

## RULES AND REGULATIONS

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# ARTICLE III FOOD SAFETY



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**Allegheny County Health Department  
ARTICLE III. FOOD SAFETY**

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## **Glossary of Commonly Used Abbreviations**

<b>ANSI</b>	<b>American National Standards Institute</b>
<b>CFPM</b>	<b>Certified Food Protection Manager</b>
<b>CFR</b>	<b>Code of Federal Regulations</b>
<b>CCP</b>	<b>Critical Control Point</b>
<b>DEP</b>	<b>The Pennsylvania Department of Environmental Protection</b>
<b>EPA</b>	<b>The United States Environmental Protection Agency</b>
<b>FDA</b>	<b>The United States Food and Drug Administration</b>
<b>HACCP</b>	<b>Hazard Analysis Critical Control Point</b>
<b>MFC</b>	<b>Model Food Code</b>
<b>NSF</b>	<b>National Sanitation Foundation</b>
<b>NST</b>	<b>Non-Sewered Toilet</b>
<b>PDA</b>	<b>The Pennsylvania Department of Agriculture</b>
<b>TCS</b>	<b>Time and Temperature Control for Safety</b>
<b>USDA</b>	<b>The United States Department of Agriculture</b>

**Full definitions for these and other terms that apply to the interpretation and application of this Article can be found at the end of the Article in § 353.**

## **SECTION 300. PURPOSE AND SCOPE**

The purpose of this Article is to safeguard public health through the application of the principles of food safety, foodborne illness prevention and environmental health in food facilities. This Article shall be liberally construed and applied to promote the underlying purpose of protecting the public health; and shall be consistent with the laws of the Commonwealth of Pennsylvania.

This Article establishes definitions; sets standards for management, personnel, operations, equipment and facilities; and provides for food facility plan review, food permit issuance, inspection, Hazard Analysis Critical Control Point (HACCP) Plan evaluation, food permit suspension, and penalties.

## **SECTION 301. APPLICABILITY**

A. This Article provides for the regulation of food operations, to include but not limited to, restaurants and eating establishments, hospitals, nursing homes, personal care homes, schools, retail stores, food processors, caterers, warehouses, temporary and seasonal food facilities, mobile food facilities, and other similar food facilities which directly or indirectly provide food to the public.

B. A retail food facility that sells only a food in its raw or natural state, including all fruits which are washed, colored or otherwise treated in their unpeeled, natural form prior to marketing, shall be exempt from this article.

## **PLAN REVIEW, PERMITTING, AND PLACARDING**

### **SECTION 302. FOOD PERMITS**

#### **302.1 General**

A. It shall be unlawful for any person to operate a food facility in Allegheny County without first obtaining a valid and appropriate food facility food permit from the Department. The food permit shall be issued to the person or party responsible for food safety and handling.

B. This food permit, unless suspended, shall be valid for a period of no more than one (1) year and for use only by the person or persons owning the business at the address given at the time of issuance. All food permits shall be posted in a place easily viewable to the public.

C. Food permits are not transferable by address, owner or change of classification. Any change of address, owner or classification shall require a new food permit. Any attempted food permit transfer shall be deemed void and shall immediately invalidate the food permit.

D. Only food facility owners or operators who comply with all applicable Department Rules and Regulations, Pennsylvania law, Federal law, and all orders issued thereunder, shall be entitled to receive and retain such a permit.

E. By accepting a food permit issued by the Department, the operator of the food facility consents to inspection of the premises by the Food Safety Program personnel during hours of operation and other reasonable times during which the facility is not open.

### **302.2 Classification**

For the purposes of this Article, the following classifications of food facilities shall be applied:

A. Class I is a food facility that only handles commercially prepackaged non-time and temperature controlled for safety (TCS) food. Class I facilities are exempt from permitting requirements of this Article but are required to register with the Food Safety Program before operation of the retail food facility pursuant to 7 PA Code § 46.212.

1. Registration process includes:
  - (a) Completion and submission of the registration application; and
  - (b) Payment of fees according to the Food Safety Fee Schedule.
2. A retail food facility that is exempted from permitting requirements under this section shall remain subject to inspections and all other provisions of this Article.

B. Class II is a food facility that handles commercially prepackaged TCS food such as, but not limited to, milk, eggs, and cheese, which remain in sealed packaging while stored in the food facility.

C. Class III is a food facility that handles TCS food and regularly prepares food for same day service without a cooling step or a food facility that prepares non-TCS Foods.

D. Class IV is a food facility that handles TCS food with complex food preparation steps such as cooling, reheating, and hot holding.

### **302.3 Fees**

A. Prior to receiving a food permit, each food facility owner or operator shall be required to pay applicable fees as set forth in the Food Safety Fee Schedule.

B. All fees shall be set forth in a schedule as determined by the Director upon approval from the Board of Health.

C. A single permit holder operating more than one distinct food facility in the same structure, shall obtain a separate food permit and pay a separate fee for each food facility as listed on the fee schedule.

D. Nonprofit permanent food facilities including, but not limited to, those listed below that handle or offer food for human consumption shall pay fees related to their classification stated in § 302.2 and their nonprofit status:

1. A tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)(3)).
2. A volunteer fire company or ambulance, religious, charitable, fraternal, veterans, civic, sportsmen, or a separately chartered auxiliary of an association on a nonprofit basis.
3. An organization that is established to promote and encourage participation and support for extracurricular recreational activities for

youth of primary and secondary public, private and parochial school systems on a nonprofit basis.

E. Temporary food facilities shall obtain a separate temporary food permit per each temporary event and location. A temporary permit is valid for a maximum of fourteen (14) days. The temporary food permit shall act as the placard for operation of a temporary food facility.

F. Seasonal food facilities shall obtain a seasonal food permit and are not required to obtain a separate food permit for each date of operation within the season. Seasonal food facilities operating in different sites on the same day are required to obtain a separate permit for each facility. The seasonal food permit is valid for a maximum of six (6) months. The seasonal food permit shall act as the placard for operation of a seasonal food facility.

G. Additional fees may be assessed for the furnishing of special services or materials that are not ordinarily provided under permit or pursuant to regulation. Such services may include activities performed outside regular departmental working hours and will be charged at a rate equal to the cost of providing the service.

H. No refunds shall be issued due to permanent or temporary termination of business.

## **SECTION 303. PLACARDING OF FOOD FACILITIES**

### **303.1 General Placarding**

All permitted food facilities shall display a placard provided by the Department. Placards shall be posted at all patron entrances of the food facility and drive through service windows to be clearly conspicuous to persons entering or obtaining food from the facility. Placards shall not be altered, concealed or removed. Removal shall only be at the direction of the Department.

### **303.2 "Inspected and Permitted by the Allegheny County Health Department" Placard**

All food facilities that meet the requirements of this Article shall display this placard unless subject to subsections 303.3 or 303.4 of this Article.

### **303.3 "Consumer Alert" Placard**

A. When the food facility fails to meet the requirements, and upon inspection has significant high or medium risk violations, the Department is authorized to post the "Consumer Alert" placard on the food facility. A food facility placarded with a "Consumer Alert" is allowed to operate for a temporary period not exceeding ten (10) calendar days.

B. A reinspection shall be conducted either prior to expiration of the temporary period, or on the tenth day to determine compliance with this Article, but no sooner than 24 hours after the Consumer Alert placard is posted. The Department retains the right to inspect a facility within the 24 hour period for emergency situations. The permit holder may request a reinspection, in writing, before the expiration of the ten (10) day period. Upon inspection, one of the following shall occur:



1. The "Inspected and Permitted by the Allegheny County Health Department" placard is posted, if the facility complies with the requirements of this Article;
2. The "Consumer Alert" placard remains if high or medium risk violations remain and the ten (10) day period has not expired. The facility will then be reinspected at the expiration of the temporary period at the owner's expense; or
3. The "Closed by Order of the Allegheny County Health Department" placard is posted, if the violations remain or have recurred, and the ten (10) day period has expired.

**303.4. "Closed by Order of the Allegheny County Health Department" Placard**

A. The Department is authorized to post the "Closed by Order of the Allegheny County Health Department" placard on food facilities and suspend the food permit under any of the following conditions:

1. The Department finds at any time that conditions warrant or there is an imminent health hazard under the provisions of § 343 of this Article;
2. Upon the expiration of the Consumer Alert placard and the violation(s) that led to the Alert remains;
3. The facility is found operating without a valid food permit;
4. The owner of a food facility, after sufficient notice, fails to allow access for inspection; or
5. The Department has provided an opportunity for a hearing under the provisions of § 344 and determines that there is a violation of any section of this Article.

B. It shall be unlawful to operate a food facility with a "Closed by Order of the Allegheny County Health Department" placard. A "Inspected and Permitted by the Allegheny County Health Department" placard can only be posted after a Department inspection has verified the correction of the violations that led to the closure as stated in § 345.

**SECTION 304. FOOD FACILITY PLANS AND APPLICATIONS**

**304.1 General**

All food facilities shall only be constructed, extensively remodeled, or converted, in accordance with plans and specifications that are approved by the Department in writing.

**304.2 Plans and Fees – Contents and Review**

A. Plans, specifications, and applications must be submitted to the Department for review and approval prior to any of the following:

1. Whenever a food facility is to be constructed;
2. An existing structure is converted to a food facility;

3. A food facility is altered extensively, including but not limited to installation and use of any new major food equipment for heating, cooling, and hot and cold holding food.

(a). Alterations limited to replacement of equipment for an item of similar construction and use shall not require plans.

(b). Alterations limited to cosmetic changes to customer areas that do not alter pest control shall not require plans.

4. Change of ownership;

5. Change of commissary; or

6. Change of classification

B. Plans and specifications shall include:

1. A tentative menu, or types of food to be sold, stored, prepared or offered, and the following where applicable:

(a) Anticipated volume of food to be stored, prepared, and sold or served

(b) Consumer advisory intentions, if a consumer advisory is required,

(c) Food preparation steps of each food to be processed, in the case of a food processor,

(d) A HACCP Plan for specialized processing methods.

2. A floor plan of the complete food facility premises that is drawn to scale that includes the following;

(a) Property boundaries, building locations, garbage and waste oil storage, grease interceptor, construction materials, and finish schedules.

3. A list of equipment that corresponds to the floor plan and includes the manufacturers' names, model numbers, dimensions and installation specifications;

4. A completed and signed food permit application form, obtained from the Department;

5. Payment of the appropriate fee for the review of plans; and

6. Proof that the proprietor has applied for or received a sales and use tax license or exemption certificate from the PA Department of Revenue.

7. Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification of a food facility, and requested by the Department in writing.

C. The fee for review of plans and applications shall be determined based on the fee schedule. No refunds will be given for any plan review fees whether plans are approved or disapproved.

D. The Department shall not approve plans until they meet all requirements imposed by this Article and the Department. Whenever plans are disapproved, the Department will respond, in writing, stating the deficiencies in the plans. The applicant, after receiving the deficiencies in writing, shall submit revisions based upon the identified deficiencies.

### **304.3 Pre-Operational Inspection**

Whenever plans or applications are required under § 304.2(A) 1-3 or when a food facility changes ownership, an inspection must be conducted by the Food Safety Program prior to operation to determine compliance with this Article. It is the responsibility of the operator to schedule the inspection. Operators shall provide at least ten (10) calendar day's notice to the Department for scheduling the pre-operational inspection. Should a food facility fail to meet the requirements set forth in this Article for the operation of a food facility, a subsequent pre-operational inspection shall be conducted at the owner's expense according to the fee schedule.

### **304.4 Temporary and Seasonal Food Facilities**

A completed temporary and seasonal facility application must be submitted, with the applicable food permit fee, for all temporary and seasonal food facilities. These applications must be reviewed and approved prior to operation.

## **SECTION 305. INSPECTIONS**

Announced and unannounced inspections of permitted food facilities shall be conducted on a routine basis. At least once a year, food facilities that operate on an irregular basis or schedule such as, but not limited to, caterers and mobile food facilities, shall provide the Department with notice of planned or anticipated dates, times and locations of operations.

A. The frequency of routine inspections shall be based on the type of operation and prior inspection history of the food facility.

B. Reinspections or follow-up inspections, as deemed necessary, shall be conducted to determine if cited violations have been corrected.

C. Non-routine inspections and HACCP Plan evaluations may be conducted as needed, when potential public safety hazards or public health emergency conditions exist, or on a complaint basis.

D. The operator or owner shall be provided with a copy of the inspection report upon completion of the inspection. All reports shall be on file and available for public review.

E. During all inspections, operators must provide access to all pertinent records and to all areas of the premises.

**SECTION 306. Temporary and Seasonal Event Registration**

A. The event organizer or the responsible party for temporary or seasonal events where five (5) or more food facilities will operate at the same time must complete an event organizer’s application for the temporary or seasonal event at least fourteen (14) calendar days before the expected start of the event. The application will include the following information:

1. Estimated number of food facilities for the event;
2. Dates, times, and location of the event;
3. Business names and contact information of expected food vendors;
4. Expected number of people per day;
5. Water supply plan;
6. Waste and refuse disposal plan, which must comply with sections 320 and 324 of this Article;
7. Electrical power supply plan;
8. Contact information for the designated point of contact on the day(s) of the event.

B. Payment of application fees shall be based on the number of registered food facilities. No refunds will be provided due to termination or cancelation of the event or a food facility’s failure to attend.

C. Event organizer must designate a point of contact that shall be present at the event and available to the Department.

D. Failure to comply with this section may result in enforcement actions including, but not limited to, monetary penalties and closure orders for temporary or seasonal operators that have failed to submit timely application materials.

**EQUIPMENT, UTENSILS, AND LINENS**

**SECTION 307. PERMISSIBLE EQUIPMENT AND MATERIALS**

**307.1 General**

Multi-use equipment, and utensils shall be constructed and repaired with safe, non-toxic materials, including finishing materials; shall be corrosion resistant, nonabsorbent; and shall be smooth, easily cleanable, and constructed to be durable under conditions of normal use. Single-service and single-use articles shall be made from clean, sanitary, safe materials. Equipment, utensils, single-service and single-use articles shall not impart odors, color or taste, nor contaminate food in any other manner.

**307.2 Lead**

Tableware and utensils, solder, flux and pewter alloys shall be lead-free, or contain levels of lead not exceeding the recommended limits for food-contact surfaces as stated in § 4-101.13 of the Model Food Code (MFC).

### **307.3 Wood**

Hard maple or equivalent nonabsorbent close-grained wood may be used for cutting boards, bakers' tables, rolling pins, doughnut dowels, salad bowls, and wooden paddles that are subject to 230°F or above. Wood may also be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons. Wood shall not be used as a food-contact surface under other circumstances. Pressure or chemically treated lumber or other similar material is prohibited on exposed surfaces in food preparation, food storage, and utensil washing areas. Food that requires removal of rinds, peels, husks, or shell may be stored in treated wood if it meets the requirements of 21 CFR § 178.3800 Preservatives for wood.

### **307.4 Plastics and Rubber Materials**

Approved plastic, rubber, or rubber-like materials that are resistant under normal conditions to scratching, scoring, decomposition, crazing, chipping, and distortion; that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods; and which meet the general requirements set forth in previous sections of this Article, are permitted for repeated use.

### **307.5 Cutting Surfaces**

When cutting surfaces can no longer be effectively cleaned and sanitized due to scratching or scoring, these surfaces shall be repaired or replaced.

### **307.6 Single-Service and Single-Use Articles**

Single-service and single-use articles shall not be reused.

### **307.7 Mollusk and Crustacea Shells**

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

### **307.8 Cast Iron**

Cast iron may be used as a cooking surface. Cast iron may only be used as a utensil for serving food if the utensil is used only as part of an uninterrupted process from cooking through service.

### **307.9 Galvanized Metal**

Galvanized metal may not be used in contact with acidic food.

### **307.10 Copper**

Copper and copper alloys may not be used in contact with food that has a pH below 6, or for installation between a backflow prevention device and a carbonator. Copper and copper alloys may be used in contact with beer brewing ingredients in the pre-fermentation and fermentation steps of a brewing operation.

### **307.11 Perfluorocarbon resin**

Only non-scoring or non-scratching utensils and cleaning aids shall be used with multi-use kitchenware that has a perfluorocarbon resin coating.

### **307.12 Sponges**

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

### **307.13 Food Temperature Measuring**

Food temperature measuring devices shall not have sensors or stems constructed of glass that are not encased with a shatterproof coating.

## **SECTION 308. EQUIPMENT AND MATERIALS DESIGN, AND FABRICATION**

### **308.1 General**

All equipment and utensils shall be maintained in good repair to comply with the requirements of this Article. All equipment and utensils, including plastic-ware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, cracking, and crazing.

A. Equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program, such as the National Sanitation Foundation (NSF) is deemed to comply with § 307 and § 308 of this Article.

B. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Container closures and the threads of connectors shall be designed to facilitate cleaning; "V"- type threads are prohibited on food-contact surfaces, with the exception of hot oil cooking equipment or hot oil filtering systems.

C. Equipment containing bearings and gears requiring lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces shall use food grade lubricants that meet the requirements of 21 CFR § 178.3570, Lubricants with incidental food contact.

D. Tubing conveying beverages or beverage ingredients to dispensing heads may not be in contact with stored ice intended for consumption except for cold plates that are constructed integrally with an ice storage bin. Drainage or drainage tubes from dispensing units shall not pass through an ice machine or an ice storage bin.

E. Sink drain boards shall be sloped to be self-draining. All utensil and warewashing sinks must have at least one properly installed drain board.

### **308.2 Accessibility**

Food-contact surfaces shall be accessible for cleaning and inspection, unless designed to be Cleaned in Place (CIP):

A. Without being disassembled;

B. By disassembling without the use of tools; or

C. By easy disassembling with the use of only simple tools, such as pliers, screwdrivers, or open-end wrenches which are kept near the equipment.

