification for establishments that operate fewer than six months of the year.

A food service establishment license will not be required of an establishment that provides only a heating oven for the purpose of heating previously prepared, prepackaged, or pre-

cooked food which is frozen or refrigerated; and where there is no other on-site preparation procedure involved and the food is intended for off-premise consumption.

If out-of-state caterers are to supply establishments in Vermont, then they must show evidence that they are licensed in their state and are maintaining sanitary standards at least equivalent to these regulations.

Establishments in this category who prepare or offer meat products, other than the sale of meals or as entrees directly to individual consumers, are required to be licensed by the Vermont Agency of Agriculture. The Agency of Agriculture will not license a home kitchen operation.

Any person desirous of obtaining a commercial caterer's license must meet the requirements of the Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-219, with the following exceptions:

- a. Section 5-212, Item 31., A. Toilet Rooms: Patron toilet and handwashing facilities are strongly recommended, but will not be required. The establishment, however, must furnish a restroom(s) for their employees.
- b. Establishments in this classification with existing bathroom and handwashing facilities must maintain them in good sanitary working order.
- c. In lieu of facilities, the use of hand sanitizers for patrons is encouraged.

Be advised that food caterers must have a three-compartment sink and a handsink in the food preparation area (see Item 16. for exemption).

#### ***Requirements – Mobile Units***

The following requirements apply only to motorized units (vans, trucks or trailers pulled by cars or trucks) that prepare and serve food:

- a. All mobile units must be registered and capable of being moved at anytime.
- b. They must have either:
  - I. Two properly constructed food grade tanks, each containing a minimum of 15 gallons of water, one for cold water and the other for hot water at 140°F; or
  - II. One water supply holding tank containing a total of 30 gallons of tempered water at 110°F to 120°F.
  - III. The water must run to a sink with a mixing faucet or single faucet if using tempered water by pressure or gravity.
- c. Wastewater from the sink must be piped to a wastewater holding tank with a minimum capacity of 35 gallons.

#### **Approved Sewage Disposal System – Mobile Units**

Sewage shall be disposed of through an approved facility that is:

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

#### ***Requirements – Push Carts***

The following requirements apply only to carts that are pushed by hand or hand pushcarts that are situated on trailers:

- a. Handwashing facilities are to be provided for the operator.
- b. They must have either:
  - I. Two properly constructed food grade tanks each containing a minimum of 3 gallons of water, one for cold water, and the other for hot water at 140°F; or
  - II. One water supply holding tank containing a total of 6 gallons of tempered water at 110°F to 120°F.
- c. The water must run to a sink with a mixing faucet or single faucet if using tempered water by pressure or gravity.

- d. Wastewater from the sink must be piped to a wastewater holding tank with a minimum capacity of 7 gallons.

**Approved Sewage Disposal System – Push Carts**

Pushcart wastewater must be disposed of in:

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

Pushcarts must meet all other regulations except furnishing restrooms for the patrons.

**5. Vacation Camp:**

An establishment which is a seasonal operation lasting not more than 90 days per year and offering a camping program which includes providing food and/or lodging to vacationing youth or family groups.

**6. Fair Stand:**

A mobile or non-mobile establishment that operates at special events not lasting more than 14 days in one location, and operates throughout the year. Applicants for a fair stand license must meet the requirements of Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-219, with the following exceptions:

- a. Section 5-207, Item 16: A three-compartment sink or automatic dishwasher is not required; the use of three dishpans will be approved for washing, rinsing and sanitizing utensils.
- b. Section 5-209, Item 27 Water Supply, ¶ I. Pressure: All fair stands must have hot and cold water going to a sink by means of a mixing faucet fed by pressure or gravity.
- c. Section 5-212, Toilet and Handwashing Facilities: Fair Stands will not be required to have restrooms, but the fair or outdoor festival operators must furnish restrooms for the stand employees and the public.

**7. Tourist Home (Bed & Breakfast):**

An establishment that provides meals only to lodging patrons, or occasional functions such as weddings, and has a capacity of twenty-five (25) or less. These facilities must comply with Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-220, with the following exceptions:

- a. Portions of section 5-212 that are concerned with toilet facilities for patrons and employees. Separate restrooms provided for patrons and employees does not apply, and
- b. Section 5-207, Item 16: Domestic dishwashers will be approved provided tableware is manually sanitized as outlined in Section 5 –208, Item 22. If a dishwasher is provided, a two-compartment sink is required.
- c. Section 5-207, Item 16: For manual dishwashing of tableware, either a three-compartment sink or a two-compartment sink with a dishpan for sanitizing must be provided.
- d. A separate handwash sink in the kitchen is not required, although highly recommended.

**8. Seafood Vendor:**

An establishment that sells seafood products such as fish and shellfish on a retail basis. For mobile seafood vendors, the requirements for Food Caterer – *Mobile Units* apply.



## **5-203 DEFINITIONS**

**ACCREDITED PROGRAM** means/refers to:

- a. a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certifies individuals.
- b. 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. does not refer to training functions or educational programs.

**ADDITIVE** means all substances, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. Additives must comply with the Code of Federal Regulations.

**ADULTERATED** means the condition of a food:

- a. if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
- b. if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established,
- c. if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; and. If it has been processed, prepared, packed, or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
- d. if it is in whole or in part the product of a diseased animal or an animal which has died otherwise than by slaughter; or
- e. if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

**AIR GAP** means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of that receptacle.

**APPROVED** means acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

**A<sub>w</sub>** 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<sub>w</sub>.

**BACKFLOW** means in regards to:

- a. Drainage: a reversal of flow in the drainage system.
- b. Water supply system: the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than its intended source.

**BACKFLOW PREVENTER** means a device or means to prevent backflow.

**BOARD** means the Vermont State Board of Health.

**BEVERAGE** means a liquid for drinking, including water.

**BOTTLED DRINKING WATER** means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

**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.

**CHANGE OF OWNERSHIP** means the change of licensee at a facility currently licensed by the Health Department. The change of ownership is applicable when there is a continuous operation, the capacities are not changed, and the facility is not undergoing construction or renovation to the food preparation area which increases the size of the kitchen or adds to or modifies the kitchen ventilation system.

**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.

**CODE OF FEDERAL REGULATIONS (CFR)** means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which:

- a. is published annually by the U.S. Government Printing Office; and
- b. contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

**CLEAN** means free from visible soil.

**CLOSED** means fitted together snugly leaving no openings larger than 1/32 inch.

**COMMISSIONER** means the Vermont Department of Health Commissioner.

**COMMINUTED** means reduced in size by methods including chopping, flaking, grinding, or mincing.

**CONFIRMED DISEASE OUTBREAK** means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

**CONSUMER** means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

**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.

**CRITICAL CONTROL POINT** means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

**CRITICAL ITEM** means a provision of this Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard. It is an item denoted in this Code with an asterisk \*.

**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.

**CROSS-CONNECTION** means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other water of unknown or questionable safety, whereby water may flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

**DRINKING WATER** means water that meets the standards of the Department of Environmental Conservation, Water Supply Division.

**DRY STORAGE AREA** means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

**EASILY CLEANABLE** means that surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

**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.

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

**EQUIPMENT:**

- a. means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.
- b. does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

**FISH:**

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

**FOOD** means any raw, cooked, or processed edible substances, including ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

**FOODBORNE DISEASE OUTBREAK** means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

**FOOD CONTACT SURFACE** means:

- 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:
  - l. into a food, or

II. onto a surface normally in contact with food.

**FOOD PREPARATION AREA** means any portion of the establishment where the preparation, processing and cooking of food occurs.

**FOOD-PROCESSING ESTABLISHMENT** means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.

**FOOD SERVICE EMPLOYEE** means any employee of the establishment who indulges in the preparation, storage or serving of food (or water) or who washes dishes or tableware or cleans food contact surfaces.

**FOOD SERVICE ESTABLISHMENT** means any place where food that is intended for individual service and consumption is routinely provided completely prepared. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include a private home where food is prepared for individual family consumption, and it does not include the location of food vending machines.

**GAME ANIMAL:**

- a. means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR Subchapter A - Mandatory Meat Inspection, Part 301, as Poultry in 9 CFR Subchapter C - Mandatory Poultry Products Inspection, Part 381, or as fish as defined under these regulations, 5-203 Definitions, Fish.
- b. 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. does not include ratites such as ostrich, emu, and rhea.

**GENERAL USE PESTICIDE** means a pesticide that is not classified by EPA for restricted use as specified in [40CFR152.175](#).

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

**HACCP** means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**HAZARD** means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

**HERMETICALLY SEALED CONTAINER** means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

**HIGHLY SUSCEPTIBLE POPULATION** means a group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

**IMMINENT HEALTH HAZARD** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or

event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: a) The number of potential injuries, and; b) The nature, severity, and duration of the anticipated injury.

**INFESTATION** means the presence or visible evidence of rodents, cockroaches or other insects.

**INJECTED** means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as by processes which may be referred to as "injecting," "pinning," or "stitch pumping."

**JUICE**, when used in the context of food safety, 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 concentrate of such liquid or purée. This definition does not apply to standards of identity.

**KITCHEN** means the principal area where food is prepared and utensils are washed.

**KITCHENWARE** means all multi-use utensils other than tableware.

**LAW** means applicable local, state, and federal statutes, regulations, and ordinances.

**LINENS** means fabric such as cloth hampers, cloth napkins, table cloths, wiping cloths and work garments including cloth gloves.

**MEAT** means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under these regulations, 5-203 Definitions, Game Animals.

**MISBRANDED** means the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable state or federal labeling requirements.

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

**MOLLUSCAN SHELLFISH** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

**NEW FACILITY** means any facility that has not previously prepared and served food to the public or any establishment whose license has been expired for one year. When the capacities are changed or the facility is undergoing construction or renovation to the food preparation area that increases the size of the kitchen, the facility will be considered a new license.

**NON-ACID AND LOW ACID FOOD** means any food with a pH of 4.6 or higher.

**OCCASIONAL** means occurring for not more than one day's duration in any month.

**PACKAGED** means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. It does not include a wrapper, carryout 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.

**PERISHABLE FOOD** means any food of such type or in such condition as may spoil.

**PERSON** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

**PERSON IN CHARGE** means the individual present at a food establishment who is responsible for the operation at the time of inspection.

**PERSONAL CARE ITEMS** means/includes:

- a. 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. include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

**pH** means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

**PHYSICAL FACILITIES** means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

**POTABLE WATER** means water free from impurities in amounts sufficient to cause disease or harmful physiological effects with the bacteriological, chemical, physical, or radiological quality conforming to applicable regulations and standards of the Agency of Natural Resources, Water Supply Division.

**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.

**POISONOUS OR TOXIC MATERIALS** means substances that are not intended for ingestion and are included in 4 categories:

1. cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
2. pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
3. substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
4. substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

**POTENTIALLY HAZARDOUS FOOD (PHF)** means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:

- a. the rapid and progressive growth of infectious or toxigenic microorganisms;
- b. the growth and toxin production of *Clostridium botulinum*; or
- c. in raw shell eggs, the growth of *Salmonella Enteritidis*.

**PHF** includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition.

**PHF** does not include:

- a. an air-cooled hard-boiled egg with shell intact;
- b. a food with an  $a_w$  value of 0.85 or less;
- c. a food with a pH level of 4.6 or below when measured at 75°F;
- d. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; and
- e. a food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an  $a_w$  and a pH that are below the levels specified under Subparagraphs b. and c. of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.
- f. a food that does not support the growth of microorganisms as specified under the definition for PHF even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

**POULTRY** means:

- a. any domesticated bird (chickens, turkeys, ducks, geese, or guineas), and
- b. any migratory waterfowl, game bird, or squab such as pheasant, partridge, quail, grouse, or guineas, whether live or dead.

**PREPARED FOOD** means food that is heated, cooled, altered in any way from its original state or mixed with other foods for human consumption.

**PREMISES** means:

- a. the physical facility, its contents, and the contiguous land or property under the control of the license holder; or
- b. the physical facility, its contents, and the land or property not described under Subparagraph a. of this definition if its facilities and contents are under the control of the license holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

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

**PUBLIC WATER SYSTEM** means any system(s) or combination of systems owned or controlled by a person, that provides drinking water through pipes or other constructed conveyances to the public and that has at least fifteen (15) service connections or serves an average of at least twenty five (25) individuals daily for at least sixty (60) days out of the year. Such term includes all collection, treatment, storage and distribution facilities under the control of the water supplier and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system shall also mean any part of a system which does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. A Public water system is either a Public Community water system or a Public Non-Community water system:

- a. **PUBLIC COMMUNITY** Water System means a Public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least 25 year-round residents.
- b. **PUBLIC NON-COMMUNITY** Water System means a Public water system that is not a Public Community water system.

- I. **PUBLIC NON-TRANSIENT NON-COMMUNITY** Water System (NTNCWS) means a Public water system that is not a Public Community water system and that regularly serves at least 25 of the same persons daily for more than six months per year. Examples: schools, factories, office buildings.
- II. **PUBLIC TRANSIENT NON-COMMUNITY** Water System (TNCWS) means a Public Non-community water system that is not a Non-transient Non-community system. Examples: restaurants, motels, campgrounds.

**READY-TO-EAT FOOD** means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

It Includes:

- a. potentially hazardous food that is unpackaged and cooked and cooled to the temperature and time required for the specific food as indicated in Item 3;
- b. raw, washed, cut fruits and vegetables;
- c. whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet; and
- d. other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

**REDUCED OXYGEN PACKAGING** means:

- a. the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding 21% oxygen atmosphere; and
- b. a process as specified in subparagraph a. of this definition that involves a food for which *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form.