### **308.3 Cleaned in Place (CIP) Equipment**

Equipment intended to be CIP shall be so designed and fabricated that:

- A. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;
- B. Cleaning and sanitizing solutions will contact all interior food-contact surfaces;
- C. The system is self-draining or capable of being completely evacuated of cleaning and sanitizing solutions; and
- D. Designed with inspection access points to ensure that all interior food-contact surfaces are being effectively cleaned, if the equipment is not capable of being disassembled.

### **308.4 Non-Food-Contact Surfaces**

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

### **308.5 Microwave Ovens**

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

### **308.6 Dishwashing Machines**

- A. Dishwashing machines shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications.
- B. Dishwashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water in each wash and rinse tank and as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.
- C. Dishwashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device that measures and displays the water pressure in the supply line immediately before entering the dishwashing machine. The pressure range shall be within the range specified on the machine's data plate and may not be less than 5 pounds per square inch (35 kilopascals) or more than 30 pounds per square inch (200 kilopascals).

### **308.7 Food Temperature Measuring Devices**

Suitable metal probe-type numerically scaled indicating thermometers, or other approved temperature measuring devices shall be provided, readily accessible, and used to assure the attainment and maintenance of proper internal cooking, reheating, cooling, holding, or refrigeration temperatures of all TCS food. Such thermometers shall be clean, properly calibrated, provide a minimum range of 0°F -220°F in increments no greater than 2°F, and be accurate according to the following:

1. Accurate to  $\pm 1^{\circ}\text{C}$  if scaled in Celsius, or dually scaled in Celsius and Fahrenheit; or
2. Accurate to  $\pm 2^{\circ}\text{F}$  if scaled only in Fahrenheit.

## **SECTION 309. EQUIPMENT INSTALLATION AND LOCATION**

### **309.1 Location**

A. Equipment must be installed as to be easily cleanable and to permit the easy cleaning of the surrounding areas.

B. Food equipment shall not be located under exposed, unshielded sewer and wastewater lines, leaking water lines, water lines on which condensed water has accumulated, open stairwells, or other sources of contamination, except for automatic fire protection sprinkler heads that may be required by law.

C. Equipment shall be located so that aisles, working spaces between pieces of equipment, and working spaces between equipment and walls are unobstructed and sufficient to permit cleaning and maintenance, and for food workers to perform their duties without contaminating food and food-contact surfaces.

### **309.2 Installation**

A. Counter and table-mounted equipment:

1. Shall be installed to permit cleaning of the equipment and adjacent areas; and
2. Unless easily movable, shall be sealed to the table or counter, or elevated on legs that provide at least a 4-inch clearance between the table and the equipment.

B. Floor-mounted equipment:

1. Unless easily movable, shall be sealed to the floor or elevated on legs that provide at least a 6-inch clearance between the floor and the equipment.
2. Display shelving units, refrigeration units, and freezer units are exempt from this requirement if they are installed so that the floor beneath the units can be cleaned.

C. Spacing for fixed equipment: unless there is space that will permit food worker access for cleaning alongside, behind, and above a unit of fixed equipment, the space between it and adjoining equipment, walls and ceilings shall be sealed if more than  $1/32$  inch.

## **SECTION 310. UTENSIL HANDLING AND STORAGE**

### **310.1 Handling**

Cleaned and sanitized utensils shall be handled by food workers in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be



handled without touching food-contact surfaces. Soiled tableware shall be removed from consumer areas and handled so that clean tableware is not contaminated.

### **310.2 Storage**

A. Cleaned and sanitized utensils and single-service and single-use articles shall be stored:

1. At least 6 inches above the floor;
2. In a clean, dry location;
3. Protected from splash, dust, and other contamination; and
4. Not placed under exposed sewer lines or leaking water lines, except for automatic fire protection sprinkler heads that may be required by law.

B. Cleaned and sanitized utensils shall be air dried before being stored or shall be stored in a self-draining position.

C. Glasses and cups shall be stored inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the food worker or consumer.

### **310.3 Single-Service and Single-Use Articles**

A. Single-service and single-use articles shall be handled and dispensed in a manner that prevents contamination of the food-contact surface or with the mouth of the user.

B. Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by food workers who have washed their hands and donned gloves immediately prior to sorting or wrapping the utensils.

### **310.4 Returnable Items**

A. Retail food facilities that accept empty returnable containers for refilling with food shall send containers to a regulated food processing plant to be inspected, cleaned, sanitized, and refilled, except as specified in this subsection.

B. A take-home food container returned to a retail food facility may be refilled at a retail food facility with food if the food container is:

1. Designed and constructed for reuse and in accordance with the requirements specified under sections 307 and 308;
2. One that was initially provided by the retail food facility to the consumer, either empty or filled with food by the retail food facility, for the purpose of being returned for reuse;
3. Returned to the retail food facility by the consumer after use; and
4. Subject to the following steps before being refilled with food:

- a. Cleaned and sanitized as specified under § 311; and
- b. Visually inspected by a food worker to verify that the container, as returned, meets the requirements specified sections 307 and 308.

C. A take-home food container returned to a retail food facility may be refilled at a retail food facility with a beverage if:

1. The beverage is not a TCS food;
2. The design of the container, the rinsing equipment, and the nature of the beverage, when considered together, allow effective cleaning at home or in the retail food facility;
3. Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
4. The consumer-owned container returned to the retail food facility for refilling is refilled for sale or service only to the same consumer; and
5. The container is refilled by:
  - a. A food worker, or
  - b. The owner of the container if the beverage system includes a contamination-free transfer process as specified under specified under § 4-204.13(A), (B), and (D) of the MFC, that cannot be bypassed by the container owner.

D. Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, non-spill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under § 4-204.13(A), (B), and (D) of the MFC.

E. Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

### **310.5 Prohibited Storage Area**

The storage of food equipment, utensils or single-service and single-use articles in toilet rooms or their vestibules, garbage rooms, mechanical rooms, locker rooms, open stairwells or where there are any other sources of contamination is prohibited. Laundered linens, single-service, and single-use articles that are packaged, or stored in a closed cabinet, may be in a locker room.

## **SECTION 311. CLEANING AND SANITIZING OF EQUIPMENT AND UTENSILS**

### **311.1 General**

A. Equipment, food-contact surfaces, and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment shall be kept free of encrusted grease deposits and other soil accumulations.

C. Food-contact surfaces and utensils shall be sanitized after cleaning.

D. Non-food-contact surfaces of equipment shall be cleaned as often as necessary to prevent the accumulation of dust, dirt, food particles, and other debris.

### **311.2 Cleaning Frequency**

A. To prevent cross-contamination, utensils and food-contact surfaces shall be cleaned in accordance with § 311.4 or § 311.5 of this Article. This practice shall be done:

1. Before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry.
  - a. Except if in contact with a succession of different types of raw meat or poultry each requiring a higher cooking temperature than the previous as specified under § 333.3;
2. Each time there is a change from working with raw foods to working with ready-to-eat foods;
3. Between uses with raw fruits and vegetables and with TCS foods;
4. Before using or storing a food temperature measuring device; and
5. Following any interruption of operations when contamination may have occurred.

B. Equipment and utensils contacting TCS food shall be washed, rinsed and sanitized at least every 4 hours. Equipment and utensils contacting TCS food may be cleaned and sanitized at a time interval other than every 4 hours if:

1. The container is used to store TCS food or the utensil is stored in TCS food maintained at temperatures specified in § 331(A) and cleaned when the container is empty or at least every 24 hours;
2. Used to prepare TCS food in a refrigerated room and cleaned according to the time and temperature combinations stated in Table 354.1 Cleaning Frequency;
3. In-use utensils are intermittently stored in a running water dipper well or water at 135°F or higher and cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues, as stated in § 334.7(B)(4); or
4. The cleaning schedule is approved by the Department based on the food temperature, type of food, amount of food particle accumulation, and potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease.

C. The food-contact surfaces of cooking and baking equipment, and the cavities and door seals of microwave ovens, shall be cleaned at least once a day. This shall not apply to hot oil cooking equipment and hot oil filtering systems.

D. The food-contact surfaces of utensils and equipment used for non-TCS food shall be cleaned and sanitized:

1. At any time when contamination may have occurred;
2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
3. Before restocking consumer self-service equipment, such as condiment dispensers and display containers; or
4. At a frequency specified by the manufacturer or, absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

### **311.3 Wiping Cloths**

A. Cloths used for wiping tableware, plates, or bowls being served to the consumer, shall be clean, dry, and used for no other purpose.

B. Moist cloths while being used for wiping food spills on kitchenware, food-contact and non-food-contact surfaces of equipment, shall be clean and rinsed frequently in one of the sanitizing solutions permitted in § 311.4(C) and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses and laundered daily.

C. Moist cloths in-use for wiping surfaces in contact with raw animal-derived foods shall be kept separate from cloths used for other purposes while in use.

### **311.4 Manual Cleaning and Sanitizing**

A. Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, pre-soaked to remove food particles and soil.

B. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted according to the following sequence:

1. Sinks shall be cleaned prior to use;
2. Pre-scraped equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution, at least 110° F, that is kept clean;
3. Equipment and utensils shall be rinsed free of detergent and abrasives in clean water in the second compartment;
4. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in § 311.4(C)-(E); and
5. Equipment and utensils shall be air dried.

C. The food-contact surfaces of all equipment and utensils shall be sanitized by:

1. Immersion for at least 30 seconds in clean, hot water at a temperature of at least 171°F;
2. Immersion for at least 10 seconds in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75°F, at the proper concentration according to Table 354.2 Chlorine sanitizer concentration by water temperature and pH;
3. Immersion for at least 30 seconds in a clean solution containing 12.5 - 25 parts per million of available iodine and having a temperature of at least 68°F;
4. Immersion for at least 30 seconds in a clean solution having a concentration of quaternary ammonium compound as indicated by the EPA-registered label use instructions and having a minimum temperature of at least 75°F;
5. Treatment with steam free from materials or additives other than those specified by the U.S. Food and Drug Administration (FDA) in the Code of Federal Regulations in the case of equipment too large to be sanitized by immersion but in which steam can be confined; or
6. Immersion, rinsing, spraying or swabbing with a clean solution containing any chemical sanitizing agent allowed by the FDA in the 21 CFR § 178.1010, when evaluated to yield adequate sanitation.

D. When hot water is used for sanitizing in manual warewashing, the following facilities shall be provided and used:

1. An integral heating device or fixture installed in or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 171°F; and
2. A numerically scaled indicating thermometer accurate to  $\pm 3^{\circ}\text{F}$  or  $\pm 1.5^{\circ}\text{C}$  convenient to the sink that can be used for frequent checks of water temperature; and
3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, utensils and equipment in the hot water.

E. Fixed equipment and utensils too large to be cleaned in a sink compartment shall be cleaned and sanitized manually, through pressure spray methods, in a warewashing machine, or an alternative method as specified in § 311.5.

F. Equipment and utensils that are soiled with an accumulation from dry non-TCS foods may be cleaned using dry cleaning methods such as brushing, scraping, and vacuuming. Food-contact surfaces and utensils that are dry cleaned must be sanitized and dried thoroughly before use. Cleaning

equipment used for dry cleaning of food-contact surfaces may not be used for any other purpose.

### **311.5 Alternative Manual Cleaning and Sanitizing**

A. If washing in sink compartments or a dishwashing machine is impractical, such as when the equipment is fixed or too large, cleaning and sanitation shall be done by:

1. Disassembly as necessary to allow access of the detergent solution to all parts;
2. Scraped or rough cleaned to remove food particle accumulation; and
3. Be washed to remove or completely loosen soils by using means 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.
4. Sanitizing as stated in § 311.4(C)(6) above.

B. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved prior to use. Alternative manual warewashing equipment may include:

1. High-pressure detergent sprayers;
2. Low or line-pressure spray detergent foamers;
3. Other task-specific cleaning equipment;
4. Brushes or other implements;
5. 2-compartment sinks as specified § 321(C)(1); or
6. Receptacles that substitute for the compartments of a multicompartment sink.

### **311.6 Mechanical Cleaning and Sanitizing**

A. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. Such machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with the manufacturer's instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent and wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained. All mechanical cleaning and sanitizing equipment should comply with NSF or ANSI Standards.

B. Operation and efficacy of mechanical cleaning and sanitizing equipment should be tested at least daily.

### **311.7 Cleaned In Place (CIP)**

Equipment designed to be CIP shall be cleaned and sanitized by using a:

1. Three-step washing, rinsing, and sanitizing procedure; or
2. Two-step washing and sanitizing procedure using a detergent-sanitizer

### **311.8 Air Drying**

All equipment, tableware and utensils shall be air-dried on a non-absorbent clean surface after cleaning and sanitation, or completely drained of cleaning and sanitation solutions.

### **311.9 Sanitization Monitoring**

When chemicals are used for sanitizing, they shall not have concentrations higher than the maximum permitted by the FDA Code of Federal Regulations and shall be used in accordance with the label-use instructions registered with the U.S Environmental Protection Agency (EPA). Test strips, a test kit, or other device that accurately measures the parts per million concentration of the solution shall be provided and used. When hot water is used for sanitizing, heat sensitive tapes or other approved measuring device shall be provided and used to monitor final sanitation temperature.

## **PHYSICAL SITE**

### **SECTION 312. FLOORS, WALLS, AND CEILINGS**

#### **312.1 General**

Floors, walls, and ceilings shall be kept clean and maintained in good repair.

#### **312.2 Construction**

A. Floors, walls, and ceilings of all food preparation, food storage, and warewashing areas; dressing rooms; locker rooms; toilet rooms and vestibules shall be constructed of smooth, durable, easily cleanable material. Concrete or pumice blocks and bricks used in these locations shall be finished and sealed to provide a smooth easily cleanable surface.

B. The surfaces of food preparation areas, warewashing areas, toilet rooms, walk-in refrigerators, and other areas subject to moisture under normal conditions shall be nonabsorbent. Studs, joists, and rafters shall not be exposed in areas subject to moisture accumulation.

C. In all facilities utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials, or where water flushing cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall be covered so as not to present an open seam of more than 1/32 inch (1 mm).

D. Outdoor openings, such as doors and windows, in the main kitchen and food storage areas of food facilities must be closed or otherwise protected from the entry of rodents, birds, insects and other pests. All other openings to the outside may be required to be screened or otherwise protected from contamination by pests as stated in § 317.2, or environmental contamination.

#### **312.3 Utility Line Installation**

Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor, walls, or ceiling. In all new or

extensively remodeled food facilities, installation of exposed horizontal utility service lines and pipes on the floor is prohibited.

#### **312.4 Attachments**

Light fixtures, vent covers, mounted fans, decorative materials, and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair. Attachments and decorative materials in a consumer area must be maintained clean.

#### **312.5 Carpeting**

Carpeting shall not be used in food preparation, warewashing, food storage, and refuse storage areas, toilet rooms, or other areas where the floor is subject to moisture accumulation resulting from flushing or spray cleaning methods. Carpeting, if used as a floor covering elsewhere, shall be of closely woven construction, properly installed, easily cleaned, and maintained in good repair.

#### **312.6 Mats and Duckboards**

Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction to facilitate cleaning and shall be maintained clean and in good repair.

#### **312.7 Prohibited Floor Covering**

Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings; however, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors and shall be readily removed.

### **SECTION 313. VENTILATION**

#### **313.1 General**

A. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapor, malodorous scents, smoke and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create a nuisance nor an unsightly, harmful or unlawful discharge.

B. Intake and exhaust air ducts shall be designed, installed and maintained to prevent the entrance of dust, dirt, and other contaminating materials.

#### **313.2 Specific Ventilation Requirements**

A. Ventilation systems designed for installation over cooking and dishwashing equipment shall be installed and maintained in accordance with the most current International Mechanical Code and Fire Code adopted by the Commonwealth of Pennsylvania and as directed by the Local Municipality in which the facility is located.

B. Ventilation hoods and devices shall be designed to prevent grease or condensate from draining or dripping into food or onto food preparation surfaces, equipment, utensils, clean linens, and single-service and single-use articles; and from collecting on the walls and ceilings.

C. Filters, where required or used, shall be readily removable for cleaning or replacement.



D. Toilet rooms must be ventilated to the outside by approved mechanical means, a fully operational screened window or, if access to the outside is not available, an approved ventless unit.

E. Carbon monoxide producing devices such as water heaters and dryers must be provided with adequate ventilation in accordance with Article XII "Carbon Monoxide".

### **SECTION 314. LIGHTING**

All areas of a food facility shall be well- lit by permanently fixed artificial light sources:

A. At least 50 foot candles of light shall be provided at a surface where a food worker is working with food or working with utensils or equipment, such as knives, slicers, grinders or saws where food worker safety is a factor.

B. At least 20 foot candles shall be provided at a surface where food is provided for consumer self-service, display or sales; inside equipment, such as reach-in coolers; and at a distance of 30 inches measured above the floor in areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms.

C. At least 10 foot candles, to be measured at a distance of 30 inches from the floor, shall be provided in walk-in refrigerating units, dry storage, dressing rooms, garbage/refuse storage areas and in other areas and rooms during periods of cleaning.

D. Light bulbs shall be shielded, coated, or otherwise shatter-resistant for all artificial lighting fixtures located over, by or within food storage, preparation, service and display areas, or where there is exposed food; clean linen storage; and facilities where utensils and equipment are cleaned and stored, except for areas in which commercially packaged food is stored where the integrity of the package will not be affected by broken glass.

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

### **SECTION 315. GENERAL PREMISES**

#### **315.1 General**

A. All parts of the premises shall be kept clean and maintained, free from rubbish, refuse, dust, and dirt and free of articles not essential to the operation or maintenance of the facility.

B. The surfaces of all exterior areas of the food facility shall be constructed to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage and eliminate pooling.

C. Perimeter walls and roofs shall effectively protect the facility from the weather and shall be constructed of weather-resistant materials.

### **315.2 Living Areas**

Living or sleeping quarters shall not be maintained in any room used for food storage or preparation. Food service operations shall be separated from any living or sleeping quarters by complete partitioning, such as solid, self-closing doors.

### **315.3 Laundry Facilities**

A. Laundry facilities in a food facility shall be restricted to the washing and drying of linens and work clothes used in the operation. If such items are laundered on the premise, an electric or gas dryer shall be provided and used.

B. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only pre-packaged foods or packaged single-service articles.

### **315.4 Dressing Rooms and Locker Areas**

If food workers routinely change clothes within the facility, rooms shall be designated for that purpose. These designated rooms shall not be used for food preparation, warewashing, or for the storage of food, equipment, utensils, clean linens, single-service articles, or single-use articles.

### **315.5 Lockers**

Suitable and sufficient number of lockers or other approved facilities shall be provided for the orderly storage of food worker clothing and other belongings. Such lockers or other approved facilities shall be maintained clean and in good repair and shall not be located in any room or area where food is prepared, manufactured, or packed.

### **315.6 Linens and Work Clothes Storage**

A. Clean linens and clothes, including wiping cloths, shall be stored in a clean place, in an orderly manner and protected from contamination until used.

B. Soiled work clothes and linens, including wiping cloths, shall be kept in nonabsorbent containers or washable laundry bags until routinely removed for laundering, and shall be stored to prevent the contamination of food, equipment, utensils, clean linens, single-service articles, and single-use articles.

### **315.7 Cleaning Equipment Storage**

Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and shall be stored to prevent the contamination of food, equipment, utensils, clean linens, single-service articles, or single-use articles and shall be stored in an orderly manner to facilitate the cleaning of the storage location. Mops and brooms shall be stored off the floor and, in a position to facilitate drying and prevent soiling walls, equipment, or supplies.

## **SECTION 316. ANIMALS IN FOOD FACILITIES**

### **316.1 General**

A. Live animals shall be excluded from the premises of a food facility. This exclusion does not apply to the following:

1. Edible fish, crustacea, shellfish, or decorative fish in aquariums.

2. Live or dead fish bait if stored separately from food; equipment, utensils, clean linens, single-service articles or single-use articles.
3. Service animals accompanying and under the control of persons with disabilities in patron areas, in accordance with 28 CFR § 35.136 and Laws of the Commonwealth.
4. Pets in the common dining areas of nursing homes, assisted living facilities, group homes, or residential care facilities during non-food service times and if the contamination of food-contact surfaces is prevented.
5. Pets in areas external to retail food facilities where the Department has provided prior approval of procedures.
6. Dogs accompanying law enforcement that are conducting official duties.
7. Sentry dogs in outside fenced areas.

B. While on duty, persons employed in the food operational areas of a facility shall not care for or handle any service animals or pets.

## **SECTION 317. INSECTS, RODENTS, AND PEST PREVENTION AND MANAGEMENT**

### **317.1 General**

Effective and approved measures shall be utilized to minimize the entry of rodents, flies, cockroaches, or other vermin and pests. The premises shall be maintained in a condition to prevent the entrance, harborage and feeding of insects, rodents and other pests. Dead or trapped vermin shall be removed at a frequency that prevents their accumulation, decomposition or attraction of pests.

### **317.2 Openings**

A. Outdoor openings shall be effectively protected against the entry of rodents, birds, insects and other pests as specified in § 6-202.15 of the MFC, by solid, tight-fitting, self-closing doors; closed windows; screening; controlled air currents; or other effective means. Screen doors shall be self-closing. Screens for windows, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch.

B. This sub-section does not apply to if food contamination due to flying insects and other pests are absent due to the location of the food facility, the weather, or other limiting conditions unique to the facility.

### **317.3 Pest Control Services**

The services of a licensed pest control operator shall be required when a food facility has evidence of rodent or insect activity to the extent that rodent droppings are visible, or live insects are seen during an inspection. The food facility shall maintain records of the pest control operator's services on file for inspection for at least one year.

## **SECTION 318. POISONOUS AND TOXIC MATERIALS**

### **318.1 General**

A. There shall be present in a food facility only those approved poisonous or toxic materials necessary for operating and maintaining the facility; for cleaning and sanitizing equipment and utensils; for use in laboratory testing procedures; and for controlling insects and rodents.

B. Packaged products offered for retail sale are exempt from this subsection.

### **318.2 Container Labeling**

All containers of poisonous or toxic materials shall be prominently and distinctively marked or labeled for easy identification of contents. This shall include reusable containers such as spray bottles.

### **318.3 Storage**

A. Poisonous or toxic materials shall not be stored above or adjacent to food, equipment, utensils, clean linens, warewashing stations and drainboards, or single-service articles, or single-use articles. This requirement does not prohibit the convenient availability of detergents and sanitizer at warewashing stations provided they are stored in a manner that prevents contamination.

B. Packaged poisonous or toxic materials offered for retail sale shall not be kept above or adjacent to food, equipment, utensils, clean linens, single-service articles, or single-use articles.

### **318.4 Use**

A. Poisonous or toxic materials shall not be used in any way that contaminates food, equipment, utensils, clean linens, single-service articles, or single-use articles; nor in any way that constitutes a hazard to food workers or other persons; nor in any way other than in full compliance with the manufacturer's labeling and law.

B. Restricted use pesticides shall be applied only by a certified applicator.

C. Re-use of containers previously used to store poisonous or toxic materials is prohibited, except for the storage of the same product dispensed from bulk supply.

D. Bait stations shall be tamper-resistant and covered to prevent spillage and scattering of poisonous material. The use of loose or liquid bait, including packaged "place packs", is prohibited.

E. Toxic tracking materials shall not be used in food facilities. A nontoxic tracking powder such as talcum or flour may be used in a way that does not contaminate food, equipment, utensils, clean linens, single-service articles, or single-use articles.

F. Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in any way that leaves a toxic residue on such surfaces or that constitutes a hazard to food workers or other persons.

### **318.5 Personal Health Aids and Cosmetics**

A. First aid supplies shall be stored in a labeled kit or container and shall not be stored adjacent to or above food, equipment, utensils, clean linens, single-service articles, or single-use articles.

B. Only those medications necessary for the health of food workers may be present. Medications shall not be stored adjacent to or above food, equipment, utensils, clean linens, single-service articles, or single-use articles. Medication that requires refrigeration shall be double-packaged, properly labeled, and stored on the bottom shelf.

C. Cosmetics and personal care items shall bear a legible label and shall not be stored adjacent to or above food, equipment, utensils, clean linens, single-service articles, or single-use articles.

D. Packaged first aid supplies, medicines, and cosmetics offered for retail sale shall not be stored adjacent to or above food, equipment, utensils, clean linens, single-service articles, or single-use articles.

## **WATER, PLUMBING, AND WASTE**

### **SECTION 319. WATER SUPPLY**

Sufficient potable water for the needs of the food facility shall be provided from an approved source. Only potable water shall be used in contact with food or food-contact surfaces.

A. All potable water not provided by pipe to any permanent food facility from the source shall be delivered in an approved bulk-water transport system and to an approved closed water system.

B. Bottled and packaged potable water shall be obtained from an approved source and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container. This water supply cannot be used as a primary and permanent source.

C. Hot and cold water under pressure shall be provided to all applicable fixtures, and food and non-food equipment that use water, and meet the peak water demands throughout the food facility.

D. Drinking water systems shall be flushed and disinfected before being placed into service, after construction, repair or modification, seasonal shut down, or after an emergency situation.

E. Drinking water from non-public water systems shall meet the standards for public drinking water established in 25 Pa. Code Chapter 109 (Safe Drinking Water); maintenance and operation requirements; and shall be sampled as a transient non-community public water system that serves twenty-five (25) people daily or as directed by the Pennsylvania Department of Environmental Protection (DEP). All analytical work must be performed according to law and the reports must be retained on file at the food facility.

## **SECTION 320. SEWAGE AND WASTEWATER**

All sewage and wastewater shall be disposed of in accordance with laws of the Commonwealth of Pennsylvania and the Allegheny County Health Department Article XIV, "Sewage Disposal".

## **SECTION 321. PLUMBING**

A. Plumbing, plumbing fixtures and devices, shall be properly maintained and installed according to the Allegheny County Health Department Article XV, "Plumbing Code".

B. Backflow and back siphonage shall be prevented by methods approved by the Allegheny County Health Department Article XV, "Plumbing Code".

C. All food facilities that handle, serve, or prepare food must have at least one (1) sink with at least three (3) compartments, except as provided below. Sinks must meet NSF, ANSI, or equivalent standards. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils intended to be cleaned in a sink. Utensils and equipment too large to be cleaned in a sink shall be cleaned and sanitized as stated in § 311.5.

1. A sink with only two (2) compartments may be used if approved prior to use, the number of utensils cleaned and sanitized are limited, and warewashing is limited to batch operations for cleaning utensils, such as cleanup at the end of a shift, and the food facility shall:

- (a) Make up the cleaning and sanitizer solutions immediately before use and drain them immediately after use; and
- (b) Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under § 4-501.115 of the MFC; or
- (c) Use of a nondistinct water rinse for hot water sanitation immersion step as specified in § 311.4(C)(1).

2. A sink with only two (2) compartments may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of equipment and utensils in an ongoing warewashing process.

D. At least one (1) service sink or curbed cleaning facility with a floor drain shall be provided in accordance with Article XV "Plumbing Code" and used for the cleaning of mops, maintenance tools, obtaining mop water, and disposal of mop water or similar liquid wastes.

E. The use of food preparation sinks, handwashing sinks, toilets, or warewashing equipment, for the disposal of such wastes is prohibited.

## **SECTION 322. TOILET ROOMS**

### **322.1 Toilet Room Location and Design**

A. Toilet rooms shall be convenient and adequate according to this Article. Toilet rooms for food workers shall be accessible during all hours of operation and from inside of the building.

B. Toilet rooms for patrons cannot be accessed through food preparation, warewashing, food storage, or utensil storage areas.

C. To minimize the potential for the spread of disease between the toilet facility and food preparation areas toilet rooms shall be completely enclosed and have tight fitting, self-closing, solid doors, which shall be kept closed except during cleaning or maintenance. The doors of toilet rooms shall not open directly into any food preparation, warewashing, or food storage area, except where alternate means have been taken to protect against such contamination such as double doors or negative air-flow.

### **322.2 Toilet Room Maintenance**

Toilet rooms and fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times.

A. All toilet rooms shall have at least one easily cleanable covered waste receptacle for refuse materials.

### **322.3 Toilet Room Fixtures**

The minimum number of toilet room fixtures shall conform to the Allegheny County Health Department Article XV, "Plumbing Code".

### **322.4 Toilet Room Number and Type**

A. The number and type of toilet rooms shall conform to the Allegheny County Health Department Article XV, "Plumbing Code". Any food facility which was constructed prior to October 4, 1976 and maintained in its original intent and configuration is exempt from this subsection.

B. Non-sewered toilet (NST) systems shall conform to the Allegheny County Health Department Article XIV, "Sewage Disposal".

## **SECTION 323. HANDWASHING SINKS**

A. Handwashing sinks shall be installed properly and according to the Allegheny County Health Department Article XV, "Plumbing Code".

B. Sufficient handwashing sinks as determined by the Department shall be convenient to the food preparation, food dispensing, warewashing areas, and available for use by all food workers.

C. Handwashing sinks located in or near each food preparation, processing, and utensil washing area, and in or adjacent to all toilet rooms, shall be accessible at all times.

D. Handwashing sinks may not be used for purposes other than handwashing.

E. Handwashing sinks shall be provided with hot and cold running water provided through an approved water-temperature limiting device or combination faucet. Steam mixing valves are prohibited. The hot water shall be provided at a temperature of at least 100°F. Handwashing sinks in public areas or accessible to children in child day care centers may not exceed 110°F.

F. Any self-closing or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

G. A supply of hand cleaning soap or detergent shall be conveniently located near each handwashing sink. A supply of individual, disposable towels or a hand drying device providing heated air, shall be conveniently located near each handwashing sink. Common towels are prohibited. If disposable towels are used, nonabsorbent easily cleanable waste receptacles shall be conveniently located near the handwashing sinks.

H. Handwashing sinks, soap dispensers, hand drying devices and all related fixtures shall be kept clean and in good repair.

I. Sufficient notices shall be conspicuously posted above or near handwashing sinks directing all food workers to thoroughly wash their hands.

J. Hand antiseptics may be used to supplement proper handwashing and do not replace proper handwashing required by food workers.

K. A minimum of one (1) handwashing station or hand antiseptic station must be provided where non-sewered toilets (NST) are used. Handwashing stations or hand antiseptic stations must be provided at a ratio of one (1) handwashing station or hand antiseptics stations to every five (5) NSTs for use by the public.

## **SECTION 324. GARBAGE AND REFUSE**

### **324.1 General**

Garbage and refuse shall be stored, handled, and disposed of in a manner that protects food and food-contact surfaces from contamination, and does not create a condition conducive to pests, a nuisance, or violate any other section of this Article.

### **324.2 Receptacles**

A. Receptacles shall be durable, easily cleanable, insect-resistant, and rodent-resistant containers that do not leak or absorb liquids. Receptacles shall be provided with tight-fitting lids, doors, or covers which shall be kept closed when not in continuous use, during nonworking hours, and after they are filled.

B. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates between scheduled removal.

C. Soiled receptacles shall be cleaned at a frequency to prevent insect and rodent attraction and minimize odors. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Receptacles designed with drains shall always have the drain plugs in place, except during cleaning.

### **324.3 Storage Areas**

A. Storage areas shall be of sufficient size to store all garbage and refuse and maintained clean.

B. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, and washable materials.



C. Outside storage areas or enclosures shall have a smooth ground surface of nonabsorbent material, such as concrete or asphalt.

## **MANAGEMENT AND PERSONNEL**

### **SECTION 325. CERTIFIED FOOD PROTECTION MANAGERS**

A. All retail food facilities where unpackaged TCS food is handled in Allegheny County shall have at least one (1) Certified Food Protection Manager (CFPM) present at all times when TCS food is being handled.

B. When there is more than one building or location involved, each location where food preparation occurs shall have a CFPM on site while operating.

1. If a proprietor operates more than one temporary food facility at a fair, festival or other temporary event, a single CFPM may be the certified employee for all those temporary food facilities.

C. The Department shall recognize certification programs including examinations developed under those programs that are evaluated and listed by an accrediting agency that has been recognized by the Conference for Food Protection as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Program.

D. This section does not apply to certain types of retail food facilities, such as, but not limited to, Class I and Class II retail food facilities, deemed by the Department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation.

1. The Department may require alternative food safety training for certain food workers in food facilities deemed not to require a CFPM.

E. The following retail food facilities are exempt from this section:

1. A retail food facility managed by an organization which is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).
2. A retail food facility managed on a not-for-profit basis by an organization which is a volunteer fire company or an ambulance, religious, charitable, fraternal, veterans, civic, agricultural fair or agricultural association or any separately chartered auxiliary of any of the above associations.
3. A retail food facility managed by an organization which is established to promote and encourage participation and support for extracurricular recreational activities for youth of primary and secondary public, private and parochial school systems on a not-for-profit basis. This paragraph does not apply to organized camps.

## **Section 326. RESPONSIBILITIES AND SUPERVISION**

### **326.1 General**

The food facility operator shall develop and maintain written records and policies required by this Article and the MFC, to include, but not limited to:

1. Clean-up of vomiting and diarrheal events,
2. Time as Public Health Control in accordance with § 334.2
3. Non-continuous cooking of raw animal-derived foods in accordance with § 333.3(D),
4. HACCP Plans in accordance with § 337 (if required),
5. Grease interceptor cleaning and service schedule and records, and
6. Major food allergen control plans.

### **326.2 Designation of Person in Charge**

The food facility operator shall be the Person in Charge or shall designate a Person in Charge. A Person in Charge shall be present at the food facility during all hours of operation for Class II, Class III, and Class IV facilities.

### **326.3 Responsibilities of the Permit Holder regarding a Certified Food Protection Manager**

A. All food facilities where TCS food is handled shall employ the number of CFPMs as required by § 325 of this article.

B. A new permit holder shall employ CFPM(s) within ninety (90) days of the initial food permit issuance by the Allegheny County Health Department.

C. When the CFPM is no longer employed or is no longer acting as a CFPM at the food facility and the facility lacks at least 1 (one) CFPM, the permit holder shall employ a replacement CFPM within thirty (30) days of the employment termination date. The permit holder shall notify the Department in writing within five (5) working days that the facility lacks a Certified Food Protection Manager.

D. All food facilities shall maintain records of the names and certificate numbers of its CFPM(s) and make them available for inspection by the Department.

### **326.4 Duties of Person in Charge**

The Person in Charge shall comply with the requirements of this Article by:

1. Having no high-risk violations during the current inspection; and upon request
2. Demonstrating to the Department knowledge of food safety practices, foodborne disease prevention, and application of the HACCP principles;
3. Being a CFPM if required in § 325;

4. Ensuring that food workers are properly trained and employing good personal hygiene;
5. Being aware of the responsibility to report illness and exclude or restrict food workers accordingly, as specified in § 328;
6. Being aware of food allergens as it relates to their duties and training staff in proper processes and procedures; and
7. Reporting to the Department if the permit holder is unavailable or an emergency occurrence as stated in § 326.7.

### **326.5 Responsibilities of Certified Food Protection Managers**

The CFPM shall maintain certification by demonstrating food safety knowledge by successfully completing the certification exam prior to the expiration date listed on the certificate.

### **326.6 Access**

After the Department representative presents identification, the Person in Charge shall allow the Department to determine if the food facility is in compliance with this Article to which the Department is entitled under Act 315 by:

- A. Allowing access to the facility;
- B. Allowing inspection during hours of operation and other reasonable times during which the facility is not open; and
- C. Providing information and records relating to facility operations.