**Reduced oxygen packaging** includes:

- a. vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;
- b. modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and
- c. controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

**REFUSE** means solid waste not carried by water through the sewage system.

**REGULATORY AUTHORITY** means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

**SAFE MATERIALS** 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 or 706 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.

**SAFE TEMPERATURES** as applied to potentially hazardous food, means temperatures of 41°F or below, and 135°F or above.

**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, which has been approved by the department of health.

**SEALED** means free of cracks or other openings that allows the entry or passage of moisture.

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

**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.

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

**SHELLFISH CONTROL AUTHORITY** means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

**SHELLSTOCK** means raw, in-shell molluscan shellfish.

**SHUCKED SHELLFISH** means molluscan shellfish that have one or both shells removed.

**SINGLE-SERVICE ARTICLES** means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

**SINGLE-USE ARTICLES** means utensils and bulk food containers designed and constructed to be used once and discarded. 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 Item 14 for multiuse utensils.

**SLACKING** means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F to 25°F in preparation for deep fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

**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.

**SURFACE WATER** means a stream, pond or lake.

**TABLE MOUNTED EQUIPMENT** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

**TABLEWARE** means all multi-use eating and drinking utensils.

**TEMPERATURE MEASURING DEVICE** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

**TEMPORARY FOOD SERVICE ESTABLISHMENT** means any food service establishment which operates at a fixed location for a period of time not more than 60 consecutive days.

**TEMPORARY OUTDOOR SEATING** means utilization of picnic tables or other for patron use.

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

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

**VARIANCE** means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

**VENDING MACHINE** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

**VERMIN** means small animals, such as mice, rats, squirrels, plus any other nuisance animal.

**WAREWASHING** means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

**WHOLE-MUSCLE, INTACT BEEF** means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beefsteaks may be cut.

## **5-204 SOURCE OF FOOD**

### **Item 1. Acceptable Source\***

A. All food shall be clean to sight, free from spoilage, adulteration and misbranding and safe for human consumption. All food in food service establishments shall be obtained from sources acceptable to the Department of Health.

#### **B. Honestly Presented.**

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

C. Food shall be obtained from sources that comply with regulations of the Vermont Agency of Agriculture, U.S. Department of Agriculture (USDA), Food and Drug Administration (FDA) or other sources approved by the Department of Health.

D. Packaged food shall be labeled as specified in law, including 21CFR101 Food Labeling, 9CFR317 Labeling, Marking Devices, and Containers, and 9CFR381 Subpart N Labeling and Containers, and as specified under Item 1, Sections R and S.

E. Fish, other than molluscan shellfish, that are intended for consumption in their raw form may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified to a temperature of -31°F or below for 15 hours in a blast freezer or to a temperature of -4°F or below for 168 hours (7 days) in a freezer. HACCP records and temperature recording charts must be kept for 90 days to show that the temperatures have been met throughout the time period or a letter of guarantee from the supplier is maintained on the premises indicating HACCP requirements have been met.

F. Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in Item 3, Section E, ¶ 5 shall be:

1. Obtained from a food processing plant that packages the steaks and labels them to indicate that they meet the definition of whole-muscle, intact beef; or
2. If individually cut in a food establishment:
  - a. Cut from whole-muscle intact beef that is labeled by a food processing plant to indicate that the beef meets the definition of whole-muscle, intact beef.
  - b. Prepared so they remain intact, and
  - c. If packaged for undercooking a food establishment, labeled to indicate that they meet the definition of whole-muscle, intact beef.

G. Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale shall be labeled to include safe handling instructions. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by FDA, USDA, Vermont Agency of Agriculture, or approved by the Vermont Department of Health.

#### **H. Fluid Milk and Milk Products.**

1. Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in laws that are enforced by the Vermont Agency of Agriculture.

2. All cheese products must meet the regulations of the Vermont Agency of Agriculture.
3. Frozen milk products, such as ice cream, shall be obtained pasteurized.

#### I. Fish.

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

#### J. Molluscan Shellfish.

1. 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.
2. Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

#### K. Wild Mushrooms.

1. Except as specified in ¶ 2 of this section, 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 (as determined by U.S. FDA).
2. This section does not apply to:
  - a. 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
  - b. 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.

#### L. Game Animals.

If game animals are received for sale or service they shall be:

1. Commercially raised for food and:
  - a. Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, or
  - b. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, and
2. Raised, slaughtered, and processed according to:
  - a. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
  - b. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;
3. Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352 Voluntary Exotic Animal Program or rabbits that are "inspected and certified" in accordance with 9 CFR 354 Rabbit Inspection Program;

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

### ***Specifications for Receiving***

#### **M. Temperature.**

1. Except as specified in ¶ 2 of this section, refrigerated, potentially hazardous foods shall be at a temperature of 41°F or below when received.
2. If a temperature other than 41°F for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk, molluscan shellfish, and shell eggs, the food may be received at the specified temperature.
3. Potentially hazardous food that is cooked to a temperature and for a time specified in the cooking portion of these regulations and received hot shall be at a temperature of 135°F or above.
4. A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.
5. Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

#### **N. Additives.**

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR 318.7 Approval of substances for use in the preparation of products, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

#### **O. Eggs.**

Only clean whole eggs, with shell intact and without cracks or checks, pasteurized whole eggs, pasteurized liquid, or egg products shall be used, and they must be stored at 41°F

or below. Frozen pasteurized liquid and pasteurized dry eggs must be kept frozen. Shell eggs may be transported under ambient refrigerated temperature of 45°F or less.

P. 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.

Q. Ice.

Ice for use as a food or a cooling medium shall be made from drinking water, that is regulated by the Agency of Natural Resources, Department of Environmental Conservation, Water Supply Division.

R. Shucked Shellfish, Packaging and Identification.

1. Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:

- a. Name address, and certification number of the shucker-packer or repacker of the molluscan shellfish; and
- b. The "sell by" date for packages with a capacity of less than 1.87 L (one-half gallon) or the date shucked for packages with a capacity of 1.87 L (one-half gallon) or more.

2. 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 ¶ 1 of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D-Specific Administrative Decisions Shipments, Section 1240.60(d).

S. Shellstock Identification.

1. Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that departs, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list:

- a. Except as specified under ¶ 3 of this section, on the harvester's tag or label, the following information in the following order:
  - I. The harvester's identification number that is assigned by the Shellfish Control Authority,
  - II. The complete date of harvesting,
  - III. The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested,
  - IV. The type and quantity of shellfish, and
  - V. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days;" and
- b. Except as specified in ¶ 4 of this section, on each dealer's tag or label, the following information in the following order:
  - I. The dealer's name and address, and the certification number assigned by the shellfish control authority,
  - II. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested,
  - III. The same information as specified for a harvester's tag under ¶ 1, Subparagraphs a, II – IV of this section, 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."

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

3. If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.
4. If the harvester's tag or label is designed to accommodate each dealer's identification as specified under ¶ 1, Subparagraphs b, I and II of this section, individual dealer tags or labels need not be provided.

T. 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.

**Original Containers and Records**

U. Molluscan Shellfish, Original Container.

1. Except as specified in ¶¶ 2 and 3 of this section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.
2. Shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:
  - a. The source of the shellstock on display is identified as specified under Item 1, Section S. and recorded as specified under Item 1, Section V.; and
  - b. The shellstock are protected from contamination.
3. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:
  - a. The labeling information for the shellfish on display as specified under Item 1, Section R is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
  - b. The shellfish are protected from contamination.

V. Shellstock, Maintaining identification.

1. Except as specified under ¶ 2, Subparagraph a. of this section, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.
2. 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 the container is emptied by:
  - a. Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and
  - b. If shellstock are removed from their tagged or labeled container:
    - I. Preserving the source of identification by using a record keeping system as specified under ¶a of this section; and
    - II. Ensuring shellstock from one tagged or labeled container are not commingled with shellstock from another lot before being ordered by the consumer.

W. Meat and Meat Products.

All meat and meat products shall have been inspected and approved by the Vermont Agency of Agriculture or the USDA.

X. Poultry and Poultry Products.

All poultry and poultry products shall have been inspected and approved by the Vermont Agency of Agriculture or the USDA.

Ratites must come from an approved source which is regulated or approved by the Vermont Agency of Agriculture or the USDA.

Y. Bakery Products.

All bakery products shall have been prepared in the licensed food service establishment, in a Vermont or out-of-state bakery licensed by the Department of Health as authorized by 18 V.S.A., Section 4444(b).

Z. Spoiled and Damaged Foods.

A food that is unsafe, adulterated or not honestly presented shall be reconditioned according to an approved procedure or discarded. Food that is contaminated shall be discarded.

AA. Bottled Water.

All bottled water served shall be from a source approved by the Agency of Natural Resources, Department of Environmental Conservation, Water Supply Division.

## **5-205 FOOD PROTECTION**

### **Item 2. Original Container, Properly Labeled**

All food while being stored, prepared, displayed, served or sold at food service establishments, or during transportation between such establishments, shall be protected from spoilage and contamination and shall not be adulterated in any manner.

All food in the food service establishment shall be properly labeled as to content. This applies to food which may be mistaken for non-food items that have been transferred from an original container to an acceptable container for preparation, storage, service, sale or transportation.

Packaged food shall be labeled as specified in Federal and State laws and as mentioned in Item 1 of these regulations.

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR 318.7 approval of substances for use in the preparation of products, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

A. Food Labels.

1. Food packaged in a food establishment, shall be labeled as specified in federal law, including 21 CFR 101 - Food Labeling, and 9 CFR 317 Labeling, Making Devices, and Containers.

2. Label information shall include:

- a. The common name of the food, or absent a common name, an adequately descriptive identifying statement;
- b. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;
- c. An accurate declaration of the quantity of contents;
- d. The name and place of business of the manufacturer, packer, or distributor; and
- e. Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3)-(5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.



3. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:
  - a. The manufacturer's or processor's label that was provided with the food; or
  - b. A card, sign, or other method of notification that includes the information specified under ¶ 2, Subparagraphs a., b. and e. of this section.
  
4. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:
  - a. A health, nutrient content, or other claim is not made;
  - b. There are not state or local laws requiring labeling; and
  - c. The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

**B. Consumption of Animal Foods That Are Raw, Undercooked, or Not Otherwise Processed To Eliminate Pathogens.**

If animal food such as beef, eggs, fish, lamb, milk, poultry or shellfish that is raw, undercooked or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form such as a deli, menu, vended or other item; or as a raw ingredient in another ready-to-eat food, the licensee shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means of the significantly increased risk associated with eating such foods in the raw or undercooked form. Warnings of the potential health risks may read: "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

Retail grocery stores (any store that sells food for retail) are exempt from this provision.

**C. Labeling - Food Storage Containers, Identified with Common Name of Food.**

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

**Item 3. Potentially Hazardous Food - Temperature Requirements\***

***Temperature and Time Control***

**A. Frozen Food.**

Stored frozen foods shall be maintained frozen.

**B. Potentially Hazardous Food, Slacking.**

Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

1. Under refrigeration that maintains the food temperature at 41°F or less.
2. At any temperature if the food remains frozen throughout.

**C. Cooling.**

1. Cooked potentially hazardous food shall be cooled from 135°F to 41°F within four hours.
2. Cooling shall be accomplished in accordance with the time and temperature criteria specified above using one or more of the following methods based on the type of food being cooled:

- a. Placing the food in shallow pans with no more than 2 inches of product;
- b. Separating the food into smaller or thinner portions;
- c. Using rapid cooling equipment;
- d. Stirring the food in a container placed in an ice water bath; which has the level of the food lower than the level of the ice water bath and/or a cooling stick;
- e. Using containers that facilitate heat transfer;
- f. Adding ice as an ingredient; or
- g. Other effective methods.

3. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

- a. Arranged in the equipment to provide maximum heat transfer through the container walls; and not stacked on top of each other.
- b. Loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.
- c. Cooling procedures must be closely monitored.

**D. Potentially Hazardous Food, Hot and Cold Handling.**

Except during preparation, cooking or cooling, or when time is used as the public health control, potentially hazardous food shall be maintained:

- 1. At 135°F or above, except that roasts cooked to a temperature and for a time shown in the cooking chart or reheated leftover roast may be held at a temperature of 130°F; or
- 2. At a cold holding temperature of 41°F or less.

**Cooking**

**E. Raw Animal Foods.**

Except as specified under ¶ 4 and ¶¶ 5 and 6 of this section, raw animal foods such as eggs, fish, meat, poultry and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

- 1. 145°F or above for 15 seconds for:
  - a. Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service, and
  - b. Except as specified under ¶¶ 2, 3 and 4 of this section, fish, meat and pork including game animals commercially raised for food must be inspected by the Vermont Agency of Agriculture or the USDA and game animals under a voluntary inspection program of the Vermont Agency of Agriculture.
- 2. 155°F for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food and game animals under a voluntary inspection program and raw eggs that are not prepared as specified under ¶ 1, Subparagraph a of this section:

| Temperature (°F) | Time                      |
|------------------|---------------------------|
| 145              | 3 minutes                 |
| 150              | 1 minute                  |
| 158              | <1 second (instantaneous) |

;or

3. 165°F or above for 15 seconds for poultry, wild game animals as specified under Item 1, Section L., stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry or ratites.