### **326.7 Emergency Occurrences**

In the event of a fire, flood, sewage back-up, power outage of 2 or more hours, lack of potable water, alleged foodborne or waterborne illness outbreak of two (2) or more people, a food worker with reportable symptoms or diagnoses specified in § 328, or similar event that might result in the contamination of food, the permit holder or the Person in Charge shall immediately contact the Department. Upon receiving notice of such an occurrence, the Department shall take appropriate actions to protect the public health, which include, but are not limited to, suspension of the food permit.

## **SECTION 327. PERSONAL CLEANLINESS AND FOOD WORKER PRACTICES**

### **327.1 Handwashing and Glove Use**

- A. Food workers shall wash their hands in designated handwashing sinks. Handwashing is not permitted in sinks used for food preparation, or for washing equipment or utensils.
- B. All food workers shall thoroughly wash their hands and the exposed portions of their arms or surrogate prosthetic devices, with soap or a cleaning compound and warm running water for at least 20 seconds before starting work; donning gloves; after tobacco use; handling garbage or soiled tableware

or kitchenware; coughing, sneezing, touching the mouth, nose, hair or any body part, except clean hands; eating; using the toilet; touching or caring for service animals or aquatic animals; before and after handling raw meat, raw poultry or raw seafood, or any other TCS food; and as often as is necessary during work to keep them clean.

C. Hands shall be thoroughly dried after washing utilizing single-use or disposable towels, a mechanical heated hand drying device, or a device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

D. The use of clean disposable gloves or hand antiseptics shall not be a substitute for hand washing. Hand antiseptics shall only be used in accordance with § 2-301.16 of the MFC and only applied to hands that are cleaned as specified in § 327.1(B).

E. Single-use disposable gloves shall be changed as often as necessary in accordance with the requirements for hand washing and used for only one task such as working with ready-to-eat food or with raw animal derived food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

### **327.2 Tobacco, Electronic Cigarette Device Use, and Food Worker Dining**

A. Food workers shall not use tobacco products or electronic cigarette devices in any form while engaged in food preparation or service, while in areas used for food preparation or equipment and utensil washing areas.

B. Food worker dining shall be confined to designated areas, which will not result in contamination of food; clean equipment, utensils, unwrapped single-service and single-use articles; or other items needing protection.

### **327.3 Handling Tableware**

Food workers shall handle soiled tableware in a way that minimizes contamination of clean tableware.

### **327.4 Clothing**

The outer clothing of all food workers shall be clean. Aprons or other protective outer clothing used by food workers shall be removed prior to entering the toilet room.

### **327.5 Hair Restraints**

Food workers shall effectively use hair restraints such as, but not limited to, hairnets, beard nets, headbands, and hats when necessary to prevent the contamination of food, clean equipment, utensils, unwrapped single-service and single-use articles, food-contact surfaces, and clean linens. This subsection does not apply to food workers such as hosts and wait-staff who only serve beverages, or wrapped or packaged foods.

### **327.6 Fingernails**

Food workers shall keep their fingernails trimmed and maintained, and not wear fingernail polish or artificial fingernails when working with exposed food, unless wearing intact gloves in good repair.

### **327.7 Jewelry**

Except for a plain ring such as a wedding band, while preparing food, food workers may not wear jewelry including medical information jewelry on their arms and hands.

### **327.8 Tasting**

Food workers shall only taste food intended for the consumer using a clean utensil. A food worker may not use a utensil more than once to taste food that is to be sold or served.

## **SECTION 328. INFECTED FOOD WORKER**

### **328.1 General**

A person infected with a disease or specific conditions to include, but not limited to, those listed below, shall be restricted or excluded from working in a food facility as directed by the Department.

### **328.2 Food Worker Exclusion**

A. Food facilities shall exclude food workers from the food facility with any of the following diagnoses or symptoms:

1. Salmonella (nontyphoidal) and symptomatic with vomiting or diarrhea;
2. Typhoid fever within the past three (3) months;
3. Shigella spp. and symptomatic with vomiting or diarrhea;
4. Shiga-toxin producing Escherichia coli (STEC) and symptomatic with vomiting or diarrhea;
5. Hepatitis A virus;
6. Jaundice with onset within seven (7) calendar days, unless the food worker provides to the Person in Charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection; or
7. Vomiting or diarrhea from an infectious condition.

B. Food facilities that serve a Highly Susceptible Population shall also exclude food workers from the food facility for any of the following diagnoses or symptoms:

1. Norovirus;
2. Shigella;
3. Shiga-toxin producing E. coli.;
4. A sore throat with fever;
5. Acute onset of sore throat with fever; or

6. Jaundiced regardless of onset.

### **328.3 Food Worker Restriction**

A. Food facilities shall restrict food workers from handling food or contacting clean food-contact surfaces in the food facility with any of the following diagnoses or symptoms:

1. A skin lesion containing pus, boil, or infected wound that is open or draining and not properly covered;
2. Jaundice with onset more than seven (7) days, unless the food worker provides to the Person in Charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;
3. A sore throat with fever;
4. Shigella spp. infection;
5. Shiga-toxin producing Escherichia coli (STEC);
6. Norovirus;
7. Nontyphoidal Salmonella; or
8. Amebiasis, until two (2) consecutive negative stool samples are obtained.

B. Food facilities that serve a Highly Susceptible Population shall also restrict food workers for any of the following diagnosis or symptoms:

1. Nontyphoidal Salmonella; or
2. Exposed to a foodborne pathogen.

C. Food facilities may allow previously excluded food workers that meet the conditions below to return to the food facility for restricted duties only. Such food workers shall be restricted from handling food or contacting clean food-contact surfaces in the food facility:

1. Asymptomatic for greater than 24 hours from symptoms of Shigella, or Shiga-toxin producing E. coli.;
2. Asymptomatic for at least thirty (30) days after being symptomatic from non-Typhoidal Salmonella;
3. Asymptomatic for at least 24 hours after being symptomatic from Norovirus;

### **328.4 Procedure When Infection is Suspected**

A. If the permit holder or Person in Charge of the facility has reason to believe that any food worker has contracted a disease in section 328.2 or 328.3, or has become a carrier of such disease, the Department shall be notified immediately. The food worker shall be immediately excluded from the food

facility or have their food handling duties restricted as stated in sections 328.2 and 328.3 above.

B. When the Department has reason to believe that there is the possibility of transmission of infection from any food facility food worker, the Director or their designee is authorized to require any or all of the following measures:

1. The immediate exclusion of the food worker from working in the food facility;
2. The immediate restriction of the food worker from working with exposed food; cleaning equipment, utensils, linens, and unwrapped single-service and single-use articles;
3. The immediate closing of the food facility until no further danger of disease outbreak exists;
4. Adequate medical examinations of the food worker and of their associates with such laboratory examinations as may be indicated.

C. The permit holder or Person in Charge and the food worker shall comply with disease control measures to include, but not limited to, exclusions and restrictions ordered by the Department.

D. A permit holder or the Person in Charge shall only remove or adjust exclusions or restrictions when notified by the Department that they may do so and in accordance with § 2-201.13 of the MFC.

### **328.5 Public Health Protection**

The Department, upon the receipt of a report of a disease which is subject to isolation, quarantine, or any other control measure, shall carry out an investigation and the appropriate control measures in such manner and in such place as is provided by rule, regulation, or law.

## **FOOD SOURCES**

### **SECTION 329. FOOD SUPPLIES**

#### **329.1 General**

All food and beverages shall be obtained from an approved source and honestly presented; in sound condition; at required temperatures, and under refrigeration if applicable; free from spoilage, filth, adulterants, un-approved additives, temperature abuse, or other contamination; and shall be safe for human consumption. All processed foods shall be obtained from food processors that are inspected and licensed or permitted by a regulatory authority. Packaged food shall be received labeled as specified in law, including 21 CFR 101 Food Labeling, 9 CFR 317 Labeling, Marking Devices, and Containers, and 9 CFR 381 Subpart N Labeling and Containers, or as specified under § 333.9.

#### **329.2 Special Requirements**

A. Fluid and dry milk and milk products, including frozen and cheeses, used, or served, or offered for sale shall meet the standards established by the PA Milk Sanitation Law (31 P.S. § 645-660g). Milk shall not be sold past the sell-by-date noted on the container and shall be received at 45°F or less.

B. Molluscan shellfish and fish shall be from an approved source according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, FDA, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. Recreationally caught fish and shellfish shall not be offered for consumption. Molluscan shellfish shall be protected from contamination at all times and not commingled with shellfish stock with different tags or labels.

1. Shellstock shall be reasonably free from mud, dead shellfish, and shellfish with broken shells. Dead molluscan shellfish or shellstock with badly broken shells shall be discarded.

2. Shellstock shall be obtained in containers bearing legible source identification tags or labels that are attached by the harvester and each dealer.

(a) The harvester's tag or label shall contain information in the following order:

- 1) The harvester's identification number;
- 2) The date of harvesting;
- 3) The most precise identification of the harvest location, or aquaculture site, that includes the abbreviation of the name of the state or country in which harvested;
- 4) The type and quantity of molluscan shellfish; and
- 5) 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**

(b) The dealer's tag or label shall contain the following information in the following order:

- 1) The dealer's name and address, and the certification number including the abbreviation of the name of the state or country in which the molluscan shellfish are harvested;
- 2) The same information as specified for a harvester's tag; and
- 3) 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**

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

- (a) The name, address, and certification number of the dealer, shucker, packer, re-packer; and
- (b) The "sell-by" or "best if used by" date, or the date shucked, based upon size.

4. Shellstock and shucked molluscan shellfish shall be kept in the container in which they were received until used, repacked or sold. Shellstock and shucked molluscan shellfish may be removed from the original container for display purposes for servings upon a consumer's



request if the labeling information is retained and, in the case of shucked shellfish, correlated to the date when the shellfish are sold or served. Each tag and/or corresponding record shall be kept for ninety (90) days and be made available for inspection by the Department.

5. Molluscan shellfish and shellstock which do not bear a label or a label with the required information shall be subject to embargo or condemnation.

6. The repacking of shucked molluscan shellfish, breaking down of shellstock lots or shucking-repacking of shellfish shall be conducted in accordance with appropriate state and federal laws.

C. Only clean, whole eggs with shell intact and without cracks or checks; or pasteurized liquid, frozen, or dry eggs, or pasteurized dry egg products, shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used or offered for sale. Shell eggs shall be transported and received in containers or vehicles with an ambient air temperature of 45°F or below, and shall not be re-packaged. Eggs at a food facility shall be maintained at an internal temperature not to exceed 45°F until use, preparation or purchase by a consumer in accordance with the PA Egg Refrigeration Law (31 P. S. §§ 300.1—300.9).

D. Only ice that has been manufactured from an approved source of potable water and packaged and handled in a sanitary manner shall be used or offered for sale.

E. Pre-packaged juice, and beverages containing juice, shall be obtained pasteurized and from a processor with an HACCP system in place. Juice, and beverages containing juice, that are prepared and packaged on the premises must bear a warning label if not pasteurized, or otherwise treated, to attain a 5-log reduction of the most resistant microorganisms. The product must be labeled as specified in 21 CFR 101.17(G) with the following: "WARNING: This product has not been pasteurized and therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."

F. Fish offered in raw or undercooked form as a ready-to-eat food shall meet the requirements for parasite destruction as specified in § 3-402.11 of the MFC. Records and proof shall be retained by the facility for at least ninety (90) days after the sale of such items and be made available for inspection by the Department.

G. Food that is labeled frozen shall be received frozen and free from evidence of temperature abuse.

### **SECTION 330. FOOD PREPARED IN A PRIVATE HOME**

Food prepared in home-style kitchen, residential-style kitchen, or a personal-use kitchen, regardless whether the location is on or off the actual residential property, shall not be sold for public consumption, unless the operation is approved by, and registered as a Limited Food Establishment with, the Pennsylvania Department of Agriculture (PDA) under the Pennsylvania Food

Safety Act (3 Pa.C.S.A. §§ 5721 – 5737) for residential food service operations.

## **FOOD CONDITION**

### **SECTION 331. FOOD PROTECTION**

A. At all times, including while being stored, prepared, displayed, served, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by insects, rodents, , chemicals, unclean equipment and utensils, unnecessary handling, flooding, draining, and overhead leakage or condensation, sewage, or other agents of public health significance. The temperature of TCS food shall be maintained at 41°F or below, or 135°F or above, at all times, except as otherwise provided in this Article.

B. The traffic of unnecessary persons through the food preparation, food storage, and warewashing areas is prohibited.

### **SECTION 332. FOOD STORAGE**

#### **332.1 General**

Food, whether raw, cooked or prepared, if removed from the package or container in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Food in the process of cooling and whole unprocessed raw fruits and vegetables may be stored uncovered, provided they are adequately protected from contamination. Container covers shall be impervious and non-absorbent, except that clean linens or napkins may be used for lining or covering bread or roll containers. Quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

#### **332.2 Containers and Location**

Containers of food shall be stored a minimum of 6 inches above the floor, in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:

A. Metal pressurized beverage containers, and cases of food packaged in cans, glass or other impervious containers need not be elevated when the food container or cases are not exposed to floor moisture; and the storage area is kept clean and free of moisture.

B. Containers may be stored on dollies, racks or pallets, provided such equipment can be easily moved by hand or with the use of readily available pallet-moving equipment. Equipment, pallets, and storage areas must be kept clean.

C. Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms and their vestibules, garbage rooms, locker rooms or mechanical rooms is prohibited.

D. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food

requiring washing or cooking. Raw animal-derived TCS food must be stored below ready-to-eat foods. Raw foods which require higher cooking temperatures shall be stored below or separate from foods requiring lower cooking temperatures. Frozen, commercially processed and packaged raw animal derived food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food provided it remains in a frozen state before and during placement.

E. Packaged food shall not be stored in contact with water or undrained ice. Loosely wrapped ready-to-eat food shall not be stored in direct contact with ice.

F. Bulk food including, but not limited to cooking oil, syrup, salt, sugar, or flour not stored in the original product container or package in which it was obtained, shall be stored in a container identifying the food by its common English name.

### **332.3 Refrigerated and Frozen Storage**

A. Satisfactory number of conveniently located refrigeration units or effectively insulated units shall be provided to assure the maintenance and cooling of TCS food at required temperatures. Each refrigerated unit storing TCS food shall be provided with a numerically scaled indicating or recording thermometer, accurate to  $\pm 1.5^{\circ}\text{C}$ , if scaled in Celsius or dually scaled in Celsius and Fahrenheit, or  $\pm 3^{\circ}\text{F}$ , if scaled in Fahrenheit only, and located to measure the air temperature in the warmest part of the unit and located to be easily readable. Where it is impractical to install thermometers in equipment such as insulated food transport carriers or ice chest, a clean product thermometer must be available and used to check internal food temperature.

B. The internal temperature of TCS food requiring refrigeration shall be at or below  $41^{\circ}\text{F}$ .

C. Stored frozen food shall be maintained frozen.

D. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, except that such ice may be used for cooling cold plates that are constructed within an ice storage bin.

### **332.4 Hot Storage**

A. Satisfactory number of conveniently located hot food storage units shall be provided to assure the maintenance of TCS food at the required temperature during storage. Each hot food unit storing TCS food shall be provided with a numerically scaled or recording thermometer, accurate to  $\pm 1.5^{\circ}\text{C}$ , if scaled in Celsius or dually scaled in Celsius and Fahrenheit, or  $\pm 3^{\circ}\text{F}$ , if scaled in Fahrenheit only, and located to measure the air or water temperature in the coolest part of the unit and located to be easily readable. Where it is impractical to install thermometers on equipment such as bains-marie, steam tables, steam kettles, heat lamps, or insulated food transport carriers, a clean product thermometer must be available and used to check internal food temperature.

B. The internal temperature of TCS food requiring hot storage shall be  $135^{\circ}\text{F}$  or greater, except roasts meeting cooking criteria may be held at  $130^{\circ}\text{F}$  or above.

### **332.5 TCS Food in a Homogenous Liquid Form**

A. Packaged TCS food in a homogenous liquid form may be held outside of the temperature control requirements for hot or cold foods while contained within specially designed equipment that maintains the safety of aseptically packaged fluid foods and complies with the design and construction requirements of the NSF/ANSI Standard 18, "Manual Food and Beverage Dispensing Equipment".

### **332.6 Date Marking of Food**

A. Refrigerated ready-to-eat TCS food prepared and held for more than 24 hours in a retail food facility shall be clearly marked at the time of preparation to indicate the date the food shall be consumed, sold or discarded, which is, including the day of preparation, seven (7) days or less from the day the food is prepared, if the food is maintained at 41°F or less. The day of preparation shall be counted as "Day 1."

B. Ready-to-eat TCS foods that are frozen after preparation shall have the freeze date documented. Once removed from the freezer, the thaw date shall be documented. The ready-to-eat TCS food shall remain refrigerated for no more than a total of seven (7) days. The dates from preparation to the freezing date and the thawing date shall all be counted as days during which the food is refrigerated.

C. Ready-to-eat TCS food prepared and packaged by a food processor shall be clearly marked, at the time the original container is opened in a food facility and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed, sold, or discarded, based on the temperature and time combinations specified in paragraph A. & B. of this subsection and:

1. The day the original container is opened in the food facility shall be counted as Day 1; and
2. The day or date marked by the food facility may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

D. Ready-to-eat TCS food combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

E. Date marking methods that are not covered above may be used if approved by the Department or if in accordance with § 3-501.17 of the MFC.

## **SECTION 333. FOOD PREPARATION**

### **333.1 General**

A. Food shall be prepared with minimal hand contact, with suitable utensils, and on surfaces that have been cleaned, rinsed and sanitized to prevent cross-contamination prior to use.

B. Food workers shall not contact exposed, ready-to-eat food with their bare hands, and shall use suitable utensils, such as deli tissue, spatulas, tongs, single-use gloves or dispensing equipment.