4. Whole beef roasts, corned beef roasts, pork roasts and cured pork roasts such as ham, shall be cooked:

a. In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:

| Oven Type                  | Oven Temperature Based on Roast Weight |                 |
|----------------------------|--|-----------------|
|                            | Less than 10 lbs.                      | 10 lbs. or More |
| Still Dry                  | 350° or more                           | 250° or more    |
| Convection                 | 325° or more                           | 250° for more   |
| High Humidity <sup>1</sup> | 250° or less                           | 250° 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.

and

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

| Temperature | Time <sup>1</sup> in Minutes | Temperature | Time <sup>1</sup> in Minutes | Temperature | Time <sup>1</sup> in Seconds |
|-------------|------------------------------|-------------|------------------------------|-------------|------------------------------|
| °F          |                              | °F          |                              | °F          |                              |
| 130         | 112                          | 142         | 8                            | 147         | 134                          |
| 131         | 89                           | 144         | 5                            | 149         | 85                           |
| 133         | 56                           | 145         | 4                            | 151         | 54                           |
| 135         | 36                           |             |                              | 153         | 34                           |
| 136         | 28                           |             |                              | 155         | 22                           |
| 138         | 18                           |             |                              | 157         | 14                           |
| 140         | 12                           |             |                              | 158         | 0                            |

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

5. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

- a. The food establishment serves a population that is not a highly susceptible population,
- b. The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef", and
- c. The steak is cooked on both the top and bottom to a surface temperature of 145°F or above and a cooked color change is achieved on all external surfaces.

6. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartar; 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 ¶ 5 of this section, may be served or offered for sale in a ready-to-eat form if:

- a. The food establishment serves a population that is not a highly susceptible population, and
- b. The consumer is informed that to ensure its safety, the food should be cooked as specified under ¶ 4 of this section; or
- c. The regulatory authority grants a variance from ¶¶ 1, 2, 3, and 4 of this section based on a HACCP plan that:
  - I. Is submitted by the licensee and reviewed by the Department of Health.
  - 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.

F. Microwave Cooking.

Raw animal foods cooked in a microwave oven shall be:

1. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
2. Covered to retain surface moisture;
3. Heated to a temperature of at least 165°F in all parts of the food; and
4. Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

G. Plant Food Cooking for Hot Holding.

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

**Freezing**

H. Parasite Destruction.

Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1. -4°F or below for 168 hours (7days) in a freezer, or
2. -31°F or below for 15 hours in a blast freezer; and
3. Recorded on a temperature recording device; and
4. A letter of guarantee from the supplier is maintained on the premises indicating HACCP requirements have been met; and
5. The records must be held for 90 days.

**Reheating**

I. 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.

J. Reheating for Hot Holding.

1. Except as specified under ¶¶ 2, 3, and 5 of this section, potentially hazardous 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 165° F for 15 seconds.
2. Except as specified under ¶ 3 of this section, potentially hazardous 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 165°F and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.
3. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135°F for hot holding.
4. Reheating for hot holding shall be done rapidly and the time the food is between the temperature of 41°F and 165°F may not exceed 2 hours.

5. Remaining unsliced portions of roasts of beef that are cooked according to the thermo kill chart may be reheated for hot holding using the oven parameters and minimum time and temperature shown on the chart.

#### K. Ready-to-Eat, Potentially Hazardous Food, Date Marking.

1. Refrigerated, ready-to-eat, potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed which is, including the date of preparation:

- a. Seven (7) calendar days or less from the day that the food is prepared, if the food is maintained at 41°F or less.

In other words, food prepared on premises must be consumed, used or sold within seven (7) days.

2. A ready-to-eat, potentially hazardous food prepared in a food establishment and subsequently frozen, shall be clearly marked:

- a. When the food is removed from the freezer, to indicate the date by which the food shall be consumed which is:

- I. Seven (7) calendar days or less after the food is removed from the freezer, if the food is maintained at 41°F or less before and after freezing.

3. Paragraphs 1 and 2 of this section do not apply to whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.

4. The following items are exempt from date marking:

- a. Specific cheese containing certain moisture content meeting the aging standards of the USDA;
- b. Fermented sausages produced in a state or federally inspected food processing plant that are not labeled "Keep Refrigerated" and which retain the original casing on the product;
- c. Shelf stable, dry, fermented sausages;
- d. Shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a state or federally inspected food processing plant that are not labeled "Keep Refrigerated"; or
- e. Items which are subject to inspection by state or federal departments of Agriculture.

#### L. Ready-to-Eat, Potentially Hazardous Food, Disposition.

1. A food specified in Section K, ¶ 1 of this Item shall be discarded if not consumed within:

- a. Seven (7) calendar days from the date of preparation if the food is maintained at 41°F or less.

2. A food specified under Section K, ¶ 2 of this Item shall be discarded if not consumed within:

- a. Seven (7) calendar days or less after the food is removed from the freezer, if the food is maintained at 41°F or less before and after freezing.
- b. A food specified under Section K, ¶¶ 1 and 2 of this Item is in a container or package that does not bear a date or day.

3. Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds seven (7) calendar days from the date of preparation, and the food is maintained at 41°F or less.

#### M. Time as a Public Health Control.

1. Except as specified under ¶ 2 of this section, if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous

food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption (food consumed within 24 hours):

- a. 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;
- b. The food shall be cooked and served, served if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control;
- c. The food in unmarked containers or marked to exceed a 4 hour limit shall be discarded; and
- d. Written procedures shall be maintained in the food establishment and made available to the regulatory authority upon request, that ensure compliance with:
  - I. Paragraph 1, Subparagraphs a - d of this section, and
  - II. For food that is prepared, cooked, and refrigerated before time is used as a public health control.

2. In a food establishment that serves a highly susceptible population, time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs.

### ***Specialized Processing Methods***

#### **N. Variance Requirement.**

A food establishment shall obtain a variance from the regulatory authority before smoking food as a method of food preservation rather than as a method of flavor enhancement; curing food; brewing alcoholic beverages; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; and it will be necessary to get a third party review before a variance will be considered. Third party review may be obtained from sources approved by the Department of Health (i.e. NSF, private consultants).

### ***Clostridium botulinum Controls***

#### **O. Reduced Oxygen Packaging, Criteria.**

1. Except for a food establishment that obtains a variance, a food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of *C. botulinum*.

2. A food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information necessary to have a safe food and that:

- a. Identifies the food to be packaged;
- b. Limits the food packaged to a food that does not support growth of *Clostridium botulinum* because it complies with one of the following:
  - I. Has an  $a_w$  of 0.91 or less,
  - II. Has a pH of 4.6 or less,
  - III. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or
  - IV. Is a food with a high level of competing organisms such as raw meat or raw poultry;
- c. Specifies methods for maintaining food at 41°F or below;
- d. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
  - I. Maintain the food at 41°F or below, 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;

- e. Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
- f. Includes operational procedures that:
  - I. Prohibit contacting food with bare hands,
  - II. Identify a designated area and the method by which:
    - i. Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and
    - ii. Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and
  - III. Delineate cleaning and sanitization procedures for food-contact surfaces; and
- g. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
  - I. Concepts required for a safe operation,
  - II. Equipment and facilities, and
  - III. Procedures specified under ¶ 2, Subparagraph f of this section.
- h. Except for fish that is frozen before, during and after packaging, a food establishment may not package fish using a Reduced Oxygen Packaging method.

#### **Item 4. Preventing Cross Contamination\***

##### **A. Preventing Contamination from Hands.**

1. Food employees shall wash their hands at intervals specified in Item 12 ¶ C, with warm 100°F water and soap with a scrubbing action for at least 20 seconds, paying special attention to the nails and between the fingers. A soft nail brush that does not tear the skin should be used. Hands should be dried with disposable paper towels or an air dryer, or
2. 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.
3. 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 plastic or vinyl gloves, or dispensing equipment.
4. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

##### **B. 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.

#### ***Preventing Food and Ingredient Contamination***

##### **C. Packaged and Unpackaged Food - Separation, Packaging and Segregation.**

1. Food shall be protected from cross contamination by:
  - a. Separating raw animal foods during storage, preparation, holding, and display from:
    - I. Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables, and
    - II. Cooked ready-to-eat food;
  - b. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
    - I. Using separate equipment for each type, or
    - II. Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and
    - III. Preparing each type of food at different times or in separate areas;
  - c. Cleaning and sanitizing equipment and utensils between different uses.

- d. Except as specified in ¶ 2 of this section, storing the food in packages, covered containers, or wrappings;
- e. Cleaning hermetically sealed containers of food of visible soil before opening;
- f. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
- g. Storing damaged, spoiled or recalled food being held in the food establishment shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles; and.
- h. Separating fruits and vegetables before they are washed, from ready-to-eat food.

2. Paragraph 1, Subparagraph d. of this section does not apply to:
  - a. Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;
  - b. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
  - c. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
  - d. Food being cooled as specified under Item 3 of these regulations;
  - e. Shellstock.

#### D. Pasteurized Eggs, Substitute for Raw Shell Eggs for Certain Recipes.

Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods [such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages] that are:

1. Not cooked to 145°F for 15 seconds, or
2. Served to a highly susceptible population, or served to the public without warning labels or a health department approved variance.

#### E. Protection from Unapproved Additives.

1. Food shall be protected from contamination that may result from the addition of:
  - a. Unsafe or unapproved food or color additives; and
  - b. Unsafe or unapproved levels of approved food and color additives.
2. A food employee may not:
  - a. Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B<sub>1</sub>; or
  - b. Serve or sell food specified under ¶ 2, Subparagraph a. of this section that is treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this subparagraph.

#### F. Washing Fruits and Vegetables.

1. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except as specified in ¶ 2 of this section and except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.
2. Fruits and vegetables may be washed by using chemicals as long as these chemicals have been approved by regulatory agencies.

#### ***Preventing Contamination from Ice Used as a Coolant.***

#### G. 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.



## H. Storage or Display of Food in Contact with Water or Ice.

1. Packaged food may not be stored in direct contact with ice or ice 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 ice water.
2. Except as specified in ¶¶ 3 and 4 of this section, unpackaged food may not be stored in direct contact with undrained ice.
3. Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or ice water.
4. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale as long as the water from the ice can drain away and not create a nuisance on floors, work surfaces or in cooling equipment.

## I. Using Clean Tableware for Second Portions and Refills.

1. Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.
2. Except as specified in ¶ 1 of this section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.
3. Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as stated in ¶ 1 of this section.

## J. Refilling Returnables.

1. No re-use of single service containers or consumer owned containers for potentially hazardous food.
2. For non-potentially hazardous food, 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 by having:
  - a. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;
  - b. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
  - c. The 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.

## Item 5. Adequate Facilities to Maintain Product Temperature

Conveniently located and adequate refrigeration facility, hot food storage and display facilities, and effective insulated facilities, shall be provided to assure the maintenance of all potentially hazardous food at required temperatures during storage, preparation, display and service. Food and containers of food are so stored as to permit free circulation of air and in such a manner as to prevent contamination.

### A. Food Temperature Measuring Devices.

Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Item 3 of these regulations.

#### B. Temperature Measuring Devices.

1. 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 the simulated product temperature in the warmest part of a mechanical refrigerated unit and in the coolest part of a hot food storage unit.
2. Except as specified in ¶ 3 of this section, cold or hot holding equipment used for potentially hazardous 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.
3. Paragraph 2 of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type and use of the equipment, such as calorod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars, and then metal stem probe temperature measuring device must be used to check food temperature.
4. Temperature measuring devices shall be designed to be easily readable and located conspicuously.

#### **Accuracy**

#### C. Temperature Measuring Devices, Food.

1. 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.
2. Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to  $\pm 2^{\circ}\text{F}$  in the intended rate of use.
3. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

#### D. Temperature Measuring Devices, Ambient Air and Water.

1. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius or Fahrenheit shall be designed to be easily readable and accurate to  $\pm 1.5^{\circ}\text{C}$  in the intended range of use.
2. 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.
3. 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  $2^{\circ}\text{F}$  in the intended range of use.

#### E. Cleaning.

1. All temperature measuring devices must be cleaned, sanitized and allowed to dry before and after each use.
2. Temperature measuring devices may be sanitized using an approved sanitizer or alcohol before and after each use.

## **Item 6. Thawing Potentially Hazardous Food**

Except as specified in ¶ 4 of this section, potentially hazardous food shall be thawed:

1. Under refrigeration that maintains the food temperature at 41°F or less, or
2. Completely submerged under cold running water:
  - a. At a water temperature of 70°F or below,
  - b. With sufficient water velocity to agitate and float off loose particles in an overflow, and
  - c. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F, or
  - d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above 41°F, for more than 4 hours including:
    - I. The time the food is exposed to the cold running water and the time needed for preparation for cooking, or
    - II. The time it takes under refrigeration to lower the food temperature to 41°F,
3. As part of a cooking process if the food that is frozen is:
  - a. Cooked to specified temperatures and times as stated in Item 3 of these regulations.
  - b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or
4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order, and never goes above 41°F for more than 4 hours.
5. Non-potentially hazardous food (frozen vegetables) may be thawed at room temperature and immediately cooked.

## **Item 7. Unwrapped Foods\***

### **A. Returned Food and Reservice of Food.**

1. Except as specified in ¶ 2 of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.
2. A container of food that is not potentially hazardous may be transferred from one consumer to another, but this is not meant to exclude small containers of cream (8 oz. or less); if
  - a. The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce or wine; or
  - b. The food, such as crackers, salt or pepper, is in an unopened original package and is maintained in sound condition.
3. No foods should be transferred from one consumer to another if they are part of a highly susceptible population.

## **Item 8. Food Protected From Contamination During Storage, Preparation, Display, Service and Transportation**

### **A. Food Storage.**

1. Except as specified in ¶¶ 2 and 3 of this section, food shall be protected from contamination by storing the food:
  - a. In a clean, dry location:

- b. Where it is not exposed to splash, dust or other contamination; and
- c. At least 6 inches above the floor.

2. Food in packages and working containers may be stored less than 6 inches above the floor on case lot handling equipment such as dollies, forklifts and pallets.

3. Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture and leaves space so area can be checked for insects and rodents.

4. Food not subject to further washing or cooking before serving shall be stored in such a manner as to be protected against contamination from food requiring washing or cooking. Washed vegetables and ready-to-eat foods must be stored above raw foods.

5. In a clean, dry location. If wooden shelves are used, then they must be painted with an epoxy paint or equivalent.

6. Swollen or severely dented canned goods must be discarded or returned for credit.

#### B. Food Storage, Prohibited Areas.

Food may not be stored:

1. In locker rooms;
2. In toilet rooms;
3. In dressing rooms;
4. In garbage rooms;
5. In mechanical rooms;
6. Under sewer lines that are not shielded to intercept potential drips;
7. Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
8. Under open stairwells; or
9. Under other sources of contamination.

#### C. Vended Machine Operation.

##### 1. Potentially Hazardous Food, Original Container.

Potentially hazardous food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

##### 2. Vending Machine, Vending Stage Closure.

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

- a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
- b. Available for self-service during hours when it is not under the full-time supervision of a food employee.

### 3. Vending Machines, Automatic Shutoff.

- a. A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food:
  - I. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that can not maintain food temperatures as specified under Item 3; and
  - II. If a condition specified under ¶ 1, Subparagraph a of this section occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Item 3.
- b. When the automatic shutoff within a machine vending potentially hazardous food is activated:
  - I. In a refrigerated vending machine, the ambient temperature may not exceed 41°F or for more than 30 minutes immediately after the machine is filled, services, or restocked; or
  - II. In a hot holding vending machine, the ambient temperature may not be less than 135°F for more than 120 minutes immediately after the machine is filled, services or restocked.

### 4. Vending Machine Doors and Openings.

- a. Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch by:
  - I. Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch. Screening of 12 mesh to 1 inch meets this requirement;
  - II. Being effectively gasketed;
  - III. Having interface surfaces that are at least one-half inch wide; or
  - IV. Jambes or surfaces used to form an L-shaped entry path to the interface.
- b. Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps or grommets so that the openings are no larger than one-sixteenth inch.

### D. Food Preparation.

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

### E. 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.

### F. Condiments, Protection.

1. 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.
2. Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

### G. Consumer Self-Service Operations.

1. 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 consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish; ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or raw, frozen, shell-on shrimp or lobster.
2. 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. A clean, dry towel may be used to protect bread and rolls during self-service.
3. Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures, such as not adding of new food to old food and proper temperature monitoring.

#### H. Equipment Openings, Closures and Deflectors.

1. A cover or lid for equipment shall overlap the opening and be sloped to drain.
2. An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch.
3. Except as specified under ¶ 4 of this section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.
4. If a watertight joint is not provided:
  - a. The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips and dust from openings into the food; and
  - b. The opening shall be flanged as specified under ¶ 2 of this section.

#### I. Dispensing Equipment, Protection of Equipment and Food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. 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;
2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents and other contamination by a self-closing door if the equipment is:
  - a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents and other contaminants that are present in the environment; or
  - b. Available for self-service during hours when it is not under the full-time supervision of a food employee; and
4. 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.

#### J. Bearings and Gear Boxes, Leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip or be forced into food or onto food-contact surfaces.

K. Beverage Tubing, Separation.

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

L. Molluscan Shellfish Tanks.

1. Except as specified under ¶ 2 of this sections, molluscan shellfish life support system display tanks may not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

2. Molluscan shellfish life-support display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the regulatory authority and a HACCP plan that:

a. Is submitted by the licensee and approved by the regulatory authority,

b. Ensures that:

I. Water used with fish other than molluscan shellfish does not flow into the molluscan tank,

II. The safety and quality of the shellfish as they were received are not compromised by the use of the tank, and

III. The identity of the source of the shellstock is retained and tag retained for 90 days.

M. Case Lot Handling Equipment, Moveability.

Equipment, 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 equipment such as hand trucks and forklifts.

N. Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

1. A food that is unsafe, adulterated, or not honestly presented shall be reconditioned according to an approved procedure or discarded.

2. Food that is not from an approved source shall be discarded.

3. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded shall be discarded.

4. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

O. Pasteurized Foods, Prohibited Reservice, and Prohibited Food.

In a food establishment that serves a highly susceptible population:

1. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, may not be served or offered for sale;

2. Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of:

a. Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, egg nog, ice cream, and

b. Except as specified in ¶ 5 of this section, recipes in which more than one egg is broken and the eggs are combined;

3. Food in an unopened original package may not be re-served; and

4. The following foods may not be served or offered for sale in a ready-to-eat form:

- a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish and steak tartare,
  - b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue, and
  - c. Raw seed sprouts.
5. Paragraph 2, Subparagraph b. of this section does not apply if:
- a. The raw eggs are combined immediately before cooking for one consumers serving at a single meal, cooked thoroughly and served immediately, such as an omelet, soufflé or scrambled eggs;
  - b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin or bread; or
  - c. The preparation of the food is conducted under a HACCP plan that:
    - I. Identifies the food to be prepared,
    - II. Prohibits contacting ready-to-eat food with bare hands,
    - III. Includes specifications and practices that ensure:
      - i. Salmonella Enteritidis growth is controlled before and after cooking, and
      - ii. Salmonella Enteritidis is destroyed by cooking the eggs to the temperature of 145°F for at least 15 seconds,
    - IV. Contains the information 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.

## **Item 9. Handling of Food Minimized**

Self-Service: Convenient and suitable utensils, such as tissues, forks, knives, tongs, spoons, or scoops shall be used by the self-service customers.

### **A. Gloves, Use Limitation.**

1. If used, single-use gloves shall be used for only one task such as working with ready-to eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.
2. Except as specified in ¶ 3 of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked such as frozen food or a primal cut of meat.
3. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and non-absorbent outer surface; or if the slash resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.
4. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked such as frozen food or a primal cut of meat.
5. Except when washing fruits and vegetables, food employees should attempt to limit contact with exposed, ready-to-eat food with their bare hands.

## **Item 10. In-Use Dispensing Equipment**

### **A. Food Contact with Equipment and Utensils.**



Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized between each use.

**B. In-Use Utensils, Between-Use Storage.**

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

1. Except as specified under ¶ 2 of this section, in the food with their handles above the top of the food and the container;
2. In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour or cinnamon;
3. On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency of every 4 hours;
4. In cold running water of sufficient velocity to flush particles to drain, if used with moist food such as ice cream or mashed potatoes;
5. In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or
6. In a container of water if the water is maintained at a temperature of at least 135°F and the container is cleaned at a frequency of every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

**C. Linens and Napkins, Use Limitation.**

Linens and 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 customer.

## **5-206 Personnel**

### **Item 11. Personnel with Infections and Communicable Diseases Restricted\***

#### ***Disease or Medical Condition***

**A. Responsibility of the Person in Charge to Require Reporting By Food Employees and Applicants.**

The licensee shall require food employee applicants to whom a conditional offer of employment is made and food 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 applicant shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified under Paragraph 3 of this section, if the food employee or applicant:

1. Is diagnosed with an **illness** due to:
  - a. Salmonella Typhi,
  - b. Shigella spp.,
  - c. Shiga toxin-producing Escherichia coli, or
  - d. Hepatitis A virus;
2. Has a **symptom** caused by illness, infection, or other source that is:

- a. Associated with an acute gastrointestinal illness such as:
    - I. Diarrhea,
    - II. Fever,
    - III. Vomiting,
    - IV. Jaundice, or
    - V. Sore throat with fever, or
  - b. 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,
    - II. On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or
    - III. On other parts of the body, unless the lesion is covered by a dry durable, tight-fitting bandage;
3. Had a past illness from an infectious agent as follows:
- a. Salmonella Typhi within the past three months,
  - b. Shigella spp. within the past month,
  - c. Shiga toxin-producing Escherichia coli within the past month, or
  - d. Hepatitis A virus;
4. Meets one or more of the following high-risk conditions:
- a. Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by S. Typhi, Shigella spp., Shiga toxin-producing E. coli, or hepatitis A virus including an outbreak at an event such as a family meal, church supper, or festival because the food employee or applicant:
    - I. Prepared food implicated in the outbreak,
    - II. Consumed food implicated in the outbreak, or
    - III. Consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent,
  - b. Lives in the same household as, and has knowledge about, a person who is diagnosed with a disease cause by S. Typhi, Shigella spp., Shiga toxin-producing E. coli, or hepatitis A virus, or
  - c. Lives in the same household as, and has knowledge about, a person who attends or works in a setting where there is a confirmed disease outbreak cause by S. Typhi, Shigella spp., Shiga toxin-producing E. coli, or hepatitis A virus.

## B. Exclusions and Restrictions.

The person in charge shall:

- 1. Exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent specified under ¶ 1 of the previous section.
- 2. Except as specified under ¶ 3 or ¶ 4 of this section, restrict a food employee from working with exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles, in a food establishment if the food employee is:
  - a. Suffering from a symptom specified under ¶ 2 of the previous section, or
  - b. Not experiencing a symptom of acute gastroenteritis specified under ¶ 2, Subparagraph a of this section but has a stool that yields a specimen culture that is positive for Salmonella Typhi, Shigella spp., or Shiga toxin-producing Escherichia coli;
- 3. If the population served is a highly susceptible population, exclude a food employee who:
  - a. Is experiencing a symptom of acute gastrointestinal illness specified under ¶ 2, Subparagraph a. of this section and meets a high-risk condition specified under ¶ 4, Subparagraphs a. – c., in the previous section,

- b. Is not experiencing a symptom of acute gastroenteritis specified under ¶ 2, Subparagraph a of this section but has a stool that yields a specimen culture that is positive for *S. Typhi*, *Shigella* spp., or Shiga toxin-producing *E. coli*,
  - c. Had a past illness from *S. Typhi* within the last 3 months, or
  - d. Had a past illness from *Shigella* spp., or Shiga toxin-producing *E. coli* within the last month; and
4. For a food employee who is jaundiced:
- a. If the onset of jaundice occurred within the last 7 calendar days, exclude the food employee from the food establishment, or
  - b. If the onset of jaundice occurred more than 7 calendar days before:
    - I. Exclude the food employee from a food establishment that serves a highly susceptible population, or
    - II. Restrict the food employee from activities handling food, if the food establishment does not serve a highly susceptible population.

### C. Removal of Exclusions and Restrictions.

1. The person in charge may remove an exclusion specified under Section B, ¶ 1 if:
  - a. The person in charge obtains approval from the regulatory authority; and
  - b. The person excluded as specified under Section B, ¶ 1 provides to the person in charge written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, that specifies that the excluded person may work in an unrestricted capacity in a food establishment, including an establishment that serves a highly susceptible population, because the person is free of the infectious agent of concern.
2. The person in charge may remove a restriction if the restricted person:
  - a. Is free of the symptoms specified under Section A, ¶ 2 and no foodborne illness occurs that may have been caused by the restricted person,
  - b. Is suspected of causing foodborne illness but:
    - I. Is free of the symptoms specified under Section A, ¶ 2 and
    - II. Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the restricted person is free of the infectious agent that is suspected of causing the person's symptoms or causing foodborne illness;
  - c. Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or
  - d. If the restricted person provides written medical documentation from a physician, licensed to practice medicine, or, if allowed by law, a nurse practitioner or physician assistant, according to the criteria, that indicates the stools are free of *Salmonella Typhi*, *Shigella* spp., or Shiga toxin-producing *E. coli*, whichever is the infectious agent of concern.
3. The person in charge may remove an exclusion specified under Section B, ¶ 3 if the excluded person provides written medical documentation from a physician licensed to practice medicine, or, if allowed by law, a nurse practitioner or physician assistant:
  - a. That specifies that the person is free of:
    - I. The infectious agent of concern;
    - II. Jaundice if Hepatitis A virus is the infectious agent of concern; or
    - III. If the person is excluded stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.
4. The person in charge may remove the exclusion or the restriction and reinstate the employee if:
  - a. No foodborne illness occurs that may have been caused by the excluded or restricted person and the person provides written medical documentation from a physician licensed

to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, that specifies that the person is free of Hepatitis A virus; or

b. The excluded or restricted person is suspected of causing foodborne illness and complies with these requirements:

I. Symptoms cease; or

II. A blood test shows falling liver enzymes.

D. Responsibility of a Food Employee or an Applicant to Report to the Person in Charge.

A food employee or a person who applies for a job as a food employee must:

1. Report any illness, symptom as described in Section A, ¶ 2, wounds or other conditions that might cause any type of foodborne illness if they were to be involved in food preparation; and

2. Comply with any exclusions or restrictions that the person in charge may require.

E. Reporting by the Person in Charge.

The person in Charge shall notify the regulatory authority that a food employee is diagnosed with an illness due to, Salmonella Typhi, Shigella sap., Shiga toxin-producing Escherichia coli, or Hepatitis A virus.

## Item 12. Acceptable Hygienic Practices\*

### *Hands and Arms*

A. Clean Condition.

Food employees shall keep their hands and exposed portions of their arms clean.

B. Cleaning Procedure.

1. Except as specified in ¶ 4 of this section, food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a lavatory that is equipped with a mixing faucet with hot and cold water at 100°F by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers and use a nailbrush.

2. A single faucet with water tempered to 100°F may be used in lieu of a mixing faucet.

3. Hands must be dried with disposable paper towels or an air dryer.

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.

C. When to Wash.

Food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils and unwrapped single-service and single-use articles and:

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

2. After using the toilet room;

3. After caring for or handling service animals or aquatic animals;

4. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;

5. After handling soiled equipment or utensils;
6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
7. When switching between working with raw food and working with ready-to-eat food;
8. After engaging in other activities that contaminate the hands such as use of the telephone or handling money; and
9. When entering the kitchen, or food preparation area after any absence.