C. Each time there is a change in processing between raw meats, poultry, and seafood, or between raw and ready-to-eat foods, each new operation shall begin with food-contact surfaces and utensils which have been cleaned, rinsed, and sanitized.

### **333.2 Raw Fruits and Raw Vegetables**

A. Raw fruits and vegetables shall be thoroughly washed with potable water before being cooked, cut, served, or offered for human consumption in ready-to-eat form.

1. Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315.

2. Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables shall meet the requirements specified in 21 CFR 173.368.

B. Raw fruits and raw vegetables considered TCS food according to the FDA must be temperature controlled and held at 41°F or below. Such foods include, but are not limited to: cut melons, cut tomatoes, and cut leafy greens, and raw seed sprouts.

C. Sulfiting agents may not be applied to fresh fruits and vegetables intended for raw consumption, except for grapes if treated with sulfiting agents before receipt by the food facility.

### **333.3 Cooking Time and Temperature Controlled for Safety Food**

A. TCS food requiring cooking shall be cooked to heat all parts of the food to a temperature of 145°F or above for 15 seconds, except that:

1. Poultry; stuffed products such as poultry, meats, fish, or pastas; stuffing containing poultry, meat, or fish; baluts, and wild game animals shall be cooked to heat all parts of the food to 165°F or above for < 1 second (instantaneous).

2. Ground , mechanically tenderized, and injected meats; comminuted meat and fish, such as gyros, sausage, and gefilte fish; , comminuted commercially raised and inspected game; ratites; or eggs, unless cooked for one consumer's serving at a single meal and served immediately, shall be cooked to heat all parts of the food to 155°F for 17 seconds, or in accordance to the cooking times and temperatures in table 354.3, Cooking Times and Temperatures.

3. Whole beef roasts, pork roasts, and lamb roasts shall be cooked to an internal temperature of 145°F for 4 minutes or to 130°F for 112 minutes. Alternative cooking times and temperatures may be used in accordance with § 3-401.11(B) of the MFC. Beef steak shall be cooked on both the top and bottom to a surface temperature of 145°F or above, and cooked to achieve a color change on all external surfaces, provided it is whole muscle, intact, and not offered to a highly susceptible population.

B. Raw animal products cooked in a microwave oven shall be rotated during cooking to compensate for uneven heat distribution, covered to retain surface moisture, heated to a temperature of at least 165°F in all parts of the food, and allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

C. Raw fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of at least 135°F.

D. Raw animal derived foods that are cooked using a non-continuous cooking process that does not initially reach the required final cooking time and temperature combination shall be:

1. Subject to an initial heating process that is not more than 60 minutes in duration,
2. Immediately after initial heating, cooled safely in accordance with § 333.5 of this Article and then stored cold or frozen in accordance with § 332.3(B) of this Article, and
3. Prior to service to the consumer, cooked in accordance with paragraphs 333.3(A)-(B) of this Article, and prepared and stored according to written procedures that have been reviewed and pre-approved by the Department.

#### **333.4 Raw or Undercooked Animal Derived Food**

A. If animal derived food, such as beef, eggs, fish, lamb, milk, pork, poultry or shellfish, that is raw or undercooked is offered ready-to-eat or upon consumer request, the permit holder shall inform consumers by written disclosure and reminder:

1. Written disclosure is satisfied when:
  - (a) Items are described, such as:
    - (1) Oysters on the half-shell (raw oysters),
    - (2) Raw-egg Caesar salad, and
    - (3) Hamburgers (can be cooked to order); or
  - (b) Items are asterisked to a footnote that states that the items:
    - (1) Are served raw or undercooked, or
    - (2) Contains (or may contain) raw or undercooked ingredients.
2. Written reminder is satisfied when the items requiring Disclosure are asterisked to a footnote that states:
  - (a) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness"; or
  - (b) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions"; or
  - (c) "Information regarding the safety of these items, written information is available upon request".

B. Food facilities that serve a highly susceptible population, as defined in this Article, shall not serve raw or undercooked animal derived food.

C. Food facilities shall not offer raw or undercooked comminuted meat for selection from a children's menu.

### **333.5 Cooling Time and Temperature Controlled for Safety Food**

A. Cooked TCS food requiring refrigeration after preparation shall be monitored and rapidly cooled:

1. Within 2 hours from 135°F to 70°F; and
2. Within a total of 6 hours from 135°F to 41°F, for a total cooling time not to exceed 6 hours.

B. TCS food prepared from ingredients at ambient temperature shall be cooled within 4 hours to 41°F or less.

C. TCS food shall be rapidly cooled, utilizing one or more of the following methods, based on the type of food being cooled:

1. Placing of foods in shallow metal pans under refrigeration and limiting the depth of foods dependent upon thickness/density of the foods;
2. An ice water bath where the bath is at least to the level of the food in the container and the food is frequently stirred;
3. Portioning food items into smaller or thinner pieces and placing under refrigeration; and
4. Other approved means such as blast chillers, cooling wands, or adding ice as an ingredient to a condensed food.

D. Cooling foods shall be arranged in the cooling equipment to provide maximum heat transfer through the container walls, and loosely covered, or left uncovered while cooling. Cooling of foods shall be conducted in an environment which will protect the food from contamination.

E. Cooling temperatures shall be monitored and documented. Cooling documents shall be maintained on-site for thirty (30) days and made available for inspection.

### **333.6 Reheating for Hot Holding**

A. Previously cooked TCS food shall be rapidly reheated within 2 hours to 165°F or higher for 15 seconds throughout all parts of the food before being served, or before being placed in a hot storage unit. Steam tables, bains-marie, warmers, and similar hot food holding equipment are prohibited for the rapid reheating of TCS food, unless such procedures are demonstrated as meeting safety requirements.

B. Commercially processed ready-to-eat food that has been packaged in a processing plant shall be reheated to a minimum of 135°F for 15 seconds. Once the container or package is opened, the food must be reheated to 165°F for 15 seconds.

C. Remaining unsliced portions of meat roasts may be reheated for hot-holding using approved oven parameters and time/temperature conditions.

D. When a microwave oven is used, food temperatures shall be taken throughout the food to assure a reheat temperature of 165°F for 15 seconds, except where noted above in § 333.6(B), and shall be rotated or stirred, and be allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

E. Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer request may be served at any temperature.

### **333.7 Thawing Time and Temperature Controlled for Safety Food**

TCS food shall be thawed:

1. In refrigerated units at a temperature not to exceed 41°F;
2. Completely submerged under potable running water at a temperature of 70°F or below, with sufficient water velocity to agitate and remove loose food particles into the overflow, and for a period of time that does not allow thawed portions of:
  - (a) Ready-to-eat food to rise above 41°F;
  - (b) Raw animal-derived food, requiring cooking, to rise above 41°F for more than 4 hours that includes the time needed for preparation and cooking;
3. In a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven;
4. As part of the conventional cooking process;
5. Using any procedure if the frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order; or
6. In the case of reduced oxygen packaged fish, removed from the reduced oxygen environment prior to thawing.

### **333.8 Highly Susceptible Populations**

In food facilities that serve food to a highly susceptible population:

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

1. Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages.

B. Unpasteurized liquid, frozen, dry, or shell eggs and other egg products shall only be used when:



1. Combining raw eggs as an ingredient immediately before baking followed by thorough cooking;
2. Combining raw eggs immediately before cooking for one serving at a single meal, followed by thorough cooking; or
3. Preparing eggs under an approved HACCP Plan that includes control and destruction of Salmonella Enteritidis.

C. Non TCS foods in uncompromised intact packaging may be re-served, provided the food is not being served to or received from patients or clients who are in medical isolation or quarantine, or protective environment isolation.

D. Pre-packaged juice or a pre-packaged beverage containing juice that is not pasteurized, which bears a warning label, shall not be served or offered for sale. Un-packaged juice that is prepared on the premises shall be processed under an approved HACCP Plan. For the purposes of this paragraph only, children who are age 9 or less and receive food in a school, daycare, or similar facility, are included as highly susceptible populations.

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

1. Raw animal-derived foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;
2. A partially cooked animal-derived food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and
3. Raw seed sprouts.

### **333.9 Food Labels**

A. Food packaged in a food facility shall be labeled as specified in 3 PA. C.S.A. § 5729(b)(1)), 21 CFR 101 -Food labeling, and 9 CFR 317 Labeling, marking devices, and containers. Label information shall include:

1. The common name of the food, or absent a common name, an adequately descriptive identity statement;
2. If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors and chemical preservatives, if contained in the food;
3. An accurate declaration of the net quantity of contents;
4. The name and place of business of the manufacturer, packer, or distributor; and

5. The name of each major food allergen contained in the food unless the major food allergen is already part of the common or usual name of the respective ingredient or food.

6. The use of canthaxanthin or astaxanthin for any salmonid fish as a color additive must disclose the use on the label on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

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 or 3 PA. C.S.A. §§ 5729 & 5730, PA Food Safety Act.

B. Self-service bulk food shall be prominently labeled with the following information in plain view of the consumer:

1. The manufacturer's or processor's label that was provided with the food; or
2. A card, sign, or other method of notification that includes the information specified under § 333.9(A)(1), (2), & (5) unless exempt.

C. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned in response to a consumer's order need not be labeled if:

1. A health, nutrient content, or other claims are not made; and
2. The packaged food are made or prepared and packaged on the premise of the retail food facility or a satellite food facility owned by the same owner and sold retail to customers.

### **333.10 Food Processors**

A. All food manufacturing, including packaging and storage, shall be conducted under such conditions and controls necessary to minimize the potential for the growth of microorganisms, or the contamination of food.

B. Food that can support the rapid growth of undesirable microorganisms, particularly those of public health significance, shall be held in a manner that prevents the food from becoming adulterated. Compliance with this requirement may be accomplished by effective means, including, but not limited to:

1. Maintaining refrigerated foods at 45 °F (7.2 °C) or below as appropriate for the particular food involved;
2. Maintaining frozen foods in a frozen state;
3. Maintaining hot foods at 140 °F (60 °C) or above;
4. Heat treating acid or acidified foods to destroy mesophilic microorganisms when those foods are to be held in hermetically sealed containers at ambient temperatures; or

5. Other laboratory proven methods.

## **SECTION 334. FOOD DISPLAY AND SERVICE**

### **334.1 Time and Temperature Controlled for Safety Food**

TCS food shall be kept at an internal temperature of 41°F or below or at an internal temperature of 135°F during display and service, except that roast beef may be held for service at a temperature of no less than 130°F.

### **334.2 Time as a Public Health Control**

A. If time only, rather than time in conjunction with temperatures of 41°F or below or at a temperature of 135°F or above, is used as the public health control for a working supply of TCS food before cooking, or for ready-to-eat TCS food that is displayed or held for sale or service for immediate consumption:

1. 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;
2. 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;
3. The food in unmarked containers or packages, or marked to exceed a 4-hour limit, shall be discarded; and
4. Written procedures shall be prepared in advance, maintained in the food facility, and made available to the Department upon request.

B. If time without temperature control is used for up to a maximum of 6 hours, all steps in § 334.2 (A) apply, however, the food temperature must be continually monitored, have an initial temperature of 41°F or below, and may not exceed 70°F during the 6-hour period.

C. In a food facility 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.

### **334.3 Food Delivery**

A. Food and utensils intended for delivery shall be wrapped or otherwise protected against chemical, physical, and biological contamination.

B. TCS food shall be maintained at proper temperatures as required prior to delivery, which is defined in § 353.

C. Food in the possession of delivery services including, but not limited to, online ordering and delivery platforms, common carriers, or food rescue organizations, is outside of the scope of this Article.

### **334.4 Display Equipment**

A. Food on display shall be protected from consumer contamination by being packaged; or by easily cleanable sneeze guards for counters, service lines, or salad bars; or by cabinets for self-service; or by similar protective equipment.

Exceptions to this subsection include whole unprocessed raw fruits, raw vegetables, and nuts in the shell that are displayed for sale and are intended for hulling, peeling, or washing by the consumer before consumption.

B. A sufficient number of hot or cold food holding units shall be provided to assure the maintenance of TCS food at the required temperature during display.

C. Food shall not be provided for consumer self-service other than at a properly protected and monitored self-service operations such as a buffet or salad bar.

### **334.5 Pre-Set and Self-Service Tableware**

A. Pre-set tableware shall be protected from contamination by being pre-wrapped, covered or inverted, unless the settings are removed and replaced when a consumer is seated.

B. Unwrapped utensils at self-service locations shall be protected from contamination and be presented with the handle of the utensil to the consumer.

### **334.6 Re-Use of Tableware**

A. Reuse of soiled tableware is prohibited. Clean plates, bowls, and/or single-service articles must be used each time a patron returns to the service area. beverage cups and glasses are exempt from this requirement if it is a contamination-free process as specified in § 4-204.13(A), (B), and (D) of the MFC.

B. Food facilities shall post a sign prohibiting the reuse of plates or bowls by patrons in salad bar or similar self-service areas.

### **334.7 Dispensing Utensils**

A. To avoid bare hand contact with food, suitable and sufficient dispensing utensils and/or single-service articles shall be used by food workers or provided to consumers who serve themselves as in bulk food sales, buffets, or at salad bars.

B. Between uses, dispensing utensils shall only be stored:

1. In the food with the handle extended out of the food;
2. Clean and dry if properly cleaned and sanitized every 4 hours in accordance with § 311.2;
3. In running potable water of sufficient velocity to flush food particles to the drain; or
4. In water that is maintained at a temperature of 135°F or greater, free of food residue accumulation cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

### **334.8 Condiment Dispensing**

A. Sugar, condiments, seasonings, and dressings for self-service, table, or counter service shall be provided in individual packages; from dispensers; or from containers protected from contamination in accordance with this Article.

B. Condiments may be served in the original container designed for dispensing or from a pour-type dispenser if the container is closed between uses.

### **334.9 Ice Dispensing**

A. Ice for consumer use shall be dispensed with scoops, tongs, or other ice dispensing utensils or through automatic self-service ice dispensing equipment. Self-service ice must be protected from customer contamination.

B. Ice dispensing utensils for use by food workers shall be stored on a clean surface or in an ice storage bin with the handle of the utensil extending out of the ice. No utensil shall be stored inside an ice making machine unless the machine is equipped for its storage.

C. Between uses, ice transfer receptacles shall be stored off the floor in a way that protects them from contamination.

D. Ice making machines and storage bins shall be drained through plumbed pipes with an air gap according to the Allegheny County Health Department Article XV, "Plumbing Code."

### **334.10 Re-Service of Food**

Once served or sold to a consumer, unused portions or left-over food, shall not be served again to another consumer. However, non-TCS packaged food, such as, but not limited to, crackers and condiment packages, that are still packaged, and are still in sound condition, may be re-served.

### **334.11 Bulk Milk**

Bulk milk container dispensing tubes shall be cut diagonally leaving no more than one-inch protrusion from the chilled dispensing head.

## **SECTION 335. DONATION OF FOODS**

### **335.1 General**

All food items offered for donation by a food facility must be apparently wholesome and fit for human consumption and meet all safety and labeling standards even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

### **335.2 Previous Service**

Once served or sold to a consumer, unused portions of or left-over food, shall not be offered as food for human consumption except as otherwise provided in this section

A. Packaged TCS foods in sealed packaging, such as unopened milk, may be or donated if immediately stored and maintained at 41° Fahrenheit or below after service.

B. The following food products may be donated.

1. Non-TCS foods in sealed packaging.
2. Whole fruit, such as apples or bananas.

### **335.3 Unpackaged and Unserved Prepared Foods**

Unpackaged and unserved prepared foods may be donated if the following requirements are met at the time of donation:

- A. The food items are wrapped, packaged, or otherwise protected against chemical, physical, and biological contamination.
- B. Cold TCS food is at or below 41° Fahrenheit, or an ambient temperature of 45° Fahrenheit for raw shell eggs;
- C. Hot TCS food has been at or above 135° Fahrenheit during hot holding, and subsequently cooled to meet the time and temperature requirements in § 332.3, or maintained at proper holding temperatures required in § 332.4;
- D. Donated prepared TCS foods are marked, by the donor, with the name of the food, the source of the food, and the discard date as described in § 332.6.

### **335.4 Damaged Foods**

Heavily rim or seam-dented canned foods, prepackaged foods with compromised packaging, or packaged foods without the manufacturer's complete labeling information shall not be donated.

### **335.5 Distressed Foods**

Foods which are considered distressed, such as foods which have been subjected to fire, flooding, excessive heat, smoke, or other environmental contamination shall not be directly donated to the consumer. Such foods may be sold or donated to a permitted food salvage facility.

### **335.6 Receiving Donated Foods**

Food facilities which receive, in good faith, donated food for ultimate distribution must inspect the food for contamination, adulteration, and signs of temperature abuse at the time of donation and at the time of distribution.

## **SECTION 336. FOOD TRANSPORTATION**

### **336.1 General**

- A. The requirements for storage, display, and general protection against chemical, physical, and biological contamination, as contained in this Article shall apply in the transporting of all food from a food facility to another food facility, location for service or catering operations.
- B. All TCS food, shall be kept at 41°F or below, or 135°F or above, during transportation. Adequate equipment made of non-toxic, corrosion resistant, easily cleanable, durable materials must be used for maintaining food product temperatures as described in sections 307 and 308 of this Article.
- C. This section does not apply to delivery activities as described in § 334.3.

### **336.2 Food Protection During Transport**

During transportation from a food facility to another food facility, location, for service or catering or operations, food and food-contact surfaces shall be kept in covered containers or be completely wrapped or packaged to be protected from contamination. Produce, such as fruits and vegetables, which are normally peeled or intended to be washed before consumption are not required to be wrapped or packaged but must be protected from gross contamination.

### **336.3 Warehouse and Wholesale Distribution**

Storage and transportation of food shall be under conditions that will protect food against physical, chemical, and biological contamination as well as against deterioration of the food and the container in accordance with 21 CFR § 110.93.