#### D. Where To Wash.

Food employees shall clean their hands in a handwashing lavatory or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

#### E. Hand Sanitizers.

1. A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:
  - a. Comply with one of the following:
    - I. Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness; or
    - II. Have active antimicrobial ingredients that are listed in:
      - i. The FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, or
      - ii. The NSF International List of Nonfood Compounds.; and
  - b. Comply with one of the following:
    - I. Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 CFR 170.39-Threshold of regulation for substances used in food-contact articles; or
    - II. Comply with and be listed in:
      - i. 21 CFR 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use, or
      - ii. 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe; or 21 CFR 186- Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and
  - c. Be applied only to hands that have been washed and are clean.
2. If a hand sanitizer or a chemical hand sanitizing solution used as a hand dip does not meet the criteria specified under Subparagraph a. of this section, use shall be:
  - a. Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or
  - b. Limited to situations that involve no direct contact with food by the bare hands.
3. A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

### ***Fingernails***

#### F. Maintenance.

1. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

2. Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

### ***Jewelry***

#### **G. Prohibition.**

While preparing food, food employees may not wear jewelry on their arms and hands. This section does not apply to a plain ring such as a wedding band, as long as one washes under it.

### ***Food Contamination Prevention***

#### **H. Eating, Drinking or Using Tobacco.**

1. Except as specified in ¶ 2 of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils and linens; unwrapped single-service and single-use articles; or other items needing protection can not result.
2. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:
  - a. The employee's hands;
  - b. The container; and
  - c. Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

#### **I. 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.

### ***Animals***

#### **J. Handling Prohibition.**

1. Except as specified in ¶ 2 of this section, food employees may not care for or handle animals that may be present such as service animals for sight or hearing impaired persons.
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 crustaceae in display tanks if they wash their hands according to these regulations.

## **Item 13. Uniforms, Bib-Type Aprons, Effective Hair Restraints**

### ***Outer Clothing***

#### **A. Clean Condition.**

1. Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.
2. All food service employees who primarily work in the kitchen, or food preparation area shall wear clean uniforms or clean bib-type aprons.

### ***Hair Restraints***

#### **B. Effectiveness.**

1. Except as provided in ¶ 2 of this section, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

2. This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles.

## **5-207 Food Equipment and Utensils**

### **Item 14. Food Contact Surfaces**

#### ***Multiuse***

##### **A. Characteristics.**

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

1. Safe;
2. Durable, corrosion-resistant, and nonabsorbent;
3. Sufficient in weight and thickness to withstand repeated warewashing;
4. Finished to have a smooth, easily cleanable surface; and
5. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

##### **B. Cast Iron, Use Limitation.**

1. Except as specified in ¶¶ 2 and 3 of this section, cast iron may not be used for utensils or food-contact surfaces of equipment.
2. Cast iron may be used as a surface for cooking.
3. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

##### **C. Lead in Ceramic, China, and Crystal Utensils, Use Limitation.**

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

| Utensil Category  | Description                                    | Maximum Lead ppm mg/L |
|-------------------|--|-----------------------|
| Hot Beverage Mugs | Coffee Mugs                                    | 0.5                   |
| Large Hollowware  | Bowls greater than or equal to 1.1 L (1.16 QT) | 1                     |
| Small Hollowware  | Bowls < 1.1 L (1.16 QT)                        | 2.0                   |
| Flat Utensils     | Plates, Saucers                                | 3.0                   |

#### D. Copper, Use Limitation.

1. Except as specified in ¶ 2 of this section, copper and copper alloys such as brass may not be used in contact with a food that has 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.
2. 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.

#### E. 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.

#### F. Sponges, Use Limitation.

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

#### G. Lead in Pewter Alloys, Use Limitation.

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

#### H. Lead in Solder and Flux, Use Limitation.

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

#### I. Wood, Use Limitation.

1. Except as specified in ¶¶ 2, 3 and 4 of this section, wood and wood wicker may not be used as a food-contact surface.
2. Hard maple or an equivalently hard, close-grained wood shall be used for:
  - a. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls and reusable chopsticks; and
  - b. Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F or above.
3. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.
4. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:
  - a. Untreated wood containers; or
  - b. Treated wood containers if the containers are treated with a preservative that meets the requirements and all regulatory standards for contact with food.
5. 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.

#### J. 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.

### ***Durability and Strength***

#### K. Equipment and Utensils.



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

L. Food Temperature Measuring Devices.

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

**Cleanability**

M. Food-Contact Surfaces.

1. Multiuse food-contact surfaces shall be:

- a. Smooth;
- b. Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;
- c. Free of sharp internal angles, corners, and crevices;
- d. Finished to have smooth welds and joints; and
- e. Except as specified in ¶ 2 of this section, accessible for cleaning and inspection by one of the following methods:
  - I. Without being disassembled,
  - II. By disassembling without the use of tools, or
  - III. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches and Allen wrenches.

2. Paragraph 1, Subparagraph e. of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

N. Food-Contact Surfaces, Maintenance.

Food-contact surfaces that have become cracked, chipped, pitted, or badly worn must be discarded when they can no longer be properly washed, rinsed and sanitized.

O. Food-Contact Surfaces, Installation and Location.

All food-contact surface equipment shall be so installed and located that it and the floor and wall surfaces adjacent to it can be cleaned.

P. CIP Equipment.

1. CIP equipment shall meet all regulatory standards for cleanability and shall be designed and constructed so that:

- a. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, and
- b. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

2. 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.

Q. "V" Threads, Use Limitation.

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

R. Hot Oil Filtering Equipment.

Hot oil filtering equipment shall meet the characteristics regulatory standards and shall be readily accessible for filter replacement and cleaning of the filter.

S. Can Openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement. They shall also be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

T. Ice Units, Separation of Drains.

Liquid waste drain lines may not pass through or over an ice machine or ice storage bin.

U. 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.

V. 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.

W. Vending Machines, Liquid Waste Products.

1. Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

2. Vending machines that dispense liquid food in bulk shall be:

a. Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

b. Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

3. Shutoff devices specified under ¶ 2, Subparagraph b. of this section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

X. Bearings and Gear Boxes, Leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food-contact surfaces.

## **Item 15. Non-Food-Contact Surfaces, Design, Construction, Maintenance, Installation and Location**

Surfaces of equipment not intended for contact with food, but which are exposed to splash, food debris, or otherwise require frequent cleaning, shall be smooth; washable; free of unnecessary ledges, projections, or crevices; readily accessible for cleaning; and of such material and in such repair as to be easily cleanable.

A. Fixed Equipment, Spacing or Sealing.

1. Equipment that is fixed because it is not easily movable shall be installed so that it is:

a. Spaced to allow access for cleaning along the sides, behind, and above the equipment;

b. Spaced from adjoining equipment, walls, and ceilings a distance of not more than one thirty-second inch; or

c. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

2. Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

- a. Sealed to the table; or
- b. Elevated on legs as stated in section B, ¶ 4.

## B. Fixed Equipment, Elevation or Sealing.

1. Except as specified in ¶¶ 2 and 3 of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least 6 inch clearance between the floor and the equipment.
2. If no part of the floor under the floor-mounted equipment is more than 6 inches from the point of cleaning access, the clearance space may be only 4 inches.
3. This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.
4. Except as specified in ¶ 5 of this section, table-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 4 inch clearance between the table and the equipment.
5. The clearance space between the table and table-mounted equipment may be:
  - a. Three (3) inches if the horizontal distance of the table top under the equipment is 20 inches from the point of access for cleaning; or
  - b. Two (2) inches if the horizontal distance of the table top under the equipment is no more three (3) inches from the point of access for cleaning.
6. Equipment shall be maintained in a state of repair and condition that meets the requirements specified under all parts of these regulations.
7. Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.
8. Microwave ovens shall meet the safety and construction standards of the regulatory authority.
9. Equipment for cooling and heating food, and handling cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified in Item 3.

## **Item 16. Dishwashing Facilities Design, Size, Construction, Maintenance, Installation, Location, Operation**

### A. Manual Warewashing, Sink Compartment Requirements.

1. A sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. Prior to the date of adoption of this regulation, existing two (2) compartment units shall be permitted until which time renovations or new construction is made, or within sixty (60) days of an establishment's change of owner.
2. Sink compartments shall be large enough to accommodate immersion of at least ½ of the surface of the largest piece of equipment and/or utensil. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in ¶ 3 of this section shall be used.
3. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:
  - a. High-pressure detergent sprayers;
  - b. Low-or line-pressure spray detergent foamers;
  - c. Other task specific cleaning equipment;
  - d. Brushes or other implements;
  - e. Receptacles that substitute for the compartments of a multi-compartment sink.

4. The nature of warewashing shall be limited to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another, or cleanup at the end of a shift, and;
  - a. The number of items to be cleaned shall be limited;
  - b. The cleaning and sanitizing solutions shall be made up immediately before use and drained immediately after use.

**B. Drainboards.**

1. 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.
2. Sinks and drainboards of warewashing sinks and machines shall be self-draining.

**C. 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 shall be cleaned:

1. Before use;
2. Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function;
3. If used, at least every 24 hours; and
4. If washing foods, at least every 4 hours of operation.

**D. Warewashing Machine, Data Plate Operating Specifications.**

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. Temperatures required for washing, rinsing and sanitizing;
2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.

**E. 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.

**F. Warewashing Machines, Manufacturers' Operating Instructions.**

1. A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.
2. A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

**G. Warewashing Machines, Sanitizer Level Indicator.**

A warewashing machine that uses a chemical for sanitization shall be equipped with a device that indicates audibly or visually when more chemical sanitizer needs to be added.

#### H. Warewashing Sinks, Use Limitation.

1. A warewashing sink may not be used for handwashing.
2. If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned 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 before and after using the sink to wash produce or thaw food.

#### I. Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device that is capable of maintaining water at a temperature not less than 170°F; and
2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

### **Item 17. Thermometers, Chemical Kits and Pressure Gauges Provided**

#### A. Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank; and
2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

#### B. Temperature Measuring Devices, Manual Warewashing.

In manual warewashing operations, where hot water alone is used for sanitizing, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

#### C. Temperature Measuring Devices, Water.

1. 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  $\pm 1^{\circ}\text{C}$  or  $2^{\circ}\text{F}$  in the intended range of use.
2. Water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to  $\pm 2^{\circ}\text{F}$  in the intended range of use.

#### D. 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 1 pound per square inch or smaller and shall be accurate to  $\pm 2$  pounds per square inch in the 15-25 pounds per square inch range.

#### E. Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in mg/L (ppm) of sanitizing solutions shall be used to monitor and maintain sanitizer solution concentrations.

## **Item 18. Single-Service Articles Stored and Dispensed**

### **A. Characteristics.**

Materials that are used to make single-service and single-use articles may not allow the migration of deleterious substances, or impart colors, odors, or tastes to food, and shall be safe, and clean.

### **B. Single-Service and Single-Use Articles, Required Use.**

A food establishment temporarily without facilities for cleaning and sanitizing kitchenware as specified in the warewashing portions of these regulations, shall provide only single-use kitchenware, single-service and single-use articles for use by food employees and single-service articles for use by consumers.

### **C. Single-Service and Single-Use Articles, Handling.**

1. Single-service and single-use articles shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.
2. 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.

### **D. Single-Service and Single-Use Articles, Storage.**

1. Except as specified in ¶ 3 of this section, single-service and single-use articles shall be stored:
  - a. In a clean, dry location;
  - b. Where they are not exposed to splash, dust, or other contamination; and
  - c. At least six (6) inches above the floor.
2. Single-service and single-use articles shall be stored as specified under ¶ 1 of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.
3. Items that are kept in closed packages may be stored less than six (6) inches above the floor on dollies, pallets, racks, and skids that are designed for such use.

### **E. Prohibitions.**

Single-service and single-use articles may not be stored:

1. In locker rooms;
2. In toilet rooms;
3. In garbage rooms;
4. In mechanical rooms;
5. Under sewer lines that are not shielded to intercept potential drips;
6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
7. Under open stairwells; or
8. Under other sources of contamination.

## **Item 19. No Re-Use of Single-Service Items**

### **A. Single-Service and Single-Use Articles, Use Limitation.**

1. Single-service and single-use articles may not be reused.
2. The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.
3. Single-use containers such as cans and ornate containers that cannot be properly cleaned shall not be reused.

**B. Shells, Use Limitation.**

Mollusk and crustacea shells may not be used more than once as serving containers.

## **5-208 Food Equipment and Utensils - Cleanliness**

### **Item 20. Dry Cleaning and Precleaning**

**A. Dry Cleaning.**

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

**B. Precleaning.**

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

### **Item 21. Warewashing and Rinsing**

**A. Warewashing Equipment, Clean Solutions.**

The wash, rinse, and sanitizing solutions shall be maintained clean.

**B. Manual Warewashing Equipment, Wash Solution Temperature.**

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F or the temperature specified on the cleaning agent manufacturer's label instructions.

**C. Warewashing Equipment, Cleaning Agents.**

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle or alternative manual warewashing equipment 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.

**D. Mechanical Warewashing Equipment, Wash Solution Temperature.**

1. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:
  - a. For a stationary rack, single temperature machine, 165°F;
  - b. For a stationary rack, dual temperature machine, 150°F;
  - c. For a single tank, conveyor, dual temperature machine, 160°F;

- d. For a multitank, conveyor, multitemperature machine, 150°F; or
  - e. At a temperature recommended by the manufacturer's instructions.
2. The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 120°F, or at temperatures recommended by the manufacturer.
  3. At all other times the mechanical wash temperature of hot water machines shall be at a minimum of 140°F.

**Item 22. Sanitization Rinse\***

**A. Manual Warewashing Equipment, Hot Water Sanitization Temperatures.**

1. In a manual dishwashing setup the second sink must have clean rinse water at a minimum of 110°F.
2. If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 170°F or above.

**B. Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.**

1. In mechanical dishwashers that have a wash, rinse and sanitize cycle, the rinse temperature must be at least 160°F.
2. Except as specified in ¶ 3 of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 194°F, or less than:
  - a. For a stationary rack, single temperature machine, 165°F at the dish level; or
  - b. For all other machines, 180°F in the manifold and 170°F at the dish level.
3. The maximum temperature specified under ¶ 2 of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws, etc.

**C. Mechanical Warewashing Equipment, Sanitization Pressure.**

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.

**D. Manual and Mechanical Warewashing Equipment, Chemical Sanitization – Temperature, pH, Concentration and Hardness.**

1. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times of 30 seconds at a sanitizing strength as follows:
  - a. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

| Minimum Concentration | Minimum Temperature     |                        |
|-----------------------|-------------------------|------------------------|
|                       | pH 10 or less<br>°C(°F) | pH 8 or less<br>°C(°F) |
| 50                    | 38 (100)                | 24 (75)                |
| 100                   | 13 (55)                 | 13 (55)                |

- b. An iodine solution shall have a:
  - I. Minimum temperature of 75°F,



- II. pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, and
  - III. Concentration between 12.5 mg/L (ppm) and 25 mg/L (ppm);
- c. A quaternary ammonium compound solution shall:
- I. Have a minimum temperature of 75°F,
  - II. Have a concentration of 200 mg/L (ppm) produced following manufacturers labeling directions, and
  - III. Be used only in water with 500 mg/L (ppm) hardness or less or in water having a hardness no greater than specified by the manufacturer's label;
- d. If another solution of a chemical specified under ¶¶ a. – c. of this section is used, the permit holder shall demonstrate to the Health Department that the solution achieves sanitization and the use of the solution shall be approved; or
- e. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the manufacturer's use directions included in the labeling.
2. Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device. A log should be kept of these concentrations.
3. 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.

## **Item 23. Wiping Cloths, Use Limitation**

### **A. Wiping Cloths, Clean, Use Restricted.**

1. Cloths that are in use for wiping food spills shall be used for no other purpose.
2. Cloths used for wiping food spills shall be:
  - a. Dry and used for wiping food spills from tableware and carry-out containers; or
  - b. Wet and cleaned wiping cloths shall be stored in a chemical sanitizer at a concentration of 50 ppm of chlorine, 12.5 ppm of iodine, or 200 ppm of quaternary ammonium compound and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.
3. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and wet cloths used with raw animal foods shall be kept in a separate sanitizing solution.
4. Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.
5. Soiled, wet wiping cloths shall be laundered daily.
6. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.
7. Equipment and utensils may not be cloth dried. Utensils that have been air-dried, however, may be polished with cloths that are maintained clean and dry and used for no other purpose.

### **B. Wiping Cloths, Air-Drying Locations.**

1. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer 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.

2. Wiping cloths used on tables shall be kept separate from cloths used to wipe chairs, benches or other non-food contact areas.
3. Sponges shall be prohibited from use on food contact surfaces.

## Item 24. Cleaning Food-Contact Surfaces of Equipment and Utensils

### A. Cleaning Objectives and Frequency.

1. Equipment food-contact surfaces, utensils and tableware shall be clean to sight and touch.
2. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.
3. Equipment food-contact surfaces and utensils shall be cleaned:
  - a. Except as specified in this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry;
  - b. Each time there is a change from working with raw foods to working with ready-to-eat foods;
  - c. Between uses with raw fruits and vegetables and with potentially hazardous food;
  - d. Before using or storing a food temperature measuring device; and
  - e. At any time during the operation when contamination may have occurred.
4. Except as specified in ¶ 5 of this section, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours.
5. Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned less frequently than every four (4) hours if:
  - a. In storage, containers of potentially hazardous food and their contents are maintained at temperatures specified in Item 3 of these regulations, and the containers are cleaned when empty;
  - b. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the chart below; and
    - I. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature:

| Temperature  | Cleaning Frequency |
|--------------|--------------------|
| 41°F or less | 24 hours           |
| >41°F - 45°F | 20 hours           |
| >45°F - 50°F | 16 hours           |
| >50°F - 55°F | 10 hours           |

; and

II. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment, and records kept on file.

- c. Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified under Item 3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;
- d. Temperature measuring devices that 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

Item 3 of these regulations, must be cleaned at least every 24 hours or at any time between food uses. Alternatively, refrigerated cases can be equipped with approved product mimicking sensors placed in devices located in the warmest part of the mechanically refrigerated unit in lieu of an ambient air sensor;

e. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator, and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

f. The cleaning schedule is approved based on consideration of:

- I. Characteristics of the equipment and its use,
- II. The type of food involved,
- III. The amount of food residue accumulation, and
- IV. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

g. In-use utensils are intermittently stored in a container of water in which the water is maintained 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.

6. Except when dry cleaning methods are used as specified in these regulations, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:

- a. At any time when contamination may have occurred;
- b. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops or ladles;
- c. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
- d. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment;
  - I. At a frequency specified by the manufacturer, or
  - II. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold, and never longer than 6 days.

## B. Cooking and Baking Equipment.

1. The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours.
2. The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

## C. Dry Cleaning of Food Contact Surfaces.

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

## D. Wet Cleaning.

1. 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.
2. The washing procedures selected shall be based on the type and purpose of the equipment or utensils and on the type of soil to be removed.

#### E. Food-Contact Surfaces and Utensils, Sanitization.

1. Equipment food-contact surfaces and utensils shall be sanitized.
2. Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning, by one of the methods mentioned in Item 22 of these regulations.
3. All tableware must be washed, rinsed, and sanitized after each use.

#### F. Food-Contact Surfaces.

Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces. Only approved USDA and/or NSF food grade lubricants shall be used.

#### G. Equipment.

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

#### H. Equipment and Utensils, Air-Drying Required.

After cleaning and sanitizing, equipment and utensils:

1. Shall be air-dried or used after adequate draining of sanitizing solutions, before contact with food; and
2. May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry, and used for no other purpose.

### **Item 25. Cleaning of Nonfood-Contact Surfaces**

1. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.
2. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.
3. All nonfood-contact surfaces of equipment and fixtures must be washed and rinsed, and kept clean.

### **Item 26. Storage of Clean Equipment and Utensils**

#### A. General.

1. Cleaned equipment (including portable equipment) and utensils shall be stored:
  - a. In a clean, dry location;
  - b. Where they are not exposed to splash, dust, or other contamination; and
  - c. At least six (6) inches above the floor.
2. Clean equipment and utensils shall be stored:
  - a. In a self-draining position that allows air drying; and
  - b. Covered or inverted.
3. Cleaned and sanitized equipment, utensils, and portable equipment may not be stored:
  - a. In locker rooms;
  - b. In toilet rooms;
  - c. In garbage rooms;
  - d. In mechanical rooms;
  - e. Under sewer lines that are not shielded to intercept potential drips;
  - f. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

- g. Under open stairwells; or
- h. Under other sources of contamination or in hard to clean areas.

### **Handling**

#### **B. Kitchenware and Tableware.**

1. Cleaned and sanitized utensils shall be handled, dispensed, and displayed so that contamination of food- and lip-contact surfaces is prevented.
2. Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

#### **C. Soiled and Clean Tableware.**

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

#### **D. Preset Tableware.**

If tableware is preset:

1. It shall be protected from contamination by being wrapped, covered, or inverted;
2. Exposed, unused settings shall be removed when a consumer is seated; or
3. Exposed, unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.

## **5-209 Water System**

### **Item 27. Water Supply\***

#### **A. System Flushing and Disinfection.**

A potable 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; and at anytime routine sampling shows a positive for coliform or E. coli organisms.

#### **B. Approved System.**

Potable water shall be obtained from an approved source that is:

1. A public water system (community or non-community) which meets the Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply Rule; or
2. A non-public system (less than 25 people) which must be constructed according to the Department of Environmental Conservation, Environmental Protection Rules and be monitored by the Department of Health.

#### **C. Bottled Drinking Water.**

Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129 Processing and Bottling of Bottled

Drinking Water and with Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply Rule for bottled water.

D. Standards.

1. Water from a public water system shall meet state drinking water quality standards; and
2. Water from a nonpublic system shall meet state drinking water quality standards for small water systems.

E. Non-potable Water.

1. A non-potable water supply shall be used only if its use is approved by the Department of Health and is completely separate from potable systems and identified by signs, color coding, etc. so it will not be mistaken for potable water.
2. Non-potable water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, fire protection, and irrigation.
3. Non-potable water may be used for flushing toilets or other uses which do not require potable water.

F. Sampling.

Public water systems must sample according to Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply Rule. Water from a nonpublic water system shall be sampled and tested at least annually and as required by state water quality regulations. All water samples must be processed in state approved laboratories and collected by persons approved by the Department of Health.

G. Sample Report.

The most recent sample report for the nonpublic water system shall be retained on file in the food establishment and/or the report shall be maintained as specified by state water quality regulations.

***Quantity and Availability***

H. Capacity.

1. The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment.
2. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

I. Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water. However, water supplied to a mobile unit or temporary food establishment need not be under pressure, but must flow to the sinks through a mixing faucet by pressure or gravity.

***Distribution Delivery and Retention***

J. System.

Water shall be received from the source through the use of:

1. An approved public water main; or
2. One or more of the following that shall be constructed, maintained, and operated according to law:
  - a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,
  - b. Water transport vehicles, and
  - c. Water containers.

K. Alternative Water Supply.

Water meeting the requirements of the Vermont Safe Drinking Water Rules shall be made available for a mobile facility or for a temporary food establishment without a permanent water supply through:

1. A supply of containers of commercially bottled drinking water;
2. One or more closed portable water containers;
3. An enclosed vehicular water tank;
4. An on-premises water storage tank; or
5. Piping, tubing, or hoses connected to an adjacent approved source.

L. Private Individual Water Systems (those not meeting the definition of a public water supply).

1. Well pits and cellars are not acceptable locations for water wells. However, those that exist and provide water that meets the drinking water quality requirements of the Department of Health may remain in use until shown to be contaminated.
2. Existing facilities shall meet present construction standards insofar as it is practicable, but in every case, the system shall be protected against contamination.
3. All food service establishments utilizing surface water sources must insure that the water receives a minimum of coagulation, filtration, and disinfection, or the considered equivalent.
4. Bacteriological water quality:
  - a. A count of zero coliform organisms per 100 ml of water is the water quality standard for all facilities covered by these regulations, and is the level at which water is considered safe to drink.
  - b. Whenever coliform counts indicate that water is unsafe to drink, the facility will be advised to boil water and the coliform count will be confirmed by taking two water samples. Only where both samples have counts of less than one will the water be considered safe to drink.
  - c. Where confirmed coliform counts indicate that water is unsafe to drink, the facility will be required to:
    - I. Boil all water used for drinking or for washing of fruits, vegetables, and other foods to be eaten raw, and
    - II. Identify and eliminate the source of contamination within 60 days of notice from the Department of Health. All repairs or construction performed on a water system shall be done in accordance with the rules of the Department of Health, or the Department of Environmental Conservation.
    - III. Utilize an alternative approved water source until the unsafe water system contamination is corrected and eliminated.
  - d. The source of contamination will be considered eliminated when two water samples taken on the same day have no coliform present.

- e. If the source of contamination has not been eliminated within 60 days of notice from the Department, the facility's license will be suspended.

## **5-210 Sewage Disposal**

### **Item 28. Sewage System and Disposal\***

#### A. Approved Sewage Disposal System.

Sewage shall be disposed through an approved facility that is:

1. A public sewage treatment plant; or
2. An individual sewage disposal system that is sized, constructed, maintained, and operated according to the Rules & Regulations of the Agency of Natural Resources, Department of Environmental Conservation, Division of Wastewater Management.

#### B. Other Liquid Wastes and Rainwater.

1. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to the Agency of Natural Resources, Department of Environmental Conservation, Environmental Protection Rules – Chapter 1.
2. Existing systems shall meet the requirements of the Agency of Natural Resources, Department of Environmental Conservation, Environmental Protection Rules – Chapter 1 insofar as is practicable, but in no case shall a public health hazard be permitted to exist.
3. Each subsurface sewage treatment disposal system shall be operated so that sewage does not back-up into the establishment or flow to the ground surface.

#### C. Non-Water-Carried Sewage.

1. Non-water-carried sewage disposal facilities shall not be used, except where specifically permitted by the Department of Health.
2. Under such conditions, only facilities which have been approved by the Department of Health shall be used.
3. The privy or chemical toilet shall be maintained in a sanitary condition.

## **5-211 Plumbing**

### **Item 29. Plumbing - Properly Installed, Maintained**

#### A. General.

All plumbing installed in new buildings, or renewed and/or repaired in existing buildings, shall conform to the plumbing rules of the state of Vermont as enforced by the Department of Labor & Industry and the codes adopted therein.

#### B. Arrangement.

1. All plumbing shall be adequately sized and sloped, and there shall be no exposed pipes directly over food preparation or food storage areas.
2. Drain lines from equipment shall not, as a regular practice, discharge waste water in such a manner as will permit:



- a. The flooding of floors;
- b. The flowing of water across working or walking areas;
- c. Into difficult-to-clean areas; or
- d. Otherwise create a nuisance.