## **SECTION 337. SPECIALIZED PROCESSES AND HAZARD ANALYSIS CRITICAL CONTROL POINT PLANS**

### **337.1 General**

Food facilities applying specialized processing methods, as listed below, shall comply with the requirements of this Article and shall adhere to the requirements listed in this Section. A written HACCP Plan shall be required to be submitted for approval prior to engaging in a specialized processing method, a process determined by the Department requiring a HACCP Plan, or as required by 21 CFR § 117. Written approval from the Department shall be obtained in all cases, be product specific and shall be retained at the facility for review at any time by the Department or appropriate regulatory authority. Specialized processing methods include:

- A. Smoking food as a method of food preservation;
- B. Curing food;
- C. Using food additives or adding components such as vinegar:
  - 1. As a method of food preservation, or
  - 2. To render a food so that it is not TCS food;
- D. Packaging food using a modified atmosphere packaging method;
- E. Operating a molluscan shellfish life-support system display tank that is used to store or display shellfish that are offered for human consumption;
- F. Custom processing animals, such as deer, not for sale or service in a food facility;
- G. Growing and harvesting seed or bean sprouts;
- H. Freezing fish for raw, raw-marinated, partially cooked, or marinated-partially cooked consumption;
- I. Packaging juice to attain a 5-log reduction of microorganisms; and

J. Preparing food by any other method that is determined by the Department to require prior approval.

### **337.2 HACCP Plan Contents**

HACCP Plans, when required, shall include the following:

A. General information such as the name and address of the food facility, permit holder's contact information, and specialized equipment used.

B. A categorization of the types of foods that are to be controlled under the HACCP Plan.

C. A flow diagram or chart by specific food or category type, identifying Critical Control Points (CCP) and providing information on the following:

1. Ingredients, materials, packaging supplies and equipment used in the preparation of that food;
2. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
3. The product labeling system;
4. List the food safety hazards that are reasonably likely to occur, as identified in the Hazard Analysis.

D. A food worker and supervisory training plan that addresses the food safety issues of concern.

E. A CCP summary for the plan under consideration that clearly identifies the following:

1. Each CCP.
2. The significant hazard for each CCP.
3. The critical limits for each CCP.
4. The method and frequency for monitoring and controlling each CCP by the food worker designated by the Person in Charge.
5. The method and frequency for the Person in Charge to routinely verify that the designated food worker is following standard operating procedures and monitoring CCPs.
6. Corrective action plans that have been developed to be followed in response to deviations from critical limits at CCPs.
7. Records to be maintained by the Person in Charge to demonstrate that the HACCP Plan is properly operated and managed.
8. Standard Sanitation Operational Procedures (SSOP) that describe the procedures along with the frequency for cleaning and sanitizing food-contact surfaces and equipment.



G. Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

**337.3 Reduced Oxygen Packaging (ROP) or Modified Atmosphere Packaging (MAP)**

A. A retail food facility that packages food using a ROP or MAP method shall ensure that there are at least two barriers in place to control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.

B. A retail food facility that packages food using a ROP or MAP method shall have an HACCP Plan that requires that the packaged food, as the primary barrier, be maintained at 41 °F or less, and that meets the following criteria:

1. Identifies the food to be packaged.
2. Has the secondary barrier that complies with one of the following:
  - (a) Has an  $a_w$  of 0.91 or less;
  - (b) Has a pH of 4.6 or less;
  - (c) Is a meat or poultry product cured at a food facility/ establishment regulated by U.S. Department of Agriculture (USDA) using substances specified in 9 CFR 424.21 (relating to use of food ingredients and sources of radiation), and is received in an intact package;
  - (d) Is a food with a high level of competing organisms, that prohibit the growth of pathogenic bacteria, such as raw meat, raw poultry or raw vegetables; or
3. Describes how the packages shall be prominently and conspicuously labeled on the principle display panel in bold type on a contrasting background, with instructions to do the following:
  - (a) Maintain the food at 41°F or below;
  - (b) Discard the food within thirty (30) calendar days of its packaging if it is not served for on-premises consumption, or it is not consumed if served or sold for off-premises consumption;
4. Limits the refrigerated shelf life to no more than thirty (30) calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell-by" or "use-by" date, whichever occurs first;
5. Includes operational procedures that:
  - (a) Prohibit contacting ready-to-eat food with bare hands;
  - (b) Identify a designated work area and the method by which there are physical barriers or methods of separation of raw foods and ready-to-eat foods to minimize cross contamination, and by which access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and
  - (c) Prohibit interruption of the packaging process;

(d) Delineate cleaning and sanitation procedures for food-contact surfaces prior to use; and

6. Describes the training program that ensures that the individual responsible for the ROP operation understands concepts and procedures required for a safe operation.

C. A retail food facility may not package fish using ROP unless the fish is frozen before, during and after packaging. ROP fish shall be labeled to be cooked from the frozen state or to be removed from the reduced oxygen environment prior to thawing.

D. A retail food facility that packages food using a cook-chill or sous vide process shall:

1. Implement an HACCP Plan that contains the information as specified in § 337;

2. Ensure the food is:

(a) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the bagged product to another business entity or the consumer;

(b) Cooked to heat all parts of the food to a safe temperature unless covered by a consumer advisory;

(c) Protected from contamination before and after cooking;

(d) Placed in a package or bag with an oxygen barrier and sealed before cooking, or placed in a package or bag and sealed immediately after cooking and before cooling to a temperature below 135°F;

(e) Cooled to 41°F or below in the sealed package or bag using a safe procedure and:

1) Cooled to 34°F within 48 hours of reaching 41°F and held at that temperature until consumed or discarded within thirty (30) days after the date of preparation;

2) Held at 41°F or less for no more than seven (7) days, at which time the food must be consumed or discarded; or

3) Held frozen with no shelf life restriction while frozen until consumed or used.

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;

(g) Transported in refrigeration that is equipped with verifiable electronic monitoring devices to ensure that times and temperatures are continuously monitored when transported off-site to a satellite location of the same business entity; and

(h) Labeled with the product name, the date packaged, and the discard date if not frozen.

3. Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are met as part of the HACCP Plan, and that the records are:

- (a) Made available to the Department upon request, and
- (b) Held for at least six (6) months; and

4. Ensure written operational procedures and a training program as specified are implemented.

E. A retail food facility that packages cheese using a ROP method shall:

1. Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added by the food facility and that meet the Standards of Identity as specified in 21 CFR 133.150 (Hard cheeses); 21 CFR 133.169 (Pasteurized process cheese) or 21 CFR 133.187 (Semisoft cheeses);

2. Have a HACCP Plan;

3. Label the package on the principal display panel with a "use by" date that does not exceed thirty (30) days or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

4. Discard the ROP cheese if it is not sold for off-premises consumption or consumed within thirty (30) calendar days of its packaging.

F. A HACCP Plan is not required when a retail food facility uses a ROP method to package TCS food that is always:

1. Labeled with the production time and date,

2. Held at 41°F or less during refrigerated storage, and

3. Removed from its package in the food facility within 48 hours after packaging.

### **337.4 U.S.D.A. Process Exemption**

Meat and poultry products, cured under U.S.D.A. inspection or a state program equal to U.S.D.A., with a nitrite level of at least 120 PPM and a brine concentration of at least 3.5% are exempt from the safety barrier verification requirements.

### **337.5 Microbiological Testing**

Microbiological testing of product may be required if an existing or potential problem is identified.

### **337.6 Documentation of HACCP Plans**

The HACCP Plan shall be signed and dated, either by the Person in Charge at the food facility or by the permit holder. This signature shall signify that the HACCP Plan has been accepted for implementation by the food facility after approval from the Department. The HACCP Plan shall be dated and signed:

1. Upon initial acceptance by the food facility;

2. Upon any modification; and
3. Upon reassessment of the adequacy of the HACCP Plan by the food facility.

### **337.7 Other Agency Jurisdiction**

Food facilities within Allegheny County under the jurisdiction of Federal agencies such as, but not limited, to the USDA or the FDA, or Commonwealth of Pennsylvania agencies, shall follow the HACCP Plan rules and regulations issued by the agency having jurisdiction. The food facility must be able to provide HACCP Plan records and documentation upon request for official review by the Department.

## **SECTION 338. EXAMINATION, CONDEMNATION AND EMBARGO OF FOOD**

The Department may examine food or collect samples of such food as often as deemed necessary for enforcement of this Article. The Department may condemn and forbid the sale of, or cause to be removed or destroyed, any food or beverage which is unsafe, from unapproved sources including sources that cannot be verified, unwholesome or adulterated. Condemned food shall be disposed of properly under the direction of the Department. Food subject to a hold order (Embargo notice) shall remain under conditions specified in the official notice; shall be tagged or labeled; and shall not be used, served or removed from the food facility until released by the Department. The Department shall permit storage of the food under conditions specified in the Embargo notice.

## **SPECIAL FOOD SERVICE FACILITIES**

### **SECTION 339. MOBILE FOOD FACILITIES**

#### **339.1 General**

A. Mobile food facilities shall comply with the requirements of sections 312 and 313 and all other applicable sections of this Article. Based on the limitations of the mobile food facility, the Department may impose additional requirements such as, but not limited to, menu modification or preparation restrictions, in order to protect against health hazards.

B. All mobile food facilities shall display a valid "Inspected and Permitted by the Allegheny County Health Department" placard issued by the Department. The placard shall be displayed in a place conspicuous to the public, at patron points of service.

C. Mobile food facilities shall not serve food with reusable utensils or on reusable articles, unless adequate dishwashing equipment is available and used.

D. All mobile food facilities, except those only providing prepackaged food or beverages that are dispensed from covered containers or other protected equipment, must comply with the requirements of this Article pertaining to water and wastewater systems.

E. The operator of the mobile food facility must submit to the Department a current copy of the State Registration of the vehicle, approved commissary documentation, and upon request of the Department, a current list of the proposed food service locations and approximate arrival times to those locations. Documents must be updated yearly.

### **339.2 Commissary**

A. Mobile food facilities shall operate from a permitted commissary or other permitted fixed food facility, such as a shared kitchen. The mobile food facility shall physically report as required to such location for all food, potable water, waste disposal, warewashing, and other cleaning and servicing operations.

B. The commissary or other fixed food facility for mobile food facilities shall be constructed and operated in compliance with the requirements of this Article.

C. The commissary shall be inspected no less than once per year, or as deemed necessary by the Department, and the mobile food facility should be present for the inspection.

D. A commissary visit log must be maintained at the commissary and made available upon request.

E. If the commissary of a mobile food facility is located outside Allegheny County, the operator must show proof, at time of inspection, that the commissary possesses a valid license or food permit, and has had a satisfactory recent inspection in the past eighteen (18) months from the appropriate regulatory authority for that location.

### **339.3 Mobile Food Unit: Potable Water and Water System**

A. A mobile food facility shall have potable water in accordance with § 319 of this Article. The water system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, warewashing, and handwashing.

B. A mobile food facility potable water tank and water system shall conform to the MFC standards. The water system shall be under pressure, constructed using safe materials, and properly installed. The potable water tank shall be sloped to an outlet that allows complete draining.

C. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be protected by a cap on a keeper chain, except while being filled. The water inlet shall be provided with a transition connection of  $\frac{3}{4}$  inch or less inner diameter and be of a type that will prevent its use for any other service.

D. Potable water shall be supplied through a food grade hose solely dedicated for such purpose.

E. The potable water system on a mobile food facility must be properly maintained at all times. The water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse greater than 24 hours.

**339.4 Mobile Food Unit: Waste Retention**

A. Liquid waste shall not be discharged from the retention tank when the mobile food facility is in motion. Sewage and other liquid wastes shall be removed from a mobile food facility at an approved waste servicing area in such a way that a public health hazard or nuisance is not created.

B. Wastewater shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank and be sloped to drain.

C. The connections on the vehicle for servicing mobile food facility waste disposal facilities shall be at least 1-inch inner diameter and equipped with a shut-off valve. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

**339.5 Mobile Food Unit: Fuel and Power Sources**

All cooking equipment and fuel sources shall be installed, operated, and maintained according Pennsylvania State Law.

**SECTION 340. TEMPORARY AND SEASONAL FOOD FACILITIES**

**340.1 General**

A. Temporary food facilities and seasonal food facilities shall comply with the requirements of this Article except as otherwise provided in this section. Based on the limitations of the temporary or seasonal food facility, the Department may impose additional requirements such as, but not limited to, menu modification or preparation restrictions, in order to protect against health hazards.

B. No TCS food stored or prepared in a private home or an unpermitted food facility may be sold in a temporary or seasonal food facility.

**340.2 Ice as Temperature Control**

If ice is to be used for temperature control the following criteria must be met:

1. Ice used for holding food or beverages shall not be used for human consumption.
2. Loosely wrapped foods shall not be in direct contact with ice or accumulated water.
3. There shall be a sufficient supply to maintain TCS-food at 41°F or less.

**340.3 Water Supply**

A. A readily available supply of water from an approved source shall be provided at all times to the event location.

B. A minimum of ten (10) gallons of water from an approved source for hand washing, utensil washing, and general cleaning shall be kept at each temporary food facility. This water must be stored in an approved covered container and poured from a dispensing spout.

C. In the case where hot water is not available to the site, an adequate means of heating water shall be provided by the operator.

D. Water supply is not required when only pre-packaged food is handled, without samples provided to consumers.

#### **340.4 Cleaning and Sanitizing Equipment**

A. Adequate facilities shall be set up for cleaning and sanitizing food-contact surfaces and utensils. In the absence of a three-compartment sink, three containers of adequate volume must be utilized in the following sequence: wash (hot, soapy water), rinse (clear water), and sanitize (approved sanitizer and water).

B. Containers shall be stored off the ground and shall be adequately protected.

C. An approved sanitizer must be on the site and used in the above manner at all times.

D. All utensils and equipment must be air dried.

#### **340.5 Handwashing**

A. Handwashing facilities shall be provided at all temporary food facilities. Acceptable handwashing methods include the use of:

1. Clean running water drawn from a dispensing spout, with soap and single-service towels, and a wastewater collection container. Rinsing of hands in sanitizer or standing water is not approved; or

2. Readily available moist towelettes containing an approved antiseptic agent when food exposure and handling is limited to prepackaged foods only.

#### **340.6 Sewage and Wastewater**

A. Containers of adequate capacity with tight-fitting lids shall be provided for retention of all wastewater prior to disposal.

B. All wastewater shall be disposed of in a sanitary sewer.

#### **340.7 Construction of a Temporary or Seasonal Food Facility**

A. Protection, overhead as well as for other openings, shall be provided for all food preparation and food storage areas. Materials such as canvas, plastic or wood that protect the facility from the weather and environmental conditions must be approved prior to operation. A site shall be chosen which will minimize problems with dirt, dust and other contaminants.

B. The remainder of the temporary food facility shall be constructed of material which allows easy cleaning.

### **SECTION 341. SHARED KITCHENS**

#### **341.1 General**

The Department will evaluate shared kitchens for the storage, preparation of food, warewashing, waste disposal, equipment storage, or the replenishment of supplies and equipment. The Department may impose additional

requirements to protect against health hazards such as, but not limited to, menu modification or food preparation restrictions, related to the use of food facilities as shared kitchens.

### **341.2 Approval and Review**

A. Any time three or more food facilities propose to operate out of the same commercial kitchen, the primary permit holder of the commercial kitchen shall notify the Department of their intent to share kitchen space.

B. If a food facility was not previously approved by the Department to be a shared kitchen, the primary permit holder must submit plans and specifications to the Department for approval, as specified in § 304 of this Article, as this shall be considered a significant change of operations.

C. The Department may limit the use of a commercial kitchen as a shared kitchen based on factors such as the size of the kitchen, the equipment available, and the compliance history of the food facilities involved.

### **341.3 Responsibilities in Shared Kitchens**

A. Primary permit holder duties. The primary permit holder shall do all the following:

1. Ensure the physical facilities and all equipment provided by the primary permit holder in the shared kitchen are in compliance with all local, state and federal regulations.

2. Ensure that any person engaged in food preparation or storage within the facility is properly permitted.

3. Maintain the following records on site regarding the use of the shared kitchen and make the records immediately available upon request by the Department at the time of inspection:

- (a) A list of all shared kitchen users and current contact information.

- (b) For each shared kitchen user, a copy of the following documents:

- 1) All agreements entered into by the primary permit holder with each shared kitchen user, including the effective date, and if applicable, the termination date of each agreement, for a period of at least twelve (12) months after the date of entry of a record.

- 2) If the shared kitchen user is processing or storing TCS foods, a valid CFPM certificate.

- (c) A schedule of the proposed dates and times when each shared kitchen user, including the primary permit holder, intends to use the shared kitchen.

- (d) A shared kitchen user sign-in log indicating the dates and times each shared kitchen user arrived and departed.



4. Notify the Department if a shared kitchen user terminates or otherwise withdraws from any contract or agreement, or if a shared kitchen user discontinues use of the space without contacting the primary permit holder.
  5. Provide access for inspection by the Department to all locked equipment located in any storage area maintained in the shared kitchen.
  6. Ensure that the number of users operating in the shared kitchen does not pose a health or safety risk.
  7. Maintain a valid food permit issued by the Department.
- B. Shared kitchen user duties. A shared kitchen user issued a food permit for a food facility shall:
1. Conform to the requirements provided in this Article.
  2. Be responsible for any equipment or facility violations that pertain to the user's operation in the shared kitchen.
  3. Ensure a CFPM, employed by the user, is on site at all times that TCS food is being prepared, handled, packaged, served or otherwise used, and make available, upon request, a CFPM certificate.
  4. Have a copy of their food permit posted on site at all times when the shared kitchen user is physically using the shared kitchen.
  5. Store all food and ingredients, in accordance with § 332 of this Article, in the shared kitchen until use, transport, or delivery to the consumer. Food and food ingredients shall not be stored in an unpermitted location or facility.