C. Water Reservoir of Fogging Devices, Cleaning.

1. A reservoir that is used to supply water to a device such as a produce fogger shall be:
  - a. Maintained in accordance with manufacturer's specifications; and
  - b. Cleaned in accordance with manufacturer's specifications or according to the procedures specified under ¶ 2 of this section, whichever is more stringent.
2. Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
  - a. Draining and complete disassembly of the water and aerosol contact parts;
  - b. Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
  - c. Flushing the complete system with water to remove the detergent solution, and particulate accumulation; and
  - d. Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/l hypochlorite solution.

D. Establishment Drainage System.

Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed with approved materials according to state of Vermont plumbing rules.

E. 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 state of Vermont plumbing rules.

F. Grease Trap.

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

G. System Maintained in Good Repair.

A plumbing system shall be:

1. Repaired according to state of Vermont plumbing rules; and
2. Maintained in good repair.

**Item 30. Plumbing - No Cross-Connection, Backflow or Back Siphonage\***

A. 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 bib by:

1. Providing an air gap as specified under ¶ B of this Item; or
2. Installing an approved backflow prevention device as specified under ¶ C of this Item.

B. 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 one (1) inch.

C. 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.

D. Backflow Prevention Device.

Backflow prevention devices must be installed on all carbonation equipment and must meet the standards of the A.S.S.E.

E. Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

F. 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.

G. 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.

H. Non-Potable Water System.

A non-potable water system is permitted to serve water closets, urinals, air conditioning units, fire prevention systems or hot water heating systems as long as there is no physical or direct connection to the potable water supply, and the non-potable pipes are painted yellow.

I. Establishment Drainage System.

Food establishment drainage systems, including grease traps, that convey sewage shall be designed, installed, constructed, and repaired with approved materials according to all laws and regulations.

J. Backflow Prevention.

1. Except as specified in ¶ 4 of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment or utensils are placed, or from where food is made or processed.

2. The waste line connecting to the sewer must be at least one pipe size larger than the pipe coming from the fixture that is air gapped.

3. If the discharge pipe is not one size larger as specified in ¶ 2 of this section, the discharge pipe shall have a restricter device which slows down the discharge.
4. A warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five (5) feet of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

## **5-212 Toilet and Handwashing Facilities**

### **Item 31. Toilet and Handwashing Facilities – Fixture Requirements\***

#### **A. Toilet Rooms.**

Food service establishments shall provide toilet rooms accessible to the most commonly used dining area. Non-water-carried toilet facilities (privies or chemical toilets) may be permitted in lieu of wet toilets as remote, emergency, or temporary facilities.

##### **1. Toilets required:**

###### **a. Patrons**

Establishments shall maintain adequate handwash sinks and toilets as determined by the Department of Health. An establishment with a seating capacity (or equivalent) of up to and including 25 persons shall provide at least one toilet room that includes one (1) toilet and one (1) handwash sink. Establishments with seating capacity of 26 or greater shall provide a minimum of two (2) separate toilet rooms with each room equipped with at least one (1) toilet and one (1) handwash sink.

###### **b. Employees**

If the employees' toilet facilities are to be included with the patrons' toilet(s), the number of fixtures required shall be based on the number obtained when adding together the patron seating capacity and the maximum number of employees on duty at any one time.

2. When separate employee toilet rooms are provided, the number of fixtures shall be in accord with the requirements of the Vermont Occupational Safety and Health Act (V.O.S.H.A.).

##### **3. Toilets and Urinals:**

At least one toilet and not fewer than the number of toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified by law.

#### **B. Handwashing Facilities, Location.**

##### **1. A handwashing facility shall be located:**

- a. Close and conveniently located to any area where food is prepared, dispensed or washed.
- b. In, or immediately adjacent to, toilet rooms.

#### **C. Handwashing Facilities, Installation.**

1. A handwashing lavatory shall be equipped to provide water at a temperature of at least 100°F through a mixing valve or combination faucet.
2. A steam mixing valve may not be used at a handwashing lavatory.

3. 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.
4. An automatic handwashing facility shall be installed in accordance with manufacturer's instructions, only after it has been deemed effective and approved by the Department of Health.

D. Handwashing Facilities, Operation and Maintenance.

1. A handwashing facility shall be maintained so that it is accessible for employee use at all times.
2. A handwashing facility may not be used for purposes other than handwashing.
3. An automatic handwashing facility, if approved, shall be maintained and used in accordance with manufacturer's instructions.

E. Facilities, Service Sink.

Establishments constructed after December 1, 2003 shall have at least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain; it shall be conveniently located for the cleaning of mops or similar wet floor cleaning tools, and for the disposal of mop water and/or similar liquid waste.

### **Item 32. Toilet Rooms and Handwashing Facilities – Miscellaneous**

A. Vestibules.

Vestibules, if any, and toilet rooms shall be kept clean and be equipped with self-closing, tight-fitting doors.

B. Hot and Cold Water – Temperature.

1. Each handwash sink shall be provided with hot water of at least 100°F in temperature when mixed together with cold water.
2. Tempered water at 100°F may be provided in lieu of hot and cold water.
3. A mixing valve or combination faucet is required in all installations, unless tempered water is being used.
4. Steam mixing valves are prohibited.

C. Cleaning Materials.

1. A supply of hand-cleaning soap or hand detergent shall be available at each hand wash sink.
2. A supply of sanitary single-use paper towels, or an air hand-drying device, shall be available and conveniently located near the hand wash sink.
3. Common-use towels are prohibited.
4. Where disposable towels are used, waste receptacles shall be located conveniently near the hand-washing facilities.
5. Hand wash sinks, soap dispensers, hand-drying devices, and all other components of the hand-washing facilities shall be kept clean and in good repair.

6. Ladies restrooms must be supplied with covered receptacles convenient and accessible to each toilet fixture.

D. Toilet Facilities, Maintenance.

1. Toilet facilities, including the toilet room and fixtures, shall be kept clean and in good repair.
2. A supply of toilet tissue shall be provided at each toilet at all times.
3. Waste receptacles shall be emptied at least once a day, and more frequently when necessary to prevent overflow of waste material to the floor.

E. Sign Posted.

A sign which reads, “**Employees Must Wash Hands After Using the Toilet and Before Handling Food,**” shall be placed in each toilet room and handwash sink location where it can be easily viewed and read by employees.

## **5-213 Garbage and Refuse Disposal**

### **Item 33. Garbage and Refuse Disposal - Facilities on the Premises**

A. Indoor Storage Area.

1. If separately located within the food establishment, a storage area for refuse, recyclables, and returnables shall have smooth and easily cleanable floors and walls. Ceilings in such areas shall be painted or sealed with cleanable materials. The area must be insect and rodent proof and must not create a health hazard or nuisance.
2. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

B. Storage Areas, Rooms, and Receptacles - Capacity and Availability.

1. An inside storage room and area, outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.
2. 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.
3. If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

C. Receptacles.

1. Except as specified in ¶ 2 of this section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.
2. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

D. Covering Receptacles.

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered inside the food establishment if the receptacles and units:

- a. Contain food residue and are not in continuous use; or
- b. After they are filled.

E. Receptacles in Vending Machines.

A refuse receptacle may not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

F. 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.

G. Storage Areas, Enclosures, and Receptacles - Good Repair.

Storage areas, enclosures, and receptacles for refuse, recyclable and returnables shall be maintained in good repair.

H. Cleaning Implements and Supplies.

1. Except as specified in ¶ 2 of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

2. If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

I. Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units - Location.

1. An area designated for refuse, recyclables, returnables, and except as specified in ¶ 2 of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

2. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service articles and a public health hazard or nuisance is not created.

3. The location of receptacles and waste handling units for refuse, recyclables and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

4. Receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.

J. Outside Receptacles.

1. 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.

2. 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.

K. Cleaning Receptacles.

1. 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.

2. 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.

L. Removal, Frequency.

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

**Item 34. Garbage and Refuse Disposal Areas – Construction and Cleanliness**

A. 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.

B. Outdoor Enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials and with tight-fitting lids or doors if kept outside the food establishment.

C. Outdoor Refuse Area, 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.

D. Using Drain Plugs.

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

E. Maintaining Refuse Areas and Enclosures.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items and clean.

F. Receptacles or Vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

1. Portable receptacles that are constructed and maintained according to law; or
2. A transport vehicle that is constructed, maintained, and operated according to law.

G. Community or Individual Facilities, Disposal and Composting.

1. 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.
2. Food waste may be disposed of by composting with the following requirements:
  - a. Compost sites cannot be in close proximity to the outer openings of a food service establishment.
  - b. A compost site must be properly operated and kept free of insects, rodents, and vermin.
3. Compost sites cannot create a health hazard or nuisance to any food establishment or neighboring property owner.

## **5-214 Insect and Rodent Control**

### **Item 35. Insect and Rodent Control\***

Effective measures shall be taken to prevent insects, rodents, and vermin from entering, living, or breeding in food service establishments.

#### **A. Controlling Pests.**

1. The presence of insects, rodents and other pests shall be controlled to minimize their presence on the premises by:
  - a. Routinely inspecting incoming shipments of food and supplies;
  - b. Routinely inspecting the premises for evidence of pests;
  - c. Using glue boards, fly papers, light attracted glueboards, and devices that are used to stun or electrocute flying insects; and
  - d. Using devices to trap rodents and vermin.
2. For chemical insecticide control of flies, only pyrethrins or man-made pyrethrins shall be used where food is stored, prepared, or served.
3. Poisons for rodent or cockroach control shall not be used in the food storage, food preparation or food service area except by a professional exterminator, with proper bait boxes so as not to contaminate food.
4. Infestation of cockroaches or rodents will require intervention by professional exterminators.

#### **B. Insect Control Devices, Design and Installation.**

1. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.
2. Insect control devices shall be installed so that:
  - a. The devices are not located over a food preparation area; and
  - b. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

#### **C. 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.

#### **D. Outer Openings, Protected.**



1. Except as specified in ¶¶ 2, 3, 4, and 5 of this section, outer openings of a food establishment shall be protected against the entry of insects and rodents by:
  - a. Filling or closing holes and other gaps along floors, walls, ceilings, foundations and doors;
  - b. Closed, tight-fitting windows, and
  - c. Solid, self-closing, tight-fitting doors.
2. Paragraph 1 of this section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.
3. Exterior doors used as exits need not be self-closing if they are:
  - a. Solid and tight-fitting;
  - b. Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
  - c. Restricted so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.
4. Except as specified in ¶¶ 2 and 5 of this section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under ¶ 1 of this section, the openings shall be protected against the entry of insects and rodents by:
  - a. 16 mesh (16 mesh to 1 inch) screens;
  - b. Properly designed and installed air curtains; or
  - c. Other effective means.
5. Paragraph 4 of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.
6. Establishments with open-air-dining must have tight-fitting doors, screens, or air curtains between the food service, preparation, and storage areas and the open air dining area.

## E. Prohibiting Animals.

1. Except as specified in ¶ 2 of this section, live animals may not be allowed on the premises of a food establishment.
2. Live animals may be allowed in the following situations, only if the contamination of food, clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:
  - a. Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
  - b. In areas that are not used for food preparation and that are usually open for customers such as dining and sales areas, service animals (such as sight or hearing-impaired guide dogs) who are controlled by the person with disability, but only if a health or safety hazard will not result from the presence or activities of the service animal;
  - c. Pets in the common dining areas of group residences at times other than during meals if:
    - I. Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;
    - II. Condiments, equipment, and utensils are stored in enclosed cabinets, or removed from the common dining areas when pets are present, and
    - III. Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and
  - d. In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

3. Live birds and reptiles (such as turtles) are prohibited from the premises of food service establishments.

F. Insect and Rodent Control - Outdoor Walking and Driving Surfaces, Graded to Drain.

1. Exterior walking and driving surfaces shall be graded to drain and no water shall be allowed to stand which will create breeding places for insects.

2. Outdoor areas like parking lots, lawns and areas around buildings will be kept free of rubbish, tires, old equipment and must have short mowed grass which is kept clean so as not to create harborage for insects and rodents.

## **5-215 Floors, Walls and Ceilings**

### **Item 36. Floors**

A. General.

Floor surfaces shall be of smooth, nonabsorbent materials, and so constructed as to be easily cleanable in:

1. Kitchens;
2. Rooms/areas in which food is stored or prepared, and in which utensils are washed;
3. Walk-in refrigerators;
4. Dressing or locker rooms; and
5. Toilet rooms.

B. Floors, Construction Details.

1. The floors of all food preparation, food storage, utensil-washing rooms, and toilet rooms shall be constructed of smooth, durable, non-absorbent, and easily cleanable materials such as ceramic tile, durable grades of linoleum or plastic, or tightly laid wood impregnated with a plastic sealer.

2. All floors shall be constructed using a coved and closed juncture between the wall and floor.

3. Tightly laid wood impregnated with a plastic sealer may be used only in food service facilities that do not have any grease production.

4. Walk-in refrigerators shall be constructed of ceramic tile, durable grades of linoleum or plastic, concrete, or metal.

5. Floor drains shall be provided in floors which are waterflushed for cleaning, or which receive discharges of water or other fluid waste from equipment. Such floors shall be graded to drain.

6. Mats or duckboards, if used, shall be so constructed as to facilitate being cleaned, and shall be kept clean. They shall be of such design and size as to permit easy removal for cleaning.

7. Floors and floor covering materials shall meet the requirements of the Fire Prevention Code administered by the Vermont Department of Labor and Industry.

8. In a temporary food establishment, if graded to drain, a floor may be concrete, machine laid asphalt, dirt, or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud.

#### C. Floors, Utility Lines.

1. Utility service lines and pipes may not be unnecessarily exposed.
2. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors.
3. Exposed horizontal utility service lines and pipes may not be installed on the floor.