## **342. SELF-SERVICE FOOD FACILITY**

### **342.1 General**

- A. Self-service food facilities shall comply with the requirements of this section and all other applicable sections of this Article.
- B. Self-service food facilities shall display a valid "Inspected and Permitted by the Allegheny County Health Department" placard issued by the Department. The placard shall be displayed in a place conspicuous to the public.
- C. Self-service food facilities shall provide information to the Department as to the responsible party that will be available for routine inspections.
- D. All self-service food facilities display-units offering TCS food shall be equipped with a self-closing door.
- E. Self-service food facilities shall have a sign readily visible from the automated payment kiosk stating:

1. The name of the business to whom complaints or comments shall be addressed;
2. The address of the business responsible for the facility; and
3. The responsible business's telephone number and email or web information, when applicable.

F. A self-service food facility will not be required to maintain a Person in Charge onsite if the conditions in sections 342.2 and 342.3 are met.

G. Self-service food facilities shall have continuous 24-hour surveillance.

### **342.2 Food Conditions**

A. Pre-packaged food sold at a self-service food facility shall:

1. Meet the labeling requirements as specified in § 333.9; and
2. Be tamper evident.

B. All food shall be stored and discarded in accordance with §3-501.17 and §3-501.18 of the MFC.

### **342.3 Vending Machines**

A. All self-service food facilities vending machines offering TCS foods shall have an automatic shut-off control or a plan approved by the Department that prevents the vending machine from dispensing food if:

1. There is a power failure, mechanical failure, or other condition that results in failure of the equipment to maintain food temperatures as specified under § 332 of this Article; and
2. Where a condition specified in subparagraph (1) of this subsection occurs, until the equipment is serviced and restocked with food that has been maintained at temperatures specified under § 332 of this Article.

B. The automatic shut-off within the vending machine cold holding TCS food shall activate when the ambient temperature exceeds 41° Fahrenheit or 45° Fahrenheit for a unit holding raw shell eggs only, for more than 30 minutes immediately after the display is filled, serviced, or restocked.

C. The automatic shut-off within the vending machine hot holding TCS food shall activate when the ambient temperature is below 135° Fahrenheit for more than 120 minutes immediately after the display is filled, serviced, or restocked.

## **ADMINISTRATIVE PROCEDURES AND REMEDIES**

### **SECTION 343. SUSPENSION OF A FOOD PERMIT - IMMINENT HEALTH HAZARD**

A. If the Department finds there is an imminent health hazard to the public health the food permit shall immediately be suspended. Any person whose food permit has been suspended under this section shall upon written request be entitled to a hearing pursuant to Article XI, "Hearings and Appeals", of the

Allegheny County Rules and Regulations. The suspension shall not become effective until the operator has received legal notice of the decision.

B. Upon suspension of a food permit, the Department shall immediately post a "Closed by Order of the Allegheny County Health Department" placard in plain view at all patron entrances to the premises. Such notice shall not be concealed, or removed. Removal shall be only at the direction of the Department.

C. A person whose food permit has been suspended shall have the food permit reinstated upon completion of the corrective action required by the Department and an inspection verifying such corrections. It shall be unlawful to operate a food facility with a suspended food permit.

#### **SECTION 344. SUSPENSION OF A FOOD PERMIT - NON-IMMINENT HAZARD**

A. If the Department determines that there is violation of any of the Rules and Regulations of the Allegheny County Health Department or laws of the Commonwealth of Pennsylvania but there is no imminent health hazard, the facility's food permit may be suspended.

B. The food permit suspension shall not become effective until an opportunity for a pre-suspension hearing has been afforded to the holder of the permit. The pre-suspension hearing notice shall contain the violations, and where applicable, any corrective action which must be taken and the time within which such corrections must be completed. The Department shall schedule a hearing no sooner than six (6) days from the date of mailing of the notice of pre-suspension hearing unless the Department and the applicant both agree to a hearing at an earlier date. If the permit holder fails to appear at the hearing, the suspension shall become effective on the date of the hearing; otherwise, the suspension shall become effective at such time as may be fixed by the Department.

C. Upon suspension of a food permit, the Department shall immediately post a "Closed by Order of the Allegheny County Health Department" placard in plain view at all patron entrances to the premises. Such notice shall not be concealed, altered or removed. Removal shall be only at the direction of the Department. It shall be unlawful to operate any food facility with a suspended food permit.

#### **SECTION 345. REINSTATEMENT OF A HEALTH PERMIT**

A. A food permit which has been suspended shall be reinstated if the person whose food permit has been suspended completes the corrective action as required and provides the Food Safety Program with a written request for an inspection. The food permit may only be reinstated following a Food Safety Program inspection of the premises and written approval by the Department.

B. If a food facility fails to meet the requirements for the initial food permit reinstatement, all subsequent food permit reinstatement inspections shall be conducted at the owner's expense according to the fee schedule.

### **SECTION 346. VARIANCES**

The Director, the Deputy Director which oversees the Food Safety Program, or the Manager of the Food Safety Program may grant variance or conditional variance from any of the requirements of this regulation if the Department determines that the granting of the variance poses no real or potential hazard to the health, safety, or welfare of the public. Variance requests must be made in writing by the permit holder, be approved prior to implementation, and at a minimum include the following:

1. The section of this Article or the MFC that the requested variance applies;
2. A statement that defines what the request is for, such as, but not limited to, a process or non-conforming use of the food facility or equipment;
3. Rationale for how the potential public health hazards or nuisances addressed by the relevant sections will be alternatively addressed by the request; and
4. A statement that defines the reason for the variance, showing that the need for a variance is not the consequence of a self-created hardship.

### **SECTION 347. PENALTIES**

A. Misdemeanors. Any person who violates any of the provisions of this Article or any rule or regulation of the Department, or who interferes with the Director or any agent of the Department of Health in the discharge of their official duties, convicted of a second or subsequent offense, shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or to undergo imprisonment not exceeding one (1) year, or both.

B. Summary Offenses. Any person who violates any of the provisions of this Article or any rule or regulation of the Department, or who interferes with the Director or any agent of the Department in the discharge of their official duties, shall, for the first offense, upon conviction thereof in a summary proceeding before any alderman or justice of the peace of Allegheny County, or before any police magistrate if such offense be committed in a city of the second class, be sentenced to pay the costs of prosecution and a fine of not less than thirty dollars (\$30.00) nor more than three hundred dollars (\$300.00) and, in default thereof, to undergo imprisonment of not less than ten (10) days nor more than thirty (30) days.

C. Civil Penalties. Any person who violates any of the provisions of this Article or any rule or regulation of the Department, or who interferes with the Department in the discharge of their official duties may be assessed a civil penalty imposed by the Director, Deputy Director, the Food Safety Program Manager, or their respective designee pursuant to Article XVI - "Environmental Health Civil Penalties".

D. Separate Offenses. For the purpose of this section, violations on separate days shall be considered separate offenses. Each violation of any separate subsection or section of this Article shall constitute a separate offense.

E. In determining the amount of penalties to be assessed, the Department shall consider the economic benefit gained by such person by failing to comply with the Article, the willfulness of the violation, the actual and potential harm to the public health, safety and welfare and to the environment, the nature, frequency and magnitude of the violation, and any other relevant factors.

#### **SECTION 348. HEARINGS AND APPEALS**

Article XI, "Hearings and Appeals", provides for the right to a hearing if aggrieved by any order issued by the Department. All appeals must be filled in accordance with Article XI, § 1104. The Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of the action by which the Appellant is aggrieved. The notice of appeal must be filed no later than 4:00 p.m. Eastern Time on the thirtieth (30th) day after written notice or issuance of the action.

#### **SECTION 349. ALLEGHENY COUNTY FOOD SAFETY FUND**

A. The purpose of the Allegheny County Food Safety Fund is to support activities related to the improvement of food safety within Allegheny County. The fund is intended to support activities that will increase or improve knowledge of food safety related to foodborne illness and its control to benefit public health.

B. Disposition of Funds Collected. All funds received by the County including, but not limited to, reinspections, owner requested inspections, consent orders, consent decrees, or civil penalties relating to actions taken by the Department regarding food safety shall be paid into a special fund known as the Allegheny County Food Safety Fund which is hereby established.

1. This fund shall be administered in accordance with the provisions of the Second-Class County Charter Law and other applicable laws. The County Treasurer shall invest funds deposited in the Fund and in such manner as not to impair the liquidity of the Fund and shall credit all interest accruing on such monies to the Fund.

2. The Director shall report on the status of the Fund to the Board of Health on a semiannual basis, or at such other intervals as the Board may require.

3. Audits of the Fund shall be performed as required by law.

C. Disbursements. Disbursements of funds from the Allegheny County Food Safety Fund shall be utilized solely to cover any and all reasonable (direct and indirect) costs incurred by the county and required to develop and administer the County's Food Safety Program. No food facility, which is subject to the provisions of this Article, shall receive monies from the Fund under this section, or services, equipment, or materials purchased with such monies, to

fulfill its obligations under this Article, except for Department facilities supporting the Food Safety Program. The Allegheny County Board of Health shall have the sole discretion and authority to make disbursements from this fund as it sees fit from time to time.

D. At no time for any purpose shall funds be disbursed or borrowed from the Allegheny Food Safety Fund, or otherwise distributed or encumbered, except as specifically allowed under this section.

### **SECTION 350. FOOD SAFETY ADVISORY COMMITTEE**

There is hereby established a Food Safety Advisory Committee which may recommend to the Board of Health additions and changes to this Article and advise the Department and the Board of Health on matters relative to food safety which are brought to its attention by any person.

#### **A. Membership:**

1. Members shall be appointed by the Director and shall serve a term of no more than three (3) years. Those members whose terms have expired may serve an additional two (2) years if approved by the Board of Health.
2. The Food Safety Advisory Committee shall consist of an odd number of appointees of at least nine (9) and up to seventeen (17) individuals.
3. Advisory Committee members shall be residents of Allegheny County and shall consist of a balance of representatives of industry, academia, small business, and general citizenry, who maintain credentials in, or experience in, or knowledge of the field of food safety.
4. The Director, Deputy Director, and Food Safety Program Manager shall be nonvoting ex-officio members of the Committee.
5. The Advisory Committee shall elect from its members a Chair and a Vice Chair of the Committee. The election shall be for one (1) year terms and held at the first meeting after September 1 of each year.
6. If a member is not in attendance at more than three (3) out of any five (5) consecutive meetings, they will be notified by the Department that their membership has been forfeited. A member may petition the Director for reinstatement at the next Advisory Committee meeting.

#### **B. Procedures:**

1. The Advisory Committee shall meet at the call of the Chair, the request of the Director, the Board of Health, or upon the written request of any three (3) members of the Advisory Committee.
2. Each year the Advisory Committee shall adopt such procedures and provisions as are necessary to conduct its business.

3. A quorum, which shall consist of no less than a majority of voting members, shall be required to conduct the business of the Advisory Committee.

4. The Advisory Committee shall comply with the PA Sunshine Act and all other applicable Local, State, and Federal laws as required.

### **SECTION 351. UNCONSTITUTIONALITY CLAUSE**

Should any section, paragraph, sentence, clause, or phrase of these Rules and Regulations be declared unconstitutional or invalid for any reason, the remainder of said Rules and Regulations shall not be affected thereby.

### **SECTION 352. EFFECTIVE DATE**

The provisions of this Article shall become effective on January 1, 2023.

### **SECTION 353. DEFINITIONS**

The following definitions shall apply in the interpretation and application of this Article:

#### ***Additive*** –

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

#### ***Adulterated*** – Food when one or more of the following is accurate:

- a) The food bears or contains any poisonous or deleterious substance, which may render it injurious to health. However, if the substance is not an added substance, the food will not be considered adulterated if the quantity of the substance in the food does not ordinarily render it injurious to health.
- b) The food bears or contains any added poisonous or added deleterious substance, which is unsafe within the meaning of § 11 of the Food Act (31 P. S. § 20.11). This subparagraph does not apply to a pesticide chemical in or on a raw agricultural commodity, a food additive or a color additive.
- c) The food is a raw agricultural commodity and bears or contains a pesticide chemical which is unsafe within the meaning of § 11 of the Food Act, except that, when a pesticide chemical has been used in or on a raw agricultural commodity with an exception granted or tolerance prescribed under § 11 of the Food Act or under any of the Federal acts and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of the pesticide remaining in or on the processed food will, notwithstanding § 11 of the Food Act and this subparagraph, not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed food when ready-to-eat is not greater than the tolerance prescribed for the raw agricultural commodity.
- d) The food bears or contains any food additive, which is unsafe within the meaning of § 11 of the Food Act or any of the Federal acts.

- e) The food consists in whole or in part of any diseased, contaminated, filthy, putrid or decomposed substance or is otherwise unfit for food.
- f) The food has been produced, prepared, packed or held under unsanitary conditions so that it may have become contaminated with filth or may have been rendered diseased, unwholesome or injurious to health.
- g) The food is, in whole or part, the product of a diseased animal or of an animal which has died in a manner other than by slaughter.
- h) The food is in a container composed, in whole or part, of any poisonous or deleterious substance which may render the contents injurious to health. However, the container is permissible for use if is fabricated or manufactured with good manufacturing practices as that standard is defined and delineated by any of the Federal acts and their regulations.
- i) The food has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption under § 11 of the Food Act or under one of the Federal acts.
- j) The food has had any valuable constituent, in whole or part, omitted or abstracted therefrom.
- k) The food has had any substance substituted wholly or in part.
- l) Damage or inferiority of the food is concealed in any manner.
- m) A substance has been added to the food and it is mixed or packed so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it is.
- n) The food bears or contains any color additive which is unsafe within the meaning of § 11 of the Food Act or under one of the Federal acts.
- o) The food bears or contains eggs processed by or egg products derived from a manufacturing, processing or preparing method wherein whole eggs are broken using a centrifuge-type egg breaking machine that separates the egg's liquid interior from the shell.

**Asymptomatic** – without obvious symptoms; not showing or producing indications of a disease or other medical condition. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

**$A_w$**  – A symbol for *water activity*.

**Balut** - An embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

**Beverage** – A liquid for drinking, including water.

**Bulk food** - processed or unprocessed food in aggregate containers from which quantities desired, including by the consumer, are withdrawn.

**Caterer** - defined as any person who primarily provides food for service off the permitted premises.

**Certified Food Protection Manager (CFPM)** - an individual who has demonstrated proficiency of required information through passing a test that is part of an accredited program that is evaluated and listed by the Conference for Food Protection as conforming to the Conference for Food Protection Standards for accreditation of Food Protection Manager Certification Programs.

**CFR** – The most-recently published edition or revision of the *Code of Federal Regulations*, a compilation of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the Federal government.



***Cleaned in place (CIP)*** –

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

***Commingle*** - To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or to combine shucked shellfish from containers with different container codes or different shucking dates.

***Comminuted*** - A food that is reduced in size by methods including chopping, flaking, grinding or mincing. The term includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

***Commissary*** - A catering facility, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored. A distribution facility or service area where food is prepared, stored or from which it is supplied to a mobile or other retail food facility.

***Confirmed disease outbreak*** – 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*** – 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 facility or food processing plant, and does not offer the food for resale.

***Corrosion-resistant material*** - 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 (CCP)*** - A point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

***Critical limit*** - 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.

***Dealer*** – a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper of depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

***Delivery (as in food delivery)*** – the act of moving food from a food facility to a consumer directly by an food facility employee, or where possession of food has been relinquished to a delivery service including, but not limited to, an online ordering and delivery platform, common carrier, or food rescue organization.

***Department*** - the Allegheny County Health Department.

***Director*** - the Director of the Allegheny County Health Department or their designate.

***Disclosure*** – a written statement that clearly identifies the animal-derived foods or ingredients which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens.

***Drinking water***– see *Potable water*.

**Easily cleanable** -

- a) A characteristic of a surface that:
  - 1) Allows effective removal of soil by normal cleaning methods.
  - 2) Is dependent on the material, design, construction and installation of the surface.
  - 3) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose and use.
- b) The term includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in subsection (a) to different situations in which varying degrees of cleanability are required, such as one of the following:
  - 1) The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or
  - 2) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

**Egg** - The shell egg of the avian species such as chicken, turkey, duck, goose, guinea, quail, or ratite. Egg does not include balut, or the egg of a reptile species such as alligator.

**Electronic cigarette device** - any electronic oral device, such as one composed of a heating element, battery or electronic circuit, which provides a vapor of nicotine or any other substances and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar or e-pipe or under any other product name or descriptor.

**Equipment** - articles that are used in the operation of a food facility such as stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, temperature measuring devices for ambient air, vending machines and similar items other than utensils.

**Extensively remodeled** - whenever an existing structure is converted for use as a food facility; any structural or significant equipment additions or alterations to the existing food facility; changes, modifications and extensions of plumbing systems, excluding routine maintenance.

**Farmer(s) Market** - A location where primarily regionally produced agricultural products are sold directly to the public by two or more farmers and/or producers in a fixed location and on a pre-determined schedule.

**Fish** - 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), and all mollusks, if such animal life is intended for human consumption. The term includes an edible food product derived in whole or in part from fish, including fish that have been processed in any manner.

**Flea Market** - a retail location where vendors primarily re-sale goods or sell home-made crafts to the public, may be operated seasonally or yearly.

**Food** - any raw, cooked, or processed edible substance; ice; beverage; or any ingredient used or intended for use or for sale, in whole or in part, for human consumption.

**Food allergen** - see *Major Food Allergen*.

**Foodborne disease outbreak** – the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

**Food-contact surface** - those surfaces of equipment and utensils with which food normally comes in contact; and those surfaces from which food may drain, drip, or splash back into food or onto surfaces normally in contact with food.

**Food facility** - any operation, permanent, commissary, seasonal or temporary facility, where food is prepared, handled, served, sold, stored, or otherwise provides food for human consumption. A food facility does not include:

- a) A seasonal produce stand that only offers whole, uncut fresh fruits and vegetables;
- b) A farm that provides unprocessed non-TCS foods to the public;
- c) A kitchen in a private home that prepares food that is not TCS for sale or service at a function such as a religious or charitable organization's bake sale;
- d) A kitchen in a private home, such as a small family day-care provider or bed and breakfast that prepares and offers food to guests if the home is owner-occupied and the facility is not a boarding home;
- e) A private home that received catered or home-delivered food; or

**Food permit** – The document issued by the Allegheny County Health Department that authorizes a person or entity to operate a food facility.

**Food preparation** - The action or process of modifying food differing from the original condition in which it was received such as, but not limited to, thawing, cooking, cooling, heating, reheating, putting together, cutting, slicing, dividing, mixing, portioning, or packaging food for a consumer. Food preparation does not include opening packages of raw meats, processing primal cuts, or trimming or cleaning of whole vegetables or fruits for display and sale.

**Food processor** – Any person or facility that produces, prepares, packages, holds food for wholesale distribution to other business entities, and does not primarily provide food directly to the consumer.

**Food Safety Program** – The unit within the Department that inspects food facilities, conducts plan review for compliance with this Article, or is responsible for directing or supervising those responsible for conducting inspections or plan review, the term does not include contracted or temporary employees of the Department.

**Foot candle** – A unit of illumination equal to that given by a source of one candela at a distance of one foot (equivalent to one lumen per square foot, or 10.764 lux).

**Food worker** – an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

**Game animal**–

- a) The term includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria or muskrat, and non-aquatic reptiles such as land snakes.
- b) An animal, the products of which are food, that is not classified as any of the following:
  - 1) Fish;
  - 2) Cattle, sheep, swine, goat, horse, mule or other equine, as those terms are used in 9 CFR Chapter III, Subchapter A (relating to agency organization and terminology; mandatory meat and POULTRY products inspection and voluntary inspection and certification);

- 3) Poultry, as that term is used in 9 CFR Chapter III, Subchapter A.;
- 4) Ratites, such as ostriches, emus or rheas.

**HACCP** – see *Hazard Analysis Critical Control Point*.

**HACCP plan** – A written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

**Hazard** – A biological, chemical, or physical property that may cause an unacceptable consumer health RISK.

**Hazard Analysis Critical Control Point (HACCP)** – A system developed by the National Advisory Committee on Microbiological Criteria for Foods that identifies and monitors specific foodborne hazards that can adversely affect the safety of the food products; a method used to reduce the risk of foodborne illness by:

- a) Identifying hazards of high risk foods;
- b) Assessing the significant hazards posed by each preparation step;
- c) Determining the critical points for controlling hazards;
- d) Monitoring a critical control point or points; and
- e) Implementing immediate and appropriate corrective action when control criteria are not met;
- f) Verifying that the system is working;
- g) Keeping records; and
- h) Training staff.

**Hermetically sealed container** - An airtight container which is designed and intended to be secure against the entry of microorganisms and, in the case of low acid foods, to maintain the commercial sterility of its contents after processing.

**High risk violation**– see *Risk Factor*

**Highly Susceptible Population** - a group of persons who are more likely than other populations to experience foodborne disease because

- a) they are immunocompromised persons, pre-school age children, or older adults; and
- b) in a facility that provides health care; assisted living or custodial care; health care; nutritional or socialization services; such as a hospital, nursing home, or day care center.

**Honestly presented**– Food offered for human consumption in a way that does not mislead or misinform the consumer, and without misrepresenting the true appearance, color or quality of the food through the use of food or color additives, colored overwraps, lighting or other means.

**Imminent health hazard** – 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 the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

**Injected** – manipulating meat by introducing a solution into its interior by processes that are referred to as “injecting”, “pump marinating”, or “stitch pumping”.

**Juice** – the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or puree. The term does not include those that are not used as beverages or ingredients of beverages.

**Leafy greens** – Fresh leafy greens whose leaves once cut, shredded, sliced, chopped, or torn must be time/temperature controlled for safety. The term

includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term does not include herbs such as cilantro or parsley.

**Limited Food Establishment** - a residential style kitchen that may not meet the full regulatory code requirements, that is permitted or registered by the Department or the PA Department of Agriculture, and produces only non-TCS food items.

**Low risk violation** - see *Risk Factor*

**Major Food Allergen** - any of the following:

- a) Milk, egg, fish (e.g., bass, flounder, or cod), Crustacean shellfish (e.g., crab, lobster, or shrimp), tree nuts (e.g., almonds, pecans, or walnuts), wheat, peanuts, sesame, and soybeans; and
- b) A food ingredient that contains protein derived from a food specified as a major food allergen

**Meal** - food sufficient to constitute breakfast, lunch, or dinner; it shall not mean a snack, such as pretzels, popcorn, chips or similar food.

**Mechanically tenderized** -

- a) Manipulating meat with deep penetration by processes which may be referred to as "blade tenderizing", "jaccarding," "pinning", "needling", or using blades, pins, needles or any mechanical device
- b) The term does not include processes by which solutions are INJECTED into meat.

**mg/L** - Milligrams per liter, which is the metric equivalent of parts per million.

**Mobile food facility** - a self-contained, limited service food facility which is a mechanically, electrically, manually, or otherwise propelled vehicle operating on land or water, and that routinely reports to a permitted commissary.

**Model Food Code (MFC)** - The most current edition of the Food Code published by the Department of Health and Human Services, Food and Drug Administration as adopted by the Commonwealth of PA in 7 Pa. Code § 47 as the Food Code.

**Medium risk violation**- see *Risk Factor*

**Modified Atmosphere Packaging** -

- a) A type of reduced oxygen 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.
- b) The term 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.

**Molluscan shellfish** - an 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.

**Non-continuous cooking** -

- a) The cooking of food in a food facility using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for a complete cooking at a later time prior to SALE or service.
- b) The term does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

**Non-critical violation** - see *Risk Factor*

**Operator** - the person or entity that is legally responsible for the operation of a business regulated under this article, also known as the vendor.

**Packaged** - bottled, canned, cartoned, bagged, or otherwise securely protected from contamination. Packaged does not include wrapped or placed in a carry-out container to protect the food during service or delivery to a consumer, by a food employee, upon consumer request.

**Pasteurization** – Partial sterilization of a substance at a temperature and for a period of exposure that destroys objectionable organisms without major chemical alteration of the substance.

**Permit holder** – The entity that:

- a) Is legally responsible for the operation of the food facility, such as the owner, the owner’s agent, or other person; and
- b) Possesses a valid food permit to operate a food facility.

**Person in Charge** - the individual present in a food facility who is responsible for the operation at the time of inspection. If no individual identifies themselves as the Person in Charge, then any food worker present may be deemed the Person in Charge by the Department.

**Personal care items** –

- 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) The term includes items such as medicines, first aid supplies, cosmetics, toiletries and similar items.

**pH** - 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.

**Poisonous or toxic material** – substances that are not intended for ingestion and are included in 4 categories:

- a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes and other chemicals;
- b) Pesticides, except sanitizers which include substances such as insecticides and rodenticides;
- c) Substances necessary for the operation and maintenance of the facility such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- d) Substances that are not necessary for the operation and maintenance of the facility and are on the premises for retail sale, such as petroleum products and paints.

**Potable water** - water obtained from a source meeting the requirements of the State and Federal Safe Drinking Water Acts. The term does not include water that is not potable, such as boiler water, mop water, rainwater, wastewater, and “non-drinking” water.

**Potentially Hazardous Food** - see *Time and Temperature Controlled For Safety Food*

**Poultry** –

- a) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1 (Poultry Products Inspection Regulations Definitions, Poultry); and
- b) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1 (Voluntary Poultry Inspection Regulations, Definitions).

**Premises** – The physical facility, its contents and the contiguous land or property under the control of the food facility operator. If a food facility is a component of a larger operation, such as a hotel, motel, shopping mall or public campground, and that larger operation is also under the control of the food facility operator, that larger operation is part of the food facility

premises to the extent it may impact the food facility, its personnel or its operations.

**Pre-packaged food** – Food received at the food facility, and then distributed or sold as packaged by the manufacturer.

**Preparation** – See *Food preparation*

**Primal cut** – 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.

**Primary permit holder** - The entity that is legally responsible for the operation of the food facility such as the owner, the owner’s agent, or other person and has the ability to enter into legal agreements authorizing the use of their facility to other entities.

**Ratite** – a flightless bird such as an ostrich, emu and rhea.

**Ready-to-eat food** – Any of the following types of food:

- a) Food in a form that is edible without additional preparation to achieve food safety;
- b) Animal-derived food that is raw or partially cooked for which there is a Consumer Advisory;
- c) Food that is prepared in accordance with a variance issued by the Department;
- d) Food that may receive additional preparation for palatability or aesthetic, epicurean, gastronomic or culinary purposes;
- e) Raw animal-derived food that is cooked;
- f) Raw fruits and vegetables that are washed;
- g) Fruits and vegetables that are cooked for hot-holding;
- h) TCS food that is cooked and cooled;
- i) Plant food for which further washing, cooking or other processing is not required for food safety, and from which rinds, peels, husks or shells are removed;
- j) Substances derived from plants, such as spices, seasonings and sugar;
- k) A bakery item, to include icings and fillings, for which further cooking is not required for food safety;
- l) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages; salt-cured meat and poultry products; and dried meat and poultry products; and
- m) Food that is manufactured according to 21 CFR Part 113 (Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers).

**Reduced oxygen packaging** – see *Modified Atmosphere Packaging*.

**Refuse** – Solid waste not carried by water through the sewage system.

**Regulatory authority** - the Federal, State, or local enforcement authority or authorities having jurisdiction over the food facility.

**Reinspection** – A subsequent inspection that is conducted as a follow-up to conditions identified in a food facility in order to determine compliance with the Department rules and regulations governing “Food Safety”.

**Reminder** – a written statement concerning the health risk of consuming animal-derived foods which are raw, undercooked, or without otherwise being processed to eliminate pathogens.

**Responsible party** - the person or entity that is legally responsible for the operation of a business regulated under this article or the planning and coordination for a temporary event where temporary or seasonal food facilities operate.

**Re-service** – the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

**Restaurant** - A facility where food or drink is dispensed or prepared primarily for immediate consumption. This category includes coffee shop, cafeteria, short order café, luncheonette, tavern, sandwich stand, snack bar and all other eating and drinking establishments.

**Restricted use pesticide** – a pesticide product that contains the active ingredients specified in 40 CFR 152.175 (Pesticides classified for restricted use), and that is limited to use by or under the direct supervision of a certified applicator.

**Retail food facility** – Any facility or section of a facility where food and food products are offered to the consumer directly or indirectly through a delivery service such as home delivery of grocery orders or delivery service provided by common carriers. This definition shall include mobile food units.

**Risk** – the likelihood that an adverse health effect will occur within a population as a result of a hazard.

**Risk factor** – Improper or unsafe practices, procedures, or conditions identified as contributing to foodborne illness or injury. For the purpose of prioritization of intervention, risk factors are designated as *high*, *medium* or *low risk violations*:

- a) *High* – Hazards associated with foodborne illness or injury, where there is no alternative method to mitigate the risk. Hazards that require immediate corrective actions, or suitable alternative intervention, to diminish risk until the violation can be corrected. A follow-up inspection, or reinspection, may be required.
- b) *Medium* – Hazards that contribute indirectly foodborne illness or injury and support, facilitate, or enable the control or reduction of high risk hazards. Hazards that may require immediate corrective actions or a follow-up inspection.
- c) *Low* – Violations that relate to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), building structures, equipment design, general maintenance, or administrative requirements. Management of these conditions support, facilitate or enable the control of high and medium risk conditions. These violations may not require immediate correction, but may require a follow-up inspection.

**Routine Inspection** – An inspection conducted to assess all physical areas, and food-related practices, functions and records of a food facility. Routine inspections are conducted on a regular schedule based upon assigned priority.

**Sanitization** – The application of cumulative heat or concentration of chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance. *Sealed* – Free of cracks or other openings that allow the entry or passage of moisture.

**Seasonal food facility** - a food facility that routinely operates for no more than six (6) consecutive months each year in association with a seasonal event, such as, but not limited to flea markets or farmers' markets.

**Self-service** - the practice of patrons dispensing their own food or beverages.

**Self-service food facility** – provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public; also known as an Unattended Food Facility. This definition



does not include groups of 5 (five) or less vending machines that only provide non-TCS food items.

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

**Service sink** – A sink used for obtaining water for the purposes of cleaning, and for the disposal of mop water or other similar liquid waste.

**Sewage** – Liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

**Shared kitchen** – a commercial kitchen in which three or more food businesses or operations with different permit holders is using the same commercial kitchen facilities for the disposal of waste, storage or production of food or as an operational base, warewashing facility, or commissary.

**Shell egg** – The product of domesticated avian species, enclosed in a shell, to be used for human consumption.

**Shellstock** – raw, in-shell Molluscan shellfish.

**Shucked shellfish** – Molluscan shellfish that have one or both shells removed.

**Single-service articles** - items used by the retailer or consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food, and designed for one-time, one person use, after which they are intended for discard.. The term does not include "single-use" articles.

**Single-use articles** –

- a) Utensils and bulk food containers designed and constructed to be used once and discarded.
- b) The term 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 for multi-use.

**Smooth** -

(1) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;

(2) A non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

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

**Sous vide packaging** – A type of reduced oxygen packaging in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

**Sulfiting agent** – A substance which imparts a residual of sulfur dioxide.

**Tableware** – see *Utensil*

**Tamper evident** - having one or more indicators or barriers to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred.

**Temporary event** – a public or social occasion which operates no more than fourteen (14) consecutive days where temporary food facilities operate.

**Temporary Food Facility** - a food facility that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

**Time and Temperature Control for Safety food (TCS food) -**

- a) A food that requires time/temperature control for safety (TCS food) to limit pathogenic microorganism growth or toxin formation.
- b) TCS food includes:
  - 1) An animal-derived food that is raw or heat-treated; a plant-derived food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or cut tomatoes or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.
  - 2) Except as specified in subsection (c) (4) of this definition, a food that because of the interaction of its  $a_w$  and pH values is designated as Product Assessment required (PA) in Table A or B of this definition.

**INTERACTION OF pH and  $a_w$  FOR CONTROL OF SPORES IN FOOD:**

<b>Table A</b>			
<b>Food that is heat-treated to destroy vegetative cells and subsequently packaged</b>			
<b><math>a_w</math> values</b>	<b>pH values</b>		
	<b>4.6 or less</b>	<b>&gt;4.6 – 5.6</b>	<b>&gt;5.6</b>
<b><math>\leq 0.92</math></b>	<b>non-TCS*</b>	<b>non-TCS</b>	<b>non-TCS</b>
<b>&gt;.092 - .95</b>	<b>non-TCS</b>	<b>non-TCS</b>	<b>PA***</b>
<b>&gt;.95</b>	<b>non-TCS</b>	<b>PA</b>	<b>PA</b>
<b>* TCS means Time and Temperature Controlled for Safety Food</b>			
<b>***PA means Product Assessment required</b>			

<b>Table B</b>				
<b>Food that is <i>not</i> heat-treated, or heat treated but <i>not</i> packaged</b>				
<b><math>a_w</math> values</b>	<b>pH values</b>			
	<b>&lt;4.2</b>	<b>4.2 – 4.6</b>	<b>&gt;4.6 – 5.0</b>	<b>&gt;5.0</b>
<b>&lt;0.88</b>	<b>non-TCS</b>	<b>non-TCS</b>	<b>non-TCS</b>	<b>non-TCS</b>
<b>0.88 – 0.90</b>	<b>non-TCS</b>	<b>non-TCS</b>	<b>non-TCS</b>	<b>PA***</b>
<b>&gt;0.90 – 0.92</b>	<b>non-TCS</b>	<b>non-TCS</b>	<b>PA</b>	<b>PA</b>
<b>&gt;0.92</b>	<b>non-TCS</b>	<b>PA</b>	<b>PA</b>	<b>PA</b>

**\* TCS means Time and Temperature Controlled for Safety Food**

**\*\*\*PA means Product Assessment required**

- c) TCS food does *not* include:
- 1) An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable *salmonellae*;
  - 2) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
  - 3) A food that because of its pH or  $a_w$  value, or interaction of  $a_w$  and pH values, is designated as a non-TCS food in Table A or B of this definition;
  - 4) A food that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is prevented due to:
    - a. Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,
    - b. Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or
    - c. A combination of intrinsic and extrinsic factors; or
- d) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subsections (c) (1)–(4) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

**Transport** (*as in food transportation*) – The movement of food under the control of a food facility to a location for storage, service or catering operations. The term does not include food delivery.

**Utensil** – A food-contact implement or container used in the storage, preparation, transportation, dispensing, sale or service of food. The term includes items such as the following:

- a) Kitchenware or tableware that is multi-use, single-service or single-use;
- b) Gloves used in contact with food;
- c) Food temperature measuring devices; and
- d) Probe-type price or identification tags used in contact with food.

**Vacuum packaging** – A type of reduced oxygen 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.

**Variance** – a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Article.

**Vending Machine** - a self-service device that provides unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

**Vendor** – see *Operator*

**Warehouse**- An operation that stores or distributes food, including cold storage, and that does not primarily sell directly to the consumer.

**Warewashing** – The cleaning and sanitizing of utensils and food-contact surfaces of equipment.

**Water activity ( $a_w$ )** –A measure of the free moisture in a food, obtained by dividing the water vapor pressure of the substance by the vapor pressure of pure water at the same temperature.

**Whole-muscle, intact beef** – Whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

### 354. Tables

#### 354.1 Cleaning Frequency

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

#### 354.2 Chlorine sanitizer concentration

Concentration Range (PPM)	Minimum Temperature PH 10 or less °F	Minimum Temperature PH 8 or less °F
25 – 49	120	120
50 – 99	100	75
100	55	55

#### 354.3 Cooking Times and Temperatures

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