#### D. Floors, Good Repair.

The physical facilities shall be maintained in good repair.

#### E. Cleaning, Frequency and Restrictions.

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

#### F. Cleaning Floors, Dustless Methods.

1. Except as specified in ¶ 2 of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.
2. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:
  - a. Without the use of dust-arresting compounds; and
  - b. In the case of liquid spills or drippage, with the use of a small amount of absorbent compounds such as dustban or diatomaceous earth applied immediately before spot cleaning.

#### G. Absorbent Materials on Floors, Use Limitation.

Sawdust, wood shavings, granular salt, baked clay, or similar materials may not be used on floors.

#### H. Floor Carpeting, Restrictions and Installation.

1. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing or spray cleaning methods.
2. If carpeting is installed as a floor covering in areas other than those specified under ¶ 1 of this section, it shall be:
  - a. Securely attached to the floor with a durable mastic, by using a stretch and tuck method, or by another method; and
  - b. Installed tightly against the wall under the coving, or installed away from the wall with a space between the carpet and the wall, and with the edges of the carpet secured by metal stripping or some other means.

## Item 37. Walls and Ceilings

### A. Walls and Ceilings, Construction Details.

1. The walls of all food preparation, utensil-washing, and handwashing rooms or areas, shall have light-colored, smooth, easily cleanable surfaces, and such surfaces shall be washable up to at least the highest level reached by splash or spray. Pumice blocks, stone walls, or brick walls shall not be used. Concrete walls, concrete block walls finished with epoxy paint are permitted, if they have no pits, holes, cracks, or seams.
2. Acoustical materials may be used on the ceiling, provided ventilation is adequate to minimize grease and moisture absorption.
3. Wall covering materials such as sheet metal, linoleum, plastic, paper, and similar materials, shall be so attached and sealed to the wall or ceiling as to leave no open spaces or cracks which would permit accumulation of grease or debris, or provide harborage for vermin. If sheet metal is used, screw heads shall not be exposed and seams shall be soldered, or rolled or riveted.
4. Studs, joists, and rafters shall not be left exposed in storage, food-preparation or utensil-washing areas. If left exposed in other rooms or areas, they shall be suitably finished and shall be kept clean and in good repair. This paragraph does not apply to the storage areas of retail grocery establishments.
5. An establishment that operates for not more than four consecutive months in one year may include exposed studs, joists, or rafters in the storage, kitchen, or utensil-washing areas.
6. Walls, ceilings and their covering materials shall meet the requirements of the Fire Prevention Code administered by the Department of Labor and Industry.
7. In a temporary food establishment, walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

### B. Walls and Ceilings, Utility Lines.

1. Utility service lines and pipes may not be unnecessarily exposed.
2. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.
3. Exposed horizontal utility service lines and pipes may not be installed on the walls and ceilings.

### C. Walls and Ceilings, Good Repair.

All walls and ceilings, including doors, windows, skylights, and similar closures, shall be kept clean and in good repair.

### D. Cleaning Frequency and Restrictions.

1. Vacuum cleaning, wet cleaning, or other dustless methods for cleaning walls and ceilings shall be used as often as necessary to keep them clean.
2. Cleaning, shall be done during those periods when the least amount of food is exposed, such as after closing or between meal times.

## E. Walls and Ceilings, Attachments.

1. Except as specified in ¶ 2 of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.
2. In a consumer area, wall and ceiling surfaces, decorative items, and attachments that are provided for ambiance need not meet this requirement if they are kept clean.
3. Light fixtures, decorative material, and similar equipment and material attached to walls and ceilings, shall be kept clean.

## F. 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.

# **5-216 Lighting**

## **Item 38. Adequate Lighting**

### A. Intensity.

The light intensity shall be:

1. At least 110 lux (10 foot candles) at a distance of 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 220 lux (20 foot candles):
  - a. At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
  - b. Inside equipment such as reach-in and under-counter refrigerators;
  - c. At a distance of 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.

### B. Light Bulbs, Protective Shielding.

1. Except as specified in ¶ 2 of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.
2. Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages; if:
  - a. The integrity of the packages can not be affected by broken glass falling onto them; and
  - b. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.
3. An infrared or other heat lamp shall be shielded, coated, or otherwise shatter-resistant or protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

## **5-217 Ventilation**

### **Item 39. Rooms and Equipment - Ventilated as Required.**

#### A. General.

All ventilation hoods, wall coverings, filters, and attachments must be smooth, easy to clean and filters must be easy to remove. The installation of hoods and attachments to the ventilation systems **must be permitted** by the Vermont Department of Labor & Industry, Fire Prevention Division.

Toilet rooms shall be ventilated to outside air with electric fans that exhaust at least 15 cubic feet of air per minute for each toilet fixture, either operating continuously or only when the toilet is in use.

#### B. Mechanical.

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

#### C. 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.

#### D. Ventilation Hood Systems, Adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

#### E. 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.

#### F. 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.

## **5-218 Dressing Rooms**

### **Item 40. Rooms - Adequate, Clean**

#### A. Designation.

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.

**B. Designated Areas.**

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. The use of tobacco must also meet Vermont smoking laws.
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 can not occur.

**C. 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.

## **5-219 Miscellaneous Inspection Items**

### **Item 41. Poisonous or Toxic Materials\***

#### ***Original Containers***

**A. Identifying Information, Prominence.**

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

#### ***Working Containers***

**B. Common Name.**

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

#### ***Storage***

**C. Separation**

Poisonous or toxic materials shall be stored so they can not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning; and
2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

## ***Presence and Use***

### D. Restriction.

1. Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.
2. Paragraph 1 of this section does not apply to packaged poisonous or toxic materials that are for retail sale.

### E. Conditions of Use.

Poisonous or toxic materials shall be:

1. Used according to:
  - a. Law and these regulations,
  - b. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state use is allowed in a food establishment,
  - c. The conditions of certification, if certification is required, for use of the pest control materials, and
  - d. Additional conditions that may be established by the regulatory authority; and
2. Applied so that:
  - a. A hazard to employees or other persons is not constituted, and
  - b. Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by:
    - I. Removing the items,
    - II. Covering the items with impermeable covers, or
    - III. Taking other appropriate preventative actions, and
    - IV. Cleaning and sanitizing equipment and utensils after the application.
3. A restricted use pesticide shall be applied only by a certified applicator, or a person under the direct supervision of a certified applicator per Vermont Agency of Agriculture regulations.

## ***Container Prohibitions***

### F. 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.

## ***Chemicals***

### G. Sanitizers, Criteria.

Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements for allowable ppm of sanitizing solutions.

### H. Chemicals for Washing Fruits and Vegetables, Criteria.

Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified by the regulatory authority for chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

### I. Boiler Water Additives, Criteria.



Chemicals used as boiler water additives shall meet the requirements of the regulatory authority for boiler water additives.

J. Drying Agents, Criteria.

Drying agents used in conjunction with sanitization shall:

Contain only components that are listed as generally recognized as safe by either the FDA or the USDA.

**Lubricants**

K. Incidental Food Contact, Criteria.

Lubricants shall meet the requirements of FDA, NSF, or USDA for safe 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.

**Pesticides**

L. Restricted Use Pesticides, Criteria.

Restricted use pesticides shall meet the requirements specified by the Environmental Protection Agency and the Vermont Agency of Agriculture.

**Medicines**

M. Restrictions and Storage.

1. Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This section does not apply to medicines that are stored or displayed for retail sale.
2. Medicines that are in a food establishment for the employees' use shall be labeled as to contents and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

N. 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:

1. Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and
2. Located so they are inaccessible to children.

**First Aid Supplies**

O. Storage.

First aid supplies that are in a food establishment for the employees' use shall be:

1. Labeled as to contents; 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.

### ***Other Personal Care Items***

#### **P. Storage.**

Employees shall store their personal care items in food service facilities in such a manner as to prevent contamination of food equipment, utensils, linens, and single-service and single-use articles.

### ***Storage and Display of Stock & Retail Sale Supplies***

#### **Q. Separation.**

Poisonous or toxic materials shall be stored and displayed for retail sale so they can not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning; and
2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

### **Item 42. Premises Free of Rubbish, Litter, Unnecessary Articles**

#### **A. General.**

1. Outside areas must be free of rubbish, litter, and debris.
2. Outside areas must be mowed, and free of standing water.

#### **B. 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.

#### **C. Cleaning Maintenance Tools, Preventing Contamination.**

Food preparation sinks, handwashing lavatories, 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.

#### **D. Drying Mops.**

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

#### **E. 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 articles; and

2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

### **Item 43. Separation From Food Operation Areas**

#### **A. Living or Sleeping Quarters, Separation.**

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

#### **B. Clothes Washers and Dryers.**

1. If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.
2. 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.
3. Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.
4. 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.

#### **C. Unrelated Activities.**

Activities that are not related to food preparation shall not be performed in an area where food is prepared.

### **Item 44. Clean and Soiled Linens**

#### **A. Clean linens.**

1. Clean linens shall be stored separate from food, equipment, and utensils.
2. Clean linens shall be free from food residues and other soiling matter.
3. A cabinet that is used to store laundered linens, may not be located:
  - a. In toilet rooms;
  - b. In garbage rooms;
  - c. In mechanical rooms;
  - d. Under sewer lines that are not shielded to intercept potential drips;
  - e. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  - f. Under open stairwells; or
  - g. Under other sources of contamination.
4. A storage cabinet used for linens may be stored in a locker room.

#### ***Frequency***

#### **B. 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 for handling raw foods only shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.
3. Linens and napkins used to line baskets holding food, and cloth napkins shall be laundered between each use.
4. Soiled, 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. 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.

## **5-220 Outdoor Dining Areas**

Restaurants may provide on-premise outdoor dining with prior approval from the Department of Health.

A. Open Outdoor Dining Areas.

Unscreened or unfanned outdoor dining areas may be provided when:

1. All foods served are properly protected;
2. Roaming animals such as cats and dogs are controlled so as they do not inhabit the dining area.

B. Enclosed Outdoor Dining Areas.

Completely screened or fanned areas providing effective fly control may be used for outdoor dining. In such cases food served by establishment personnel need not be covered, provided the route from kitchen to table is a fly-controlled area.

## **5-221 Enforcement Procedures**

A. Approval for Continued Operation.

When the total rating score is not less than 70 and there are no critical items in violation, the food service establishment may remain open to the public.

B. No Approval for Continued Operation.

1. Critical Items.

All critical items in violation must be corrected immediately in the presence of a Department of Health representative. If not corrected immediately, the licensee shall be presumed to be creating an emergency health hazard and shall have the option of closing voluntarily or having the license suspended until which time items in violation are corrected. The establishment must remain closed until subsequent approval for continued operation has been granted by the Department of Health. Temporary measures may be used to correct critical items where appropriate so the establishment may remain open. However, a permanent correction as acceptable to the Department of Health will be required.

2. Rating Score Less Than 70.

When the total rating score is less than 70, the licensee shall be presumed to be creating a health hazard and shall have the option of closing voluntarily or having the license immediately suspended. Subsequent approval for continued operation shall require Department of Health approval.

C. Hearings.

When a license is suspended, the licensee will be notified in writing within five (5) days of the opportunity to appear at a hearing which will be scheduled within twenty (20) days of the date of inspection (or sooner if requested by the owner or licensee), to show cause as to why the license should not remain suspended or should not be revoked.

## **5-222 Miscellaneous**

A. Grandfather Clause.

Changes in standards for construction specified in Section 5-205, Item 5, and Section 5-215, Item 36 and Item 37 shall apply only to construction begun on or after July 1, 1980.

B. Person in Charge.

The licensee 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.

C. Demonstration of Knowledge.

Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of these regulations.

The person in charge shall demonstrate this knowledge by compliance with these regulations, by being a certified food protection manager who has shown proficiency of the required information through passing a test that is part of an accredited program, or by responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

1. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
2. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;
3. Describing the symptoms associated with the diseases that are transmissible through food;
4. Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
5. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
6. Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;
7. Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;
8. Describing the relationship between the prevention of foodborne illness and the management and control of the following:

- a. Cross contamination,
  - b. Hand contact with ready-to-eat foods,
  - c. Handwashing, and
  - d. Maintaining the food establishment in a clean condition and in good repair;
9. Explaining the relationship between food safety and providing equipment that is:
- a. Sufficient in number and capacity, and
  - b. Properly designed, constructed, located, installed, operated, maintained, and cleaned;
10. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;
11. 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;
12. 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;
13. 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;
14. 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, these regulations, or an agreement between the regulatory authority and the establishment; and
15. Explaining the responsibilities, rights and authorities assigned by these regulations to the:
- a. Food employee,
  - b. Person in charge, and
  - c. Regulatory authority.

#### D. Duties of Person in Charge.

The person in charge shall ensure that:

1. Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils; and unwrapped single-service and single-use articles are protected from contamination.
2. 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;
3. Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;
4. 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;
5. Employees are properly cooking potentially hazardous 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.

6. Employees are using proper methods to rapidly cool potentially hazardous 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;

7. Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed that the food is not cooked sufficiently to ensure its safety;

8. 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;

9. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets.

10. Employees are preventing cross-contamination of ready-to-eat food with bare hands by using suitable utensils such as deli tissue, spatulas, tongs, single-use plastic disposable gloves or dispensing equipment; and

11. Employees are properly trained in food safety as it relates to their assigned duties.

#### E. Security Procedures

All information about security procedures presented to the Department of Health shall be kept confidential in accordance with T.1 VSA § 317 (c) 25.

#### F. Enforcement Procedure for Licensed Establishments

#### G. Inspection Report

# ENFORCEMENT PROCEDURE FOR LICENSED ESTABLISHMENTS

